Distributed to Duty Judge

COURT OF APPEAL OF ALBERTA

Registrar's Stamp

COURT OF APPEAL FILE NUMBER:	2001-0216AC
TRIAL COURT FILE NUMBER:	2001-05630
REGISTRY OFFICE:	CALGARY
	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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC, and DOMINION FINCO INC.
APPLICANTS:	DIAVIK DIAMOND MINES (2012) INC.
STATUS ON APPEAL:	PROPOSED APPELLANT
STATUS ON APPLICATION:	APPLICANT
RESPONDENTS:	DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC, and DOMINION FINCO INC.
STATUS ON APPEAL:	PROPOSED RESPONDENTS
STATUS ON APPLICATION:	RESPONDENTS
DOCUMENT:	**AFFIDAVIT OF ALYSSA ROY**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:

Osler, Hoskin & Harcourt LLP
2500, 450 – 1 Street SW
Calgary, AB T2P 5H1
Attn: Marc Wasserman / Michael De Lellis / Emily Paplawski
Tel: 403.260.7000
Fax: 403.260.7024
Email: mwasserman@osler.com / mdelellis@osler.com / epaplawski@osler.com
Matter: 1210529

Affidavit of Alyssa Roy
Sworn on December 11, 2020

I, Alyssa Roy, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am a legal assistant with the law firm of Osler, Hoskin & Harcourt LLP ("**Osler**"), counsel for Credit Suisse AG, Cayman Islands Branch, and, as such, I have personal knowledge of the matters hereinafter deposed to except where stated to be based on information and belief, in which case I believe such information to be true.

2. I swear this Affidavit in response to the application of Diavik Diamond Mines (2012) Inc. ("**DDMI**") for leave to appeal an order of the Honourable Justice K.M. Eidsvik granted November 4, 2020 in the Respondents' proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**").

3. Attached as **Exhibit "A"** is a copy of the Initial Order granted April 22, 2020 in these CCAA Proceedings.

4. Attached as **Exhibit "B"** is a copy of the Bench Brief of DDMI, dated May 6, 2020, and filed in these CCAA Proceedings (excluding tabs 2 to 11).

5. Attached as **Exhibit "C"** is a copy of the Bench Brief of DDMI, dated June 17, 2020, and filed in these CCAA Proceedings (excluding tabs).

6. Attached as **Exhibit "D"** is a copy of the Fifth Report of the Monitor, dated June 18, 2020, and filed in these CCAA Proceedings (excluding appendices).

7. Attached as **Exhibit "E"** is a copy of the Affidavit of Kristal Kaye, sworn September 18, 2020, and filed in these CCAA Proceedings.

8. Attached as **Exhibit "F"** is a copy of the Affidavit of Brendan Bell, sworn October 23, 2020, and filed in these CCAA Proceedings.

9. Attached as **Exhibit "G"** is a copy of the Application (Approval and Vesting and Stay Extension Orders) of the Respondents, served December 6, 2020 in these CCAA Proceedings.

SWORN BEFORE ME at Calgary, Alberta)
this 11th day of December, 2020)
)
)
)

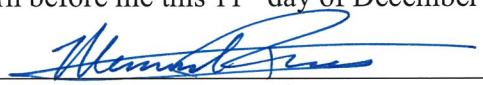
A Commissioner for Oaths in and for the
Province of Alberta

MICHAEL B. PEDE
Student-at-Law

Alyssa Roy

This is **Exhibit "A"** to the Affidavit of Alyssa Roy

sworn before me this 11th day of December 2020.



Notary Public/Commissioner for Oaths in and for Alberta

MICHAEL B. PEDE
Student-at-Law

I hereby certify this to be a true copy of
the original order
Dated this 23 day of April, 2020
for Clerk of the Court

#444341

CLERK'S STAMP
JUDICIAL CENTRE OF CALGARY
FILED
Apr 23, 2020
by Email
CLERK OF THE COURT

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY, LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC.**
DOCUMENT	**CCAA INITIAL ORDER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309 File: 00180245/000013

DATE ON WHICH ORDER WAS PRONOUNCED:	**April 22, 2020**
LOCATION OF HEARING:	**Calgary**
NAME OF JUDGE WHO MADE THIS ORDER:	**The Hon. Madam Justice K. Eidsvik**

UPON the application of Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, and Dominion Finco Inc. (collectively, the "**Applicants**"); **AND UPON** having read the Originating Application, filed April 21, 2020 and the Affidavit of Kristal Kaye, sworn April 21, 2020, filed; **AND UPON** reading the consent of FTI Consulting Canada, Inc., to act as monitor (the "**Monitor**"); **AND UPON** hearing counsel for the Applicants, counsel for the Monitor, and any other counsel present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicants are companies to which the *Companies' Creditors Arrangement Act* of Canada (the "**CCAA**") applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. The Applicants shall:

   (a) remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**");

   (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property;

(c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

(d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Kristal Kaye sworn April 21, 2020 or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

4. To the extent permitted by law, the Applicants shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

(b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and

(c) with the consent of the Monitor, obligations owing for goods and services supplied to the Applicants prior to the date of this Order if, in the opinion of the Applicants after consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property, provided that such payments shall not exceed $2,500,000 in the aggregate without prior authorization by this Court.

5. Except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

6. The Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:

(i) employment insurance,

(ii) Canada Pension Plan, and

(iii) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or

collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

(c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicants.

7. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the date of this Order, but shall not pay any rent in arrears.

8. Except as specifically permitted in this Order, the Applicants are hereby directed, until further order of this Court:

(a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the date of this Order;

(b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and

(c) not to grant credit or incur liabilities except in the ordinary course of the Business.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

9. Until and including May 2, 2020, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the

Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**"), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

    (a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;

    (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;

    (c) prevent the filing of any registration to preserve or perfect a security interest;

    (d) prevent the registration of a claim for lien; or

    (e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment.

11. Nothing in this Order shall prevent any party from taking an action against the Applicants where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

12. During the Stay Period, no person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

13. During the Stay Period, all persons having:

(a) statutory or regulatory mandates for the supply of goods and/or services; or

(b) oral or written agreements or arrangements with the Applicants, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicants

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

14. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

15. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 11 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or

performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

16. The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

17. The directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of $1,000,000, as security for the indemnity provided in paragraph 16 of this Order. The Directors' Charge shall have the priority set out in paragraphs 29 and 31 herein.

18. Notwithstanding any language in any applicable insurance policy to the contrary:

    (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and

    (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 16 of this Order.

APPOINTMENT OF MONITOR

19. FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs and the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations

and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

20. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicants;

(c) advise the Applicants in the preparation of the Applicants' cash flow statements;

(d) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicants or to perform its duties arising under this Order;

(e) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(f) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and

(g) perform such other duties as are required by this Order or by this Court from time to time.

21. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might

cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.

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

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

24. The Monitor, counsel to the Monitor, and counsel to the Applicants shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a bi-weekly basis.

25. The Monitor and its legal counsel shall pass their accounts from time to time.

26. The Monitor, counsel to the Monitor, if any, and the Applicants' counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate

amount of $1,750,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 29 and 31 hereof.

VALIDITY AND PRIORITY OF CHARGES

27. The priorities of the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $1,750,000); and

Second – Directors' Charge (to the maximum amount of $1,000,000).

28. The filing, registration or perfection of the Directors' Charge and the Administration Charge (collectively, the "**Charges**") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

29. Each of the Directors' Charge and the Administration Charge shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for any Person who is a "secured creditor" as defined in the CCAA that has not been served with the Originating Application for this Order.

30. The Applicants shall be entitled, on a subsequent application on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrances over which the Charges have not obtained priority.

31. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge or the Administration Charge, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.

32. The Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by:

(a) the pendency of these proceedings and the declarations of insolvency made in this Order;

(b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;

(c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;

(d) the provisions of any federal or provincial statutes; or

(e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by the Applicants of any Agreement to which it is a party;

(ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

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

ALLOCATION

33. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

34. The Monitor shall (i) without delay, publish in the *Globe and Mail*and *The Northern Miner* a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than $1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.

35. The Monitor shall establish a case website in respect of the within proceedings at cfcanada.fticonsulting.com/Dominion (the "**Website**").

36. Any person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to the service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up-to-date form of the Service List on the Website.

37. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Website.

38. Applicants and, where applicable, the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such

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

39. Any interested party (other than the Applicants and the Monitor) that wishes to amend or vary this Order shall bring a motion before this Court on May 1, 2020 (the "**Comeback Hearing**"), and any such interested party shall give not less than two (2) business days' notice to the Service List and any other Person(s) likely to be affected by the relief sought by such party in advance of the Comeback Hearing.

GENERAL

40. The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

41. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

42. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicants, the Business or the Property.

43. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

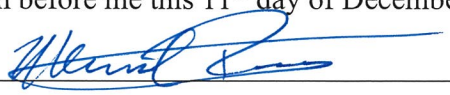
44. Each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized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

45. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of Queen's Bench of Alberta

This is **Exhibit "B"** to the Affidavit of Alyssa Roy

sworn before me this 11th day of December 2020.



Notary Public/Commissioner for Oaths in and for Alberta

MICHAEL B. PEDE
Student-at-Law

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC.
DOCUMENT	**BENCH BRIEF OF DIAVIK DIAMOND MINES (2012) INC.**
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Clerk's Stamp

BENCH BRIEF OF DIAVIK DIAMOND MINES (2012) INC.

IN RESPONSE TO THE STAY EXTENSION APPLICATION
TO BE HEARD BY
THE HONOURABLE MADAM JUSTICE K.M. EIDSVIK

May 8, 2020 at 9:50 a.m.

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I. INTRODUCTION

1. This bench brief is submitted by Diavik Diamond Mines (2012) Inc. ("**DDMI**") in response to the stay extension application filed by Dominion Diamond Mines ULC ("**Dominion**") *et al.* (collectively, the "**Applicants**") in the within proceedings (the "**CCAA Proceedings**"), originally returnable May 1, 2020 (the "**Extension Application**"). All capitalized terms used herein and not otherwise defined have the meaning ascribed to such terms in the Affidavit of Thomas Croese, sworn on April 30, 2020 (the "**Croese Affidavit**"), and filed in the CCAA Proceedings.

2. The Applicants' application is *de novo*. DDMI's response to the Extension Application is necessitated by the fact that DDMI is providing post-filing goods and services to Dominion, for which Dominion has admitted it will not pay. Astonishingly, Dominion is paying other creditors and suppliers, on account of post-filing, and potentially even pre-filing, obligations associated with the Ekati Core Zone, but refuses to pay post-filing obligations on account of the supply of goods and services provided by DDMI. DDMI thus seeks provisions in the Initial Order[1] that will preserve DDMI's rights, protect the interests of the Joint Venture, and ensure the ongoing operations of the Diavik Mine, on an interim basis and until DDMI's claims are resolved or adjudicated. Specifically, DDMI currently only seeks:

(a) a modification of the stay of proceedings (the "**Stay**") contained in the Initial Order, issued on April 22, 2020, by the Honourable Madam Justice K.M. Eidsvik, in the within proceedings (the "**Initial Order**"), to permit DDMI to make Cover Payments, as defined in and contemplated under Section 9.4 of the JVA, on an ongoing basis and in accordance with the terms and conditions therein;

(b) authorization to allow DDMI to securely store a portion of Dominion's share of production from the Diavik Mine at the Diavik Product Splitting Facility in Yellowknife, Northwest Territories (the "**PSF**"), or the Rio Tinto group's cleaning and sorting facility in Antwerp, the whole in accordance with the JVA and associated agreements, until such time that Dominion pays the indebtedness owing on account of the Cover Payments made by DDMI; and,

[1] **DDMI's proposed amendments to the Initial Order are attached to this Bench Brief as Tab 1.**

(c) sealing Confidential Exhibit "1" to the Croese Affidavit along with any confidential exhibits or materials subsequently produced by DDMI (collectively referred to as, the "**Confidential Exhibits**") and filed in these CCAA Proceedings.

3. The effects of affirming the Initial Order would be to sanction Dominion receiving goods and services from DDMI without making immediate payment therefor, in contravention of Section 11.01 of the CCAA. Pursuant to the JVA, DDMI, as Manager, is responsible for all ongoing operations of the Joint Venture and Diavik Mine. Pursuant to the JVA, Dominion is required to pay its proportionate share of all Costs to DDMI. Dominion has admitted it cannot cover these post-filing obligations, as required under the JVA. Furthermore, Dominion's thirteen-week cash flows indicate that Dominion does not intend to pay any of its share of the post-filing Joint Venture Costs and expenses.

4. The CCAA Proceedings should not put Dominion in a better position *vis-a-vis* DDMI by allowing it to take a free ride on the back of DDMI. The CCAA does not permit Dominion to do what it is purporting to do. In these circumstances, the requested modifications to the Initial Order are necessary and appropriate.

5. DDMI's proposed amendments seek to preserve and protect DDMI's rights and interests until either: (i) Dominion pays its post-filing obligations; or, (ii) DDMI seeks further relief for Dominion's ongoing failure to comply with the CCAA and meet its post-filing obligations. In effect, DDMI is producing, providing, improving, and maintaining the Assets that will be subject to the Security, at its own risk and expense, which absent any further agreement will likely be the subject of a future application.

II. STATEMENT OF FACTS

A. Procedural History

6. Dominion's application to extend the stay of proceedings to June 1, 2020 was heard by this Honourable Court on May 1, 2020. DDMI is a respondent to the *de novo* application and was prepared to make submissions on modifications that must be made to the Initial Order, to attenuate the extreme prejudice being suffered by DDMI. The Court adjourned the aspect of the application dealing with DDMI's submission on the basis that:

(a) Dominion will not call for delivery of any diamonds from the PSF until such time as DDMI's submissions relative to the Initial Order are heard and determined; and

(b) The parties will be in the same position at the return of the application on May 8, 2020 as they were on May 1, 2020.

7. Counsel for Dominion confirmed on the record at the May 1, 2020 application that Dominion does not object to the scope of the stay being circumscribed to permit DDMI to make Cover Payments. Dominion noted that there are significant mechanics to be worked out. As at the date of filing this brief, the mechanics have not yet been worked out.

B. The JVA and the Diavik Mine

8. Dominion and DDMI are successors in interest (in this capacity, each a "**Participant**") to the JVA.[2] The JVA governs operations between DDMI (a subsidiary of Rio Tinto plc) and Dominion in relation to the Diavik Diamond Mine and various surrounding exploration properties (collectively, the "**Diavik Mine**") in the North Slave Region.[3]

9. DDMI's material asset is its interest in the Diavik Mine and the Joint Venture.[4]

10. Pursuant to the JVA, DDMI is the manager of the Diavik Mine (the "**Manager**", when referred to in such capacity). The JVA grants DDMI, as Manager, a broad discretion in implementing Managing Committee decisions and the sole authority to oversee and implement operational decisions.[5] Furthermore, in its capacity as Manager, DDMI is responsible for payment of 100% of all "Costs",[6] defined as:

> 1.8 "Costs" means all items of outlay and expense whatsoever, direct or indirect, with respect to Operations including without limitation those detailed in Sections 2.1 to 2.14 inclusive of the Accounting Procedures.

[2] Affidavit of Thomas Croese, sworn on April 30, 2020 in the within proceedings, at para. 2 ["**Croese Affidavit**"].

[3] Croese Affidavit, *supra* note 2 at para. 13.

[4] Croese Affidavit, *supra* note 2 para. 5.

[5] Croese Affidavit, *supra* note 2, Confidential Exhibit 1, at Sections 6.5, 7.2, and 7.8 ["**JVA**"].

[6] Croese Affidavit, *supra* note 2 para. 14; JVA, *supra* note 5 at Sections 1.8, 7.2(b), 7.2(c), 7.2(e), 7.2(h), 7.2(i), 7.2(k)-(m), 8.2, 8.7, and 9.2.

11. DDMI therefore remits payment to all vendors, on behalf of the Joint Venture, and collects Dominion's 40% share of such obligations through bi-weekly invoices and cash calls.

12. Section 9.2 of the JVA addresses cash call timing and billing requirements and states:

> 9.2 Cash Calls
>
> Prior to the last day of each month the Manager shall submit to each Participant which has elected to contribute to the Program and Budget then in effect a billing for such Participant's share of estimated Costs for the next month. Within 20 days after receipt of each billing, each Participant shall advance to the Manager such estimated amount. Time is of the essence of payment of such billings. If the amount billed for the estimated Costs was less than the actual Costs incurred or charged during that month, the Manager may bill the Participants for the difference at any time, which the Participants will pay within ten days following receipt of billing. With the concurrence of the Management Committee, the Manager may establish more frequent billing cycles to minimize account balances.

13. The 2020-2025 Program and Budget was approved by both DDMI and Dominion, pursuant to the Management Committee Resolution, executed by Dominion on December 2, 2019.[7]

14. Additionally, the Management Committee also established a change in the billing cycle such that on, or about the beginning and middle of each calendar month the Manager would submit, to each Participant, a billing for such Participant's share of the estimated Costs under the Program and Budget, for the ensuing period of approximately two weeks. Each Participant is required to pay this amount within seven days.[8]

15. In the event a Participant defaults on their payment obligations, the JVA allows the non-defaulting Participant the right to make "Cover Payments". Specifically, Sections 9.4(a) and (b) of the JVA, as amended pursuant to Amending Agreement (NO.2), state:

> 9.4 Default in Making Contributions
>
> (a) If a Participant elects to contribute to an approved Program and Budget and then defaults in its obligation to pay a contribution or cash call hereunder, the [non-defaulting Participant], by notice to the defaulting Participant, may at any time, but shall not be obligated to, elect to make such contribution or meet such cash call on behalf of the defaulting Participant (a "Cover Payment").
>
> (b) Each Cover Payment shall constitute indebtedness due from the defaulting Participant to the [non-defaulting Participant], which indebtedness shall be payable

[7] Croese Affidavit, *supra* note 2 at para. 35.

[8] Croese Affidavit, *supra* note 2 at para. 17.

upon demand and shall bear interest from the date incurred to the date of payment at the rate specified in Section 9.3.

16. Upon making the Cover Payment, the non-defaulting Participant, DDMI, acquires a first-lien security interest (the "**Security**") pursuant to Section 9.4(c) of the JVA, which states:

> (c) Each Participant hereby grants to the other, as security for repayment of the indebtedness referred to in Section 9.4 (b) above together with interest thereon, reasonable legal fees and all other reasonable costs and expenses incurred in collecting payment of such indebtedness and enforcing such security interest, a mortgage of and security interest in such Participant's right, title and interest in, to and under, whenever acquired or arising, its Participating Interest and the Assets. Each Participant hereby represents and warrants to the other that such mortgage and security interest ranks and will rank at all times prior to any and all other mortgages and security interests granted by or charging the property of such Participant. Each Participant hereby agrees to take all action necessary to perfect such mortgage and security interest and irrevocably appoints the other Participant as its attorney-in-fact to execute, file and record all financing statements and any other documents necessary to perfect or maintain such mortgage and security interest or otherwise give effect to the provisions hereof. Upon default being made in the payment of the indebtedness referred to in Section 9.4 (b) when due the non-defaulting Participant may on 30 days' notice to the defaulting Participant exercise any or all of the rights and remedies available to it as a secured party at common law, by statute or hereunder including the right to sell the property subject to a mortgage and charge hereunder. …[9]

17. The JVA defines "Assets" as:

> 1.5 "Assets" means the Properties, Products and all other personal property (which for greater certainty shall include all goods, intangibles, securities, money, documents of title, instruments and chattel paper together with all proceeds of and accessions to the foregoing) now or hereafter held by the Manager for the benefit of the Participants including without limitation all monies advanced from time to time by the Participants to the Manager pursuant to Section 9.2 hereof.[10]

18. "Products" and "Properties" are defined as follows:

> 1.26 "Products" means all ores, minerals and mineral resources produced from the Properties under this Agreement including, without limitation, diamonds.
>
> …
>
> 1.28 "Properties" means those mining claims described in Part 1 of Schedule A and all mining leases which may replace the same and all other interests in real

[9] JVA, *supra* note 5 at Section 9.4(c).

[10] JVA, *supra* note 5 at Section 1.5.

property which are acquired and held subject to this Agreement, including without limitation the interests in, under and by virtue of the Underlying Agreements.[11]

19. The definition of Assets clearly includes all diamonds produced by the Joint Venture.

C. Intercreditor Arrangements and DDMI's Priority Over the Assets

20. DDMI's Security ranks in priority to the claims of both the Credit Agreement Lenders and the Trustee. Specifically, the Agent (on behalf of the Credit Agreement Lenders) and the Trustee (on behalf of the Trust Indenture noteholders) have subordinated their security interests in the Assets to and in favour of DDMI's Security pursuant to: (i) the Diavik Credit Agreement Subordination Agreement; and, (ii) the Diavik Trust Indenture Subordination Agreement, respectively.[12]

D. Initial Application, Default, and Failure to Account for Requirement to Pay Post-Filing Costs

21. On April 9, 2020, DDMI issued a cash call invoice for $16.0 million (the "**$16M Cash Call**").

22. On April 13, 2020, Dominion requested that the payment schedule be altered, such that the payment of the $16M Cash Call would be deferred from April 15, 2020 to April 22, 2020. In its request, Dominion did not: (i) mention any inability to make the $16M Cash Call; or, (ii) provide any indication that it would commence these CCAA Proceedings. As a result, DDMI agreed to Dominion's request.[13]

23. DDMI and Dominion have regularly scheduled Joint Venture meetings; the last of which was held on April 20, 2020. Dominion, once again, did not advise DDMI of its intention to seek the Initial Order at the April 20, 2020 meeting.[14]

[11] JVA, *supra* note 5 at Sections 1.26 and 1.28.

[12] Croese Affidavit, *supra* note 2 at paras. 23-24.

[13] Croese Affidavit, *supra* note 2 at para. 6.

[14] Croese Affidavit, *supra* note 2 at para. 7.

24. On April 22, 2020, the Applicants sought and received creditor protection pursuant to the CCAA.[15] As a result of the aforementioned extension, on the same day that the Initial Order was obtained, Dominion also defaulted on its $16M Cash Call (the "**Cash Call Default**").[16]

E. Implications of Cash Call Default and Dominion's Inability to Cover Future Post-Filling Costs

25. The effect of the Cash Call Default is to deprive the Manager of the funds necessary to pay the expenses incurred in the ordinary course of the Joint Venture. This prejudice is exacerbated as the cash calls required for the period between April – June are critically important, as these are needed to pay vendors for consumables transported across the seasonal Tibbitt to Contwoyto winter ice road, in preparation for the upcoming season.[17]

26. Dominion does not have the funds necessary to cover the $16M Cash Call or any future ongoing cash calls required in connection with the Joint Venture. Dominion's thirteen-week cash flow forecast, for the period April 24 – July 17, 2020, projects a $42.5 million operational shortfall, which does not account for any post-filing JVA Costs, but includes payment on account of post-filing, and potentially even pre-filing, obligations associated with the Ekati Mine.[18] Estimated JVA Costs over the forecast period total approximately $140.8 million, excluding the unpaid $16M Cash Call, Dominion's 40% share of such Costs is $56.3 million.[19]

27. In order to ensure the ongoing operation of the Joint Venture and the Diavik Mine, all ongoing obligations must be paid. Due to Dominion's financial situation and insolvency, DDMI is being forced to make all such payments. Without the ability to make Cover Payments, DDMI will default in its obligations to its employees, contractors, and vendors, and place the assets of the Joint Venture and the operation of the Diavik Mine at risk.[20] Once Cover Payments are made, without further relief, DDMI will be a post-filing creditor of Dominion, while Dominion will continue

[15] Initial Order, issued on April 22, 2020, by the Honourable Madam Justice K.M. Eidsvik, in the within proceedings.

[16] Croese Affidavit, *supra* note 2 at para. 7.

[17] Croese Affidavit, *supra* note 2 at para. 26.

[18] Croese Affidavit, *supra* note 2 at para. 8; Affidavit of Kristal Kaye, sworn on April 21, 2020 in the within proceedings, at Exhibit "H".

[19] Croese Affidavit, *supra* note 2 at para. 8.

[20] Croese Affidavit, *supra* note 2 at para. 9.

to reap the benefits of ongoing upkeep and production without complying with its duties and obligations under the JVA.

