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

Tacora Resources Inc.

TENTH REPORT OF FTI CONSULTING CANADA INC., IN ITS CAPACITY AS COURT-APPOINTED MONITOR

June 19, 2024

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APPENDICES

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

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)

TENTH REPORT TO THE COURT SUBMITTED BY FTI CONSULTING CANADA INC., IN ITS CAPACITY AS MONITOR

INTRODUCTION

1. Pursuant to an Order (as amended and restated, the "**Amended and Restated Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 10, 2023, Tacora Resources Inc. ("**Tacora**" or the "**Applicant**") was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C., c. C-36, as amended (the "**CCAA**" and in reference to the proceeding, the "**CCAA Proceeding**") and FTI Consulting Canada Inc. was appointed monitor of the Applicant (in such capacity, the "**Monitor**").

2. As described in the Monitor's prior reports to Court,[1] on October 30, 2023, the Court approved a sale, investment and services solicitation process (the "**Solicitation Process**") and on February 2, 2024, the Applicant served and filed a motion (the "**Sale Approval Motion**") seeking, *inter alia*, approval of a subscription agreement entered into between Tacora and the Investors[2] as the Successful Bid (as defined in the Solicitation Process).

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[1] The Monitor has filed the Pre-Filing Report of the Monitor dated October 9, 2023, the First Report of the Monitor dated October 20, 2023, the Second Report of the Monitor dated January 18, 2024, the Third Report of the Monitor dated March 13, 2024, the Fourth Report of the Monitor dated March 14, 2024 (the "**Fourth Report**"), the Supplement to the Fourth Report dated March 26, 2024, the Second Supplement to the Fourth Report dated April 10, 2024, (the "**Second Supplemental Fourth Report**"), the Fifth Report of the Monitor dated April 7, 2024, the Sixth Report of the Monitor dated April 9, 2024, the Seventh Report of the Monitor dated April 14, 2024, the Eighth Report of the Monitor dated April 21, 2024 (the "**Eighth Report**"), the Supplement to the Eighth Report of the Monitor dated April 24, 2024 and the Ninth Report of the Monitor dated June 3, 2024 (the "**Ninth Report**" and collectively, the "**Prior Reports**").

[2] The Investors were comprised of a consortium consisting of (i) Brigade Capital Management, L.P., Millstreet Capital Management LLC, MSD Partners, L.P., O'Brien-Staley Partners and Snowcat Capital Management (collectively, the "**Ad Hoc Group**"); (ii) Resource Capital Fund VII L.P. and (iii) Javelin Global Commodities (SG) Pte Ltd. (collectively, the "**Investors**").

3. Cargill subsequently filed a motion (the "**Cargill Preliminary Threshold Motion**") seeking an order, *inter alia*, prohibiting Tacora from obtaining the relief set out in the Sale Approval Motion, absent a valid disclaimer of the Offtake Agreement (as defined below).

4. On April 10, 2024, the Monitor filed the Second Supplemental Fourth Report, which confirmed to the Court and informed the service list that on April 9, 2024, the Monitor was advised by counsel to the Investors that the Investors were not willing to proceed with the Successful Bid and, as a result, the Applicant was unable to proceed with the Sale Approval Motion scheduled for April 10, 2024. At case conferences held on April 10 and 11, 2024, Justice Kimmel was advised, among other things, that the Applicant had withdrawn the Sale Approval Motion and the Cargill Preliminary Threshold Motion had been adjourned accordingly.

5. On April 23, 2024, the Court granted an order (the "**Claims Procedure Order**"), approving a claims process (the "**Claims Process**") to solicit, identify, quantify and, if appropriate, resolve the Claims (as defined in the Claims Procedure Order) against the Applicant and their Directors and Officers (each as defined in the Claims Procedure Order).

6. On May 16, 2024, the Applicant delivered to Cargill:

   (a) a 'Notice by Debtor Company to Disclaim or Resiliate an Agreement' in accordance with section 32(1) of the CCAA (the "**Disclaimer Notice**") in respect of the: (i) offtake agreement between Tacora, as seller, and Cargill, as buyer, dated April 5, 2017 (as amended from time to time, the "**Offtake Agreement**"); and (ii) iron ore stockpile purchase agreement between Tacora, as seller, and Cargill, as buyer, dated April 17, 2019 (as amended and restated from time to time, the "**Stockpile Agreement**"); and

   (b) a letter, setting forth the reasons for the issuance of the Disclaimer Notice pursuant to section 32(8) of the CCAA (the "**Disclaimer Letter**").

   Copies of the Disclaimer Notice and the Disclaimer Letter are attached to the affidavit of Matthew Lehtinen sworn June 11, 2024, as Appendix "**B**", included in the Cargill motion materials filed on June 11, 2024, as described below.

7. On May 21, 2024, the Applicant filed an Aide Memoire advising the Court that although the Applicant, the Ad Hoc Group and Cargill continued to engage in discussions around a potential consensual restructuring of Tacora, the Applicant had determined that it was necessary to proceed on a dual track basis whereby the Applicant would conduct a second CCAA sale process and advance certain motions in advance of the bid deadline.

8. Between May 21, 2024, and May 24, 2024, the Applicant and Cargill advised the Court of the following proposed motions and a corresponding scheduling order was sought:

   (a) a motion to be brought by the Applicant (the "**Sale Process Motion**") seeking approval of a second sale process (the "**Sale Process**");

   (b) a motion to be brought by Cargill, objecting to the Disclaimer Notice (the "**Cargill Disclaimer Motion**");

   (c) a reconstituted and supplemented version of the Cargill Preliminary Threshold Motion, to be brought by the Applicant (the "**Tacora Preliminary Threshold Motion**");

   (d) an amended cross-motion to be brought by Cargill seeking a meeting order (the "**Cargill Meeting Order (Plan) Motion**"); and

   (e) a motion to be brought by Cargill for a declaration that a transaction structured through a reverse vesting order ("**RVO**") is not available to a debtor in circumstances similar to these (the "**Cargill Global Process (RVO Declaration) Motion**").

9. Following a case conference on May 24, 2024, Justice Kimmel issued an endorsement (the "**May 24 Endorsement**") scheduling the following motions to be heard:

   (a) on June 5, 2024:

      (i) the Sale Process Motion; and

      (ii) the Cargill Meeting Order (Plan) Motion; and

   (b) on June 26, 2024 (the "**June 26 Motions**"):

      (i) the Tacora Preliminary Threshold Motion;

      (ii) the Cargill Global Process (RVO Declaration) Motion; and

      (iii) the Cargill Disclaimer Motion.

10. Following the issuance of the May 24 Endorsement, Cargill advised the Applicant and the Monitor that it would no longer be pursuing the Cargill Meeting Order (Plan) Motion.

11. On May 30, 2024, Cargill advised the Monitor that it did not intend to proceed with the Global Process (RVO Declaration) Motion on June 26, 2024, but sought to reserve its rights to raise such issues and positions on any future RVO application that Cargill may oppose. Tacora and the

Monitor opposed Cargill's attempted reservation of rights on the Global Process (RVO Declaration) Motion and the Applicant advised Cargill that it would address this point at the hearing scheduled for June 5, 2024.

12. As contemplated by the May 24 Endorsement, the parties worked to establish a timetable for the motions (the "**Motions Timetable**") and on May 31, 2024, the Monitor provided the Court with the Motions Timetable. A copy of the Motions Timetable is attached hereto as Appendix "**A**".

13. Also on May 31, 2024, in accordance with the May 24 Endorsement:

    (a) the Applicant served a notice of motion for the Tacora Preliminary Threshold Motion; and

    (b) Cargill served a notice of motion for the Cargill Disclaimer Motion.

14. Following the hearing on June 5, 2024, the Court granted: (i) an Order (the "**Sale Process Order**"), among other things, approving the Sale Process; and (ii) an Order (the "**Ancillary Order**"), among other things, extending the Stay Period to July 29, 2024. Copies of the Sale Process Order and the Ancillary Order are attached hereto as Appendices "**B**" and "**C**".

15. Following the June 5th hearing, Justice Kimmel also issued an endorsement dated June 7, 2024 (the "**June 5 Endorsement**") which, among other things, ordered that, if Cargill wished to raise the issues set out in the Global Process (RVO Declaration) Motion, it must deliver its motion materials on June 11, 2024,[3] failing which it would be barred from raising those issues at a subsequent date as a means of opposing a proposed transaction identified in the Sale Process. A copy of the June 5 Endorsement is attached hereto as Appendix "**D**".

16. The Court also scheduled a motion to be brought by the Applicant seeking approval of the offer that is ultimately selected as the "Successful Bid" pursuant to the Sale Process (the "**Approval Motion**") for July 26, 2024.

17. In accordance with the Motions Timetable, the following motion materials and responding motion materials were served and filed:

    (a) on June 11, 2024:

        (i) the Applicant served and filed its motion record in support of the Tacora Preliminary Threshold Motion; and

[3] In accordance with the Motions Timetable, the Applicant and Cargill, as applicable, were required to deliver their motion materials for their respective June 26 Motions on June 11, 2024.

(ii) Cargill served and filed its motion record for the Cargill Disclaimer Motion and a notice of motion for the Cargill Global Process (RVO Declaration) Motion; and

(b) on June 14, 2024, the Applicant served and filed its responding motion record for the Cargill Disclaimer Motion, including the affidavit of Heng Vuong sworn June 14, 2024 (the "**Second Vuong Affidavit**") and the affidavit of Michael Nessim sworn June 14, 2024 (the "**Nessim Affidavit**"). Cargill did not file responding materials in connection with the Tacora Preliminary Threshold Motion.

18. The Motions Timetable provided for cross-examinations, if any, to be conducted on June 18, 2024. On June 17, 2024, the parties agreed that no cross-examinations were required in connection with the June 26 Motions.

19. The Monitor has prepared this Tenth Report to Court of the Monitor (the "**Tenth Report**") in accordance with the Motions Timetable and to provide information to the Court in respect of the June 26 Motions.

20. All references to monetary amounts in this Tenth Report are in United States dollars unless otherwise noted. Any capitalized terms not defined herein have the meanings given to them in the Second Vuong Affidavit or the Nessim Affidavit, as applicable.

21. Further information regarding the CCAA Proceeding, including all materials publicly filed in connection with this proceeding, is available on the Monitor's website at http://cfcanada.fticonsulting.com/tacora (the "**Monitor's Website**").

PURPOSE

22. The purpose of this Tenth Report is to:

(a) provide an update to the Court on the status of the CCAA Proceeding; and

(b) provide information to the Court, including the Monitor's views, with respect to the June 26 Motions, being

(i) the relief sought by the Applicant in the Tacora Preliminary Threshold Motion, including a declaration that the Offtake Agreement and the Debt Documents (as defined below) may be transferred to and vested in a newly incorporated company pursuant to an RVO;

(ii) the relief sought by Cargill in the Cargill Global Process (RVO Declaration) Motion, including a declaration that, as a matter of law, an RVO is not available to a debtor under the CCAA where (i) there is a material unsecured creditor in a position to vote against a CCAA plan of compromise or arrangement and the plan cannot satisfy section 6(1) of the CCAA without the support of such unsecured creditor; (ii) the RVO is being sought against the opposition of that unsecured creditor; and (iii) there is an unsecured CCAA plan alternative which provides for consideration to all affected unsecured creditors in the form of restructured shares or consideration; and

(iii) the relief sought by Cargill in the Cargill Disclaimer Motion, including an order, *inter alia*:

(A) declaring that the Offtake Agreement and Stockpile Agreement are not disclaimed, despite the Notice of Disclaimer; and

(B) declaring that the Offtake Agreement and Stockpile Agreement continue to bind Tacora and are otherwise enforceable against it.

