

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

**MOTION RECORD OF THE APPLICANT
(SECOND AMENDED AND RESTATED INITIAL ORDER AND A&L PREMIUM FINANCE
AGREEMENT APPROVAL ORDER)**

March 11, 2024

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TO: THE SERVICE LIST

INDEX

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I N D E X

TAB	DOCUMENT
1.	Notice of Motion dated March 11, 2024
2.	Affidavit of Joe Broking sworn March 11, 2024
A.	Exhibit "A" – Replacement DIP Agreement (March 10, 2024)
B.	Exhibit "B" – Redline of Replacement DIP Agreement to existing DIP Agreement
C.	Exhibit "C" – Property Financing Agreement Approval Order (January 25, 2024)
3.	Draft Second Amended and Restated Initial Order
4.	Redline of Draft Second Amended and Restated Initial Order to Amended and Restated Initial Order issued October 30, 2023
5.	Draft A&L Premium Finance Agreement Approval Order

TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

**NOTICE OF MOTION
(Returnable March 18, 2024)**

Tacora Resources Inc. ("**Tacora**" or the "**Company**" or the "**Applicant**") will make a motion before the Honourable Madam Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) on March 18, 2024, at 9:30 a.m., or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard:

- In writing under subrule 37.12.1(1);
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

Courtroom 8-4, 330 University Avenue, Toronto, Ontario

THE MOTION IS FOR¹

1. A Second Amended and Restated Initial Order in the form of the draft order included at Tab 3 of the Motion Record:

- (a) extending the Stay Period until and including May 19, 2024;
- (b) approving the DIP Facility Term Sheet (the “**Replacement DIP Agreement**”) entered into by Tacora on March 10, 2024, with the Investors or their affiliates (in such capacity, the “**DIP Lenders**”), pursuant to which the DIP Lenders have agreed to advance up to approximately \$188 million to Tacora to replace the existing DIP Facility and fund Tacora’s operations (the “**Replacement DIP Facility**”);
- (c) authorizing and directing Tacora to repay the DIP Facility with Cargill from proceeds of the Replacement DIP Facility;
- (d) granting a corresponding DIP Charge against the Property as security for Tacora’s obligations under the Replacement DIP Agreement; and
- (e) increasing the Transaction Fee Charge from \$5,600,000 to \$5,989,917.50.

2. An order approving the A&L Premium Finance Agreement between Tacora and Marsh Canada Limited, as insurance broker, with respect to Tacora’s auto and liability insurance policies.

THE GROUNDS FOR THE MOTION ARE

Background

1. Tacora is a private company focused on the production and sale of high-grade and quality iron ore products that improve the efficiency and environmental performance of steel making. The Company is the second largest employer in the Labrador West region and is an important part of the local and provincial economy.

¹ Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the affidavit of Joe Broking sworn March 11, 2024. All references to currency in this Notice of Motion are references to United States dollars, unless otherwise indicated.

2. As a result of liquidity issues and an inability to meet its obligations as they became due, Tacora sought and obtained protection under the CCAA by way of the Initial Order granted by this Court (which was amended and restated on October 30, 2023).

3. Among other things, the ARIO authorized Tacora to obtain and borrow up to the principal amount of \$75 million under the Cargill DIP Facility and approved the Post-Filing Credit Extensions under the DIP Agreement with Cargill up to the principal amount of \$20 million.

Replacement DIP

4. Recent decreases in the price of iron ore on Tacora's liquidity have resulted in, among other things, Tacora being required to submit a DIP advance request for the remaining maximum amount of \$19,500,000 available under the DIP Facility weeks earlier than anticipated.

5. Due to the drastic impact on Tacora's liquidity resulting from the decreases in the price of iron ore, Tacora solicited DIP proposals from both Cargill and the Investors.

6. Following receipt of advice from Greenhill and Stikeman, and after receiving input and views from the Monitor, the Board exercised their good faith business judgement and determined that the Investors' DIP proposal was the best DIP facility available to the Company. On March 10, 2024, Tacora entered into the Replacement DIP Agreement with the Investors.

7. The Replacement DIP Facility provides for a maximum facility of \$188,000,000 (less the Deposit of \$26,865,000, paid by the Replacement DIP Lenders and held by the Monitor in trust pursuant to the Subscription Agreement).

8. The economic terms of the Replacement DIP Agreement and Cargill's DIP proposal are substantially similar, but the Replacement DIP Facility provides certain key enhancements that benefit the Company.

Stay Extension

9. Tacora is seeking an extension of the Stay Period from March 18, 2024, to and including May 19, 2024. The extension of the Stay Period is necessary and appropriate in the circumstances to provide Tacora with sufficient time to bring its sale approval motion pursuant to the litigation schedule ordered by this Court, obtain the Court's decision, and in the event the

Court approves the Subscription Agreement and the Transactions contemplated therein, to close the Transactions.

10. Since the granting of the last order extending the Stay Period, Tacora has been working in good faith and with due diligence to advance its restructuring within these CCAA Proceedings.

11. The Updated Cash Flow Forecast reflects that, should the spot price of iron ore remain stable, Tacora is expected to maintain liquidity and fund operations until and including May 19, 2024.

12. The proposed extension of the Stay Period will provide significant benefits to Tacora's stakeholders.

Approval of A&L Premium Finance Agreement

13. Tacora's various auto and liability insurance policies were set to renew on March 1, 2024. Historically, Tacora has financed the annual premiums due under its auto and liability insurance policies.

14. On March 4, 2024, Tacora entered into the A&L Premium Finance Agreement, pursuant to which FIRST Canada has agreed to provide financing in the amount of C\$467,134.42 towards the total premium amount of C\$692,051.00 for the renewal of certain auto and liability insurance policies held by Tacora.

15. It is crucial to Tacora's business that it maintains auto and liability insurance. Given Tacora's liquidity situation, it is prudent to finance the A&L Financed Policies. Accordingly, approval of the A&L Premium Financing Agreement will be beneficial to Tacora and its stakeholders.

Increase to Transaction Fee Charge

16. Based on the quantum of the Replacement DIP Facility, Greenhill will earn a financing fee of \$389,917.50 pursuant to the Greenhill Engagement Letter approved by this Court. To assist the Company in preserving liquidity, Greenhill has agreed to defer this financing fee for the duration of the CCAA Proceedings and accordingly, Tacora is seeking to increase the Transaction Fee Charge to secure Greenhill's additional fee.

OTHER GROUNDS:

17. Sections 11 and 36 of the CCAA and the inherent and equitable jurisdiction of this Court.
18. Rules 1.04, 2.03, 3.02, 16, 37, and 39 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
19. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. The Affidavit of Joe Broking sworn March 11, 2024;
2. The Third Report of the Monitor, to be filed; and
3. Such further and other evidence as counsel may advise and this Court may permit.

March 11, 2024

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-23-00707394-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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Counsel for the Applicant

TAB 2

Court File No. CV-23-00707394-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**AFFIDAVIT OF JOE BROKING
(Sworn March 11, 2024)**

I, **JOE BROKING**, of the City of Grand Rapids, in the State of Minnesota, United States of America, MAKE OATH AND SAY:

1. I am the President and Chief Executive Officer of Tacora Resources Inc. ("**Tacora**" or the "**Company**" or the "**Applicant**"). I have been the President and Chief Executive Officer of Tacora since October 2021. Prior to becoming President and Chief Executive Officer, I was Executive Vice President and Chief Financial Officer of Tacora from July 2017 to October 2021. I have also been a member of the Company's board of directors (the "**Board**") since October 2021.
2. Together with other members of management, I am responsible for overseeing the Company's operations, liquidity management and restructuring efforts. As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records, press releases, and public filings of the Company and have spoken with certain of the directors, officers and/or employees of the Company, as necessary. Where I have relied upon such information, I believe such information to be true.
3. Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in my affidavits sworn on October 9, 2023 (the "**First Broking Affidavit**"), October 15, 2023, January 17, 2024, and February 2, 2024 (the "**Fourth Broking Affidavit**").
4. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

5. I swear this affidavit in support of a motion by Tacora for the issuance of a Second Amended and Restated Initial Order:

- (a) extending the Stay Period until and including May 19, 2024;
- (b) approving the DIP Facility Term Sheet (the “**Replacement DIP Agreement**”) entered into by Tacora on March 10, 2024, with the Investors or their affiliates (in such capacity, the “**DIP Lenders**”), pursuant to which the DIP Lenders have agreed to advance up to approximately \$188 million to Tacora to replace the existing DIP Facility and fund Tacora’s operations (the “**Replacement DIP Facility**”);
- (c) authorizing and directing Tacora to repay the DIP Facility with Cargill from proceeds of the Replacement DIP Facility;
- (d) granting a corresponding DIP Charge against the Property as security for Tacora’s obligations under the Replacement DIP Agreement; and
- (e) increasing the Transaction Fee Charge from \$5,600,000 to \$5,989,917.50.

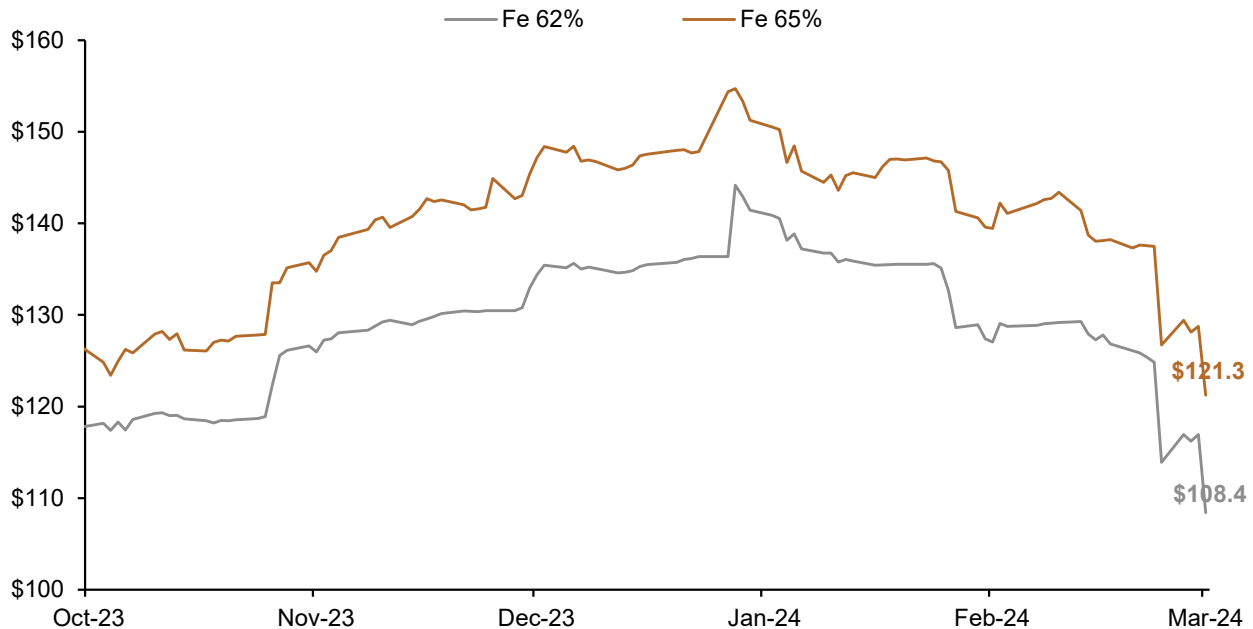
6. I also swear this affidavit in support of a motion by Tacora for the issuance of an order approving the commercial premium finance agreement (the “**A&L Premium Finance Agreement**”) dated as of March 4, 2024, between Tacora and Marsh Canada Limited – Toronto (“**Marsh**”), as insurance broker, with respect to Tacora’s auto and liability insurance policies.

A. Recent Volatility in Iron Ore Prices

7. As set out in the First Broking Affidavit and the Fourth Broking Affidavit, the iron ore market can be volatile and fluctuations in the price of iron ore can have a rapid and significant impact on Tacora’s liquidity. At the time, I swore the Fourth Broking Affidavit, the price of iron ore had fallen from approximately \$144/tonne at the beginning of January 2024 to \$132/tonne on January 31, 2024. In my affidavit, I noted that if prices fell by a similar amount Tacora could run out of excess liquidity¹ (inclusive of any remaining availability under the DIP Facility) by the start of April, and would require additional funding from the existing DIP Lender or a new DIP lender to continue operating in the ordinary course. Unfortunately, that scenario came to pass over on a timeline that

¹ The term “excess liquidity” refers to the Company’s attempts to maintain minimum cash on hand of \$10 million at all times.

was even quicker than as contemplated in the Fourth Broking Affidavit. The price of iron ore fell from \$132/tonne on January 31, 2024, to \$116.65/tonne on March 8, 2024. Over this most recent weekend, the price of iron ore dropped an additional \$8.25/tonne and is now \$108.40/tonne (as of March 11, 2024). Below is a chart showing the volatility and price decreases of iron ore described above and beginning October 2023 and ending March 11, 2024.



8. The direct impacts of the recent decreases in the price of iron ore on Tacora's liquidity are:
- Tacora's revenues from the production of iron ore have been lower than forecasted as payments by Cargill to Tacora under the Offtake Agreement are predominantly based upon the Platts 62% Index price;
 - Tacora was required to submit a DIP advance request on February 26, 2024, for the remaining maximum amount of \$19,500,000 available under the DIP Facility weeks earlier than anticipated (Tacora had previously forecast that availability under the DIP Facility would remain until early/mid-April 2024); and
 - Tacora owing Cargill Margin Payments under the Offtake Agreement. Over recent weeks, based on the amount of iron ore in transit, every \$1/tonne price decrease in iron ore prices (Platts 62% Index) results in an approximately \$1.5 million margin payment under the Offtake Agreement. With the most recent fall in iron ore prices, Tacora reached the maximum principal amount of \$20,000,000 available under the

Post-Filing Credit Extensions (as defined in the DIP Agreement), which means that all of Tacora's margin payments under the Offtake Agreement are contemplated to be settled in cash. Tacora expects Cargill to deduct any such payments from receipts due to Tacora from Cargill under the Stockpile Agreement directly impacting Tacora's liquidity.

9. With this iron ore price volatility, Tacora remains in a vulnerable position and further price decreases could have a significant negative impact on Tacora's ability to operate in the ordinary course. The recent volatility also emphasizes the risks detailed in the Fourth Broking Affidavit if Tacora cannot emerge from the CCAA Proceedings with an improved balance sheet in a timely manner. I continue to believe that extending these CCAA Proceedings without implementing the only actionable restructuring solution available places the Company and all its stakeholders at significant risk.

10. As set out in the Fourth Broking Affidavit, even assuming Tacora can access additional incremental liquidity through additional DIP financing, the Scully Mine requires critical capital investment for Tacora to become profitable. Without capital improvements to increase production, Tacora will continue to generate losses, which in turn will require additional financing. During the CCAA Proceedings this financing is only available through DIP financing. Adding additional debt on Tacora during the CCAA Proceedings will result in less capital being available for these capital investments upon emergence.

B. Replacement DIP

11. Due to the drastic impact on Tacora's liquidity resulting from the decreases in the price of iron ore, Tacora solicited DIP proposals from both Cargill and the Investors. On February 20, 2024, the Monitor provided initial cash flow forecasts to both parties and Stikeman requested DIP proposals. Due to the further drop in iron ore pricing shortly after delivery of the cash flow forecasts, the Company had to revise its initial cash flow forecast and requested each of the parties increase the amount of financing available under their DIP proposals to address the market changes. The Monitor provided the revised cash flow forecast to the parties on February 27, 2024.

12. Following receipt of initial proposals from Cargill and the Investors, Stikeman and Greenhill, in consultation with the Monitor, communicated key issues in each party's DIP proposal and negotiated with both parties to secure the best possible terms for the Company. Following

these negotiations, the DIP proposals from each of the Investors and Cargill were provided to the Company's Board and management. Following receipt of advice from Greenhill and Stikeman, and after receiving input and views from the Monitor, the Board exercised their good faith business judgement and determined that the Investors' DIP proposal was the best DIP facility available to the Company.

13. On March 9, 2024, Tacora entered into the Replacement DIP Agreement with the Investors or their affiliates. A copy of the Replacement DIP Agreement is attached hereto as **Exhibit "A"**.

14. The primary terms of the Replacement DIP Agreement are summarized immediately below²:

Summary of Key Terms of the Replacement DIP Agreement	
DIP Lenders	The Investors or their affiliates
Maximum DIP Facility Amount	<p>\$188,000,000 (less the Deposit as set out below)</p> <p><u>Permitted Uses</u></p> <ul style="list-style-type: none"> • Repay all amounts owing to Cargill under the DIP Agreement • Pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of Tacora and the Monitor • Pay the reasonable and documented DIP Lenders' Expenses • Pay the interest, fees, and other amounts owing to the DIP Lenders under the Replacement DIP Agreement • Fund Tacora's funding requirements during the CCAA Proceedings in accordance with the DIP Budget
Deposit	<p>Following issuance of the Second Amended and Restated Initial Order approving the Replacement DIP Agreement, the \$26.865 million paid by the Investors and held by the Monitor in trust pursuant to the Subscription Agreement (the "Deposit") may be accessed by Tacora to fund operations pursuant to the Second Advance.</p> <p>The DIP Lenders and Tacora agreed to amend the Subscription Agreement to provide that if the Deposit becomes payable to Tacora in accordance with the Subscription Agreement after the Deposit is released to Tacora pursuant to the Replacement DIP Agreement, the DIP Obligations shall be reduced by the amount of the Deposit released to Tacora.</p>

² Capitalized terms used in this table and not otherwise defined have the meanings ascribed to them in the Replacement DIP Agreement.