F. Diavik Mine Operating Review

28. With the onset of the COVID-19 pandemic, the Manager undertook a comprehensive review of the operating strategy at the Diavik Mine (the **"Operating Review**"), which included a careful analysis of alternative operating strategies during the COVID-19 pandemic.[21] The Operating Review's key conclusions were as follows:

(a) the 2020 free cash flow benefit associated with continued operations of the Diavik Mine - compared to entering care and maintenance status - is estimated to be materially favourable, in the order of $100 million or more;[22]

(b) the differences in the near-term cash flows between continuing to operate and entering care and maintenance are minimal;[23]

(c) the incremental EBITDA margin of continued operations, compared to care and maintenance, strongly favours continuing operations;[24]

(d) Dominion's share of the Cover Payments in May and June is only expected to reduce by approximately 15% if operations are curtailed from May 1, 2020;[25] and,

(e) continued operations would be pursued in accordance with the protective health measures proactively adopted by DDMI, the Operating Review, and in close collaboration with the Northwest Territories' Chief Public Health Office.[26]

29. While Dominion has suggested that the COVID-19 pandemic has effectively imposed a complete cessation of operations and commerce in the diamond industry, this is inconsistent with DDMI's information and commercial experience. In particular:

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[21] Croese Affidavit, *supra* note 2 at paras. 41, 42.
[22] Croese Affidavit, *supra* note 2 at para. 42(a).
[23] Croese Affidavit, *supra* note 2 at para. 42(b).
[24] Croese Affidavit, *supra* note 2 at para. 42(a).
[25] Croese Affidavit, *supra* note 2 at para. 42(b).
[26] Croese Affidavit, *supra* note 2 at paras. 42(d), 44.

(a) multiple diamond mines continue to operate, while taking increased health-related precautions, including diamond mines in the Northwest Territories;

(b) certain Indian-based companies continue to operate factories outside of India thereby offering customers alternative processing options;

(c) Belgium's Diamond Office has remained in operation throughout the COVID-19 pandemic, thereby permitting the import and export of diamonds;

(d) the Belgian offices of a DDMI corporate affiliate have been able to import rough diamonds from Canada, prepare rough diamonds for sale in Antwerp, and engage with its customers globally to remain in business and generate sales;

(e) "diamond tenders" are not the only sales method presently accessible to sellers. Alternative sales methods are available to generate sales revenue, as are digital sales channels to generate activity with willing buyers; and,

(f) an affiliate of DDMI has achieved material sales during March and April 2020.[27]

30. It is important to note that the Joint Venture does not include or contemplate the sale of any diamonds by the Manager. Instead, the Participants take their share in kind. Diamonds are split between the Participants based on a combination of grade and quality, in lieu of pricing. Once split, the diamonds are sold by each of the Participants, through their individual channels.

31. While discussing financial implications, it is important not to overlook the significant community benefits that result from continued operation of the Diavik Mine. Among other things, DDMI is a major contributor to the local economy, charitable endeavours, and a major employer, in the Northwest Territories.[28] In 2019, the Diavik Mine counted 1,124 employees and contractors, of whom 555 resided in the Northwest Territories and 242 of whom were Indigenous workers from northern communities. In the same year, DDMI also disbursed $500.8 million in operating costs

[27] Croese Affidavit, *supra* note 2 at para. 38.

[28] Croese Affidavit, *supra* note 2 at paras. 29, 31-34.

of which $370.6 million was spent in northern communities and $166.7 million in northern Indigenous communities.[29]

III. ISSUES

32. The primary issue for this Honourable Court to determine is whether the form of order sought by the Applicants should be modified to: (i) allow DDMI to protect its rights and the interests under the JVA; (ii) prevent Dominion from forcing DDMI to provide ongoing services and credit during the CCAA Proceedings without temporal protections being put in place; and, (iii) ensure the ongoing upkeep and operation of the Diavik Mine, and the Joint Venture, for the benefit of all Participants and stakeholders.

IV. LAW

A. Where No Notice was Given of the Initial Application, the Comeback Application is *de novo.*

33. The comeback application provides an opportunity for "any creditor which had no notice of the application to raise any issues or concerns."[30] In cases where a CCAA initial order is obtained *ex parte* or without sufficient notice, "the initial applicant bears the onus [at the comeback application] of satisfying the court that the terms of the initial order are appropriate".[31] In such circumstances, "[…] the Court will always be willing to adjust, amend, vary or delete any term or terminate such an order if that is the appropriate thing to do."[32]

34. As a result, at a "true" comeback hearing, "[i]n moving to set aside or vary any provisions of [the initial order], moving parties do not have to overcome any onus of demonstrating that the order should be set aside or varied."[33]

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[29] Croese Affidavit, *supra* note 2 at para. 43.

[30] *Victorian Order of Nurses for Canada, Re*, 2015 ONSC 7371 at para. 13 **[TAB 2]**.

[31] *Canada North Group Inc. (Companies' Creditors Arrangement Act)*, 2017 ABQB 550 at para. 77, rev'd on other grounds 2019 ABCA 314, leave to appeal to SCC granted March 26, 2020 (38871) **[TAB 3]**.

[32] *Tepper Holdings Inc., Re*, 2011 NBQB 211 at para. 25 **[TAB 4]**.

[33] *Target Canada Co., Re*, 2015 ONSC 303 at para. 82 (per Morawetz J.) **[TAB 5]**.

B. General Power of the CCAA Court

35. Section 11 of the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") states:

> **General power of court**
>
> **11** Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.[34]

36. As the Ontario Court of Appeal recently observed in *U.S. Steel Canada Inc., Re*, Section 11 grants a supervising court the broad jurisdiction to grant orders, provided that the order does not conflict with any express restriction in the CCAA. Specifically, the Court stated:

> Moreover, it is inconsistent with the anatomy and history of the CCAA to maintain that if Parliament had intended that a CCAA judge would have the authority to make a certain type of order, it would have said so. The Supreme Court has made it clear that "[t]he general language of the CCAA should not be read as being restricted by the availability of more specific orders" [citation omitted].[35]

C. Rights of Suppliers and Others to Not Provide Ongoing Credit

37. Section 11.01 of the CCAA ("**Section 11.01**") provides that:

> **Rights of suppliers**
>
> 11.01 No order made under section 11 or 11.02 has the effect of
>
> (a) prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after the order is made; or
>
> (b) requiring the further advance of money or credit.[36]

[34] CCAA, s 11 **[TAB 6]**

[35] *U.S. Steel Canada Inc., Re*, 2016 ONCA 662 at para. 79, citing *Ted Leroy Trucking [Century Services] Ltd., Re*, 2010 SCC 60 at para. 70 **[TAB 7]**.

[36] CCAA, s 11.01 **[TAB 6]**

38. The Ontario Court of Appeal has explained the rationale of the substantively identical predecessor provision to Section 11.01, section 11.3, as follows:

> Parliament has carved out defined exceptions to the court's ability to impose a stay. For example, s. 11.3(a) prohibits a stay of payments for goods and services provided after the initial order, so that while the company is given the opportunity and privilege to carry on during the CCAA restructuring process without paying its existing creditors, it is on a pay-as-you-go basis only. […][37]

V. ARGUMENT

A. Dominion's Extension Application is *de novo* and the Applicants Bear the Burden.

39. As Dominion's initial application was brought with no notice to DDMI, Dominion's Extension Application is *de novo*. The case law on this point is clear. The fact that DDMI failed to receive appropriate notice of the initial application is undisputed. The May 1, 2020 stay extension was granted without prejudice to DDMI's position as at May 1, 2020. Therefore, the onus is on the Applicants to establish that the relief granted at the initial application should stand without modification.

40. As the subject matter of the application concerns whether or not a stay of proceedings should be granted and, if so, in what form, an application to lift the stay is unnecessary and contracts the *de novo* nature of the Applicants' application.

B. The Manager has Complete Control over Operations and has Exercised Such Rights Prudently.

41. Pursuant to the JVA, DDMI, in its capacity as Manager, has broad authority to implement the Management Committee decisions. Specifically, Section 7.2 of the JVA lists the Manager's powers, and states:

> 7.2 Powers and Duties of Manager
>
> Subject to the terms and provisions of this Agreement, the Manager shall have the following powers and duties which shall be discharged in accordance with

[37] *Nortel Networks Corp., Re*, 2009 ONCA 833 at para. 34 **[TAB 8]**.

approved Programs and under the general guidance of the Management Committee:

(a) the Manager shall manage, direct and control Operations;

(b) the Manager shall implement the decisions of the Management Committee and shall make all expenditures necessary to carry out adopted Programs, and shall promptly advise the Management Committee if it lacks sufficient funds to carry out its responsibilities under this Agreement;

(c) the Manager shall:

(i) purchase or otherwise acquire for the Venture all material, supplies, equipment, water, utility and transportation services required for Operations, such purchases and acquisitions to be made on the best terms available, taking into account all of the circumstances,

…

(e) the Manager shall:

(i) make or arrange for all payments required by leases, licenses, permits, contracts and other agreements related to the Assets;

(ii) pay all taxes, assessments and like charges on Operations and Assets except taxes determined or measured by the Participants' sales revenue or income.

…

42. Section 7.8 of the JVA provides, in part, that "… The Manager shall have complete control over and supervision of Mining Operations and shall direct and supervise the same so as to ensure their conformity with this Agreement."

43. DDMI has, in the proper exercise of its discretion as Manager, determined that Diavik Mine Mining Operations (as defined in the JVA) should continue at this time, because:

(a) the JVA provides DDMI, as Manager, broad authority to make operational decisions, provided that those decisions are consistent with the approved Program and Budget. The 2020-2025 Program and Budget was executed by Dominion and DDMI and provided for continued operations at the Diavik Mine;

(b) the Operating Review has indicated that the cost of placing the Diavik Mine into care and maintenance would be 75% of the costs needed to continue operations for this year;

(c) the Operating Review has further indicated that continued operations could result in up to $100 million or more in free cash flow for the 2020 full year operating period; and,

(d) placing the Diavik Mine into care and maintenance would have an immediate adverse effect on the Joint Venture's stakeholders, including its employees and vendors in addition to the Government of the Northwest Territories and its citizens.

C. <u>DDMI Should Not be Forced to Supply Ongoing Services and Credit to Dominion Absent Appropriate Protections.</u>

44. As Dominion's Joint Venture partner, DDMI is uniquely situated within the CCAA Proceedings. DDMI is being forced to extend credit to Dominion. Section 11.01 of the CCAA is clear that where a party provides goods or services to a CCAA debtor after the initial order, that party may demand payment in full from the debtor, and that no Stay under the CCAA has the effect of compelling such a supplier to extend credit to the debtor.[38] In *Cow Harbour Construction Ltd.*, this Honourable Court, while dealing with post-filing payment of true leases, ordered that:

> "6. The Monitor's counsel shall forthwith circulate to all parties on the service list in these proceedings (the "Service List") a list of those leases that it has classified as "true leases" ***thereby entitling the lessors under such leases to receive ongoing monthly payments pursuant to Section 11.01 of the Companies' Creditors Arrangement Act ("CCAA").***
>
> *…*
>
> 10. ***CHC shall pay to the Monitor's counsel, to be held in trust pending resolution of any disputes concerning true leases, all monthly payments from and after April 1, 2010 which would have been required to be paid by CHC to lessors under***:
>
> (a) those leases for which there is a dispute as to categorization as a true lease; and
>
> (b) those leases which the Monitor's counsel has not been able to categorize as either capital leases or true leases."[39] [emphasis added].

45. The Joint Venture's ongoing expenses must be met and Dominion will not pay its share. Dominion, as a debtor company under the CCAA "is expected to honour all of its obligations which become owing after the CCAA filing."[40] If Dominion does not honour its post filing obligations and DDMI does not pay ongoing Costs, by way of Cover Payments, the Diavik Mine, its stakeholders, employees, and invested communities, will suffer and DDMI's operations will be immediately

[38] Subject to section 11.4 of the CCAA, which provides a mechanism of compelling suppliers to extend credit so long as they are granted a corresponding charge over the assets of the debtor **[TAB 6]**

[39] *Cow Harbour Construction Ltd., (Re)*, 2010 CarswellAlta 2977 (Order) at paras. 6 and 10 **[TAB 9]**.

[40] *Ascent Industries Corp. (Re)*, 2019 BCSC 1880 at para. 53, citing *Doman Industries Ltd.*, 2004 BCSC 733 at para. 29 **[TAB 10]**.

prejudiced. Furthermore, as DDMI is forced to cover Dominion's post-filing Costs, it will suffer significant and unique prejudice as the effects of the Initial Order will force DDMI to provide ongoing services and credit to Dominion, while: (i) Dominion is insolvent and subject to these CCAA Proceedings; (ii) Dominion is making other post-filing and, potentially, pre-filing payments to critical suppliers associated with the Ekati Mine; (iii) DDMI and its rights, remedies, and interests under the JVA are potentially subject to the Stay; and, (iv) without any appropriate protection or compensation.

46. At the same time, absent appropriate protections such as the retention of the Assets, Dominion will reap all benefits derived from DDMI financing the Joint Venture operations, with no risk and at the direct and corresponding expense of DDMI, its operations, and stakeholders. The CCAA is not meant to provide debtor companies with a post-filing windfall by allowing them to shirk contractual and operational responsibilities while simultaneously laying claim to all corresponding benefits.

47. Furthermore, it would be fundamentally unfair to require DDMI to choose between either: (i) completely foregoing the benefits of its own operations and the upkeep of the Diavik Mine; or, (ii) providing significant benefits to Dominion, an insolvent entity which has admitted that it is unable to pay its post-filing Costs, without any compensation or protection, whatsoever.

D. The Limited Relief Sought by DDMI is the Least Prejudicial Means of Addressing Dominion's Inability to Pay for the Time Being.

48. DDMI's proposed relief is necessary and appropriate in the current circumstances and is the least-intrusive possible means of addressing the issues surrounding the operation of the Diavik Mine and the Joint Venture.

49. Pursuant to Section 11.02, this Court may impose any terms in connection with granting or extending the Stay. DDMI submits that the relief requested herein is appropriate as it is minimally intrusive, but also recognizes and accounts for the unique characteristics of the JVA and the significance of the Diavik Mine to DDMI, which continues to operate and which requires upkeep, to the benefit of all Participants and other major stakeholders.

E. The Requested Relief Will in No Way Prejudice Dominion.

50. The amendments sought by DDMI to the Initial Order will in no way prejudice Dominion, as:

(a) Dominion is currently unable to market any Assets. Allowing DDMI to retain and store the Assets, at the PSF, will have no material effect on Dominion's cash flows;

(b) the Costs of the current Program and Budget (all as defined in the JVA) have been set and agreed to;

(c) Dominion's liability under the JVA and with respect to the Cover Payment is clear;

(d) the first-ranking priority of the Security against the Assets, which secures payment of all Cover Payments, is undisputed; and,

(e) it is in the best interests of all Participants, including Dominion and its stakeholders, for production to continue at the Diavik Mine as continued operations will increase the amount of Product ultimately available to Dominion while preserving the value of the Assets subject to the Security.

51. DDMI is producing, providing, and improving the Assets that will be subject to the Security, all at its own risk and expense. DDMI's proposal places substantially all operational risk on DDMI while allowing Dominion to continue to benefit from any residual value derived from ongoing operations; at no risk and for the benefit of its estate and creditors.

F. The Sealing of the Confidential Exhibits is Necessary and Proportionate.

52. The sealing of the Confidential Exhibits is necessary and proportionate in the circumstances. In *Sierra Club of Canada v. Canada (Minister of Finance)*, the Supreme Court of Canada stated:

> … the test for whether a confidentiality order ought to be granted in a case such as this one should be framed as follows:
>
> A confidentiality order under R. 151 should only be granted when:
>
> (a) such an **order is necessary in order to prevent a serious risk to an important interest, *including a commercial interest***, in the context of litigation because reasonably alternative measures will not prevent the risk; and

> (b) the **salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects**, including the effects on the right to free expression, which in this context includes the public interest in open and accessible court proceedings.[41]

53. Furthermore, the Court's inherent jurisdiction grants it the discretion to order that any document filed in a civil proceeding be treated as confidential, sealed, and not form part of the public record.[42]

54. With respect to the first part of the *Sierra Club* test, the sealing of the Confidential Exhibits is necessary in the circumstances. The Confidential Exhibits contain confidential information with respect to the ongoing operations of both Dominion and DDMI, including confidential financial information, procedures, asset valuations, and other sensitive commercial information which is the subject to confidentiality restrictions. The disclosure of such information, as contained in the Confidential Exhibits, would cause serous and irreparable harm to the commercial interests of all Participants, especially considering the impact that the public disclosure of any financial or asset valuation information could have.[43] DDMI therefore submits that the Confidential Exhibits should not be made publicly available.

55. With respect to the second part of the *Sierra Club* test, DDMI submits that the salutary effects of sealing the Confidential Exhibits outweigh any conceivable deleterious effects. In the normal course, outside the context of these CCAA Proceedings, DDMI's confidential information would be kept strictly confidential and is in fact subject to such confidentiality restrictions, to ensure same. Therefore, other than DDMI and Dominion, no other person has a reasonable expectation or right to be able to access the JVA or any other agreements subject to the JVA or any of the terms contained therein.[44]

56. Finally, DDMI's proposed form of Sealing Order contemplates that that Confidential Exhibits would be unsealed, once the risk of serious and irreparable harm has passed.

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[41] *Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41 at para 53 **[TAB 11]**.

[42] CCAA, s 11 **[TAB 6]**.

[43] Croese Affidavit, *supra* note 2 at para. 47.

[44] Croese Affidavit, *supra* note 2 at para. 47.

VI. RELIEF REQUESTED

57. DDMI respectfully requests that this Honourable Court grant:

(a) a modified form of the Amended and Restated Initial Order, substantially in the form attached as Tab 1 hereto; and,

(b) an Order sealing the Confidential Exhibits.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 6th day of May, 2020

McCarthy Tétrault LLP

Per: *"McCarthy Tétrault LLP"*
Sean F. Collins / Walker W. MacLeod / Pantelis Kyriakakis
Counsel for Diavik Diamond Mines (2012) Inc.

VII. INDEX OF AUTHORITIES AND MATERIALS

1. DDMI's proposed amendments to the Amended and Restated Initial Order;

2. *Victorian Order of Nurses for Canada, Re*, 2015 ONSC 7371;

3. *Canada North Group Inc. (Companies' Creditors Arrangement Act)*, 2017 ABQB 550, rev'd on other grounds 2019 ABCA 314, leave to appeal to SCC granted March 26, 2020 (38871);

4. *Tepper Holdings Inc., Re*, 2011 NBQB 211;

5. *Target Canada Co., Re*, 2015 ONSC 303;

6. *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36;

7. *U.S. Steel Canada Inc., Re*, 2016 ONCA 662, citing *Ted Leroy Trucking Ltd., Re*, 2010 SCC 60;

8. *Nortel Networks Corp., Re*, 2009 ONCA 833;

9. *Cow Harbour Construction Ltd., (Re)*, 2010 CarswellAlta 2977 (Order);

10. *Ascent Industries Corp. (Re)*, 2019 BCSC 1880, citing Doman Industries Ltd., 2004 BCSC 733; and,

11. *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41.

TAB 1

	Clerk's Stamp
COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY, LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC.**
DOCUMENT	**AMENDED AND RESTATED INITIAL ORDER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309 File: 00180245/000013

DATE ON WHICH ORDER WAS PRONOUNCED:	May 1, 2020
LOCATION OF HEARING:	Calgary
NAME OF JUDGE WHO MADE THIS ORDER:	The Hon. Madam Justice K. Eidsvik

UPON the application of Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, and Dominion Finco Inc. (collectively, the "**Applicants**"); **AND UPON** having read the Originating Application, filed April 21, 2020, the Affidavit of Kristal Kaye sworn April 21, ~~2020,~~2020 (the "**Kaye Affidavit**"), filed, and the Affidavit of Service of [-]~~;~~ and the Affidavit of Thomas Croese, sworn April ●, 2020 on behalf of Diavik Diamond Mines (2012) Inc. ("**DDMI**"); **AND UPON** reading the consent of FTI Consulting Canada, Inc., to act as monitor (the "**Monitor**"); **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application; **AND UPON** hearing counsel for the Applicants, counsel for the Monitor, and any other counsel present; **AND UPON** reading the Pre-Filing Report of the Monitor dated April 21, 2020, filed;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today. Capitalized terms used herein and not otherwise defined shall have the Kaye Affidavit.

APPLICATION

2. The Applicants are companies to which the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") applies.

PLAN OF ARRANGEMENT

3. The Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. The Applicants shall:

(a) remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**");

(b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property;

(c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

(d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Kristal Kaye sworn April 21, 2020 or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. To the extent permitted by law, the Applicants shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each

case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

(b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and

(c) with the consent of the Monitor, obligations owing for goods and services supplied to the Applicants prior to the date of this Order if, in the opinion of the Applicants after consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property, provided that such payments shall not exceed $5,000,000 in the aggregate without prior authorization by this Court.

6. Except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

7. The Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:

(i) employment insurance,

(ii) Canada Pension Plan, and

(iii) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

(c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicants.

8. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the date of this Order, but shall not pay any rent in arrears.

9. Except as specifically permitted in this Order, the Applicants are hereby directed, until further order of this Court:

(a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the date of this Order;

(b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and

(c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. The Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

(a) permanently or temporarily cease, downsize or shut down any portion of their business or operations and to dispose of redundant or non-material assets not exceeding $250,000 in any one transaction or $2,000,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicants (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;

(b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;

(c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA; and

(d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

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

12. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:

    (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice; and

    (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

13. Until and including June 1, 2020, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**"), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

    (a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;

    (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;

    (c) prevent the filing of any registration to preserve or perfect a security interest;

    (d) prevent the registration of a claim for lien; ~~or~~

    (e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment; or

    (f) prevent DDMI from making Diavik JVA Cover Payments.

15. Nothing in this Order shall prevent any party from taking an action against the Applicants where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be

taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

16. During the Stay Period, no person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. During the Stay Period, all persons having:

    (a) statutory or regulatory mandates for the supply of goods and/or services; or

    (b) oral or written agreements or arrangements with the Applicants, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicants

    are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person be under

any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant.

19. Unless Dominion Diamond makes arrangements approved by the Monitor and satisfactory to DDMI to make immediate payment to DDMI on account of JVA Cover Payments made by DDMI after the date of the commencement of these CCAA proceeding (the "**Filing Date**"), DDMI be and is hereby authorized to hold an amount of Dominion Diamond's share of production from the Diavik Mine equal to the total value of JVA Cover Payments made by DDMI. The share of production shall be held at the Diavik Production Splitting Facility in Yellowknife, Northwest Territories (the "**PSF**") and the value of the Dominion Diamond's share of production to held at the PSF shall be determined based on royalty valuations performed from time to time at the PSF by the GNWT. DDMI shall release Dominion Diamond's share of production upon receiving payment of the indebtedness owing to it on account of JVA Cover Payments made by DDMI on or after the Filing Date.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. ~~19.~~ During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. ~~20.~~ The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. ~~21.~~ The directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of $4,000,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 33 and 35 herein.

23. ~~22.~~ Notwithstanding any language in any applicable insurance policy to the contrary:

(a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and

(b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

24. ~~23.~~ FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs and the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. ~~24.~~ The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and

immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicants;

(c) advise the Applicants in the preparation of the Applicants' cash flow statements;

(d) advise the Applicants in their development of the Plan and any amendments to the Plan;

(e) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicants or to perform its duties arising under this Order;

(g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(h) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and

(i) perform such other duties as are required by this Order or by this Court from time to time.

26. ~~25.~~ The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating

to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.

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

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

29. ~~28.~~ The Monitor, counsel to the Monitor, and counsel to the Applicants shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a bi-weekly basis.

30. ~~29.~~ The Monitor and its legal counsel shall pass their accounts from time to time.

31. ~~30.~~ The Monitor, counsel to the Monitor, if any, and the Applicants' counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $3,500,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before

and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 33 and 35 hereof.

VALIDITY AND PRIORITY OF CHARGES

32. ~~31.~~ The priorities of the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $3,500,000); and

Second – Directors' Charge (to the maximum amount of $4,000,000).

