

**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
(RE: STAY EXTENSION ORDER AND CLAIMS PROCEDURE ORDER
RETURNABLE APRIL 23, 2024)**

April 21, 2024

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TO: THE SERVICE LIST

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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I N D E X

TAB	DOCUMENT
1.	Notice of Motion dated April 21, 2024
2.	Affidavit of Joe Broking sworn April 21, 2024
A.	Exhibit "A" – Amended DIP Agreement dated April 21, 2024
B.	Exhibit "B" – Redline comparison of the Amended DIP Agreement and the proposed Amended and Restated DIP Facility Term Sheet dated March 18, 2024
C.	Exhibit "C" – Redline comparison of the Amended DIP Agreement and the Amended and Restated Interim DIP Facility Term Sheet dated March 18, 2024
D.	Exhibit "D" – Correspondence from Caterpillar to Tacora dated November 2, 2023
E.	Exhibit "E" – Correspondence from Tacora to Caterpillar dated December 10, 2023
F.	Exhibit "F" – Correspondence from Caterpillar to Tacora dated December 22, 2023
G.	Exhibit "G" – Correspondence from Caterpillar to the Monitor and Tacora dated April 11, 2024
3.	Draft Stay Extension and DIP Amendment Order
4.	Draft Claims Procedure Order

TAB 1

**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)

**NOTICE OF MOTION
(Returnable April 23, 2024)**

Tacora Resources Inc. ("**Tacora**", "**Company**" or the "**Applicant**") will make a motion before the Honourable Madam Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) on April 23, 2024, at 10:00 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 FOR:¹

1. An order in the form of the draft order included at Tab 3 of the Motion Record:
 - (a) extending the Stay Period until and including June 24, 2024; and

¹ Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Affidavit of Joe Broking sworn April 21, 2024. All references to currency in this Notice of Motion are references to United States dollars, unless otherwise indicated.

- (b) approving the Second Amended and Restated DIP Facility Term Sheet dated April 21, 2024, between the Applicant and Cargill, Incorporated (the “**Amended DIP Agreement**”);

2. An order in the form of the draft order included at Tab 4 of the Motion Record approving a Claims Procedure for the identification, quantification and resolution of claims against the Applicant and its Directors and Officers.

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.

2. On October 10, 2023, as a result of liquidity challenges 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 (as amended and restated on October 30, 2023, by the ARIO).

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

4. On March 18, 2024, the Court adjourned Tacora’s motion seeking approval of the Investors’ DIP proposal and granted an order, which, among other things, (a) amended the ARIO to authorize Tacora to obtain and borrow up to the principal amount of \$100 million under the existing DIP Facility and increased the Post-Filing Credit Extensions available under the DIP Agreement to the principal amount of \$50 million; and (b) extended the Stay Period until and including April 26, 2024.

5. As a result of the adjournment, Tacora and Cargill entered into the Interim DIP Agreement dated March 18, 2024 with Cargill pending an adjourned hearing in respect of Tacora’s motion seeking approval of the Investors’ DIP proposal.

Additional DIP Financing is Necessary

6. On April 9, 2024, on being advised by counsel to the Investors that the Investors were no longer in a position to proceed with the Successful Bid, Tacora advised this Court that it would no longer be seeking approval of the Successful Bid at the motions scheduled for April 10 – 12, 2024.

7. On April 11, 2024, Tacora and the Investors executed a mutual termination terminating the Subscription Agreement dated January 29, 2024 between the Company and the Investors.

8. The Interim DIP Agreement only provided Tacora with limited availability pending the expected sale hearing scheduled April 10 – 12, 2024. However, as result of the termination of the Successful Bid, Tacora requires additional incremental liquidity to continue operating while it seeks to enter into and consummate another going-concern transaction. Tacora initially discussed entering into a further DIP agreement with Cargill following termination of the Subscription Agreement but subsequently also received a competing DIP proposal (the “**AHG Proposal**”) from the Ad Hoc Group and Javelin.

9. Following receipt of proposals from Cargill and the Ad Hoc Group and Javelin, and multiple rounds of negotiations with both parties, Tacora determined that Cargill’s DIP proposal was the best DIP facility available to the Company in its current circumstances and entered into the Amended DIP Agreement on April 21, 2024.

10. The Amended DIP Agreement provides for a senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility up to a maximum principal amount of \$125 million and Post-Filing Margin Advances in an amount not to exceed \$25 million in the aggregate, as such amounts may be adjusted from time to time, provided that the total availability shall not exceed \$150 million at any time.

11. In choosing between the two DIP proposals, the Company’s Board, in consultation with its advisors and the Monitor, reviewed the DIP proposals to determine which DIP proposal would best serve the interests of the Company’s stakeholders at this time by enhancing the prospects of a successful restructuring.

12. The economic terms of the Amended DIP Agreement and the AHG DIP Proposal were similar, but ultimately, the Company, with input and advice of its advisors and the Monitor, determined the Amended DIP Proposal provided the necessary stability for the Company’s

operations while it pursues the next steps in these CCAA Proceedings to achieve a going-concern transaction.

Stay Extension

13. Tacora is seeking an extension of the Stay Period from April 26, 2024, to and including June 24, 2024. The extension of the Stay Period is necessary and appropriate in the circumstances to provide Tacora with sufficient time to secure another going-concern transaction.

14. 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.

15. The Updated Cash Flow Forecast reflects that, subject to the assumptions related thereto, Tacora is expected to maintain liquidity and fund operations until and including June 24, 2024.

16. The proposed extension of the Stay Period is necessary for Tacora, together with its advisors and the Monitor, to continue to review and advance its potential available alternatives and pursue a value-maximizing transaction for the benefit of the Company and its stakeholders generally.

17. The Monitor supports the proposed extension of the Stay Period.

Claims Procedure

18. Tacora is seeking approval of a Claims Procedure for the identification, quantification and resolution of claims against Tacora and its Directors and Officers in the event that the Company determines it appropriate to seek approval of a plan of compromise or arrangement.

19. Tacora's proposed Claims Procedure is embodied in the Claims Procedure Order, which has been prepared by Tacora in consultation with the Monitor and its counsel.

20. The notification process described in the Claims Procedure Order will provide Claimants with adequate notice of the Claims Procedure and an adequate opportunity to prove their Claims prior to the applicable Bar Dates.

21. In addition, the adjudication procedure described in the Claims Procedure Order will facilitate the fair and expeditious resolution of any disputes regarding the amount and/or Status of each Claim.

OTHER GROUNDS:

22. Sections 11, 19, 20 and 36 of the CCAA and the inherent and equitable jurisdiction of this Court.
23. 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.
24. 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 April 21, 2024;
2. The Eighth Report of the Monitor, to be filed; and
3. Such further and other evidence as counsel may advise and this Court may permit.

April 21, 2024

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Counsel for the Applicant

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
(RETURNABLE APRIL 23, 2024)**

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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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(Applicant)

**AFFIDAVIT OF JOE BROKING
(Sworn April 21, 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**"). 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, February 2, 2024 (the "**Fourth Broking Affidavit**") and March 11, 2024.
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 seeking an extension of the Stay

Period until and including June 24, 2024, approving the Amended DIP Agreement (as defined below), and approving a claims procedure.

A. Background

6. 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.

7. On October 10, 2023, as a result of liquidity challenges 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 (as amended and restated on October 30, 2023, by the ARIO).

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

9. On March 18, 2024, the Court adjourned Tacora's motion seeking approval of the Investors' DIP proposal and granted an order, which, among other things, (a) amended the ARIO to authorize Tacora to obtain and borrow up to the principal amount of \$100 million under the existing DIP Facility and increased the Post-Filing Credit Extensions available under the DIP Agreement to the principal amount of \$50 million; and (b) extended the Stay Period until and including April 26, 2024.

10. As result of the adjournment, Tacora and Cargill entered into the Amended and Restated Interim DIP Facility Term Sheet dated March 18, 2024 (the "**Interim DIP Agreement**") with Cargill pending an adjourned hearing in respect of Tacora's motion seeking approval of the Investors' DIP proposal.

B. Additional DIP Financing is Necessary

11. On April 9, 2024, on being advised by counsel to the Investors that the Investors were no longer in a position to proceed with the Successful Bid, Tacora advised this Court that it would no longer be seeking approval of the Successful Bid at the motions scheduled for April 10 – 12, 2024.

12. On April 11, 2024, Tacora and the Investors executed a mutual termination terminating the Subscription Agreement dated January 29, 2024 (as amended, the “**Subscription Agreement**”) between the Company and the Investors.

13. The Interim DIP Agreement only provided Tacora with limited availability pending the expected sale hearing scheduled April 10 – 12, 2024. However, as result of the termination of the Successful Bid, Tacora requires additional incremental liquidity to continue operating while it seeks to enter into and consummate another going-concern transaction. Tacora initially discussed entering into a further DIP agreement with Cargill following termination of the Subscription Agreement but subsequently also received a competing DIP proposal (the “**AHG Proposal**”) from the Ad Hoc Group and Javelin.

14. Following receipt of proposals from Cargill and the Ad Hoc Group and Javelin, and multiple rounds of negotiations with both parties, Tacora determined that Cargill’s DIP proposal was the best DIP facility available to the Company in its current circumstances and entered into the Second Amended and Restated DIP Facility Term Sheet (the “**Amended DIP Agreement**”) on April 21, 2024.

15. The Amended DIP Agreement provides for a senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility up to a maximum principal amount of \$125 million and Post-Filing Margin Advances in an amount not to exceed \$25 million in the aggregate, as such amounts may be adjusted from time to time, provided that the total availability shall not exceed \$150 million at any time. A copy of the Amended DIP Agreement is attached hereto as **Exhibit “A”**. Attached as **Exhibit “B”** hereto is a redline showing differences between the Amended DIP Agreement and the proposed Amended and Restated DIP Facility Term Sheet dated as of March 18, 2024, contained in the Motion Record of Cargill, Incorporated and Cargill International Trading PTE Ltd. for Cargill’s Responding Cross-Motion returnable March 18, 2024. Attached as **Exhibit “C”** hereto is a redline showing differences between the Amended DIP Agreement and the Amended and Restated Interim DIP Facility Term Sheet.

16. The primary terms of the Amended DIP Agreement are summarized below:

Summary of Key Terms of the Amended DIP Agreement	
DIP Lender	(a) Cargill, Incorporated; and (b) subject to consent of Tacora and the Monitor, such other Persons that wish to participate in the DIP Facility on the terms set out in the

	Amended DIP Agreement
Maximum DIP Facility Amount	<p>\$125,000,000</p> <p><u>Permitted Uses</u></p> <ul style="list-style-type: none"> • 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 Lender Expenses • Pay the interest, fees and other amounts owing to the DIP Lender under the Amended DIP Agreement • Pay the reasonable and documented professional and advisory fees and expenses of the Ad Hoc Group for one month up to a maximum of \$250,000 (the "Permitted Noteholder Expenses") • Pay Cargill reasonable and documented professional and advisory fees and expenses up to a maximum of the Permitted Noteholder Expenses • Fund Tacora's funding requirements during the CCAA Proceedings in accordance with the DIP Budget
Funding & Availability	<p>Initial Advance – \$15,500,000</p> <p>Subsequent Advances – made every other week (or as otherwise agreed by Tacora and the DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$15,000,000 at any one time</p>
Interest	<p>Interest shall be payable on (a) the principal amount of Advances; and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% <i>per annum</i> payable monthly in arrears in cash on the last Business Day of each month.</p> <p>Tacora has the right to defer the payment of accrued interest in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month</p>
Fees	Initial Exit Fee, in cash, in an amount equal to 3.00% of

	<p>the initial committed amount under the DIP Facility of \$75 million, being equal to \$2,250,000</p> <p>Subsequent Exit Fee, in cash, in an amount of \$800,000 provided that the Subsequent Exit Fee shall only be earned and payable on May 8, 2024 and shall not be earned if Tacora repays all DIP Obligations and all Post-Filing Credit Extensions on or prior to such date</p>
Cargill Motion Expenses	Cargill's out-of-pocket legal and financial advisory fees and expenses related to the sale approval motion in the amount of C\$2,032,000 plus applicable taxes shall, at the Borrower's option, be paid in cash, or added to and form part of the DIP Obligations.
Security	DIP Lender Charge ranking in priority to all Liens on the Borrower's Collateral other than (a) the Permitted Priority Liens which include (i) the Administration Charge; (ii) the Directors' Charge; (iii) the KERP Charge (if applicable); (iv) the Transaction Fee Charge; and (v) certain other Liens; and (b) certain Liens of any Person that did not receive notice of the application for the Initial Order
Permitted Variance (vs DIP Budget)	Not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses and Cargill Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget
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 DIP Facility is terminated; and • October 10, 2024
Hedging	The Borrower may enter Post-Filing Hedging Arrangements. Such Post-Filing Hedging Arrangements shall be (a) severable from the Offtake Agreement and other Existing Arrangements and otherwise shall not amend the Offtake Agreement and other Existing Arrangements; and (b) secured by and have the benefit

	<p>of the DIP Lender Charge with the same priority as the DIP Obligations.</p> <p>The Borrower, Cargill and CITPL agree and acknowledge that (i) the Post-Filing Hedging Arrangements do not affect whether the Offtake Agreement or other Existing Arrangements are "eligible financial contracts" as defined under the CCAA, (ii) the Post Filing Hedging Arrangements shall not be used or produced by either party in any dispute regarding termination, suspension, disclaimer, or exclusion of the Offtake Agreement by Tacora, including any dispute whether the Offtake Agreement is an "eligible financial contract" as defined under the CCAA, and (iii) all rights and defenses in connection with such dispute are fully reserved by each of the Borrower, Cargill and CITPL, as if Post Filing Hedging Arrangements were never entered into.</p>
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C. Comparison of DIP Proposals

17. In choosing between the two DIP proposals, the Company's Board, in consultation with its advisors and the Monitor, reviewed the DIP proposals to determine which DIP proposal would best serve the interests of the Company's stakeholders at this time by enhancing the prospects of a successful restructuring. Among other things, the Company considered the following factors:

- (a) The costs and expenses of the DIP proposals, including the interest rate and fees;
- (b) The Company's cash flow forecast and the anticipated timeline to enter into and consummate another going-concern transaction;
- (c) Potential risks of each DIP proposal, including the cost and delay resulting from litigation;
- (d) Potential prejudice to the Company's stakeholders, including the need to restructure the Company and emerge from these CCAA Proceedings as soon as possible; and
- (e) The views of the Monitor.

18. The economic terms of the Amended DIP Agreement and the AHG DIP Proposal were similar, but ultimately, the Company, with input and advice of its advisors and the Monitor,

determined the Amended DIP Proposal provided the necessary stability for the Company's operations while it pursues the next steps in these CCAA Proceedings to achieve a going-concern transaction. In particular, the Amended DIP Proposal provides the following benefits to the Company:

- (a) The Stockpile Agreement remains in place providing predictable and consistent cash flow to the Company and results in a smaller overall DIP;
- (b) The Amended DIP Agreement provides the Company with the ability to hedge commodity price exposure if desirable; and
- (c) The Amended DIP Agreement provides limited funding of the fees and expenses of the Ad Hoc Group to allow them to continue to participate in the CCAA Proceedings.

D. Next Steps in the CCAA Proceedings

19. In the immediate term, the Company intends to engage in discussions and negotiations with the Ad Hoc Group and Cargill in respect of options for a consensual restructuring and recapitalization transaction for the Company. As previously discussed in the Fourth Broking Affidavit, Tacora faces two fundamental obstacles for raising new capital necessary to ramp up production at the Scully Mine – a prohibitive offtake agreement and overleveraged capital structure. The Ad Hoc Group and Cargill are in a position to negotiate a resolution to solve both issues and facilitate the Company's emergence from these CCAA Proceedings. However, in the past, negotiations have been protracted and the parties have proven intransigent on key issues. The Company intends to restart such discussions and given the current status of the restructuring, the Company expects both the Ad Hoc Group and Cargill to act in good faith and demonstrate sufficient flexibility to achieve a consensual, going-concern outcome that addresses the issues with the Offtake Agreement and Tacora's capital structure.

20. The continuation of protracted litigation (or protracted negotiations) delaying the conclusion of these CCAA Proceedings puts the Company at risk of further iron ore price volatility, increases the level of debt on the Company, delays the investment of necessary equity to complete the ramp-up of production. The protraction of the CCAA Proceedings also allows Cargill to continue to profit significantly from its Offtake Agreement while value is eroded from Tacora and its other stakeholders.

21. If Cargill and the Ad Hoc Group cannot achieve a consensual resolution in the near term, the Company expects to seek further relief from this Court to establish timelines related to a short-term process that allows the Company to achieve a transaction that will allow it to emerge from these CCAA Proceedings. Time is of the essence and the status quo is not sustainable for the Company.

E. Stay Extension

22. Tacora is seeking an extension of the Stay Period from April 26, 2024, to and including June 24, 2024. The extension of the Stay Period is necessary and appropriate in the circumstances to provide Tacora with sufficient time to secure another going-concern transaction.