Funding & Availability	<p>Initial Advance – \$130,000,000</p> <p>Second Advance – If required as contemplated by the DIP Budget, the principal amount of up to \$38,000,000.</p> <p>Third Advance – If required as contemplated by the DIP Budget, the principal amount of up to \$15,000,000.</p> <p>Fourth Advance – If required as contemplated by the DIP Budget, the principal amount of up to \$5,000,000.</p> <p>The DIP Lenders shall fund a maximum amount of \$161,135,000 of the Replacement DIP Facility. The remaining \$26,865,000 shall be funded from the Deposit paid by the DIP Lenders and held by the Monitor in trust pursuant to the Subscription Agreement as part of the Second Advance.</p>
Interest	<p>Interest is payable on all amounts drawn under the Replacement DIP Facility (including the Deposit when released to Tacora) and the DIP Lenders' Expenses at a rate of 10% per annum payable monthly in arrears in cash on the last Business Day of each month. However, Tacora may elect at any time to pay the interest in-kind (the "PIK Election").</p> <p>If Tacora utilizes the PIK Election, Tacora shall pay the interest on the aggregate outstanding principal amount of the DIP Advances by adding such accrued interest to the principal amount of the DIP Obligations on the last Business Day of each calendar month.</p> <p>If the PIK Election is utilized by Tacora, the DIP Lenders agree that: (a) if the Transactions close, Tacora may pay all accrued interest that was paid-in-kind by the issuance of common shares of Tacora at the issue price under the Subscription Agreement; and (b) in any other case, interest that was paid-in-kind shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the Replacement DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof.</p> <p>Interest on all advances under the Replacement DIP Facility is calculated and compounded on a monthly basis.</p>
Fees	<p>Tacora is required to pay:</p> <ul style="list-style-type: none"> • An Exit Fee in an amount equal to 1.5% of the aggregate committed amount of the Replacement DIP Facility (less the Deposit, being \$161,135,000), being \$2,417,025; and • If Tacora elects to extend the Maturity Date from June 1, 2024, to June 30, 2024, an Extension Fee in an amount equal to 1.5% of the aggregate committed amount of the Replacement DIP Facility (less the Deposit), being \$2,417,025. <p>If the Transactions close, Tacora shall have the option to pay the Exit Fee</p>

	<p>(and the Extension Fee if earned) by the issuance of common shares of Tacora at the issue price under the Subscription Agreement. In any other case, the Exit Fee (and the Extension Fee if earned) shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the Replacement DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof.</p> <p>The DIP Lenders agree that if the Deposit becomes payable to the DIP Lenders under the Subscription Agreement, such amount shall be deemed to be committed under the Replacement DIP Facility and shall remain with the Monitor to be advanced to Tacora. If the Deposit becomes payable to the DIP Lenders under the Subscription Agreement, the Exit Fee and the Extension Fee shall be increased by a commensurate amount, to be allocated among the DIP Lenders based on their allocations of the Deposit.</p>
Security	<p>Priority DIP Lenders' Charge ranking senior to all encumbrances, except the Permitted Priority Liens which includes:</p> <ul style="list-style-type: none"> • The Administration Charge • The Directors' Charge • The KERP Charge (if applicable) • The Transaction Fee Charge • Certain Liens
Permitted Variance (vs DIP Budget)	<p>Up to 15% relative to the aggregate disbursements (excluding the DIP Lenders' Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.</p>
Maturity	<p>The earlier of:</p> <ul style="list-style-type: none"> • The occurrence of any Event of Default which is continuing and has not been cured; • The completion of a Restructuring Transaction; • The conversion of the CCAA Proceedings into a proceeding under the <i>Bankruptcy and Insolvency Act</i> (Canada); • The date on which the DIP Obligations are voluntarily prepaid in full and the Replacement DIP Facility is terminated; and • June 1, 2024, provided that such date may be extended by the Borrower to June 30, 2024.

15. In choosing between the two DIP proposals, the Company's Board, with the assistance of Greenhill, and under the supervision of the Monitor, reviewed the DIP proposals to determine which DIP proposal would best serve the interests of the stakeholders of the Company as a whole by enhancing the prospects of a successful restructuring. Among other things, the Company considered the following factors:

- (a) the cost of the financing, including the interest rate and fees;
- (b) the Company's cash flow forecast and the anticipated timeline to close a restructuring transaction;
- (c) the Phase 2 Bids received by the Company during the Solicitation Process,
- (d) the alignment of interests between each DIP lender and the Company and its stakeholders;
- (e) the potential risks of each DIP proposal;
- (f) potential prejudice to the Company's stakeholders; and
- (g) the views of the Monitor.

(i) Economic Terms

16. The economic terms of the Replacement DIP Agreement and Cargill's DIP proposal are substantially similar, but the Replacement DIP Facility provides certain key enhancements that benefit the Company:

- (a) *Availability.* The Replacement DIP Facility from the Investors provides for availability of \$188 million compared to the Cargill DIP proposal which provides for a total of \$147.5 million (including the Post-Filing Credit Extensions). The differential accounts for the fact that Tacora may no longer have the benefit of the Stockpile Agreement if the Replacement DIP Agreement is approved by the Court and Cargill elects not to extend the Stockpile Agreement. The liquidity available in the Replacement DIP Agreement and Cargill's DIP proposal are substantially similar;
- (b) *Interest.* The Replacement DIP Facility has the same interest rate as Cargill's DIP proposal – 10% per annum, compounding monthly. However, the Replacement DIP Facility provides an option for Tacora to pay interest in-kind, which Tacora expects to do. The feature allows Tacora to preserve additional liquidity during the CCAA Proceedings and, as referenced below, equitize the interest that would otherwise be owed in cash under the Cargill DIP proposal;

- (c) *Earned Fees.* The Replacement DIP Agreement provides for an Exit Fee of 1.5% of the amount committed under the Replacement DIP Facility, which is approximately \$2,417,025. The Cargill DIP proposal provides for an incremental \$1.05 million in exit fees, which represents 2% of the incremental committed financing of \$52.5 million;³ and
- (d) *Equitization of Fees and Interest.* As set out above, if the Transactions close, Tacora has the option to equitize the Exit Fee (and Extension Fee if earned) and accrued interest by paying such amounts in common shares of Tacora. Equitizing such amounts would allow the Company to preserve critical cash and invest such amounts in necessary capital expenditures. Conversely, the Cargill DIP requires its exit fees and interest, which were expected to total in excess of \$3 million, to be paid in cash.

17. A redline comparison of the Replacement DIP Agreement compared to the existing DIP Agreement with Cargill is attached hereto as **Exhibit “B”**.

18. In addition to the economic considerations, there are several other factors which make the Replacement DIP Agreement superior to the Cargill DIP proposal.

(ii) Alignment of Interests

19. The Replacement DIP Agreement represents a significant investment of new money in Tacora by the members of the Consortium, including RCF and Javelin. In addition to providing the necessary liquidity to permit the Company to continue operating in the ordinary course while it seeks approval of the Successful Bid, this investment constitutes a critical commitment to Tacora and its future success. The Ad Hoc Group is owed approximately \$230 million in pre-filing secured debt and have committed to invest a further approximately \$128 million in Tacora pursuant to the Subscription Agreement. RCF and Javelin were not significant stakeholders of Tacora prior to the CCAA Proceedings and hold only an immaterial portion of the Senior Secured Notes (which I understand were purchased shortly before the CCAA Proceedings). Their commitment to advance approximately \$100 million of DIP financing to Tacora in advance of their

³ The Replacement DIP Agreement also provides that the Investors will earn an Extension Fee of 1.5% of the amount committed under the Replacement DIP Facility (not including the Deposit, unless it becomes payable to the DIP Lenders under the Subscription Agreement) if the Company elects to extend the Maturity Date from June 1, 2024, to June 30, 2024. However, the Company believes that emergence prior to June 1, 2024, is critical to the Company's ongoing operations and future success.

commitment to invest over \$140 million of new equity in Tacora pursuant to the Subscription Agreement (which transactions remain subject to Court approval) demonstrates RCF's and Javelin's commitment and motivation to complete the Transactions and in my view, provides the Company, its stakeholders and the Court with more certainty that Tacora will emerge successfully from these CCAA Proceedings.

20. The impact of the DIP investment, in addition to providing critical funding, is to align the interests of the Investors with those of Tacora and its stakeholders – the emergence of Tacora from the CCAA as soon as possible pursuant to a successful restructuring. As set out in the Fourth Broking Affidavit, Tacora conducted the Court-ordered Solicitation Process. Following the Phase 2 Bid Deadline, the Board exercised their good faith business judgement and unanimously determined that the Investors' Phase 2 Bid was the only Phase 2 Qualified Bid and also the best Bid received. The Investors' Phase 2 Bid was the only Bid that deleveraged the Company's capital structure and provided capital to Tacora upon closing to improve the Company's operations.

21. The benefits of the Transactions with the Investors are outlined in the Fourth Broking Affidavit. Without repeating all of the benefits, the Transactions provide for the assumption of all of Tacora's equipment capital leases and the vast majority of Tacora's contractual obligations, assumption of all outstanding Pre-Filing Trade Amounts and Post-Filing Trade Amounts, and continued employment of all current employees. Tacora's significant stakeholder groups' interests are therefore also aligned with the Investors' interests.

22. The Transactions contemplated by the Subscription Agreement, if approved by this Court, represent the best available outcome for Tacora, its creditors, and other stakeholders in the circumstances. Notwithstanding that Cargill possessed the necessary knowledge regarding Tacora's operations and the required financial wherewithal to submit a Phase 2 Qualified Bid, Cargill chose not to. Instead, Cargill is acting contrary to the interests of Tacora and its other significant stakeholder groups by opposing approval of the Transactions in an attempt to protect the Offtake Agreement. Cargill is attempting to delay the Company's emergence from CCAA Proceedings for its own benefit. Such actions jeopardize the only actionable restructuring transaction available to the Company and places the Company and its stakeholders at risk for the reasons outlined above and in the Fourth Broking Affidavit. I do not believe that having the Company's critical interim financing dependent on a party acting in an adversarial manner to Tacora's restructuring efforts is in the best interest of the Company or its stakeholders.

(iii) Flexibility

23. Under the existing DIP Agreement with Cargill and its DIP proposal, the termination, suspension or disclaimer of the Existing Arrangements (including the Offtake Agreement and the Onshore Agreement), or the taking of any steps to terminate, suspend or disclaim any of the Existing Arrangements (other than in certain limited circumstances) constitutes an Event of Default. The Company attempted to negotiate the removal of this event of default but was unsuccessful. Conversely, the Replacement DIP Agreement does not include any such restrictions.

24. The Successful Bid contemplates the replacement of the Offtake Agreement with a new offtake provided by Javelin. If the Successful Bid is approved by the Court, the Company may need to take steps in contemplation of the termination of the Offtake Agreement prior to closing the Successful Bid in order to ensure an orderly transition to Javelin. Under Cargill's DIP proposal, such steps would constitute an Event of Default and could result in Cargill immediately terminating its DIP Facility.

C. Stay Extension**(i) Tacora's Recent Activities**

25. On January 24, 2024, this Court granted an extension of the Stay Period to and including March 18, 2024. Tacora has been working in good faith and with due diligence to advance its restructuring within these CCAA Proceedings since that date.

26. Tacora, with the assistance of Greenhill and the Monitor, as applicable, has among other things:

- (a) continued to operate in the ordinary course of business;
- (b) finalized the Solicitation Process by accepting the Investors' Bid as the Successful Bid;
- (c) finalized definitive transaction documents for the Successful Bid with the Investors;
- (d) settled a schedule for the hearing of the sale approval motion;

- (e) updated and revised its cash flow forecast to address the recent, significant decrease in iron ore prices;
- (f) engaged in discussions with the Canada Revenue Agency regarding the refund of income tax credits;
- (g) solicited and negotiated additional DIP financing;
- (h) entered into an insurance premium financing agreement with FIRST Insurance Funding of Canada Inc. for the funding of Tacora's automotive and liability insurance policies;
- (i) scheduled a Court hearing to hear a dispute between Tacora and MFC involving certain pre-filing claims asserted against Tacora by MFC; and
- (j) responded to creditor and stakeholder enquiries regarding these CCAA Proceedings.

(ii) Need to Extend the Stay Period

27. Tacora is seeking an extension of the Stay Period from March 18, 2024, to and including May 19, 2024. The extension of the Stay Period is necessary and appropriate in the circumstances to provide Tacora with sufficient time to bring its sale approval motion pursuant to the litigation schedule ordered by this Court, obtain the Court's decision, and in the event the Court approves the Subscription Agreement and the Transactions contemplated therein, to close the Transactions.

28. Given Tacora's activities since the last order extending the Stay Period, I believe that Tacora has acted, and is continuing to act, in good faith and with due diligence in these CCAA Proceedings.

29. Tacora has prepared an updated cash flow forecast which will be attached to the Monitor's Third Report (the "**Updated Cash Flow Forecast**"). The Updated Cash Flow Forecast reflects that, should the price of spot price of iron ore remain stable, Tacora is expected to maintain sufficient liquidity to fund operations should the Replacement DIP Agreement be approved until and including May 19, 2024.

30. I believe that the proposed extension of the Stay Period will provide significant benefits to

Tacora's stakeholders. Further, I understand that the Monitor supports the proposed extension of the Stay Period and the approval of the Replacement DIP Agreement and will be providing further details with respect to the appropriateness of the requested extension of the Stay Period in its Third Report.

D. Insurance Orders

31. On January 25, 2024, this Court granted an order (the "**Property Financing Agreement Approval Order**") approving the commercial premium financing agreement (the "**Property Financing Agreement**") dated January 10, 2024, between Tacora and Marsh, with respect to Tacora's property insurance policies. Tacora's various property insurance policies were set to renew on December 21, 2023. Pursuant to the Property Financing Agreement, FIRST Insurance Funding of Canada Inc. ("**FIRST Canada**") agreed to provide financing in the amount of C\$2,885,497.54 towards the required C\$3,925,847 for the renewal of the property insurance policies held by Tacora. The agreement was subject to Tacora making a down payment of C\$1,040,349.46 towards the Financed Policies and this Court granting Property Financing Agreement Approval Order. A copy of the Property Financing Agreement Approval Order is attached hereto as **Exhibit "C"**.

32. Tacora's various auto and liability insurance policies were set to renew on March 1, 2024. Historically, Tacora has financed the annual premiums due under its auto and liability insurance policies.

33. On March 4, 2024, Tacora entered into the A&L Premium Finance Agreement, pursuant to which FIRST Canada has agreed to provide financing in the amount of C\$467,134.42 towards the total premium amount of C\$692,051.00 for the renewal of certain auto and liability insurance policies held by Tacora (the "**A&L Financed Policies**"). The agreement is subject to Tacora making a down payment of C\$224,916.58 towards the A&L Financed Policies and this Court granting the proposed order sought on this motion.

34. Tacora is seeking approval of the A&L Premium Finance Agreement and issuance of an order carving out certain exceptions to the ARIO, in order to give effect to the terms of the A&L Premium Finance Agreement.

35. The proposed order is on substantially the same terms as the Property Financing

Agreement Approval Order granted by this Court.

36. Among other things, the proposed order provides:

- (a) the validity and priority of the Court-ordered priority charges set out in paragraphs 47 and 50 of the Second Amended and Restated Initial Order are not applicable to any unearned premiums under the A&L Financed Policies;
- (b) approval of Tacora's assignment to FIRST Canada of a security interest in the A&L Financed Policies in accordance with the terms of the A&L Premium Finance Agreement;
- (c) notwithstanding paragraphs 4 and 14 – 16 of the Second Amended and Restated Initial Order, approval of FIRST Canada's right as agent under the A&L Premium Finance Agreement, after providing thirty (30) days' written notice to the Applicant and the Monitor, to: (i) cancel the A&L Financed Policies; (ii) receive all sums assigned to FIRST Canada; and (iii) execute and deliver on behalf of the Applicant all documents relating to the A&L Financed Policies; and
- (d) if and after any of the A&L Financed Policies are cancelled, providing for FIRST Canada to have the right to receive all unearned premiums and other funds assigned to FIRST Canada as security.

37. It is crucial to Tacora's business that it maintains auto and liability insurance. Given Tacora's liquidity situation, it is prudent to finance the A&L Financed Policies. Accordingly, approval of the A&L Premium Financing Agreement will be beneficial to Tacora and its stakeholders.

38. Payments due to FIRST Canada under the A&L Premium Finance Agreement are spread out in nine monthly payments. Such payments to be made in the CCAA Proceedings are in compliance with the existing DIP Facility and the Replacement DIP Agreement (approval for which is being sought on the same date as the proposed order).

E. Increase to Transaction Fee Payable to Greenhill


39. Based on the quantum of the Replacement DIP Facility, Greenhill will earn a financing fee of \$389,917.50 pursuant to the Greenhill Engagement Letter approved by this Court. To assist

the Company in preserving liquidity, Greenhill has agreed to defer this financing fee for the duration of the CCAA Proceedings and accordingly, Tacora is seeking to increase the Transaction Fee Charge to secure Greenhill's additional fee.


40. For the reasons set out above, I believe that it is in the best interests of Tacora and its stakeholders that the proposed Second Amended and Restated Initial Order and order approving the A&L Premium Finance Agreement be granted.

41. I swear this affidavit in support of the Applicant's motion seeking approval of the proposed orders and for no other or improper purpose.

SWORN remotely via videoconference, by Joe Broking, stated as being located in the City of Grand Rapids, in the State of Minnesota, before me at the City of Toronto, in Province of Ontario, this 11th day of March, 2024, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.

DocuSigned by:

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Commissioner for Taking Affidavits, etc.
Philip Yang | LSO #820840

DocuSigned by:

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JOE BROKING

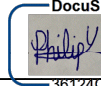
EXHIBIT "A"

referred to in the Affidavit of

JOE BROKING

Sworn March 11, 2024

DocuSigned by:

A blue DocuSigned signature box containing a handwritten signature in blue ink that reads "Philip".

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Commissioner for Taking Affidavits

Philip Yang

DIP FACILITY TERM SHEET

This term sheet dated as of March 10, 2024 (this “**Term Sheet**”) sets out the terms on which Brigade Capital Management, L.P.; Millstreet Capital Management LLC; MSD Partners, L.P.; O’Brien-Staley Partners; Small Micro LLC; RCF VII CAD LLC; and Javelin Global Commodities (SG) PTE Ltd. (collectively, the “**DIP Lenders**”) are prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”).

Recitals:

Tacora commenced proceedings under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”, and those proceedings, the “**CCAA Proceedings**”) pursuant to an initial Order granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on October 10, 2023 (the “**Initial Order**”). Pursuant to the Initial Order, among other things, the Court approved a debtor-in-possession financing agreement between Tacora as borrower and Cargill, Incorporated (“**Cargill**”) as lender (the “**Cargill DIP**”).

Pursuant to an Order dated October 30, 2023, this Court authorized Tacora to undertake a sale, investment and services solicitation process to solicit offers or proposals for a sale, restructuring or recapitalization transaction in respect of Tacora’s assets and business operations (the “**Solicitation Process**”).

On February 2, 2024, Tacora filed motion materials indicating (i) that it had determined that the bid submitted by the DIP Lenders was the “Successful Bid” pursuant to the Solicitation Process; and (ii) seeking approval of the Successful Bid and the transactions contemplated thereby. That motion is scheduled to be heard from April 10-12, 2024.

Tacora has requested that the DIP Lenders provide debtor-in-possession financing to repay its obligations under the Cargill DIP and to fund the remainder of the CCAA Proceedings to consummate the Successful Bid. The DIP Lenders have agreed to provide the DIP Facility (as defined below) on substantially the same terms as the Cargill DIP to be used for the pendency of the CCAA Proceedings in accordance with the terms and conditions set out herein. For greater certainty, nothing in this Term Sheet shall constitute a waiver, amendment or modification of any condition, right or privilege in favour of the DIP Lenders, or the Investors (as defined in the Subscription Agreement), under the Subscription Agreement.

- 1. **BORROWER:** Tacora Resources Inc. (“**Borrower**”).

- 2. **DIP LENDERS:** Brigade Capital Management, L.P.
Millstreet Capital Management LLC
MSD Partners, L.P.
O’Brien-Staley Partners
Small Micro LLC
RCF VII CAD LLC
Javelin Global Commodities (SG) PTE Ltd

- 3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “A”.

- 4. **DIP FACILITY** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal

ADVANCES:

amount of \$188 million, less the Deposit (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein. The Facility Amount shall be allocated among the DIP Lenders as provided by Schedule “**B**”.