33. ~~32.~~ The filing, registration or perfection of the Directors' Charge and the Administration Charge (collectively, the "**Charges**") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

34. ~~33.~~ Each of the Directors' Charge and the Administration Charge shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

35. ~~34.~~ Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge or the Administration Charge, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.

36. ~~35.~~ The Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by:

(a) the pendency of these proceedings and the declarations of insolvency made in this Order;

(b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;

(c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;

(d) the provisions of any federal or provincial statutes; or

(e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by the Applicants of any Agreement to which it is a party;

(ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

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

ALLOCATION

37. ~~36.~~ Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

38. ~~37.~~ The Monitor shall (i) without delay, publish in the Globe and Mail and The Northern Miner a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than $1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.

39. ~~38.~~ The Monitor shall establish a case website in respect of the within proceedings at cfcanada.fticonsulting.com/Dominion (the "**Website**").

40. ~~39.~~ Any person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to the service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up-to-date form of the Service List on the Website.

41. ~~40.~~ Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Website.

42. ~~41.~~ Applicants and, where applicable, the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

43. ~~42.~~ Any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other

party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

GENERAL

44. ~~43.~~ The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

45. ~~44.~~ Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

46. ~~45.~~ Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicants, the Business or the Property.

47. ~~46.~~ This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

48. ~~47.~~ Each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

49. ~~48.~~ This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of Queen’s Bench of Alberta

Document comparison by Workshare Compare on Wednesday, May 06, 2020 12:48:09 PM

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Padding cell	

Statistics:	
	Count
Insertions	38
Deletions	33
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	71

This is **Exhibit "C"** to the Affidavit of Alyssa Roy

sworn before me this 11th day of December 2020.

Notary Public/Commissioner for Oaths in and for Alberta

MICHAEL B. PEDE
Student-at-Law

Clerk's Stamp
16JA

JS
June 19, 2020
Justice Eidsvik

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC.
DOCUMENT	**BENCH BRIEF OF DIAVIK DIAMOND MINES (2012) INC.**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCarthy Tétrault LLP 4000, 421 – 7th Avenue SW Calgary, AB T2P 4K9 Attention: Sean Collins / Walker W. MacLeod / Sean Kelly / Pantelis Kyriakakis Tel: 403-260-3531 / 3710 / 3659 / 3536 Fax: 403-260-3501 Email: scollins@mccarthy.ca / wmacleod@mccarthy.ca / smkelley@mccarthy.ca / pkyriakakis@mccarthy.ca

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BENCH BRIEF OF DIAVIK DIAMOND MINES (2012) INC.

IN RESPONSE TO THE STAY EXTENSION, SISP APPROVAL, STALKING HORSE APPROVAL, INTERIM FINANCING APPROVAL, AND RELATED APPLICATIONS TO BE HEARD BY THE HONOURABLE MADAM JUSTICE K.M. EIDSVIK

June 19, 2020 at 9:15 a.m.

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I. INTRODUCTION

1. This Brief of Argument is submitted by DDMI in response to the Bench Brief submitted by Dominion on June 12, 2020 (the "**Dominion Brief**"). Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Dominion Brief.

2. Dominion commenced the within proceedings with no intention of paying post-filing JVA obligations to DDMI. It did not seek interim financing to permit it to pay such obligations, which are now estimated to amount to $105.5 million up to and including October 31, 2020. Although it was afforded a rather unusual mid-hearing adjournment of its own application, it did not use the additional time to address its post-filing financing issues. Rather, part of what it accomplished was to prepare and initiate an action in the British Columbia Supreme Court (notice of which was provided late in the day on June 16) against DDMI over alleged mismanagement of the Diavik Mine. Dominion must believe it has a very strong case to have sued despite its admitted administrative insolvency, yet its lengthy affidavit in support of these proceedings makes not the slightest mention of management concerns generally or this specific litigation "asset".

3. DDMI's position has been consistent since this case began. The failure of Dominion to pay its post-filing JVA obligations to DDMI is tantamount to DDMI being forced to supply post-filing goods and services without being paid for same. This Honourable Court has accepted DDMI's construction that it is akin to an interim lender.

4. DDMI's sole interest in the within proceedings is ensuring that it recovers the Cover Payment indebtedness and that it has a solvent counterparty that it is able to perform its obligations under the JVA, including the payment of costs required for the imminent closure of the mine. Dominion presumably knew the obligations it would have to perform under the JVA and the applicable environmental regulatory regime when it purchased the Diavik Mine. Dominion's liquidity problems arise not because of its obligations under the JVA, but because it is over-leveraged.

5. Rather than seeking interim financing in an amount sufficient to pay its post-filing obligations to DDMI, Dominion obfuscates matters by alleging that DDMI's statement that it will not purchase the Ekati Mine or the Diavik Mine are part of a plan to advance its own collateral purposes. Although it is currently indebted to DDMI in the amount of $51.2 million (plus interest

costs and costs) and such debt is undisputed, it advances litigation against DDMI for the fashion by which it operates the Diavik Mine. DDMI is an involuntary creditor and is seeking to protect its position in relation to its insolvent counterparty.

6. DDMI's proposed amendments to the Second Amended and Restated Initial Order (the "**SARIO**") are attached as Schedule "**A**". The lengthy and detailed submissions of Dominion are disproportionate to the matters in issue. DDMI advised Dominion *prior* to Dominion filing its Brief that it had accepted all of the Monitor's proposed changes to the SISP, save a clarifying issue in paragraph 38.[1] DDMI seeks two modifications to the SARIO relating to (a) the holding of the Dominion Products and (b) the ranking of the Cover Payment security. DDMI's SARIO revisions are important to the myriad of stakeholders in this case who do not hold an equity position in Dominion. Those stakeholders include the 1124 employees and contractors of the Diavik Mine, the Diavik Mine trade creditors, local First Nations, the GNWT and the environment. The continued prudent and professional operation of the Diavik Mine, in accordance with the JVA, is of critical importance to these persons and is placed at risk in circumstances DDMI does not have adequate assurance that it will be able to recover the Cover Payments owing to it.

II. ARGUMENT

A. SARIO Amendments

7. Dominion's approach to its own application is curious. The main issue for determination is whether the Stalking Horse Bid should be approved. The Stalking Horse Bid is intertwined with the SISP and the DIP. The application was initially commenced on May 29, 2020 and, in the midst of its continuation, adjourned at Dominion's own request. In addition to initiating litigation proceedings against DDMI, Dominion has utilized the intervening period to make "mid hearing" amendments to its own application. While it continues to pursue a transaction with Washington, the amendments include transitioning a highly conditional Stalking Horse Term Sheet to an equally conditional Stalking Horse APA.

[1] Further review of the SISP has disclosed an issue in paragraph 41(c) relating to access to Rio Tinto plc. DDMI will seek clarification from Dominion on the point (which provision was a belated add on to the SISP immediately prior to the May 29, 2020 application).

8. More curious is the fact that Dominion has directed significant focus at a party (DDMI) who does not oppose the application in the main. This Honourable Court has identified a number of serious issues with the Stalking Horse Term Sheet, including the lack of transaction certainty and the risk that the bid would operate to set a "ceiling" price. As the application moves to its third-day, Dominion continues to have the burden of addressing whether its fresh evidence is sufficient to satisfy the earlier concerns by this Honourable Court. It is (and remains) unclear how the fact that a dispute between Dominion and DDMI relating to the operation of the Diavik Mine is relevant to, by way of example, the nature of the financing conditions in the Stalking Horse APA. Those remain Dominion's issues to address.

9. From the outset of this case DDMI's concern has been, and continues to be, ensuring that it recovers the post-filing Cover Payments that it is being forced to make on account of Dominion's default. Notwithstanding its significant process concerns, DDMI has engaged with Dominion and the Monitor on the SISP and the SARIO. Dominion's suggestion that it supports the middle ground taken by the Monitor in relation to the SISP (made at paragraph 29 of its Bench Brief) is not supported by the evidentiary record. By way of example, the Monitor's version of the SISP includes a provision (at paragraph 22(c)) that Phase 2 Qualified Bids that include the Diavik Interest include cash payment of Cover Payment indebtedness. Such a provision is required by the CCAA; the Cover Payment indebtedness is a monetary default under the JVA and the JVA cannot be assigned absent payment of the outstanding Cover Payments and other cure costs. Dominion has offered no explanation for deletion of a portion of the SISP that is required by operation of the statute. DDMI has accepted the comments of the Monitor on the SISP and, subject to clarification noted above, supports the version of the SISP as proposed by the Monitor.

10. In relation to the SARIO, and in an effort to advance the compromise advanced by the Monitor, DDMI has accepted the Monitor's suggestion that DDMI will need to apply to court to seek leave to lift the stay to enforce its remedies. DDMI offers two changes to the SARIO. Both of the changes are driven by the fact that Dominion has made the decision not to pay post-filing obligations, DDMI has been forced to extend what amounts to (and has been recognized as) interim financing to Dominion, and Washington's proposed Stalking Horse Bid purports to allow it to assume the Cover Payment obligations and not pay the same in cash on closing. DDMI's total advances over the course of the case are projected to be $105.5 million, much of which will be incurred whether or not the mine is producing diamonds. Do Dominion and the Washington Group

expect DDMI to continue to involuntarily finance them post-closing? To use Dominion's words, this must stop.

11. DDMI maintains its requests that the entirety of the Dominion Products be held at the PSF At the outset, Dominion's continued assertion that this amounts to an amendment to the JVA is without merit. Dominion's submission disregards the actual language of the JVA. Article 9.4(c) of the JVA permits the non-defaulting Participant to assert common law and statutory remedies to recover Cover Payment indebtedness. Absent the intervention of the CCAA stay, DDMI would be able to assert common law and statutory lien rights against the Dominion Products that would entitle it to maintain possession of Dominion's share of production. The holding of a defaulting Participants share of production is in fact contemplated by the JVA. DDMI would also be able to exercise additional exercise rights, including those specified in (but not limited to) Article 9.4(c) of the JVA. Far from seeking an amendment to the JVA or enhancement of its rights, DDMI seeks limited stay relief that is consistent with the JVA. The alternative would be for DDMI to seek a complete lifting of the stay.

12. There are several reasons why the limited stay modification sought by DDMI is appropriate, the most notable of which is Dominion's own cash flow forecast. Dominion does not project, and has not projected at any time over the course of this case, to generate cash flow. It has absolutely no capacity to sell the Dominion Products. In a circumstance where DDMI has conceded that it will not move to sell the production without further Court approval, there is no justification for Dominion to take possession of the Dominion Products. It is noteworthy that Dominion, while outlining a litany of reasons as to why DDMI should not be able to maintain possession, has failed to offer an explanation as to why it needs to take possession in a circumstance where it has no capacity to monetize.

13. DDMI agrees with Dominion's submission at paragraph 94(a) of its Brief that there are some differences between DDMI and the Interim Lenders. One of these differences is, of course, the fact that the Interim Lenders have made the decision to voluntarily advance credit to Dominion whereas DDMI's Cover Payments are forced by Dominion's JVA defaults. Another important distinction is that Dominion is paying fees and interest to the Interim Lenders (and the first lien lender) but has made no such offer to DDMI. The most notable distinction is in relation to the different security rights of the Interim Lenders and DDMI: the Interim Lenders have recourse to

Dominion's Ekati assets and existing diamond inventory not otherwise subject to the DDMI security, whereas DDMI's rights are limited to the Diavik Mine. The Stalking Horse Agreement contemplated by Dominion, and supported by the Monitor, does not contemplate payment of DDMI Cover Payments. There is a very real risk that the Dominion Products are DDMI's only means of recovery in the instant case.

14. DDMI's other concern relates to its status of being an involuntary debtor in possession lender to Dominion. The Interim Lenders, who are voluntary creditors, are afforded various protections that DDMI is not. These include the benefit of section 11.2(3) of the CCAA, which provides that the DIP Lender Charge cannot be primed by a subsequent interim lender. DDMI has no such protection and faces the risk that Dominion will, at a later stage of this case, attempt to seek interim financing in priority to the Cover Payment security.

15. It is important for this Honourable Court to appreciate the significance of the two proposed SARIO amendments to the continued operation of the Diavik Mine. The SARIO amendments provide additional assurance to DDMI in respect of Cover Payment indebtedness. DDMI simply seeks reasonable assurances that it will not be required to fund 100% of production costs in return for only 60% of the Diavik Mine's production (a result that any operator would have difficulty justifying to its owners and stakeholders). That does not impact Dominion (who is not paying post-filing JVA obligations of any type). It does impact a multitude of other stakeholders all of whom, like DDMI, are involuntary participants in this process. It is appropriate for the Court, in determining the bases upon which it might be inclined to extend the stay of proceedings, to grant DDMI's suggested limited modification to the SARIO.

B. Stalking Horse Proposal

16. As previously indicated, DDMI did not oppose the Stalking Horse Proposal brought forward by the Washington Group. Rather, DDMI highlighted fundamental issues with the formulation of the Stalking Horse Term Sheet that was before this Honourable Court on May 29, 2020. In particular, DDMI noted that:

(a) it is highly unusual for there to be unlimited and open-ended conditionality to the terms of a proposed stalking horse bid. That is to say, the prior iteration of the Stalking Horse Term Sheet contained a stipulation that the same was subject to

confirmatory due diligence and any other matter determined necessary by Washington;

(b) the Stalking Horse proposal did not contain an ascertainable baseline price for the purchase of the Diavik Mine; and

(c) the Stalking Term Sheet was conditional upon financing.

17. Dominion and Washington have moved beyond a non-binding term sheet to a conditional form of asset purchase agreement. While the Stalking Horse APA remains conditional upon financing and continues to contain the optionality of Washington purchasing the Diavik Mine, and now makes it explicit that Washington's expectation is that DDMI will continue to be forced to finance its joint venture partner post-closing for unpaid Cover Payments, DDMI will leave it to this Honourable Court's discretion as-to whether to approve the Stalking Horse APA.

18. The First Lien lenders are being repaid in full on closing for their senior secured obligations. Washington is being paid in full on closing for its super senior secured interim financing obligations. Both the First Lien Lenders and the DIP Lenders are subordinate to DDMI's senior secured position with respect to the Cover Payments. DDMI has been consistent on this point – there cannot be an assignment of the Diavik JVA unless the outstanding Cover Payments are repaid in full in cash.

19. It is against this back-drop that DDMI notes its concerns, not as suggested by Dominion for ulterior motives designed to covertly benefit DDMI but, rather, to underscore the fact that DDMI continues to be exposed by the failure of Dominion to pay its post-filing JVA obligations and by the fact that the proposed Stalking Horse APA contemplates no incremental cash for the purchase of the Diavik interest.

C. Litigation

20. Dominion sued DDMI on June 16, 2020. DDMI denies the allegations made by Dominion and looks forward to the opportunity to respond to the claim in due course.

21. Dominion's allegations of mismanagement and misconduct should be viewed with extreme skepticism. Dominion defaulted on its obligations to make payments due and owing by

it under and pursuant to the JVA. If DDMI was in fact responsible for Dominion's misfortune, Dominion would have trumpeted that on its May 29, 2020 application. Dominion did not even whisper it. Instead, Dominion blamed its capital structure and the COVID-19 pandemic, never mentioning DDMI in this regard:

> The Applicants' ability to conduct their business and generate revenues prior to seeking protection under the CCAA has been: (a) constrained by their highly leveraged capital structure; and (b) recently and seriously impaired by the sudden and rapidly spreading COVID-19 pandemic. The COVID-10 pandemic has severely limited the Applicants' ability to move their rough diamond inventory from the point of extraction to the Applicants' sorting facilities in India for further movement for eventual sale on the world market.[2]

22. Only after taking offense to DDMI's position with respect to various aspects of the flawed transactional documents did Dominion suddenly adopt the position that DDMI had wronged it.

D. Stapled Interim Financing Term Sheet

23. Dominion mischaracterizes and alleges ulterior motives on the part of DDMI and Rio Tinto in respect of tendering the Stapled Term Sheet. DDMI disagrees with the characterization and notes the following.

24. As is evident from the Monitor's summary of the DIP proposals received, the DIP solicitation process never included seeking sufficient liquidity through interim financing to allow Dominion to meet its post-filing joint venture obligations to DDMI. One would have thought that following this Court's comments on May 15, 2020 that DIP financing proposals would have at least solicited solutions to providing liquidity to make the post-filing Cash Calls.

25. Upon it becoming apparent that no such proposal was forthcoming, Rio Tinto developed the Stapled Interim Financing Proposal (the "**SIF Proposal**"). In the first instance, it is important to understand the importance of the nomenclature "stapled". The Rio Tinto interim financing in this case contemplated that the same would be "stapled", or, if you will, work hand-in-glove with interim financing provided in respect of Ekati offered to facilitate the acquisition. That is to say, the proposal was to facilitate an additional stream of interim advances that coexisted with the Ekati financing as opposed to conflicting with the Ekati interim financing.

[2] Bench Brief of the Applicants, filed on May 28, 2020, at para. 2.

26. The complaint by Dominion that the interim financing proposal contains a 2.5% sale and marketing fee is unfounded inasmuch as a 2.5% sale and marketing fee is eminently reasonable in the circumstances. In the Third Croese Affidavit, a recent transaction involving Mountain Province Diamonds Inc. (another NWT diamond producer) announced a $50 million marketing program with a related-party shareholder wherein a sale and marketing fee of 10% will be paid together with 50% upside after costs. The Third Croese Affidavit further notes that the process of cleaning, separating, and preparing the diamonds for sale is a significant undertaking.

27. The contention that the proposed Stapled Interim Financing was designed to take the diamonds out of the jurisdiction of this Court is similarly without merit. By Dominion's own evidence, it sends its share of production from Ekati and Diavik to India and Belgium for processing and sale. Ultimately, a significant majority of the diamonds are sold through Antwerp. This is the commercial reality of the marketing of the diamonds and there is nothing untoward about such a process.

28. Finally, Dominion indicates that the real reason behind the proposed SIF Proposal was the requirement of a release by Dominion of DDMI. There is nothing uncommon or improper in an interim lender seeking assurances from its borrower that the borrower will not commence claims against it. In the current iteration of the Washington DIP, there is broad indemnification sought by Washington against Dominion in connection with any claims brought against Washington. Such indemnification effectively functions as a release. Moreover, Washington has recently added a stipulation that the proceeds from its proposed DIP not be utilized for funding litigation against it (it is seemingly content to allow its subsidiary to pay litigation fees in commencing the action against DDMI instead of using the DIP to pay undisputed post-filing obligations).

E. DDMI Not a Purchaser

29. Dominion has also made various allegations concerning DDMI's motives in the within case, including suggesting that DDMI benefits from a failed process. DDMI's motivation, as articulated throughout the case, is as set forth above: it wishes to ensure that it is paid for Cover Payments that it has been forced to make over the course of these proceedings and that at the end of the piece, it has a solvent counterparty who is able to perform its obligations under the JVA.

30. Dominion contorts all logic and sense in insinuating ill motives exist in respect of DDMI declaring it is not a buyer. DDMI is the subsidiary of a company that mines for various types of materials in 36 different countries. It should not be forced to expand its arctic diamond extraction operations by purchasing Dominion's assets. It has no obligation to participate in Dominion's SISP; if Dominion commenced the within proceedings with a belief that DDMI was a "logical buyer" for the Diavik Interest it has made a strategic miscalculation and that error is of its own doing. Indeed, if the strategy was to have DDMI purchase Ekati and/or Diavik, then Dominion or anyone of its numerous advisors could have saved a great deal of time, trouble and apparent disappointment by simply inquiring of DDMI prior to the commencement of these proceedings as to whether DDMI would then have been inclined to make an offer for any of Dominion's assets.

31. A failed marketing process, which amounts to the continuation of the status quo because DDMI will continue to have an insolvent joint-venture partner that is incapable of meeting its obligations, does not benefit DDMI. The concerns expressed by DDMI in relation to the SISP are not on account of a desire to see the marketing process fail. Dominion has proposed a Stalking Horse APA that expressly contemplates a circumstance where the Diavik Mine will not be sold; DDMI has significant concern that there will not be a transaction and that the Dominion Products will be its only way for it to recover on the forecasted $105.5 million of Cover Payment indebtedness. Additionally, DDMI is concerned about the ability of its counterparty to post the additional $35 million in closure security in January next year. Recovery on obligations owed by Dominion to DDMI's has been DDMI's motivation throughout the case and, so long as Dominion fails to satisfy such obligations, will continue to be.

III. RELIEF REQUESTED

32. DDMI respectfully requests that this Honourable Court grant the amendments DDMI seeks to the SARIO.

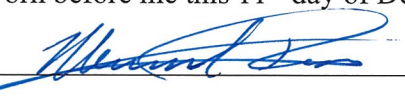
ALL OF WHICH IS RESPECTFULLY SUBMITTED this 17th day of June, 2020

McCarthy Tétrault LLP

Per: *"McCarthy Tétrault LLP"*
Sean F. Collins / Walker W. MacLeod / Sean Kelly / Pantelis Kyriakakis
Counsel for Diavik Diamond Mines (2012) Inc.

This is **Exhibit "D"** to the Affidavit of Alyssa Roy

sworn before me this 11th day of December 2020.



Notary Public/Commissioner for Oaths in and for Alberta

MICHAEL B. PEDE
Student-at-Law

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANT	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 ARRANGEMENT OF DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC.
DOCUMENT	FIFTH REPORT OF FTI CONSULTING CANADA INC., IN ITS CAPACITY AS MONITOR OF DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC. **June 18, 2020**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**MONITOR** FTI Consulting Canada Inc. 1610, 520, 5th Ave S.W. Calgary, AB T2P 3R7 Deryck Helkaa / Tom Powell Telephone: (403) 454-6031 / (604) 551-9881 Fax: (403) 232-6116 E-mail: deryck.helkaa@fticonsulting.com E-mail: tom.powell@fticonsulting.com **COUNSEL** Bennett Jones LLP 4500 Bankers Hall East, 855 - 2nd Street SW Calgary, AB, T2P 4K7 Christopher Simard Telephone: (403) 298-4485 Fax: (403) 265-7219 E-mail: simardc@bennettjones.com

FIFTH REPORT OF THE MONITOR

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INTRODUCTION

1. On April 22, 2020, Dominion Diamond Mines ULC ("**DDM**"), Dominion Diamond Delaware Company LLC ("**DDD**"), Dominion Diamond Canada ULC; Washington Diamond Investments, LLC ("**WDI**"), Dominion Diamond Holdings, LLC ("**DDH**") and Dominion Finco Inc. (collectively, "**Dominion**" or the "**Applicants**") were granted an initial order (the "**Initial Order**") commencing proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

2. The Initial Order appointed FTI Consulting Canada Inc. as Monitor in the CCAA Proceedings (the "**Monitor**") and established a stay of proceedings (the "**Stay of Proceedings**") in favour of the Applicants until May 2, 2020.

3. On May 29, 2020, the Applicants made an application (the "**Second ARIO Application**") for a second Amended and Reinstated Initial Order (the "**Second ARIO**") including, among other things, the following relief:

    a. approving a financial advisor agreement (the "**Financial Advisor Agreement**") dated April 22, 2020 between the Applicants and Evercore Group L.L.C. (the "**Financial Advisor**" or "**Evercore**") and authorizing the Applicants to continue the engagement of the Financial Advisor on the terms set out in the Financial Advisor Agreement;

    b. granting a charge in favour of the Financial Advisor as security for amounts payable under the Financial Advisor Agreement;

    c. authorizing and empowering the Applicants to obtain and borrow under a credit facility (the "**Interim Facility**") pursuant to a term sheet (the "**Interim Financing Term Sheet**") among the Applicants and Washington Diamond Lending, LLC and the other lenders party thereto (collectively, the "**Interim Lenders**"), provided that borrowings under the Interim Facility shall not exceed US$60.0 million;

d. granting a charge in favour of the Interim Lenders to secure all obligations under the Interim Facility;

e. approving procedures for a sales and investment solicitation process (the "**SISP**");

f. authorizing DDH and DDM (collectively, the "**Sellers**") to execute a stalking horse term sheet (the "**Stalking Horse Term Sheet**") with an affiliate of Washington Diamond Investments Holdings II, LLC (the "**Stalking Horse Bidder**"), authorizing the Sellers to negotiate and finalize a definitive stalking horse agreement of purchase and sale substantially in accordance with the Stalking Horse Term Sheet (the "**Stalking Horse Bid**") and approving the Sellers' obligation to pay the break-up fee and expense reimbursements provided for in the Stalking Horse Term Sheet;

g. granting a charge in favour of the Stalking Horse Bidder as security for the payment of the break-up fee and expense reimbursement provided for under the Stalking Horse Term Sheet;

h. approving a key employee retention plan (the "**KERP**");

i. granting a charge in favor of certain key employees as security for the amounts payable under the KERP; and

j. extending the Stay of Proceedings until and including August 31, 2020.