TERMS OF REFERENCE AND DISCLAIMER

23. In preparing this Tenth Report, the Monitor has relied upon audited and unaudited financial information of Tacora's books and records, and discussions and correspondence with, among others, management of and advisors to Tacora as well as other stakeholders and their advisors ("**Information**").

24. Except as otherwise described in this Tenth Report:

(a) the Monitor has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and

(b) the Monitor has not examined or reviewed the financial forecasts or projections referred to in this Tenth Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.

25. Future-oriented financial information reported in or relied on in preparing this Tenth Report is based on assumptions regarding future events. Actual results may vary from these forecasts, and such variations may be material.

26. The Monitor has prepared this Tenth Report to provide information to the Court in connection with the relief requested by the Applicant and Cargill, as applicable, and in accordance with its obligations in the Motions Timetable. This Tenth Report should not be relied on for any other purpose.

UPDATE ON THE CCAA PROCEEDING

Sale Process

27. In accordance with the Sale Process Order, the Applicant, with the assistance of Greenhill & Co. Canada Ltd., as financial advisor, and the Monitor, has commenced the Sale Process, including, among other things: (i) engaging with potentially interested parties for the purpose of marketing and soliciting interest in the Opportunity (as defined in the Sale Procedures); (ii) negotiating non-disclosure agreements with potentially interested parties; (iii) providing access to the virtual data room maintained by Tacora to interested parties upon their execution of a non-disclosure agreement; and (iv) arranging virtual management presentations and site visits for potentially interested parties.

28. The Monitor anticipates providing additional updates to the Court in a subsequent report in relation to the anticipated Approval Motion.

Claims Procedure

29. The Claims Procedure included a negative notice process for all Known Claimants whereby the Monitor sent Notices of Known Claim based on the Applicant's books and records and any other Unknown Claimants were required to file Proofs of Claim.

30. As noted in the Ninth Report, in accordance with the Claims Procedure Order,[4] the Monitor has recorded and categorized the Notices of Dispute and Proofs of Claim received.

31. The summaries below reflect Notices of Dispute received and Claims filed by the Claims Bar Date and do not reflect the results of any Notices of Revision or Disallowance issued to date. As a result, the summaries below include Claims that have not yet been reconciled, including duplicate Claims

[4] Capitalized terms use and not defined in this subsection have the meanings ascribed thereto in the Claims Procedure Order.

that have been incorrectly submitted against multiple entities, and/or duplicate Claims submitted within multiple Claim categories (i.e., Pre-Filing Claim, Restructuring Claim, and D&O Claim).

32. Claims filed to date by the Claims Bar Date by category, are summarized as follows:[5]

Claim Type	Unsecured	Secured	Total (CAD)
Pre-Filing	$ 85,099,419	$ 506,239,684	**$ 591,339,103**
Restructuring	$ 679,626,749	$ -	**$ 679,626,749**
D&O	$ -	$ -	**$ -**
Total	**$ 764,726,169**	**$ 506,239,684**	**$ 1,270,965,853**

Claim Type	Unsecured	Secured	Total[1]
Pre-Filing	239	12	**251**
Restructuring	3	-	**3**
D&O	-	-	**-**
Total	**242**	**12**	**254**

33. The Monitor continues to analyze the Notices of Dispute and Proofs of Claims and engage in discussions with stakeholders in respect of the Claims Process and general questions they have in respect thereof. The summaries above are subject to change as claims are reconciled and finalized as part of the Claims Procedure.

Efforts toward a Consensual Resolution

34. As noted above, concurrently with the scheduling and litigation of the issues set out in the June 26 Motions, the parties have engaged in discussions around a potential consensual restructuring of Tacora. The Applicant has continued with its efforts to facilitate discussions between Cargill and the Ad Hoc Group (or members thereof) and to advance structures that may form the basis for a consensual restructuring and/or respond to structuring alternatives that have been put forward. The Applicant has also continued to encourage ongoing dialogue and discussions between Cargill and the Ad Hoc Group directly.

35. The Applicant has also encouraged Cargill, in its capacity as DIP Lender, to permit the Applicant to pay certain fees and expenses of the Ad Hoc Group beyond the initial $250,000 previously agreed to. To date, the Monitor understands that Cargill has not agreed to the payment of additional professional fees of the Ad Hoc Group. Accordingly, the Monitor understands the discussions between advisors to Cargill and the Ad Hoc Group have ceased.

[5] Certain Notices of Dispute and Proofs of Claim received do not include a quantified Claim amount and therefore the total Claims asserted may increase.

Amounts Owing by Cargill to Tacora & Scheduling of Vessels

36. As described in the Ninth Report, on May 16, 2024, the Applicant delivered a letter to Cargill demanding Cargill pay to Tacora: (i) $10,368,105.60 for iron ore delivered to Cargill at the stockpile pre-filing; and (ii) $1,880,506.20 for certain amounts in respect of iron ore delivered to Cargill where the final purchase price under the Offtake Agreement was settled post-filing (collectively, the "**Outstanding Amounts**").

37. On June 19, 2024, the Applicant sent further correspondence to Cargill in respect of Cargill setting off certain Outstanding Amounts against post-filing delivery payments (the "**June 19 Demand Letter**"). The June 19 Demand Letter demanded that Cargill reverse the recent set-off as the Applicant has asserted it is a violation of the terms of the Amended and Restated Initial Order and that Cargill immediately pay the Outstanding Amounts. A copy of the June 19 Demand Letter is attached as Appendix "**E**".

38. Separately, on June 18, 2024, counsel to the Applicant wrote to counsel for Cargill (the "**June 18 Vessel Letter**") advising that it understood that Cargill had advised Tacora that it intended to postpone the scheduling of an additional vessel during the period July 11- 21, 2024 (the "**July Vessel**"). The June 18 Vessel Letter further advised that the failure of Cargill to schedule the July Vessel could impact (a) the Company's cash flow, if it causes Tacora to exceed the stockpile limit contained in the Stockpile Agreement, and (b) the Company's operations, if train shipments are interrupted due to the stockpile at the Port reaching its maximum capacity. Tacora has confirmed to Cargill that notwithstanding the Disclaimer Notice, Tacora will, honour its obligations regarding the July Vessel. A copy of the redacted June 18 Vessel Letter is attached as Appendix "**F**.

39. Early on the afternoon of June 19, 2024, counsel to the Monitor sent correspondence to counsel to Cargill (the "**Monitor Correspondence**"), advising that given the potential impact on Tacora's cash flow forecast, liquidity position and ongoing operations, the Monitor would be informing the Court in this report of the matters addressed in the June 19 Demand Letter and the June 18 Vessel Letter and requesting that Cargill respond to the issues raised therein. A copy of the redacted Monitor Correspondence is attached as Appendix "**G**".

40. As set out in the Monitor Correspondence, it is imperative that Tacora's operations be funded through to the completion of a going concern transaction. Accordingly, to the Monitor urged Cargill fulfill its obligations under the Offtake Agreement consistent with prior practice, until such time as the Court may set an effective date of the disclaimer of the Offtake Agreement. Specifically, this includes working with the Applicant to finalize vessel scheduling and reach agreement on a

renegotiation or replacement of the Offtake Agreement to allow for an orderly transition depending upon the results of the Disclaimer Motion and the Sale Process.

41. Further to the Monitor's request for Cargill's position on these matters, counsel to Cargill set out their initial position in respect of the June 19 Demand and July 18 Vessel Letter in correspondence addressed to Tacora's counsel on the afternoon of July 19, 2024 (the "**Cargill Response**"). The Cargill Response asserts, among other things, that Cargill disagrees with the assertions by Tacora set out in the June 19 Demand and July 18 Vessel Letter. A copy of a redacted version of the Cargill Response is attached as Appendix "**H**".

TACORA PRELIMINARY THRESHOLD MOTION & CARGILL GLOBAL PROCESS (RVO DECLARATION) MOTION

42. Each of the Tacora Preliminary Threshold Motion and the Cargill Global Process (RVO Declaration) Motion seek to address a similar legal issue: whether legal impediments prevent the Court from granting an RVO in certain circumstances.

43. Pursuant to the Tacora Preliminary Threshold Motion, the Applicant is seeking confirmation that it is not legally necessary to assign or disclaim certain agreements pursuant to sections 11.3 and 32of the CCAA, respectively, in order to transfer those agreements to a newly incorporated "Residual Co." pursuant to an RVO. The agreements in question are:

(a) the Offtake Agreement;

(b) $225,000,000 of senior notes issued by Tacora and $27,000,000 of senior priority notes issued by Tacora pursuant to indentures (the "**Note Indentures**") and various related security documents (the "**Note Security Documents**"); and

(c) an advance payment facility agreement, as amended from time to time (the "**APF Agreement**") and related security documents (the "**APF Security Documents**", and together with the APF Agreement, the Note Indentures and the Note Security Documents, the "**Debt Documents**").

44. The Offtake Agreement and certain of the Debt Documents contain provisions that provide they cannot be assigned by Tacora without the consent of the counterparty.

45. The Tacora Preliminary Threshold Motion is a reconstituted and supplemented version of the Cargill Preliminary Threshold Motion, brought by Cargill on February 5, 2024, and adjourned on April 11, 2024.[6]

46. Similarly, in the Cargill Global Process (RVO Declaration) Motion, Cargill is seeking confirmation that an RVO is not available in situations where certain facts exist: (i) there is a material unsecured creditor in a position to vote against a CCAA plan of compromise or arrangement and the plan cannot satisfy section 6(1) of the CCAA without the support of such unsecured creditor (i.e., Cargill in respect of its disclaimer related claim); (ii) the RVO is being sought against the opposition of that unsecured creditor (i.e., Cargill); and (iii) there is an unsecured CCAA plan alternative which provides for consideration to all affected unsecured creditors (including Cargill) in the form of restructured shares or consideration.

47. In essence if Tacora's position is upheld on both the Tacora Preliminary Threshold Motion and the Cargill Global Process (RVO Declaration) Motion, the Court will be endorsing that regardless of the circumstances described above, the approval of an RVO is subject only to the test for the availability of an RVO set out in *Harte Gold Corp. (Re)*, 2022 ONSC 653 (the "**Harte Gold Test**").

48. Conversely, if Cargill's position on both or either motion is correct, the Court will be finding that there are additional legal hurdles which must be satisfied as a pre-condition to the Court considering the Harte Gold Test.

49. The Monitor is of the view that the Court's jurisdiction to grant an RVO is found in section 11 of the CCAA and it is a hallmark of the RVO structure that the debtor company can dispose of various liabilities, including contracts and significant claims, by vesting out to a ResidualCo. The CCAA provides a supervising judge with broad discretion, which is a unique feature of the CCAA and one of the principal means through which the CCAA achieves its objectives to respond to the circumstances of each case and meet contemporary business and social needs in real time.

50. Consistent with the view previously expressed by the Monitor in respect of the Cargill Preliminary Threshold Motion, the Monitor maintains its view that the discretion granted to the Court pursuant to section 11 of the CCAA should not be restricted by rigid, bright line rules, other than in exceptional circumstances based on clear statutory language.