Subject to the below, the DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in a principal amount of \$130 million as of the date of the Initial Advance, to be deposited by the DIP Lenders into the Operating Account within one (1) Business Day of the issuance of the New DIP Approval Order;
- (b) if required as contemplated by the DIP Budget, an advance (the “**Second Advance**”) in a principal amount of \$38 million, which shall include the Deposit, to be deposited by the DIP Lenders into the Operating Account upon seven (7) Business Days’ notice from the Borrower;
- (c) if required as contemplated by the DIP Budget, an advance (the “**Third Advance**”) in a principal amount of up to \$15 million, to be deposited by the DIP Lenders into the Operating Account upon seven (7) Business Days’ notice from the Borrower; and
- (d) if required as contemplated by the DIP Budget, an advance (the “**Fourth Advance**”, and together with the Second Advance and the Third Advance, the “**Subsequent Advances**”) in a principal amount of up to \$5 million, to be deposited by the DIP Lenders into the Operating Account upon seven (7) Business Days’ notice from the Borrower.

For avoidance of doubt, the DIP Lenders shall fund a maximum amount of \$161.135 million of the DIP Facility, and the remainder shall be funded from the Deposit, which shall be included in the Second Advance, subject to approval by the Court in the New DIP Approval Order. The funding of the Advances by the DIP Lenders is subject to: (i) the Advance Conditions being satisfied at the time of the Advance and (ii) the Borrower delivering to the DIP Lenders an Advance confirmation certificate in the form of Schedule “**C**” (an “**Advance Confirmation Certificate**”).

Unless otherwise agreed to by the DIP Lenders in writing, the DIP Lenders shall each fund the Advances on a *pro rata* basis.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lenders, have been fully complied with, and (iii) no Default or Event of Default then exists and is continuing or would result

therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lenders unless the Required DIP Lenders have provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lenders and the Monitor.

5. **DEPOSIT:**

The \$26.865 million paid by the DIP Lenders and held by the Monitor in trust pursuant to the Subscription Agreement (the “**Deposit**”) may be accessed by the Borrower, following the issuance of the New DIP Approval Order, pursuant to the Second Advance. Once the Deposit is accessed by the Borrower, it shall earn interest at 10% *per annum* in accordance with Section 16, which interest shall be payable to the DIP Lenders based on their allocations of the Deposit.

The DIP Lenders and the Borrower shall amend the Subscription Agreement to provide that when the Deposit is released to the Borrower pursuant to this Term Sheet and if the Deposit becomes payable to the Borrower in accordance with the Subscription Agreement, the DIP Obligations shall be reduced by the portion of the Deposit previously released to the Borrower.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use a portion of the Initial Advance to repay all amounts owing to Cargill under the Cargill DIP.

The Borrower shall use all other proceeds of the Initial Advance and the Subsequent Advances solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lenders’ Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lenders under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the Required DIP Lenders and

may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the Required DIP Lenders, or as may otherwise be agreed to by the Required DIP Lenders and the Borrower (in consultation with the Monitor).

7. **INITIAL
ADVANCE
CONDITIONS:**

[Reserved]

8. **ADVANCE
CONDITIONS:**

The DIP Lenders' agreement to make the Facility Amount available to the Borrower and to advance the Advances to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Advance Conditions**"), each of which is for the benefit of the DIP Lenders and may be waived by the Required DIP Lenders in their sole discretion:

- (a) The Borrower shall have executed and delivered this Term Sheet.
- (b) The Court shall have issued an Order (the "**New DIP Approval Order**") in substantially the form attached hereto as Schedule "**D**" and with such changes as are acceptable to the Borrower, the Monitor and the Required DIP Lenders, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide for a charge over the Borrower's Collateral that shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens (the "**DIP Lenders' Charge**").
- (c) The New DIP Approval Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the Required DIP Lenders, acting reasonably.
- (d) There shall be no Liens ranking in priority to the DIP Lenders' Charge over the Borrower's Collateral other than the Permitted Priority Liens.
- (e) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance.

9. **COSTS AND
EXPENSES:**

Subject to this Section 9 of the Term Sheet, the Borrower shall reimburse the DIP Lenders for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the date of the New DIP Approval Order (collectively, the "**DIP Lenders' Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lenders' participation in the CCAA Proceedings. The DIP Lenders' Expenses shall form part of the DIP Obligations secured by the DIP Lenders' Charge. The DIP Lenders' Expenses incurred prior to the date of the New DIP Approval Order (the "**Pre DIP Order Expenses**") shall be capitalized and added to the DIP Obligations. If the Borrower utilizes the

PIK Election, the go-forward DIP Lenders' Expenses following the date of the New DIP Approval Order (the "**Post DIP Order Expenses**") shall be paid from the Advances up to a maximum of the amount of interest paid-in-kind. For any period where the Borrower has not utilized the PIK Election or where the Post DIP Order Expenses are greater than the amount of interest paid-in-kind, the Post DIP Order Expenses shall not be paid from the Advances and shall only be added to the DIP Obligations.

The DIP Lenders agree that (a) if the Consortium Transaction closes, upon closing, the Borrower may pay Pre DIP Order Expenses and any capitalized Post DIP Order Expenses by the issuance of common shares of the Borrower at the issue price under the Subscription Agreement, and (b) in any other case, the Pre DIP Order Expenses and any capitalized Post DIP Order Expenses shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof. For greater certainty, the Borrower may elect to pay the Pre DIP Order Expenses and any capitalized Post DIP Order Expenses by the issuance of common shares upon closing of the Consortium Transaction by providing notice to the DIP Lenders prior to closing.

10. **DIP LENDERS'
CHARGE:**

All DIP Obligations shall be secured by the DIP Lenders' Charge, in connection with which the Required DIP Lenders may, in their reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be an Advance Condition except and unless the Required DIP Lenders have provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED
LIENS AND
PRIORITY:**

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated, and (v) June 1, 2024, provided that such date may be extended by the Borrower to June 30, 2024 and upon such extension the DIP Lenders shall earn the Extension Fee (the earliest of such dates being the “**Maturity Date**”). Subject to Section 30, the Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lenders for such period and on such terms and conditions as the DIP Lenders may agree in their sole discretion.

Without the consent of the Required DIP Lenders, acting in their sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lenders of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:**

Attached hereto as Schedule “E” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lenders in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lenders acknowledge and agree has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lenders. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lenders in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lenders no more frequently than every two (2) weeks (unless otherwise consented to by the Required DIP Lenders), in each case to be delivered to the Monitor and the DIP Lenders and their legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the Required DIP Lenders determine that the proposed revised DIP Budget is not acceptable, they shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the Required DIP Lenders, the prior DIP Budget shall remain in effect. In the event that the Required DIP Lenders do not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lenders of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the Required DIP Lenders and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the Required DIP Lenders shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lenders and their legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lenders and their legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lenders’ accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lenders pursuant to the DIP Facility.
15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the Required DIP Lenders, which may be withheld in their sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations, and the concurrent termination of the DIP Facility and this Term Sheet.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances (including the Deposit when released to the Borrower), and (b) overdue interest, fees (including the Fees) and DIP Lenders’ Expenses outstanding from time to time at a rate equal to 10.0% per annum, payable monthly in arrears in cash on the last Business Day of each month. In the alternative to receiving payment of interest monthly in arrears in cash, the Borrower may elect at any time that the DIP Lenders shall receive payment of interest in-kind in accordance with the below (the “**PIK Election**”).

If the Required DIP Lenders utilize the PIK Election, the Borrower shall pay the interest on the aggregate outstanding principal amount of the DIP Advances by adding such accrued interest to the principal amount of the DIP Obligations on the last Business Day of each calendar month. Where the PIK Election is utilized by the Borrower (a) if the Consortium Transaction closes, upon closing, the Borrower may pay the accrued interest by the issuance of common shares of the Borrower at the issue price under the Subscription Agreement, and (b) in any other case, interest that was paid in-kind shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof. For greater certainty, the Borrower may elect to pay the accrued interest by the issuance of common shares upon closing of the Consortium

Transaction by providing notice to the DIP Lenders prior to closing.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

For greater certainty, unless otherwise expressly provided in this Term Sheet, all payments to be made by the Borrower to the DIP Lenders under this Term Sheet on account of principal, interest, fees or otherwise shall be made on a Pro Rata basis.

17. FEES:

An exit fee in an amount equal to 1.5% of the aggregate committed amount of the DIP Facility (less the Deposit), being equal to \$2,417,025 (the “**Exit Fee**”), shall be payable by the Borrower if the DIP Facility is approved pursuant to the New DIP Approval Order.

An extension fee in an amount equal to 1.5% of the aggregate committed amount of the DIP Facility (less the Deposit), being equal to \$2,417,025 (the “**Extension Fee**”), shall be payable by the Borrower if the Borrower elects to extend the Maturity Date to June 30, 2024.

The DIP Lenders agree that (a) if the Consortium Transaction closes, upon closing, the Borrower may pay the Exit Fee and the Extension Fee by the issuance of common shares of the Borrower at the issue price under the Subscription Agreement, and (b) in any other case, the Exit Fee and Extension Fee shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof. For greater certainty, the Borrower may elect to pay the Exit Fee and the Extension Fee by the issuance of common shares upon closing of the Consortium Transaction by providing notice to the DIP Lenders prior to closing.

If the Deposit becomes payable to the DIP Lenders under the Subscription Agreement, the Exit Fee and the Extension Fee shall be increased by a commensurate amount, to be allocated among the DIP Lenders based on their allocations of the Deposit. The DIP Lenders further agree that if the Deposit becomes payable to the DIP Lenders under the Subscription Agreement such amounts shall be deemed to be committed under the DIP Facility and shall remain with the Monitor to be advanced to the Company in accordance with Sections 4 and 5 of this Term Sheet.

18. CURRENCY

Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received

by the DIP Lenders hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lenders are able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the Required DIP Lenders, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lenders and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP Lenders, upon which the DIP Lenders are relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the New DIP Approval Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title

thereto, subject only to Permitted Liens;

- (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
- (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
- (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
- (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
- (h) Other than as stayed pursuant to the Court Orders granted in these CCAA Proceedings, there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
- (i) Except for those defaults set out in schedule 20(i) hereto which are stayed by the Orders granted by this Court in the CCAA Proceeding or which have been disclosed to the DIP Lenders in writing, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);
- (j) Except as disclosed to the DIP Lenders in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing; and

- (l) All written information furnished by or on behalf of the Borrower to the DIP Lenders or their advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances.

21. **AFFIRMATIVE COVENANTS:**

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lenders reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lenders and their legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lenders apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (c) Deliver to the DIP Lenders the reporting and other information from time to time reasonably requested by the Required DIP Lenders and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;

- (e) Obtain the New DIP Approval Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the Required DIP Lenders, each acting reasonably;
- (f) Comply with the provisions of the New DIP Approval Order and all other Court Orders;
- (g) Preserve, renew and keep in full force its corporate existence;
- (h) Promptly notify the DIP Lenders of the occurrence of any Default or Event of Default;
- (i) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (j) Provide the DIP Lenders and their counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (k) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the Required DIP Lenders relating to the DIP Facility or the DIP Lenders' Charge;
- (l) Promptly provide notice to the DIP Lenders and their counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (m) Promptly provide notice to the DIP Lenders and their counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (n) [reserved];
- (o) Execute and deliver such loan and security documentation as may be reasonably requested by the Required DIP Lenders from time to

time;

- (p) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the Required DIP Lenders, acting reasonably, and, if requested by the Required DIP Lenders, cause the DIP Lenders to be listed as the loss payees or additional insureds (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (q) Promptly following receipt of summary invoices, pay all DIP Lenders' Expenses no less frequently than every two weeks, provided that the DIP Lenders shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (r) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (s) Comply with the DIP Budget subject to the Permitted Variance; and
- (t) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. **NEGATIVE
COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the Required DIP Lenders or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the amended and restated initial Order dated October 30, 2023 (the "**Amended and Restated Initial Order**") or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations,

and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Amended and Restated Initial Order;

- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lenders and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lenders, or as may otherwise be agreed to by the DIP Lenders and the Borrower (in consultation with the Monitor);
- (k) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring

Transaction;

- (l) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (m) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lenders under or in connection with the DIP Facility or the DIP Lenders' Charge, except with the prior written consent of the Required DIP Lenders, in their sole discretion;
- (n) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;
- (o) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (p) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (q) Seek or consent to the lifting of the stay of proceedings in favour of the Borrower.

23. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an "**Event of Default**") under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lenders' Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of

the date made;

- (d) A default (other than a default resulting from the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as a result of failure to pay pre-filing amounts as a result of the commencement of the CCAA Proceedings) under any Material Contract (other than any contract between the Borrower and Cargill or the Borrower and CITPL) or any material amendment of any Material Contract unless agreed to by the Required DIP Lenders in writing;
- (e) [reserved]
- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lenders' Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the Required DIP Lenders in their sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lenders' Charge without the prior written consent of the DIP Lenders in their sole discretion;
- (g) Unless consented to in writing by the Required DIP Lenders, the expiry without further extension of the stay of proceedings granted by Court Order in these CCAA Proceedings;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the date of the New DIP Approval Order to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the Required DIP Lenders in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgments, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied,

discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the Required DIP Lenders may, in their sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the Required DIP Lenders may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lenders to the Borrower against the DIP Obligations; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lenders and their affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. TERMINATION BY BORROWER:

The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lenders: (i) in the event that the DIP Lenders have failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at

any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lenders under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 26 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lenders shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. HEDGING:

The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and the DIP Lenders, and approved by the Monitor.

28. TAXES:

All payments by the Borrower to the DIP Lenders pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lenders upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lenders under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lenders shall be increased to the extent necessary to yield to the DIP Lenders on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lenders that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lenders to account for any Withholding Taxes, the DIP Lenders shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lenders to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lenders shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lenders shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s expense.

29. **ASSIGNMENT:**

The DIP Lenders may assign their rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lenders with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld; and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that the proposed assignee has the financial capacity to act as a DIP Lender. Notwithstanding the foregoing, the DIP Lenders shall be entitled to assign their rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

30. **AMENDMENTS, WAIVERS, ETC.**

No waiver or delay on the part of the DIP Lenders in exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing and delivered in accordance with the terms of this DIP Agreement. Unless otherwise expressly provided in this Term Sheet, any waiver, amendment or other modification to this Term Sheet shall require the written consent of the Required DIP Lenders; provided that, notwithstanding the foregoing, solely with the consent of each DIP Lender directly and adversely affected thereby (but without the necessity of obtaining the consent of the Required DIP Lenders), any such agreement may:

- (a) increase the DIP Financing Commitment of such DIP Lender; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the DIP Financing Commitments shall constitute an increase of any DIP Financing Commitment of such DIP Lender;
- (b) reduce or forgive the principal amount of any Advances (it being understood that a waiver of any Default, Event of Default, mandatory prepayment or mandatory reduction of the DIP Financing Commitments shall not constitute a reduction or forgiveness in principal);
- (c) extend the scheduled Maturity Date (it being understood that a waiver of any mandatory prepayment or mandatory reduction of the DIP Financing Commitments shall not constitute an extension of the Maturity Date);
- (d) reduce the interest rate provided for in Section 16 (other than to waive any Default or Event of Default or any obligations of the Borrower to pay interest at the default rate of interest in accordance with Section 16 of this Agreement) or the amount of any fees owed to such DIP Lender;
- (e) waive, amend or modify the provisions of Section 16 (with respect to Pro Rata allocation of all payments among DIP Lenders) of this Agreement in a manner that would by its terms alter the Pro Rata

sharing of payments required thereby;

- (f) waive, amend or modify the definition of “Pro Rata”;
- (g) waive, amend or modify the definition of “Required DIP Lenders”, and
- (h) waive, amend or modify the provisions of this Section 30.

Notwithstanding anything else in this Term Sheet, and for greater certainty, this Term Sheet may not be waived, amended or modified to reduce the principal amount owed to any DIP Lender under the DIP Facility or increase the amount of any DIP Lender’s commitment under the DIP Facility, in each case, without the prior written consent of such DIP Lender.

Any waiver, amendment or modification to the terms of this Term Sheet shall be made in writing and signed by the Borrower and the requisite DIP Lenders.

To the extent any fees or other compensation becomes payable to the DIP Lenders in connection with any amendment to this Term Sheet, all DIP Lenders shall have the opportunity to receive their Pro Rata portion of any such fees or other compensation. To the extent any further financing above the Facility Amount is requested from any of the DIP Lenders by the Borrower, its affiliates or their advisors, the DIP Lenders shall have the opportunity to participate on a Pro Rata basis.

31. **EQUITY CONTRIBUTIONS UNDER SUBSCRIPTION AGREEMENT**

The Subscription Agreement shall be amended to reflect that a DIP Lender may elect that any Advance made by the particular DIP Lender pursuant to the DIP Facility may be set-off as payment of against their commitments in respect of the New Equity Offering Initial Cash Consideration (as defined in the Subscription Agreement) payable by the particular DIP Lender, in its capacity as an Investor under the Subscription Agreement, on a dollar-for-dollar basis, and upon such set-off at closing of the Consortium Transaction, the DIP Obligations owed to such DIP Lender in respect of any set-off Advance shall be considered indefeasibly repaid in an equivalent amount.

32. **ACCESS RIGHTS**

For avoidance of doubt, the DIP Lenders and their advisors shall have the same right of access provided to the Investors under section 5.5 of the Subscription Agreement (Access During Interim Period) for the duration of this Term Sheet.

33. **NOTICE:**

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the attention of the person as set forth below:

(a) In the case of the Borrower:

Tacora Resources Inc.
102 NE 3rd Street Suite 120
Grand Rapids, Minnesota

55744 USA

Attention: Joe Broking & Heng Vuong
Email: joe.broking@tacoraresources.com;
heng.vuong@tacoraresources.com

With a copy to:

Stikeman Elliott LLP
5300 Commerce Court West, 199 Bay St.
Toronto, ON M5L 1B9

Attention: Ashley Taylor & Lee Nicholson
Email: ataylor@stikeman.com; leenicholson@stikeman.com

and

Greenhill & Co., LLC
1271 6th Ave, New York,
NY 10020, USA

Attention : Chetan Bhandari, Michael Nessim & Usman Masood
Email : chetan.bhandari@greenhill.com; michael.nessim@greenhill.com;
usman.masood@greenhill.com

And with a copy to the Monitor:

FTI Consulting Canada Inc.
Toronto-Dominion Centre, 79 Wellington St W Suite 2010, Toronto, ON
M5K 1G8

Attention: Paul Bishop & Jodi Porepa
Email: paul.bishop@fticonsulting.com; jodi.porepa@fticonsulting.com

And with a copy to the Monitor's Counsel:

Cassels Brock & Blackwell LLP
Bay Adelaide Centre – North Tower,
Suite 3200, Toronto, ON M5H 0B4

Attention: Ryan Jacobs & Jane Dietrich
Email: rjacobs@cassels.com; jdietrich@cassels.com.