4. On May 26, 2020, the Monitor served its Fourth Report (the "**Fourth Report**"), in advance of the Second ARIO Application.

5. On May 29, 2020, the Court commenced hearing the Second ARIO Application. Certain stakeholders submitted that it was inappropriate for the Court to approve the Stalking Horse bid on the basis only of the Stalking Horse Term Sheet, in the absence of an agreed form of Stalking Horse asset purchase agreement. The hearing was not completed because the

parties were unable to complete their submissions in the time available, and the Court ordered the continuation of the hearing on Wednesday, June 3, 2020 (the "**Continuation Hearing**"). The Court granted the Stay Extension but only until and including June 4, 2020.

6. On June 2, 2020, the Monitor served a Supplement to its Fourth Report (the "**Supplement**"), in advance of the Continuation Hearing. In the Supplement, the Monitor reviewed the provisions that the Applicants and DDMI had proposed for the Second ARIO and the SISP, and:

    a. in Appendix "K", provided the Monitor's commentary on the proposed provisions in the Second ARIO;

    b. in Appendix "L", provided the Monitor's commentary on the proposed provisions in the SISP; and

    c. in Appendix "M", provided the form of Second ARIO and SISP being proposed by the Monitor (the "**Appendix "M" Second ARIO**" and the "**Appendix "M" SISP**", respectively).

7. At the Continuation Hearing, the Applicants requested an adjournment of their application in order to seek additional clarification from the Stalking Horse Bidder with respect to the assumption of executory contracts to which the Applicants are parties, and the payment of cure costs thereunder. The Court granted the Applicants' request to adjourn the Second ARIO Application until June 19, 2020. The Court granted the Stay Extension until and including June 19, 2020.

8. On June 12, 2020, the Applicants served an Amended Application seeking approval of the same relief as at the Second ARIO Application with the following modifications:

    a. a modified Second ARIO (the "**June 12 Second ARIO**");

b. a modified SISP (the "**June 12 SISP**"); and

c. a stay extension to September 28, 2020 (the "**Stay Extension**").

At the time of service, the Applicants informed the Service List that the June 12 Second ARIO did not have attached to it the Interim Financing Term Sheet referred to therein, but that a copy would be provided to the Service List as soon as possible. The Applicants explained that the delay was a result of ongoing discussions between the proposed Interim Lenders regarding an intercreditor issue.

9. Attached as a schedule to the June 12 Second ARIO is the form of Asset Purchase Agreement (the "**Stalking Horse APA**") agreed to between the Applicants and the Stalking Horse Bidder. The June 12 Second ARIO and the June 12 SISP also proposed certain modifications to the Appendix "M" Second ARIO and the Appendix "M" SISP.

10. On June 15, 2020 the Applicants served a modified Interim Financing Term Sheet (the "**June 15 Interim Financing Term Sheet**") as a proposed schedule to the June 12 Second ARIO.

PURPOSE

11. The purpose of this Fifth Report is to provide this Honourable Court and the Applicants' stakeholders with information and the Monitor's comments with respect to:

a. the events occurring since the adjournment of the Continuation Hearing;

b. the Stalking Horse APA, including the purchase price and treatment of pre-filing trade creditors thereunder;

c. the June 15 Interim Financing Term Sheet;

d. an alternative Interim Financing Term Sheet (the "**Noteholder Interim Financing Term Sheet**") being offered by certain members of the Ad Hoc Committee of Noteholders;

e. the status of independent legal opinions being prepared by counsel to the Monitor (the "**Security Opinion**") regarding the validity and enforceability of the security held by the Applicant's senior secured first lien syndicate (the "**Existing Credit Facility Lenders**"), the senior secured second lien noteholders ("**Noteholders**") and Diavik Diamond Mines Inc. ("**DDMI**");

f. a summary of the updated cash flow statement (the "**Third Cash Flow Statement**") prepared by the Applicants for the 28 weeks ending October 30, 2020, including the key assumptions on which the Third Cash Flow Statement is based;

g. Dominion's application for the Stay Extension;

h. the application by Wilmington Trust, National Association, in its capacity as Trustee, Notes Collateral Agent, Paying Agent, Transfer Agent and Registrar in respect of the senior secured second lien notes (the "**2L Trustee**") for an order authorizing and directing the Applicants to pay the reasonable post-filing fees and expenses of the Trustee and its counsel, Dentons Canada LLP and Dentons US LLP, in connection with the CCAA Proceedings. (the "**2L Trustee Costs Application**"); and

i. the Monitor's conclusions and recommendations with respect to the relief requested by the Applicants in the Second ARIO Application, as amended.

TERMS OF REFERENCE

12. In preparing this report, the Monitor has relied upon certain information (the "**Information**") including Dominion's unaudited financial information, books and records and discussions with senior management ("**Management**").

13. Except as described in this report, 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 Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.

14. The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.

15. Future oriented financial information reported to be relied on in preparing this report is based on Management's assumptions regarding future events. Actual results may vary from forecast and such variations may be material.

16. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

17. All capitalized terms that are used but not defined in this Report are intended to bear their meanings as defined in the Fourth Report or previous reports of the Monitor.

EVENTS SINCE THE CONTINUATION HEARING

18. At 7:47 a.m. Mountain time on Wednesday, June 10, the Monitor sent an email to the Service List (a copy of which is attached as Appendix "**A**" to this Report), advising of the following suggested deadlines for the service of materials in advance of the June 19 hearing:

    a. the Applicants' application materials and briefs by end of day on Friday, June 12;

    b. any Respondents' application materials and briefs by end of day on Tuesday, June 16;

    c. any reply materials from the Applicants by 12:00 p.m. Mountain time on Thursday, June 18; and

d. the Monitor's report by 12:00 p.m. Mountain time on Thursday, June 18.

19. The following materials have been served by the parties in advance of the hearing on June 19, 2020:

a. at 9:30 p.m. Mountain time on Friday, June 12, the Applicants served their application materials (other than the June 15 Interim Financing Term Sheet) and Bench Brief;

b. at 3:59 p.m. Mountain time on Monday, June 15, the 2L Trustee sent an email to the Service List, advising that the 2L Trustee would be proceeding on June 19 with its fee application, which had been originally set down to be heard on May 15, 2020 but adjourned *sine die*;

c. at 6:15 p.m. Mountain time on Monday, June 15, the Applicants served the June 15 Interim Financing Term Sheet on the Service List;

d. at 9:18 p.m. Mountain time on Tuesday, June 16, DDMI served the Affidavit No. 3 of Thomas Croese on the Service List;

e. at 9:24 p.m. Mountain time on Tuesday, June 16, Matthew Quinlan served the Affidavit of Matthew Quinlan on the Service List with respect to his claim against Dominion for amounts owed to him in respect of a pre-filing settlement agreement;

f. at 12:47 p.m. Mountain time on Wednesday, June 17, DDMI served its Bench Brief on the Service List;

g. at 5:47 p.m. Mountain time on Wednesday, June 17, the Ad Hoc Committee of Noteholders served its Bench Brief and the Affidavit No. 2 of Eric Hoff on the Service List;

h. at 10:46 p.m. Mountain time on Wednesday, June 17, the 2L Trustee served its Bench Brief on the Service List; and

i. at 11:36 p.m. Mountain time on Wednesday, June 17, Credit Suisse AG in its capacity as agent to the senior secured lender syndicate served its Bench Brief on the Service List.

20. At 9:30 a.m. Mountain time on Thursday, June 18, the Monitor sent an email to the Service List, proposing a schedule and suggested time limits for the June 19 hearing. Attached as Appendix "**B**" to this Report is a copy of that email.

PURCHASE PRICE UNDER THE STALKING HORSE APA

21. As noted above, the Continuation Hearing was adjourned so that greater clarification could be obtained about the assumption of executory contracts and the payment of cure costs in the Stalking Horse Term Sheet.

22. In the Supplement, the Monitor provided an illustrative purchase price summary under the Stalking Horse Bid including both cash consideration and assumed liabilities. In that analysis, assumed operating liabilities were not quantified, but instead the Monitor noted that the amount of the assumed operating liabilities was to be determined amongst the parties in due course and would depend on, among other things, which contracts are to be disclaimed or terminated prior to closing.

23. Subsequently, the Sellers and the Stalking Horse Bidder have agreed to the terms of the Stalking Horse APA, which specifies that the Stalking Horse Bidder is to make available a Cure Funding Amount (the definition of which is described below) of up to US $20 million (C $27.2 million), less any amounts that the Applicants are authorized to pay and have not yet paid under the Third Cash Flow Statement and an Order of the Court, to remedy Dominion's monetary defaults existing as at the Stalking Horse APA closing date under contracts that are to be assigned. Based on discussions with the Applicants, it is the

Monitor's understanding that all or substantially of the Cure Funding Amounts would be used.

24. Based on the CAD/USD exchange rate as at June 15, 2020 of 1.3604, and after deducting forecast Critical Supplier Payments yet to be made but provided for in the Third Cash Flow Statement of approximately US $2.4 million (C $3.3 million), the Cure Funding Amount is estimated to result in payments to pre-filing trade creditors of approximately US $17.6 million (C$ 24.0 million).

25. The estimated payments to trade creditors under the Stalking Horse APA in respect of pre-filing amounts are summarized in the table below:

Estimated Payments to Trade Creditors Under the Stalking Horse APA		
	(US $ millions)	(C $ millions)
Critical Supplier Payments to June 5, 2020	$ 1.3	$ 1.7
Additional Critical Supplier Payments in the Third Cash Flow Statement	2.4	3.3
Total Critical Supplier Payments	3.7	5.0
Cure Funding Amount under the Stalking Horse APA	17.6	24.0
Total Payments to Pre-filing Trade Creditors	21.3	29.0
Reported Pre-filing Amounts Due to Trade Creditors	$ (30.2)	$ (41.1)
Proportion of Trade Creditors to be Paid under the Stalking Horse APA	*70.4%*	*70.4%*

26. Overall, certain pre-filing trade creditors will receive payments totaling approximately C$29.0 million or 70% of Dominion's total pre-filing trade accounts payable. For greater clarity, the Stalking Horse APA does not provide that all pre-filing trade creditors will receive a payment but rather that, should the Stalking Horse Bid be successful, cure costs will be paid to select trade suppliers in order to remedy Dominion's monetary defaults in order to facilitate an assignment of applicable executory contracts to the Stalking Horse Bidder. The assignment/cure cost mechanism in the Stalking Horse APA is described in greater detail below.

27. The illustrative purchase price for Dominion's assets under the Stalking Horse APA including the addition of the Cure Funding Amount is summarized in the table below:

Illustrative Purchase Price Summary (US $ millions)	Ekati + Corporate	Diavik JV Interest	Total
Cash Purchase Price	126 - 131	0	126 - 131
Reclamation, Letters of Credit and Guarantees	224	99	323
Unfunded Pension Balance	17	0	17
DDMI Cover Payments	0	55 - 70	55 - 70
Cure Funding Amount	18	0	18
Total Illustrative Purchase Price	**$385 - $390**	**$154 - $169**	**$539 - $559**
Total Illustrative Purchase Price (C $ millions)	**$531 - $538**	**$213 - $233**	**$744 - $771**

28. The Monitor views the clarification regarding the assumption of executory contracts and cure payments to be a positive development. While it is not known at this time exactly which executory contracts will be assumed by the Stalking Horse Bidder, that is not unusual at the early stages of a SISP. It is customary for bidders to require due diligence during the SISP before determining precisely what executory contracts they wish to assume, or exclude, from their final binding bids. The Applicants have confirmed that this diligence and identification process will be carried out with the Stalking Horse Bidder as promptly as possible and the results will be completed and made available to other bidders in the SISP as far in advance of the Phase 2 Bid Deadline as possible. The Monitor does not view the payment of unsecured creditors by way of curing monetary defaults to be in violation of the absolute priority rules and, in the Monitor's experience, it is common practice in assets purchase and sale transactions in Canadian insolvency proceedings.

29. The Monitor also views the significant additional US$20 million of funding that has been committed by the Stalking Horse Bidder to make cure payments to be a positive development. Approximately 70% of the Applicants' pre-filing unsecured debts will be paid, which is a relatively high percentage. This also sets a baseline for other SISP bidders, who can submit a superior bid, should they offer to assume and cure more executory contracts than the Stalking is offering to assume and cure.

30. It is noted that the amounts due to trade suppliers and estimated proportionate recoveries are presented before consideration of any contingent creditor claims that may result from contracts that may be disclaimed during the CCAA Proceedings. The Monitor has not approved the disclaimer of any contracts in the CCAA Proceedings to date.

CONTRACT ASSIGNMENT AND CURE COST PAYMENTS UNDER THE STALKING HORSE APA

31. For the benefit of the Court and the Applicants' stakeholders, the Monitor has summarized the procedures and mechanisms in the Stalking Horse APA that will facilitate the assumption of executory contracts and the payment of cure costs, as follows.

Defined Terms Relevant to the Assumption of Executory Contracts

a. at closing, the purchasers will assume the "Assumed Liabilities"[1] which include, among other things, all liabilities of a seller under "Assigned Contracts";[2]

b. "Assigned Contracts" include two subcategories of contracts: [3]

   i. "Essential Contracts"; and

   ii. "Other Contracts";

c. the purchasers will not assume any liabilities of any seller under "Excluded Contracts";[4]

Mechanism for the Identification of the Essential Contracts, Other Contracts and Excluded Contracts

d. Schedule "F" to the Stalking Horse APA ("**Schedule F**") will list all executory contracts to which any seller is a party and shall also, for each executory contract:

   i. identify the seller's good-faith estimate of the Cure Amount (the definition of which is described below); and

1 Stalking Horse APA, s. 2.3
2 Stalking Horse APA, s. 2.3(a)
3 Stalking Horse APA, s. 2.1(l)
4 Stalking Horse APA, s. 2.4(b), 2.2(c)

ii. categorize the contract as an Essential Contract, an Other Contract or an Excluded Contract;

e. the Applicants have advised the Monitor that as soon as Schedule "F" is completed, it will be posted in the VDR so that other bidders in the SISP can access it. The Applicants will do that as soon as reasonably possible prior to the Phase 2 Bid Deadline under the SISP and the Monitor, in consultation with Evercore, is of the view that two weeks prior to the Phase II bid deadline would be sufficient;

f. the purchasers shall have the sole discretion to determine which contracts are Assigned Contracts and shall have the right, up to five business days before the date of the application for the Assignment Order (the definition of which is described below), to change the categorization of a contract as between Essential Contracts, Other Contracts and Excluded Contracts;[5] and

g. if, prior to closing, the purchasers discover an executory contract that should have been listed in Schedule "F", or the sellers have entered into an executory contract since the execution of the Stalking Horse APA (a "**Previously Omitted Contract**"), the sellers must notify the purchasers of such contract, and the Cure Amount relating thereto, and the purchasers must designate such contract as an Essential Contract, an Other Contract or an Excluded Contract. If a Previously Omitted Contract is designated as an Essential Contract or an Other Contract, the counterparty will be notified and if the parties cannot consent to the assignment thereof and the Cure Amount, the sellers will seek an Assignment Order respecting that contract;[6]

5 Stalking Horse APA, s. 2.6(a)
6 Stalking Horse APA, s. 2.6(b)

Mechanism for the Assignment of the Assigned Contracts and the Disclaimer of Excluded Contracts

h. the sellers are obligated to use commercially reasonable efforts obtain all consents from counterparties necessary to assign the Assigned Contracts to the Stalking Horse Bidder;[7]

i. the purchasers may request modifications or amendments to Assigned Contracts and the sellers are obligated to cooperate and seek to obtain counterparty's agreement to same;[8]

j. if the purchasers are unable to obtain a counterparties' consent to assign an Assigned Contract, the purchasers are obligated to use commercially reasonable efforts to obtain the Assignment Order in respect of such Assigned Contracts, prior to the closing date of the transaction;[9]

k. the "Assignment Order" is to be an order of this Honourable Court, in form and substance acceptable to the sellers and purchasers, acting reasonably, assigning to the purchasers any Assigned Contract for which the sellers have not obtained the counterparty's consent; and

l. the sellers cannot disclaim any Assigned Contracts without the consent of the purchasers but are free to seek to do so with respect to any Excluded Contracts, from and after the date that is five business days prior to the application for the Assignment Order.[10]

7 Stalking Horse APA, s. 2.6(a)
8 Stalking Horse APA, s. 2.6(a)
9 Stalking Horse APA, s. 2.6(a)
10 Stalking Horse APA, s. 2.6(c)

The Mechanism for the Payment of Cure Amounts

m. "Cure Amounts" are the amounts required to be paid pursuant to the Assignment Order(s) to remedy all the sellers' monetary defaults under Assigned Contracts as at the closing date, to by paid by way of agreement with a counterparty;[11]

n. if a Cure Amount is payable for the assignment of any Assigned Contract, the sellers shall pay such Cure Amounts, either in accordance with the consent agreed to with the counterparty, or in accordance with the Assignment Order;[12]

o. after closing, the purchasers shall make available to the sellers the "Cure Funding Amount" for use by the sellers to pay the Cure Amounts related to Assigned Contracts;[13] and

p. the Cure Funding Amount shall be US$20 million, less any payments made by the Applicants after the execution of the Stalking Horse APA**.** These forecast amounts are summarized in the Table above;

Closing Conditions Related to Executory Contracts

q. the following events or occurrences, among others, are conditions precedent to the purchasers' obligations to consummate the purchase and sale transaction pursuant to the Stalking Horse APA:

    i. the granting of Assignment Order(s) in form and substance acceptable to the sellers and purchasers, acting reasonably, and such order(s) being final;[14]

[11] Stalking Horse APA, s. 2.6(c)
[12] Stalking Horse APA, s. 2.6(a)
[13] Stalking Horse APA, s. 2.6(a)(iii), s. 6.17
[14] Stalking Horse APA, s. 1.1, 8.1

ii. all consents necessary for the assignment of the Essential Contracts must have been obtained, or Assignment Order(s) must have been granted authorizing the assignment of the Essential Contracts;[15] and

iii. the Cure Amount for the Essential Contracts must not (other than the Diavik JVA) exceed the Cure Funding Amount.[16]

PROPOSED REVISIONS TO THE SECOND ARIO AND SISP

32. The June 12 Second ARIO and the June 12 SISP being sought by the Applicants differ in some respects from the Appendix "M" Second ARIO and the Appendix "M" SISP proposed by the Monitor in the Supplement.

33. In its Bench Brief served on June 17, 2020, DDMI proposed certain revisions to the Appendix "M" Second ARIO and the Appendix "M" SISP, which had previously been sent to the Monitor and the Applicants at 8:40 a.m. Mountain time on June 11, 2020 (the "**DDMI Proposed Revisions**").

34. Because the Monitor provided a full commentary on the Appendix "M" Second ARIO and the Appendix "M" SISP in the Supplement, in this Report, the Monitor is only providing comments on the substantive revisions being proposed by the Applicants and DDMI to the Appendix "M" Second ARIO and the Appendix "M" SISP. The following Appendices are attached to this Report for ease of reference:

a. Appendix "**C**" – Blackline showing Applicants' changes from the Appendix "M" Second ARIO to the June 12 Second ARIO;

b. Appendix "**D**" – Blackline showing Applicants' changes from the Appendix "M" SISP to the June 12 SISP; and

[15] Stalking Horse APA, s. 8.7
[16] Stalking Horse APA, s. 8.7

c. Appendix "**E**" – Blackline showing the DDMI Proposed Revisions to the Appendix "M" SISP.

Second ARIO

Paragraph	Proposed Revision	Monitor's Comments
13	The Applicants propose moving the Stay Extension from August 31, 2020 to September 28, 2020	This change is appropriate in the Monitor's view, given the passage of time since the May 29 application. It does not materially prejudice any party, because the Interim Facility will provide liquidity for this entire period.
16	DDMI proposes that it be allowed to hold all of Dominion's share of diamond production from the Diavik Mine, not just amounts the value of which is equal in value to the Cover Payments.	As a matter of principle, the Monitor does not agree with this revision. DDMI should be entitled to hold Dominion's diamonds in an amount that is sufficient to cover the amount of the cumulative Cover Payments made by DDMI, but not to hold diamonds of a value exceeding the cumulative Cover Payments.

16(e)	DDMI proposes that it be permitted to make an application to the Court for permission to exercise rights and remedies not just on the happening of the triggering events proposed by the Monitor, but at any time.	The Monitor does not agree that it is justifiable to grant leave to DDMI in advance to make an application at any time. The triggering events in paragraph 16 of the Appendix "M" Second ARIO were deliberately chosen as events and times at which it would be logical for DDMI to have the right to apply to the Court without seeking to lift the stay. The Monitor believes that if DDMI wishes to make a court application to exercise a remedy at a different time, it should be required to apply to lift the stay, as is the case for any other creditor.
41	DDMI proposes that the Court-ordered release of the Applicants, SISP Advisor, Monitor and Stalking Horse Bidder with respect to the conduct of the SISP be made "subject to" DDMI's rights under the Diavik JVA (as set out in paragraph 45).	The Monitor understands that DDMI's concern is to ensure that this paragraph does not inadvertently release any of DDMI's rights, remedies or claims under the Diavik JVA. The Monitor agrees that this is a reasonable qualification to paragraph 41. Rather than the broad wording proposed in DDMI's draft, the Monitor suggests that the same purpose could be achieved by adding a sentence at the end paragraph 41 that states: "Nothing in this paragraph 41 shall have the effect of releasing any rights, remedies or claims of DDMI under the Diavik JVA." This change would be consistent with paragraph 45 of Second ARIO, to which no party is objecting.

42	The Applicants have removed reference to the approval of the Stalking Horse Term Sheet and seek approval of the Stalking Horse APA, with any subsequent amendments as may be approved by the Monitor.	This change is appropriate and does not materially prejudice any party.
45	The Applicants propose that the granting of the Second ARIO be without prejudice not just to the rights of DDMI under the Diavik JVA, but also to the rights of Dominion thereunder.	This change is appropriate and does not materially prejudice any party.
57(a)	DDMI proposes that expansive wording be removed from the provision subordinating certain Court-ordered charges to DDMI's security interest under the Diavik JVA.	The Monitor agrees that this proposed revision is appropriate. The additional wording introduces potential uncertainty and limiting the wording to "any Encumbrances under Article 9 of the Diavik JVA" preserves all parties' rights to the fullest extent by referring only to the security interest of DDMI under the Diavik JVA.

58	DDMI proposes a provision that prohibits any Court-ordered charge other than the Administration Charge and the D&O Charge from being granted priority over the Diavik Collateral without DDM's consent in writing.	The Monitor considered this proposed revision by DDMI in the Supplement to the Fourth Report and remains of the view that, for the reasons stated there, this revision is not justified.

SISP

Paragraph	**Proposed Revision**	**Monitor's Comments**
5, 13, 21, 22(j), 27(a), 28, 30	The Applicants propose moving the SISP milestones back by approximately ten days.	These changes are appropriate, given the passage of time since the May 29 application. They do not materially prejudice any party, because the Interim Facility will provide liquidity for this entire period. The Financial Advisor has confirmed its agreement with the revised timeline for the SISP.