[6] The Cargill Preliminary Threshold Motion and the Monitor's recommendations thereon are discussed in the Fourth Report and the First Supplemental Fourth Report and the Responding Factum of the Monitor dated April 6, 2024, copies of which are available on the Monitor's Website.

CARGILL DISCLAIMER MOTION

51. As noted above, in accordance with the timelines set out in the Motions Timetable and in response to the Applicant's issuance of the Disclaimer Notice, Cargill served: (i) on May 31, 2024, a notice of motion for the Cargill Disclaimer Motion; and (ii) on June 11, 2024, its related motion materials. The Applicant filed responding motion materials in connection with the Cargill Disclaimer Motion on June 14, 2024. The Monitor has reviewed these motion materials.

52. In the Disclaimer Letter, the Applicant stated that the reasons for the issuance of the Disclaimer Notice included, in addition to others, that:

    (a) disclaiming the Offtake Agreement will increase Tacora's chances of successfully identifying a going-concern transaction for its business and exiting the CCAA Proceeding since market feedback to date from third-party investors has indicated that parties are unwilling to invest new money in Tacora to fund its necessary capital expenditures while the current life-of-mine Offtake Agreement remains in place; and

    (b) the Offtake Agreement is significantly off market and prohibitive in comparison to other potential available replacement agreements, and therefore significantly more expensive for Tacora than a replacement, market agreement.

53. In its motion materials for the Cargill Disclaimer Motion, Cargill takes the position that the Offtake Agreement and Stockpile Agreement cannot be disclaimed pursuant to the CCAA, because:

    (a) the Agreements are "eligible financial contracts", including because they are "derivatives agreements" under s.2 of the Eligible Financial Contract Regulations, and therefore not able to be disclaimed pursuant to section 32(9)(a) of the CCAA; and

    (b) the Agreements are "financing agreements" with Tacora as a borrower, and therefore are not able to be disclaimed pursuant to section 32(9)(c) of the CCAA.

54. Cargill also appears to take the position that:

    (a) the proposed Disclaimer Notice would not enhance the prospects of a viable compromise or arrangement since a disclaimer of the Agreements would create an unsecured claim held by Cargill in excess of $500 million, making Cargill Tacora's largest unsecured creditor and barring any ability Tacora may have to obtain approval of a CCAA Plan without Cargill's agreement; and

(b) the Agreements, as Tacora's sole source of revenue, provide Tacora with stability and if disclaimed would result in significant disruption to Tacora to the detriment of Tacora and its stakeholders.

55. The Monitor approved the Disclaimer Notice when it was issued by Tacora. The Monitor understands that the disclaimer provisions in section 32 of the CCAA are not available if the underlying agreement is either an "eligible financial contract" or "a financing arrangement if the company is a borrower". The Monitor remains of the view that the Agreements are not subject to the restrictions in section 32(9).

56. The Monitor is also of the view that the disclaimer of the Agreements is necessary and appropriate in the circumstances as it will enhance Tacora's ability to pursue a going concern transaction. As described in the Prior Reports, as the CCAA Proceeding is prolonged, the Applicant finds itself in an increasingly vulnerable position and it becomes increasingly important that it be permitted to pursue a going concern transaction that would permit it to emerge from this CCAA Proceeding. Clarity on whether the Agreements are capable of being disclaimed is a fundamental issue that must be settled to permit the Applicant to identify and pursue a going concern transaction.

57. With respect to Cargill's argument that a disclaimer of the Agreements would remove Tacora's sole source of revenue and result in instability, the Monitor notes that the Court has the jurisdiction to determine the date on which an agreement is disclaimed pursuant to subsection 32(5)(b) of the CCAA. Accordingly, the Court may order, and Tacora is seeking, that a disclaimer of the Agreements take effect at a subsequent date to allow Tacora to transition the current Offtake Agreement to an alternative offtake in an orderly manner, thereby minimizing any disruption to Tacora's operations and to Cargill that may result from the disclaimer. The Monitor notes that if Cargill (or another purchaser that contemplates assuming the Offtake Agreement) is the successful bidder in the Sale Process, a transition from the Offtake Agreement will not be necessary. However, if Cargill is not the successful bidder in the Sale Process and there is a new offtake party, it will be prudent for Tacora to complete an orderly transition, only once.

58. The Monitor further notes, as described in the Second Vuong Affidavit and the Nessim Affidavit, that Tacora has explored the possibility of an alternative interim offtake and/or marketing agreement to replace the Agreements in circumstances where the Court orders they are immediately disclaimed. Tacora believes it would be capable of entering into such an interim agreement within 30 days following the Agreements being disclaimed. Such an interim arrangement would require significant operational changes by Tacora, and likely cause confusion in the marketplace. In

contrast, transitioning to a new offtake arrangement following the selection of a successful bid in the Sale Process reduces the risk of and lessens the disruption to Tacora's and Cargill's operations. Therefore, it is Tacora's view, in the event the Court dismisses the Cargill Disclaimer Motion, that the effective date of the Disclaimer Notice should be earlier of (i) August 12, 2024, and (ii) Tacora providing Cargill with 30 calendar days written notice. The Monitor is supportive of this approach which allows the parties time to work together and encourages the parties to continue to work on a consensual basis regarding timing for replacement of the Offtake Agreement. This approach further allows for an orderly transition of the Offtake Agreement and minimizes the risk of disruption to Tacora's operations.

CONCLUSION

59. The Monitor reiterates its view that it is of critical importance that the Applicant emerge from this CCAA Proceeding as soon as possible. The Monitor supports the position of the Applicant in respect of the June 26 Motions.

The Monitor respectfully submits to the Court this Ninth Report dated this 19th day of June 2024.

FTI Consulting Canada Inc.
in its capacity as Court-appointed Monitor of Tacora Resources Inc. and not in its personal or corporate capacity

By: 

Paul Bishop
Senior Managing Director

Jodi Porepa
Senior Managing Director

APPENDIX “A”

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

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

MOTIONS TIMETABLE (MOTIONS RETURNABLE JUNE 5 AND 26)

Delivery of Material/Step	Date
Tacora Sale Process, KERP Reallocation and Stay Period Extension Motion Record Tacora Reconstituted and Supplemented Notice of Motion re Preliminary Threshold Motion Cargill Notice of Motion Objecting to Disclaimer[1]	May 31, 2024
Monitor Report regarding Sale Process Motion and Stay Period Extension Tacora and supporting Facta on all June 5 issues	June 3, 2024
Cargill and other responding Facta on all June 5 issues (before noon) All materials for June 5 uploaded by 12 pm	June 4, 2024
Tacora Reply Factum	June 5, 2024
Sale Process Motion and Stay Period Extension Hearing (half day commencing at 12 pm)	**June 5, 2024**
Cargill Motion Record re Disclaimer Motion Tacora Reconstituted Preliminary Threshold Motion Record	June 11, 2024

[1] Cargill has advised that they are no longer proceeding on June 5, 2024 or June 26 with the Cargill Meeting Order (Plan) Motion

Tacora Responding Record re Disclaimer Motion Cargill Responding Record to Reconstituted Preliminary Threshold Motion	June 14, 2024
Cross-examinations, if any	June 18, 2024
Monitor Report re June 26 issues	June 19, 2024
Cargill Factum re Disclaimer (25 page maximum) Tacora and any supporting Facta re Reconstituted Preliminary Threshold Motion (amending and updating prior factum, 5 additional pages permitted)	June 20, 2024 before noon
Tacora and any other Responding Facta re Disclaimer (25 page maximum) Cargill and any other Responding Facta re Reconstituted Preliminary Threshold Motion (amending and updating prior factum, 5 additional pages permitted)	June 24, 2024
Cargill Reply Factum on Disclaimer (5 pages) before noon. Tacora Reply Factum on Reconstituted Preliminary Threshold Motion (5 pages) before noon	June 25, 2024
All materials uploaded to Caselines by 12 pm	June 25, 2024
Hearing of RVO Preliminary Motion and Disclaimer Objection Motion (full day commencing at 10 am)	**June 26, 2024**

Cargill has advised that it is no longer proceeding with the Global Process Motion on June 26th but proposes to reserve its rights to raise such matters on any opposed future RVO application. Tacora and the Monitor believe that such motion can only be withdrawn with prejudice and cannot be raised again in future given the schedule that was set by the Court. Tacora and the Monitor intend to address the Court on this point on June 5.

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

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.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

MOTIONS TIMETABLE (MOTIONS RETURNABLE JUNE 5 AND JUNE 27)

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Lawyers for the Monitor

APPENDIX “B”

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM	)	WEDNESDAY, THE 5TH
JUSTICE KIMMEL	)	DAY OF JUNE, 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
(Sale Process Order)

THIS MOTION, made by Tacora Resources Inc. (the "**Applicant**"), for an Order approving and ratifying the procedures for a sale process in respect of the Applicant attached hereto as Schedule "A" (the "**Sale Process**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Applicant dated May 31, 2024 (the "**Motion Record**"), the Affidavit of Heng Vuong sworn May 31, 2024, the Ninth Report of FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") dated June 3, 2024, 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 of Senior Noteholders, and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavit of service of Philip Yang, filed,

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Sale Process.

APPROVAL AND RATIFICATION OF THE SALE PROCESS

3. **THIS COURT ORDERS** that the Sale Process attached hereto as Schedule "A" is hereby approved and ratified.

4. **THIS COURT ORDERS** that any steps taken to date by the Applicant, the Financial Advisor, and the Monitor in the Sale Process are hereby ratified.

5. **THIS COURT ORDERS** that the Applicant, the Financial Advisor, and the Monitor are hereby authorized and directed to immediately continue with implementation of the Sale Process pursuant to the terms thereof, and to take any and all actions as may be necessary or desirable to implement and carry out the Sale Process in accordance with its terms and this Order.

6. **THIS COURT ORDERS** that each of the Applicant, the Financial Advisor, the Monitor and their respective affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Applicant, the Financial Advisor, or the Monitor, as applicable, in performing their obligations under the Sale Process, as determined by this Court.

7. **THIS COURT ORDERS** that, pursuant to section 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS), the Applicant, the Financial Advisor and the Monitor were and are hereby authorized and permitted to send, or cause or permit to be sent, commercial electronic messages to an electronic address of prospective bidders or offerors and to their advisors, but only to the extent required to provide information with respect to the Sale Process in these proceedings.

8. **THIS COURT ORDERS** that notwithstanding anything contained herein or in the Sale Process, the Financial Advisor and the Monitor shall not take possession of the Property or be deemed to take possession of the Property.

PROTECTION OF PERSONAL INFORMATION

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Applicant, the Financial Advisor, the Monitor, and their respective advisors were and are hereby authorized and permitted to disclose and transfer to prospective Sale Process participants (each, an "**Sale Process Participant**") and their advisors personal information of identifiable individuals ("**Personal Information**"), records pertaining to the Applicant's past and current employees, and information on specific customers, but only to the extent desirable or required to negotiate or attempt to complete a transaction under the Sale Process (a "**Transaction**"). Each Sale Process Participant to whom any Personal Information is disclosed shall maintain and protect the privacy of such Personal Information and limit the use of such Personal Information to its evaluation of a Transaction, and if it does not complete a Transaction, shall return all such information to the Applicant, the Financial Advisor, or the Monitor, or in the alternative destroy all such information and provide confirmation of its destruction if required by the Applicant, the Financial Advisor, or the Monitor. The Successful Bidder shall maintain and protect the privacy of such information and, upon closing of the Transaction contemplated in the Successful Bid, shall be entitled to use the personal information provided to it that is related to the Business and/or Property acquired pursuant to the Sale Process in a manner that is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Applicant, the Financial Advisor, or the Monitor, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicant, the Financial Advisor, or the Monitor.