(b) In the case of the DIP Lenders:

c/o
GLC Advisors & Co., LLC
600 Lexington Ave., 9th Floor
New York, NY 10022 USA

Attention: Michael Sellinger, Michael Kizer & Adam Kelly-Penso
Email: michael.sellinger@glca.com; michael.kizer@glca.com;

adam.kellypenso@glca.com

With a copy to:

Osler, Hoskin & Harcourt LLP
First Canadian Place
100 King St. W Suite 6200
M5X 1B8

Attention: Marc Wasserman, Michael De Lellis & Justin Sherman
mwasserman@osler.com; mdelellis@osler.com; jsherman@osler.com

Bennett Jones LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Attention: Sean Zweig, Mike Shakra & Thomas Gray
Email: zweigs@bennettjones.com; shakram@bennettjones.com;
grayt@bennettjones.com

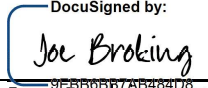
Any such notice shall be deemed to be given and received, when received, unless received after 5:00 ET or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.

34. **GOVERNING LAW AND JURISDICTION:** This Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

[signature pages follow]


IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: 
Name: Joe Broking
Title: CEO

BRIGADE CAPITAL MANAGEMENT, LP

as Investment Manager on Behalf of its
Various Funds and Accounts

By: 
Name: Patrick Criscillo
Title: Chief Financial Officer

**JAVELIN GLOBAL COMMODITIES (SG)
PTE LTD.**




By: _____
Name: Tark Miyai
Title: Director

**MILLSTREET CAPITAL MANAGEMENT LLC,
AS INVESTMENT MANAGER ON BEHALF OF
MULTIPLENOTEHOLDERS**




By: _____
Name: Craig M. Kelleher
Title: Managing Member

MSD PARTNERS, L.P.

By:  _____
Name: Marcello Liguori
Title: Authorized Signatory

**O'BRIEN-STALEY PARTNERS (on behalf
of OSP Value Fund III, LP and OSP Value
Fund IV, LP)**

By: 
Adam Bernier (Mar 1 2024 08:36 CST)

Name: Adam Bernier

Title: Chief Financial Officer

RCF VII CAD LLC

By: Resource Capital Fund VII L.P., Sole Member

By: Resource Capital Associates VII L.P.,
General Partner,


By: RCFM GP L.L.C., General Partner

By: 

Name: Mason G. Hills

Title: General Counsel

SMALL MICRO LEC

By: 
Name: Kunal Hanagandi
Title: Analyst

SCHEDULE "A" **DEFINED TERMS**

"Administration Charge" has the meaning provided in the Amended and Restated Initial Order.

"Advance" means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and the Subsequent Advances.

"Advance Conditions" has the meaning given thereto in Section 8.

"Advance Confirmation Certificate" has the meaning given thereto in Section 4.

"Amended and Restated Initial Order" has the meaning given thereto in Section 22.

"Applicable Law" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

"Borrower" has the meaning given thereto in Section 1.

"Borrower Restructuring Expenses" has the meaning given thereto in Section 6.

"Business Day" means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada and the United States of America.

"Cargill" has the meaning given thereto in the recitals.

"Cargill DIP" has the meaning given thereto in the recitals.

"CCAA" has the meaning given thereto in the recitals.

"CCAA Proceedings" has the meaning given thereto in the recitals.

"CITPL" means Cargill International Trading PTE Ltd., and its successors and assigns.

"Claims" has the meaning given thereto in Section 25.

"Collateral" means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

"Consortium Transaction" means the transactions contemplated in the Subscription Agreement.

"Court" has the meaning given thereto in the Recitals.

"Court Order" means any order of the Court in the CCAA Proceedings.

"Default" means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

"Deposit" has the meaning given thereto in Section 5.

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including the week ended May 19, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lenders, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lenders.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Financing Commitment**” means, with respect to each of the respective DIP Lenders, the amount indicated in Schedule “B” hereto, the amount of which may not be amended for a specific DIP Lender, without the prior written consent that DIP Lender

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fee) due hereunder and (iii) DIP Lenders’ Expenses, in each case to the extent incurred or arising after the date of the New DIP Approval Order.

“**DIP Lenders’ Expenses**” has the meaning given thereto in Section 9.

“**DIP Lenders**” has the meaning given thereto in the recitals.

“**DIP Lenders’ Charge**” has the meaning given thereto in Section 8.

“**Directors’ Charge**” means the Court-ordered priority charge over the Borrower’s Collateral granted by the Court pursuant to the Amended and Restated Initial Order.

“**Fees**” has the meaning given thereto in Section 17.

“**Fourth Advance**” has the meaning given thereto in Section 4.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Exit Fee**” has the meaning given thereto in Section 17.

“**Extension Fee**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Fees**” has the meaning given thereto in Section 17.

“**Filing Date**” means the date on which the Initial Order is granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means the key employee retention program approved by this Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means the charge granted by the Court to secure the KERP pursuant to the Amended and Restated Initial Order.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound; (ii) which is material to, or necessary in, the operation of the business of such Borrower; and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**New DIP Approval Order**” has the meaning given thereto in Section 8.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Permitted Liens**” means (i) the Permitted Priority Liens; (ii) the DIP Lenders’ Charge; (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lenders’ Charge; (iv) Liens existing prior to the Filing Date; and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation

claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lenders' Charge granted by the Court and (vi) such other Liens existing as of the date of the New DIP Approval Order that have not been subordinated to the DIP Lenders' Charge granted by the Court.

"Permitted Variance" means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lenders' Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"PIK Election" has the meaning given thereto in Section 16.

"Plan" means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

"Pro Rata" means, in respect of any DIP Lender at any time, the ratio of the DIP Obligations owing to such DIP Lender at such time to the aggregate DIP Obligations owing to all DIP Lenders.

"Post DIP Order Expenses" has the meaning given thereto in Section 9.

"Pre DIP Order Expenses" has the meaning given thereto in Section 9.

"Required DIP Lenders" means, at any time, DIP Lenders holding more than 66 2/3% of the aggregate DIP Financing Commitments held by DIP Lenders.

"Restructuring Transaction" means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

"Second Advance" has the meaning given thereto in Section 4.

"Solicitation Process" has the meaning given thereto in the recitals.

"Subscription Agreement" means that certain subscription agreement entered into between the Borrower, as issuer, and a consortium consisting of the DIP Lenders, as investors, dated January 29, 2024, as amended from time to time.

"Subsequent Advances" has the meaning given thereto in Section 4.

"Tacora" has the meaning given in the recitals.

"Taxes" has the meaning given thereto in Section 28.

"Third Advance" has the meaning given thereto in Section 4.

"Transaction Fee Charge" means the charge in favour of Greenhill & Co. Canada Ltd. approved by the Court pursuant to the Amended and Restated Initial Order.

"Term Sheet" has the meaning given thereto in the recitals.

“Testing Period” has the meaning given thereto in Section 13.

“Variance Report” has the meaning given thereto in Section 13.

“Withholding Taxes” has the meaning given thereto in Section 28.

SCHEDULE "B"
DIP FINANCING COMMITMENT

The allocations below assume maximum amount of the DIP Facility is funded. Each Advance shall be funded *pro rata* based on the allocations below by the DIP Lenders.

<u>DIP Lender</u>	<u>Total DIP Financing Commitment (\$)</u>
Brigade Capital Management, L.P.	\$9,403,374.53
Millstreet Capital Management LLC	\$22,967,971.63
MSD Partners, L.P.	\$4,497,726.88
O'Brien-Staley Partners	\$13,146,688.83
Small Micro LLC	\$10,409,863.13
RCF VII CAD LLC	\$62,663,611.11
Javelin Global Commodities (SG) PTE Ltd	\$38,045,763.89

SCHEDULE "C"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: GLC Advisors Co., on behalf of the DIP Lenders

DATE: [●]

Reference is made to that certain DIP Facility Term Sheet between Tacora Resources Inc., as Borrower, and the DIP Lenders as lenders dated March 10, 2024 (the "**Term Sheet**"). Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for **[the Initial Advance / the Subsequent Advances]** (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The Requested Advance shall be deposited into the Operating Account on [●].

The DIP Lenders are hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____

Name:

Title:

SCHEDULE "D"
FORM OF NEW DIP APPROVAL ORDER

See attached.

Court File No. CV-23-00707394-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM)
JUSTICE KIMMEL)
MONDAY, THE 18TH
DAY OF MARCH, 2024

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

SECOND AMENDED AND RESTATED INITIAL ORDER

THIS MOTION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order amending and restating the Amended and Restated Initial Order issued by the Court on October 30, 2023, substantially in the form included at the Applicant's Motion Record dated March 11, 2024 (the "**Motion Record**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record of the Applicant dated October 9, 2023, the Affidavit of Joe Broking sworn October 9, 2023 (the "**First Broking Affidavit**"), the Affidavit of Chetan Bhandari sworn October 9, 2023, the Supplementary Application Record of the Applicant dated October 15, 2023, the Affidavit of Joe Broking sworn October 15, 2023 (the "**Second Broking Affidavit**"), the Affidavit of Joe Broking sworn February 2, 2024 (the "**Third Broking Affidavit**"), the Motion Record of the Applicant, the Affidavit of Joe Broking sworn March 11, 2024 (the "**Fourth Broking Affidavit**"), the Affidavit of Chetan Bhandari sworn October 15, 2023, the Affidavit of Philip Yang sworn October 15, 2023, the consent of FTI Consulting Canada Inc. ("**FTI**") to act as Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"), the Pre-Filing Report of the Proposed Monitor dated October 10, 2023, the First Report of the Monitor dated October 20, 2023, the Third Report of the Monitor dated March [●], 2024, the Motion Record of the Ad Hoc Group of Noteholders dated October 16, 2023, the Affidavit of Thomas Gray sworn October 16, 2023, the Brief of Transcripts and Exhibits, including the transcripts from the Examinations of Leon Davies held October 18, 2023, Chetan Bhandari held October 18, 2023, Paul Carrelo held October

19, 2023 and Joe Broking held October 19, 2023, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Cargill, Incorporated and Cargill International Trading Pte Ltd., and counsel for the DIP Lenders (as defined in the Fourth Broking Affidavit), and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Natasha Rambaran and the affidavits of service of Philip Yang, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicant shall be entitled to continue to utilize the cash management system currently

in place as described in the First Broking Affidavit or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management system, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses, and director fees of outside directors payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers’ insurance), and maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and

- (c) payments on behalf of Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for the Applicant's head office located in Grand Rapids, Minnesota.

8. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan, and income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: to make no payments of principal, interest thereon

or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement and the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding US\$1,000,000 in any one transaction or US\$5,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including May 19, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

NO PRE-FILING VS POST-FILING SET-OFF

17. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which obligation may become due and payable after the commencement of these proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$5,200,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 47 and 50 herein.

23. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

ENGAGEMENT OF GREENHILL

24. **THIS COURT ORDERS** that the engagement of Greenhill & Co. Canada Ltd. ("**Greenhill**") by the Applicant as investment banker pursuant to the engagement letter dated as of January 23,

2023 (the “**Greenhill Engagement Letter**”) and payment by the Applicant of the Monthly Advisory Fee (as defined in the Greenhill Engagement Letter) and the Transaction Fee (as defined in the First Broking Affidavit) are hereby approved, subject to the priority provided for herein.

25. **THIS COURT ORDERS** that Greenhill shall be entitled to the benefit of and are hereby granted a charge (the “**Transaction Fee Charge**”) on the Property as security for the Transaction Fee, which charge shall not exceed an aggregate amount of US\$5,989,917.50. The Transaction Fee Charge shall have the priority set out in paragraphs 47 and 50 herein.

26. **THIS COURT ORDERS** that Greenhill shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of the Greenhill Engagement Letter, save and except for any gross negligence or wilful misconduct on its part.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant’s receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lenders and their counsel, pursuant to and in accordance with the DIP Agreement, or as may otherwise be agreed between the Applicant and the DIP Lenders;
- (d) advise the Applicant in its preparation of the Applicant’s cash flow statements and reporting required by the DIP Lenders under the DIP Agreement, which information

shall be reviewed with the Monitor and delivered to the DIP Lenders and their counsel in accordance with the DIP Agreement;

- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Newfoundland Environmental Protection Act*, the

Newfoundland Water Resources Act, the *Newfoundland Occupational Health and Safety Act*, and the regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lenders with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill for its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 47 and 50 hereof.

DIP FINANCING

36. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the "**DIP Facility**") under a DIP Facility Term Sheet dated March 10, 2024 (the "**DIP Agreement**") from the DIP **Lenders** in order to, among other things, finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of US\$188,000,000, unless permitted by further Order of this Court.

37. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached as Exhibit "A" to the Fourth Broking Affidavit.

38. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such security documents and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. **THIS COURT ORDERS** that the DIP Lenders shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on the Property, which DIP Charge shall not secure an obligation that exists before this Order is made. The DIP Charge shall have the priority set out in paragraphs 47 and 50 hereof.

40. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) the filing, registration, recordation or perfection of the DIP Charge shall not be required, and that the DIP Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Charge coming into existence, notwithstanding any such failure to file, register, record or perfect;
- (c) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lenders may cease making advances to the Applicant upon four (4) business days' notice to the Applicant and the Monitor, exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Charge, including without limitation, set off and/or consolidate any amounts owing by the DIP Lenders to the Applicant against the obligations of the Applicant to the DIP Lenders under the DIP Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (d) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

41. **THIS COURT ORDERS** that the DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act (Canada)* (the "**BIA**"), with respect to any advances made under the Definitive Documents.

42. **THIS COURT ORDERS** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "**Variation**"), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lenders, whether under this Order

(as made prior to the Variation), under the DIP Agreement or the Definitive Documents with respect to any advances made or obligations incurred prior to the DIP Lenders being given notice of the Variation, and the DIP Lenders shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Agreement and the Definitive Documents.

PAYMENT TO CARGILL INC. AND CARGILL INTERNATIONAL TRADING PTE LTD.

43. **THIS COURT ORDERS** that the Applicant is hereby authorized and directed to use amounts drawn under the DIP Facility to repay Cargill Inc. ("**Cargill**") and Cargill International Trading Pte Ltd. ("**CITPL**") the aggregate amount of \$97,250,000 on [●], 2024 in satisfaction of all amounts owing by the Applicant under the DIP Loan Agreement dated October 9, 2023 (the "**Cargill DIP Agreement**", and the facility therein, the "**Cargill DIP Facility**"), and such payment in accordance with this Order shall be permanent and indefeasible payment of the Applicant's obligations under the Cargill DIP Agreement. For the avoidance of doubt, upon such payment:

- (a) the Applicant shall be released and discharged from all indebtedness, liabilities and obligations under the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith;
- (b) all encumbrances and charges in favour of Cargill or CITPL against the Applicant or its Property in connection with the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith shall be released, deleted and discharged; and
- (c) the Applicant is hereby authorized and directed to effect the discharge of any and all registrations and filings in respect of the Applicant under any registry system made in favour of Cargill or CITPL in connection with the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith.

KEY EMPLOYEE RETENTION PLAN

44. **THIS COURT ORDERS** that the Key Employee Retention Plan (the "**KERP**"), as described in the First Broking Affidavit and the Second Broking Affidavit, is hereby approved and the Applicant is authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

45. **THIS COURT ORDERS** that payments made by the Applicant pursuant to the KERP do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

46. **THIS COURT ORDERS** that the Applicant is authorized to pay up to US\$3,035,000 to the Monitor to hold in a segregated account (the “**KERP Funds**”) and the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the KERP Funds (the “**KERP Charge**”), which charge shall not exceed an aggregate amount of US\$3,035,000 to secure any payments to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraphs 47 and 50 hereof. The Monitor shall not be responsible for making the payments to the Key Employees under the KERP; paying any tax withholdings or remittances payable to any tax authorities or otherwise in respect of the KERP; or reporting or making disclosure with respect to the KERP to any taxing authorities or otherwise.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

47. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge, the Transaction Fee Charge and the DIP Charge (collectively, with the KERP Charge, the “**Charges**”), as among them, as against the Property other than the KERP Funds, shall be as follows:

First – the Administration Charge (to the maximum amount of US\$1,000,000);

Second – the Directors’ Charge (to the maximum amount of US\$5,200,000);

Third – the Transaction Fee Charge (to the maximum amount of US\$5,989,917.50); and

Fourth – the DIP Charge.

48. **THIS COURT ORDERS** that the KERP Charge (to the maximum amount of US\$3,035,000) shall rank first solely as against the KERP Funds and the other Charges shall rank subordinate to the KERP Charge as against the KERP Funds in the priorities set out in paragraph 47.

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

50. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property, and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, except for the portion of the Transaction Fee Charge which ranks *pari passu* basis with the Senior Priority Notes and Senior Priority Advances (each as defined in the First Broking Affidavit).

51. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the beneficiaries of the Administration Charge, the Directors’ Charge, DIP Charge and the KERP Charge, or further Order of this Court.

52. **THIS COURT ORDERS** that the Administration Charge, the Directors’ Charge, the KERP Charge, the Transaction Fee Charge, the DIP Charge, the DIP Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the DIP Lenders thereunder shall not otherwise be limited or impaired in any way by the pendency of these proceedings and the declarations of insolvency made herein; any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; the filing of any assignments for the general benefit of creditors made pursuant to the BIA; the provisions of any federal or provincial statutes; or any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Applicant pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

53. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

54. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition), a notice containing the information prescribed under the CCAA, (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

55. **THIS COURT ORDERS** that the Commercial List E-Service Guide (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://cfcanada.fticonsulting.com/tacora>.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or

distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

57. **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).

SEALING

58. **THIS COURT ORDERS** that Confidential Exhibit "C" to the Second Broking Affidavit is hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

59. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

60. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

61. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the

terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lenders) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

64. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on October 10, 2023.

65. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.**

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

**SECOND AMENDED AND RESTATED
INITIAL ORDER**

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Counsel to Tacora Resources Inc.

SCHEDULE "E"
DIP BUDGET

See attached.

Tacora Resources Inc.