23. 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 and has, among other things:

- (a) continued to operate in the ordinary course of business;
- (b) updated and revised its cash flow forecast (the “**Updated Cash Flow Forecast**”) to address the recent, significant decreases in iron ore prices;
- (c) filed materials and conducted examinations related to the sale approval motion;
- (d) solicited and negotiated additional DIP financing;
- (e) entered into the Amended DIP Agreement;
- (f) filed materials, conducted examinations and argued the motion related to the dispute between Tacora and MFC regarding certain pre-filing claims asserted against Tacora by MFC;
- (g) appeared before the Court to advise of recent developments in these CCAA Proceedings; and
- (h) responded to creditor and stakeholder enquiries regarding these CCAA Proceedings.

24. The Updated Cash Flow Forecast, which is appended to the Eighth Report, reflects that,

subject to the assumptions related thereto, Tacora is expected to maintain liquidity and fund operations until and including June 24, 2024.

25. The proposed extension of the Stay Period is necessary for Tacora, together with its advisors and the Monitor, to continue to review and advance its potential available alternatives and pursue a value-maximizing transaction for the benefit of the Company and its stakeholders generally.

26. I do not believe that any of the Company's creditors will be materially prejudiced by the proposed extension of the Stay Period.

27. I understand that the Monitor supports the proposed extension of the Stay Period and approval of the Amended DIP Agreement and will be providing further details with respect to the appropriateness of the requested extension of the Stay Period in its Eighth Report.

28. For the reasons set out above, I believe that it is in the best interests of Tacora and its stakeholders that the proposed order be granted.

F. Caterpillar Dispute

29. In connection with its operations, Tacora leases certain open pit mining equipment (the "**Caterpillar Equipment**") from Caterpillar Financial Services Limited ("**Caterpillar**") pursuant to a master lease agreement dated April 15, 2019 (as amended on June 30, 2019, and as further amended on August 3, 2022, and as may be further amended from time to time, the "**Caterpillar Lease**"). The Caterpillar Equipment is essential to Tacora's ability to continue to operate during the CCAA Proceedings.

30. On November 2, 2023, counsel to Caterpillar wrote to counsel to Tacora requesting that payments under the Caterpillar Lease be addressed immediately. A copy of this correspondence is attached hereto as **Exhibit "D"**.

31. On November 10, 2023, counsel for Tacora responded to counsel to Caterpillar advising that Tacora and the Monitor were of the view that, pursuant to the ARIO, Tacora is precluded from making any payments to Caterpillar under the Caterpillar Lease. A copy of this correspondence is attached hereto as **Exhibit "E"**.

32. By letter dated December 11, 2023, counsel for Caterpillar, among other things, advised

that, if Tacora did not continue to make payments for the Caterpillar Equipment, Caterpillar would bring a motion seeking to lift the stay of proceedings and seize the Caterpillar Equipment. Following additional correspondence between the parties, Caterpillar advised Tacora by email dated December 22, 2023, that it would not be proceeding with the motion to lift the stay of proceedings at that time. A copy of this correspondence is attached hereto as **Exhibit "F"**.

33. On April 11, 2024, in response to the motion seeking approval of the Successful Bid not proceeding, Caterpillar notified Tacora and the Monitor that it required Tacora to make payment for all amounts due under the Caterpillar Lease, barring which it intended to oppose the proposed extension of the Stay Period and bring a motion to lift the stay of proceedings to seize the Caterpillar Equipment. A copy of this correspondence dated April 11, 2024, is attached hereto as **Exhibit "G"**.

34. Counsel to Tacora and Caterpillar have had discussions, but as of the date of this affidavit, no resolution has been reached.

G. Claims Procedure Order¹

35. Tacora is seeking approval of a Claims Procedure for the identification, quantification and resolution of claims against Tacora and its Directors and Officers in the event that the Company determines it appropriate to seek approval of a plan of compromise or arrangement.

36. A copy of the draft Claims Procedure Order is attached to the Motion Record of the Applicant dated April 21, 2024, which stakeholders are encouraged to consult for full details of the Claims Procedure. However, the following is a high-level summary of certain key aspects of the Claims Procedure:

- (a) **Notice.** The Monitor shall send a Claims Package to each Known Claimant within ten (10) Business Days following the issuance of the Claims Procedure Order;
- (b) **Claims Bar Date.** The Claims Bar Date in respect of Pre-Filing Claims and D&O Claims, including Known Claims, is 5:00 p.m. (Eastern Time) on May 31, 2024;

¹ Capitalized terms used in this section and not otherwise defined have the meanings given to them in the draft Claims Procedure Order attached at Tab 4 to the Motion Record of the Applicant dated April 21, 2024.

- (c) **Restructuring Claims Bar Date.** The Restructuring Claims Bar Date to submit a Proof of Claim with respect to all Restructuring Claims is the later of:
 - (i) The Claims Bar Date; and
 - (ii) 5:00 p.m. (Eastern Time) on the day which is fourteen (14) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with the Claims Procedure Order;
- (d) **Notice of Dispute.** A Known Claimant who intends to dispute a Statement of Known Claim, shall deliver a Notice of Dispute by the applicable Bar Date;
- (e) **Review of Proofs of Claim.** The Monitor, in consultation with Tacora, shall review all Proofs of Claim for Unknown Claims, and may (i) request additional information from a Claimant; (ii) request that a Claimant file a revised Proof of Claim; (iii) attempt to resolve and settle any issue arising in a Proof of Claim or in respect of a Claim for voting and/or distribution purposes; (iv) accept, revise or disallow (each in whole or in part) the amount and/or Status of any Claim set out therein for voting and/or distribution purposes;
- (f) **Notice of Revision or Disallowance.** Where a Proof of Claim is revised or disallowed, the Monitor shall deliver to the Claimant a Notice of Revision or Disallowance, attaching the form of Notice of Dispute of Revision or Disallowance;
- (g) **Notice of Dispute of Revision or Disallowance.** An Unknown Claimant who intends to dispute a Notice of Revision or Disallowance, shall deliver a Notice of Dispute of Revision or Disallowance no later than fourteen (14) days after such Claimant is deemed to have received the Notice of Revision or Disallowance; and
- (h) **Claims Officer.** The Monitor may, in consultation with Tacora, apply to the Court for an Order appointing a Claims Officer to resolve disputed claims on such terms and in accordance with such process as may be ordered by the Court.

37. Tacora's proposed Claims Procedure is embodied in the Claims Procedure Order, which has been prepared by Tacora in consultation with the Monitor and its counsel.

38. The notification process described in the Claims Procedure Order will provide Claimants

with adequate notice of the Claims Procedure and an adequate opportunity to prove their Claims prior to the applicable Bar Dates.

39. In addition, the adjudication procedure described in the Claims Procedure Order will facilitate the fair and expeditious resolution of any disputes regarding the amount and/or Status of each Claim.

40. I swear this affidavit in support of Tacora's motion seeking approval of (a) an order extending the Stay Period until and including June 24, 2024 and approving the Amended DIP Agreement; and (b) the Claims Procedure Order, 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 21st day of April, 2024, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.



Commissioner for Taking Affidavits, etc.
Natasha Rambaran | LSO #80200N

DocuSigned by:



9EBB6BB7AB484D8...

JOE BROKING

EXHIBIT "A"

referred to in the Affidavit of

JOE BROKING

Sworn April 21, 2024



A Commissioner for Taking Affidavits

Natasha Rambaran | LSO #80200N

SECOND AMENDED AND RESTATED DIP FACILITY TERM SHEET

This second amended and restated term sheet dated as of April 21, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (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 requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties amended and restated the Original Term Sheet in its entirety and without novation, in accordance with an amended and restated interim term sheet dated as of as of March 18, 2024 (the “**First Amended and Restated Term Sheet**”) on an interim basis pending the return of the Borrower’s motion and the DIP Lender’s cross-motion in connection with the DIP Facility that was scheduled to be heard on April 10 – 12, 2024;

The Parties wish to amend and restate the First Amended and Restated Term Sheet, in its entirety and without novation, in accordance with this Term Sheet;

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (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.
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 \$125,000,000 (as such amount may be adjusted from time to time in accordance with this Section 4, the “**DIP Facility Limit**”).

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (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 \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the DIP Facility Limit. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and provided that no Subsequent Advances shall be made while the Borrower’s cash on hand is above \$15,000,000 (or such other amount as agreed by the Borrower, the Monitor and the DIP Lender).

The Initial Advance shall be deposited by the DIP Lender 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**”).

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 Lender, have been fully complied with, (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 unless the DIP Lender has 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 and the Monitor.

The Borrower and the DIP Lender may, with the consent of the Monitor, agree to adjust the DIP Facility Limit and the Post-Filing Margin Advances Limit from time to time, provided that the aggregate amount of the DIP Facility Limit and the Post-Filing Margin Advances Limit shall not exceed \$150,000,000 at any time (the “**Facility Limit**”).

5. **EXISTING**

ARRANGEMENTS:

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) in accordance with 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 (the “**Post-Filing Margin Advances**”) in an amount not to exceed \$25,000,000 in the aggregate (as such amount may be adjusted from time to time in accordance with Section 4, the “**Post-Filing Margin Advances Limit**”), provided that, any Margin Amounts required to be paid by the Borrower in accordance with the Offtake Agreement that are in excess of the Post-Filing Margin Advances Limit (the “**Excess Margin Amounts**”) shall, without further notice or action by Cargill or any other Person, form part of the DIP Obligations and shall be secured by the DIP Lender Charge.

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 (the “**Ancillary Post-Filing Services Amounts**”) 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.

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) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through June 24, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) 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;
- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off shall not apply to post-filing amounts payable by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement); and
- (e) 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.

6. PURPOSE AND PERMITTED PAYMENTS:

The Borrower shall use proceeds of the DIP Facility 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 Expenses and Cargill Motion Expenses;

- (c) to concurrently pay the Permitted Noteholder Expenses and the Ongoing Cargill Expenses;
- (d) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (e) 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 DIP Lender and may not pay the professional or advisory fees or expenses of any other Person other than the Borrower, the Monitor and the DIP Lender, except for (i) Permitted Noteholder Expenses which shall be permitted only with the concurrent payment of the Ongoing Cargill Expenses in the same amount (provided that the Ongoing Cargill Expenses may, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations) and (ii) as required 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, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to make the DIP Facility available to the Borrower and to advance the Initial Advance 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 and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower 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 on the Borrower's Collateral as security for the payment of (i) 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 and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) 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) The Court shall have issued an amended and restated Initial Order in substantially the form attached hereto as Schedule "E" (the "**Amended and Restated Initial Order**"), and the Court shall have issued a Court Order (the "**DIP Amendment Order**") approving this Term Sheet, and authorizing and empowering the Borrower to borrow hereunder, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the DIP Facility Limit, (ii) authorize and approve any Post-Filing Credit Extensions (including Post-Filing Margin Advances in an amount up to the Post-Filing Margin Advances Limit) to be secured by the DIP Lender Charge, and (iii) provide that the DIP Lender Charge shall be amended to include the full DIP Facility Limit together with any Post-Filing Credit Extensions as well as any Excess Margin Amounts, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;
- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND
EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (including from and after the date of

this Term Sheet) in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings (the "**DIP Lender Expenses**"), 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 shall be capped at \$125,000 plus applicable taxes. Without duplication of the foregoing, (i) Cargill's out-of-pocket legal and financial advisory fees and expenses in connection with the CCAA Proceedings from the date of this Term Sheet the ("**Ongoing Cargill Expenses**"), in an amount not to exceed the amount of Permitted Noteholder Expenses paid in respect of the same period and (ii) Cargill's out-of-pocket legal and financial advisory fees and expenses (in an amount mutually agreed by Cargill and the Borrower, with approval of the Monitor) in respect of the Borrower's motion seeking approval of sale transaction with a consortium group of investors (the "**Cargill Motion Expenses**" and together with the Ongoing Cargill Expenses, collectively, the "**Cargill Expenses**") shall, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations. The DIP Lender Expenses and the Cargill 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.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its 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 Advance Condition except and unless the DIP Lender has 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 (the earliest of such dates being the “**Maturity Date**”). 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 for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its 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 of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:** Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. 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 in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its 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 that the proposed revised DIP Budget is not acceptable, it 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 DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender 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 DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender 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 and its 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 and its 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 accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions, as well as any Excess Margin Amounts.

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 DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the payment of the DIP Obligations (including the DIP Facility and all Post-Filing Credit Extensions and Excess Margin Amounts) 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 and (b) overdue interest, fees (including the Exit Fees) and DIP Lender 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, provided that from and after the granting of the DIP Amendment Order, the Borrower shall have the right to defer the payment of accrued interest to the DIP Lender in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month.

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.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) 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 (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the “**Initial Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount of \$800,000 (the “**Subsequent Exit Fee**” and together with the Initial Exit Fee, collectively, the “**Exit Fees**”) provided that the Subsequent Exit Fee shall only be earned and payable on May 8, 2024 and shall not be earned if the Borrower repays all DIP Obligations (including Excess Margin Amounts) and all Post-Filing Credit Extensions on or prior to such date. The amount of the Subsequent Exit Fee shall remain fixed at \$800,000 and shall not be adjusted notwithstanding any funding of Excess Margin Amounts under the DIP Facility agreed to by the Borrower, the DIP Lender and the Monitor.

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 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 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 DIP Lender, 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 and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Limit 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, upon which the DIP Lender is 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 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 and Restated Initial Order (once granted), 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 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, 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 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;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its 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
- (m) 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 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 and its 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 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 the reporting and other information from time to time reasonably requested by the DIP Lender 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 and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its 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;
- (l) 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 DIP Lender relating to the DIP Facility or the DIP Lender Charge;

- (m) Promptly provide notice to the DIP Lender and its 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;
- (n) Promptly provide notice to the DIP Lender and its 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;
- (o) 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;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) 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 DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (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;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;

- (t) 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;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) 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 DIP Lender 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 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 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, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) 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;
- (m) 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;
- (n) 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 under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) 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;

- (p) 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;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated 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 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 any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA

Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

- (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 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 DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (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 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 DIP Lender 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, 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 DIP Lender may, in its 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 DIP Lender 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 to the Borrower against the DIP Obligations (including the Post-Filing Credit Extensions and the Excess Margin Amounts); 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 and its 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: (i) in the event that the DIP Lender has failed to fund the DIP Facility 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 under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 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 shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. HEDGING:

The Borrower may enter into hedging arrangements with Cargill (or CITPL), on terms mutually agreed by the Borrower and Cargill (or CITPL), each acting reasonably, in respect of (i) cargoes sailing on or before April 25, 2024 and (ii) future cargoes sailing after April 25, 2024, to be delivered in accordance with the Offtake Agreement, which hedging arrangements shall, in each case, reflect the then-current market price for the applicable scheduled delivery dates of such cargoes (the “**Post-Filing Hedging Arrangements**”). Amounts owing from time-to-time by the Borrower under the Post-Filing Hedging Arrangements shall, together with the Post-Filing Margin Advances and the Ancillary Post-Filing Services Amounts, are collectively referred to hereunder as the “**Post-Filing Credit Extensions**”. Such Post-Filing Hedging Arrangements shall be (a) severable from the Offtake Agreement and other Existing Arrangements and otherwise shall not amend the Offtake Agreement and other Existing Arrangements; and (b) secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

For greater certainty, the Borrower, Cargill and CITPL agree and acknowledge that (i) the Post-Filing Hedging Arrangements do not affect whether the Offtake Agreement or other Existing Arrangements are "eligible financial contracts" as defined under the CCAA, (ii) the Post Filing Hedging Arrangements shall not be used or produced by either party in any dispute regarding termination, suspension, disclaimer, or exclusion of the Offtake Agreement by Tacora, including any dispute whether the Offtake Agreement is an "eligible financial contract" as defined under the CCAA, and (iii) all rights and defenses in connection with such dispute are fully reserved by each of the Borrower, Cargill and CITPL, as if Post Filing Hedging Arrangements were never entered into. The foregoing paragraph shall be incorporated into the DIP Amendment Order.

28. TAXES:

All payments by the Borrower to the DIP Lender 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 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 under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender 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 that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender 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 to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender 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. **[RESERVED]**

30. **ASSIGNMENT:**

The DIP Lender may assign its 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 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 DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its 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.

31. **AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[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:

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name:

Title:

Per: _____

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.

“**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 Subsequent Advance.

“**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.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Services Amounts**” 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.

“**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, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**Cargill Expenses**” has the meaning given thereto in Section 9.

“**Cargill Motion Expenses**” has the meaning given thereto in Section 9.

“**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.

“**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.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including the week of June 23, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, 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.

“**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 Obligations**” means (i) all Advances made under the DIP Facility, (ii) all Excess Margin Amounts, (iii) all other principal, interest, fees (including the Exit Fees) due hereunder, (iv) the DIP Lender Expenses and (v) the Cargill Expenses.

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

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” means the Court-ordered priority charge over the Borrower’s Collateral securing all DIP Obligations.

“**Directors’ Charge**” means a 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.

“**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.

“**Excess Margin Amounts**” has the meaning given thereto in Section 5.

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

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

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

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

“**Filing Date**” means the date on which the Initial Order was 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 Exit Fee**” has the meaning given thereto in Section 17.

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

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

“**KERP Charge**” means a Court-ordered priority 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.

“**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 and the Onshore 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.

“**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.

“**Ongoing Cargill Expenses**” has the meaning given thereto in Section 9.