22(c)	The Applicants propose the deletion of the provision requiring that all Qualified Phase 2 Bids provide for payment in full in cash of all Cover Payments, and the assumption of all of Dominion's obligations under the Diavik JVA and associated agreements with DDMI.	Given the detailed mechanism and additional clarity that is now embodied in the Stalking Horse APA regarding the assumption of executory contracts and the payment of cure costs (including but not limited to the Diavik JVA), the Monitor suggests that paragraph 22(c) be replaced with the following: "identifies all executory contracts of the Applicants that the Phase 2 Qualified Bidder will assume and clearly describes, for each contract or on an aggregate basis, what cure payments shall be paid, the manner in which they shall be paid, and the timing of such payments;" This clarity from Phase 2 Bidders is necessary so that all Qualified Phase 2 Bids can be judged against the Stalking Horse APA, with respect to their treatment of executory contracts.
35	Similar to the change in paragraph 22(c), the Applicants propose the deletion of the provision requiring that all Cover Payments must be paid in cash in full on closing.	The Monitor supports the removal of these words, given the proposed revision to paragraph 22(c), which addresses all executory contracts equally.

38	The Applicants propose that the list of potential credit bidders who must repay the Interim Financing in a credit bid, be expanded to include Noteholders.	The Monitor agrees this revision is appropriate.
38	DDMI proposes that in any credit bid, all Dominion obligations to DDMI must be repaid in full in cash, not just the Cover Payments.	The Monitor does not support this revision, given the proposed revision to paragraph 22(c), which affects all executory contracts equally.
38	DDMI proposes that the language giving primacy to intercreditor agreements over the SISP be limited to paragraph 38 of the SISP, not the entire SISP.	The Monitor agrees with this clarifying revision.

41(c)	DDMI has raised with the Monitor the statement that all Phase 1 and Phase 2 Qualified Bidders be granted equal information and access to various parties as is made available to the Stalking Horse Bidder. The list of parties to whom access is to be made available is stated to include DDMI, the NWT government and sureties. DDMI asked the Monitor to clarify that this clause should not have the effect of binding DDMI to obligations to unknown third parties.	The Monitor suggests adding a sentence at the end of this paragraph stating: "Nothing in this paragraph creates binding obligations of third parties, including but not limited to DDMI, the Government of the Northwest Territories, or sureties."
41(e)	The Applicants propose clarifying wording, preserving the Court's discretion to not approve any bid in the SISP.	This change is appropriate and does not materially prejudice any party. It is consistent with the Monitor's view of the Court's broad discretion.

SECURITY OPINIONS

35. The Monitor has instructed its legal counsel to complete an independent review of the validity and enforceability of security held by the Existing Credit Facility Lenders, the Noteholders and DDMI, over the property of Dominion. The Applicants' assets are located in multiple jurisdictions and the loan and security documentation is governed by the laws of different jurisdictions, which has necessitated the retention of agent counsel in the United States and the Northwest Territories to complete the review. The Monitor will report on the outcome of the Security Opinions in due course.

JUNE 15 INTERIM FINANCING TERM SHEET

36. The Monitor has reviewed the June 15 Interim Financing Term Sheet and remains supportive of the proposed Interim Facility, for the reasons set out in the Fourth Report. The only substantive revisions to this document are:

    a. Paragraph 22(f) – this is the negative covenant preventing the payment by the Applicants of professional fees for the purpose of challenging the Stalking Horse Transaction. The Monitor has already commented on this provision in Appendix "L" of the Supplement to the Fourth Report; and

    b. Paragraph 24 – this revision relates exclusively to rights as between the different interim lenders. The Monitor does not object to this provision, as it does not impact the rights of the Applicants or other stakeholders.

AD HOC COMMITTEE OF NOTEHOLDERS INTERIM FINANCING TERM SHEET

37. Affidavit No. 2 of Eric Hoff was filed in support of an application by the Ad Hoc Committee of Noteholders for an order authorizing and directing the Applicants to accept the Noteholders Interim Financing Term Sheet. It sets out Mr. Hoff's concerns with respect to Dominion's application to approve the Interim Financing Term Sheet and SISP which include, among other things, the following:

a. the purchase price in the Stalking Horse APA and the expectation that it would result in no recovery to the Notes;

b. the conditionality of the Stalking Horse APA;

c. the break fee, expense reimbursements and overbid amounts provided for under the Stalking Horse APA which would be applicable should the financing condition be removed and which may total approximately $5.8 million; and

d. other concerns around the fairness and impact on the sales process of the Stalking Horse APA.

38. The Noteholder Interim Financing Term Sheet has similar commercial terms to the June 15 Interim Financing Term Sheet with the following key exceptions:

a. it is not tied to the acceptance of the Stalking Horse APA or any other stalking horse bid; and

b. the interest rate is LIBOR (or 1%, whichever is greater) plus 700 basis points as compared to 5.25% under the Interim Financing Term Sheet.

39. The Monitor has commented on the relative merits of the Interim Financing Term Sheet put forward by the Interim Lenders, including the corresponding Stalking Horse Term Sheet, in the Fourth Report and Supplement.

40. The Monitor has subsequently reviewed the commercial terms of the Noteholders Interim Financing Term Sheet and had discussions with Evercore and the Applicants.

41. Evercore has provided the Monitor with its analysis concluding that the economics and terms of the June 15 Interim Financing Term Sheet are more favourable than the Noteholders Interim Financing Term Sheet and confirmed its view that while the Stalking Horse APA is subject to more conditionality than is typical, it provides a reasonable

potential for a going concern restructuring transaction, sets price expectations for prospective bidders and incentivises competing bids which will maximize the potential value of the Applicants' assets.

42. Overall, the Monitor remains of the view that the June 15 Interim Financing Term Sheet, including its associated costs and the corresponding Stalking Horse APA, make it the most favourable option available to the Applicants in the circumstances and more favourable than the Noteholders Interim Financing Term Sheet.

THIRD CASH FLOW STATEMENT

43. The Second Cash Flow Statement, which was included as an Appendix "F" to the Fourth Report, was based on the assumption that interim financing would be available to Dominion during the week ended June 5, 2020. As the Applicants have not yet had access to interim financing, they have incurred large variances against the Second Cash Flow Statement as a result of timing differences while financing proceeds and corresponding payments for expenses incurred during the CCAA Proceedings are delayed.

44. Rather than providing a detailed analysis of the variances against the Second Cash Flow Statement at this time, Management, in conjunction with the Financial Advisor, has prepared the Third Cash Flow Statement for the 28 weeks ending October 30, 2020 which reflects updated assumptions around timing of payments and is to serve as the DIP Budget under the Interim Facility, should it be approved. A copy of the Third Cash Flow Statement is attached as Appendix "**F**".

45. The Third Cash Flow Statement is summarized as follows:

($ thousands)	April 22 to June 5 Actuals	June 6 to October 30 Forecast	April 22 to October 30 Total
Operating Receipts			
Sales	$ -	$ -	$ -
Total Operating Receipts	-	-	-
Operating Disbursements			
Payroll and Benefits	4,948	15,559	20,507
Consultants and Contractors	1,297	4,946	6,244
Rent	309	392	701
Equipment Leases	1,413	3,778	5,191
Underground Mining Costs	-	2,646	2,646
Travel	37	1,115	1,152
Insurance	2,418	2,048	4,467
IT & Software	581	2,433	3,014
IBA Payments	-	1,899	1,899
Power	-	756	756
Site Maintenance & Environment	164	3,867	4,031
CCAA Professional Fees	584	33,889	34,473
Critical Vendors Accounts Payable	1,746	3,254	5,000
Net Taxes	(365)	-	(365)
Winter Road & Ramp-up Costs	-	5,901	5,901
Other	-	14,406	14,406
Total Operating Disbursements	**13,132**	**96,889**	**110,022**
Net Change in Cash from Operations	**(13,132)**	**(96,889)**	**(110,022)**
Financing			
Intercompany Receipts / (Disbursements)	(121)	894	773
Interest & Bank Charges	(732)	(4,465)	(5,197)
DIP Facility Interest	-	(923)	(923)
Governmernt Support Program	1,849	1,530	3,379
DIP Facility Draw	-	85,200	85,200
Net Change in Cash from Financing	**996**	**82,237**	**83,233**
Net Change in Cash	(12,136)	(14,652)	(26,789)
Opening Cash	26,823	14,687	26,823
Ending Cash	**$ 14,687**	**$ 34**	**$ 34**

46. The key assumptions of the Third Cash Flow Statement are largely consistent with those of the Second Cash Flow Statement and are summarized as follows:

a. operating receipts will be nil during the period as Dominion is, generally unable to transport its inventory in the normal course to market due to restrictions relating to the COVID-19 pandemic;

b. operating disbursements relate primarily to ordinary course payments to run Dominion's corporate office and care and maintenance operations at Ekati;

c. the Third Cash Flow Statement includes approximately $5.0 million of payments of pre-filing amounts due to critical suppliers that may be required to avoid disruption of key supplies and services, of which $1.7 million has been incurred to date, and $3.3 million is forecast to be incurred during the Forecast Period;

d. professional fees are forecast to be approximately $34.5 million during the period. A summary of the fees forecast to be incurred by role are set out in the table below:

($ thousands) Role	Weeks 1 - 7 Actuals	Weeks 8 - 28 Forecast	Weeks 1 - 28 Total
Financial Advisor	$ -	$ 10,493	$ 10,493
Legal Counsel to Applicants	584	6,416	7,000
US Legal Counsel to Applicants	-	2,421	2,421
Monitor	-	2,750	2,750
Legal Counsel to Monitor	-	1,675	1,675
Legal Counsel to The Washington Companies	-	5,964	5,964
Agent Advisor & Legal Counsel to the Existing Credit Facility Lenders	-	3,195	3,195
Other	-	975	975
Total Professional Fees	**$ 584**	**$ 33,889**	**$ 34,473**

The professional fees are forecast based on the assumption that the Stalking Horse Bid conditions are waved or satisfied and that the Stalking Horse Transaction or a superior transaction has closed within the timelines of the SISP; and

e. interim financing of approximately $85.2 million is forecast to be advanced by the Interim Lenders during the period under the Interim Facility.

47. As set out in the Third Cash Flow Statement, the Applicants are in urgent need of immediate funding to support Dominion’s ordinary course operations, care and maintenance expenses and the restructuring costs associated with the CCAA Proceedings.

2L TRUSTEE COST APPLICATION

48. The Monitor remains of the view that there is currently insufficient justification to support the relief sought in the 2L Trustee Cost Application, for the following reasons:

    a. it does not appear that payment by Dominion of the 2L Trustee's costs is necessary for their effective participation in these proceedings. The 2L Trustee has been effectively participating in these proceedings, absent the payment of its costs;

    b. the 2L Trustee has a contractual priority, and has a first claim against any moneys received by the 2L Trustee on behalf of the Noteholders, from which it would receive reimbursement of its costs. If the Noteholders are "in the money" in these proceedings because a party submits a bid that is superior to the Stalking Horse APA (as the Ad Hoc Committee has advised the Court it will be doing), the 2L Trustee's costs would very likely be reimbursed; and

    c. the 2L Trustee has not provided any estimate of its costs, so it is impossible to determine the impact thereof on the Applicants' cashflow projections.

STAY EXTENSION

49. The Monitor's comments with respect to Dominion's application for the Stay Extension are as follows:

    a. the Third Cash Flow Statement forecasts that the anticipated proceeds of the Interim Facility will provide the Applicants with sufficient liquidity during the term of the proposed Stay Extension;

    b. the Applicants require the Stay Extension in order to undertake the SISP in conjunction with the Financial Advisor;

    c. there will be no material prejudice to the Applicants' creditors and other stakeholders as a result of the Stay Extension;

d. the Applicants are acting in good faith and with due diligence; and

e. Dominion's overall prospects of effecting a viable restructuring will be enhanced by the Stay Extension.

CONCLUSION AND RECOMMENDATION

50. Overall, the Financial Advisor Agreement, June 15 Interim Financing Term Sheet, SISP, Stalking Horse APA and KERP provide a comprehensive restructuring plan for the Applicants, while allowing for a fair and transparent process to identify the most favourable restructuring transaction for all stakeholders.

51. Based on the forgoing, the Monitor respectfully recommends that this Honourable Court grant the June 12 Second ARIO and the SISP, with the revisions suggested by the Monitor in paragraph 34 above.

*****

All of which is respectfully submitted this 18th day of June, 2020.

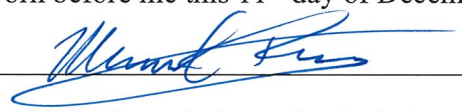
FTI Consulting Canada Inc.
in its capacity as Monitor of the Applicants

Deryck Helkaa
Senior Managing Director

Tom Powell
Senior Managing Director

This is **Exhibit "E"** to the Affidavit of Alyssa Roy

sworn before me this 11th day of December 2020.



Notary Public/Commissioner for Oaths in and for Alberta

MICHAEL B. PEDE
Student-at-Law

CLERK'S STAMP	

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC.**
DOCUMENT	**AFFIDAVIT**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309 File: 00180245/000013

AFFIDAVIT OF KRISTAL KAYE

Sworn on September 18, 2020

I, Kristal Kaye, of Calgary, Alberta, SWEAR AND SAY THAT:

I. Introduction

1. I am the Chief Financial Officer of Dominion Diamond Mines ULC ("**Dominion Diamond**"), Dominion Diamond Canada ULC ("**Dominion Canada**") and Dominion Diamond Delaware Company, LLC ("**Dominion Delaware**"), three of the applicants in these proceedings, a director of Dominion Canada and Dominion Diamond Marketing Corporation ("**Dominion Marketing**"), and I also hold other director and officer positions with certain other non-CCAA applicant entities affiliated with Dominion Diamond. As such, I have personal knowledge of the matters deposed to in this affidavit, except where stated to be based upon information provided to me, in which case I believe the same to be true.

2. Dominion Diamond, Dominion Canada, Dominion Delaware, together with the other applicants in these proceedings, being Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, and Dominion Finco Inc., are collectively referred to in this affidavit as "**Dominion**" or the "**Applicants**".

3. I have previously sworn affidavits in these proceedings, including my affidavit sworn on April 21, 2020 (my "**April 2020 Affidavit**"), in support of Dominion's application for an initial order under the *Companies Creditors' Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**") that, among other things, describes Dominion's business operations and restructuring objectives.

4. This affidavit provides an update on the status of these CCAA proceedings since the last hearing before this Court on June 19, 2020 and is made in support of Dominion's application for an order, among other things:

   (a) extending the Stay Period (as defined in the Second Amended and Restated Initial Order of this Court dated June 19, 2020 (the "**SARIO**")) until and including November 7, 2020; and

   (b) adding Dominion Marketing as an Applicant in these CCAA proceedings with the same rights and protections as are afforded to the Applicants by the SARIO.

5. In addition to my April 2020 Affidavit, the affidavits sworn in support of Dominion's application for the SARIO, including affidavits of John Startin sworn May 21, 2020 ("the **Startin May Affidavit**") and the supplement to the Startin May Affidavit dated June 12, 2020 (together, the "**Startin Affidavits**"), provide background to the current status of Dominion's restructuring efforts. Capitalized terms not otherwise defined in this affidavit have the meanings ascribed to them in the Startin Affidavits.

II. Update on the Applicants' Restructuring Efforts

i. The SISP

6. As is described in detail in the Startin Affidavits, the Applicants, in consultation with Evercore, the Monitor, and certain key stakeholders, developed a structured two-phase Sale and Investment Solicitation Process (the "**SISP**") to be implemented by the Applicants with the assistance of Evercore and oversight of the Monitor. The SISP and the Stalking Horse Bid that served as the baseline bid for the SISP were approved by the SARIO on June 19, 2020.

7. The SISP contemplated a Phase 2 Bid Deadline (for delivery of definitive offers in accordance with the SISP) of August 31, 2020 (the "**Phase 2 Bid Deadline**") with an auction commencement date of September 3, 2020 (if needed). The SISP also provided for an Outside Date for the closing of a transaction of October 31, 2020.

8. The SISP permitted the Applicants, with the consent of the Monitor, to extend the Phase 2 Bid Deadline and to waive strict compliance with certain of the bid requirements.

9. Following the approval of the SISP on June 19, 2020, the Applicants, with the assistance of Evercore, implemented the SISP.

10. A bidder participating in the SISP requested an extension to the Phase 2 Bid Deadline. The Applicants, with the consent of the Monitor, the Stalking Horse Bidder, and the lenders under the Applicants' interim facility (the "**Interim Financing Facility**") waived certain SISP requirements and extended the date by which such requirements were required to be met (and extended certain corresponding SISP dates and deadlines) to September 8, 2020 (the "**First Extension**"). On September 9, 2020, and with the consent of the same parties, the Phase 2 Bid Deadline (and certain corresponding dates and deadlines) was extended until September 15, 2020 (the "**Second Extension**").

11. Ultimately, notwithstanding the First Extension and the Second Extension, on the extended September 15, 2020 Phase 2 Bid Deadline, there were no competing bids to that of the Stalking Horse Bid. Attached as **Exhibit "A"** to this affidavit is a copy of the Press Release of the Applicants dated September 15, 2020, which identifies the Stalking Horse Bid as the successful bid under the SISP. As noted in the Press Release, and in accordance with the Asset Purchase Agreement governing the Stalking Horse Bid (the "**Stalking Horse APA**"), the Stalking Horse Bidder will not be purchasing the Applicants' 40% interest in the Diavik Mine.

12. In accordance with the SISP, as amended in light of the above extensions, the Applicants anticipate making an application to this Court for an approval and vesting order in respect of the Stalking Horse Bid (that bid being the Successful Bid under the SISP). Further information and detail with respect to the SISP, including the extensions referenced above, will be provided to the Court at that time.

ii. Interim Financing

13. As of the date of this affidavit, the Applicants have made three draws on the Interim Financing Facility approved by the SARIO on June 19, 2020, as follows:

Date	**Amount**
June 24, 2020	US $10 million
July 15, 2020	US $10 million
August 17, 2020	US $10 million
TOTAL	*US $30 million*

iii. Diamond Sales

14. As set out in my April 2020 Affidavit, at the time of filing for CCAA protection, the Applicants had diamond inventory with a total book value of approximately US $180 million, which was effectively "trapped" in various stages of the Applicants' diamond marketing and sale cycle due to COVID-19 related trade and travel restrictions.

15. Recently, access to the international diamond market has gradually begun to reopen and provide opportunity for the Applicants to realize value on their diamond inventory.

16. The Applicants have been successful in initiating a sale process in their re-opened Antwerp sales office. The Applicants proceeded with a sales process to sell goods with a book value of US $58 million in inventory at a reserve price of US $52 million. As of the date of this affidavit, the first tranche of the sale resulted in US $46 million being sold. A second tranche estimated to generate gross proceeds of approximately US $8 million consisting of smaller diamonds will be put on sale next week.

17. The net revenue generated by recent diamond sales will be paid to reduce the amounts outstanding on the Interim Financing Facility. The net revenue generated will be lower than the gross sales price in light of expenses, fees, royalties, taxes, etc.

III. The Proposed Stay Extension

18. The Initial Order of this Court granted on April 22, 2020 granted a Stay Period until and including May 2, 2020. This initial Stay Period was subsequently extended by various orders of this Court and is currently set to expire on September 28, 2020.

19. The Applicants' proposed stay extension up to and including November 7, 2020, which coincides with the Outside Date under the SISP, is required to permit a closing of the transaction contemplated by the Successful Bid under the SISP, provide the necessary breathing room for the Applicants as they continue to work towards their restructuring objectives, and permit the Applicants to attend to the various other CCAA matters that will arise, all for the benefit of their stakeholders.

20. I understand that the Monitor will file a report (the "**Monitor's Sixth Report**") which will include, among other things, a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, the Applicants will have sufficient funds to continue their operations and fund these CCAA proceedings until November 7, 2020. I further understand that the Monitor's Sixth Report will recommend that the Stay Period be extended as requested by the Applicants.

IV. Addition of Dominion Marketing as a CCAA Applicant

21. Dominion Marketing, a private company incorporated under the federal laws of Canada, is a wholly owned subsidiary of Dominion Holdings (a CCAA Applicant). As noted in my April 2020 Affidavit, and shown on the organizational chart attached as **Exhibit "B"** hereto, Dominion Marketing holds a nominal interest in each of Dominion Diamond (India) Private Limited ("**Dominion India**") (0.01%) and Dominion Diamond Marketing N.V. ("**Dominion Belgium**") (0.0003%), and has historically operated with the Applicants and their affiliated entities on an integrated basis.

22. Pursuant to the Stalking Horse APA, the issued and outstanding equity interests held by Dominion Holdings in Dominion Marketing are an "Acquired Asset" together with all of the issued and outstanding equity interests held by the Dominion Vendors in Dominion India and Dominion Belgium. The parties are continuing to consider whether it will be necessary for

Dominion Marketing to become a party to, or guarantor of, the Interim Financing Facility and whether amendments will need to be made to the Stalking Horse APA as a result of the issues described below and the inclusion of Dominion Marketing as a CCAA Applicant.

23. Prior to July 2018, Dominion Marketing was engaged in Dominion's diamond sorting and marketing activities. However, as discussed in my April 2020 Affidavit, Dominion's rough diamonds are presently sorted by Dominion India pursuant to the India Sorting Agreement.

24. Dominion Marketing is not currently engaged in any diamond sorting, marketing or other material business activities and does not have any employees. Its residual assets from its past operations consist of (a) a sorting building located on leased land in Yellowknife that has only nominal market value which is being subleased to a third-party for approximately $2,200 a month; and (b) a commercial lease dated June 1, 2016 with 60198338 Canada Inc. (the "**Landlord**") for the lease of certain office space (the "**Leased Space**") in Toronto, as well as a related Storage Lease for certain storage premises (together, the "**Lease**"). Pursuant to an indemnity agreement dated June 1, 2016, Dominion Diamond Corporation (as predecessor to Dominion Diamond) has indemnified the Landlord for Dominion Marketing's obligations under the Lease, meaning that any claim by the Landlord against Dominion Marketing with respect to the Lease can also be brought against Dominion Diamond.

25. Dominion Marketing subleases the Leased Space to iQ Office 250 University Inc. (the "**Sub-Tenant**"), which has been in default on its rent payments to Dominion Marketing since April 2020. The amount currently owing to Dominion Marketing by the Sub-Tenant is approximately CAD $582,000. Dominion Marketing has noted the Sub-Tenant in default.

26. The Sub-Tenant's default has rendered Dominion Marketing unable to meet its own obligations to the Landlord under the Lease. With no material active operations and assets, Dominion Marketing is unable to meet its obligations under the Lease, consisting primarily of the obligation to pay monthly rent in the amount of approximately CAD $113,000 over the remaining term of the Lease (expiring January 31, 2024), as they become due.

27. The Applicants and Dominion Marketing are of the view that it is in the best interests of the Applicants' restructuring efforts that Dominion Marketing be formally added as an Applicant in these CCAA proceedings with the same rights and protections as are afforded to the Applicants by the SARIO.

28. A copy of the unaudited financial statements of Dominion Marketing for the period January 1, 2020 to August 31, 2020 is attached as **Exhibit "C"**. However, as noted above, Dominion Marketing has not been engaged in sorting and marketing activities since approximately July 2018 and is not presently engaged in other material business activities. For historical reasons, intercompany funds and cross charges payable in connection with Dominion India's third-party sorting and shipping costs were flowed through Dominion Marketing. There are no *Personal Property Security Act* registrations against Dominion Marketing.

29. As Dominion Marketing does not generate material revenues or have material operating liabilities other than its obligations under the Lease, it does not have material cash needs. The company's current cash inflow consists of GST and income tax refunds and rent on the Yellowknife sorting facility in the amount of CAD $2,200 per month. The company's current cash outflow consists of payment of rent of approximately CAD $113,000 payable on the first of each month until the end of the Lease term in January 2024, or until the Lease is disclaimed (which is the Applicants' current intention), terminated or amended in these CCAA proceedings. Based on the cash flow forecasts to be attached to the Monitor's Sixth Report, the Applicants will have sufficient funds to fund Dominion Marketing's status as an applicant in these CCAA proceedings. The Monitor has not raised any concerns with respect to the addition of Dominion Marketing as an applicant in these CCAA proceedings.

30. For the reasons set out above, it is my view that it is appropriate and necessary that the relief being sought is granted. The Applicants are acting in good faith and with due diligence.

SWORN BEFORE ME at Calgary, Alberta,)
this 18th day of September, 2020.)
)
)
)
)
A Commissioner for Oaths in and for the)
Province of Alberta)
Morgan E. Crilly)
Barrister & Solicitor

KRISTAL KAYE

Tab A

This is Exhibit "A" referred to in the Affidavit of Kristal Kaye sworn before me this 18 day of September 2020.