GENERAL

10. **THIS COURT ORDERS** that the Applicant or the Monitor or any interested party may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties under the Sale Process.

11. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

12. **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 of America, or in any other foreign jurisdiction, to give effect to this Order and to assist the Applicant, the

Financial Advisor, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant, the Financial Advisor, and 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, the Financial Advisor, the Monitor, and their respective agents in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that the Applicant and 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.

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

Digitally signed
by Jessica Kimmel
Date: 2024.06.11
10:14:13 -04'00'

Schedule "A"

Procedures for the Sale Process

On October 10, 2023, Tacora Resources Inc. ("**Tacora**") commenced proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") before the Ontario Superior Court of Justice (Commercial List) in the City of Toronto (the "**Court**") pursuant to an order granted by the Court on the same day (as may be amended or amended and restated from time to time, the "**Initial Order**").

Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor in the CCAA Proceedings (in such capacity, the "**Monitor**"). Greenhill & Co. Canada Ltd. (the "**Financial Advisor**") is acting as Tacora's financial advisor and investment banker.

On June 5, 2024, the Court granted an order (the "**Sale Process Order**") authorizing Tacora to undertake a sale process (the "**Sale Process**") to solicit offers or proposals for a sale transaction in respect of Tacora's assets (the "**Property**") and business operations (the "**Business**") to be conducted by the Financial Advisor, and supervised by the Monitor, in the manner set forth in these procedures (the "**Sale Procedures**").

Defined Terms

1. Capitalized terms used in the Sale Procedures and not otherwise defined herein have the meanings given to them in Appendix "A".

Sale Procedures

Opportunity

2. The Sale Process is intended to identify the highest and/or best offer for the sale of (a) all the shares of Tacora (the "**Shares**") to be implemented pursuant to a subscription agreement ("**Subscription Agreement**"), or (b) all or substantially all the Property and the Business pursuant to an asset purchase agreement ("**APA**") (the "**Opportunity**"). Tacora reserves the right to terminate the Sale Process at any time.

General

3. Except as set forth in these Sale Procedures, nothing in this Sale Process shall prohibit a secured creditor of Tacora (a) from participating as a Bidder in the Sale Process, or (b) committing to Bid its secured debt, including by way of a credit bid of some or all of its outstanding indebtedness under any loan facility (inclusive of interest and other amounts payable under such loan agreement to and including the date of closing of a definitive transaction) owing to such party ("**Credit Bid**").

4. Tacora, in consultation with the Financial Advisor and the Monitor, shall have complete discretion with respect to the provision of any information to any party or any consultation rights in connection with the Sale Process, provided that, no information regarding any Bids received shall be provided to any stakeholders of Tacora or their respective advisors other than in connection with a motion to approve the Successful Bid or Back-Up Bid, if applicable.

Timeline

5. The following table sets out the key milestones under the Sale Process, which may be extended from time to time by Tacora, in consultation with the Financial Advisor and with the consent of the Monitor, in accordance with the Sale Process.

Event	Timing
1. Access to VDR and Template Subscription Agreement and Template APA Bidders provided access to the VDR, subject to execution of an appropriate NDA and provided with the Template Subscription Agreement and the Template APA.	Access to the VDR has been and will be provided to parties on a rolling basis following request for access and execution of an appropriate NDA. Parties will be provided with the Template Subscription Agreement and the Template APA no later than June 21, 2024.
2. Bid Deadline Deadline for Bidders to submit binding definitive offers in accordance with the requirements of Section 10.	July 12, 2024.
3. Auction (if applicable)	July 16, 2024.
4. Approval Motion Hearing of Approval Motion in respect of Successful Bid.	July 26, 2024.
5. Outside Date – Closing Outside Date by which the Successful Bid must close.	To be determined by Tacora, in consultation with the Financial Advisor and the Monitor. Tacora will announce such date to Bidders in advance of the Bid Deadline (the "**Outside Date**").

Solicitation of Interest

6. The following steps have been taken by Tacora, the Financial Advisor or the Monitor, as applicable:

   a) a notice of the Sale Process and any other relevant information that the Monitor, in consultation with Tacora and the Financial Advisor, considered appropriate regarding the Sale Process was posted by the Monitor on the Monitor's Website; and

   b) the Financial Advisor, in consultation with Tacora and the Monitor, (i) contacted financial and strategic parties that the Financial Advisor, believed

may be able to submit or participate in a Qualified Bid in connection with the Sale Process (each a "**Potential Bidder**"); and (ii) provided each Potential Bidder with a form of non-disclosure agreement satisfactory to the Financial Advisor, Tacora, the Monitor, and their respective counsel (an "**NDA**").

7. Tacora, in consultation with the Financial Advisor and the Monitor, will prepare a template Subscription Agreement (the "**Template Subscription Agreement**") and APA (the "**Template APA**") to be used by Bidders in submitting a Bid. The Template Subscription Agreement and the Template APA will be provided to Bidders by no later than June 21, 2024.

Communication Protocol

8. Each Potential Bidder and Bidder is prohibited from communicating with any other Potential Bidder or Bidder and their respective affiliates and their legal and financial advisors regarding the Opportunity during the term of the Sale Process, without the consent of the Financial Advisor and the Monitor except as provided in these Sale Procedures (and for certainty, such consent granted prior to the date of approval of these Sale Procedures shall continue to apply without requirement for additional consent). Notwithstanding the terms of any NDA entered into by a Bidder, all Bidders shall comply with these Sale Procedures.

9. Notwithstanding the terms of any NDA entered into by a Bidder, the Financial Advisor may introduce any Bidder who expresses an interest in submitting a consortium or joint Bid, to one or more other Bidders. Any Bidder who is interested in submitting a consortium or joint Bid must confirm to the Financial Advisor that it will act exclusively with another Bidder or consortium of Bidders submitting a single Bid.

Bids

10. A Bidder that wishes to make a definitive transaction proposal (a "**Bid**") shall submit a binding offer that complies with all of the following requirements to the Financial Advisor (including by email) with a copy to the Monitor (including by email) so as to be received by the Financial Advisor not later than 5:00 p.m. (Eastern Time) on July 12, 2024, or such later date as determined by Tacora, in consultation with the Financial Advisor and with the consent of the Monitor (the "**Bid Deadline**"). Such Bid shall be a "**Qualified Bid**" if it meets all of the following criteria:

    a) it has been duly executed by all required parties;

    b) it is received by the Bid Deadline;

    c) it is binding and includes a letter confirming that the Bid is irrevocable until the selection of the Successful Bidder and the Back-Up Bidder, if any, provided that if such Bidder is selected as the Successful Bidder or the Back-Up Bidder, its offer shall remain irrevocable until the earlier of (i) completion of the transaction, and (ii) the Outside Date, subject to such further extensions as may be agreed to under the applicable Subscription Agreement or APA, with the consent of the Monitor;

    d) it is in the form of a duly authorized and executed Subscription Agreement or

APA, including all exhibits and schedules contemplated thereby (other than exhibits and schedules that by their nature must be prepared by Tacora), together with a redline to the Template Subscription Agreement or the Template APA;

e) the Bid includes:

i. the purchase price and key assumptions supporting the valuation and the anticipated amount of cash payable on closing of the proposed transaction;

ii. details regarding any consideration which is not cash, including to the extent applicable, appropriate documentation supporting a Credit Bid;

iii. any contemplated purchase price adjustment;

iv. written evidence of a firm commitment for financing or other evidence of ability to consummate the proposed transaction satisfactory to Tacora, in consultation with the Financial Advisor and the Monitor;

v. a description of the Shares or Property, as applicable, that is subject to the transaction and any of the Property expected to be excluded;

vi. a description of those liabilities and obligations (including operating liabilities and obligations to employees) which the Bidder intends to assume and those liabilities and obligations it does not intend to assume and are to be excluded as part of the transaction;

vii. it identifies whether the Bidder intends to assume or exclude the Offtake Agreement (with or without amendment) and if the Bidder intends to exclude the Offtake Agreement, the alternative offtake terms required to complete the transaction contemplated by the Bid;

viii. information sufficient for Tacora, in consultation with the Financial Advisor and the Monitor, to determine that the Bidder has sufficient financial ability to complete the transaction contemplated by the Bid;

ix. a description of the Bidder's intentions for the Business, including any plans or conditions related to Tacora's management and employees; and

x. any other terms or conditions of the Bid that the Bidder believes are material to the transaction;

f) it is not subject to the outcome of unperformed due diligence, internal approval(s) or contingency financing;

g) it contains no conditions other than as contemplated by the Template Subscription Agreement or the Template APA;

h) it fully discloses the identity of each entity that will be entering into the

transaction, or that is sponsoring, participating in or benefiting from such Bid, and such disclosure shall include, without limitation: (i) in the case of a Bidder formed for the purpose of entering into the proposed transaction, the identity of each of the actual or proposed direct or indirect equity holders of such Bidder and the terms and participation percentage of such equity holder's interest in such Bid; and (ii) the identity of each entity that has or will receive a benefit from such Bid from or through the Bidder or any of its equity holders and the terms of such benefit;

i) it is accompanied by a non-refundable good faith cash deposit (the "**Deposit**") equal to 10% of the total cash component of the purchase price contemplated under the Bid which shall be paid to the Monitor and held in trust pursuant to Section 29 hereof until the earlier of (i) closing of the Successful Bid or Back-Up Bid, as applicable; and (ii) rejection of the Bid pursuant to Section 27;

j) it includes acknowledgements and representations of the Bidder that: (i) it had an opportunity to conduct any and all due diligence desired regarding the Property, Business and Tacora prior to making its offer; (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its Bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business, Property or Tacora or the completeness of any information provided in connection therewith, except to the extent otherwise provided under any definitive transaction agreement executed by Tacora;

k) it includes an acknowledgement that the Bid is made on an "as-is, where-is" basis; and

l) it contains such other information as may be reasonably requested by Tacora, in consultation with the Financial Advisor and the Monitor.

11. Nothing in these Sale Procedures shall preclude a Bidder from submitting more than one Bid.

Assessment of Bids

12. Bids may not be modified, amended, or withdrawn after the Bid Deadline without the written consent of Tacora, in consultation with the Financial Advisor and with the consent of the Monitor, except for proposed amendments to increase the purchase price or otherwise improve the terms of the Bid for Tacora, its creditors and other stakeholders.

13. Tacora, in consultation with the Financial Advisor and with the consent of the Monitor, shall reject any Bid if it is determined that such Bid does not constitute a Qualified Bid, provided that, Tacora, in consultation with the Financial Advisor and with the consent of the Monitor, may:

a) waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Bid to be a Qualified Bid; or

b) seek to combine separate Bids to create a Qualified Bid.

No Bidder shall have any expectation that Tacora will (i) waive strict compliance with any one or more of the requirements; or (ii) seek to combine separate Bids to create a Qualified Bid.

14. If Tacora receives two (2) or more Qualified Bids, Tacora may, in consultation with the Financial Advisor and the Monitor, undertake one or more of the following steps:

a) request or negotiate one or more amendments to any Qualified Bids;

b) accept one of the Qualified Bids (the "**Successful Bid**" and the offeror making such Successful Bid the "**Successful Bidder**") and take such steps as may be necessary to finalize definitive transaction documents for the Successful Bid with Successful Bidder and select the next highest or otherwise best Qualified Bid to be a back-up bid (the "**Back-Up Bid**" and such bidder, the "**Back-Up Bidder**"). For greater certainty, Tacora shall not be required to select a Back-Up Bid; or

c) identify the highest and/or best of the Qualified Bids received and such Qualified Bid will constitute the opening bid for the purposes of the Auction (the "**Opening Bid**").