Consolidated Cash Flow Projections

(\$USD in thousands)

Forecast Week Ending	10-Mar-24	17-Mar-24	24-Mar-24	31-Mar-24	07-Apr-24	14-Apr-24	21-Apr-24	28-Apr-24	05-May-24	12-May-24	19-May-24	Total	
Forecast Week	[1]	1	2	3	4	5	6	7	8	9	10	11	Total
Total Receipts	[2]	-	4,450	20,114	(4,399)	(3,088)	-	5,900	(314)	6,530	6,965	14,740	50,898
Operating Disbursements	[3]												
Employees		(680)	(2,035)	(207)	(2,160)	(285)	(2,147)	(676)	(2,073)	(286)	(2,155)	(206)	(12,910)
Mine, Mill and Site Costs		(1,052)	(3,475)	(1,705)	(2,522)	(955)	(1,664)	(1,041)	(6,883)	(993)	(1,863)	(704)	(22,858)
Plant Repairs and Maintenance		(2,783)	(2,354)	(3,198)	(2,104)	(2,164)	(2,164)	(2,090)	(2,090)	(2,672)	(2,172)	(2,098)	(25,888)
Logistics		(1,698)	(2,412)	(1,818)	(1,284)	(5,065)	(1,265)	(1,084)	(1,084)	(5,622)	(1,611)	(1,571)	(24,515)
Capital Expenditures		(43)	(1,600)	(1,200)	(1,403)	(1,000)	(1,000)	(1,000)	(1,203)	(1,100)	(1,100)	(1,100)	(11,749)
Other		(946)	(586)	(418)	(630)	(556)	(418)	(418)	(591)	(965)	(418)	(418)	(6,362)
Total Operating Disbursements		(7,202)	(12,462)	(8,546)	(10,103)	(10,024)	(8,658)	(6,309)	(13,925)	(11,638)	(9,318)	(6,097)	(104,282)
Net Cash from Operations		(7,202)	(8,012)	11,568	(14,502)	(13,112)	(8,658)	(409)	(14,239)	(5,109)	(2,353)	8,643	(53,384)
Restructuring Legal and Professional Costs	[4]	(752)	(1,398)	(1,109)	(1,740)	(1,285)	(693)	(518)	(693)	(749)	(619)	(444)	(9,999)
KERP	[5]	-	-	-	-	-	-	-	-	-	-	-	-
NET CASH FLOWS		(7,954)	(9,409)	10,459	(16,243)	(14,397)	(9,351)	(926)	(14,932)	(5,858)	(2,972)	8,200	(63,383)
Cash													
Beginning Cash Balance		27,025	19,070	9,661	52,438	36,196	21,798	50,448	49,521	34,589	43,732	40,760	27,025
Net Receipts/ (Disbursements)		(7,954)	(9,409)	10,459	(16,243)	(14,397)	(9,351)	(926)	(14,932)	(5,858)	(2,972)	8,200	(63,383)
Net DIP Advances/ (Repayments)	[6]	-	-	32,750	-	-	38,000	-	-	15,000	-	5,000	90,750
DIP Fees & Interest Payment	[7]	-	-	(432)	-	-	-	-	-	-	-	-	(432)
Ending Cash Balance		19,070	9,661	52,438	36,196	21,798	50,448	49,521	34,589	43,732	40,760	53,960	53,960

DIP Facility Opening Balance	75,000	75,000	75,000	-	-	-	-	-	-	-	-	-	75,000
Net DIP Advances/ (Repayments)	-	-	(75,000)	-	-	-	-	-	-	-	-	-	(75,000)
DIP Facility Ending Balance	75,000	75,000	-	-	-	-	-	-	-	-	-	-	-
Opening Post-Filing Margin Advances	20,000	20,000	20,000	-	-	-	-	-	-	-	-	-	20,000
Net Margin Advances/ (Repayments)	-	-	(20,000)	-	-	-	-	-	-	-	-	-	(20,000)
Ending Post-Filing Margin Advances	20,000	20,000	-	-	-	-	-	-	-	-	-	-	-
Total DIP Facility and Post-Filing Margin Advances	95,000	95,000	-	-	-	-	-	-	-	-	-	-	-
Replacement DIP Opening Balance	-	-	-	130,000	130,000	130,000	168,000	168,000	168,000	184,715	184,715	-	-
Net DIP Advances/ (Repayments)	-	-	32,750	-	-	38,000	-	-	15,000	-	5,000	90,750	90,750
Repayment of DIP Facility	-	-	75,000	-	-	-	-	-	-	-	-	75,000	75,000
Repayment of Post-Filing Margin Advances	-	-	20,000	-	-	-	-	-	-	-	-	20,000	20,000
Payment of DIP Facility Exit Fee	-	-	2,250	-	-	-	-	-	-	-	-	2,250	2,250
PIK Interest	[7]	-	-	-	-	-	-	-	1,715	-	708	2,423	2,423
Replacement DIP Ending Balance	-	-	130,000	130,000	130,000	168,000	168,000	168,000	184,715	184,715	190,423	190,423	190,423

Tacora Resources Inc.

Consolidated Cash Flow Projections

Notes to the Consolidated Cash Flow Projections:

[1] The purpose of the Cashflow Projections is to estimate the liquidity requirements of Tacora Resources Inc. ("Tacora", or the "Company") during the forecast period. The forecast above is presented in US Dollars. Any estimates in Canadian dollars have been translated at an fx rate of 1.34.

[2] Forecast Total Receipts are based on management's current expectations regarding productions and vessel shipments of iron ore concentrate (total tonnage) and price indices net of mark to market adjustments. Receipts from operations have been forecast based on current payment terms, historical trends in collections and expected vessel shipment schedules.

[3] Operating disbursements include the following key categories:

Forecast Employee Costs are based on historic payroll amounts and future forecast payments.

Forecast Mine, Mill and Site Costs primarily include site costs based on forecast activity levels and known commitments including, utilities, fuel, and supplies and consumables.

Forecast Plant Repairs and Maintenance costs relate to Scully Mine. Plant repairs and maintenance also includes contract labour at the Scully Mine.

Forecast Logistics costs primarily include rail transportation costs as well as port-related payments.

Forecast Capital Expenditures include costs related to mine, milling, and other logistics / infrastructure improvements.

Forecast Other costs include environmental costs, security and other costs at the Scully Mine and corporate.

[4] Forecast Restructuring Legal and Professional Costs include legal and financial advisors associated with the CCAA proceedings and are based on estimates.

[5] Forecast Key Employee Retention Plan (KERP) consistent with the Initial Affidavit.

[6] Forecast DIP Advances/Repayments reflect inflows and outflows pertaining to the DIP Facility, as well as the proposed Replacement DIP Facility, and are based on funding requirements per each DIP term sheet. The cash flow forecast above assumes a minimum cash balance throughout the period.


[7] DIP Fees and Interest are calculated based on total draws. Forecast DIP Fees and Interest in weeks 1 to 3 relate to the DIP Facility. Forecast DIP Fees and Interest in weeks 4 to 11 relate to the proposed Replacement DIP Facility. Forecast DIP Fees and Interest from weeks 4 and beyond are reflected as payment in-kind (PIK) Interest.

EXHIBIT "B"

referred to in the Affidavit of

JOE BROKING

Sworn March 11, 2024

DocuSigned by:


36124C4218DD47C...

Commissioner for Taking Affidavits
Philip Yang

DIP FACILITY TERM SHEET

This term sheet dated as of ~~October 9~~March 10, 2023–2024 (this “**Term Sheet**”) sets out the terms on which ~~Cargill~~Brigade Capital Management, Incorporated (“Cargill”) is L.P.; Millstreet Capital Management LLC; MSD Partners, L.P.; O’Brien-Staley Partners; Small Micro LLC; RCF VII CAD LLC; and Javelin Global Commodities (SG) PTE Ltd. (collectively, the “**DIP Lenders**”) are prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“Tacora”).

Recitals:

Background:

~~CITPL (as defined below) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement, the Onshore Agreement and the Weteon PSA (collectively, the “Existing Arrangements”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora.~~

~~Tacora has requested that Cargill provide the DIP Facility (as defined below) and continue the Existing Arrangements during the pendency of its proceedings (the “CCAA Proceedings”). Tacora commenced proceedings under the Companies’ Creditors Arrangement Act (Canada) (the “CCAA”) to be commenced before, and those proceedings, the “CCAA Proceedings”) pursuant to an initial Order granted by the Ontario Superior Court of Justice (Commercial List) (the “Court”) and on October 10, 2023 (the “Initial Order”). Pursuant to the Initial Order, among other things, the Court approved a debtor-in-possession financing agreement between Tacora as borrower and Cargill, Incorporated (“Cargill”) as lender (the “Cargill DIP”).~~

Pursuant to an Order dated October 30, 2023, this Court authorized Tacora to undertake a sale, investment and services solicitation process to solicit offers or proposals for a sale, restructuring or recapitalization transaction in respect of Tacora’s assets and business operations (the “Solicitation Process”).

On February 2, 2024, Tacora filed motion materials indicating (i) that it had determined that the bid submitted by the DIP Lenders was the “Successful Bid” pursuant to the Solicitation Process; and (ii) seeking approval of the Successful Bid and the transactions contemplated thereby. That motion is scheduled to be heard from April 10-12, 2024.

1. _____

~~in accordance with the terms and conditions set out herein; Cargill has agreed to cause CITPL to continue the Existing Arrangements and provide the DIP Facility pursuant to and in accordance with, among other terms, those terms set out below:~~

Tacora has requested that the DIP Lenders provide debtor-in-possession financing to repay its obligations under the Cargill DIP and to fund the remainder of the CCAA Proceedings to consummate the Successful Bid. The DIP Lenders have agreed to provide the DIP Facility (as defined below) on substantially the same terms as the Cargill DIP to be used for the pendency of the CCAA Proceedings in accordance with the terms and conditions set out herein. For greater certainty, nothing in this Term Sheet shall constitute a waiver, amendment or modification of any condition, right or privilege in favour of the

DIP Lenders, or the Investors (as defined in the Subscription Agreement), under the Subscription Agreement.

BORROWER: Tacora Resources Inc. (“**Borrower**”).

2. **DIP LENDERLENDERS** : ~~(i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “DIP Lender”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.~~
Brigade Capital Management, L.P.
Millstreet Capital Management LLC
MSD Partners, L.P.
O’Brien-Staley Partners
Small Micro LLC
RCF VII CAD LLC
Javelin Global Commodities (SG) PTE Ltd

3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “A”.

4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of ~~\$75-188 million~~, less the Deposit (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein. The Facility Amount shall be allocated among the DIP Lenders as provided by Schedule “B”.

Subject to the below, the DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in a principal amount of ~~\$15,500,000; and~~ 130 million as of the date of the Initial Advance, to
- ~~(b) subsequent advances (each a “Subsequent Advance”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$1,000,000 and the principal amount of the aggregate Subsequent Advances being no more than \$59.5 million, such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.~~

~~The Initial Advance shall~~ be deposited by the DIP ~~Lender~~ Lenders into the Operating Account within one (1) Business Day of the ~~date on which the~~

~~Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule "B" (an "Advance Confirmation Certificate").~~ issuance of the New DIP Approval Order;

- (b) if required as contemplated by the DIP Budget, an advance (the "Second Advance") in a principal amount of \$38 million, which shall include the Deposit, to be deposited by the DIP Lenders into the Operating Account upon seven (7) Business Days' notice from the Borrower;
- (c) if required as contemplated by the DIP Budget, an advance (the "Third Advance") in a principal amount of up to \$15 million, to be deposited by the DIP Lenders into the Operating Account upon seven (7) Business Days' notice from the Borrower; and
- (d) if required as contemplated by the DIP Budget, an advance (the "Fourth Advance", and together with the Second Advance and the Third Advance, the "Subsequent Advances") in a principal amount of up to \$5 million, to be deposited by the DIP Lenders into the Operating Account upon seven (7) Business Days' notice from the Borrower.

For avoidance of doubt, the DIP Lenders shall fund a maximum amount of \$161.135 million of the DIP Facility, and the remainder shall be funded from the Deposit, which shall be included in the Second Advance, subject to approval by the Court in the New DIP Approval Order. The funding of the Advances by the DIP Lenders is subject to: (i) the Advance Conditions being satisfied at the time of the Advance and (ii) the Borrower delivering to the DIP Lenders an Advance confirmation certificate in the form of Schedule "C" (an "Advance Confirmation Certificate").

Unless otherwise agreed to by the DIP Lenders in writing, the DIP Lenders shall each fund the Advances on a *pro rata* basis.

~~Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.~~ The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP LenderLenders, have been fully complied with, and (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable

and shall be honoured by the DIP ~~Lender~~ Lenders unless the Required DIP Lender ~~has~~ Lenders have provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP ~~Lender~~ Lenders and the Monitor.

5. **EXISTING ARRANGEMENTS: DEPOSIT:**

~~In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP Lender Charge (the “Post-Filing Margin Advances”).~~

~~In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full-time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “Existing Services”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “Additional Services” and together with the Existing Services, collectively, the “Services”).~~

~~The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “Ancillary Post-Filing Credit Extensions” and together with the Post-Filing Margin Advances, collectively, the “Post-Filing Credit Extensions”).~~

~~Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:~~

- ~~(a) — Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;~~
- ~~(b) — Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof; and~~
- ~~(c) — Continue to honour and perform in respect of any existing side~~

~~letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.~~

~~Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.~~

The \$26.865 million paid by the DIP Lenders and held by the Monitor in trust pursuant to the Subscription Agreement (the “Deposit”) may be accessed by the Borrower, following the issuance of the New DIP Approval Order, pursuant to the Second Advance. Once the Deposit is accessed by the Borrower, it shall earn interest at 10% *per annum* in accordance with Section 16, which interest shall be payable to the DIP Lenders based on their allocations of the Deposit.

The DIP Lenders and the Borrower shall amend the Subscription Agreement to provide that when the Deposit is released to the Borrower pursuant to this Term Sheet and if the Deposit becomes payable to the Borrower in accordance with the Subscription Agreement, the DIP Obligations shall be reduced by the portion of the Deposit previously released to the Borrower.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use a portion of the Initial Advance to repay all amounts owing to Cargill under the Cargill DIP.

The Borrower shall use all other proceeds of the ~~DIP Facility Initial Advance and the Subsequent Advances~~ solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP ~~Lender~~-Lenders’ Expenses;
- (c) ~~(e)~~to pay the interest, fees and other amounts owing to the DIP ~~Lender~~-Lenders under this Term Sheet; and
- (d) ~~(d)~~to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring

Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the Required DIP Lender Lenders and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the Required DIP Lender Lenders, or as may otherwise be agreed to by the Required DIP Lender Lenders and the Borrower (in consultation with the Monitor).

INITIAL
ADVANCE
CONDITIONS:

[Reserved]

INITIAL
ADVANCE
CONDITIONS:

The DIP ~~Lender's~~ Lenders' agreement to make the Facility Amount available to the Borrower and to advance the ~~Initial Advance~~ Advances to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "~~Initial Advance Conditions~~"), each of which is for the benefit of the DIP ~~Lender~~ Lenders and may be waived by the Required DIP Lender in its Lenders in their sole discretion:

~~The Court shall have issued an initial order in respect of the Borrower (the "Initial Order") in substantially the form attached hereto as Schedule "D" and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post Filing Credit Extensions) a priority charge (the "DIP Lender Charge") on the Borrower's Collateral as security for the payment of (i) (a) the Initial Advance and (ii) any Post Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower's Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended Initial Order), without the written consent of the DIP Lender, acting reasonably.~~

~~(a) — No Default or Event of Default shall have occurred or will occur as a result of the requested Advance.~~

~~(b) — The Borrower shall have executed and delivered this Term Sheet.~~

~~(c) — The Borrower shall have delivered an Advance Confirmation~~

~~Certificate in respect of such Advance.~~

**8. — SUBSEQUENT
ADVANCE
CONDITIONS:**

~~The DIP Lender's agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "Subsequent Advance Conditions"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:~~

- (a) ~~At the comeback motion in respect of the Initial Order, the~~ The Borrower shall have executed and delivered this Term Sheet.
- (b) ~~The~~ Court shall have issued an ~~amended and restated Initial~~ Order (the "~~Amended Initial New DIP Approval Order~~") in substantially the form attached hereto as Schedule "~~ED~~" and with such changes as are acceptable to the Borrower, the Monitor and the Required DIP Lender Lenders, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide ~~that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of~~ for a charge over the Borrower's Collateral that shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens (the "DIP Lenders' Charge").
- (a) ~~(b)~~ The Amended Initial New DIP Approval Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the Required DIP Lender Lenders, acting reasonably.
- (b) ~~(e)~~ There shall be no Liens ranking in priority to the DIP Lender Lenders' Charge over the Borrower's Collateral other than the Permitted Priority Liens.
- (c) ~~(d)~~ All Initial Advance Conditions shall continue to be satisfied. No Default or Event of Default shall have occurred or will occur as a result of the requested Advance.

**9. COSTS AND
EXPENSES:**

~~The~~ Subject to this Section 9 of the Term Sheet, the Borrower shall reimburse the DIP Lender Lenders for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the ~~Filing Date~~ date of the New DIP Approval Order (collectively, the "~~DIP Lender Lenders' Expenses~~") in connection with the DIP Facility, the DIP Credit Documents, and the ~~DIP Lender's~~ Lenders' participation in the CCA Proceedings, ~~provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes.~~ The DIP Lender Lenders' Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge. All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation

~~for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.~~Lenders' Charge. The DIP Lenders' Expenses incurred prior to the date of the New DIP Approval Order (the "Pre DIP Order Expenses") shall be capitalized and added to the DIP Obligations. If the Borrower utilizes the PIK Election, the go-forward DIP Lenders' Expenses following the date of the New DIP Approval Order (the "Post DIP Order Expenses") shall be paid from the Advances up to a maximum of the amount of interest paid-in-kind. For any period where the Borrower has not utilized the PIK Election or where the Post DIP Order Expenses are greater than the amount of interest paid-in-kind, the Post DIP Order Expenses shall not be paid from the Advances and shall only be added to the DIP Obligations.

The DIP Lenders agree that (a) if the Consortium Transaction closes, upon closing, the Borrower may pay Pre DIP Order Expenses and any capitalized Post DIP Order Expenses by the issuance of common shares of the Borrower at the issue price under the Subscription Agreement, and (b) in any other case, the Pre DIP Order Expenses and any capitalized Post DIP Order Expenses shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof. For greater certainty, the Borrower may elect to pay the Pre DIP Order Expenses and any capitalized Post DIP Order Expenses by the issuance of common shares upon closing of the Consortium Transaction by providing notice to the DIP Lenders prior to closing.

10. **DIP LENDER
LENDERS'
CHARGE:**

All DIP Obligations shall be secured by the DIP ~~Lender~~Lenders' Charge, in connection with which the Required ~~DIP Lender~~Lenders may, in ~~its~~their reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be ~~(a) an Initial Advance Condition or (b) a Subsequent an~~ Advance Condition except and unless the Required ~~DIP Lender has~~Lenders have provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED
LIENS; AND
PRIORITY:**

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated, and (v) ~~the Outside Date June 1, 2024, provided that such date may be extended by the Borrower to June 30, 2024 and upon such extension the DIP Lenders shall earn the Extension Fee~~ (the earliest of such dates being the “**Maturity Date**”). ~~The Subject to Section 30, the~~ Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP ~~Lender-Lenders~~ for such period and on such terms and conditions as the DIP ~~Lender-Lenders~~ may agree in ~~its~~ their sole discretion.

Without the consent of the Required DIP Lender-Lenders, acting in ~~its~~ their sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP ~~Lender-Lenders~~ of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:**

Attached hereto as Schedule “~~CE~~” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP ~~Lender-Lenders~~ in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP ~~Lender acknowledges and agrees~~ Lenders acknowledge and agree has been reviewed and approved by it, and is in form and substance satisfactory to the DIP ~~Lender-Lenders~~. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP ~~Lender-Lenders~~ in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP ~~Lender-Lenders~~ no more frequently than every two (2) weeks (unless otherwise consented to by the Required DIP Lender-Lenders), in each case to be delivered to the Monitor and the DIP ~~Lender-Lenders~~ and ~~its~~ their legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the ~~DIP Lender determines~~ Required DIP Lenders determine that the proposed revised DIP Budget is not acceptable, ~~it~~ they shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the Required DIP Lender-Lenders, the prior DIP Budget shall remain in effect. In the event that the Required DIP Lender ~~does~~ Lenders do not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP ~~Lender-Lenders~~ of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the Required DIP Lender-Lenders and become the

DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the Required DIP Lender Lenders shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP ~~Lender-Lenders~~ and ~~its-their~~ legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP ~~Lender-Lenders~~ and ~~its-their~~ legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP ~~Lender’s-Lenders’~~ accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP ~~Lender-Lenders~~ pursuant to the DIP Facility ~~and the Post-Filing Credit Extensions~~.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the Required DIP Lender Lenders, which may be withheld in ~~its-their~~ sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations ~~and all Post-Filing Credit Extensions in full~~, and the concurrent ~~(i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions and (ii) termination of the Onshore Agreement~~.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances (including the Deposit when released to the Borrower), and (b) overdue interest, fees (including the ~~Exit-Fee Fees~~) and DIP ~~Lender-Lenders’~~ Expenses outstanding from time to time at a rate equal to 10.0% per annum, payable monthly in arrears in cash on the last Business Day of each month. In the alternative to receiving payment of interest monthly in arrears in cash, the Borrower may elect at any time that the DIP Lenders shall receive payment of interest in-kind in accordance with the below (the “PIK Election”).