A Commissioner for Oaths in and for the Province of Alberta

Morgan E. Crilly
Barrister & Solicitor

Dominion Diamond Mines

NOTIFICATION

DOMINION DIAMOND MINES PROVIDES UPDATE ON SALE PROCESS

CALGARY, AB – September 16, 2020 – Dominion Diamond Mines ULC ("Dominion" or the "Company") announced today that the stalking horse bid (the "Washington Bid") submitted by Canadian Diamond Holdings, L.P. and CA Canadian Diamond Mines ULC, affiliates of the Washington Companies ("Washington") is the successful bid under the sales process approved by the Court of Queen's Bench of Alberta (the "Court") on June 19, 2020. No other qualified bids were submitted for the purchase of all or part of Dominion's assets.

The Washington Bid contemplates a purchase of substantially all of Dominion's assets related to the Ekati Diamond Mine ("Ekati"). Dominion's 40% interest in the Diavik Diamond Mine joint venture has been excluded from the sale. The consideration to be paid by Washington to Dominion includes approximately US$126 million in cash, US$20 million to be made available with respect to pre-filing trade suppliers (less the amount of the Company's interim facility proceeds available to pay claims of such suppliers) and the assumption of substantially all of Dominion's other Ekati-related operating liabilities, which includes offering employment to substantially all of Dominion's employees and the assumption of pension obligations.

The Washington Bid is subject to a number of conditions to closing, including approval by the Court and Washington entering into an agreement with the issuers of the surety bonds currently posted with the Government of the Northwest Territories to provide continued security for the reclamation obligations related to Ekati. Assuming satisfaction of all conditions to closing, the transaction is expected to close by November 7, 2020.

Dominion is working to return to full operations at Ekati, pending the completion of the transaction, a successful recovery of global diamond sales and the Company's ability to maintain a safe and healthy work environment for its employees and the communities in the Northwest Territories.

Copies of the applicable Court orders and other Court materials and information related to the Company's CCAA proceedings are available on the website maintained by FTI, which has been appointed by the Court as Dominion's Monitor to oversee the CCAA proceedings: cfcanada.fticonsulting.com/Dominion.

* * * * *

About Dominion Diamond Mines
Dominion Diamond Mines ULC is a Canadian mining company and one of the world's largest producers and suppliers of premium rough diamond assortments to the global market. The company owns a controlling interest in the Ekati Diamond Mine, which it operates, and owns 40% of the Diavik Diamond Mine. The company also holds a controlling interest in the Lac de Gras Diamond Project. The Ekati and Diavik Diamond Mines, and the Lac de Gras Diamond Project are located in the Northwest Territories of Canada. In addition to its mining and exploration operations, Dominion has offices in Canada, Belgium and India.

For more information, please visit www.ddmines.com and Dominion's private investor portal, or contact investor@ddcorp.ca.

Media Contacts:
Rebecca Hurl
Rebecca.Hurl@ddcorp.ca
403-797-0486

Sard Verbinnen & Co
Jared Levy/Liz Zale
DominionDiamond-SVC@sardverb.com

##

Tab B

This is Exhibit "B" referred to in the Affidavit of Kristal Kaye sworn before me this 18 day of September 2020.

A Commissioner for Oaths in and for the Province of Alberta

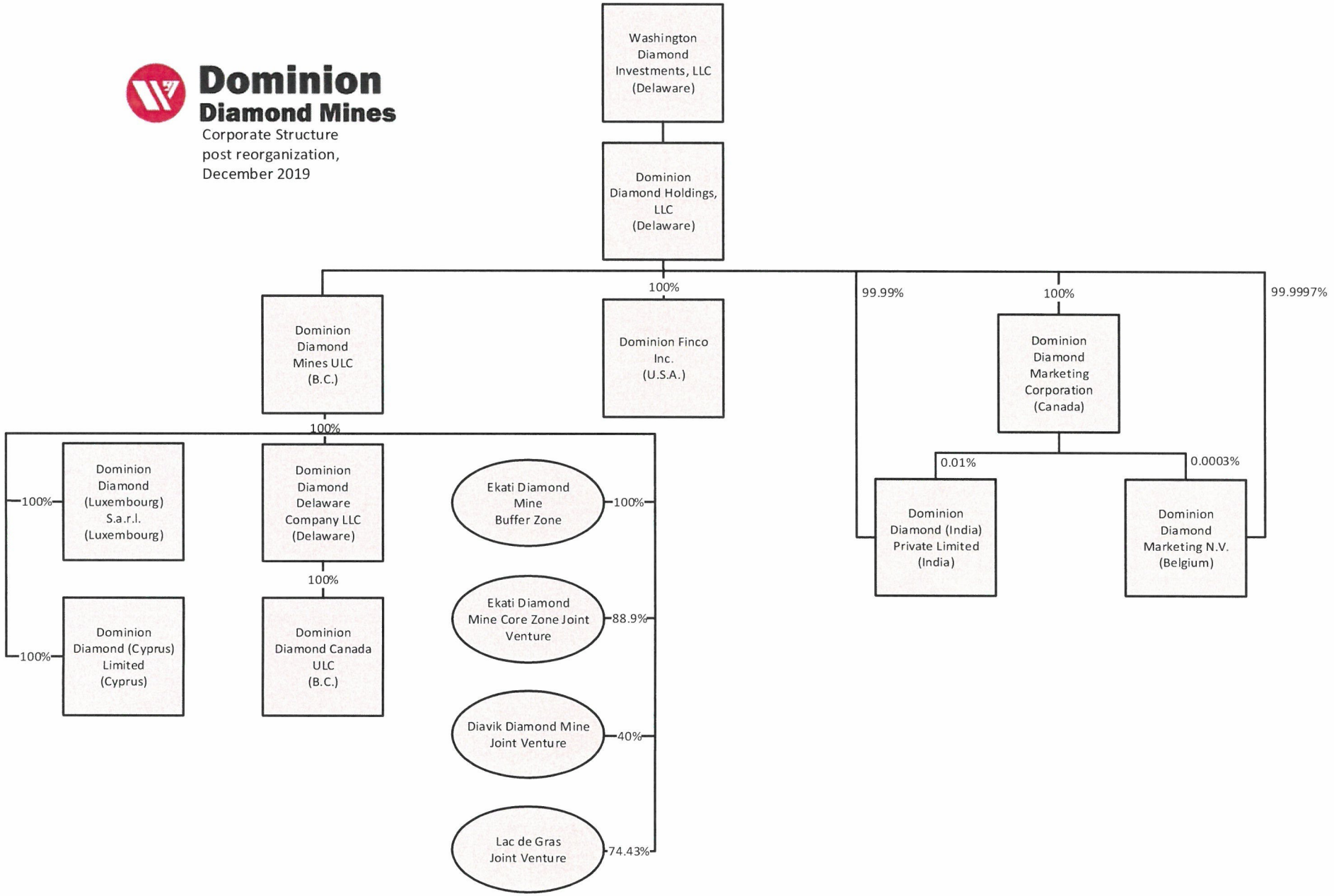
Morgan E. Crilly
Barrister & Solicitor

Schedule A-1

DOMINION DIAMOND MINES ULC ORGANIZATIONAL CHART

Dominion Diamond Mines

Corporate Structure
post reorganization,
December 2019



Tab C

This is Exhibit "C" referred to in the Affidavit of Kristal Kaye sworn before me this 18 day of September 2020.

A Commissioner for Oaths in and for the Province of Alberta

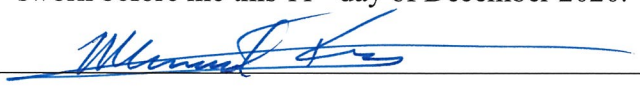
Morgan E. Crilly
Barrister & Solicitor

DDMC January 1 - August 31, 2020

	BW Reference	Legal From BW consolidated BW = SAP	PPA From BW consolidated BW = SAP	Total legal + PPA Total
BALANCE SHEET				
Assets				
Non-current assets				
Property, plant & equipment	WDI119	645,955	(0)	645,955
Other non-current assets	WDI129	2,537,420	-	2,537,420
Total non-current assets		3,183,375	(0)	3,183,375
Current assets				-
Trade & other receivables	WDI132	355,843	-	355,843
Cash & cash equivalents	WDI133	474,053	-	474,053
Other current assets	WDI131	76,598	-	76,598
Total current assets		906,495	-	906,495
Total Assets		4,089,869	(0)	4,089,869
				-
Equity & Liabilities				-
Equity				-
Share capital	DDC1/499550	(71)	(4,115,929)	(4,116,000)
Retained earnings	WDI121	491,977	4,116,336	4,608,313
Net Income (loss)		523,983	(390)	523,593
Closing retained earnings		1,015,889	18	1,015,906
Contributed surplus	WDI1115	(1,684,385)	-	(1,684,385)
Total equity		(668,496)	18	(668,479)
Liabilities				-
Non-current liabilities				-
Lease Obligation	WDI147	(1,248,992)	-	(1,248,992)
Deferred income tax liabilities	WDI153	610,255	-	610,255
Total non-current liabilities		(638,737)	-	(638,737)
Current liabilities				-
Trade & other payables	WDI17	(198,096)	(276)	(198,372)
Inter-company payables & receivables	WDI157	(2,331,723)	259	(2,331,464)
Income taxes payable	WDI112	131,624	-	131,624
Current Portion of lease obligation	WDI19	(384,442)	-	(384,442)
Total current liabilities		(2,782,636)	(17)	(2,782,654)
Total liabilities		(3,421,373)	(17)	(3,421,390)
Total equity and liabilities		(4,089,869)	0	(4,089,869)
check		0	0	0
				-
INCOME STATEMENT				-
Revenue - Intercompany	WDI1112	(582,125)	-	(582,125)
Other Income	WDI168	(14,292)	-	(14,292)
Selling and distribution expenses	WDI169	934,006	-	934,006
General & administrative expenses	WDI170	-	-	-
Operating loss		337,589	-	337,589
Finance expenses	WDI161	287,481	-	287,481
Finance income	WDI162	-	-	-
Foreign exchange (gain) loss	WDI163	7,662	(390)	7,272
Net finance costs		295,143	(390)	294,753
Loss (Income) before income taxes		632,732	(390)	632,342
Current income tax expense (recovery)	WDI127	-	-	-
Deferred income tax expense (recovery)	WDI160	(108,749)	-	(108,749)
Net (Income) loss		523,983	(390)	523,593

This is **Exhibit "F"** to the Affidavit of Alyssa Roy

sworn before me this 11th day of December 2020.



Notary Public/Commissioner for Oaths in and for Alberta

MICHAEL B. PEDE
Student-at-Law

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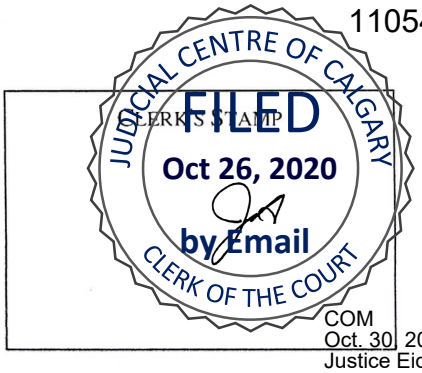

COM
Oct. 30, 2020
Justice Eidsvik

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC, DOMINION FINCO INC. and DOMINION DIAMOND MARKETING CORPORATION**
DOCUMENT	**AFFIDAVIT**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309

AFFIDAVIT OF BRENDAN BELL

Sworn on October 23, 2020

I, Brendan Bell, of Kelowna, British Columbia, MAKE OATH AND SAY THAT:

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I. INTRODUCTION

1. I am a director of Dominion Diamond Mines ULC (together with the other entities listed as applicants in these proceedings, "**Dominion**" or the "**Applicants**"). As such, I have personal knowledge of the matters deposed to in this affidavit, except where stated to be based upon information provided to me, in which case I believe the same to be true.

2. This affidavit supplements my prior affidavits sworn in these *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") proceedings on May 21, 2020 (my "**May Affidavit**"), June 12, 2020 (my "**June Affidavit**"), and October 4, 2020 (my "**October Affidavit**"). Capitalized terms not otherwise defined in this affidavit have the meanings ascribed to them in my May Affidavit, my June Affidavit, and my October Affidavit, as applicable.

3. This affidavit provides an update on the status of these CCAA proceedings since I swore my October Affidavit three weeks ago and is made in support of Dominion's application for an order extending the Stay Period (as defined in the Second Amended and Restated Initial Order of this Court dated June 19, 2020) from November 7, 2020 until and including December 15, 2020.

4. My October Affidavit was sworn in support of Dominion's application for an order, among other things, approving the Asset Purchase Agreement (the "**APA**") by and among Dominion Diamond Mines ULC and Dominion Diamond Holdings LLC, as vendors, and Canadian Diamond Holdings L.P. and CA Canadian Diamond Mines ULC, as purchasers (the "**Stalking Horse Purchasers**"), and Washington Diamond Investments, LLC, as parent to the Dominion vendors.

5. The APA was the culmination of a multi-month effort by Dominion, with the support of key stakeholders including the First Lien Lenders and other stakeholders, to find a going concern solution to Dominion's financial challenges that would save the Ekati Mine and its attendant jobs, contracts, impact benefit agreements, tax revenue, and satisfy the company's environmental reclamation obligations, to the benefit of Dominion's stakeholders generally.

6. As noted by Ms. Kaye in her April 21, 2020 affidavit filed in support of these CCAA proceedings:

> [8] Dominion has over the years made substantial investments in the local communities that rely upon and are affected by the Ekati and Diavik Mines. In 2018 and 2019 combined, Dominion spent CDN $922 million of which amount CDN $524 million

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was spent with northern businesses and approximately CDN $319 million going to Indigenous businesses for goods and services. The total estimated spend with northern businesses by Dominion and its predecessor entities in connection with the Ekati and Diavik Mines since 1999 has been in excess of CDN$3 billion.

[80] A "**Socio-Economic Agreement**" was concluded with the GNWT with respect to the Ekati Mine and has been in place since 1996. Pursuant to this agreement, Dominion Diamond provides financial support for long-term sustainable community development projects. Dominion Diamond also works to incorporate traditional knowledge in environmental monitoring programs through discussions with communities and on-the-land initiatives which provide direct input into these programs. These programs contribute approximately CDN $5 million annually to local communities.

[83] Dominion Diamond also has private Impact Benefit Agreements ("**IBAs**") with four Indigenous groups: Tlicho, Akaitcho, North Slave Metis Alliance and the Kitikmeot Inuit Association. The IBAs operate under a policy based on mutual respect, active partnership and long-term commitment. The IBAs extend over the life-of-mine of the Ekati Mine, and provide mine-related training, employment, business development, and capacity-building opportunities to members of the four Indigenous groups

[86] As noted above, putting the Ekati Mine on care and maintenance status on March 19, 2020 has required Dominion Diamond to reduce its operations to essential personnel only, which has resulted in a temporary net reduction of Canadian individuals actively employed by Dominion Diamond by approximately 400 employees from 634 to 212.

[87] As at April 16, 2020, Dominion Diamond employs the services of 634 individuals in Canada (of whom 212 are actively employed in Canada). The company's employees and contractors come from eleven (11) provinces and territories with greatest representation in the Northwest Territories and Alberta. Dominion's total workforce is presently comprised of: (a) 403 unionized employees (of whom 84 are actively employed); (b) 231 non-unionized employees (of whom 128 are actively employed); and 380 contractors.

[94] Through IBA payments, scholarships, and donations, Dominion Diamond contributed over $5 million in 2019 to communities in the Northwest Territories and Kugluktuk, Nunavut. An equivalent amount of payment was made by the company in 2018.

7. Five days after swearing my October Affidavit, and on the Friday before the Thanksgiving long weekend, Dominion issued a Press Release (as described below) announcing that its court application for approval of the transaction contemplated by the APA (scheduled for October 14, 2020) would not to be proceeding. As discussed below, Dominion's decision to issue the Press Release was necessitated by the inability of the Stalking Horse Purchasers and Dominion's Surety Bond Issuers (as defined below) to reach agreement relating to a material closing condition in the APA.

8. The break-down in negotiations between the Stalking Horse Purchasers and the Surety Bond Issuers had an obvious and significant impact on these CCAA proceedings.

9. Dominion had been working towards completing a going concern transaction (including by attempting to identify potentially better offers than the Stalking Horse Bid through the SISP approved by this Court) for many months. As described in my May, June, and October Affidavits, it was my strongly held view that the transaction contemplated by the APA was the best executable restructuring option for Dominion in the circumstances and was in the best interests of Dominion and its stakeholders.

10. With the transaction contemplated by the APA no longer an option, Dominion has been working diligently with the assistance of its legal counsel and Evercore, and in consultation with the Monitor, to assess all of its available options at this time. As discussed below, over the course of the two weeks since the issuance of the Press Release, Dominion's efforts in this regard have involved discussions with numerous stakeholders including the First Lien Lenders, the Ad Hoc Group, the Government of the Northwest Territories (the "**GNWT**"), the Surety Bond Issuers, and others.

11. As noted in my prior affidavits, based on my experience with Dominion and involvement in these CCAA proceedings, I am of the view that Dominion's business has value, is deserving of being restructured and saved and that a liquidation of the assets would not serve stakeholder interests. I say this considering not only the best interests of Dominion but also taking into consideration the interests of various stakeholders, including but not limited to, the First Lien Lenders, the Ad Hoc Group, the Northern communities, employees, contractors, creditors, and the environment.

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12. In the circumstances, Dominion requests an extension to the CCAA stay to provide time for Dominion and all of its stakeholders to assess, consider and plan around the recent and unfortunate change in circumstances and to assess the restructuring options.

II. UPDATE ON THE APPLICANTS' RESTRUCTURING EFFORTS

A. The Stalking Horse APA

13. As noted in my October Affidavit, the transaction contemplated by the APA, which involved transferring all of the assets of a large operating mine site, was complex and involved multiple concurrent and interrelated work streams that required the Stalking Horse Purchasers' active and ongoing participation and engagement.

14. One major workstream for the closing of the APA that was underway as of the date of my October Affidavit involved ongoing negotiations between the Stalking Horse Purchasers and Dominion's sureties, Aviva Insurance Company of Canada, Argonaut Insurance Company, and Zurich Insurance Company (collectively, the "**Surety Bond Issuers**").

15. The Surety Bond Issuers are the issuers of approximately CAD $280 million in surety bonds currently posted with the GNWT, which provide continued security for the reclamation obligations of Dominion related to the Ekati Mine.

16. The APA contained a condition to closing that the Stalking Horse Purchasers and the Surety Bond Issuers enter into an agreement, in form and substance satisfactory to the Stalking Horse Purchasers, regarding the treatment of the existing surety bonds.

17. Representatives of the Stalking Horse Purchasers and the Surety Bond Issuers devoted substantial time, effort, and resources to reaching an agreement regarding this important matter. As noted in my October Affidavit, assuming an agreement with the Surety Bond Issuers was reached, the Stalking Horse Purchasers and Dominion would then be required to engage with the GNWT on related reclamation issues.

18. I was closely following these negotiations between the Stalking Horse Purchasers and the Surety Bond Issuers. I was of the view that progress was being made towards a satisfactory agreement. Between October 6, 2020 and October 8, 2020. I participated in various calls related to the treatment of the surety bonds under the APA, including in particular a call I held on October 8, 2020 with representatives of the Surety Bond Issuers directly without any participation of

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representatives of the Stalking Horse Purchasers. From these calls, it became clear that the parties had reached an impasse.

19. On Friday, October 9, 2020, Dominion issued a press release (the "**Press Release**") confirming the impasse reached between the Surety Bond Issuers and the Stalking Horse Purchasers in their negotiations and that there was no reasonable prospect of reaching a satisfactory agreement among them. A copy of the Press Release is attached as **Exhibit "A"**.

20. In the circumstances, as noted in the Press Release, Dominion determined that it was impractical to proceed with its application for court approval of the APA, which was scheduled for October 14, 2020.

21. As noted above, the impasse among the Stalking Horse Purchasers and the Surety Bond Issuers that led to the issuance of the Press Release was a significant and very unfortunate development for these CCAA proceedings.

B. Ongoing Stakeholder Consultation

22. Commencing the day after the issuance of the Press Release, on the Thanksgiving long weekend (October 10 – 12), Dominion, with the assistance of Evercore, its legal counsel and the Monitor, immediately began to consider alternatives and next steps.

23. Dominion, and its advisors, have been and continue to be in regular contact with the First Lien Lenders and their advisors. These contacts have involved numerous discussions with and among the financial and legal advisors to Dominion and the First Lien Lenders, the Monitor, and direct discussions with representatives of Dominion's management and the advisors to the First Lien Lenders. Both Evercore and Dominion have shared information, documentation and various financial analyses and models with the First Lien Lenders and their advisors, all in an effort to assist the First Lien Lenders in assessing and considering Dominion's situation and the available options.

24. Dominion and its advisors have also been actively engaged with the Ad Hoc Group and its advisors over the past two weeks. These discussions have also involved numerous discussions with and among the financial and legal advisors to Dominion and the Ad Hoc Group, the Monitor, and representatives of Dominion's management and members of the Ad Hoc Group directly. In addition, Dominion, with the assistance of Evercore, has shared confidential information, documentation and prepared financial analyses and modelling for the Ad Hoc Group.

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During these discussions, the Ad Hoc Group has advised that it is working towards a going concern solution and a restructuring transaction to effect that outcome.

25. The Ad Hoc Group has also advised Dominion that it is prepared to provide interim financing to Dominion in an amount of up to approximately US $50M in part to fund the restart of the Ekati Mine. While Dominion does not presently require interim financing, the Ad Hoc Group has advised that such financing is available if needed.

26. Dominion has also briefed the GNWT regarding alternative restructuring paths and available options.

27. Dominion has engaged with representatives of a federal financial Crown corporation regarding available options for support for Dominion. Dominion had not previously engaged with such corporation in respect of such matters due to the Stalking Horse Bid and the pursuit of a going concern transaction with the Stalking Horse Bidder.

28. Dominion's advisors have also engaged directly with the advisors to the Surety Bond Issuers to discuss a going concern transaction and the interests of the Surety Bond Issuers in such a going concern outcome. The Surety Bond Issuers have advised that they are prepared to participate in such discussions and to work towards finding a going concern solution to the benefit of all stakeholders. The current bonds issued by the Surety Bond Issuers will continue in place for the benefit of the GNWT in accordance with their terms as Dominion considers its restructuring options.

29. Due to the possibility that Dominion may be unable to find a going concern solution in the near term, it is prudent for Dominion to undertake work on alternate scenarios. Dominion has considered scenarios that have involved the preparation of an number of confidential documents such as: (a) a cash flow analysis with a scaled back care & maintenance spend; (b) an updated and delayed restart plan contemplating restart scenarios in 2021; (c) recapitalization and going concern scenarios and modelling; and (d) a liquidation analysis.

30. The steps set out above are in addition to Dominion's ongoing consultation with the company's stakeholders regarding the status of these CCAA proceedings, including ongoing discussions with Dominion's trades, the union representing Dominion's unionized employees, and other stakeholders such as the beneficiaries under the Socio-Economic Agreement with the GNWT and Impact Benefit Agreements with Indigenous groups.

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31. Dominion's discussions and consultations with its stakeholders over the two weeks since the issuance of the Press Release have been focused on finding a restructuring option that will be in the best interests of Dominion and its stakeholders. A going concern solution that will save the Ekati Mine and its attendant jobs, contracts, impact benefit agreements, tax revenue, etc. remains Dominion's preferable outcome for its stakeholders. That said, absent a purchaser for Dominion's asserts or an investor prepared to make an equity injection in the near term, there is a real possibility that Dominion will not be able to avoid liquidation. Dominion is therefore considering all options in the interest of its stakeholders generally.

C. The Proposed Stay Extension

32. The Applicants' proposed stay extension from November 7, 2020 (which date coincided with the Outside Date under the SISP) up to and including December 15, 2020 is required in my view to provide Dominion with the necessary breathing room and time to continue the various efforts described above and to continue discussions with stakeholders on a restructuring path that will benefit Dominion's stakeholders generally.