15. If Tacora receives only one (1) Qualified Bid, such Qualified Bid shall be declared the Successful Bid and an Approval Motion shall be brought forthwith.

Auction

16. If Tacora, in consultation with the Financial Advisor and the Monitor, determines that an Auction should be held, Tacora shall conduct an Auction commencing at 9:00 a.m. (Eastern time) on July 16, 2024, or such other date as determined by Tacora, in consultation with the Financial Advisor and the Monitor, at the offices of Stikeman Elliott LLP located at 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario M5L 1B9.

17. Except as otherwise permitted in Tacora's discretion, in consultation with the Financial Advisor and the Monitor, only Tacora, the Monitor, the Auction Bidders and, in each case, their respective advisors, counsel and other representatives, will be entitled to attend the Auction. Only Bidders who submitted a Qualified Bid are eligible to participate in the Auction. Each Auction Bidder shall identify to the Financial Advisor and the Monitor at least 24 hours in advance of the Auction who will attend the Auction on their behalf. The identity of each Bidder participating in the Auction (each Bidder participating in the Auction being an "**Auction Bidder**") will be disclosed to all other Auction Bidders. Each Auction Bidder shall keep the identities of each other Auction Bidder confidential.

18. Except as otherwise set forth herein, Tacora, in consultation with the Financial Advisor and the Monitor, may waive and/or employ and announce at the Auction additional rules that it considers reasonable under the circumstances for conducting the Auction, provided that such rules are: (a) disclosed to each Auction Bidder; and

(b) designed, in Tacora's business judgement, to result in the highest and/or best offer.

19. Tacora will arrange for the actual bidding at the Auction to be transcribed or recorded. Each Auction Bidder participating in the Auction will designate a single individual to be its spokesperson during the Auction. The Auction shall be conducted on an open basis, such that all material terms of each Auction Bid at the Auction will be fully disclosed to all other Auction Bidders throughout the entire Auction.

20. Each Auction Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with Tacora, another Bidder or any other person, without the consent of the Financial Advisor and the Monitor, regarding the Sale Process. Further, each Auction Bidder shall disclose all co-bidding or team bidding arrangements, whether formal or informal, among the Auction Bidder and any third party or financing source. The identity of any and all co-bidders or team bidders involved in submitting any Auction Bid shall be disclosed on the record at the Auction.

21. Bidding at the Auction will continue in minimum increments in excess of the Opening Bid determined from time to time by Tacora, in consultation with the Financial Advisor and the Monitor. Each overbid (an "**Auction Bid**") announced on the record at the Auction shall be deemed to be an irrevocable offer capable of acceptance by Tacora and may not be withdrawn or amended by the Auction Bidder without the consent of Tacora, in consultation with the Financial Advisor and the Monitor.

22. For the purposes of facilitating bidding, Tacora, in consultation with the Financial Advisor and the Monitor, may (but is not required to) ascribe a monetary value to any non-cash considerations of any of the Auction Bids, including by way of example, to different levels of conditionality to closing. If requested by Tacora, in consultation with the Financial Advisor and the Monitor, each Auction Bidder will provide evidence of its financial wherewithal and ability to consummate the transaction at an increased purchase price.

23. The Auction will continue until the bidding has concluded and Tacora, in consultation with the Financial Advisor and the Monitor, determine the Successful Bid. Tacora, in consultation with the Financial Advisor and the Monitor shall determine which Auction Bidder has submitted the highest and/or best Auction Bid of the Auction. At the conclusion of bidding, the Auction will be closed, and the highest and/or best Auction Bid, as determined by Tacora, in consultation with the Financial Advisor and the Monitor, will be Successful Bid and the next highest and otherwise best Auction Bid will be the Back-Up Bid, as applicable. Any Auction Bids submitted after the conclusion of the Auction will not be considered.

24. In determining the Successful Bid at the Auction, the Financial Advisor, Tacora and the Monitor may evaluate the following non-exhaustive list of considerations: (a) the purchase price and net value (including assumed liabilities and other obligations to be performed by the Auction Bidder); (b) the firm, irrevocable commitment for financing of the transaction; (c) the claims likely to be created by such Auction Bid in relation to other Auction Bids; (d) the counterparties to the transaction; (e) the terms of transaction documents; (f) the closing conditions and other factors affecting the

speed, certainty and value of the transaction; (g) planned treatment of stakeholders, including employees; (h) the assets included or excluded from the Auction Bid; (i) any restructuring costs that would arise from the Auction Bid; (j) the likelihood and timing of consummating the transaction; (k) the capital sufficient to implement post-closing measures and transactions; and (l) any other factors that the Financial Advisor, Tacora, and Monitor may deem relevant in their sole discretion.

25. Upon selection of the Successful Bidder and a Back-Up Bidder, if any, Tacora will require the Successful Bidder and the Back-Up Bidder, if any, to execute, as soon as practicable, an amended Subscription Agreement or APA, as applicable, that reflects its final Bid and any other modifications submitted and agreed to during the Auction.

26. If the Successful Bidder fails to consummate the Successful Bid for any reason, then the Back-Up Bid will be deemed to be the Successful Bid and Tacora will proceed with the transaction pursuant to the terms of the Back-Up Bid. Any Back-Up Bid shall remain open for acceptance until the earlier of completion of the transaction or the Outside Date.

27. All Qualified Bids (other than the Successful Bid and the Back-Up Bid, if any) shall be deemed rejected by Tacora on and as of the date of the execution of the definitive documents contemplated by the Successful Bid by Tacora.

28. The Monitor shall supervise the Sale Process as outlined herein. Any disputes relating to a disagreement regarding or clarification required as to the interpretation or application of these Sale Procedures, the construction and enforcement of an Auction Bidder's Auction Bid and/or executed transaction documents, the responsibilities of the Monitor, the Financial Advisor or Tacora hereunder, shall be determined by the Court and each Auction Bidder shall be deemed to have consented to the jurisdiction of the Court in connection with any such disputes. The Court will have jurisdiction to hear such matters and provide advice and directions, upon application of the Monitor or Tacora or any other interested party with a hearing which shall be scheduled on not less than three (3) Business Days' notice.

Deposits

29. All Deposits will be retained by the Monitor and deposited in an interest bearing trust account. The Deposit paid by the Successful Bidder and Back-Up Bidder whose Bid(s) is/are approved at the Approval Motion will be dealt with in accordance with the definitive documents for the transaction contemplated by the Successful Bid or the Back-Up Bid, as applicable, and will be non-refundable, other than in the circumstances set out in the Successful Bid or Back-Up Bid, as applicable. The Deposits (and any interest thereon) of Qualified Bidders not selected as the Successful Bidder or Back-Up Bidder will be returned to such Qualified Bidders within five (5) Business Days after the selection of the Successful Bidder or such earlier date as may be determined by the Monitor, in consultation with the Financial Advisor and Tacora. The Deposit of the Back-Up Bidder, if any, shall be returned to the Back-Up Bidder no later than five (5) Business Days after closing of the transaction contemplated by the Successful Bid.

Approval Motion

30. The Approval Motion shall be heard on July 26, 2024. At the Approval Motion, Tacora shall seek the Approval Order.

31. Prior to the Approval Motion, the Monitor shall provide the Court with a report providing information on the process and including its recommendation in connection with the relief sought at the Approval Motion.

"As Is, Where Is"

32. Any sale of the Shares, Business, and/or Property, as applicable, will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by Tacora, the Financial Advisor or the Monitor, or their advisors or agents, except to the extent otherwise provided under any definitive sale agreement with the Successful Bidder or Back-Up Bidder, if any, executed by Tacora. None of Tacora, the Financial Advisor or the Monitor, or their advisors or agents, including the Financial Advisor, make any representation or warranty as to the information contained in any teaser letter, any management presentation or the VDR, except to the extent otherwise provided under any definitive sale agreement with the Successful Bidder or Back-Up Bidder, if any, executed by Tacora. Each Bidder is deemed to acknowledge and represent that: (a) it has had an opportunity to conduct any and all due diligence regarding the Business and Property prior to making its Bid; (b) it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Business and Property in making its Bid; and (c) it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Business and Property, or the completeness of any information provided in connection therewith, except to the extent otherwise provided under any definitive sale agreement executed by Tacora.

No Entitlement to Expense Reimbursement or Other Amounts

33. Bidders shall not be entitled to any breakup fee, termination fee, expense reimbursement, or similar type of payment or reimbursement.

Jurisdiction

34. Upon submitting a Bid, the Bidder shall be deemed to have submitted to the exclusive jurisdiction of the Court with respect to all matters relating to the Sale Process and the terms and conditions of these Sale Procedures and any Bid.

35. None of Tacora, the Financial Advisor or the Monitor shall be liable for any claim for a brokerage commission, finder's fee or like payment in respect of the consummation of any of the transactions contemplated under the Sale Process arising out of any agreement or arrangement entered into by the parties that submitted the Successful Bid and Back-Up Bid.

APPENDIX "A"

DEFINED TERMS

(a) "**APA**" shall have the meaning attributed to it in Section 2;

(b) "**Approval Motion**" means the motion seeking approval by the Court of the Successful Bid;

(c) "**Approval Order**" means an order of the Court approving, among other things, if applicable, the Successful Bid and the consummation thereof;

(d) "**Auction Bid**" shall have the meaning attributed to it in Section 21;

(e) "**Auction Bidder**" shall have the meaning attributed to it in Section 17;

(f) "**Back-Up Bid**" shall have the meaning attributed to it in Section 14.a);

(g) "**Back-Up Bidder**" shall have the meaning attributed to it in Section 14.a);

(h) "**Bid**" shall have the meaning attributed to it in Section 10;

(i) "**Bidder**" means a Potential Bidder interested in the Opportunity who has executed an NDA with Tacora;

(j) "**Bid Deadline**" shall have the meaning attributed to it in Section 10;

(k) "**Business**" shall have the meaning attributed to it in the preamble;

(l) "**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;

(m) "**CCAA**" shall have the meaning attributed to it in the preamble;

(n) "**CCAA Proceedings**" shall have the meaning attributed to it in the preamble;

(o) "**Court**" shall have the meaning attributed to it in the preamble;

(p) "**Credit Bid**" shall have the meaning attributed to it in Section 3;

(q) "**Deposit**" shall have the meaning attributed to it in Section 10.i);

(r) "**Financial Advisor"** shall have the meaning attributed to it in the preamble;

(s) "**Initial Order**" shall have the meaning attributed to it in the preamble;

(t) "**Monitor**" shall have the meaning attributed to it in the preamble;

(u) "**Monitor's Website**" means http://cfcanada.fticonsulting.com/Tacora;

(v) "**NDA"** shall have the meaning attributed to it in Section 6.b);

(w) "**Note Indentures**" means collectively, (a) the indenture dated as of May 11, 2021, and second supplemental indenture dated February 16, 2022, among Tacora and Computershare Trust Company, N.A., as successor to the initial trustee and collateral agent, pursuant to which Tacora issued $225,000,000 of senior notes bearing interest at a rate of 8.25%; (b) the amended and restated base indenture dated May 11, 2023, as supplemented by the first supplemental indenture dated May 11, 2023, and the second supplemental indenture dated May 11, 2023, pursuant to which Tacora issued $27,000,000 of senior priority notes bearing interest at a rate of 13.00%, with 9.00% being paid via cash and 4.00% being paid via payment-in-kind; (c) the third supplemental indenture dated June 23, 2023; and (d) the fourth supplemental indenture dated September 8, 2023.