If the Required DIP Lenders utilize the PIK Election, the Borrower shall pay the interest on the aggregate outstanding principal amount of the DIP Advances by adding such accrued interest to the principal amount of the DIP Obligations on the last Business Day of each calendar month. Where the PIK Election is utilized by the Borrower (a) if the Consortium Transaction closes, upon closing, the Borrower may pay the accrued interest

by the issuance of common shares of the Borrower at the issue price under the Subscription Agreement, and (b) in any other case, interest that was paid in-kind shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof. For greater certainty, the Borrower may elect to pay the accrued interest by the issuance of common shares upon closing of the Consortium Transaction by providing notice to the DIP Lenders prior to closing.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

For greater certainty, unless otherwise expressly provided in this Term Sheet, all payments to be made by the Borrower to the DIP Lenders under this Term Sheet on account of principal, interest, fees or otherwise shall be made on a Pro Rata basis.

17. ~~EXIT FEE~~FEES:

~~Upon the earlier of (a) completion of a successful Restructuring Transaction~~
An exit fee in an amount equal to 1.5% of the aggregate committed amount of the DIP Facility (less the Deposit), being equal to \$2,417,025 (the "Exit Fee"), shall be payable by the Borrower if the DIP Facility is approved pursuant to the New DIP Approval Order.

An extension fee in an amount equal to 1.5% of the aggregate committed amount of the DIP Facility (less the Deposit), being equal to \$2,417,025 (the "Extension Fee"), shall be payable by the Borrower if the Borrower elects to extend the Maturity Date to June 30, 2024.

The DIP Lenders agree that (a) if the Consortium Transaction closes, upon closing, the Borrower may pay the Exit Fee and the Extension Fee by the issuance of common shares of the Borrower at the issue price under the Subscription Agreement, and (b) in any other case, the Exit Fee and Extension Fee shall be payable in cash at the earlier of (i) the Maturity Date; and (ii) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, ~~the Borrower shall pay an exit fee, in cash, in an amount equal to 3.00% of the aggregate committed amount of the DIP Facility, being equal to \$2,250,000 (the "Exit Fee"), provided that the Exit Fee shall only be payable if the DIP Facility is approved pursuant to the Amended Initial Order.~~ For greater certainty, the Borrower may elect to pay the Exit Fee and the Extension Fee by the issuance of common shares upon closing of the Consortium Transaction by providing notice to the DIP Lenders prior to closing.

If the Deposit becomes payable to the DIP Lenders under the Subscription Agreement, the Exit Fee and the Extension Fee shall be increased by a commensurate amount, to be allocated among the DIP Lenders based on their allocations of the Deposit. The DIP Lenders further agree that if the Deposit becomes payable to the DIP Lenders under the Subscription Agreement such amounts shall be deemed to be committed under the DIP Facility and shall remain with the Monitor to be advanced to the Company in accordance with Sections 4 and 5 of this Term Sheet.

18. **CURRENCY**

Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP ~~Lender~~Lenders hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP ~~Lender is~~Lenders are able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the Required DIP ~~Lender~~Lenders, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP ~~Lender~~Lenders and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP ~~Lender~~Lenders, upon which the DIP ~~Lender is~~Lenders are relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the ~~Initial~~New DIP Approval Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the

- Borrower, enforceable against the Borrower in accordance with their terms;
- (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
 - (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
 - (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
 - (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
 - (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
 - (h) Other than as stayed pursuant to the ~~Initial Order or the Amended Initial Order (once granted)~~Court Orders granted in these CCAA Proceedings, there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
 - (i) Except for those defaults set out ~~on Schedule in schedule 20(i)~~ hereto which are stayed by the ~~Initial Order or the Amended Initial Order~~Orders granted by this Court in the CCAA Proceeding or which have been disclosed to the DIP Lenders in writing, all Material Contracts are in full force and effect and are valid, binding

and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

- (j) Except as disclosed to the DIP ~~Lender~~ Lenders in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing; and
- (l) All written information furnished by or on behalf of the Borrower to the DIP ~~Lender or its~~ Lenders or their advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, ~~the Existing Arrangements,~~ or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; ~~and.~~

~~(l) — The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.~~

21. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP ~~Lender~~ Lenders reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP ~~Lender~~ Lenders and ~~its~~ their legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP ~~Lender~~ Lenders apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, ~~including all matters relating to its pursuit of a Restructuring Transaction,~~ in each case

subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (c) Deliver to the DIP ~~Lender~~ Lenders the reporting and other information from time to time reasonably requested by the Required DIP ~~Lender~~ Lenders and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the ~~Amended Initial~~ New DIP Approval Order ~~by October 20, 2023, in each case~~ substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the Required DIP ~~Lender~~ Lenders, each acting reasonably;
- (f) Comply with the provisions of the ~~Initial~~ New DIP Approval Order; ~~the Amended Initial Order~~; and all other Court Orders;
- (g) Preserve, renew and keep in full force its corporate existence;
- (h) Promptly notify the DIP ~~Lender~~ Lenders of the occurrence of any Default or Event of Default;
- (i) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (j) Provide the DIP ~~Lender~~ Lenders and ~~its~~ their counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (k) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the Required DIP ~~Lender~~ Lenders relating to the DIP Facility or the DIP ~~Lender~~ Lenders' Charge;
- (l) Promptly provide notice to the DIP ~~Lender~~ Lenders and ~~its~~ their counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the

opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (m) Promptly provide notice to the DIP ~~Lender~~Lenders and ~~its~~their counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (n) ~~Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process; [reserved];~~
- (o) Execute and deliver such loan and security documentation as may be reasonably requested by the Required DIP ~~Lender~~Lenders from time to time;
- (p) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the Required DIP ~~Lender~~Lenders, acting reasonably, and, if requested by the Required DIP ~~Lender~~Lenders, cause the DIP ~~Lender~~Lenders to be listed as the loss ~~payee~~payees or additional ~~insured~~insureds (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (q) Promptly following receipt of summary invoices, pay all DIP ~~Lender~~Lenders' Expenses no less frequently than every two weeks, provided that the DIP ~~Lender~~Lenders shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (r) ~~Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement, (ii) the Onshore Agreement and (iii) the Weteon PSA (other than any notice delivered under Section 4.4 thereof unless delivered following an Event of Default and with leave of the Court in accordance with Section 24 hereof);~~

- (r) ~~(s)~~ Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (s) ~~(t)~~ Comply with the DIP Budget subject to the Permitted Variance; and
- (t) ~~(u)~~ Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. **NEGATIVE COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the Required DIP Lender ~~Lenders~~ or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the amended and restated initial Order dated October 30, 2023 (the “Amended and Restated Initial Order-”) or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the ~~Initial Order or the~~ Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;

- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP ~~Lender~~ Lenders and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP ~~Lender~~ Lenders, or as may otherwise be agreed to by the DIP ~~Lender~~ Lenders and the Borrower (in consultation with the Monitor);

~~(j)~~ [reserved]

- (a) ~~(k)~~ Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (b) ~~(l)~~ Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (c) ~~(m)~~ Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP ~~Lender~~ Lenders under or in connection with the DIP Facility or the DIP ~~Lender~~ Lenders' Charge, except with the prior written consent of the Required DIP ~~Lender~~ Lenders, in ~~its~~ their sole discretion;

- ~~(d)~~ ~~(+)~~ Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;
- ~~(e)~~ ~~(+)~~ Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- ~~(f)~~ ~~(+)~~ Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- ~~(g)~~ ~~(+)~~ Seek or consent to the lifting of the stay of proceedings in ~~the Initial Order or Amended Initial Order, as applicable, in~~ favour of the Borrower.

23. **EVENTS OF DEFAULT:**

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP ~~Lender~~ Lenders' Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- ~~(d) — The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim (if permitted under the CCAA) any of the Existing Arrangements (which, for greater certainty, shall not include (i) the commencement and prosecution of the SISP, including the solicitation of an Alternative Offtake or Service Agreement, or (ii) taking any step or related action pursuant to a binding agreement entered into in respect of a Restructuring Transaction at or after the Bid Deadline, including executing such agreement, seeking court approval of such binding agreement or taking any steps in connection with consummating the Restructuring Transaction~~

~~pursuant to such binding agreement) in each case at or after the Bid Deadline, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(e)) of the CCAA or otherwise;~~

(d) ~~(e)~~A default (other than a default resulting from the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as a result of failure to pay pre-filing amounts as a result of the commencement of the CCAA Proceedings) under any Material Contract (other than ~~failure to comply with any notice delivered under Section 4.4 of the Weteon PSA unless delivered following an Event of Default and with leave of the Court in accordance with Section 24 hereof~~any contract between the Borrower and Cargill or the Borrower and CITPL) or any material amendment of any Material Contract unless agreed to by the Required DIP Lender Lenders in writing;

(e) [reserved]

(f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Lenders' Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the Required DIP Lender in its Lenders in their sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Lenders' Charge without the prior written consent of the DIP Lender in its Lenders in their sole discretion;

(g) Unless consented to in writing by the Required DIP Lender Lenders, the expiry without further extension of the stay of proceedings ~~provided for in the Initial Order or the Amended Initial Order~~granted by Court Order in these CCAA Proceedings;

(h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the ~~Filing Date~~date of the New DIP Approval Order to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the Required DIP Lender Lenders in accordance with Section 13;

- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final ~~judgements~~judgments, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the Required DIP Lender-Lenders may, in ~~its~~their sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the Required DIP Lender-Lenders may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender Lenders to the Borrower against the DIP Obligations ~~and the Post-Filing Credit Extensions~~; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender Lenders and ~~its~~their affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by

a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. **TERMINATION BY BORROWER:** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP ~~Lender~~Lenders: (i) in the event that the DIP ~~Lender has~~Lenders have failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP ~~Lender~~Lenders under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section ~~27-26~~27-26 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP ~~Lender~~Lenders shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.
27. **HEDGING:** The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and ~~Cargill (or any of its affiliates)~~the DIP Lenders, and approved by the Monitor.
28. **TAXES:** All payments by the Borrower to the DIP ~~Lender~~Lenders pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP ~~Lender~~Lenders upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively "**Taxes**"); provided, however, that if any Taxes are required by Applicable Law to be withheld ("**Withholding Taxes**") from any amount payable to the DIP ~~Lender~~Lenders under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP ~~Lender~~Lenders shall be increased to the extent necessary to yield to the DIP ~~Lender~~Lenders on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP ~~Lender~~Lenders that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP ~~Lender~~Lenders to

account for any Withholding Taxes, the DIP ~~Lender~~Lenders shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP ~~Lender~~Lenders to the Borrower promptly. If reasonably requested by the Borrower, the DIP ~~Lender~~Lenders shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP ~~Lender~~Lenders shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower's expense.

**29.— STRATEGIC
PROCESS:**

~~The Borrower and the DIP Lender agree that the Borrower (in consultation with the Monitor) shall pursue a sales and investment solicitation process (the "SISP") approved pursuant to a Court Order in respect of (a) potential Restructuring Transactions that may be available to the Borrower; and (b) offtake, service or other agreements in respect of the business of the Borrower ("Alternative Offtake and Service Agreements") that may be available to the Borrower, and the SISP shall include the following milestones:~~

- ~~(a) — The deadline for the receipt of non-binding letters of intent: (i) for potential Restructuring Transactions; and/or (ii) any Alternative Offtake and Service Agreements, will be no later than December 1, 2023;~~
- ~~(b) — The final deadline for the receipt of binding bids: (i) for potential Restructuring Transactions; and/or (ii) any Alternative Offtake and Service Agreements, will be no later than January 19, 2024 (the "Bid Deadline"); and~~
- ~~(c) — Closing of transaction(s) will be no later than February 29, 2024,~~

~~provided that, the Borrower may extend each of the foregoing dates in accordance with the Court Order approving the SISP.~~

~~The DIP Lender (and/or its affiliates) shall be permitted to participate as a bidder in connection with any SISP in respect of potential Restructuring Transactions or Alternative Offtake and Service Agreements, and (ii) credit bid all or certain of the DIP Obligations and/or other obligations owing by the Borrower in connection with any Restructuring Transaction agreed to by the Borrower (in consultation with the Monitor) and the DIP Lender, in each case subject to any Court Order and such reasonable terms and conditions as may be required in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, to protect the Borrower's restructuring process. The SISP shall be without prejudice to any rights that Cargill may have in respect of the Existing Arrangements, including pursuant to Section 32 (including subsection 32(9)(c)) of the CCAA, and all such rights are fully reserved.~~

ASSIGNMENT:

The DIP ~~Lender-Lenders~~ may assign ~~its-their~~ rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP ~~Lender-Lenders~~ with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld ~~(it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable)~~; and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that ~~(A) the proposed assignee has the financial capacity to act as the a DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP.~~ Notwithstanding the foregoing, the DIP ~~Lender-Lenders~~ shall be entitled to assign ~~its-their~~ rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

**AMENDMENTS,
WAIVERS, ETC.**

No waiver or delay on the part of the DIP Lenders in exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing and delivered in accordance with the terms of this DIP Agreement. Unless otherwise expressly provided in this Term Sheet, any waiver, amendment or other modification to this Term Sheet shall require the written consent of the Required DIP Lenders; provided that, notwithstanding the foregoing, solely with the consent of each DIP Lender directly and adversely affected thereby (but without the necessity of obtaining the consent of the Required DIP Lenders), any such agreement may:

- (a) increase the DIP Financing Commitment of such DIP Lender; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the DIP Financing Commitments shall constitute an increase of any DIP Financing Commitment of such DIP Lender;
- (b) reduce or forgive the principal amount of any Advances (it being understood that a waiver of any Default, Event of Default, mandatory prepayment or mandatory reduction of the DIP Financing Commitments shall not constitute a reduction or forgiveness in principal);
- (c) extend the scheduled Maturity Date (it being understood that a waiver of any mandatory prepayment or mandatory reduction of the DIP Financing Commitments shall not constitute an extension of the Maturity Date);
- (d) reduce the interest rate provided for in Section 16 (other than to waive any Default or Event of Default or any obligations of the Borrower to pay interest at the default rate of interest in accordance with Section 16

of this Agreement) or the amount of any fees owed to such DIP Lender;

- (e) waive, amend or modify the provisions of Section 16 (with respect to Pro Rata allocation of all payments among DIP Lenders) of this Agreement in a manner that would by its terms alter the Pro Rata sharing of payments required thereby;
- (f) waive, amend or modify the definition of “Pro Rata”;
- (g) waive, amend or modify the definition of “Required DIP Lenders”, and
- (h) waive, amend or modify the provisions of this Section 30.

Notwithstanding anything else in this Term Sheet, and for greater certainty, this Term Sheet may not be waived, amended or modified to reduce the principal amount owed to any DIP Lender under the DIP Facility or increase the amount of any DIP Lender’s commitment under the DIP Facility, in each case, without the prior written consent of such DIP Lender.

Any waiver, amendment or modification to the terms of this Term Sheet shall be made in writing and signed by the Borrower and the requisite DIP Lenders.

To the extent any fees or other compensation becomes payable to the DIP Lenders in connection with any amendment to this Term Sheet, all DIP Lenders shall have the opportunity to receive their Pro Rata portion of any such fees or other compensation. To the extent any further financing above the Facility Amount is requested from any of the DIP Lenders by the Borrower, its affiliates or their advisors, the DIP Lenders shall have the opportunity to participate on a Pro Rata basis.

**EQUITY
CONTRIBUTIONS
UNDER
SUBSCRIPTION
AGREEMENT**

The Subscription Agreement shall be amended to reflect that a DIP Lender may elect that any Advance made by the particular DIP Lender pursuant to the DIP Facility may be set-off as payment of against their commitments in respect of the New Equity Offering Initial Cash Consideration (as defined in the Subscription Agreement) payable by the particular DIP Lender, in its capacity as an Investor under the Subscription Agreement, on a dollar-for-dollar basis, and upon such set-off at closing of the Consortium Transaction, the DIP Obligations owed to such DIP Lender in respect of any set-off Advance shall be considered indefeasibly repaid in an equivalent amount.

ACCESS RIGHTS

For avoidance of doubt, the DIP Lenders and their advisors shall have the same right of access provided to the Investors under section 5.5 of the Subscription Agreement (Access During Interim Period) for the duration of this Term Sheet.

NOTICE:

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the attention of the person as set forth below:

(a) In the case of the Borrower:

Tacora Resources Inc.
102 NE 3rd Street Suite 120
Grand Rapids, Minnesota
55744 USA

Attention: Joe Broking & Heng Vuong
Email: joe.broking@tacoraresources.com;
heng.vuong@tacoraresources.com

With a copy to:

Stikeman Elliott LLP
5300 Commerce Court West, 199 Bay St.
Toronto, ON M5L 1B9

Attention: Ashley Taylor & Lee Nicholson
Email: ataylor@stikeman.com; leenicholson@stikeman.com

and

Greenhill & Co., LLC
1271 6th Ave, New York,
NY 10020, USA

Attention : Chetan Bhandari, Michael Nessim & Usman Masood
Email : chetan.bhandari@greenhill.com; michael.nessim@greenhill.com;
usman.masood@greenhill.com

And with a copy to the Monitor:
FTI Consulting Canada Inc.
Toronto-Dominion Centre,79 Wellington St W Suite 2010, Toronto, ON
M5K 1G8

Attention: Paul Bishop & Jodi Porepa
Email: paul.bishop@fticonsulting.com; jodi.porepa@fticonsulting.com

And with a copy to the Monitor's Counsel:

Cassels Brock & Blackwell LLP
Bay Adelaide Centre – North Tower,
Suite 3200, Toronto, ON M5H 0B4

Attention: Ryan Jacobs & Jane Dietrich
Email: rjacobs@cassels.com; jdietrich@cassels.com.