33. In terms of Dominion's ability to fund its operations through the requested stay extension, Dominion has recently completed the sale of the two tranches of diamonds (having an aggregate book value of US $58 million) described in the affidavit of Kristal Kaye sworn on September 18, 2020. Overall pricing achieved from these sales was higher than anticipated, resulting in sales of US $54.7 million. Dominion has also recently completed a further sale of smaller diamonds having a book value of US $15.4 million for US $15.3 million. As noted in Ms. Kaye's September 18 affidavit, the net revenue from these diamond sales will be lower than the gross sales price in light of expenses, fees, royalties, taxes, etc.). Further diamond sales are not expected until mid to late November once Dominion completes necessary sorting and sale preparation processes scheduled to be completed after the Indian Diwali season.

34. Net revenue generated from these recent sales was paid to reduce the amounts outstanding on the Interim Financing Facility. All advances under the Interim Financing Facility have been repaid.

35. In my October Affidavit I discussed the purchase of diesel fuel by Dominion and the September 25, 2020 agreement reached with a fuel supplier. Shipments of the fuel purchased by Dominion have begun this week and are expected to be delivered to Dominion's tanking facilities in the Yellowknife area over the next 4 weeks. This fuel is not scheduled to be

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transported from Yellowknife to the Ekati Mine site until the ice road becomes available in February 2021. The decision regarding whether some or all the fuel recently purchased by Dominion will be transported to the Ekati Mine or instead be sold to third parties will be influenced by the path these restructuring proceedings take over the next few weeks and months. As noted in my October Affidavit, Dominion made the fuel purchase in question as it believed that a potential purchaser of Dominion's business would not be able to restart the Ekati Mine until 2022 unless such fuel purchases were made. Further fuel would need to be purchased in the event of an Ekati mine restart in the first part of 2021.

36. I understand that the Monitor will file a report (the "**Monitor's Seventh Report**") which will include, among other things, a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, the Applicants will have sufficient funds to continue their operations and fund these CCAA proceedings until December 15, 2020. In preparing the cash flow, Dominion has worked with the Monitor to identify where Dominion may reduce its outgoing cash obligations and reduce expenditures.

37. It is my view that the Applicants have acted and are continuing to act in good faith and with due diligence in these CCAA proceedings and that it is necessary and appropriate that the relief sought by the Applicants be granted.

III. PROCESS FOR COMMISSIONING OF THIS AFFIDAVIT

38. I am not physically present before the Commissioner for Oaths (the "**Commissioner**") taking this affidavit, but I am linked with the Commissioner by video technology. The following steps have been or will be taken by me and the Commissioner:

(a) I have shown the Commissioner the front and back of my current government-issued photo identification ("**ID**") and the Commissioner has compared my video image to the information on my ID;

(b) the Commissioner has taken a screenshot of the front and back of my ID to retain it;

(c) the Commissioner and I have a paper copy of this affidavit, including all Exhibits, before us;

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(d) the Commissioner and I have reviewed each page of this affidavit and Exhibits to verify that the pages are identical and have initialed each page in the lower right corner;

(e) at the conclusion of our review of the affidavit and Exhibits, the Commissioner administered the oath to me, and the Commissioner watched me sign my name to this affidavit; and

(f) I will send this signed affidavit, including Exhibits, electronically to the Commissioner.

SWORN BEFORE ME by two-way video conference on October 23, 2020.

A Commissioner for Oaths in and for the Province of Alberta

BRENDAN BELL

BB

(d) the Commissioner and I have reviewed each page of this affidavit and Exhibits to verify that the pages are identical and have initialed each page in the lower right corner;

(e) at the conclusion of our review of the affidavit and Exhibits, the Commissioner administered the oath to me, and the Commissioner watched me sign my name to this affidavit; and

(f) I will send this signed affidavit, including Exhibits, electronically to the Commissioner.

SWORN BEFORE ME by two-way video conference on October 23, 2020.)

A Commissioner for Oaths in and for the Province of Alberta)

Morgan E. Crilly
Barrister & Solicitor

BRENDAN BELL

This is Exhibit "**A**" referred to in the Affidavit of **BRENDAN BELL** sworn before me by two-way video conference this 23rd day of October, 2020.

A Commissioner for Oaths in and for Alberta

Morgan E. Crilly
Barrister & Solicitor

Dominion Diamond Mines

NOTIFICATION

DOMINION DIAMOND MINES PROVIDES UPDATE ON SALE PROCESS

CALGARY, AB – October 9, 2020 – Dominion Diamond Mines ULC ("Dominion" or the "Company") provided an update today on its previously announced sales and investment solicitation process and the stalking horse bid (the "Stalking Horse Bid") submitted by Canadian Diamond Holdings, L.P. and CA Canadian Diamond Mines ULC (the "Purchaser"), affiliates of the Washington Companies, for the purchase of certain of Dominion's assets.

Dominion has been advised that surety bond issuers, Aviva Insurance Company of Canada, Argonaut Insurance Company and Zurich Insurance Company Ltd. (collectively, "the Surety Bond Issuers") and the Purchaser have reached an impasse in negotiations and there is no reasonable prospect of reaching a satisfactory agreement among them. The Surety Bond Issuers are the issuers of approximately C$280 million in surety bonds currently posted with the Government of the Northwest Territories, which provide continued security for the reclamation obligations of Dominion related to the Ekati mine. The Stalking Horse Bid is subject to a condition that the Surety Bond Issuers and the Purchaser reach an agreement regarding the treatment of the existing surety bonds.

In these circumstances, Dominion has determined that it is impractical to seek court approval of the Stalking Horse Bid, which is scheduled to be heard on October 14, 2020, because there is no transaction capable of being completed as a result of, among other things, the Purchaser being unable to satisfy the surety condition. As a result, Dominion does not anticipate it will be able to complete the transaction contemplated by the Stalking Horse Bid. As previously disclosed, no other qualified bids were submitted as part of the sale and investment solicitation process in relation to Dominion's business.

The current bonds issued by the Surety Bond Issuers will continue in place for the benefit of the Government of the Northwest Territories in accordance with their terms.

Dominion remains in creditor protection until November 7, 2020, unless extended. Dominion is working with its advisors and will be consulting with stakeholders to determine next steps. The Company will be assessing all strategic alternatives to return the Ekati Diamond Mine to full operations for the benefit of its employees, the Northwest Territories and other stakeholders.

Copies of the applicable Court orders and other Court materials and information related to the Company's CCAA proceedings are available on the website maintained by FTI, which has been appointed by the Court as Dominion's Monitor to oversee the CCAA proceedings: cfcanada.fticonsulting.com/Dominion.

* * * * *

About Dominion Diamond Mines

Dominion Diamond Mines ULC is a Canadian mining company and one of the world's largest producers and suppliers of premium rough diamond assortments to the global market. The company owns a controlling interest in the Ekati Diamond Mine, which it operates, and owns 40% of the Diavik Diamond Mine. The company also holds a controlling interest in the Lac de Gras Diamond Project. The Ekati and Diavik Diamond Mines, and the Lac de Gras Diamond Project are located in the

Northwest Territories of Canada. In addition to its mining and exploration operations, Dominion has offices in Canada, Belgium and India.

For more information, please visit www.ddmines.com and Dominion's private investor portal, or contact investor@ddcorp.ca.

Media Contacts:
Rebecca Hurl
Rebecca.Hurl@ddcorp.ca
403-797-0486

Sard Verbinnen & Co
Jared Levy/Liz Zale
DominionDiamond-SVC@sardverb.com

APPENDIX A

Certificate of Commissioning by Videoconference

I, Morgan Crilly, Commissioner of Oaths in and for Alberta, took the Affidavit of Brendon Bell via videoconference on Oct. 23, 2020 (the "**Affidavit**").

The affiant and I followed the process outlined by the Alberta Court of Queen's Bench in Notice to the Profession and Public #2020-02 dated March 25, 2020. In addition to the steps described in the Affidavit, I compared each page of the copy I received from the affiant with the initialed copy that was before me while I was linked by videoconference with the affiant. Upon being satisfied that the two copies were identical, I affixed my name to the jurat.

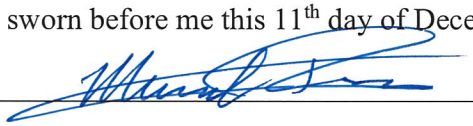
On March 17, 2020, the Government of Alberta declared a state of public health emergency pursuant to the Alberta *Public Health Act* in response to the COVID-19 pandemic. The Government of Alberta also strongly recommends that all individuals stay home and avoid contact with others whenever possible. Therefore, I am satisfied that this process was necessary because it was unsafe for the deponent and I to be physically present together.

Commissioner of Oaths in and for Alberta

Morgan E. Crilly
Barrister & Solicitor

This is **Exhibit "G"** to the Affidavit of Alyssa Roy

sworn before me this 11th day of December 2020.



Notary Public/Commissioner for Oaths in and for Alberta

MICHAEL B. PEDE
Student-at-Law

CLERK'S STAMP	
COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC, DOMINION FINCO INC., and DOMINION DIAMOND MARKETING CORPORATION**
DOCUMENT	**APPLICATION** **(APPROVAL AND VESTING AND STAY EXTENSION ORDERS)**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309

NOTICE TO THE RESPONDENTS

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

Date: December 11, 2020
Time: 2:00 p.m. MST
Where: Calgary Courts Centre, 601 – 5th Street S.W., Calgary (Virtual Courtroom Via Webex)
Before: The Honourable Justice Eidsvik

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. The Applicants seek an order substantially in the form attached hereto as **Schedule "A"** (the "**Approval and Vesting Order**"), among other things:

   (a) approving the sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement (as may be further amended from time to time in accordance with the terms thereof and the Approval and Vesting Order, the "**Purchase Agreement**") dated as of December 6, 2020, by and among the Applicants, as sellers (the "**Dominion Vendors**"), and DDJ Capital Management, LLC and Brigade Capital Management, LP (collectively, the "**Contracting Purchasers**");

   (b) vesting in one or more entities designated by the Contracting Purchasers in accordance with the Purchase Agreement (collectively, the "**Purchaser**") all of the Dominion Vendors' right, title and interest in and to the Acquired Assets (as defined in the Purchase Agreement), free and clear of all Encumbrances (as defined in the Purchase Agreement) other than the Permitted Encumbrances (as defined in the Purchase Agreement) on the terms set out in the Approval and Vesting Order;

   (c) authorizing and directing the Dominion Vendors to complete the Transaction subject to the terms of the Purchase Agreement, to perform their obligations under the Purchase Agreement and any ancillary documents related thereto, and to take such additional steps and execute such additional documents (including any further amendments to the Purchase Agreement) as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Acquired Assets to the Purchaser; and

(d) authorizing the Dominion Vendors to reimburse the Contracting Purchasers for certain fees pursuant to an in accordance with the Purchase Agreement and approving certain bid protections in favour of the Contracting Purchasers, on the terms and conditions set out in the Purchase Agreement.

2. The Applicants further seek an order substantially in the form attached hereto as **Schedule "B"** extending the Stay Period (as defined in the second amended and restated order granted by this Court on June 19, 2020 (the "**SARIO**")) from December 15, 2020 until and including March 1, 2021.

3. Such further and other relief as counsel may request and this Honourable Court may deem appropriate.

Grounds for making this application:

The Applicants' Sale Efforts and Process

4. On April 22, 2020, upon the application of the Applicants, this Court granted an initial order (the "**Initial Order**") with respect to the Applicants under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**").

5. In their Application to this Court for the Initial Order, the Applicants advised that their restructuring plan while under CCAA protection would involve, among other things, efforts to undertake a sale and investment solicitation process to maximize the value of the Applicants' business and property for the benefit of stakeholders.

6. On June 19, 2020, this Court granted the SARIO that, among other things, (a) approved a sale investment solicitation process (the "**SISP**") to be implemented by the Applicants' financial advisor, Evercore, with the oversight of the Monitor; and (b) approved a stalking horse bid (the "**Stalking Horse Bid**") by an affiliate of The Washington Companies ("**Washington**"), the Applicants' equity sponsor (the "**Stalking Horse Bidder**").

7. The SISP had been preceded by three strategic review processes aimed at, among other things, soliciting the sale of Dominion's assets to a third party. The first two of these strategic processes were undertaken by Dominion with the assistance of a bank-owned financial advisor in each of 2015 and 2016 and did not result in a sale. The third strategic process was undertaken in 2017 and resulted in one formal offer to acquire the company, being the offer made by Washington, which thereby became the equity owner of Dominion.

8. The SISP, which represented the fourth strategic process aimed at the sale of Dominion's assets, was implemented by Evercore, with the oversight of the Monitor, over a five month period, from the commencement of these CCAA proceedings on April 22, 2020, to the formal commencement of the SISP on June 19, 2020, through to the announcement of the Stalking Horse Bid as the successful bid upon the expiry of the Second Extended Phase 2 Deadline under the SISP on September 15, 2020.

9. The SISP did not result in a qualified bid other than that of the Stalking Horse Bidder. Nor did any third-parties come forward with their own competing stalking horse offer in the approximately two months between the commencement of these CCAA proceedings in April 2020 and the formal start of the SISP process in June 2020, notwithstanding the public nature of these CCAA proceedings and the limited pool of potential purchasers for the Applicants' unique and complex assets.

The Ad Hoc Group Transaction

10. On October 9, 2020, the Applicants announced that their court application for approval of the transaction contemplated by the Stalking Horse Bid (scheduled for October 14, 2020) would not be proceeding due to an impasse between the Stalking Horse Bidder and Dominion's surety bond issuers regarding an agreement relating to a material closing condition with respect to the Stalking Horse Bid.

11. With the transaction contemplated by the Stalking Horse Bid no longer an option, Dominion commenced working diligently with the assistance of its legal counsel and Evercore, and in consultation with the Monitor, to assess all its available options. Dominion's efforts in this regard involved discussions with numerous stakeholders including Dominion's First Lien Lenders, the Ad Hoc Group of holders of Dominion's second lien notes, the Government of the Northwest Territories (the "**GNWT**"), Dominion's surety bond issuers, and others.

12. On December 6, 2020, the First Lien Lenders (who have advanced to Dominion US$150 million under a revolving facility in the form of draws totalling approximately US$70 million in cash with a further approximate CDN$110,000,000 having been utilized for the purpose of obtaining letters of credit) and the Ad Hoc Group (members of which hold in excess of 50% of the US$550 million face value of Dominion's second lien notes) entered into a Mutual Support Agreement regarding the Transaction to be implemented, subject to this

Court's approval, within the context of these CCAA proceedings on the terms set out in the Purchase Agreement between the Dominion Vendors and the Purchaser.

13. Consistent with the Applicants' restructuring objective, the Purchase Agreement contemplates a going concern outcome for the Applicants' business, providing that the Purchaser will assume (subject to the terms of the Purchase Agreement) substantially all of the go-forward operating liabilities of the Dominion Vendors (but not the obligations related to the Diavik Interest), including substantially all obligations (a) of the Dominion Vendors under Dominion's go-forward operational contracts and joint venture agreements; (b) to employees and unions (including obligations under Dominion's collective bargaining agreements and pension plan); (c) to Indigenous groups; and (d) to the GNWT.

14. It is the view of the Applicants that the Transaction contemplated by the Purchase Agreement is in the best interests of Dominion's stakeholders generally, including but not limited to the interests of Northern communities, Northern Indigenous groups, employees and contractors (and Northern-based employees and contractors in particular), the environment, and creditors.

15. The Transaction, which was entered into following a thorough exploration and canvassing of the market through a SISP implemented over the course of more than five (5) months, is the best executable restructuring option available to Dominion in the context of these CCAA proceedings.

16. The Transaction is supported by the First Lien Lenders.

17. The Applicants do not have better viable alternatives to the Transaction contemplated by the Purchase Agreement.

18. The Applicants' proposed stay extension up to an including March 1, 2021, which date roughly coincides with the Outside Date for the closing of the Transaction as may potentially be extended under the Purchase Agreement, is required to permit a closing of the Transaction, provide the necessary breathing room for the Applicants as they continue to work towards their restructuring objectives, and permit the Applicants to attend to the various other CCAA matters that will arise, all for the benefit of their stakeholders.

19. The Applicants have sufficient funds to fund their obligations and the cost of these CCAA proceedings through the end of the proposed Stay Period.

20. The Applicants have acted, and are continuing to act, in good faith and with due diligence in respect of these CCAA proceedings.

21. The Applicants shall rely at the hearing of the Application upon such further and other grounds as counsel may advise and this Honourable Court may permit.

Affidavit or other evidence to be used in support of this application:

22. The Applicants intend to rely upon the following materials:

    (a) Affidavits of Brendan Bell, sworn May 21, 2020, June 12, 2020, October 4, 2020, and October 23, 2020, and a further December 2020 affidavit to be filed;

    (b) the Affidavits of John Startin, sworn May 21, 2020, June 12, 2020, and October 5, 2020;

    (c) the Eleventh Report of the Monitor, to be filed;

    (d) such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

23. Part 6, Division 1 of the Alberta *Rules of Court* (AR 124/2010); and

24. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable acts and regulations:

25. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended; and

26. Such further and other Acts and Regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

27. None.

How application is proposed to be heard or considered:

28. Via Webex before the Honourable Madam Justice K.M. Eidsvik.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

APPROVAL AND VESTING ORDER

CLERK'S STAMP

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY, LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC, DOMINION FINCO INC. AND DOMINION DIAMOND MARKETING CORPORATION**
DOCUMENT	**APPROVAL AND VESTING ORDER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309

DATE ON WHICH ORDER WAS PRONOUNCED:	December 11, 2020
LOCATION OF HEARING:	Calgary
NAME OF JUDGE WHO MADE THIS ORDER:	The Hon. Madam Justice K. Eidsvik

UPON THE APPLICATION by Dominion Diamond Mines ULC ("**Dominion Diamond**"), Dominion Diamond Holdings, LLC ("**Dominion Holdings**"), Dominion Diamond Delaware Company LLC ("**DDC**"), Dominion Diamond Marketing Corporation ("**Dominion Marketing**"), Dominion Diamond Canada ULC ("**DDCU**"), Dominion Finco Inc. ("**Finco**") (Dominion Diamond, Dominion Holdings, DDC, Dominion Marketing, DDCU and Finco collectively, the "**Sellers**") and Washington Diamond Investments, LLC ("**Parent**") for, *inter alia*, an order (i) approving the sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement (as may be further amended from time to time in accordance with the terms thereof and this Order, the "**Purchase Agreement**") dated as of December 6, 2020, by and among, *inter alia*, the Sellers, as sellers, and DDJ Capital Management, LLC and Brigade Capital Management, LP (the "**Contracting Purchasers**"), a copy of which is attached as **Schedule "A"** hereto, (ii) vesting in one or more entities duly designated by the Contracting Purchasers in accordance with the Purchase Agreement (collectively, the "**Purchasers**" and each, a "**Purchaser**") all of the Sellers' right, title and interest in and to the Acquired Assets, free and clear of all Encumbrances other than the Permitted Encumbrances (as defined below), and (iii) granting related relief;

AND UPON having read the Application, the Affidavits of Brendan Bell sworn sworn May 21, 2020, June 12, 2020, October 4, 2020, October 23, 2020, and December [●], 2020; the Affidavits of John Startin sworn May 21, 2020, June 12, 2020, and October 5, 2020; **AND UPON** reading the Eleventh Report of FTI Consulting Canada Inc. (the "**Monitor**"), filed;

AND UPON hearing counsel for the Applicants, counsel for the Purchasers, counsel for the Monitor, counsel for Credit Suisse AG, Cayman Islands Branch, and those other counsel present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other Person is required to have been served with notice of this Application and time for service of this Application is abridged to that actually given.

DEFINED TERMS

2. All capitalized terms not defined herein shall have the respective meanings ascribed to them in the Purchase Agreement or the Initial Order of the Honourable Madam Justice K. Eidsvik dated April 22, 2020 (as amended and restated on May 1, 2020, further amended on May 15, 2020, and further amended and restated on June 19, 2020, and as may be further amended, restated or supplemented from time to time, the "**Initial Order**").

APPROVAL OF TRANSACTION

3. The Purchase Agreement is hereby approved in its entirety. The Transaction is hereby approved, and the execution of the Purchase Agreement by the Sellers is hereby authorized, ratified, confirmed, and approved, with such minor amendments as the Sellers may deem necessary with the consent of the Monitor. The Sellers are hereby authorized and directed to complete the Transaction subject to the terms of the Purchase Agreement, to perform their obligations under the Purchase Agreement and any ancillary documents related thereto (collectively, the "**Transaction Documents**"), and to take such additional steps and execute such additional documents (including any further amendments to the Purchase Agreement) as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Acquired Assets to the Purchasers.

VESTING OF PROPERTY

4. Upon delivery of a Monitor's certificate to the Purchasers substantially in the form set out in **Schedule "B**" hereto (the "**Monitor's Certificate**"), all of the Sellers' right, title and interest in and to the Acquired Assets described in the Purchase Agreement shall vest absolutely in the name of each applicable Purchaser free and clear of and from any and all caveats, security interests or similar interests, hypothecations, pledges, mortgages, deeds, deeds of trust, liens, encumbrances, trusts or statutory, constructive or deemed trusts, reservations of ownership, title defects or imperfections, royalties, leases, options, rights including rights of pre-emption or first refusal, privileges, interests, assignments, easements, rights of way, encroachments, restrictive covenants, actions, demands, judgments, executions, levies, taxes, writs of enforcement, proxies, voting trusts or agreements, transfer restrictions under any shareholder agreement or similar agreements, charges, conditional sales or other title retention agreements or other impositions, restrictions on transfer or use of any nature whatsoever or other claims, whether

contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including, without limiting the generality of the foregoing:

(a) any encumbrances or charges as created by the Initial Order or any other Orders granted in the within CCAA proceedings;

(b) any charges, security interests or claims evidenced by registrations, filing or publication pursuant to (i) the *Personal Property Security Act*, SNWT 1994, c 8 (NWT); (ii) the *Personal Property Security Act*, RSO 1990, c P.10 (Ontario); the *Personal Property Security Act*, RSA 2000, c P-7 (Alberta); (iii) the *Personal Property Security Act*, RSBC 1996, c 359 (British Columbia)*;* (iv) the Uniform Commercial Code (U.C.C.); (v) the *Land Titles Act*, RSNWT 1988, c 8 (the "***Land Titles Act* (NWT)**"); the (vi) *Northwest Territories Mining Regulation*, SOR/2014-68; and (vii) any other personal or real property registration system;

(c) any charges, security interests or claims evidenced by registrations at the Canadian Intellectual Property Office or similar intellectual property offices in Canada or elsewhere in the world; and

(d) any liens or claims of lien under the (i) *Miners Lien Act*, RSNWT 1988, c M-12 (NWT); and (ii) the *Garage Keepers' Lien Act*, RSA 2000, c G-2 (Alberta);

but in each case, excluding the permitted encumbrances listed in **Schedule "E"** hereto (collectively, the "**Permitted Encumbrances**"), as such Permitted Encumbrances may be hereafter modified pursuant to paragraph 5 of this Order, and for greater certainty, this Court orders that all Claims including Encumbrances, other than Permitted Encumbrances, affecting or relating to the Acquired Assets, are hereby expunged, discharged and terminated as against the Acquired Assets. Except as set forth in the last sentence of Section 8.1(a) of the Purchase Agreement, the Purchasers' acquisition of the Acquired Assets shall be free and clear of any "successor liability" Liabilities or Claims of any nature whatsoever, whether known or unknown and whether asserted or unasserted as of the Closing; *provided* that nothing in this sentence shall limit Purchasers' agreement to assume the Assumed Liabilities in accordance with the terms of the Purchase Agreement.

5. If Schedule “E” to this Order designates any Permitted Encumbrances that prior to Closing are determined to relate to agreements which are not Assigned Contracts, such Permitted Encumbrances shall become Encumbrances and the Sellers shall give prompt written notice thereof to the beneficiaries of such Encumbrances. Upon Sellers giving such written notice, which shall be given not less than 10 days prior to Closing, title in the Acquired Assets shall vest in the Purchaser free and clear of all such Encumbrances at Closing without need for further order of this Court and notwithstanding their original inclusion on Schedule “E” to this Order as Permitted Encumbrances.