“**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.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s 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 Noteholder Expenses**” means the reasonable and documented professional and advisory fees and expenses of the ad hoc group of the Borrower’s senior secured noteholders up to a maximum of \$250,000 per month, payable in respect of expenses incurred in the period commencing on the date of the issuance of the DIP Amendment Order and ending a maximum of one month thereafter (as such period may be extended by mutual agreement among Cargill, the Borrower and the Monitor in each such party’s respective sole discretion).

“**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 Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses and Cargill 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.

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

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 27.

“**Post-Filing Hedging Arrangements**” has the meaning given thereto in Section 27.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances Limit**” has the meaning given thereto in Section 5.

“**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**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

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

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

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

“**Tacora**” has the meaning given thereto in the recitals.

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

“**Transaction Fee Charge**” means a Court-ordered priority 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.

“**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"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Second Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. 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 Subsequent Advance (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

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

The DIP Lender is 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.

Tacora Resources Inc.

Consolidated Cash Flow Projections

(\$USD in thousands)

Forecast Week Ending	14-Apr-24	21-Apr-24	28-Apr-24	05-May-24	12-May-24	19-May-24	26-May-24	02-Jun-24	09-Jun-24	16-Jun-24	23-Jun-24	Total	
Forecast Week	[1]	1	2	3	4	5	6	7	8	9	10	11	Total
Total Receipts	[2]	2,397	3,471	1,381	6,572	5,610	6,980	5,714	5,482	5,610	8,668	7,480	59,366
Operating Disbursements	[3]												
Employees		(2,458)	(953)	(2,073)	(486)	(2,155)	(206)	(2,080)	(286)	(2,162)	(318)	(2,087)	(15,265)
Mine, Mill and Site Costs		(2,045)	(2,183)	(5,047)	(1,648)	(1,443)	(987)	(2,196)	(2,144)	(1,498)	(589)	(1,525)	(21,303)
Plant Repairs and Maintenance		(2,041)	(2,813)	(2,237)	(2,307)	(2,242)	(2,165)	(2,245)	(2,190)	(2,300)	(2,223)	(2,110)	(24,873)
Logistics		(1,197)	(2,359)	(1,578)	(5,337)	(1,203)	(1,672)	(1,032)	(5,304)	(1,572)	(1,585)	(690)	(23,529)
Capital Expenditures		(523)	(1,350)	(1,603)	(1,750)	(1,800)	(1,600)	(1,803)	(1,200)	(1,350)	(1,100)	(1,100)	(15,179)
Other		(721)	(591)	(685)	(1,091)	(418)	(418)	(523)	(556)	(418)	(418)	(374)	(6,211)
Total Operating Disbursements		(8,985)	(10,250)	(13,223)	(12,620)	(9,260)	(7,047)	(9,878)	(11,679)	(9,299)	(6,233)	(7,886)	(106,359)
Net Cash from Operations		(6,589)	(6,778)	(11,841)	(6,047)	(3,650)	(67)	(4,164)	(6,197)	(3,689)	2,435	(405)	(46,993)
Restructuring Legal and Professional Costs	[4]	(159)	(2,493)	(658)	(2,171)	(485)	(849)	(599)	(566)	(299)	(299)	(299)	(8,875)
KERP	[5]	-	-	-	-	-	-	-	-	-	-	-	-
NET CASH FLOWS		(6,747)	(9,271)	(12,500)	(8,218)	(4,135)	(916)	(4,762)	(6,763)	(3,988)	2,137	(704)	(55,868)
Cash													
Beginning Cash Balance		22,203	25,456	16,185	18,685	10,467	21,332	20,416	15,654	18,891	14,903	17,040	22,203
Net Receipts/ (Disbursements)		(6,747)	(9,271)	(12,500)	(8,218)	(4,135)	(916)	(4,762)	(6,763)	(3,988)	2,137	(704)	(55,868)
DIP Advances/ (Repayments)	[6]	10,000	-	15,000	-	15,000	-	-	10,000	-	-	-	50,000
DIP Fees & Interest Payment	[7]	-	-	-	-	-	-	-	-	-	-	-	-
Ending Cash Balance		25,456	16,185	18,685	10,467	21,332	20,416	15,654	18,891	14,903	17,040	16,336	16,336
DIP Opening Balance		75,287	85,287	85,287	100,901	100,901	115,901	115,901	115,901	126,952	126,952	126,952	75,287
DIP Advances		10,000	-	15,000	-	15,000	-	-	10,000	-	-	-	50,000
PIK Interest		-	-	614	-	-	-	-	1,051	-	-	-	1,665
DIP Ending Balance		85,287	85,287	100,901	100,901	115,901	115,901	115,901	126,952	126,952	126,952	126,952	126,952
Opening Post-Filing Credit Extensions		39,924	27,365	11,144	11,144	11,144	11,144	11,144	11,144	11,144	11,144	11,144	39,924
Increase/ (Decreases) in Post-Filing Credit Extensions		(12,559)	(16,221)	-	-	-	-	-	-	-	-	-	(28,780)
Ending Post-Filing Credit Extensions	[8]	27,365	11,144	11,144	11,144	11,144	11,144	11,144	11,144	11,144	11,144	11,144	11,144
Total DIP Facility Obligations		112,652	96,431	112,045	112,045	127,045	127,045	127,045	138,096	138,096	138,096	138,096	138,096

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 the average monthly forward fx rate as at April 10, 2024.
- [2] Forecast Total Receipts are based on management’s current expectations regarding productions and vessel shipments of iron ore concentrate (total tonnage) and a P62 price of USD \$105 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 are based on funding requirements and maintaining a minimum cash balance throughout the period.
- [7] Accrued monthly interest forecast to be paid in kind (PIK).
- [8] Forecast Post-Filing Credit Extensions reflect Management best estimates as at April 20, 2024. Post-Filing Credit Extension maximum balance has been revised to \$25m.

SCHEDULE "D"
INITIAL ORDER

See attached.



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

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

THE HONOURABLE MADAM

)

TUESDAY, THE 10TH

JUSTICE KIMMEL

)

DAY OF OCTOBER, 2023

)

**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)

INITIAL ORDER

THIS APPLICATION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCA**") was heard this day by judicial videoconference via Zoom.

ON READING the Notice of Application, the affidavit of Joe Broking sworn October 9, 2023, and the Exhibits thereto (the "**Broking Affidavit**"), the affidavit of Chetan Bhandari sworn October 9, 2023 (the "**Bhandari Affidavit**"), the consent of FTI Consulting Canada Inc. ("**FTI**") to act as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"), the Pre-Filing Report of FTI, as the proposed Monitor, 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 FTI 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 Natasha Rambaran, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application 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.

POSSESSION OF PROPERTY AND OPERATIONS

3. **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.

4. **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 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.

5. **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 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.

6. **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 and/or advances to Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for Tacora's head office located in Grand Rapids, Minnesota.

7. **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 (i) employment insurance, (ii) Canada Pension Plan, and (iii) 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.

8. **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.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) 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; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

10. **THIS COURT ORDERS** that until and including October 20, 2023, 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

11. **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

12. **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

13. **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

14. **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

15. **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

16. **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

17. **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.

18. **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\$4,600,000, as security for the indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 36 and 38 herein.

19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) 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 17 of this Order.

APPOINTMENT OF MONITOR

20. **THIS COURT ORDERS** that FTI Consulting Canada Inc. 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.

21. **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 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;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender under the DIP Agreement, which information shall be reviewed with the Monitor and delivered to the DIP Lender and their counsel in accordance with the DIP Agreement;
- (e) 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;

- (f) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (g) 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
- (h) perform such other duties as are required by this Order or by this Court from time to time.

22. **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.

23. **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.

24. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lender 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.

25. **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

26. **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.

27. **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.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill & Co. Canada Ltd. ("**Greenhill**") for its Monthly Advisory Fee (as defined in the Engagement Letter dated as of January 23, 2023 between the Applicant and Greenhill) 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 36 and 38 hereof.

DIP FINANCING

29. **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 dated October 9, 2023 (the “**DIP Agreement**”) from Cargill, Incorporated (in such capacity, the “**DIP Lender**”) in order to 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\$15,500,000 and Post-Filing Credit Extensions (as defined in the DIP Agreement) shall not exceed the principal amount of US\$20,000,000, unless permitted by further Order of this Court.

30. **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 “K” to the Broking Affidavit.

31. **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 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 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.

32. **THIS COURT ORDERS** that the DIP Lender and Cargill International Trading Pte Ltd. (“**CITPL**”) 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 36 and 38 hereof.

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

- (a) the DIP Lender 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) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lender may cease making advances to the Applicant and, 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 to the Applicant against the obligations of the Applicant to the DIP Lender 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

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

34. **THIS COURT ORDERS AND DECLARES** that the DIP Lender 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.

35. **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, 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 being given notice of the Variation, and the DIP Lender 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.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

36. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge and the DIP Charge (the “**Charges**”), as among them, 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\$4,600,000); and

Third – the DIP Charge.

37. **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.

38. **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 any Person with a property perfected Encumbrance on the Property who did not receive notice of the Application. The Applicant shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrances over which the Charges have not obtained priority pursuant to this Order.

39. **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 and the DIP Charge, or further Order of this Court.

40. **THIS COURT ORDERS** that the Administration Charge, the Directors' 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 thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) 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.

41. **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

42. **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.

43. **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>.

44. **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.

45. **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).

GENERAL

46. **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.

47. **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.

48. **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.

49. **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.

50. **THIS COURT ORDERS** that a hearing for the balance of the relief sought by the Applicant in the Notice of Application is hereby scheduled before this Court for October 19, 2023 at 12:00 p.m. or such other date as determined by this Court.

51. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lender) may apply to this Court to vary or amend this Order 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.

52. **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 date of this Order.

53. **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: 2023.10.10
16:40:14 -04'00'

**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-23-00707394-00

Electronically issued / Délivré par voie électronique : 11-Oct-2023
Toronto Superior Court of Justice / Cour supérieure de justice

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

PROCEEDINGS COMMENCED AT TORONTO

INITIAL ORDER

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Counsel to Tacora Resources Inc.

Court File No./N° du dossier du greffe : CV-23-00707394-00CL

SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

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, 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 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, is hereby abridged and validated so that this Application 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 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 February 9, 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 and 49 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 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. The Transaction Fee Charge shall have the priority set out in paragraphs 46 and 49 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 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;

- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender under the DIP Agreement, which information shall be reviewed with the Monitor and delivered to the DIP Lender 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 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 and 49 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 dated October 9, 2023 (the "**DIP Agreement**") from Cargill Inc. (collectively, in such capacity, the "**DIP Lender**") in order to 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, 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 "K" to the 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 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 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**") 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 and 49 hereof.

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

- (a) the DIP Lender 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) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lender 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 to the Applicant against the obligations of the Applicant to the DIP Lender 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
- (c) the foregoing rights and remedies of the DIP Lender 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 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, 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 being given notice of the Variation, and the DIP Lender 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.

KEY EMPLOYEE RETENTION PLAN

43. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the 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.

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.

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 and 49 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

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); and

Fourth – the DIP Charge.

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.

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.

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.

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.

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 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.

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

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.

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>.

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.

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

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

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.

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.

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.

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.

62. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lender) 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.

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.

64. **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: 2023.10.30
14:29:55 -04'00'

**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

AMENDED AND RESTATED INITIAL ORDER

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Counsel to Tacora Resources Inc.

EXHIBIT "B"

referred to in the Affidavit of

JOE BROKING

Sworn April 21, 2024

A handwritten signature in blue ink, reading "N. Rambaran", is positioned above a horizontal line.

A Commissioner for Taking Affidavits

Natasha Rambaran | LSO #80200N

SECOND AMENDED AND RESTATED DIP FACILITY TERM SHEET

This second amended and restated term sheet dated as of ~~March 18~~ April 21, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (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 requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties amended and restated the Original Term Sheet in its entirety and without novation, in accordance with an amended and restated interim term sheet dated as of as of March 18, 2024 (the “**First Amended and Restated Term Sheet**”) on an interim basis pending the return of the Borrower’s motion and the DIP Lender’s cross-motion in connection with the DIP Facility that was scheduled to be heard on April 10 – 12, 2024;

The Parties wish to amend and restate the ~~Original~~ First Amended and Restated Term Sheet, in its entirety and without novation, in accordance with this ~~amended and restated DIP facility term sheet (the “Term Sheet”);~~

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (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.
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 \$127,500,000 (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.~~

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 \$125,000,000 (as such amount may be adjusted from time to time in accordance with this Section 4, the “**DIP Facility Limit**”).

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (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 \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the DIP Facility Amount~~Limit~~. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and provided that no Subsequent Advances shall be made while the Borrower’s cash on hand is above \$15,000,000 (or such other amount as agreed by the Borrower, the Monitor and the DIP Lender).

The Initial Advance shall be deposited by the DIP Lender 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**”).

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 Lender, have been fully complied with, (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 unless the DIP Lender has 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 and the Monitor.

The Borrower and the DIP Lender may, with the consent of the Monitor, agree to adjust the DIP Facility Limit and the Post-Filing Margin Advances Limit from time to time, provided that the aggregate amount of the DIP Facility Limit and the Post-Filing Margin Advances Limit shall not exceed \$150,000,000 at any time (the “**Facility Limit**”).

5. **EXISTING ARRANGEMENTS:** 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) in accordance with Section

~~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~~(the **“Post-Filing Margin Advances”**) in an amount not to exceed \$25,000,000 in the aggregate (as such amount may be adjusted from time to time in accordance with Section 4, the **“Post-Filing Margin Advances Limit”**), provided that, any Margin Amounts required to be paid by the Borrower in accordance with the Offtake Agreement that are in excess of the Post-Filing Margin Advances Limit (the **“Excess Margin Amounts”**) shall, without further notice or action by Cargill or any other Person, form part of the DIP Obligations and 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 (the **“Ancillary Post-Filing Services Amounts”**) 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) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through ~~April 30~~June 24, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) 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;
- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off

shall not apply to post-filing amounts payable by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement); and

- (e) 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 Borrower shall use proceeds of the DIP Facility 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 Expenses [and Cargill Motion Expenses](#);

6. **PURPOSE AND
PERMITTED
PAYMENTS:**

- (c) [to concurrently pay the Permitted Noteholder Expenses and the Ongoing Cargill Expenses;](#)
- (ed) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (de) 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 DIP Lender and may not pay the professional or advisory fees or expenses of any other Person other than the Borrower, the Monitor and the DIP Lender, except [for \(i\) Permitted Noteholder Expenses which shall be permitted only with the concurrent payment of the Ongoing Cargill Expenses in the same amount \(provided that the Ongoing Cargill Expenses may, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations\) and \(ii\) as required](#) 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, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

The DIP Lender's agreement to make the DIP Facility Amount available to the Borrower and to advance the Initial Advance 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 and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower 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) 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

**7. INITIAL
ADVANCE
CONDITIONS:**

connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) 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) The Court shall have issued an amended and restated Initial Order in substantially the form attached hereto as Schedule "**E**" (the "**Amended and Restated Initial Order**"), and the Court shall have issued a Court Order (the "**DIP Amendment Order**") approving this Term Sheet, and authorizing and empowering the Borrower to borrow hereunder, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably,

including as necessary to (i) authorize the Borrower to borrow up to the ~~Facility Amount~~DIP Facility Limit, (ii) authorize and approve any Post-Filing Credit Extensions (including Post-Filing Margin Advances in an amount up to the Post-Filing Margin Advances Limit) to be secured by the DIP Lender Charge, and ~~(iii)~~ provide that the DIP Lender Charge shall be ~~increased~~amended to include the full DIP Facility AmountLimit together with any Post-Filing Credit Extensions as well as any Excess Margin Amounts, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (~~collectively, the "DIP Lender Expenses"~~including from and after the date of

9. **COSTS AND EXPENSES:**

this Term Sheet) in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender’s participation in the CCAA Proceedings (the “DIP Lender Expenses”), 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. Without duplication of the foregoing, (i) Cargill’s out-of-pocket legal and financial advisory fees and expenses in connection with the CCAA Proceedings from the date of this Term Sheet the (“Ongoing Cargill Expenses”), in an amount not to exceed the amount of Permitted Noteholder Expenses paid in respect of the same period and (ii) Cargill’s out-of-pocket legal and financial advisory fees and expenses (in an amount mutually agreed by Cargill and the Borrower, with approval of the Monitor) in respect of the Borrower’s motion seeking approval of sale transaction with a consortium group of investors (the “Cargill Motion Expenses” and together with the Ongoing Cargill Expenses, collectively, the “Cargill Expenses”) shall, at the Borrower’s option, be paid in cash or added to and form part of the DIP Obligations. The DIP Lender Expenses and the Cargill 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.

**10. DIP LENDER
CHARGE:**

~~**10. DIP LENDER
CHARGE:**~~

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

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its 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 Advance Condition except and unless the DIP Lender has 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.

Liens, except for the Permitted Liens.

All Collateral will be free and clear of all

~~11. PERMITTED
LIENS:
AND PRIORITY:~~

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 (the earliest of such dates being the “**Maturity Date**”). 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 for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its 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 of all DIP Obligations on or before the date such Plan is implemented.

13. DIP BUDGET AND VARIANCE REPORTING:

Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. 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 in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its 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 that the proposed revised DIP Budget is not acceptable, it 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 DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender 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 DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender 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 and its 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 and its 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 accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions, as well as any Excess Margin Amounts.