(x) "**Offtake Agreement**" means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended;

(y) "**Opening Bid**" shall have the meaning attributed to it in Section 14;

(z) "**Opportunity**" shall have the meaning attributed to it in Section 2;

(aa) "**Outside Date"** shall have the meaning attributed to it in Section 5;

(bb) "**Potential Bidder**" shall have the meaning attributed to it in Section 6.b);

(cc) "**Property**" shall have the meaning attributed to it in the preamble;

(dd) "**Qualified Bid**" shall have the meaning attributed to it in Section 10;

(ee) "**Sale Process Order**" shall have the meaning attributed to it in the preamble;

(ff) "**Sale Process**" shall have the meaning attributed to it in the preamble;

(gg) "**Sale Procedures**" shall have the meaning attributed to it in the preamble;

(hh) "**Shares**" shall have the meaning attributed to it in Section 2;

(ii) "**Subscription Agreement**" shall have the meaning attributed to it in Section 2;

(jj) "**Successful Bid**" shall have the meaning attributed to it in Section 14.a);

(kk) "**Successful Bidder**" shall have the meaning attributed to it in Section 14.a);

(ll) "**Template APA**" shall have the meaning attributed to it in Section 7;

(mm) "**Template Subscription Agreement**" shall have the meaning attributed to it in Section 7; and

(nn) "**VDR**" means a confidential virtual data room in relation to the Opportunity that will be made available by Tacora to Bidders that have executed an NDA.

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

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

(Applicant)

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

ORDER
(Sale Process Order)

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Counsel to Tacora Resources Inc.

APPENDIX “C”

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM	)	WEDNESDAY, THE 5TH
JUSTICE KIMMEL	)	DAY OF JUNE, 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)

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 Period, was heard this day at 330 University Avenue, Toronto.

ON READING the Motion Record of the Applicant dated May 31, 2024 (the "**Motion Record**"), the Affidavit of Heng Vuong sworn May 31, 2024, the Ninth Report of FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") dated June 3, 2024 (the "**Ninth Report**"),

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 of Senior Noteholders, and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavit of service of Philip Yang, filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service 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 July 29, 2024, or such later date as this Court may order.

KERP REALLOCATION

4. **THIS COURT ORDERS** that the Applicant is hereby authorized to amend the KERP described in the ARIO to, among other things, reallocate KERP Funds that were earmarked for Key Employees who have resigned from Tacora to certain other Key Employees.

SEALING

5. **THIS COURT ORDERS** that Confidential Appendix "1" to the Ninth Report is hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

6. **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.

7. **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.

8. **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.

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

Digitally signed
by Jessica Kimmel
Date: 2024.06.07
11:34:29 -04'00'

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

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 TORONT

ORDER
(STAY EXTENSION)

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Counsel to Tacora Resources Inc.

APPENDIX “D”

ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00707394-00CL **HEARING DATE:** June 5, 2024

NO. ON LIST: 1

TITLE OF PROCEEDING: **IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TACORA RESOURCES INC**

BEFORE JUSTICE: **KIMMEL**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE KIMMEL:

1. Tacora seeks approval of:
    a. a Sale Process Order; and
    b. a Stay Extension Order, that, among other things: (i) extends the Stay Period to July 29, 2024; (ii) authorizes Tacora to reallocate KERP Funds that were earmarked for Key Employees who have resigned from Tacora to certain other Key Employees; and (iii) seals the confidential appendix 1 (the "Confidential Appendix") to the Ninth Report of the Monitor dated June 3, 2024 (the "Ninth Report"), which contains details of the reallocated KERP.
2. Capitalized terms not otherwise defined in this endorsement shall have the meanings ascribed to them in the Company's factum filed in support of this motion.

The Stay Extension Order

3. The Stay Extension Order is supported by the Monitor and not opposed.
4. The court may grant an extension of the Stay Period pursuant to s. 11.02(2) and (3) of the CCAA "for any period that the court considers necessary" where the applicant satisfies the court that: (a) circumstances exist that make the order appropriate; and (b) it has acted, and is acting, in good faith and with due diligence.
5. Tacora has acted, and continues to act, in good faith and with due diligence to advance its restructuring within these CCAA Proceedings. 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 alternatives and pursue a value-maximizing transaction. Tacora's Updated Cash Flow Forecast reflects that, subject to the indicated assumptions, Tacora is forecast to have sufficient liquidity to fund its obligations and the costs of the CCAA Proceedings through to the end of the proposed extension of the Stay Period. The Monitor's supports the requested extension to the Stay Period and no creditor or other stakeholder is objecting to it.
6. The same justifications apply as when the court approved the last extension of the Stay Period to June 24, 2024. See *Tacora Resources Inc. (Re)*, 2024 ONSC 2454, at paras. 52-54.
7. Tacora is also seeking the court's approval to reallocate the KERP amounts under the existing KERP Funds (that were allocated to the Key Employees who have resigned) to certain other Key Employees. Key Employees are critical to the Company's operations and restructuring activities. The additional Key

Mine Employee is similarly critical to the Company's operations and restructuring activities. There is a risk that the Key Employees may pursue other employment opportunities if the KERP amounts under the existing KERP Funds are not reallocated to the remaining Key Employees. Finding alternative, qualified individuals to replace the Key Employees will be challenging, disruptive, costly, and time consuming for the Company.

8. To date, none of the KERP Funds that were designated under the original order approving the KERP have been paid out. Orders of this nature, amending the list of eligible employees under a KERP and reallocating KERP funds, have been made in other cases. See for example, *Arrangement relatif à FormerXBC Inc. (Xebec Adsorption Inc.)*, 2023 QCCS 834, 82 *PCAS Patient Care Automation Services Inc (Re)*, 2012 ONSC 2423 at para. 10.
9. The reallocation of the KERP Funds is appropriate, reasonable and justified in the circumstances, and the terms, conditions and amounts of such reallocation are in line with KERP previously approved by this court and employee retention plans approved in other CCAA proceedings. The same justifications exist for the proposed amendments to KERP as existed when it was originally approved. See *Tacora Resources Inc. (Re)*, 2023 ONSC 6126, at para. 158 (d).
10. Similarly, the same justifications apply to the sealing of the Confidential Appendix to the Monitor's Ninth Report containing the amounts to be reallocated to eligible employees under the KERP as applied to the sealing of the confidential exhibits in respect of the KERP when it was originally approved. See *Tacora Resources Inc. (Re)*, 2023 ONSC 6126, at paras. 159-162.
11. I have signed the Stay Extension Order, dated and effective June 5, 2024.

Sale Process Order

12. Without attracting sufficient capital to make the capital improvements that Tacora needs to increase production, Tacora will continue to generate losses. It has been reiterated many times in the course of this proceeding that the only way in which Tacora can become a long-term sustainable operation is for it to attract investors and/or purchaser to make the necessary investments in the Scully Mine.
13. As of the week ending June 23, 2024, Tacora is forecasted to add at least another $125 million of secured debt to its balance sheet through the DIP Facility on top of its already overleveraged capital structure that existed at the time that it commenced these CCAA Proceedings. The increasing amount of debt will make the restructuring more difficult to complete as third-party investors will need to invest incremental further amounts to address the DIP financing prior to investing the required amounts into the Company.
14. Tacora is fielding questions from trade creditors and employees. It has already lost three of its Key Employees since the CCAA filing. As the second largest employer in the Labrador West region, delaying emergence from these CCAA Proceedings will result in uncertainty for a significant number of employees. This delay also introduces uncertainty and the potential for distractions in Tacora's dealings with frustrated trade creditors that are needed for its continued operations. The concerns of these and other stakeholder groups continue to loom large while Tacora seeks an alternative going-concern solution.
15. Tacora continues to pursue a consensual restructuring with its two most significant stakeholders: Cargill and the Ad Hoc Group of noteholders. As has been said before, however, Tacora cannot do so without also advancing a sale process in parallel to identify one or more investors and/or purchasers and a transaction to allow Tacora to exit these CCAA Proceedings. Tacora has worked with its financial and other advisors and the Monitor, in consultation with its noteholders and Cargill, to come up with the proposed Sale Process.
16. The proposed Sale Process builds upon Tacora's pre-CCAA efforts to sell or restructure and the post-CCAA filing court approved Solicitation Process that resulted in a successful bid that was not completed. As the Monitor explains in its Ninth Report, the timeline of the Sales Process was designed to identify an actionable transaction within the time frame of its projected remaining availability under

the DIP Facility. The Monitor has reiterated in its Ninth Report that completing the restructuring so that Tacora can emerge from this CCAA proceeding as soon as possible is of critical importance to the Company and its stakeholders.

17. The Monitor is of the view that the Sale Process, including the possibility of an Auction, can be achieved within that time frame and provides for an open, fair and transparent process with an appropriate level of independent oversight. The Monitor also believes that the proposed Sale Process will encourage and facilitate bidding by interested parties and that it is reasonable in the circumstances.
18. Tacora's proposed Sale Process is designed to be efficient and focused. If a successful transaction emerges from it, Tacora will be seeking court approval on July 26, 2024, before the now extended Stay Period expires. Tacora is focused on running an efficient Sale Process that strikes a balance between the much needed certainty of an executable transaction and the need for flexibility to try to secure the best available transaction.
19. Cargill is the only party that is objecting to the Proposed Sale Process. Cargill has suggested changes, with explanations, which Tacora has responded to.
20. Some of Cargill's requested changes were accepted by the Company in advance of the June 5, 2024 hearing. Some further suggested changes from Cargill were accepted at the urging of the court during the hearing. Importantly, Tacora has agreed that it will not dictate what type of transaction the bids should be for, a share deal (RVO) or an asset deal (APA). Tacora has agreed to remove the fourth recital that Cargill was objecting to and to amend section 2 and make conforming changes elsewhere, as needed, to reflect this further change that will allow bidders to choose their transaction structure (for example in section 7 so as to provide for templates to be given to bidders for both types of transactions).
21. Some of the concerns raised by Cargill about the proposed Sale Process that it seeks to have addressed through its remaining suggested changes require the court's input and direction as they have not been accepted by Tacora.
22. As a general matter, the specific terms of the Sale Process are a matter of business judgment for Tacora. It has proposed the Sale Process with the benefit of the advice of its legal and other advisors, and input from the Monitor and both the Ad Hoc Group and Cargill. The court will not lightly interfere with the mechanics of the proposed Sale Process that the Company has proposed based on these inputs, absent some demonstration of unfairness or concerns that could undermine the eventual approval of any transaction that comes out of the Sale Process.
23. Subsection 36(3) of the CCAA sets out certain factors for the Court to consider in approving a sale. Section 36 does not directly address the factors a court should consider when determining whether to approve a sale process, however, such criteria can be evaluated in light of the considerations that will ultimately apply when seeking approval of a sale transaction, including whether the process is reasonable in the circumstances, whether the Monitor approved the process, and the extent to which the creditors were consulted. See *Brainhunter Inc. (Re)*, 2009 CanLII 72333, at para. 16.
24. The remaining disputed suggested changes to Tacora's proposed Sale Process are discussed below, with reference corresponding section numbers in the Procedures for Sale Process.
25. <u>Changes to section 2:</u> Cargill requests that section 2 expressly allow for a CCAA plan as a transaction option in the Sale Process. While Tacora is not specifying a CCAA plan as a transaction option in the Sale Process, its counsel stated in court that if a viable plan is submitted by any party, whether in conjunction with a bid submitted in the Sale Process or outside of it, the Company will consider the option of pursing a plan. To that end, the Company has retained the ability to adjust the Sale Process or terminate it if there is an option presented that is not strictly within the Sale Process requirements that the Company, in consultation with the Monitor, deems to be viable and worth pursuing. I agree with Tacora that expressly providing for a CCAA plan option overly complicates the Sale Process and the suggested changes to this end need not be included Sale Process. There is sufficient flexibility in the process to allow for a CCAA plan to be put forward and for any viable plan that is presented to be considered and pursued if deemed appropriate.