(b) In the case of the DIP Lenders:

c/o
GLC Advisors & Co., LLC

600 Lexington Ave., 9th Floor
New York, NY 10022 USA

Attention: Michael Sellinger, Michael Kizer & Adam Kelly-Penso
Email: michael.sellinger@glca.com; michael.kizer@glca.com;
adam.kellypenso@glca.com

With a copy to:

Osler, Hoskin & Harcourt LLP
First Canadian Place
100 King St. W Suite 6200
M5X 1B8

Attention: Marc Wasserman, Michael De Lellis & Justin Sherman
mwasserman@osler.com; mdelellis@osler.com; jsherman@osler.com

Bennett Jones LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Attention: Sean Zweig, Mike Shakra & Thomas Gray
Email: zweigs@bennettjones.com; shakram@bennettjones.com;
grayt@bennettjones.com

Any such notice shall be deemed to be given and received, when received,
unless received after 5:00 ET or on a day other than a Business Day, in
which case the notice shall be deemed to be received the next Business Day.

GOVERNING LAW
AND
JUSISDICTION:

This Term Sheet shall be governed by, and construed in accordance with,
the laws of the Province of Ontario and the federal laws of Canada
applicable therein.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____

Name:

Title:

Title: —

**BCARGILL,
INCORPORATED,
as DIP
Lender**RIGADE
CAPITAL
MANAGEMENT, LP

Per:

By: _____
Name: _____
Title: _____

Per:

Name:—
Title:—

MILLSTREET CAPITAL MANAGEMENT
LLC

By: _____

Name: _____

Title: _____

MSD PARTNERS, L.P.

By: _____

Name: _____

Title: _____

**O'BRIEN-STALEY PARTNERS (on behalf
of OSP Value Fund III, LP and OSP Value
Fund IV, LP)**

By: _____

Name: _____

Title: _____

SMALL MICRO LLC

By:

Name:

Title:

JAVELIN GLOBAL COMMODITIES (SG)
PTE LTD.

By:

Name:

Title:

RESOURCE CAPITAL FUND VII L.P.
By Resource Capital Associates VII L.P.,
General Partner,
By RCFM GP L.L.C., General Partner

By:
Name:
Title:

SCHEDULE "A" DEFINED TERMS

~~"Additional Services" has the meaning given thereto in Section 5.~~

~~"Administration Charge" means a Court-ordered priority charge over the Borrower's Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.~~

"Administration Charge" has the meaning provided in the Amended and Restated Initial Order.

"Advance" means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and ~~each~~ the Subsequent Advance Advances.

"Advance Conditions" has the meaning given thereto in Section 0.

"Advance Confirmation Certificate" has the meaning given thereto in Section 4.

~~"Advance Payments Facility Agreement" means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.~~

~~"Alternative Offtake and Service Agreements" has the meaning given thereto in Section 28.~~

~~"Amended"~~ "Amended and Restated Initial Order" has the meaning given thereto in Section 822.

~~"Ancillary Post-Filing Credit Extensions" has the meaning given thereto in Section 5~~

"Applicable Law" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

~~"Bid Deadline" has the meaning given thereto in Section 29.~~

"Borrower" has the meaning given thereto in Section 1.

"Borrower Restructuring Expenses" has the meaning given thereto in Section 6.

"Business Day" means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, and the United States of America ~~and Singapore.~~

"Cargill" has the meaning given thereto in the ~~preamble~~ recitals.

"Cargill DIP" has the meaning given thereto in the recitals.

"CCAA" has the meaning given thereto in the ~~preamble~~ recitals.

"CCAA Proceedings" has the meaning given thereto in the ~~preamble~~ recitals.

“CITPL” means Cargill International Trading PTE Ltd., and its successors and assigns.

“Claims” has the meaning given thereto in Section 25.

“Collateral” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“Consortium Transaction” means the transactions contemplated in the Subscription Agreement.

“Court” has the meaning given thereto in the Recitals.

“Court Order” means any order of the Court in the CCAA Proceedings.

“Default” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“Deposit” has the meaning given thereto in Section 5.

“DIP Budget” means the weekly financial projections prepared by the Borrower covering the period to and including ~~February 25~~ the week ended May 19, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP ~~Lender~~ Lenders, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP ~~Lender~~ Lenders.

“DIP Credit Documents” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“DIP Facility” has the meaning given thereto in Section 4.

“DIP Financing Commitment” means, with respect to each of the respective DIP Lenders, the amount indicated in Schedule “B” hereto, the amount of which may not be amended for a specific DIP Lender, without the prior written consent that DIP Lender

“DIP Obligations” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fee) due hereunder and (iii) DIP ~~Lender~~ Lenders’ Expenses, in each case to the extent incurred or arising after the ~~Filing Date~~ date of the New DIP Approval Order.

~~“DIP Lender~~ Lenders’ Expenses” has the meaning given thereto in Section 9.

“DIP ~~Lender~~ Lenders” has the meaning given thereto in ~~Section 2~~ the recitals.

“DIP ~~Lender~~ Lenders’ Charge” has the meaning given thereto in Section ~~7(a)~~ 0.

“Directors’ Charge” means ~~a the~~ Court-ordered priority charge over the Borrower’s Collateral granted by the Court ~~in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.~~ pursuant to the Amended and Restated Initial Order.

“Fees” has the meaning given thereto in Section 17.

“Fourth Advance” has the meaning given thereto in Section 4.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

~~“**Existing Arrangements**” has the meaning given thereto in the preamble.~~

~~“**Existing Services**” has the meaning given thereto in Section 5.~~

“**Exit Fee**” has the meaning given thereto in Section 17.

~~“**Extension Fee**” has the meaning given thereto in Section 17.~~

“**Facility Amount**” has the meaning given thereto in Section 4.

~~“**Fees**” has the meaning given thereto in Section 17.~~

“**Filing Date**” means the date on which the Initial Order is granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

~~“**Initial Advance Conditions**” has the meaning given thereto in Section 7.~~

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Order**” has the meaning given thereto in ~~Section 7(a)~~the recitals.

“**KERP**” means ~~a the~~ key employee retention program ~~providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceeding, in a form previously sent to the DIP Lender on October 6, 2023~~approved by this Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means ~~a Court-ordered priority~~ the charge granted by the Court ~~over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP, to secure the KERP pursuant to the Amended and Restated Initial Order.~~

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound; (ii) which is material to, or necessary in, the operation of the business of such Borrower; and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, ~~and, for certainty, includes the Offtake Agreement, the Onshore Agreement and the Weteon PSA, but does not include the Advance Payments Facility Agreement.~~

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

~~“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.~~

“**New DIP Approval Order**” has the meaning given thereto in Section 0.

~~“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.~~

~~“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.~~

~~“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.~~

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

~~“**Outside Date**” means October 10, 2024.~~

“**Permitted Liens**” means (i) the Permitted Priority Liens; (ii) the DIP ~~Lender~~ Lenders’ Charge; (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP ~~Lender~~ Lenders’ Charge; (iv) Liens existing prior to the Filing Date; and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP ~~Lender~~ Lenders’ Charge granted by the Court and (vi) such other Liens existing as of the ~~Filing Date~~ date of the New DIP Approval Order that have not been subordinated to the DIP ~~Lender~~ Lenders’ Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP ~~Lender~~Lenders’ Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**PIK Election**” has the meaning given thereto in Section 16.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Pro Rata**” means, in respect of any DIP Lender at any time, the ratio of the DIP Obligations owing to such DIP Lender at such time to the aggregate DIP Obligations owing to all DIP Lenders.

~~“**Post-Filing Credit Extensions**”~~“**Post DIP Order Expenses**” has the meaning given thereto in Section 59.

~~“**Post-Filing Margin Advances**~~“**Pre DIP Order Expenses**” has the meaning given thereto in Section 59.

“**Required DIP Lenders**” means, at any time, DIP Lenders holding more than 66 2/3% of the aggregate DIP Financing Commitments held by DIP Lenders.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

~~“**Services**” has the meaning given thereto in Section 5.~~

~~“**SISP**” has the meaning given thereto in Section 28.~~

~~“**Subsequent Advance**” has the meaning given thereto in Section 4.~~

“**Second Advance**” has the meaning given thereto in Section 4.

“**Solicitation Process**” has the meaning given thereto in the recitals.

“**Subscription Agreement**” means that certain subscription agreement entered into between the Borrower, as issuer, and a consortium consisting of the DIP Lenders, as investors, dated January 29, 2024, as amended from time to time.

“**Subsequent Advances**” has the meaning given thereto in Section 4.

~~“**Subsequent Advance Conditions**”~~“**Tacora**” has the meaning given ~~thereto in Section 8~~in the recitals.

“**Taxes**” has the meaning given thereto in Section ~~27~~28.

“**Third Advance**” has the meaning given thereto in Section 4.

“**Transaction Fee Charge**” means ~~a Court-ordered priority~~the charge in favour of Greenhill & Co. Canada Ltd. ~~for the transaction fee which may become properly due and payable under their engagement~~

~~letter in an aggregate amount not to exceed \$5,600,000~~ approved by the Court pursuant to the Amended and Restated Initial Order.

“**Term Sheet**” has the meaning given thereto in the ~~preamble~~ recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

~~“**Weteon PSA**” means the Weteon Purchase and Sale Agreement made as of July 10, 2023 between the Borrower, as seller and CITPL, as buyer, as amended from time to time.~~

“**Withholding Taxes**” has the meaning given thereto in Section ~~27~~28.

SCHEDULE "B"
DIP FINANCING COMMITMENT

The allocations below assume maximum amount of the DIP Facility is funded. Each Advance shall be funded *pro rata* based on the allocations below by the DIP Lenders.

<u>DIP Lender</u>	<u>Total DIP Financing Commitment (\$)</u>
<u>Brigade Capital Management, L.P.</u>	<u>\$9,403,374.53</u>
<u>Millstreet Capital Management LLC</u>	<u>\$22,967,971.63</u>
<u>MSD Partners, L.P.</u>	<u>\$4,497,726.88</u>
<u>O'Brien-Staley Partners</u>	<u>\$13,146,688.83</u>
<u>Small Micro LLC</u>	<u>\$10,409,863.13</u>
<u>RCF VII CAD LLC</u>	<u>\$62,663,611.11</u>
<u>Javelin Global Commodities (SG) PTE Ltd</u>	<u>\$38,045,763.89</u>

SCHEDULE "C"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as DIP Lender

TO: GLC Advisors Co., on behalf of the DIP Lenders

DATE: ●[●]

Reference is made to that certain DIP Facility Term Sheet between Tacora Resources Inc., as Borrower, and the DIP ~~Lender~~ Lenders as lenders dated March 10, 2024 (the "Term Sheet"). Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for **[the Initial Advance / a ~~the~~ Subsequent Advance/Advances]** (the "Requested Advance") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The Requested Advance shall be deposited into the Operating Account on [●].

The DIP ~~Lender is~~ Lenders are hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

~~See attached.~~

SCHEDULE "D"
FORM OF ~~INITIAL~~ NEW DIP APPROVAL ORDER

See attached.

SCHEDULE "E"
DIP BUDGET

See attached.

~~SCHEDULE "E"~~
~~FORM OF AMENDED INITIAL ORDER~~


~~See attached.~~

EXHIBIT "C"

referred to in the Affidavit of

JOE BROKING

Sworn March 11, 2024

DocuSigned by:

36124C4218DD47C

Commissioner for Taking Affidavits
Philip Yang



Court File No. CV-23-00707394-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM) WEDNESDAY, THE 24TH
JUSTICE KIMMEL) DAY OF JANUARY, 2024
)

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

**ORDER
(Approval of Premium Finance Agreement)**

THIS MOTION, made by Tacora Resources Inc. (the "**Applicant**"), for an Order approving a premium finance contract and carving out certain exceptions to the Amended and Restated Initial Order of the Honourable Madam Justice Kimmel dated October 30, 2023 (the "**ARIO**") was heard this day by judicial videoconference via Zoom.

ON READING the Motion Record of the Applicant dated January 17, 2024, the Affidavit of Joe Broking sworn January 17, 2024 (the "**Broking Affidavit**"), the Second Report of FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") dated January 18, 2024, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, and such other counsel and parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Philip Yang, filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Broking Affidavit and the ARIO, as applicable.

PREMIUM FINANCE AGREEMENT

3. **THIS COURT ORDERS** that the Premium Finance Agreement dated as of January 10, 2024, between the Applicant and Marsh Canada Limited - Toronto, is hereby approved.

4. **THIS COURT ORDERS** that the validity and priority of the Charges set out in paragraphs 46 and 49 of the ARIO, are not applicable to any unearned premiums under the Financed Policies in the event that the Financed Policies are cancelled.

5. **THIS COURT ORDERS** that, if and after any of the Financed Policies are cancelled, FIRST Canada shall have the right to receive all unearned premiums and other funds assigned to FIRST Canada as security.

6. **THIS COURT ORDERS** that the Applicant's assignment to FIRST Canada of a security interest in the Financed Policies in accordance with the terms of the Premium Finance Agreement, is hereby approved.

7. **THIS COURT ORDERS** that notwithstanding paragraphs 4 and 14-16 of the ARIO, FIRST Canada's right as agent under the Premium Finance Agreement to, after providing thirty (30) days' written notice to the Applicant and the Monitor: (a) cancel the Financed Policies; (b) receive all sums assigned to FIRST Canada; and (c) execute and deliver on behalf of the Applicant all documents relating to the Financed Policies, is hereby approved.

GENERAL

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order.

11. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

 Digitally signed by
Jessica Kimmel
Date: 2024.01.25
09:31:38 -05'00'

Electronically issued / Délivré par voie électronique : 25-Jan-2024
Toronto Superior Court of Justice / Cour supérieure de justice

**C. C-30, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.**

INGEMENT ACT, R.S.C. 1985 Court File No./N° du dossier du greffe : CV-23-00707394-00CL

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

**ORDER
(Approval of Premium Finance Agreement)**

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Counsel to Tacora Resources Inc.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TACORA RESOURCES INC.

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**AFFIDAVIT OF JOE BROKING
(SWORN MARCH 11, 2024)**

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Lawyers for the Applicant

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM)
JUSTICE KIMMEL)
MONDAY, THE 18TH
DAY OF MARCH, 2024

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

SECOND AMENDED AND RESTATED INITIAL ORDER

THIS MOTION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order amending and restating the Amended and Restated Initial Order issued by the Court on October 30, 2023, substantially in the form included at the Applicant's Motion Record dated March 11, 2024 (the "**Motion Record**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record of the Applicant dated October 9, 2023, the Affidavit of Joe Broking sworn October 9, 2023 (the "**First Broking Affidavit**"), the Affidavit of Chetan Bhandari sworn October 9, 2023, the Supplementary Application Record of the Applicant dated October 15, 2023, the Affidavit of Joe Broking sworn October 15, 2023 (the "**Second Broking Affidavit**"), the Affidavit of Joe Broking sworn February 2, 2024 (the "**Third Broking Affidavit**"), the Motion Record of the Applicant, the Affidavit of Joe Broking sworn March 11, 2024 (the "**Fourth Broking Affidavit**"), the Affidavit of Chetan Bhandari sworn October 15, 2023, the Affidavit of Philip Yang sworn October 15, 2023, the consent of FTI Consulting Canada Inc. ("**FTI**") to act as Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"), the Pre-Filing Report of the Proposed Monitor dated October 10, 2023, the First Report of the Monitor dated October 20, 2023, the Third Report of the Monitor dated March [●], 2024, the Motion Record of the Ad Hoc Group of Noteholders dated October 16, 2023, the Affidavit of Thomas Gray sworn October 16, 2023, the Brief of Transcripts and Exhibits, including the transcripts from the Examinations of Leon Davies held October 18, 2023, Chetan Bhandari held October 18, 2023, Paul Carrelo held October

19, 2023 and Joe Broking held October 19, 2023, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Cargill, Incorporated and Cargill International Trading Pte Ltd., and counsel for the DIP Lenders (as defined in the Fourth Broking Affidavit), and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Natasha Rambaran and the affidavits of service of Philip Yang, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicant shall be entitled to continue to utilize the cash management system currently

in place as described in the First Broking Affidavit or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management system, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses, and director fees of outside directors payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers’ insurance), and maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and

- (c) payments on behalf of Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for the Applicant's head office located in Grand Rapids, Minnesota.

8. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan, and income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: to make no payments of principal, interest thereon

or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement and the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding US\$1,000,000 in any one transaction or US\$5,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including May 19, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

NO PRE-FILING VS POST-FILING SET-OFF

17. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which obligation may become due and payable after the commencement of these proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$5,200,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 47 and 50 herein.

23. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

ENGAGEMENT OF GREENHILL

24. **THIS COURT ORDERS** that the engagement of Greenhill & Co. Canada Ltd. ("**Greenhill**") by the Applicant as investment banker pursuant to the engagement letter dated as of January 23,

2023 (the “**Greenhill Engagement Letter**”) and payment by the Applicant of the Monthly Advisory Fee (as defined in the Greenhill Engagement Letter) and the Transaction Fee (as defined in the First Broking Affidavit) are hereby approved, subject to the priority provided for herein.

25. **THIS COURT ORDERS** that Greenhill shall be entitled to the benefit of and are hereby granted a charge (the “**Transaction Fee Charge**”) on the Property as security for the Transaction Fee, which charge shall not exceed an aggregate amount of US\$5,989,917.50. The Transaction Fee Charge shall have the priority set out in paragraphs 47 and 50 herein.

26. **THIS COURT ORDERS** that Greenhill shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of the Greenhill Engagement Letter, save and except for any gross negligence or wilful misconduct on its part.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant’s receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lenders and their counsel, pursuant to and in accordance with the DIP Agreement, or as may otherwise be agreed between the Applicant and the DIP Lenders;
- (d) advise the Applicant in its preparation of the Applicant’s cash flow statements and reporting required by the DIP Lenders under the DIP Agreement, which information

shall be reviewed with the Monitor and delivered to the DIP Lenders and their counsel in accordance with the DIP Agreement;

- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Newfoundland Environmental Protection Act*, the

Newfoundland Water Resources Act, the *Newfoundland Occupational Health and Safety Act*, and the regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lenders with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill for its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 47 and 50 hereof.

DIP FINANCING

36. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the "**DIP Facility**") under a DIP Facility Term Sheet dated March 10, 2024 (the "**DIP Agreement**") from the DIP **Lenders** in order to, among other things, finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of US\$188,000,000, unless permitted by further Order of this Court.

37. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached as Exhibit "A" to the Fourth Broking Affidavit.

38. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such security documents and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. **THIS COURT ORDERS** that the DIP Lenders shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on the Property, which DIP Charge shall not secure an obligation that exists before this Order is made. The DIP Charge shall have the priority set out in paragraphs 47 and 50 hereof.

40. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) the filing, registration, recordation or perfection of the DIP Charge shall not be required, and that the DIP Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Charge coming into existence, notwithstanding any such failure to file, register, record or perfect;
- (c) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lenders may cease making advances to the Applicant upon four (4) business days' notice to the Applicant and the Monitor, exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Charge, including without limitation, set off and/or consolidate any amounts owing by the DIP Lenders to the Applicant against the obligations of the Applicant to the DIP Lenders under the DIP Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (d) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

41. **THIS COURT ORDERS** that the DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act (Canada)* (the "**BIA**"), with respect to any advances made under the Definitive Documents.

42. **THIS COURT ORDERS** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "**Variation**"), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lenders, whether under this Order

(as made prior to the Variation), under the DIP Agreement or the Definitive Documents with respect to any advances made or obligations incurred prior to the DIP Lenders being given notice of the Variation, and the DIP Lenders shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Agreement and the Definitive Documents.