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 DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the ~~prepayment~~ payment of the DIP Obligations (including the DIP Facility and all Post-Filing Credit Extensions and Excess Margin Amounts) 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 and (b) overdue interest, fees (including the Exit Fees) and DIP Lender 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, provided that from and after the granting of the DIP Amendment Order, the Borrower shall have the right to defer the payment of accrued interest to the DIP Lender in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month.

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.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) 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 (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the “**Initial Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount ~~equal to 2.00% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to \$1,050,000~~ of \$800,000 (the “**Subsequent Exit Fee**” and together with the Initial Exit Fee, collectively, the “**Exit Fees**”) provided that the Subsequent Exit Fee shall only be ~~payable if the DIP Facility as amended and restated by this Term Sheet, is approved pursuant to the DIP Amendment Order, and provided further that~~ earned and payable on May 8, 2024 and shall not be earned if the Borrower repays all DIP Obligations (including Excess Margin Amounts) and all Post-Filing Credit Extensions on or prior to such date. The amount of the Subsequent Exit Fee shall not be payable if the Borrower completes the transaction contemplated by the subscription agreement entered into remain fixed at \$800,000 and shall not be adjusted notwithstanding any funding of Excess Margin Amounts under the DIP Facility agreed to by the Borrower, the ~~ad hoc group of noteholders, Resource Capital Fund VII L.P. and Javelin Global Commodities (SG) Pte Ltd. dated January 29, 2024~~ DIP Lender and the Monitor.

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 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 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 DIP Lender, 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 and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility ~~Amount~~ Limit 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, upon which the DIP Lender is 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 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 and Restated Initial Order (once granted), 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 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, 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 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;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its 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
- (m) 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 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 and its 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 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 the reporting and other information from time to time reasonably requested by the DIP Lender 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 and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its 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

CCA Proceeding;

- (1) 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 DIP Lender relating to the DIP Facility or the DIP Lender Charge;

- (m) Promptly provide notice to the DIP Lender and its 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;
- (n) Promptly provide notice to the DIP Lender and its 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;
- (o) 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;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) 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 DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (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;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;

- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;

- (t) 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;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) 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 DIP Lender 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 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;

~~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 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, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) 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;
- (m) 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;
- (n) 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 under or in connection with the DIP Facility or the DIP Lender

Charge, except with the prior written consent of the DIP Lender, in its sole discretion;

- (o) 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;

- (p) 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;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

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:

**23. EVENTS OF
DEFAULT:**

- (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 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 any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the

CCAA or otherwise;

- (e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA

Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

- (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 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 DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;

- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in

the Initial Order or the Amended and Restated Initial Order;

- (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 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

DIP Lender 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, 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 DIP Lender may, in its 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 DIP Lender 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 to the Borrower against the DIP Obligations ~~and~~(including the Post-Filing Credit Extensions and the Excess Margin Amounts); 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:**

**~~25. INDEMNITY AND
RELEASE:~~**

~~The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to 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 results from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) arising from any dispute solely among Indemnified Persons or 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 other person for consequential or punitive damages.~~

~~Notwithstanding anything to the contrary herein, the indemnification obligations under this Term Sheet shall survive any termination of the DIP Facility.~~

The Borrower agrees to indemnify and hold harmless the DIP Lender and its 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** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the~~

26. **TERMINATION BY** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the

BORROWER:

DIP 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 under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 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 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~~ may ~~enter into one or more~~ hedging arrangements ~~from time to time, as may be~~ with Cargill (or CITPL), on terms mutually agreed by the Borrower and Cargill (or ~~any of its affiliates~~), and ~~approved by the Monitor.~~ CITPL, each acting reasonably, in respect of (i) cargoes sailing on or before April 25, 2024 and (ii) future cargoes sailing after April 25, 2024, to be delivered in accordance with the Offtake Agreement, which hedging arrangements shall, in each case, reflect the then-current market price for the applicable scheduled delivery dates of such cargoes (the "**Post-Filing Hedging Arrangements**"). Amounts owing from time-to-time by the Borrower under the Post-Filing Hedging Arrangements shall, together with the Post-Filing Margin Advances and the Ancillary Post-Filing Services Amounts, are collectively referred to hereunder as the "**Post-Filing Credit Extensions**". Such Post-Filing Hedging Arrangements shall be (a) severable from the Offtake Agreement and other Existing Arrangements and otherwise shall not amend the Offtake Agreement and other Existing Arrangements; and (b) secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

For greater certainty, the Borrower, Cargill and CITPL agree and acknowledge that (i) the Post-Filing Hedging Arrangements do not affect whether the Offtake Agreement or other Existing Arrangements are "eligible financial contracts" as defined under the CCAA, (ii) the Post Filing Hedging Arrangements shall not be used or produced by either party in any dispute

regarding termination, suspension, disclaimer, or exclusion of the Offtake Agreement by Tacora, including any dispute whether the Offtake Agreement is an "eligible financial contract" as defined under the CCAA, and (iii) all rights and defenses in connection with such dispute are fully reserved by each of the Borrower, Cargill and CITPL, as if Post Filing Hedging Arrangements were never entered into. The foregoing paragraph shall be incorporated into the DIP Amendment Order.

28. **TAXES:**

All payments by the Borrower to the DIP Lender 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 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 under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender 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 that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender 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 to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender 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. [RESERVED]

30. ASSIGNMENT:

The DIP Lender may assign its 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 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 DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its 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.

31. AMENDMENT AND
RESTATEMENT

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

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

~~31. AMENDMENT
AND
RESTATEMENT~~

~~The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.~~

[signature pages follow]

Summary report:	
Litera Compare for Word 11.6.0.100 Document comparison done on 4/21/2024 10:50:42 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: Amended and Restated DIP Facility Term Sheet from MR returnable March 18 2024.pdf	
Modified filename: Pages from Second Amended and Restated DIP Term Sheet (Without Schedules).pdf	
Changes:	
Add	106
Delete	66
Move From	0
Move To	0
Table Insert	1
Table Delete	2
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	175

EXHIBIT "C"

referred to in the Affidavit of

JOE BROKING

Sworn April 21, 2024

A handwritten signature in blue ink, appearing to read "N. Rambaran", is written over a horizontal line.

A Commissioner for Taking Affidavits

Natasha Rambaran | LSO #80200N

SECOND AMENDED AND RESTATED INTERIM DIP FACILITY TERM SHEET

This second amended and restated term sheet dated as of ~~March 18~~April 21, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (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 requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

~~The Borrower is seeking to replace and refinance the DIP Facility pursuant a DIP term sheet dated March 9, 2024 between Tacora and a consortium of investors (the “**Replacement DIP Term Sheet**”). Tacora has filed a motion with the Court seeking approval of the Replacement DIP Term Sheet (the “**DIP Replacement Motion**”). The DIP Lender brought a cross motion to the DIP Replacement Motion (the “**DIP Lender Cross Motion**”). The Court adjourned the DIP Replacement Motion and the DIP Lender Cross Motion to April 10 – 12, 2024;~~

The Parties amended and restated the Original Term Sheet in its entirety and without novation, in accordance with an amended and restated interim term sheet dated as of as of March 18, 2024 (the “**First Amended and Restated Term Sheet**”) on an interim basis pending the return of the Borrower’s motion and the DIP Lender’s cross-motion in connection with the DIP Facility that was scheduled to be heard on April 10 – 12, 2024;

The Parties wish to amend and restate the ~~Original~~First Amended and Restated Term Sheet, in its entirety and without novation, in accordance with this ~~amended and restated Term Sheet on an interim basis pending the return of the DIP Replacement Motion and the DIP Lender Cross Motion to be heard on April 10 – 12, 2024~~Term Sheet;

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (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.

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 ~~\$100,000,000~~125,000,000 (as such amount may be ~~reduced~~adjusted from time to time ~~pursuant to the terms hereof, the “in accordance with this Section 4, the “DIP Facility Amount”~~), ~~subject to the terms and conditions contained herein~~Limit”).

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (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 \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the DIP Facility Amount~~Limit~~. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and provided that no Subsequent Advances shall be made while the Borrower’s cash on hand is above \$15,000,000 (or such other amount as agreed by the Borrower, the Monitor and the DIP Lender).

The Initial Advance shall be deposited by the DIP Lender 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**”).

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 Lender, have been fully complied with, (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 unless the DIP Lender has 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 and the Monitor.

The Borrower and the DIP Lender may, with the consent of the Monitor, agree to adjust the DIP Facility Limit and the Post-Filing Margin Advances Limit from time to time, provided that the aggregate amount of the DIP Facility Limit and the Post-Filing Margin Advances Limit shall not exceed \$150,000,000 at any time (the “Facility Limit”).

5. **EXISTING**

~~Cargill~~

In addition to the DIP Facility, unless an Event of Default then exists,

ARRANGEMENTS: Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) ~~under section in accordance with 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~~ (the “**Post-Filing Margin Advances**”) in an amount not to exceed \$25,000,000 in the aggregate (as such amount may be adjusted from time to time in accordance with Section 4, the “**Post-Filing Margin Advances Limit**”), provided that, any Margin Amounts required to be paid by the Borrower in accordance with the Offtake Agreement that are in excess of the Post-Filing Margin Advances Limit (the “**Excess Margin Amounts**”) shall, without further notice or action by Cargill or any other Person, form part of the DIP Obligations and 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 (the “**Ancillary Post-Filing Services Amounts**”) 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) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through ~~April 30~~June 24, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) 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;

- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off shall not apply to post-filing amounts payable by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement); and
- (e) 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 Borrower shall use proceeds of the DIP Facility 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 Expenses and Cargill Motion Expenses;

6. **PURPOSE AND PERMITTED PAYMENTS:**

- (c) to concurrently pay the Permitted Noteholder Expenses and the Ongoing Cargill Expenses;
- (ed) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (de) 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 DIP Lender and may not pay

the professional or advisory fees or expenses of any other Person other than the Borrower, the Monitor and the DIP Lender, except for (i) Permitted Noteholder Expenses which shall be permitted only with the concurrent payment of the Ongoing Cargill Expenses in the same amount (provided that the Ongoing Cargill Expenses may, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations) and (ii) as required 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, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

The DIP Lender's agreement to make the DIP Facility ~~Amount~~ available to the Borrower and to advance the Initial Advance 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 and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower 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) 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

**7. INITIAL
ADVANCE
CONDITIONS:**

connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) 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) The Court shall have issued an amended and restated Initial Order in substantially the form attached hereto as Schedule “E” (the “**Amended and Restated Initial Order**”), and the Court shall have issued a Court Order (the “~~Interim~~ **DIP Amendment Order**”) approving this Term Sheet ~~on an interim basis, pending the return of the DIP Replacement Motion and the DIP Lender Cross-Motion~~, and authorizing and empowering the Borrower to borrow hereunder, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the DIP Facility Amount Limit, (ii) authorize and approve any Post-Filing Credit Extensions ~~in an aggregate principal amount of up to \$50,000,000~~ (including Post-Filing Margin Advances in an amount up to the Post-Filing Margin Advances Limit) to be secured by the DIP Lender Charge, and (iii) provide that the DIP Lender Charge shall be ~~increased~~ amended to include the full DIP Facility Amount Limit together with any Post-Filing Credit Extensions as well as any Excess Margin Amounts, and shall have priority over all Liens in respect of the Borrower’s Collateral other than the Permitted Priority Liens;
- (b) The Amended and Restated Initial Order and the ~~Interim~~ **DIP Amendment Order** shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower’s Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (~~collectively, the “DIP Lender Expenses”~~ including from and after the date of

9. **COSTS AND EXPENSES:**

this Term Sheet) in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender’s participation in the CCAA Proceedings (the “DIP Lender Expenses”), 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. Without duplication of the foregoing, (i) Cargill’s out-of-pocket legal and financial advisory fees and expenses in connection with the CCAA Proceedings from the date of this Term Sheet the (“Ongoing Cargill Expenses”), in an amount not to exceed the amount of Permitted Noteholder Expenses paid in respect of the same period and (ii) Cargill’s out-of-pocket legal and financial advisory fees and expenses (in an amount mutually agreed by Cargill and the Borrower, with approval of the Monitor) in respect of the Borrower’s motion seeking approval of sale transaction with a consortium group of investors (the “Cargill Motion Expenses” and together with the Ongoing Cargill Expenses, collectively, the “Cargill Expenses”) shall, at the Borrower’s option, be paid in cash or added to and form part of the DIP Obligations. The DIP Lender Expenses and the Cargill 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.

10. DIP LENDER CHARGE:

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its 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 Advance Condition except and unless the DIP Lender has 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.

10. DIP LENDER CHARGE:

~~agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has 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 (the earliest of such dates being the “**Maturity Date**”). 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 for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

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

Without the consent of the DIP Lender, acting in its 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 of all DIP Obligations on or before the date such Plan is implemented.

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

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

~~The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise approved by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week of the month of 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 Monitor determines that the proposed revised DIP Budget is not acceptable to the DIP Lender, the Borrower and the Monitor 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 DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not~~

Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP**

Budget”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. 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 in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its 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 that the proposed revised DIP Budget is not acceptable, it 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 DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender 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 DIP Lender and become the DIP Budget for the purposes hereof.

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

~~deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender 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 DIP Lender and become the DIP Budget for the purposes hereof.~~

~~At any time, the latest DIP Budget accepted by the DIP Lender 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 and its 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 and its 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 accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.~~

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its 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 and its 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 accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions, as well as any Excess Margin Amounts.

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 DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the ~~prepayment~~payment of the DIP Obligations (including the DIP Facility and all Post-Filing Credit Extensions and Excess Margin Amounts) 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 and (b) overdue interest, fees (including the Exit ~~Fee~~Fees) and DIP Lender 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, provided that from and after the granting of the ~~Interim~~-DIP Amendment Order, the Borrower shall have the right to defer the payment of accrued interest to the DIP Lender in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month.

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.

17. **EXIT ~~FEES~~FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) 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 (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the “**Initial Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order- and (ii) a subsequent exit fee, in cash, in an amount of \$800,000 (the “Subsequent Exit Fee” and together with the Initial Exit Fee, collectively, the “Exit Fees”) provided that the Subsequent Exit Fee shall only be earned and payable on May 8, 2024 and shall not be earned if the Borrower repays all DIP Obligations (including Excess Margin Amounts) and all Post-Filing Credit Extensions on or prior to such date. The amount of the Subsequent Exit Fee shall remain fixed at \$800,000 and shall not be adjusted notwithstanding any funding of Excess Margin Amounts under the DIP Facility agreed to by the Borrower, the DIP Lender and the Monitor.

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 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 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 DIP Lender, 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 and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility ~~Amount~~Limit 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, upon which the DIP Lender is 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 Order:

(i) are within the powers of the Borrower;

(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 and Restated Initial Order (once granted), 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 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, 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 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;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its 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
- (m) 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 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 and its 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 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 the reporting and other information from time to time reasonably requested by the DIP Lender 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 and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the ~~Interim~~-DIP Amendment Order, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its 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;
- (l) 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 DIP Lender relating to the DIP Facility or the DIP Lender Charge;

- (m) Promptly provide notice to the DIP Lender and its 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;
- (n) Promptly provide notice to the DIP Lender and its 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;
- (o) 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;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) 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 DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (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;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;

- (t) 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;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) 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 DIP Lender 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 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 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, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) 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;
- (m) 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;
- (n) 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 under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) 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;

- (p) 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;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated 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 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 any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA

Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

- (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 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 DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (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 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 DIP Lender 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, 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 DIP Lender may, in its 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 DIP Lender may, with leave of ~~the~~

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 to the Borrower against the DIP Obligations ~~and~~(including the Post-Filing Credit Extensions and the Excess Margin Amounts); 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 and its 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: (i) in the event that the DIP Lender has failed to fund the DIP 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 under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 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 shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. HEDGING:

The Borrower may enter into hedging arrangements with Cargill (or CITPL), on terms mutually agreed by the Borrower and Cargill (or CITPL), each acting reasonably, in respect of (i) cargoes sailing on or before April 25, 2024 and (ii) future cargoes sailing after April 25, 2024, to be delivered in accordance with the Offtake Agreement, which hedging arrangements shall, in each case, reflect the then-current market price for the applicable scheduled delivery dates of such cargoes (the “**Post-Filing Hedging Arrangements**”). Amounts owing from time-to-time by the Borrower under the Post-Filing Hedging Arrangements shall, together with the Post-Filing Margin Advances and the Ancillary Post-Filing Services Amounts, are collectively referred to hereunder as the “**Post-Filing Credit Extensions**”. Such Post-Filing Hedging Arrangements shall be (a) severable from the Offtake Agreement and other Existing Arrangements and otherwise shall not amend the Offtake Agreement and other Existing Arrangements; and (b) secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

For greater certainty, the Borrower, Cargill and CITPL agree and acknowledge that (i) the Post-Filing Hedging Arrangements do not affect whether the Offtake Agreement or other Existing Arrangements are "eligible financial contracts" as defined under the CCAA, (ii) the Post Filing Hedging Arrangements shall not be used or produced by either party in any dispute regarding termination, suspension, disclaimer, or exclusion of the Offtake Agreement by Tacora, including any dispute whether the Offtake Agreement is an "eligible financial contract" as defined under the CCAA, and (iii) all rights and defenses in connection with such dispute are fully reserved by each of the Borrower, Cargill and CITPL, as if Post Filing Hedging Arrangements were never entered into. The foregoing paragraph shall be incorporated into the DIP Amendment Order.