26. Changes to section 5: Cargill would like the date of the sale approval motion in section 5 to be stated to be subject to change to a later date (such "other" date rather than such "earlier" date) set by the court. The court remains concerned about timing. The July 26, 2024 approval date is within the current Stay Period extension. I agree with Tacora that this date should be presented and considered to be a firm date. If contingencies arise, they can be addressed but they need not be expressly provided for now.
27. Changes to section 10 (e)(vii): Cargill would like the conditions of qualified bids in section 10 (e) (vii) to include repayment of the DIP in full. The Company is concerned that introducing the repayment of the DIP as a condition of a Qualifying Bid could have a chilling effect on other prospective bidders and give Cargill an advantage in the bidding process, which could compromise the fairness of the Sale Process. This is not dissimilar to the Ad Hoc Group's attempt to introduce a topping credit bid into the first Solicitation Process, which the court rejected (see *Tacora Resources Inc (Re)*, 2023 ONSC 6126 at paras. 121 – 123). Cargill does not need this condition to protect its position, nor is it entitled to this level of protection as a DIP lender (see *DGDP-BC Holdings Ltd v Third Eye Capital Corporation*, 2021 ABCA 226, at paras. 30-32). It can make a back-stop credit bid if it is concerned that a bid might be accepted that is below the value of the DIP. Tacora's counsel confirmed in court that it remains open to Cargill to make a credit bid within the Sale Process, in conjunction with or in addition to any other bid that Cargill may wish to make in the Sale Process. What Cargill will not be entitled to do is decline to participate at all in the Sale Process and then come forward afterwards and try to make a credit bid.
28. Changes to section 10 (g): Cargill argues, regarding section 10 (g), that a bid should not be excluded from being considered a Qualified Bid simply because a potential bidder adds in different or additional required conditions to their transaction documents beyond those included in the transaction templates. The company retains the ability to accept non-compliant Bids, but does not want to invite bidders to submit bids with additional or new conditions. Added conditions will make the comparisons of the Bids more difficult. Further, the last accepted bid was lost because of a condition; having been burned once, Tacora would like to discourage conditions beyond those that it will include in its templates that it considers to be achievable. Since the goal is an executable transaction and Tacora is best situated to identify the conditions it can tolerate, bidders should be incentivized to structure their bids accordingly. Cargill's proposed change to s. 10 (g) is not necessary or appropriate.
29. Changes to section 12: Nor are Cargill's proposed changes to section 12 necessary or appropriate, particularly since in that same section, Tacora has expressly retained the ability to waive strict compliance with any one or more of the specified Bid requirements and deem such non-compliant Bid to be a Qualified Bid. This already qualifies the earlier language indicating that a bid that is not a Qualified bid "shall" be rejected. The existing language strikes the appropriate balance and "shall" need not be changed to "may" in section 12.
30. Changes to section 16: With respect to section 16, Cargill believes that the DIP Lender, as a significant stakeholder, should be permitted to attend the auction. Tacora plans to restrict attendance at the auction to participating bidders, and it will not be open to stakeholders unless they are also bidders. Cargill will be permitted to attend the auction if it is participating as a bidder in the auction but otherwise does not have an automatic right to participate in it. If it wants to be present at the auction it will need to be a participating bidder. The company and the Monitor will communicate with stakeholders who are not part of the auction as needed. The auction process needs to be fair and focused on the objective of maximizing value for the Company and its stakeholders from the participating bidders. No justification was offered for Cargill to be there in any other capacity. If issues arise in the auction process that require input from Cargill in some other capacity (for example, as Dip Lender, or as contractual counterparty or as creditor), or input from any other stakeholder not otherwise participating in the auction process, the Company has said it will reach out to them.
31. Changes to sections 18-22: Cargill has asked that the auction procedures at sections 18-22 should be deleted and left to be settled at a later time rather than pre-determined before any bids have been received. Cargill has not raised any specific objections to the proposed auction procedures in these sections. The timelines for the Sale Process and auction procedures are such that it is better to have as

much determined in advance as possible. Flexibility has been retained in section 17 for Tacora to revise the auction procedures later if need be.

32. In summary, none of the remaining changes to the Sale Process that Cargill requested that have not already been agreed to by Tacora need to be made.
33. The Sale Procedures within the proposed Sale Process, with the amendments that have now been agreed to, are fair and reasonable:
    a. They will best serve the interests of the Company's stakeholders as a whole by enhancing the prospects of a successful restructuring;
    b. They have been approved by the Monitor;
    c. The significant creditors and stakeholders, including the Ad Hoc Group and Cargill, were consulted.

    See *Brainhunter,* at para. 16. The factors that support the approval of the proposed Sale Process are set out in detail in the Company's factum for this motion and in the Monitor's Ninth Report.

34. The Sale Process is approved. Once Tacora has made the changes that it agreed to make to the Sale Process, the revised Sale Process Order may be submitted to me to be signed.

Cargill's Global Process Motion

35. Cargill advised the other parties before the June 5, 2024 hearing that it no longer intended to proceed with its Global Process Motion on June 26, 2024 (and as a result, Cargill did not file a notice of motion by the May 31 date fixed by this Court). Tacora and the Monitor advised that the motion could only be withdrawn with prejudice. Cargill has responded that "[w]e reserve our rights to contest a RVO application and file materials to oppose such matter depending on the facts."
36. Tacora and the Monitor are concerned that Cargill may seek to advance the same arguments about the legal availability of an RVO that it had indicated it would raise in the Global Process Motion in its opposition to any RVO transaction that may emerge as the successful transaction in the Sale Process. Tacora and the Monitor seek the court's direction on this issue, and specifically for a direction that the decision not to proceed with the Global Process Motion is with prejudice to Cargill.
37. Cargill says that it reconsidered its position on this motion after the court ruled on May 24, 2024 that its Disclaimer Motion would be heard on June 26, 2024, rather than it being deferred as Cargill had suggested it be. Cargill's position is that Tacora and the Monitor have presented the court with no authority for the imposition of a term of "with prejudice" on its decision not to proceed with a motion that was never brought, and says that it cannot be prevented from raising the intended arguments on its Global Process Motion in the future. Cargill says that it has been transparent about what its arguments would be on the Global Process Motion and the parties will thus not be surprised by them if they are raised in response to future motions (including a sale approval motion) that have not yet been brought based on future facts that are not currently known.
38. The court shares the practical concerns that the Company and the Monitor have raised. The Global Process Motion, like the RVO Preliminary Motion, were presented at the May 24, 2024 case conference to be the flip side of the same hypothetical coin. They were framed as legal issues that the court could determine in advance, namely:
    a. Whether an RVO is legally impermissible if the Cargill Offtake Agreement has not been disclaimed (to be decided by the RVO Preliminary Motion: does the Offtake Agreement have to have been disclaimed for it to be assigned to ResidualCo under an RVO?); OR
    b. Whether an RVO is legally impermissible if the Cargill Offtake Agreement has been disclaimed (to be decided by the Global Process Motion: If the Offtake Agreement is disclaimed, does that preclude any assignment of liability associated with that agreement to ResidualCo?).

39. In its Aide Memoire for the May 24, 2024 case conference, Cargill described its Global Process Motion as follows:

> Cargill will bring a motion seeking a declaration that, as a point of law, an RVO transaction structure is not available to a debtor where (i) there is a large unsecured creditor in a position to vote against a CCAA plan; (ii) that unsecured creditor opposes the RVO; and (iii) there is an unsecured CCAA plan alternative which provides for consideration to all affected unsecured creditors in the form of restructured shares or other consideration. If granted, Cargill believes this declaration eliminates an RVO transaction structure which vests out the Offtake Agreement over its objection. This motion should be heard and determined prior to expending the time and resources on a disclaimer dispute that may never be necessary. The Global Process Motion should be heard on June 26, 2024, unless matters are resolved in the interim.

40. It was proposed that the proposed Global Process Motion would proceed on the basis of assumed facts (including that the disclaimer is allowed thereby creating a large unsecured liability in favour of Cargill and that there is an unsecured CCAA plan alternative; the latter assumption of a CCAA plan alternative remains a possibility based on the earlier discussion in this endorsement that allows for the presentation of a CCAA plan even though it is not expressly invited as one of the transaction options in the Sale Process).
41. The court did not accept Cargill's submission on May 24, 2024 that its Disclaimer Motion should be deferred. But it did accept that the issues raised by the Global Process Motion, if successful, could eliminate the possibility of any RVO transaction structure. The court's objective in timetabling these motions (the Global Process Motion, the Disclaimer Motion and the RVO Preliminary Motion) all together was to clear away any uncertainty about the legal impermissibility of an RVO transaction tied to the existence or non-existence of the Cargill Offtake Agreement so as not to waste the time of bidders in the Sale Process on an RVO transaction structure if it is determined to be legally impermissible for either of the reasons postulated by Cargill.
42. The court's May 24, 2024 case management direction was made with a view to a just, expeditious, streamlined and orderly process for an eventual sale approval motion that will need to be heard on a single day shortly after the conclusion of the Sale Process if there is a successful bid coming out of that process. In these multi-issue proceedings, issues need to be sequenced and determined in an orderly manner. That is part of the court's case management function.
43. If Cargill wishes to raise the issues that it identified for its Global Process Motion then it may deliver its Global Process Motion Record on June 11, 2024 when the next round of materials are due for the June 26, 2024 motions. If it elects not to bring that motion, it will be foreclosed from raising the intended arguments on that motion at the sale approval motion if the successful transaction in the Sale Process is a share (RVO) deal.
44. Following the court's decision on the June 26, 2024 motions, if an RVO transaction structure is determined to be legally permissible, any RVO transaction that is brought to the court for approval following the Sale Process will remain subject to the court's discretion and all of the *Harte Gold Corp. (Re)*, 2022 ONSC 653 factors that must be considered in that context. That is a given. No one is suggesting otherwise. Conversely, if an RVO transaction structure is determined to be legally impermissible for any of the grounds raised, the court understands that Tacora does not intend to include an RVO transaction option in the Sale Process and, thus, there will be no RVO transaction for the court to consider at the July 26, 2024 sale approval hearing.
45. What will not be permitted in the context of these proceedings and having regard to the lengthy and complex procedural history and the particular timing and liquidity constraints that Tacora is operating

under, is for an issue that was flagged as a question of legal impermissibility to be deferred and raised by Cargill after an RVO transaction has been negotiated with a successful bidder.

46. This endorsement and the orders and directions contained in it shall have the immediate effect of a court order without the necessity of a formal order being taken out.