PAYMENT TO CARGILL INC. AND CARGILL INTERNATIONAL TRADING PTE LTD.

43. **THIS COURT ORDERS** that the Applicant is hereby authorized and directed to use amounts drawn under the DIP Facility to repay Cargill Inc. ("**Cargill**") and Cargill International Trading Pte Ltd. ("**CITPL**") the aggregate amount of \$97,250,000 on [●], 2024 in satisfaction of all amounts owing by the Applicant under the DIP Loan Agreement dated October 9, 2023 (the "**Cargill DIP Agreement**", and the facility therein, the "**Cargill DIP Facility**"), and such payment in accordance with this Order shall be permanent and indefeasible payment of the Applicant's obligations under the Cargill DIP Agreement. For the avoidance of doubt, upon such payment:

- (a) the Applicant shall be released and discharged from all indebtedness, liabilities and obligations under the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith;
- (b) all encumbrances and charges in favour of Cargill or CITPL against the Applicant or its Property in connection with the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith shall be released, deleted and discharged; and
- (c) the Applicant is hereby authorized and directed to effect the discharge of any and all registrations and filings in respect of the Applicant under any registry system made in favour of Cargill or CITPL in connection with the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith.

KEY EMPLOYEE RETENTION PLAN

44. **THIS COURT ORDERS** that the Key Employee Retention Plan (the "**KERP**"), as described in the First Broking Affidavit and the Second Broking Affidavit, is hereby approved and the Applicant is authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

45. **THIS COURT ORDERS** that payments made by the Applicant pursuant to the KERP do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

46. **THIS COURT ORDERS** that the Applicant is authorized to pay up to US\$3,035,000 to the Monitor to hold in a segregated account (the “**KERP Funds**”) and the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the KERP Funds (the “**KERP Charge**”), which charge shall not exceed an aggregate amount of US\$3,035,000 to secure any payments to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraphs 47 and 50 hereof. The Monitor shall not be responsible for making the payments to the Key Employees under the KERP; paying any tax withholdings or remittances payable to any tax authorities or otherwise in respect of the KERP; or reporting or making disclosure with respect to the KERP to any taxing authorities or otherwise.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

47. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge, the Transaction Fee Charge and the DIP Charge (collectively, with the KERP Charge, the “**Charges**”), as among them, as against the Property other than the KERP Funds, shall be as follows:

First – the Administration Charge (to the maximum amount of US\$1,000,000);

Second – the Directors’ Charge (to the maximum amount of US\$5,200,000);

Third – the Transaction Fee Charge (to the maximum amount of US\$5,989,917.50); and

Fourth – the DIP Charge.

48. **THIS COURT ORDERS** that the KERP Charge (to the maximum amount of US\$3,035,000) shall rank first solely as against the KERP Funds and the other Charges shall rank subordinate to the KERP Charge as against the KERP Funds in the priorities set out in paragraph 47.

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

50. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property, and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, except for the portion of the Transaction Fee Charge which ranks *pari passu* basis with the Senior Priority Notes and Senior Priority Advances (each as defined in the First Broking Affidavit).

51. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the beneficiaries of the Administration Charge, the Directors’ Charge, DIP Charge and the KERP Charge, or further Order of this Court.

52. **THIS COURT ORDERS** that the Administration Charge, the Directors’ Charge, the KERP Charge, the Transaction Fee Charge, the DIP Charge, the DIP Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the DIP Lenders thereunder shall not otherwise be limited or impaired in any way by the pendency of these proceedings and the declarations of insolvency made herein; any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; the filing of any assignments for the general benefit of creditors made pursuant to the BIA; the provisions of any federal or provincial statutes; or any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Applicant pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

53. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

54. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition), a notice containing the information prescribed under the CCAA, (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

55. **THIS COURT ORDERS** that the Commercial List E-Service Guide (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://cfcanada.fticonsulting.com/tacora>.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or

distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

57. **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).

SEALING

58. **THIS COURT ORDERS** that Confidential Exhibit "C" to the Second Broking Affidavit is hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

59. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

60. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

61. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the

terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lenders) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

64. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on October 10, 2023.

65. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.

Court File No. CV-23-00707394-00CL

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

**SECOND AMENDED AND RESTATED
INITIAL ORDER**

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Counsel to Tacora Resources Inc.

TAB 4

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM)
JUSTICE KIMMEL)
MONDAY, THE ~~30TH~~18TH
DAY OF ~~OCTOBER~~MARCH, ~~2023~~ 2024

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

SECOND AMENDED AND RESTATED INITIAL ORDER

THIS ~~APPLICATION~~MOTION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order amending and restating the ~~initial order~~ Amended and Restated Initial Order issued by the Court on October ~~10~~30, 2023 (~~the "Filing Date"~~), substantially in the form included at the Applicant's ~~Application~~ Motion Record dated March 11, 2024 (the "Motion Record"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record of the Applicant dated October 9, 2023 (~~the "Application Record"~~), the Affidavit of Joe Broking sworn October 9, 2023 (the "First Broking Affidavit"), the Affidavit of Chetan Bhandari sworn October 9, 2023, the Supplementary Application Record of the Applicant dated October 15, 2023 (~~the "Supplementary Application Record"~~), the Affidavit of Joe Broking sworn October 15, 2023 (the "**Second Broking Affidavit**"), the Affidavit of Joe Broking sworn February 2, 2024 (the "Third Broking Affidavit"), the Motion Record of the Applicant, the Affidavit of Joe Broking sworn March 11, 2024 (the "Fourth Broking Affidavit"), the Affidavit of Chetan Bhandari sworn October 15, 2023, the Affidavit of Philip Yang sworn October 15, 2023, the consent of FTI Consulting Canada Inc. ("**FTI**") to act as Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"), the Pre-Filing Report of the Proposed Monitor dated October 10, 2023, the First Report of the Monitor dated October 20, 2023, the Third Report of the Monitor dated March [●], 2024, the Motion Record of the Ad Hoc Group of Noteholders (~~the "Ad Hoc Group"~~) dated October 16, 2023, the Affidavit of Thomas Gray sworn

October 16, 2023, the Brief of Transcripts and Exhibits, including the transcripts from the Examinations of Leon Davies held October 18, 2023, Chetan Bhandari held October 18, 2023, Paul Carrelo held October 19, 2023 and Joe Broking held October 19, 2023, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Cargill, Incorporated and Cargill International Trading Pte Ltd., and counsel for the ~~Ad Hoc Group~~ [DIP Lenders \(as defined in the Fourth Broking Affidavit\)](#), and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Natasha Rambaran and the ~~affidavit~~ [affidavits](#) of service of Philip Yang, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the ~~Notice of Application, the Application Record, and the Supplementary Application Record,~~ [Motion Record](#) is hereby abridged and validated so that this ~~Application~~ [Motion](#) is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or

employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicant shall be entitled to continue to utilize the cash management system currently in place as described in the [First](#) Broking Affidavit or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management ~~System~~[system](#), or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses, and director fees of outside directors payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account

of insurance (including directors and officers' insurance), and maintenance and security services;

- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and
- (c) payments on behalf of Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for the Applicant's head office located in Grand Rapids, Minnesota.

8. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan, and income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal

payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement and the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding US\$1,000,000 in any one transaction or US\$5,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured

creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including ~~February 9~~May 19, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

NO PRE-FILING VS POST-FILING SET-OFF

17. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed

property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which obligation may become due and payable after the commencement of these proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$5,200,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs [46-47](#) and [49-50](#) herein.

23. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

ENGAGEMENT OF GREENHILL

24. **THIS COURT ORDERS** that the engagement of Greenhill & Co. Canada Ltd. (“**Greenhill**”) by the Applicant as investment banker pursuant to the engagement letter dated as of January 23, 2023 (the “**Greenhill Engagement Letter**”) and payment by the Applicant of the Monthly Advisory Fee (as defined in the Greenhill Engagement Letter) and the Transaction Fee (as defined in the [First](#) Broking Affidavit) are hereby approved, subject to the priority provided for herein.

25. **THIS COURT ORDERS** that Greenhill shall be entitled to the benefit of and are hereby granted a charge (the “**Transaction Fee Charge**”) on the Property as security for the Transaction Fee, which charge shall not exceed an aggregate amount of ~~US\$5,600,000~~[US\\$5,989,917.50](#). The Transaction Fee Charge shall have the priority set out in paragraphs ~~46-47~~ and ~~49-50~~ herein.

26. **THIS COURT ORDERS** that Greenhill shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of the Greenhill Engagement Letter, save and except for any gross negligence or wilful misconduct on its part.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that FTI- is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant’s receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP ~~Lender~~[Lenders](#) and their counsel, pursuant to and in accordance with

the DIP Agreement ~~(as defined herein)~~, or as may otherwise be agreed between the Applicant and the DIP ~~Lender~~Lenders;

- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP ~~Lender~~Lenders under the DIP Agreement, which information shall be reviewed with the Monitor and delivered to the DIP ~~Lender~~Lenders and their counsel in accordance with the DIP Agreement;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation,

enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Newfoundland Environmental Protection Act*, the *Newfoundland Water Resources Act*, the *Newfoundland Occupational Health and Safety Act*, and the regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP ~~Lender~~ Lenders with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill for its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~46-47~~ and ~~49-50~~ hereof.

DIP FINANCING

36. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the "**DIP Facility**") under a DIP ~~Loan Agreement~~ Facility Term Sheet dated ~~October 9~~ March 10, 2023- 2024 (the "**DIP Agreement**") from ~~Cargill Inc. (collectively, in such capacity, the "the DIP Lender")~~ Lenders in order to ~~-, among other things,~~ finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of ~~US\$75,000,000 and Post-Filing Credit Extensions (as defined in the DIP Agreement) shall not exceed the principal amount of~~ ~~US\$20,000,000~~ US\$188,000,000, unless permitted by further Order of this Court.

37. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached as Exhibit "~~KA~~" to the Fourth Broking Affidavit.

38. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such security documents and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP ~~Lender~~ Lenders pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP ~~Lender~~ Lenders under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. **THIS COURT ORDERS** that the DIP ~~Lender and Cargill International Trading Pte Ltd. (“CITPL”)~~ Lenders shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Charge**”) on the Property, which DIP Charge shall not secure an obligation that exists before this Order is made, ~~and in the case of CITPL, shall only secure Post-Filing Credit Extensions.~~ The DIP Charge shall have the priority set out in paragraphs ~~46-47~~ and ~~49-50~~ hereof.

40. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP ~~Lender~~ Lenders may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) the filing, registration, recordation or perfection of the DIP Charge shall not be required, and that the DIP Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Charge coming into existence, notwithstanding any such failure to file, register, record or perfect;
- (c) ~~(b)~~ upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP ~~Lender~~ Lenders may cease making advances to the Applicant upon four (4) business days’ notice to the Applicant and the Monitor, exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Charge, including without limitation, set off and/or consolidate any amounts owing by the DIP ~~Lender~~ Lenders to the Applicant against the obligations of the Applicant to the DIP ~~Lender~~ Lenders under the DIP Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (d) ~~(e)~~ the foregoing rights and remedies of the DIP ~~Lender~~ Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

41. **THIS COURT ORDERS AND DECLARES** that the DIP ~~Lender~~ Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA,

or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act (Canada)* (the “BIA”), with respect to any advances made under the Definitive Documents.

42. **THIS COURT ORDERS ~~AND DECLARES~~** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a “Variation”), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP ~~Lender~~Lenders, whether under this Order (as made prior to the Variation), under the DIP Agreement or the Definitive Documents with respect to any advances made or obligations incurred prior to the DIP ~~Lender~~Lenders being given notice of the Variation, and the DIP ~~Lender~~Lenders shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Agreement and the Definitive Documents.

PAYMENT TO CARGILL INC. AND CARGILL INTERNATIONAL TRADING PTE LTD.

43. **THIS COURT ORDERS** that the Applicant is hereby authorized and directed to use amounts drawn under the DIP Facility to repay Cargill Inc. (“Cargill”) and Cargill International Trading Pte Ltd. (“CITPL”) the aggregate amount of \$97,250,000 on [●], 2024 in satisfaction of all amounts owing by the Applicant under the DIP Loan Agreement dated October 9, 2023 (the “Cargill DIP Agreement”, and the facility therein, the “Cargill DIP Facility”), and such payment in accordance with this Order shall be permanent and indefeasible payment of the Applicant’s obligations under the Cargill DIP Agreement. For the avoidance of doubt, upon such payment:

- (a) the Applicant shall be released and discharged from all indebtedness, liabilities and obligations under the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith;
- (b) all encumbrances and charges in favour of Cargill or CITPL against the Applicant or its Property in connection with the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith shall be released, deleted and discharged; and
- (c) the Applicant is hereby authorized and directed to effect the discharge of any and all registrations and filings in respect of the Applicant under any registry system made in favour of Cargill or CITPL in connection with the Cargill DIP Facility, the Cargill DIP Agreement and all other documents and instruments delivered in connection therewith.

KEY EMPLOYEE RETENTION PLAN

44. ~~43.~~ **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the First Broking Affidavit and the Second Broking Affidavit, is hereby approved and the Applicant is authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

45. ~~44.~~ **THIS COURT ORDERS** that payments made by the Applicant pursuant to the KERP do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

46. ~~45.~~ **THIS COURT ORDERS** that the Applicant is authorized to pay up to US\$3,035,000 to the Monitor to hold in a segregated account (the “**KERP Funds**”) and the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the KERP Funds (the “**KERP Charge**”), which charge shall not exceed an aggregate amount of US\$3,035,000 to secure any payments to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraphs ~~46~~ 47 and ~~49~~ 50 hereof. The Monitor shall not be responsible for making the payments to the Key Employees under the KERP; paying any tax withholdings or remittances payable to any tax authorities or otherwise in respect of the KERP; or reporting or making disclosure with respect to the KERP to any taxing authorities or otherwise.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

47. ~~46.~~ **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge, the Transaction Fee Charge and the DIP Charge (collectively, with the KERP Charge, the “**Charges**”), as among them, as against the Property other than the KERP Funds, shall be as follows:

First – the Administration Charge (to the maximum amount of US\$1,000,000);

Second – the Directors’ Charge (to the maximum amount of US\$5,200,000);

Third – the Transaction Fee Charge (to the maximum amount of ~~US\$5,600,000~~; US\$5,989,917.50); and

Fourth – the DIP Charge.

48. ~~47.~~ **THIS COURT ORDERS** that the KERP Charge (to the maximum amount of US\$3,035,000) shall rank first solely as against the KERP Funds and the other Charges shall rank subordinate to the KERP Charge as against the KERP Funds in the priorities set out in paragraph ~~46~~47.

49. ~~48.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

50. ~~49.~~ **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property, and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for the portion of the Transaction Fee Charge which ranks *pari passu* basis with the Senior Priority Notes and Senior Priority Advances (each as defined in the First Broking Affidavit).

51. ~~50.~~ **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the beneficiaries of the Administration Charge, the Directors' Charge, DIP Charge and the KERP Charge, or further Order of this Court.

52. ~~51.~~ **THIS COURT ORDERS** that the Administration Charge, the Directors' Charge, the KERP Charge, the Transaction Fee Charge, the DIP Charge, the DIP Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP ~~Lender~~Lenders thereunder shall not otherwise be limited or impaired in any way by the pendency of these proceedings and the declarations of insolvency made herein; any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; the filing of any assignments for the general benefit of creditors made pursuant to the BIA; the provisions of any federal or provincial statutes; or any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

53. ~~52.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

54. ~~53.~~ **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition), a notice containing the information prescribed under the CCAA, (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

55. ~~54.~~ **THIS COURT ORDERS** that the Commercial List E-Service Guide (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a

Case Website shall be established in accordance with the Protocol with the following URL:
<http://cfcanada.fticonsulting.com/tacora>.

56. ~~55.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

57. ~~56.~~ **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).

SEALING

58. ~~57.~~ **THIS COURT ORDERS** that Confidential Exhibit "C" to the Second Broking Affidavit is hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

59. ~~58.~~ **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

60. ~~59.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

61. ~~60.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying

out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

62. ~~61.~~ **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. ~~62.~~ **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP ~~Lender~~Lenders) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

64. ~~63.~~ **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on ~~the Filing Date~~October 10, 2023.

65. ~~64.~~ **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.

(Applicant)

Court File No. CV-23-00707394-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

**SECOND AMENDED AND RESTATED
INITIAL ORDER**

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Counsel to Tacora Resources Inc.

TAB 5

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM) MONDAY, THE 18TH
JUSTICE KIMMEL) DAY OF MARCH, 2024
)

**IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

**ORDER
(Approval of A&L Premium Finance Agreement)**

THIS MOTION, made by Tacora Resources Inc. (the "**Applicant**"), for an Order: (a) approving the A&L Premium Finance Agreement dated as of March 4, 2024, between the Applicant and Marsh Canada Limited – Toronto, with respect to the A&L Financed Policies; and (b) carving out certain exceptions to the Amended and Restated Initial Order of the Honourable Madam Justice Kimmel dated March 18, 2024 (the "**Second ARIO**") was heard this day by judicial videoconference via Zoom.

ON READING the Motion Record of the Applicant dated March 11 2024, the Affidavit of Joe Broking sworn March 11, 2024 (the "**Broking Affidavit**"), the Third Report of FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") dated March [●], 2024, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, and such other counsel and parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Philip Yang, filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Broking Affidavit and the Second ARIO, as applicable.

PREMIUM FINANCE AGREEMENT

3. **THIS COURT ORDERS** that the A&L Premium Finance Agreement dated as of March 4, 2024, between the Applicant and Marsh Canada Limited – Toronto, is hereby approved.

4. **THIS COURT ORDERS** that the validity and priority of the Charges set out in paragraphs 47 and 50 of the Second ARIO, are not applicable to any unearned premiums under the A&L Financed Policies in the event that the A&L Financed Policies are cancelled.

5. **THIS COURT ORDERS** that, if and after any of the A&L Financed Policies are cancelled, FIRST Canada shall have the right to receive all unearned premiums and other funds assigned to FIRST Canada as security.

6. **THIS COURT ORDERS** that the Applicant's assignment to FIRST Canada of a security interest in the A&L Financed Policies in accordance with the terms of the A&L Premium Finance Agreement, is hereby approved.

7. **THIS COURT ORDERS** that notwithstanding paragraphs 4 and 14-16 of the Second ARIO, FIRST Canada's right as agent under the A&L Premium Finance Agreement to, after providing thirty (30) days' written notice to the Applicant and the Monitor: (a) cancel the A&L Financed Policies; (b) receive all sums assigned to FIRST Canada; and (c) execute and deliver on behalf of the Applicant all documents relating to the A&L Financed Policies, is hereby approved.

GENERAL

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this

Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order.

11. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.**

Court File No. CV-23-00707394-00CL

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

**ORDER
(Approval of A&L Premium Finance
Agreement)**

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Counsel to Tacora Resources Inc.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.

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(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

**MOTION RECORD OF THE APPLICANT
(SECOND AMENDED AND RESTATED INITIAL
ORDER AND A&L PREMIUM FINANCE
AGREEMENT APPROVAL ORDER)**

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