~~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), and approved by the Monitor.~~

28. TAXES:

All payments by the Borrower to the DIP Lender 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 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 under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield

to the DIP Lender 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 that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender 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 to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender 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. **[RESERVED]**

30. **ASSIGNMENT:**

The DIP Lender may assign its 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 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 DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISF. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

~~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 DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its 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.

**31. AMENDMENT AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

Summary report:	
Litera Compare for Word 11.6.0.100 Document comparison done on 4/21/2024 10:53:08 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: Amended and Restated INTERIM DIP Facility Term Sheet from MR returnable March 18 2024.pdf	
Modified filename: Pages from Second Amended and Restated DIP Term Sheet (Without Schedules).pdf	
Changes:	
Add	110
Delete	71
Move From	0
Move To	0
Table Insert	0
Table Delete	3
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	184

EXHIBIT "D"

referred to in the Affidavit

of **JOE BROKING**

Sworn April 21, 2024

A handwritten signature in blue ink, appearing to read "N. Rambaran", is written over a horizontal line.

A Commissioner for Taking Affidavits

Natasha Rambaran | LSO #80200N

November 2, 2023

VIA EMAIL (ataylor@stikeman.com)

Ashley Taylor
Stikeman Elliott LLP
Barristers & Solicitors
5300 Commerce Court West,
199 Bay Street,
Toronto, ON M5L 1B9

Dear Mr. Taylor:

**Re: In the Matter of Tacora Resources Inc. ("Tacora")
Court File No. CV-23-00707394-00CL
Our File No.: 22049-568**

Please be advised that we are counsel for Caterpillar Financial Services Limited.

We understand that our client has equipment at the Tacora site and the equipment is being utilized by Tacora. However, we have been advised that our client has not been compensated for the use of its equipment by the Company. We would ask that this payment issue be addressed immediately.

If our client's equipment is not being utilized, we would like to make arrangements for the equipment's immediate return.

Please advise.

Yours truly,

DICKINSON WRIGHT LLP


John D. Leslie

JDL/jss

EXHIBIT "E"

referred to in the Affidavit of

JOE BROKING

Sworn April 21, 2024

A handwritten signature in blue ink that reads "N. Rambaran". The signature is written in a cursive style and is positioned above a horizontal line.

A Commissioner for Taking Affidavits

Natasha Rambaran | LSO #80200N

Stikeman Elliott

Stikeman Elliott LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, ON Canada M5L 1B9

Main: 416 869 5500
Fax: 416 947 0866
www.stikeman.com

Ashley Taylor
Direct: +1 416 869 5236
ataylor@stikeman.com

November 10, 2023

By Email

199 Bay Street, Suite 2200
Commerce Court West
Toronto, ON M5L 1G4

Attention: John D. Leslie
Email: jleslie@dickinsonwright.com

Dear Mr. Leslie:

Re: In the Matter of a Plan of Compromise or Arrangement of Tacora Resources Inc. ("Tacora"), Court File No. CV-23-00707394-00CL

As you know, we are counsel to Tacora. We write in response to your letter dated November 2, 2023.

In your letter, you assert that Tacora is required to continue making payments to Caterpillar Financial Services Limited ("**Caterpillar**") pursuant to the amended and restated master lease agreement dated as of August 3, 2022, entered into between Tacora and Caterpillar (the "**Agreement**").

As you know, Tacora sought and obtained protection from its creditors under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**"), pursuant to an initial order granted on October 10, 2023 (as amended on October 30, 2023, the "**CCAA Order**"). Among other things, the CCAA Order appointed FTI Consulting Canada Inc. as monitor of Tacora in the CCAA proceedings (in such capacity, the "**Monitor**", provides for a stay of proceedings in favour of Tacora until and including February 9, 2024, and precludes Tacora from making payments on account of certain amounts owed to its creditors.

A copy of the CCAA Order may be obtained on the Monitor's website at:
<https://cfcanada.fticonsulting.com/Tacora/courtOrders.htm>

Tacora and the Monitor have independently reviewed the Agreement. Both Tacora and the Monitor are of the view that Tacora is precluded from making any payments to Caterpillar under the Agreement, as the Agreement constitutes a "financing lease" under the applicable case law and provisions in the CCAA. Among other reasons, we bring your attention to section 19 in the Agreement, which states Tacora may, following the Lease Period, purchase all of the Equipment (each as defined in the Agreement) leased by paying Caterpillar USD\$1.

As stated above, the CCAA Order precludes Tacora from being able to make any payments on account of certain amounts owed to its creditors, which includes any payments on account of financing leases.

We also remind you that Caterpillar may not take any steps against Tacora in respect of any Equipment under the Agreement. As stated above, the CCAA Order provides for a stay of proceedings in favour of Tacora until and including February 9, 2024. Accordingly, Caterpillar is stayed from taking any action or seeking any remedies under the Agreement during this time (which time may be extended by a further order of the Court).

Yours truly,

AT/PY

cc: *Paul Bishop and Jodi Porepa (FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of Tacora Resources Inc.)*
Jane Dietrich (Counsel to the Court-appointed Monitor of Tacora Resources Inc.)

EXHIBIT "F"

referred to in the Affidavit of

JOE BROKING

Sworn April 21, 2024

A handwritten signature in blue ink, appearing to read "N. Rambaran", is written over a horizontal line.

A Commissioner for Taking Affidavits

Natasha Rambaran | LSO #80200N



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JOHN D. LESLIE
JLeslie@dickinsonwright.com
(416) 646-3801

December 11, 2023

SENT VIA EMAIL

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

Attention: Ashley Taylor

Dear Mr. Taylor:

**Re: In the Matter of Tacora Resources Inc. (“Tacora”)
Court File No. CV-23-00707394-00CL**

As you know, we are counsel for Caterpillar Financial Services Limited (“**Caterpillar**”). We are in receipt of your letter dated November 11, 2023. Capitalized terms not otherwise defined have the meanings given to them in your letter.

We do not agree that the CCAA Order precludes Tacora from making any payments to Caterpillar.

Tacora continues to use Caterpillar’s equipment. Not only does Tacora continue to use Caterpillar’s equipment for the benefit of the other stakeholders, without payment to Caterpillar, Tacora is deteriorating Caterpillar’s equipment in the process. This violates one of a fundamental objectives of the stay of proceedings; preventing one creditor from obtaining an advantage over other creditors during the stay period.

Tacora is the recipient of debtor-in-possession financing pursuant to a DIP Facility Term Sheet (the “**Term Sheet**”). Under section 6(d) of the Term Sheet, the DIP advances are to be used, in part, for the following purposes:

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.

December 11, 2023
Page 2

We are not aware of the publication by Tacora or the Monitor of the DIP Budget referred to in the Term Sheet. Please produce all DIP Budgets prepared to date.

If Tacora wishes to continue to use Caterpillar's equipment, then:

- (i) the DIP Budget should include, and Tacora shall pay to Caterpillar, the cost of using that equipment consistent with the terms of the Agreement; and
- (ii) Tacora must confirm that it is complying with all other terms of the Agreement, including in relation to insurance, maintenance, and winterization,

failing either of which, we are instructed to bring a motion to lift the stay of proceedings and seize the equipment owned by Caterpillar, and for such other alternative relief as may be appropriate. In this regard, we refer to the decision of the Saskatchewan Court of Kings Bench in [Clayton Construction Co. Ltd. \(Re\), 2009 SKQB 397](#).

Please provide a response by December 15, 2023.

Yours truly,


John D. Leslie

JDL:dzs

cc: David Seifer via email

EXHIBIT "G"

referred to in the Affidavit of

JOE BROKING

Sworn April 21, 2024



A Commissioner for Taking Affidavits

Natasha Rambaran | LSO #80200N



1801 WYANDOTTE STREET EAST, UNIT #200
WINDSOR, ON CANADA N8Y 1E2

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FACSIMILE: 844-670-6009
<http://www.dickinsonwright.com>

JOHN D. LESLIE
JLeslie@dickinsonwright.com
416-646-3801

April 11, 2024

SENT VIA EMAIL

Cassels Brock & Blackwell LLP
40 Temperance St.
Suite 3200, Bay Adelaide Centre
Toronto, Ontario
Canada M5H 0B4

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

Attention: Alan Merskey

Attention: Ashley Taylor

Dear Counsel:

**Re: In the Matter of Tacora Resources Inc. (“Tacora”)
Court File No. CV-23-00707394-00CL**

We write on behalf of counsel to Caterpillar Financial Services Limited (“**Caterpillar**”).

We write with respect to the adjournment of the motion for approval of the transaction (the “**Transaction**”) contemplated by the subscription agreement between Tacora Resources Inc. and Resource Capital Fund VII L.P. (“**RCF**”) and Javelin Global Commodities (SG) Pte Ltd. (“**Javelin**”, and together with the Ad Hoc Group and RCF, the “**Investors**”), and the upcoming motion for, among other things, approval of DIP financing.

By letter dated December 11, 2023, a copy of which is enclosed, we advised you that we had instructions to bring a motion to lift the stay of proceedings and seize our client’s equipment unless Tacora agreed to make payments owing to our client under the amended and restated master lease agreement dated as of August 3, 2022 between Caterpillar and Tacora, as amended, modified and supplemented from time to time (the “**Lease**”). In that letter, we requested copies of all DIP Budgets referred to in section 6(d) of the existing DIP Facility Term Sheet.

Following that letter, we had a videoconference with you during which you advised us of the existence of the Transaction which contemplated the payment of all cure costs owing under the Lease as well as the retainer of the Lease by the Investors on a go-forward basis.

April 11, 2024
Page 2

By email dated December 22, 2023, we advised you that, in reliance on the Transaction, our client would not proceed with a motion to lift the stay but that our client reserved its right to do so in the event that the Transaction did not proceed.

As the Transaction did not proceed, and the Company is seeking additional DIP financing, Caterpillar requires that all payments owing under the Lease be brought current and continue to be made to Caterpillar over the duration of Tacora's CCAA proceeding. Failing agreement, we are instructed to oppose the stay extension and bring a cross-motion to lift the stay of proceedings to seize our client's equipment. We will also insist on production of all DIP Budgets prepared to date.

Please contact the undersigned to discuss.

Yours truly,



John D. Leslie

JDL:dzs

4864-9217-0166 v1 [22049-568]

TAB 3

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

THE HONOURABLE MADAM)
JUSTICE KIMMEL)
)
)

TUESDAY, THE 23RD
DAY OF APRIL, 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
(STAY EXTENSION AND AMENDED DIP AGREEMENT)**

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 extending the stay of proceedings (the "**Stay Period**") and approving the Second Amended and Restated DIP Facility Term Sheet dated April 21, 2024 between the Applicant and Cargill, Incorporated (the "**Amended DIP Agreement**"), was heard this day at 330 University Avenue, Toronto.

ON READING the Motion Record of the Applicant dated April 21, 2024, the Affidavit of Joe Broking sworn April 21, 2024, the Eighth Report of FTI Consulting Canada Inc., in its capacity as the Monitor of the Applicant, dated April 21, 2024, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Cargill, 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 Natasha Rambaran, filed,

SERVICE AND DEFINITIONS

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.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Amended and Restated Initial Order of the Honourable Madam Justice Kimmel dated October 30, 2023 (the “**ARIO**”).

EXTENSION OF STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period is extended to and including June 24, 2024 or such later date as this Court may order.

DIP AGREEMENT

4. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to enter into the Amended DIP Agreement.

5. **THIS COURT ORDERS** that paragraph 36 of the ARIO shall be deleted and replaced with the following:

“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 the DIP Loan Agreement dated October 9, 2023 (as amended and restated by the Amended and Restated Interim DIP Facility Term Sheet dated March 18, 2024, and the Second Amended and Restated DIP Facility Term Sheet dated April 21, 2024, the “**DIP Agreement**”) from Cargill, Incorporated (in such capacity, the “**DIP Lender**”) in order to 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\$125 million and Post-Filing Margin Advances (as defined in the DIP Agreement) shall not exceed the principal amount of US\$25 million, other than in accordance with the terms of the DIP Agreement (including pursuant to Section 4 of the DIP Agreement) or as permitted by further Order of this Court.”

6. **THIS COURT ORDERS** that the DIP Charge pursuant to the ARIO shall continue to apply in respect of the DIP Obligations (as amended by and defined in the Amended DIP Agreement) and the Post-Filing Credit Extensions.

7. **THIS COURT ORDERS** that the Applicant is authorized to enter into Post-Filing Hedging Arrangements (as defined by the Amended DIP Agreement) from time-to-time the

obligations under which shall be secured by and have the benefit of the DIP Charge with the same priority as the DIP Obligations.

8. **THIS COURT ORDERS** that (a) the Post-Filing Hedging Arrangements shall not affect whether the Offtake Agreement or other Existing Arrangements (as such terms are defined in the Amended DIP Agreement) are “eligible financial contracts” as defined under the CCAA, (b) the Post-Filing Hedging Arrangements shall not be used or produced by either party in any dispute regarding the termination, suspension, disclaimer, or exclusion of the Offtake Agreement by the Applicant, including any dispute as to whether the Offtake Agreement is an “eligible financial contract” as defined under the CCAA, and (c) all rights and defenses in connection with any such dispute are fully reserved by each of the Company, the DIP Lender and CCITPL, as if the Post-Filing Hedging Arrangements were never entered into.

GENERAL

9. **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.

10. **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.

11. **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.

12. **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
(STAY EXTENSION AND AMENDED DIP
AGREEMENT)**

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Counsel to Tacora Resources Inc.

TAB 4

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

THE HONOURABLE MADAM

)

TUESDAY, THE 23RD

)

JUSTICE KIMMEL

)

DAY OF APRIL, 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)

CLAIMS PROCEDURE ORDER

THIS MOTION, made by Tacora Resources Inc. ("**Tacora**" or the "**Company**" or the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order (the "**Claims Procedure Order**") approving a procedure for the identification, quantification, and resolution of certain claims of creditors of the Company and its Directors and Officers, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Applicant dated April 21, 2024, the Affidavit of Joe Broking sworn April 21, 2024, the Eighth Report of the Monitor, filed, 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 Natasha Rambaran, filed,

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service and filing of this Motion is hereby abridged and validated so that this Motion is properly returnable on April 23, 2024, and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that for purposes of this Claims Procedure Order the below terms shall have the following meanings:

- (a) **“Amended and Restated Initial Order”** means the Amended and Restated Initial Order of the Honourable Madam Justice Kimmel dated October 30, 2023, as amended, restated or varied from time to time;
- (b) **“Bar Date”** means the Claims Bar Date or the Restructuring Claims Bar Date, as applicable;
- (c) **“BIA”** means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (d) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (e) **“CCAA”** has the meaning set forth in the preamble of this Claims Procedure Order;
- (f) **“CCAA Charges”** means the Administration Charge, the Directors’ Charge, the Transaction Fee Charge, the DIP Charge and the KERP Charge (each as defined in the Amended and Restated Initial Order) and any other Court-ordered charge over the Property (as defined in the Amended and Restated Initial Order) granted by the Court;
- (g) **“CCAA Proceedings”** means the proceedings under the CCAA in respect of the Applicant bearing Court File No. CV-23-00707394-00CL;
- (h) **“Claim”** means a D&O Claim, a Pre-Filing Claim or a Restructuring Claim, including, for certainty, all Known Claims, but for greater certainty, not including any Excluded Claims;
- (i) **“Claimant”** means any Person asserting a Claim and includes the transferee or assignee of a Claim, transferred and recognized in accordance with paragraphs 34 and 35 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (j) **“Claims Bar Date”** means, in respect of Pre-Filing Claims and D&O Claims, including, for certainty, Known Claims, 5:00 p.m. (Eastern Time) on May 31, 2024;
- (k) **“Claims Officer”** means any individual appointed by the Court pursuant to paragraph 33 hereof to act as a claims officer for purposes of this Claims Procedure Order;

- (l) **“Claims Package”** means the document package to be disseminated by the Monitor in accordance with the terms of this Claims Procedure Order, which shall consist of:
 - (i) in the case of a Known Claimant, a Statement of Known Claim, a Notice of Dispute, and such other materials as the Monitor, in consultation with the Applicant, may deem appropriate; or
 - (ii) in the case of an Unknown Claimant, a Proof of Claim form, a Proof of Claim Instruction Letter, and such other materials as the Monitor, in consultation with the Applicant, may deem appropriate;
- (m) **“Claims Procedure”** means the procedures outlined in this Claims Procedure Order, including the Schedules hereto;
- (n) **“Court”** means the Ontario Superior Court of Justice (Commercial List);
- (o) **“D&O Claim”** means, as against any Director or Officer, in his or her capacity as such, any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature that any creditor or other Person has or may be entitled to assert (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged wrongful or oppressive conduct, misrepresentation, fraud or breach of fiduciary duty), whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in equity or under statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence that in any way relates to or arises out of or in connection with (i) any Pre-Filing Claim; or (ii) the assets, obligations, business or affairs of the Applicant;
- (p) **“Director”** means any former or present director of the Applicant or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to a director of the Applicant or who currently manages or supervises the management of the business and affairs of the Applicant or did so in the past;