KIMMEL J.
June 7, 2024

APPENDIX “E”

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Ashley Taylor
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June 19, 2024 **By E-mail**

Goodmans LLP
Bay Adelaide Centre - West Tower
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Attention: Robert Chadwick and Caroline Descours

Dear Rob and Caroline:

Re: Tacora Resources Inc. (CV-23-00707394-00CL)

We are counsel for Tacora Resources Inc. ("**Tacora**" or the "**Company**") in connection with the Company's proceedings under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**"). We wrote to you on May 16, 2024, demanding payment from your client, Cargill International Trading Pte Ltd. ("**Cargill**"). All capitalized terms used in this letter and not otherwise defined have the meanings ascribed to them in our May 16 letter.

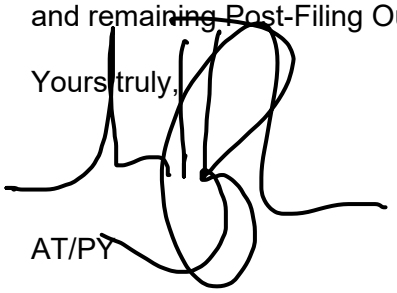
It has been over a month since we demanded that Cargill pay: (a) the Outstanding Amounts of $10,368,105.60 in respect of Iron Ore delivered to Cargill at the stockpile during the weeks of October 1 and October 9, 2023, and final purchase price amounts in respect of certain vessel shipments; and (b) the Post-Filing Outstanding Amounts of $1,880,506.20 in respect of Iron Ore shipped on vessels (the "**Vessels**") which settled and became due under the terms of the Offtake Agreement following commencement of the CCAA proceedings. Cargill has failed to provide any explanation as to why the Outstanding Amounts and Post-Filing Outstanding Amounts have not been paid.

We understand that Cargill recently discovered that it did in fact pay Tacora $1,185,592.21 of the $1,880,506.20 Post-Filing Outstanding Amounts in respect of the Vessels (referred to in (b) in the paragraph above) such that the amount of Post-Filing Outstanding Amounts actually owed by Cargill to Tacora is $694,913.99. We further understand that Cargill has set-off the $1,185,592.21 previously paid by Cargill in respect of the Vessels against amounts owing by Cargill to Tacora in respect of Iron Ore delivered by Tacora to Cargill during the week of June 4, 2024 (the "**Illegal Set-off** ").

The Illegal Set-off (presumably based on Cargill's position that the $1,880,506.20 was a pre-filing obligation) is contrary to the express provisions of the Initial Order and well-established CCAA jurisprudence. We demand that Cargill immediately reverse the Illegal Set-off and pay Tacora the full amount owing in respect of deliveries of Iron Ore made during the week of June 4, and reiterate our demand for payment of the Outstanding Amounts of $10,368,105.60 and remaining Post-Filing Outstanding Amounts of $694,913.99. If Cargill fails to confirm to Tacora that the Illegal

Set-off will be immediately reversed, Tacora will have no option but to bring a motion to the CCAA Court seeking to reverse the Illegal Set-Off, and compel payment of the Outstanding Amounts and remaining Post-Filing Outstanding Amounts.

Yours truly,



AT/PY

cc. Heng Vuong (*Tacora Resources Inc.*)
Lee Nicholson (*Stikeman Elliott LLP)*
Paul Bishop and Jodi Porepa (*FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of Tacora Resources Inc.*)
Ryan Jacobs and Jane Dietrich (*Cassels Brock & Blackwell LLP*)

APPENDIX “F”

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Ashley Taylor
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ataylor@stikeman.com

June 18, 2024 **By E-mail**

Goodmans LLP
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Toronto, ON M5H 2S7

Attention: Robert Chadwick and Caroline Descours

Dear Rob and Caroline:

Re: Tacora Resources Inc. (CV-23-00707394-00CL)

As you know, Tacora Resources Inc. ("**Tacora**" or the "**Company**") and Cargill International Trading Pte. Ltd ("**Cargill**") are parties to Restatement #1 of the Iron Ore Sale and Purchase Contract dated November 9, 2018 (as amended, the "**Offtake Agreement**") and the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 (the "**Stockpile Agreement**").

As you also know, Tacora provided notice of its intention to disclaim the Offtake Agreement and the Stockpile Agreement pursuant to section 32 of the *Companies' Creditors Arrangement Act* by delivering its Notice by Debtor Company to Disclaim or Resiliate an Agreement to you on May 16, 2024 (the "**Disclaimer**"). Cargill has brought a motion returnable before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on June 26, 2024, seeking an Order that the Offtake Agreement and the Stockpile Agreement are not to be disclaimed (the "**Disclaimer Motion**"). Accordingly, the Offtake Agreement and the Stockpile Agreement remain in force until a date fixed by the Court pending its decision on the Disclaimer Motion.

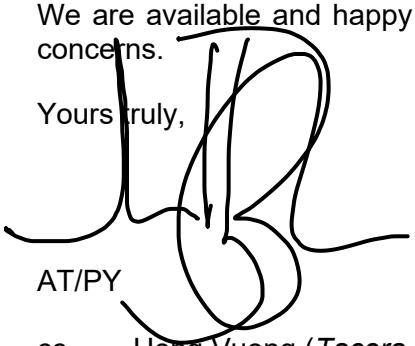
We understand that the Company and Cargill have been in discussions regarding a potential second vessel shipment [redacted] that was to be tentatively scheduled for a July 11 - 21, 2024 laycan (the "**July 11–21 Vessel**"). We further understand that Cargill has indicated to Tacora that it intends to postpone the scheduling of the July 11–21 Vessel to a later date [redacted] The failure of Cargill to schedule the July 11–21 Vessel could impact (a) the Company's cash flow, if it causes Tacora to rise above the stockpile limit contained in the Stockpile Agreement, and (b) the Company's operations, if train shipments are interrupted due to the stockpile at the Port reaching its maximum capacity.

As communicated to you on June 11, 2024, in order to address any uncertainties related to the Disclaimer, the Company will agree that notwithstanding the Disclaimer Tacora will honour its obligations related to the July 11–21 Vessel pursuant to the terms of the existing Offtake Agreement and Stockpile Agreement consistent with the sale of all other iron ore sold to Tacora during the CCAA proceedings. We further expect that Cargill will fully perform its obligations under

the Offtake Agreement and Stockpile Agreement until such agreements are disclaimed on a date fixed by the Court, including scheduling vessels to receive ore from the stockpile and continuing with marketing efforts to sell Tacora's ore.

We are available and happy to discuss these matters if you have any questions or continuing concerns.

Yours truly,



AT/PY

cc. Heng Vuong (*Tacora Resources Inc.*)
Matthew Lehtinen (*Cargill International Trading Pte. Ltd.*)
Lee Nicholson and Eliot Kolers (*Stikeman Elliott LLP, counsel to Tacora Resources Inc.)*
Paul Bishop and Jodi Porepa (*FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of Tacora Resources Inc.*)
Ryan Jacobs and Jane Dietrich (*Cassels Brock & Blackwell LLP, counsel to the Court-appointed Monitor of Tacora Resources Inc.*)

APPENDIX “G”

From: Dietrich, Jane <jdietrich@cassels.com>
Sent: Wednesday, June 19, 2024 12:16:47 PM
To: Chadwick, Robert <rchadwick@goodmans.ca>; Caroline Descours (cdescours@goodmans.ca) <cdescours@goodmans.ca>
Cc: Jodi B. Porepa (jodi.porepa@fticonsulting.com) <jodi.porepa@fticonsulting.com>; Paul Bishop Esq. (Paul.Bishop@fticonsulting.com) <Paul.Bishop@fticonsulting.com>; Jacobs, Ryan <rjacobs@cassels.com>; Sassi, Monique <msassi@cassels.com>
Subject: Urgent Concerns - Cargill /Tacora

Rob, Caroline-
Further to the two letters sent by Stikemans yesterday and today, there appears to be a disagreement and potential impasse on two items:
1. The recent set off of a $1.185m MTM amount recently applied by Cargill pertaining to [redacted] which vessels were loaded with stockpile tonnes pre-filing; and
2. Postponement of the scheduling of the July 11–21 Vessel shipment to [redacted]

Given the potential impact of these items on Tacora's cash flow forecast, liquidity position and ongoing operations, it is our intention to disclose this information to the Court in the next Monitor's report (scheduled to be delivered later today under the existing litigation schedule). If you have a different view than the Company outlined in each of their letters today, please let us know as soon as possible. We are available to discuss this afternoon at your earliest convenience.
We fully expect Cargill to continue to act in good faith and to fulfill its obligations under the Offtake Agreement consistent with prior practice, until such date as the court may set an effective date of the disclaimer. It is imperative that Tacora's operations be funded through to the completion of a going concern transaction and we urge you to work with the Company to finalize vessel scheduling and to come to an agreement regarding timing for a renegotiation or replacement of the Offtake Agreement and to further allow for an orderly transition.

Cassels
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APPENDIX ñHò

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June 19, 2024

Delivered via Email

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

Attention: Ashley Taylor

Dear Sirs and Mesdames:

Re: Tacora Resources Inc. (CV-23-00707394-00CL)

We write in response to your letter dated June 18, 2024 about a vessel shipment, and your letter dated June 19, 2024 about set-off. We note that your set-off was emailed today at 11:53 a.m., following which at 12:17 p.m. today we received an email from the Monitor's counsel. In that email, Monitor's counsel advised, for the first time, that the Monitor intends to address the issues raised in your two letters in the Monitor's report it will delivered today, and said we should advise "as soon as possible" if Cargill has a different view than those expressed in your two letters.

Given the Monitor's demand for an immediate response and the timing of delivery of your two letters, this letter cannot comprehensively respond to your letters. Nevertheless, given the extensive discussions between the parties on the topics raised in your two letters, Tacora and the Monitor know that Cargill clearly has a different view than what Tacora expressed in its two letters, and the details of Cargill's opposing position.

We do not believe these matters should be raised in a Monitor's report in this manner and at this time. Your two letters include references to without prejudice discussions (in particular the third paragraph of yesterday's vessel shipment letter), which should not be made public including because they are commercially sensitive to Tacora's current sale process. Your letter also includes facts that are not correct.

For example, your letter from yesterday about a vessel shipment states that the potential postponement of the scheduling of a vessel [redacted]. That is incorrect. The potential postponement of the vessel scheduling arose because Tacora is seeking to disclaim the Offtake Agreement and Stockpile Agreement and the massive uncertainty for Cargill and others created by Tacora's position in that regard. It is insufficient for Tacora to assert in its letter that it "will agree that notwithstanding the Disclaimer Tacora will honour its obligations related to the July 11–21 Vessel pursuant to the terms of the existing Offtake Agreement and Stockpile Agreement". The

Goodmans LLP

Offtake Agreement and Stockpile Agreement are binding agreements which Tacora is actively seeking to terminate, and Tacora cannot avoid the consequences of its position that it seeks to no longer be bound those agreements.

With respect to your set-off letter from earlier today, you are clearly aware that we disagree with your position on the availability of set-off, whether certain amounts are pre-filing or post-filing obligations, and whether amounts are due or not. We have extensive discussed these matters, as have our respective clients. To be clear, Cargill is not in breach of any of its obligation or the CCAA Initial Order.

Yours truly,

Goodmans LLP

Robert Chadwick

cc: Ryan Jacobs and Jane Dietrich, Cassels Brock & Blackwell LLP
Caroline Descours, Goodmans LLP

1395-6962-7149

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

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.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

TENTH REPORT OF THE MONITOR

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