- (q) **“Directors’ Counsel”** means counsel to any of the Directors or Officers;
- (r) **“Distribution Claim”** means any Claim against the Applicant, or such portion thereof, that is not barred by any provision of this Claims Procedure Order, and which has been finally accepted and determined for distribution purposes in accordance with this Claims Procedure Order and the CCAA;
- (s) **“Equity Claim”** has the meaning set forth in subsection 2(1) of the CCAA;
- (t) **“Excluded Claim”** means:
 - (i) the MFC Claim;
 - (ii) any Claim that may be asserted by a beneficiary of the CCAA Charges in respect of obligations secured by such CCAA Charges; and
 - (iii) any Claim that may be asserted by any federal or provincial regulators (but excluding, for the avoidance of doubt, any Claim by a regulator asserting a monetary claim and any Claim by a taxation authority);
- (u) **“Filing Date”** means October 10, 2023;
- (v) **“Known Claim”** means a Claim of a Known Claimant, as set out in a Statement of Known Claim, based on the books and records of the Applicant, the Monitor’s assessment of the Claim, in consultation with the Applicant, and any negotiations between the Monitor and/or the Applicant and the Known Claimant;
- (w) **“Known Claimant”** means a Claimant whose Claim is known to the Applicant based on the books and records of the Applicant as at the date of this Claims Procedure Order;
- (x) **“MFC Claim”** means the Claim related to the royalty calculation dispute between the Applicant and 1128349 B.C. Ltd. to be determined by the motion returnable April 16, 2024 in the CCAA Proceedings;
- (y) **“Monitor”** means FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of the Applicant;
- (z) **“Monitor’s Website”** means the case website established by the Monitor with the following URL: <http://cfcanada.fticonsulting.com/tacora/>;

- (aa) **“Notice of Dispute”** means the notice substantially in the form attached as Schedule “E” hereto, which must be duly completed and delivered to the Monitor by the applicable Bar Date by a Known Claimant that wishes to dispute a Statement of Known Claim, including such Known Claimant’s reasons for its dispute;
- (bb) **“Notice of Dispute of Revision or Disallowance”** means the notice substantially in the form attached as Schedule “G” hereto, which must be duly completed and delivered to the Monitor by any Unknown Claimant wishing to dispute a Notice of Revision or Disallowance, with reasons for its dispute;
- (cc) **“Notice of Revision or Disallowance”** means the notice substantially in the form attached as Schedule “F” hereto and referred to in paragraph 29 hereof, advising an Unknown Claimant that the Monitor, in consultation with the Applicant, has revised or rejected all or part of such Unknown Claimant’s Claim as set out in its Proof of Claim;
- (dd) **“Notice to Claimants”** means the notice substantially in the form attached as Schedule “A” hereto, for publication by the Monitor as described in paragraphs 13 and 14 hereof;
- (ee) **“Officer”** means any former or present officer of the Applicant or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to an officer of the Applicant;
- (ff) **“Orders”** means any and all orders issued by the Court within the CCAA Proceedings, including the Amended and Restated Initial Order;
- (gg) **“Person”** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;
- (hh) **“Pre-Filing Claim”** means any right or claim of any Person that may be asserted or made in whole or in part against the Applicant, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason

- of the commission of a tort (international or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive, or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Applicant with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof that (i) is based in whole or in part on facts existing prior to the Filing Date, (ii) relates to a time period prior to the Filing Date, or (iii) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA had the Applicant become bankrupt on the Filing Date, including for greater certainty any claim against the Applicant for indemnification by any Directors or Officers in respect of a D&O Claim;
- (ii) **“Proof of Claim”** means the form of proof of claim substantially in the form attached as Schedule “D” hereto and referred to in paragraph 24 hereof;
 - (jj) **“Proof of Claim Instruction Letter”** means the instruction letter for Unknown Claimants substantially in the form attached as Schedule “B” hereto, regarding the completion of a Proof of Claim form and the Claims Procedure described herein;
 - (kk) **“Proven Claim”** means the amount and Status of a Claim as finally determined in accordance with this Claims Procedure Order;
 - (ll) **“Restructuring Claim”** means any right or claim of any Person against the Applicant in connection with any indebtedness, liability or obligation of any kind whatsoever owed by the Applicant to such Person arising out of the restructuring, disclaimer, repudiation, resiliation, abandonment or termination of any contract, lease, other

agreement or obligation whether written or oral by the Applicant on or after the Filing Date;

- (mm) **“Restructuring Claims Bar Date”** means the later of:
- (i) the Claims Bar Date; and
 - (ii) 5:00 p.m. (Eastern Time) on the day which is fourteen (14) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with paragraphs 12, 15 or 16 hereof, as applicable;
- (nn) **“Secured Claim”** means that portion of a Claim that is (i) secured by security validly charging or encumbering property or assets of the Applicant (including statutory and possessory liens that create security interests) taking into account the value of such collateral and the priority of such security, and (ii) duly and properly perfected in accordance with the relevant legislation in the appropriate jurisdiction, as of the Filing Date or after the Filing Date if permitted by the Amended and Restated Initial Order;
- (oo) **“Statement of Known Claim”** means the statement to be prepared by the Monitor, in consultation with the Applicant, to a Known Claimant in accordance with the terms of this Claims Procedure Order, which shall state the amount of such Known Claim (as determined in accordance with this Claims Procedure, and shall include a description of any security in respect of such Known Claim, and which statement shall be substantially in the form attached as Schedule **“CCC”**;
- (pp) **“Status”** means, solely for purposes of this Claims Procedure Order, whether a Claim is a secured or unsecured Claim, Pre-Filing Claim, Restructuring Claim, D&O Claim or Equity Claim;
- (qq) **“Unknown Claimant”** means a Claimant that is not a Known Claimant; and
- (rr) **“Voting Claim”** means any Claim of a Claimant against the Applicant, or such portion thereof, that is not barred by any provision of this Claims Procedure Order, and which has been finally accepted and determined for voting purposes in accordance with the provisions of this Claims Procedure Order and the CCAA.

3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall

mean prior to 5:00 p.m. (Eastern Time) on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

6. **THIS COURT ORDERS** that notwithstanding any other provision of this Claims Procedure Order, the solicitation by the Applicant and the Monitor of Proofs of Claim, the delivery by the Monitor of Statements of Known Claim or Notices of Revision or Disallowance, and the filing by any Claimant of any Proof of Claim, Notice of Dispute or Notice of Dispute of Revision or Disallowance shall not, for that reason only, grant any Person any rights, including without limitation, in respect of the nature, quantum and/or priority of its Claims or its standing in the CCAA Proceedings, except as specifically set out in this Claims Procedure Order.

7. **THIS COURT ORDERS** that the Monitor, in consultation with the Applicant, is hereby authorized (a) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where they are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to completion and execution of such forms, and (b) to request any further documentation from a Claimant that the Applicant or the Monitor may reasonably require in order to determine the validity and/or Status of a Claim.

8. **THIS COURT ORDERS** that all Claims filed shall be denominated in the original currency of the Claim. Where no currency is indicated, the Claim shall be presumed to be in Canadian Dollars. The Monitor may convert any Claims denominated in a foreign currency to Canadian Dollars based on the Bank of Canada’s daily average exchange rate for that currency against the Canadian Dollar on the Filing Date.

MONITOR’S ROLE

9. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and the Amended and Restated Initial Order,

shall assist the Applicant in connection with the administration of the Claims Procedure, including the sending of any forms or notices under this Claims Procedure Order, the posting of materials on the Monitor's Website, the determination of Claims and the referral of a particular Claim to a Claims Officer or the Court, as requested by the Applicant from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order or incidental hereto.

10. **THIS COURT ORDERS** that (a) in carrying out the terms of this Claims Procedure Order, the Monitor shall have all of the protections given to it by the CCAA, the Amended and Restated Initial Order, this Claims Procedure Order, and any other Order of the Court in the CCAA Proceedings, or as an officer of this Court, including the stay of proceedings in its favour, (b) the Monitor shall incur no liability or obligation as a result of the carrying out of the provisions of this Claims Procedure Order, except to the extent that the Monitor has acted with gross negligence or willful misconduct, (c) the Monitor shall be entitled to rely on the books and records of the Applicant and any information provided by the Applicant, all without independent investigation, (d) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Claimant, and (e) the Monitor may seek assistance from the Applicant or its advisors, as may be reasonably required to carry out its duties and obligations pursuant to this Claims Procedure Order, including making such inquiries and obtaining such records and information as it deems appropriate in connection with the Claims Procedure.

NOTICE TO CLAIMANTS

11. **THIS COURT ORDERS** that the Applicant shall provide to the Monitor a complete list of Known Claimants as at the date of this Claims Procedure Order, showing for each Known Claimant, their name, mailing address, email address, if available, and amount owed pursuant to the Applicant's books and records.

12. **THIS COURT ORDERS** that the Monitor shall send a Claims Package to each Known Claimant within ten (10) Business Days following the issuance of the Claims Procedure Order.

13. **THIS COURT ORDERS** that, as soon as practicable, the Monitor shall cause the Notice to Claimants to be published, for at least one (1) Business Day, in the Globe and Mail (National Edition).

14. **THIS COURT ORDERS** that the Monitor shall cause the Notice to Claimants, the Claims Package, and the Claims Procedure Order to be posted to the Monitor's Website as soon as reasonably practicable and cause it to remain posted thereon until its discharge as Monitor of the Applicant.

15. **THIS COURT ORDERS** that upon request by any Person for a Claims Package or documents or information relating to the Claims Procedure prior to the applicable Bar Date, or, if the Applicant and the Monitor become aware of any further Claims after the delivery completed in paragraph 12, the Monitor shall forthwith (a) send a Claims Package to such Person, (b) direct such Person to the documents posted on the Monitor's Website, or (c) respond to the request for information or documents, as the Monitor considers appropriate in the circumstances.

16. **THIS COURT ORDERS** that with respect to Restructuring Claims arising from the restructuring, disclaimer, resiliation, abandonment or termination of any lease, contract, or other agreement or obligation, on or after the date of this Claims Procedure Order, the Monitor shall send to the counterparty or counterparties to such lease, contract or other agreement or obligation, a Claims Package no later than five (5) Business Days following the time the Monitor actually becomes aware of such restructuring, disclaimer, resiliation, abandonment or termination of such lease, contract or other agreement or obligation and such potential Restructuring Claim.

17. **THIS COURT ORDERS** that the form and substance of each of the Notice to Claimants, Proof of Claim Instruction Letter, Statement of Known Claim, Proof of Claim, Notice of Dispute, Notice of Revision or Disallowance and Notice of Dispute of Revision or Disallowance, substantially in the forms attached as Schedules hereto, are hereby approved. Despite the foregoing, the Monitor may, from time to time, make such changes to such forms as the Monitor, in consultation with the Applicant, considers necessary or desirable.

CLAIMS PROCEDURE FOR KNOWN CLAIMANTS

(A) Known Claims

18. **THIS COURT ORDERS** that any Known Claimant who intends to dispute the amount and/or Status of its Known Claim as set out in a Statement of Known Claim, shall deliver a Notice of Dispute to the Monitor by no later than the applicable Bar Date. The Notice of Dispute

shall specify the details of the dispute with respect to the Known Claim. For greater certainty, a Known Claimant may accept a determination of the Claim for voting purposes as set out in the Statement of Known Claim and dispute the determination of the Claim for distribution purposes provided that it does so in its Notice of Dispute and such Notice of Dispute is received by the Monitor by the applicable Bar Date. A determination of a Voting Claim of a Known Claimant does not in any way affect and is without prejudice to the process to determine such Known Claimant's Distribution Claim.

19. **THIS COURT ORDERS** that if a Known Claimant does not deliver a completed Notice of Dispute to the Monitor on or before the applicable Bar Date disputing the Known Claim(s) as set out in the Statement of Known Claim for voting and distribution purposes, then:

- (a) Such Known Claimant shall be deemed to have accepted the amount and Status of the Known Claim as set out in the Statement of Known Claim and the Known Claim shall be deemed a Proven Claim;
- (b) Such Known Claim as determined in the Statement of Known Claim shall be treated as both a Voting Claim and a Distribution Claim as set out in the Statement of Known Claim; and
- (c) with respect to the Known Claim, such Known Claimant will be forever barred, estopped and enjoined from challenging or disputing the amount or Status of such Claim against the Applicant and/or the Directors and Officers, as applicable.

For greater certainty, nothing in this paragraph affects any separate and distinct Claim(s) of a Known Claimant that are not captured in whole or in part in a Statement of Known Claim (and are separately asserted in a Proof of Claim submitted in accordance with this Claims Procedure Order).

(B) Adjudication and Resolution of Known Claims

20. **THIS COURT ORDERS** that the Monitor, in consultation with the Applicant, shall review and record all Notices of Dispute that are received on or before the applicable Bar Date. If the Monitor, in consultation with the Applicant, determines that it is necessary to finally determine the amount and/or Status of any or all Known Claims against the Applicant, the Monitor, in consultation with the Applicant, shall review and finally determine the amount and/or Status of

all such Claims for which a Notice of Dispute has been received on or before the applicable Bar Date.

21. **THIS COURT ORDERS** that, if the Monitor, with the assistance of the Applicant, is unable to resolve a dispute regarding a Voting Claim with a Known Claimant, the Monitor shall so notify the Applicant and the Known Claimant. Thereafter, the disputed Voting Claim shall be referred to the Court or to a Claims Officer in accordance with paragraph 33 hereof; provided that to the extent a Claim is referred under this paragraph to the Court or to a Claims Officer, it shall be on the basis that the Claim against the Applicant shall be resolved or adjudicated for voting purposes (and that it shall remain open to the Monitor, in consultation with the Applicant, to determine whether such Claim shall be concurrently resolved or adjudicated for distribution purposes or subject to a future hearing by the Court or a Claims Officer to determine the Known Claimant's Distribution Claim). The Court or the Court Officer, as the case may be, shall resolve the dispute between the Applicant and the Known Claimant.

22. **THIS COURT ORDERS** that where a Known Claimant's disputed Voting Claim has not been finally determined in accordance with this Claims Procedure Order by the date on which a vote is held at a meeting of creditors, the ability of such Known Claimant to vote its disputed Voting Claim and the effect of casting any such vote shall be governed by a further Order of the Court.

23. **THIS COURT ORDERS** that in the event the Monitor, with the assistance of the Applicant, is unable to resolve a dispute with a Known Claimant regarding any Distribution Claim, the Monitor shall so notify the Applicant and the Known Claimant. Thereafter, the disputed Distribution Claim shall be referred to the Court or to a Claims Officer in accordance with paragraph 33 hereof. The Court or the Claims Officer, as the case may be, shall resolve the dispute between the Applicant and such Known Claimant.

CLAIMS PROCEDURE FOR UNKNOWN CLAIMANTS

(A) Proofs of Claim

24. **THIS COURT ORDERS** that any Unknown Claimant that wishes to assert a Claim that is not captured by a Statement of Known Claim, must deliver to the Monitor a completed Proof of Claim form, together with all relevant supporting documentation in respect of such Claim, such that it is received by the Monitor no later than the applicable Bar Date.

25. **THIS COURT ORDERS** that any Unknown Claimant who has not received a Statement of Known Claim and does not file a Proof of Claim in accordance with this Claims Procedure Order with the Monitor by the applicable Bar Date shall:

- (a) not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in, the Claims Procedure or the CCAA Proceedings in respect of such Claim;
- (b) with respect to a Pre-Filing Claim or a Restructuring Claim, be forever barred, estopped and enjoined from asserting or enforcing such Claim against the Applicant and the Applicant shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Applicant or the Monitor; and
- (c) with respect to a D&O Claim, be forever barred, estopped and enjoined from asserting or enforcing such Claim against any of the Directors and Officers and the Directors and Officers shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Applicant, the Monitor and the Directors and Officers.

(B) Adjudication and Resolution of Claims

26. **THIS COURT ORDERS** that any Unknown Claimant that does not file a completed Proof of Claim such that it is received by the Monitor by the applicable Bar Date with respect to any Claims against the Applicant shall not be entitled to attend or vote at any meeting of creditors held pursuant to a further Order of this Court and shall not be entitled to receive any distributions in respect of such Claims and any and all such Claims of such Unknown Claimant

shall be forever extinguished and barred without further act or notification and irrespective of whether or not such Unknown Claimant receives a Claims Package.

27. **THIS COURT ORDERS** that the Monitor, in consultation with the Applicant (and in the case of a D&O Claim, in consultation with the applicable Director, Officer and/or Directors' Counsel, if applicable), shall review all Proofs of Claim received by the applicable Bar Dates in accordance with this Claims Procedure Order, and at any time may:

- (a) request additional information from a Claimant;
- (b) request that a Claimant file a revised Proof of Claim;
- (c) attempt to resolve and settle any issue arising in a Proof of Claim or in respect of a Claim for voting and/or distribution purposes; and
- (d) accept, revise or disallow (each in whole or in part), the amount and/or Status of any Claim set out therein for voting and/or distribution purposes.

28. **THIS COURT ORDERS** that where a Claim has been accepted by the Monitor, in consultation with the Applicant, in accordance with this Claims Procedure Order, such Claim shall constitute such Claimant's Proven Claim. The acceptance of any Claim or other determination of same in accordance with this Claims Procedure Order, in full or in part, shall not constitute an admission of any fact, thing, liability, or quantum or Status of any Claim by any Person, save and except in the context of the CCAA Proceedings.

29. **THIS COURT ORDERS** that the Monitor shall notify each Unknown Claimant who has delivered a Proof of Claim by the applicable Bar Date as to whether its Claim has been revised or disallowed for voting purposes (and/or for distribution purposes if the Monitor, in consultation with the Applicant, elects to do so), and the reasons therefor, by sending a Notice of Revision or Disallowance, attaching the form of Notice of Dispute of Revision or Disallowance.

30. **THIS COURT ORDERS** that an Unknown Claimant who intends to dispute a Notice of Revision or Disallowance sent pursuant to paragraph 29 hereof shall deliver a Notice of Dispute of Revision or Disallowance to the Monitor in writing by 5:00 p.m. (Eastern Time) on the day that is not later than fourteen (14) days after such Claimant is deemed to have received the Notice of Revision or Disallowance in accordance with paragraph 36 of this Claims Procedure Order or such longer period as may be agreed to by the Monitor in writing. The receipt of a Notice of

Dispute of Revision or Disallowance by the Monitor within the fourteen (14) day period specified in this paragraph shall constitute an application to have the amount and/or Status of such Claim determined pursuant to the Claims Procedure as provided in this Claims Procedure Order.

31. **THIS COURT ORDERS** that if an Unknown Claimant who received a Notice of Revision or Disallowance does not return a Notice of Dispute of Revision or Disallowance in accordance with paragraph 30 of this Claims Procedure Order, the value and Status of such Claim shall be deemed to be set out in the Notice of Revision or Disallowance for voting and distribution purposes, and the Claimant shall be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.

32. **THIS COURT ORDERS** that as soon as practicable after a Notice of Dispute of Revision or Disallowance is received by the Monitor in accordance with this Claims Procedure Order, the Monitor, in consultation with the Applicant, may attempt to resolve and settle the Claim with the Unknown Claimant.

APPOINTMENT OF CLAIMS OFFICER

33. **THIS COURT ORDERS** that the Applicant may, in consultation with the Monitor, apply to this Court for an Order appointing a Claims Officer to resolve disputed Claims on such terms and in accordance with such process as may be ordered by the Court.

NOTICE OF TRANSFEREES

34. **THIS COURT ORDERS** that neither the Monitor nor the Applicant shall be obligated to give notice or otherwise deal with the transferee or assignee of a Claim unless and until actual notice of the transfer or assignment, together with satisfactory evidence of the existence and validity of such transfer or assignment, shall have been received and acknowledged by the Monitor in writing. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to the receipt and acknowledgment by the Applicant and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which the Applicant may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled

to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Applicant.

35. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Applicant and the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Applicant and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

SERVICE AND NOTICES

36. **THIS COURT ORDERS** that the delivery of the Claims Package to the applicable Persons, as described above, and the publication of the Notice to Claimants, each in accordance with this Claims Procedure Order, and the completion of the other requirements of this Claims Procedure Order, shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order and applicable Bar Dates on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Claims Procedure Order.

37. **THIS COURT ORDERS** that the Applicant and the Monitor may, unless otherwise specified by this Claims Procedure Order, serve and deliver a Claims Package, as applicable, and any letters, notices or other documents to Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery or email to such Persons at the physical or electronic address last shown on the books and records of the Applicant or as set out in a Proof of Claim, if applicable. Any such service and delivery shall deemed to have been received: (a) if sent by ordinary mail or registered mail,

on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by email by 5:00 p.m. (Eastern Time) on a Business Day, on such Business Day and if delivered after 5:00 p.m. (Eastern Time) or other than on a Business Day, on the following Business Day.

38. **THIS COURT ORDERS** that any notice or communication (including, without limitation, with respect to Proofs of Claim and Notices of Dispute) to be given under this Claims Procedure Order by any Person to the Monitor or the Applicant shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by email, or if it cannot be given by email, and the Monitor provides its consent, by mail, courier or personal delivery, addressed to:

FTI Consulting Canada Inc.
TD South Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

Attention: Paul Bishop and Jodi Porepa

Email: tacora@fticonsulting.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

39. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary or registered mail and then not received shall not, absent further order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Procedure Order.

40. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is later amended by further Order of the Court, the Monitor may post such further Order on the

Monitor's Website and such posting shall constitute adequate notice to Claimants of such amended Claims Procedure.

MISCELLANEOUS

41. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, the Monitor and the Applicant may apply to the Court from time to time for directions with respect to this Claims Procedure Order, or for such further Order(s) as the Monitor or the Applicant may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.

42. **THIS COURT ORDERS** that this Claims Procedure Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

43. **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, or abroad, to give effect to this Claims Procedure Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Claims Procedure 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 Claims Procedure 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 Claims Procedure Order.

44. **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 Claims Procedure Order and for assistance in carrying out the terms of this Claims Procedure Order.

45. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date hereof and is enforceable without the need for entry and filing.

SCHEDULE "A"
NOTICE TO CLAIMANTS

**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)

NOTICE TO CLAIMANTS OF TACORA RESOURCES INC.

**RE: NOTICE OF CLAIMS PROCEDURE, CLAIMS BAR DATE AND
RESTRUCTURING CLAIMS BAR DATE**

PLEASE TAKE NOTICE that on April 23, 2024, the Ontario Superior Court of Justice (Commercial List) granted an order (the "**Claims Procedure Order**") in the CCAA Proceedings of the Applicant. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Claims Procedure Order.

Pursuant to the Claims Procedure Order, FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor in the CCAA Proceedings, will assist the Applicant in connection with the administration of the Claims Procedure. The Monitor will send a Claims Package to Known Claimants in accordance with the Claims Procedure Order. If you wish to assert a Claim against the Applicant and/or its Directors and Officers that is **not** captured in a Statement of Known Claim, you **MUST** file a Proof of Claim with the Monitor by the applicable Bar Date.

The Claims Procedure Order, Claims Package and further information or documentation regarding the Claims Procedure can be accessed on the Monitor's Website at <http://cfcanada.fticonsulting.com/tacora/>.

A. STATEMENT OF KNOWN CLAIM

Pursuant to the Claims Procedure Order, Claims Packages will be sent to all Known Claimants of the Applicant within ten (10) Business Day following the issuance of the Claims Procedure Order, which will contain a Statement of Known Claim that specifies each Known Claimant's Claim as valued by the Monitor, in consultation with the Applicant, based on the books and records of the Applicant.

If you receive a Statement of Known Claim, your Claim will be deemed to be accepted at the amount specified therein, and you do not need to take any further steps with respect to such Claim unless you disagree with the amount and/or Status of the Claim specified therein. If you wish to dispute your Claim as specified in your Statement of Known Claim, you must file a Notice of Dispute with the Monitor on or before the applicable Bar Date. **It is your responsibility to ensure that Monitor receives your Notice of Dispute by the applicable Bar Date if you wish to dispute the Claim as listed in your Statement of Known Claim.**

B. PROOFS OF CLAIM

All Persons who wish to assert a Claim against the Applicant and/or its Directors and Officers that is **not** captured in a Statement of Known Claim, **MUST** deliver to the Monitor a completed Proof of Claim form, together with all relevant supporting documentation in respect of such Claim, such that it is received by the Monitor no later than the applicable Bar Date.

The Claims Bar Date is 5:00 p.m. (Eastern Time) on May 31, 2024. Proofs of Claim in respect of Pre-Filing Claims and D&O Claims must be completed and received by the Monitor, together with all relevant supporting documentation, on or before the Claims Bar Date.

The Restructuring Claims Bar Date is the later of, (a) the Claims Bar Date; and (b) 5:00 p.m. (Eastern Time) on the day which is fourteen (14) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with the Claims Procedure Order. Proofs of Claim in respect of Restructuring Claims must be completed and received by the Monitor, together with all relevant supporting documentation, on or before the Restructuring Claims Bar Date.

It is your responsibility to ensure that the Monitor receives your Proof of Claim by the applicable Bar Date if you wish to assert any Claim that is not captured in a Statement of Known Claim. PROOFS OF CLAIM WHICH ARE NOT RECEIVED BY THE APPLICABLE BAR DATE WILL NOT BE ACCEPTED AND SUCH CLAIMS WILL BE BARRED AND EXTINGUISHED FOREVER.

C. DELIVERY OF NOTICES AND COMMUNICATION

Any notice or communication required to be provided or delivered pursuant to the Claims Procedure Order shall be in writing in substantially the form provided for in the Claims Procedure Order and **will be sufficiently given only if delivered to the Monitor by email**, or, if delivery by email is not possible, on the consent of the Monitor, by mail, courier, or personal delivery, addressed to:

FTI CONSULTING CANADA INC.
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa

Email: Tacora@fticonsulting.com

Copy to:

CASSELS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre – North Tower 40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Jane Dietrich

Emails: rjacobs@cassels.com / jdietrich@cassels.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

D. MONITOR CONTACT INFORMATION

All enquiries with respect to the Claims Procedure should be addressed to the Monitor by email at Tacora@fticonsulting.com or via the telephone hotline (416-649-8138 or Toll Free: 1-833-420-9074), provided, however, that formal notices to the Monitor must be delivered as set out above.

DATED at Toronto, Ontario this ____ day of April, 2024.

SCHEDULE "B"
PROOF OF CLAIM INSTRUCTION LETTER

**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)

PROOF OF CLAIM INSTRUCTION LETTER

This instruction letter has been prepared to assist Claimants in filling out the Proof of Claim form for Claims against the Applicant. If you have additional questions regarding completion of the Proof of Claim, please contact the Monitor by email at Tacora@fticonsulting.com or via the telephone hotline (416-649-8138 or Toll Free: 1-833-420-9074).

If you have received a Statement of Known Claim, your Claim will be deemed to be accepted at the amount specified therein, and you do not need to take any further steps with respect to such Claim unless you disagree with the amount and/or Status of the Claim specified therein. **A Proof of Claim is intended only to be used by Claimants who wish to assert a Claim that is not captured in a Statement of Known Claim.**

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order granted April 23, 2024 (the "**Claims Procedure Order**"), the terms of the Claims Procedure Order will govern. Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Claims Procedure Order. The Claims Procedure Order and related materials, including the Proof of Claim form, may be found on the Monitor's Website at <http://cfcanada.fticonsulting.com/tacora/>.

SECTION A – PARTICULARS OF CLAIMANT

1. A separate Proof of Claim must be filed by each Person asserting a Claim against the Applicant.
2. The Claimant shall include any and all Claims that it asserts against the Applicant in a single Proof of Claim, except for Claims described in any Statement of Known Claim sent to such Claimant by the Monitor. Claims included in a Proof of Claim that are already captured in such Claimant's Statement of Known Claim will not be accepted by the Monitor or the Applicant. Any Claimant who wishes to dispute any Claim set out in a Statement of Known Claim shall file a Notice of Dispute in respect of such Claim.

3. The full legal name of the Claimant must be provided. If the Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
4. If the Claim has been assigned or transferred to another Person, all documents evidencing such assignment or transfer must be attached.
5. The full legal name of the original Claimant must be provided. If the original Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.

SECTION B – AMOUNT AND TYPE OF CLAIM

6. If the Claim is a Pre-Filing Claim within the meaning of the Claims Procedure Order, then indicate the amount that the Applicant is indebted to the Claimant in the space reserved for Pre-Filing Claims, including interest, if applicable, up to and including October 10, 2023.
7. If the Claim is a Restructuring Claim within the meaning of the Claims Procedure Order, then indicate the amount that the Applicant is indebted to the Claimant in the space reserved for Restructuring Claims, including interest, if applicable, up to and including October 10, 2023.
8. If the Claim is a D&O Claim within the meaning of the Claims Procedure Order, then indicate the amount that the Director and/or Officer is indebted to the Claimant in the space reserved for D&O Claims.
9. If there are insufficient lines to record each Claim amount, attach a separate schedule indicating the required information.

Currency

10. The amount of the Claim must be provided in the currency in which it arose.
11. Indicate the appropriate currency in the Currency column.
12. If the Claim is denominated in multiple currencies, use a separate line to indicate the Claim amount in each such currency. If there are insufficient lines to record these amounts, attach a separate schedule indicating the required information.

Security

13. Check this box **ONLY** if the Claim recorded on that line is a secured claim. If it is, indicate the value which you ascribe to the assets charged by your security in the appropriate column.

SECTION C – PARTICULARS OF CLAIM

14. Attach to the Proof of Claim form all particulars of the Claim and all available supporting documentation, including any invoices, purchase orders, proof of delivery, calculation of the amount, descriptions of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, including any claim assignment/transfer agreement or similar document, if applicable, the name of any guarantor(s) which has guaranteed the Claim and a copy of such guarantee documentation, particulars of all credits, discounts, etc. claimed, as well as a description of the security, if any, granted by the Applicant to the Claimant and the estimated value of such security, along with the underlying security documents, if applicable.

SECTION D – CERTIFICATION

15. The person signing the Claim should:
 - (a) be the Claimant or an authorized representative of the Claimant;
 - (b) have knowledge of all the circumstances connected with the Claim;
 - (c) assert the Claim against the Applicant or the Directors and Officers and certify all available supporting documentation is attached; and
 - (d) have a witness to the certification of the Proof of Claim.
16. By signing and submitting the Proof of Claim, the Claimant is asserting the Claim against the Applicant and/or its Directors and Officers, as applicable.

SECTION E – FILING OF CLAIM AND APPLICABLE DEADLINES

17. If your Claim is a Pre-Filing Claim and/or D&O Claim within the meaning of the Claims Procedure Order, your completed Proof of Claim **MUST** be received by the Monitor by no later than 5:00 p.m. (Eastern Time) on May 31, 2024 (the “**Claims Bar Date**”).
18. If your Claim is a Restructuring Claim within the meaning of the Claims Procedure Order, your completed Proof of Claim **MUST** be received by the Monitor by no later than 5:00 p.m. (Eastern Time) on the later of (i) the Claims Bar Date, or (ii) on the day which is fourteen (14) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with the Claims Procedure Order (the “**Restructuring Claims Bar Date**”).
19. Any notice or communication required to be provided or delivered pursuant to the Claims Procedure Order shall be in writing in substantially the form provided for in the Claims Procedure Order and **will be sufficiently given only if delivered to the Monitor by email**, or, if delivery by email is not possible, on the consent of the Monitor, by mail, courier, or personal delivery, addressed to:

FTI CONSULTING CANADA INC.

TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa

Email: Tacora@fticonsulting.com

Copy to:

CASSELS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre – North Tower 40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Jane Dietrich

Emails: riacobs@cassels.com / jdietrich@cassels.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

Failure to file your completed Proof of Claim so that it is actually received by the Monitor on or before 5:00 p.m. (Eastern Time) on the Claims Bar Date or the Restructuring Claims Bar Date, as applicable, WILL result in your Claims (except for any Claim outlined in any Statement of Known Claim that may have been addressed to you) being forever barred and you will be prevented from making or enforcing such Claims against the Applicant. In addition, unless you have separately received a Statement of Known Claim from the Monitor in respect of any other Claim, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the Applicant's CCAA Proceedings with respect to any such Claims.

SCHEDULE "C"
STATEMENT OF KNOWN CLAIM

SCHEDULE "C"

STATEMENT OF KNOWN CLAIM

●, 2024

[Name]

[Address]

Dear ●:

Re: Statement of Known Claim in the CCAA Proceedings of Tacora Resources Inc. (the "Applicant") (Court File No. CV-23-00707394-00CL)

On October 10, 2023, the Applicant commenced proceedings (the "**CCAA Proceedings**"), and the Ontario Superior Court of Justice (Commercial List) (the "**Court**") granted an order (the "**Initial Order**"), under the *Companies' Creditors Arrangement Act* (Canada). Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor of the Applicant (in such capacity, the "**Monitor**"). A copy of the Initial Order and other information relating to the CCAA Proceedings can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/tacora/>.

On April 23, 2024, the Court granted an order (the "**Claims Procedure Order**") approving a process for the identification and quantification of certain Claims against the Applicant and its Directors and Officers in the CCAA Proceedings. Pursuant to the Claims Procedure Order, the Monitor will assist the Applicant in connection with the administration of the Claims Procedure.

Capitalized terms used herein and not otherwise defined have the meanings given to them in the Claims Procedure Order. In the event of any inconsistency between the terms of this Statement of Known Claim and the terms of the Claims Procedure Order, the terms of the Claims Procedure Order will govern.

Claims Procedure

Under the Claims Procedure Order, the Monitor is required to prepare and send a Statement of Known Claim to each Known Claimant outlining the quantum of its Claim that the Monitor, in consultation with the Applicant, is prepared to allow in the Claims Procedure. You are receiving this Statement of Known Claim as the Monitor, in consultation with the Applicant, has determined that you have a Known Claim.

This Statement of Known Claim contains the full amount of your Known Claim against the Applicant, which Claim has been valued based on the books and records of the Applicant and, if applicable, any negotiations that the Applicant and/or the Monitor have had with you regarding the amounts claimed to be owing.

Your total Claim has been assessed by the Monitor, in consultation with the Applicant, and is attached as **Appendix "A"**.

If you agree with this assessment of your Claim, you do not need to take any further action. IF YOU WISH TO DISPUTE THE ASSESSMENT OF YOUR CLAIM, YOU MUST TAKE THE STEPS OUTLINED BELOW

Disagreement with Assessment

If you disagree with the assessment of your Known Claim set out in this Statement of Known Claim, you must return to the Monitor a completed Notice of Dispute asserting a Claim in a different amount, supported by appropriate documentation. A blank Notice of Dispute form is enclosed. The Notice of Dispute with supporting documentation disputing the within assessment of your Claim must be received by the Monitor by no later than 5:00 p.m. (Eastern Time) on May 31, 2024 (the “**Claims Bar Date**”), or in the case of a Restructuring Claim, on or before 5:00 p.m. (Eastern Time) on the later of (i) the Claims Bar Date, or (ii) on the day which is fourteen (14) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with Claims Procedure Order (the “**Restructuring Claims Bar Date**”).

If no such Notice of Dispute is received by the Monitor by the Claims Bar Date or the Restructuring Claims Bar Date, as applicable, the amount of your Claim will be conclusively deemed to be as shown in this Statement of Known Claim.

Notices of Dispute must be delivered to the Monitor by email at Tacora@fticonsulting.com, or, if delivery by email is not possible, on the consent of the Monitor, by mail, courier, or personal delivery, addressed to:

FTI CONSULTING CANADA INC.

TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa

Email: Tacora@fticonsulting.com

Copy to:

CASSELS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre – North Tower 40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Jane Dietrich

Emails: rjacobs@cassels.com / jdietrich@cassels.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

Important Deadlines

If you do not file a Notice of Dispute by the applicable Bar Date, you will have no further right to dispute your Claim, which shall be allowed in the amount and Status set out herein, and you will be barred from filing any such dispute in the future.

This Statement of Known Claim does not affect any Claim other than the Known Claim referred to herein. This Statement of Known Claim should include all Claims (as defined in the Claims Procedure

Order) that you may have in accordance with the books and records of the Applicant, unless expressly stated otherwise. If you believe this Statement of Known Claim does not contain the entirety of your Known Claim, you must include your whole Claim in the Notice of Dispute.

More Information

If you have questions regarding this Statement of Known Claim, you may contact the Monitor by email at Tacora@fticonsulting.com or via the telephone hotline (416-649-8138 or Toll Free: 1-833-420-9074), provided, however, that formal notices to the Monitor must be delivered as set out above.

Yours truly,

Appendix "A"

Your Known Claim against the Applicant has been assessed as:

Type of Claim	Amount allowed pursuant to Statement of Known Claim:		Currency
	Amount allowed as secured:	Amount allowed as unsecured:	
A. Pre-Filing Claim	\$	\$	
B. D&O Claim	\$	\$	
C. Restructuring Claim	\$	\$	
D. Total Claim	\$	\$	

If you agree with this assessment of your Claim, you do not need to take any further action.

IF YOU WISH TO DISPUTE THE ASSESSMENT OF YOUR CLAIM, YOU MUST TAKE THE STEPS OUTLINED IN THE STATEMENT OF KNOWN CLAIM.

SCHEDULE "D"
PROOF OF CLAIM

**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)

PROOF OF CLAIM

Please carefully read the Claims Procedure Order granted by the Ontario Superior Court of Justice (Commercial List) on April 23, 2024, and the enclosed Proof of Claim Instruction Letter for completing this Proof of Claim. All capitalized terms used and not defined herein have the meanings ascribed to them in the Claims Procedure Order. A copy of the Claims Procedure Order and other information relating to the Claims Procedure can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/tacora/>.

A. PARTICULARS OF CLAIMANT

1. Full Legal Name of Claimant:¹

_____ (the "**Claimant**")

2. Attention (Contact Person): _____

3. Email Address: _____

4. Telephone Number: _____

5. Full Mailing Address of Claimant:

¹ Full legal name is the name of the Claimant as of October 10, 2023 (the "**Filing Date**"), notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred following such date.

Have you acquired this Claim by assignment?

Yes: No:

(If yes, attach documents evidencing assignment)

If yes, Full Legal Name of Original Claimant(s): _____

B. AMOUNT AND TYPE OF CLAIM

The Debtor was and still is indebted to the Claimant as follows:

Pre-Filing Claim

Amount of <u>Pre-Filing Claim</u> <i>(including interest up to and including October 10, 2023)</i>	Whether Claim is Secured:	Currency	Value of Security Held, if any:²
	Yes: <input type="checkbox"/> No: <input type="checkbox"/>		
	Yes: <input type="checkbox"/> No: <input type="checkbox"/>		
	Yes: <input type="checkbox"/> No: <input type="checkbox"/>		

Restructuring Claim

Amount of <u>Restructuring Claim</u> <i>(including interest up to and including October 10, 2023)</i>	Whether Claim is Secured:	Currency	Value of Security Held, if any:³
	Yes: <input type="checkbox"/> No: <input type="checkbox"/>		
	Yes: <input type="checkbox"/> No: <input type="checkbox"/>		
	Yes: <input type="checkbox"/> No: <input type="checkbox"/>		

² If the Claim is secured, on a separate schedule provide full particulars of the security, including the date on which the security was given, the value which you ascribe to the assets charged by your security and the basis for such valuation and attach a copy of the security documents evidencing the security.

³ If the Claim is secured, on a separate schedule provide full particulars of the security, including the date on which the security was given, the value which you ascribe to the assets charged by your security and the basis for such valuation and attach a copy of the security documents evidencing the security.

D&O Claim

Name(s) of Director(s) and/or Officer(s)	Amount of <u>D&O</u> Claim	Currency

C. PARTICULARS OF CLAIM

Provide all particulars of the Claim and all available supporting documentation, including any invoices, including any invoices, purchase orders, proof of delivery, calculation of the amount, descriptions of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, including any claim assignment/transfer agreement or similar document, if applicable, the name of any guarantor(s) which has guaranteed the Claim and a copy of such guarantee documentation, particulars of all credits, discounts, etc. claimed, as well as a description of the security, if any, granted by the Applicant to the Claimant and the estimated value of such security, along with the underlying security documents, if applicable.

D. CERTIFICATION

<p>I hereby certify that:</p> <ol style="list-style-type: none">1. I am the Claimant or an authorized representative of the Claimant;2. I have knowledge of all the circumstances connected with this Claim;3. The Claimant submits this Proof of Claim in respect of the Claim referenced above; and4. All available documentation in support of the Claimant's dispute is attached. <p>All information submitted in this Proof of Claim must be true, accurate and complete. Filing false information relating to your Claim may result in your Claim being disallowed in whole or in part and may result in further penalties.</p>	
Signature: _____ Name: _____ Title: _____	Witness: Signature: _____ Name: _____
DATED at _____ this _____ day of _____, 2024.	

E. FILING OF CLAIM AND APPLICABLE DEADLINES

For Pre-Filing Claims and/or D&O Claims within the meaning of the Claims Procedure Order, your completed Proof of Claim MUST be received by the Monitor by no later than 5:00 p.m. (Eastern Time) on May 31, 2024 (the “**Claims Bar Date**”).

For Restructuring Claims within the meaning of the Claims Procedure Order, your completed Proof of Claim MUST be received by the Monitor by no later than 5:00 p.m. (Eastern Time) on the later of (i) the Claims Bar Date, or (ii) on the day which is fourteen (14) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with the Claims Procedure Order (the “**Restructuring Claims Bar Date**”).

In either case, this Proof of Claim shall be delivered to the Monitor in writing and ***will be sufficiently given only if delivered by email***, or, if you are unable to deliver by email, on consent of the Monitor, by mail, courier, or personal delivery, addressed to:

FTI CONSULTING CANADA INC.
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa

Email: Tacora@fticonsulting.com

With copies to:

CASSESLS BROCK & BLACKWELL LLP
Suite 3200, Bay Adelaide Centre – North Tower 40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Jane Dietrich

Emails: rjacobs@cassels.com / jdietrich@cassels.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

Failure to file your completed Proof of Claim so that it is actually received by the Monitor on or before 5:00 p.m. (Eastern Time) on the Claims Bar Date or the Restructuring Claims Bar Date, as applicable, WILL result in your Claims (except for any Claim outlined in any Statement of Known Claim that may have been addressed to you) being forever barred and you will be prevented from making or enforcing such Claims against the Applicant. In addition, unless you have separately received a Statement of Known Claim from the Monitor in respect of any other Claim, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the Applicant’s CCAA Proceedings with respect to any such Claims.

SCHEDULE "E"
NOTICE OF DISPUTE

**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)

NOTICE OF DISPUTE

For Known Claims against the Applicant

Reference #:

Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated April 23, 2024 (the "**Claims Procedure Order**"), I/we hereby give you notice of our intention to dispute the Statement of Known Claim dated _____ issued by FTI Consulting Canada Inc. in its capacity as Monitor of the Applicant in respect of my/our Claim.

Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Claims Procedure Order. A copy of the Claims Procedure Order and related materials can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/tacora/>.

A. PARTICULARS OF CLAIMANT

1. Full Legal Name of Claimant (include trade name, if applicable):¹

_____ (the "**Claimant**")

2. Attention (Contact Person): _____

3. Email Address: _____

4. Telephone Number: _____

¹ Full legal name should be the name of the Claimant of the Applicant or the Directors or Officers as of October 10, 2023 (the "**Filing Date**"), notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred following that date.

5. Full Mailing Address of the Claimant:

6. Have you acquired this Claim by assignment?

Yes: No:

(If yes and not already provided, attach documents evidencing assignment)

If yes, Full Legal Name of Original Claimant(s): _____

B. DISPUTE OF KNOWN CLAIM

The Claimant hereby disagrees with the value of its Known Claim as set out in the Statement of Known Claim and asserts a Claim as follows:

Type of Claim	Amount allowed pursuant to Statement of Known Claim:		Amount claimed by the Claimant		Currency
	Amount allowed as secured:	Amount allowed as unsecured:	Secured:	Unsecured:	
A. Pre-Filing Claim	\$	\$	\$	\$	
B. D&O Claim	\$	\$	\$	\$	
C. Restructuring Claim	\$	\$	\$	\$	
D. Total Claim	\$	\$	\$	\$	

(Insert particulars of your Claim per the Statement of Known Claim, and the value of your Claim as asserted by you).

D. CERTIFICATION

I hereby certify that: <ol style="list-style-type: none">1. I am the Claimant or an authorized representative of the Claimant;2. I have knowledge of all the circumstances connected with this Claim;3. The Claimant submits this Notice of Dispute in respect of the Claim referenced above; and4. All available documentation in support of the Claimant's dispute is attached. All information submitted in this Notice of Dispute must be true, accurate and complete. Filing false information relating to your Claim may result in your Claim being disallowed in whole or in part and may result in further penalties.	
Signature: _____ Name: _____ Title: _____	Witness: Signature: _____ Name: _____ <i>(Print)</i>
DATED at _____ this _____ day of _____, 2024.	

This Notice of Dispute MUST be received by the Monitor no later than 5:00 p.m. (Eastern Time) on May 31, 2024 (the “**Claims Bar Date**”), or in the case of a Restructuring Claim, no later than 5:00 p.m. (Eastern Time) on the later of (i) the Claims Bar Date; or (ii) on the day which is fourteen (14) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with the Claims Procedure Order (the “**Restructuring Claims Bar Date**”).

This Notice of Dispute must be delivered in writing to the Monitor and will be sufficiently given only if delivered by email (in PDF format), or, if you are unable to deliver by email, with the Monitor's consent, by mail, courier or personal delivery addressed to:

FTI CONSULTING CANADA INC.
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa

Email: Tacora@fticonsulting.com

Copy to:

CASSESLS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre – North Tower 40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Jane Dietrich

Emails: rjacobs@cassels.com / jdietrich@cassels.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

IF A NOTICE OF DISPUTE IS NOT RECEIVED BY THE MONITOR BY THE APPLICABLE BAR DATE, THE CLAIM AS SET OUT IN THE STATEMENT OF KNOWN CLAIM WILL BE BINDING ON YOU AND YOU WILL HAVE NO FURTHER RIGHT TO DISPUTE SUCH CLAIM.

SCHEDULE "F"
NOTICE OF REVISION OR DISALLOWANCE

Subject to further dispute by you in accordance with the provisions of the Claim Procedure Order, your Claim will be as follows:

Amount claimed per Proof of Claim:			Amount allowed pursuant to this Notice of Revision or Disallowance:		Currency
	Secured:	Unsecured:	Amount allowed as secured:	Amount allowed as unsecured:	
A. Pre-Filing Claim	\$	\$	\$	\$	
B. D&O Claim	\$	\$	\$	\$	
C. Restructuring Claim	\$	\$	\$	\$	
D. Total Claim	\$	\$	\$	\$	

IF YOU INTEND TO DISPUTE THIS NOTICE OF REVISION OR DISALLOWANCE, YOU MUST, within fourteen (14) days of the date of this Notice of Revision or Disallowance, deliver a Notice of Dispute of Revision or Disallowance in the form attached hereto to the Monitor *which will be sufficiently given only if delivered by email* (in PDF format), or, if you are unable to deliver by email, with the Monitor's consent, by mail, courier or personal delivery addressed to:

FTI CONSULTING CANADA INC.

TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa

Email: Tacora@fticonsulting.com

Copy to:

CASSELS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre – North Tower 40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Jane Dietrich

Emails: rjacobs@cassels.com / jdietrich@cassels.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD PURSUANT TO THE CLAIMS PROCEDURE ORDER, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.

IF YOU AGREE WITH THIS NOTICE OF REVISION OR DISALLOWANCE, there is no need to file anything further with the Monitor.

DATED at Toronto, Ontario this ____ day of _____, 2024.

FTI CONSULTING CANADA INC.,
solely in its capacity as Monitor of the
Applicant and not in its personal
capacity.

SCHEDULE "G"

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

**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)

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

Reference #:

Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated April 23, 2024 (the "**Claims Procedure Order**"), I/we hereby give you notice of our intention to dispute the Notice of Revision or Disallowance dated _____ issued by FTI Consulting Canada Inc. in its capacity as Monitor of the Applicant in respect of my/our Claim.

All capitalized terms used and not defined in this Notice of Dispute shall have the meaning ascribed to them in the Claims Procedure Order. A copy of the Claims Procedure Order and other information relating to the Claims Procedure can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/tacora/>.

A. PARTICULARS OF CLAIMANT

1. Full Legal Name of Claimant (include trade name, if applicable):¹

_____ (the "**Claimant**")

2. Attention (Contact Person): _____

3. Email Address: _____

4. Telephone Number: _____

¹ Full legal name should be the name of the Claimant of the Applicant or the Directors or Officers as of October 10, 2023 (the "**Filing Date**"), notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred following that date.

5. Full Mailing Address of the Claimant:

6. Have you acquired this Claim by assignment?

Yes: No:

(If yes and not already provided, attach documents evidencing assignment)

If yes, Full Legal Name of Original Claimant(s): _____

B. DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM

The Claimant hereby disagrees with the value of its Claim as set out in the Notice of Revision or Disallowance and asserts a Claim as follows:

Type of Claim	Amount allowed, if any, pursuant to the Notice of Revision or Disallowance		Amount claimed by the Claimant per this Notice of Dispute		Currency
	Amount allowed as secured:	Amount allowed as unsecured:	Secured:	Unsecured:	
A. Pre-Filing Claim	\$	\$	\$	\$	
B. D&O Claim	\$	\$	\$	\$	
C. Restructuring Claim	\$	\$	\$	\$	
D. Total Claim	\$	\$	\$	\$	

(Insert particulars of your Claim per the Notice of Revision or Disallowance, and the value of your Claim as asserted by you).

D. CERTIFICATION

I hereby certify that:

1. I am the Claimant or an authorized representative of the Claimant;
2. I have knowledge of all the circumstances connected with this Claim;
3. The Claimant submits this Notice of Dispute of Revision or Disallowance in respect of the Claim referenced above; and
4. All available documentation in support of the Claimant's dispute is attached.

All information submitted in this Notice of Dispute of Revision or Disallowance must be true, accurate and complete. Filing false information relating to your Claim may result in your Claim being disallowed in whole or in part and may result in further penalties.

Signature: _____

Name: _____

Title: _____

Witness:

Signature: _____

Name: _____
(Print)

DATED at _____ this _____ day of _____, 2024.

Your completed Notice of Dispute of Revision or Disallowance **MUST** be received by the Monitor at the below address by no later than 5:00 p.m. (Eastern Time) on the day that is fourteen (14) days after this Notice of Revision or Disallowance is deemed to have been received by you in accordance with the Claims Procedure Order.

This Notice of Dispute of Revision or Disallowance must be delivered in writing to the Monitor and will be sufficiently given only if delivered by email (in PDF format), or, if you are unable to deliver by email, with the Monitor's consent, by mail, courier or personal delivery addressed to:

FTI CONSULTING CANADA INC.

TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa

Email: Tacora@fticonsulting.com

Copy to:

CASSESLS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre – North Tower 40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Jane Dietrich

Emails: rjacobs@cassels.com / jdietrich@cassels.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

IF YOU FAIL TO FILE A NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE WITHIN THE PRESCRIBED TIME PERIOD, YOUR CLAIM AS SET OUT IN THE NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.

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)**

Proceeding commenced at [Toronto](#)

CLAIMS PROCEDURE ORDER

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5300 Commerce Court West
199 Bay Street
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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

**MOTION RECORD OF THE APPLICANT
(STAY EXTENSION, DIP AMENDMENT AND CLAIMS
PROCEDURE ORDER RETURNABLE APRIL 23, 2024)**

STIKEMAN ELLIOTT LLP

Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

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Lawyers for the Applicant