6. Without limiting paragraph 4, upon delivery of the Monitor’s Certificate, all right, title and interest in and to any assets held by any Applicant that are used or useful in connection with the Business (other than the Excluded Assets) or that would otherwise constitute Acquired Assets if held by any Seller, shall vest absolutely in the name of each applicable Purchaser, free and clear of all Encumbrances other than Permitted Encumbrances, and for greater certainty, all such assets shall constitute Acquired Assets and each Applicant shall constitute a Seller hereunder with respect to any such Acquired Assets.

7. Upon delivery of the Monitor’s Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities and any other applicable registrar or government ministries or authorities exercising jurisdiction with respect to the Acquired Assets including, without limitation, those referred to at paragraph 8 of this Order (collectively, “**Governmental Authorities**”) are hereby authorized, requested and directed to (i) accept delivery of such Monitor’s Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchasers clear title to the Acquired Assets subject only to Permitted Encumbrances, and (ii) take such steps as are necessary to give effect to the terms of this Order and the Purchase Agreement. Presentment of this Order and the Monitor’s Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest free and clear of any Encumbrances other than Permitted Encumbrances.

8. Without limiting the generality of foregoing paragraph 7:

(a) each applicable Registrar under the Government of the Northwest Territories - Department of Industry, Tourism and Investment, including the Mining Recorder's Office of the Northwest Territories and all other government ministries and authorities in the Northwest Territories exercising jurisdiction with respect to the Acquired Assets, and each applicable Registrar under the Crown-Indigenous Relations and Northern Affairs Canada (Nunavut), including the Mining Recorder's Office of Nunavut shall and is hereby authorized, requested and directed to transfer in the name of one or more of the Purchasers, the mining leases, mineral claims and surface leases listed in **Schedule "C"** hereto free and clear of all Encumbrances, including without limitation, the Encumbrances listed in **Schedule "D"** hereto, other than the Permitted Encumbrances; and

(b) the applicable Registrar of the Canadian Intellectual Property Office shall be and is hereby authorized and directed to (i) cancel and discharge those Encumbrances, if any, other than the Permitted Encumbrances, registered against the estate or interest of the Sellers in and to the Acquired Assets, and (ii) transfer all of the right, title and interest of the Sellers in and to the Acquired Assets free and clear of and from any and all Encumbrances, if any, other than the Permitted Encumbrances.

9. No further authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Acquired Assets shall be required for the Closing and post-Closing implementation of the Transaction contemplated in the Purchase Agreement.

10. Upon delivery of the Monitor's Certificate together with a certified copy of this Order, this Order shall be immediately registered by the NWT Land Registrar in accordance with section 175 of the *Land Titles Act* (NWT), and notwithstanding that the appeal period in respect of this Order has not elapsed.

11. Upon completion of the Transaction, the Sellers and all Persons who claim by, through or under the Sellers in respect of the Acquired Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Acquired Assets, save and except for the Persons entitled to the benefit of the Permitted Encumbrances (but solely with respect to and to the extent of such Permitted Encumbrances), shall stand absolutely and forever barred, estopped, and foreclosed from and permanently enjoined from pursuing,

asserting, or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption, or other Claim or Encumbrance whatsoever in respect of or to the Acquired Assets, and to the extent that any such Persons remain in the possession or control of any of the Acquired Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate or interest in and to the Acquired Assets, they shall forthwith deliver possession thereof to the applicable Purchaser.

12. Following completion of the Transaction, the Sellers are hereby permitted to complete, execute and file any necessary application, articles of amendment, certificate of amendment or such other documents or instruments as may be required to change their respective legal names, to the extent required pursuant to any of the Transaction Documents, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the applicable governmental authority without the requirement (if any) of obtaining director or shareholder approval pursuant to any applicable federal, provincial or state legislation.

13. The Purchasers shall be entitled to enter into and upon, hold and enjoy the Acquired Assets for their own use and benefit without any interference of or by any Person claiming by, through or against the Sellers.

14. Immediately upon Closing of the Transaction, the holders of the Permitted Encumbrances, other than the First Lien Lenders and their agents, shall have no claim whatsoever against the Monitor or the Sellers.

15. The Monitor is directed to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof to the Purchasers.

16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Monitor and the Sellers are authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in the Sellers' records pertaining to the Sellers' past and current employees. The Purchasers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in accordance with applicable law.

17. The Sureties Support Confirmations shall inure to the benefit of the Applicants and their respective agents, successors, and assigns, all of whom are hereby deemed to be beneficiaries of such Sureties Support Confirmations.

BREAK-UP FEE AND CHARGE

18. The Sellers' obligation to pay the Break-Up Fee pursuant to and in accordance with the Purchase Agreement is hereby approved.

19. The Bidders shall be entitled to the benefit of and are hereby granted a charge (the "**Break-Up Fee Charge**") on the Property as security for the payment of the Break-Up Fee by the Sellers pursuant to and in accordance with the Purchase Agreement.

20. The Break-Up Fee Charge shall rank in priority subsequent to the security securing both the (i) Charges; and (ii) indebtedness under the Pre-filing Credit Agreement.

MISCELLANEOUS MATTERS

21. Notwithstanding:

    (a) the pendency of these proceedings CCAA proceedings;

    (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**") in respect of the Sellers and any bankruptcy order issued pursuant to any such applications;

    (c) any application for a receivership order; or

    (d) the provisions of any federal or provincial statute,

    the vesting of the Acquired Assets in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Sellers and shall not be void or voidable by creditors of the Sellers, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

22. The Monitor, the Sellers, the Purchasers and any other interested party shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

23. This Honourable Court shall retain exclusive jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Order, the Purchase Agreement, all amendments thereto, in connection with any disputes involving the Applicants, and to adjudicate, if necessary, any and all disputes concerning the Applicants and related in any way to the Transaction; *provided*, *however*, that in the event that this Honourable Court abstains from exercising or declines to exercise jurisdiction or is without jurisdiction, such abstention, refusal or lack of jurisdiction shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories, in the United States or in any of its states, including Delaware, or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Monitor in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Monitor, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

24. Service of this Order shall be deemed good and sufficient by serving the same in accordance with the procedures in the CaseLines Service Order granted May 29, 2020 in these proceedings.

Justice of the Court of Queen's Bench of Alberta

SCHEDULE “A”

ASSET PURCHASE AGREEMENT

Execution Version

ASSET PURCHASE AGREEMENT

BY AND AMONG

DDJ CAPITAL MANAGEMENT, LLC,

BRIGADE CAPITAL MANAGEMENT, LP,

DOMINION DIAMOND HOLDINGS, LLC,

DOMINION DIAMOND MINES ULC,

DOMINION DIAMOND DELAWARE COMPANY LLC,

DOMINION DIAMOND MARKETING CORPORATION,

DOMINION DIAMOND CANADA ULC

AND

DOMINION FINCO INC.

Dated as of December 6, 2020

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LIST OF SCHEDULES

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is dated as of December 6, 2020 (the "Effective Date"), by and among DDJ Capital Management, LLC ("DDJ"), Brigade Capital Management, LP ("Brigade", and together with DDJ, the "Bidders" and each individually, a "Bidder"), Dominion Diamond Holdings, LLC, a Delaware limited liability company ("Dominion Holdings"), Dominion Diamond Mines ULC, a British Columbia unlimited liability company and a wholly owned subsidiary of Dominion Holdings ("DDM"), Dominion Diamond Delaware Company LLC, a Delaware limited liability company and a wholly owned subsidiary of DDM ("DDC"), Dominion Diamond Marketing Corporation, a wholly owned subsidiary of Dominion Holdings ("Dominion Marketing"), Dominion Diamond Canada ULC, a wholly owned subsidiary of DDC ("DDCU"), Dominion Finco Inc. ("Finco" and together with Dominion Holdings, DDM, DDC, Dominion Marketing and DDCU, the "Sellers").

WHEREAS, DDM is a diamond producer with ownership interests in diamond projects in the Northwest Territories and Sellers are engaged, directly and indirectly through the Acquired Subsidiaries (as defined below), in the business of mining and selling rough diamonds to the global market (the "Business");

WHEREAS, on April 22, 2020 (the "Filing Date"), the Sellers obtained an initial order (the "Initial Order") under the Companies' Creditors Arrangement Act (Canada) ("CCAA") from the Alberta Court of Queen's Bench (the "CCAA Court") that, among other things, commenced the CCAA proceedings (the "CCAA Proceedings") and granted an initial stay of proceedings in respect of the Sellers (the "Stay"). On May 1, 2020, the Sellers obtained an amended and restated version of the Initial Order from the CCAA Court (as further amended and restated from time to time, the "Amended and Restated Initial Order") that, among other things, extended the Stay.

WHEREAS, the Bidders intend and have agreed to constitute one or more special purpose acquisition vehicles (the "Purchaser") to purchase the Sellers' right, title and interest in and to the Acquired Assets (as defined below) and assume the Assumed Liabilities (as defined below) on the terms and subject to the conditions set forth in this Agreement, subject to obtaining the Sale Order (as defined below) (the "Acquisition");

WHEREAS, the Sellers and Bidders have agreed that, pending the constitution of the Purchaser, the Bidders shall have executed this Agreement on behalf of the Purchaser, who shall upon constitution, become a Party to and accept the terms and conditions of this Agreement and undertake to perform all of the obligations of and exercise all of the rights of the Purchaser under this Agreement; and

WHEREAS, the Parties desire to consummate the Acquisition as promptly as practicable following the satisfaction of the conditions precedent set out herein, including the issuance of the Sale Order.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, covenants, agreements and warranties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I

CERTAIN DEFINITIONS

1.1 Specific Definitions. Capitalized terms used herein shall have the meanings set forth below:

"Aboriginal Agreements" shall have the meaning ascribed thereto in Section 5.16(a).

"Aboriginal Claims" means any and all claims (whether or not proven) by any Person, pursuant to section 35 of the *Constitution Act, 1982 Schedule B to the Canada Act, 1982 (U.K.)* or otherwise, to or in respect of: (1) rights, title or interests of any Aboriginal Group by virtue of its status as an Aboriginal Group; (2) treaty rights; (3) Métis rights, title or interests; or (4) rights under land claims and agreements; or (5) specific or comprehensive claims being considered by the Government of Canada; and includes any alleged or proven failure of the Crown to have satisfied, prior to the date hereof, any of its duties to any claimant of any of the foregoing.

"Aboriginal Group" means any band (as defined in the *Indian Act* (Canada)), First Nation, Métis community, Inuit group, tribal council, band council or other aboriginal organization in Canada.

"Acquired Assets" shall have the meaning ascribed thereto in Section 3.1.

"Acquired Subsidiaries" shall have the meaning ascribed thereto in Section 3.1(a).

"Acquisition" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Action" means any litigation (in Law or in equity), arbitration, mediation, action, lawsuit, proceeding, written complaint, written charge, written claim, written demand, hearing, investigation or like matter (whether public or private) commenced, brought, conducted, or heard before or otherwise involving any Governmental Body, whether administrative, judicial or arbitral in nature.

"Advance Ruling Certificate" means an advance ruling certificate issued by the Commissioner pursuant to section 102 of the Competition Act with respect to the transactions contemplated by this Agreement.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by Contract or otherwise. For the avoidance of doubt, none of the Bidders are, nor will the Purchaser be, an Affiliate of Sellers for purposes of this Agreement or otherwise.

"Agreement" means this Asset Purchase Agreement, including all Schedules hereto and the Seller Disclosure Letter, as it may be further amended from time to time in accordance with its terms.

"Allocation" shall have the meaning ascribed thereto in Section 13.14(e).

"Alternate Transaction" shall have the meaning ascribed thereto in Section 12.4(a).

"Amended and Restated Initial Order" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Ancillary Documents" means any certificate, agreement, document or other instrument (other than this Agreement) to be executed and delivered by a Party in connection with the consummation of the transactions contemplated by this Agreement.

"Antitrust Approvals" means the Competition Act Approval, if required, and each of the other Mandatory Antitrust Approvals (if any).

"Antitrust Laws" means the Competition Act and any competition, merger control and antitrust Law of any other applicable supranational, national, federal, state, provincial or local Law designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolizing or restraining trade or lessening competition of any other country or jurisdiction, to the extent applicable to the transactions contemplated by this Agreement.

"Arbitrating Accountant" means an internationally recognized certified public accounting firm jointly selected by Purchaser and Sellers that is not then engaged to perform accounting, tax or auditing services for Sellers or Purchaser.

"Assigned Contracts" shall have the meaning ascribed thereto in Section 3.1(l).

"Assignment and Assumption Agreement" shall have the meaning ascribed thereto in Section 11.2(b).

"Assignment and Assumption of Leases" shall have the meaning ascribed thereto in Section 11.2(f).

"Assignment Order" means an Order of the CCAA Court made in the CCAA Proceedings, in form and substance acceptable to Parties, acting reasonably, assigning to the Purchaser the rights and obligations of Sellers under an Assigned Contract for which a consent, approval or waiver necessary for the assignment of such Assigned Contract has not been obtained.

"Assumed Liabilities" shall have the meaning ascribed thereto in Section 3.3.

"Assumed Plans" shall have the meaning ascribed thereto in Section 8.2(a).

"Authorization" means with respect to any Person, any order, permit, approval, consent, waiver, license, registration, qualification, certification or similar authorization of any Governmental Body having jurisdiction over the Person, and shall include all environmental permits, licenses and other Authorizations, and all surface leases and water or riparian rights, and for greater certainty in respect of the Sellers shall include the Environmental Agreement.

"Bidder Advisor" means Houlihan Lokey, Inc.

"Bidder Parties" means the Bidders and the Purchaser, collectively, and a "Bidder Party" refers to any of them.

"Bidder Related Party" means any former, current or future direct or indirect director, manager, officer, employee, agent or Affiliate of any of the Bidder Parties; any former, current or future, direct or indirect holder of any equity interests or securities of any of the Bidder Parties (whether such holder is a limited or general partner, member, stockholder, trust, trust beneficiary or otherwise); any former, current or future assignee of any of the Bidder Parties; any equity or debt financing source of any of the Bidder Parties; any former, current or future direct or indirect funds or accounts managed or advised by any of the Bidder Parties; or any former, current or future director, officer, trustee, beneficiary, employee, agent, Representative, Affiliate, advisor, general or limited partner, manager, member, stockholder, or assignee of any of the foregoing.

"Bidders" shall have the meaning ascribed thereto in the Preamble hereof.

"Break-Up Fee" shall have the meaning ascribed thereto in Section 12.4(a).

"Brigade" shall have the meaning ascribed thereto in the Preamble hereof.

"Budget" shall mean a budget of receipts and expenditures prepared by Sellers and approved by the Bidders on or prior to the Effective Date for the period up to Closing, as it may be amended and updated from time to time with the approval of the Bidders, acting reasonably.

"Business" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Business Day" shall mean any day other than a Saturday, a Sunday, or a statutory holiday in New York City, New York, U.S.A. or Calgary, Alberta, Canada.

"Canadian Assets" means all Acquired Assets other than the Purchaser Acquired Interests.

"Cash and Cash Equivalents" means all of Sellers' cash (including petty cash and checks received prior to the close of business on the Closing Date), checking account balances, marketable securities, certificates of deposits, time deposits, bankers' acceptances, commercial paper, security entitlements, securities accounts, commodity Contracts, commodity accounts, government securities and any other cash equivalents, whether on hand, in transit, in banks or other financial institutions, or otherwise held, and any security, collateral or other deposits.

"CCAA" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"CCAA Court" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"CCAA Proceedings" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Claims" means any and all claims, charges, lawsuits, demands, directions, Orders, suits, inquires made, hearings, judgments, warnings, investigations, notices of violation, notice of noncompliance, litigation, proceedings, arbitration, or other disputes, whether civil, criminal, administrative, regulator or otherwise.

"Closing" shall have the meaning ascribed thereto in Section 11.1.

"Closing Cure Amount" means the Cure Amount in respect of Assigned Contracts which is payable on Closing, provided that in no event shall such aggregate amount exceed US$10,500,000.

"Closing Date" means the date on which the Closing shall occur.

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Collective Agreement" means any collective agreement, letter of understanding, letter of intent or any other similar Contract with or commitment to any trade union, employee association, labour organization or similar entity.

"Commissioner" means the Commissioner of Competition appointed under the Competition Act or any person duly authorized to exercise the powers and perform the duties of the Commissioner of Competition.

"Competition Act" means the *Competition Act* (Canada), as amended.

"Competition Act Approval" means: (i) the issuance of an Advance Ruling Certificate and such Advance Ruling Certificate has not been rescinded prior to Closing; or (ii) the Purchaser and the Sellers have given the notice required under section 114 of the Competition Act with respect to the transactions contemplated by this Agreement and the applicable waiting period under section 123 of the Competition Act has expired or has been terminated in accordance with the Competition Act; or (iii) the obligation to give the requisite notice has been waived pursuant to paragraph 113(c) of the Competition Act, and, in the case of (ii) or (iii), the Purchaser has been advised in writing by the Commissioner that, in effect, such person is of the view that sufficient grounds at that time do not exist to initiate proceedings before the Competition Tribunal under section 92 of the Competition Act with respect to the transactions contemplated by this Agreement and therefore the Commissioner, at that time, does not intend to make an application under section 92 of the Competition Act in respect of the transactions contemplated by this Agreement ("no-action letter"), and the form of and any terms and conditions attached to any such advice are acceptable to the Purchaser, acting reasonably, and such advice has not been rescinded prior to Closing.

"Competition Tribunal" means the Competition Tribunal established under the *Competition Tribunal Act* (Canada).

"Conditions Certificate" shall have the meaning ascribed thereto in Section 11.4.

"Confidentiality Agreement" shall have the meaning ascribed thereto in Section 7.3.

"Contaminants" means any noise, heat, vibration or Hazardous Materials that can be discharged into or be present in the Environment.

"Contract" means any written or oral contract, purchase order, service order, sales order, indenture, note, bond, lease, sublease, license, understanding, instrument or other agreement, arrangement or commitment, whether express or implied.

"Cure Amount" means (i) with respect to any Assigned Contract for which a required consent to assignment has not been obtained and is to be assigned to the Purchaser in accordance with the terms of the Assignment Order, the amounts, if any, required to be paid to remedy all of the Sellers' monetary defaults existing as at the Closing Date under such Assigned Contract (or such other amounts as may be agreed by the Purchaser and the counterparty to such Assigned Contract), and (ii) with respect to any Assigned Contract to be assigned on consent, where consent is required, the amount, if any, required to be paid to a counterparty to secure its consent to the assignment of the applicable Assigned Contract by any of the Sellers to the Purchaser (which amount shall be set out on the form of contractual consent agreed to by the Purchaser and the counterparty to such Assigned Contract).

"Cure Funding Amount" means the aggregate of (i) the Closing Cure Amount and (ii) such other amount as may be required to satisfy the Cure Amount, provided that in no event shall the aggregate "Cure Funding Amount" be greater than US$20,500,000.

"Data Room" means the material contained in the virtual data room established by Sellers in connection with the CCAA Proceedings as of 5:00 p.m. (Eastern time) on December 3, 2020.

"DDC" shall have the meaning ascribed thereto in the Preamble hereof.

"DDCU" shall have the meaning ascribed thereto in the Preamble hereof.

"DDJ" shall have the meaning ascribed thereto in the Preamble hereof.

"DDM" shall have the meaning ascribed thereto in the Preamble hereof.

"DDMI" means Diavik Diamond Mines (2012), Inc., a company incorporated under the laws of Canada, as the manager of the Diavik Joint Venture.

"Designated Purchaser" shall have the meaning ascribed thereto in Section 13.11.

"Diavik Diamond Mine" means the diamond mine located approximately 300 kilometres from Yellowknife in the Northwest Territories, Canada, and known as the "Diavik Diamond Mine."

"Diavik Joint Venture" means the unincorporated joint venture arrangement established pursuant to the Diavik Joint Venture Agreement in relation to the Diavik Diamond Mine.

"Diavik Joint Venture Agreement" means the joint venture agreement dated March 23, 1995 between DDM and DDMI originally entered into between Aber Resources Limited and Kennecott Canada Inc. as of March 23, 1995, as amended from time to time, with the current parties thereto being DDM and DDMI.

"Diavik Joint Venture Interest" means the undivided 40% beneficial interest in the assets (including property and products derived therefrom) of the Diavik Joint Venture held by DDM pursuant to the Diavik Joint Venture Agreement.

"Diavik Leases" means the surface and mining leases constituting the Diavik Diamond Mine and subject to the Diavik Joint Venture Agreement.

"Diavik Realization Account" shall have the meaning ascribed to it in Section 7.1(a)(iv).

"Diavik Realization Assets" shall have the meaning ascribed to it in Section 3.1(b).

"Documents" means all of Sellers' books, records and other information in any form relating to the Business or the Acquired Assets, including accounting books and records, sales and purchase records, lists of suppliers and customers, lists of potential customers, credit and pricing information, personnel and payroll records of Employees, Tax records, business reports, plans and projections, production reports and records, inventory reports and records, business, engineering and consulting reports, marketing and advertising materials, research and development reports and records, maps, all plans, surveys, specifications, and as-built drawings relating to the Mine Properties, buildings, structures, erections, improvements, appurtenances and fixtures situate on or forming part of the Ekati Diamond Mine, the Diavik Diamond Mine and any other real property interests included in the Acquired Assets, including all such electrical, mechanical and structural drawings related thereto, environmental reports, soil and substratum studies, inspection records, financial records, and all other records, books, documents and data bases recorded or stored by means of any device, including in electronic form, relating to the Business, the Acquired Assets or the Employees, and other similar materials, in each case, whether in electronic, paper or other form, but excluding Sellers' corporate charter, minute and stock record books, and corporate seal.

"Dominion Holdings" shall have the meaning ascribed thereto in the Preamble hereof.

"Dominion Marketing" shall have the meaning ascribed thereto in the Preamble hereof.

"Effective Date" shall have the meaning ascribed thereto in the Preamble hereof.

"Ekati Buffer Zone" means the property and assets (including products derived from such property) comprising the Ekati Buffer Zone as described in the technical report entitled "Ekati Diamond Mine, Northwest Territories, Canada, NI-43-101 Technical Report" dated July 31, 2016.

"Ekati Buffer Zone Leases" means the surface and mining leases constituting the Ekati Buffer Zone.

"Ekati Core Zone" means the property and assets (including products derived from such property) that are the subject of the Ekati Core Zone Joint Venture Agreement.

"Ekati Core Zone Joint Venture" means the unincorporated joint venture arrangement established pursuant to the Ekati Core Zone Joint Venture Agreement in relation to the Ekati Core Zone.

"Ekati Core Zone Joint Venture Agreement" means the joint venture agreement titled 'Northwest Territories Diamonds Joint Venture Agreement – Core Zone Property' dated April 17, 1997 originally entered into among BHP Diamonds Inc., Dia Met Minerals Ltd., Charles E. Fipke and Dr. Stewart L. Blusson, as amended from time to time, with the current parties thereto being DDM and 1012986 B.C. Ltd.

"Ekati Core Zone Joint Venture Interest" means an undivided 88.889% beneficial interest in the Ekati Core Zone Joint Venture, held by DDM pursuant to the Ekati Core Zone Joint Venture Agreement.

"Ekati Core Zone Leases" means the surface and mining leases constituting the Ekati Core Zone and subject to the Ekati Core Zone Joint Venture Agreement.

"Ekati Diamond Mine" means the diamond mine located approximately 310 kilometres from Yellowknife in the Northwest Territories, Canada, and known as the "Ekati Diamond Mine."

"Employee" means an individual who, as of the applicable date, is employed by Sellers or their Subsidiaries in connection with the Business.

"Employee Plan" means all employee benefit, welfare, supplemental unemployment benefit, bonus, pension, profit sharing, executive compensation, current or deferred compensation, incentive compensation, stock compensation, stock purchase, stock option, stock appreciation, phantom stock option, savings, vacation pay, severance or termination pay, retirement, supplementary retirement, hospitalization insurance, salary continuation, legal, health or other medical, dental, life, disability or other insurance (whether insured or self-insured) plan, program, agreement or arrangement, including post-retirement health and life insurance benefit plans, and every other written or oral benefit plan, program, agreement or arrangement sponsored, maintained or contributed to or required to be contributed to by the Sellers or any of their Subsidiaries for the benefit of the Employees or former Employees and their dependents or beneficiaries by which the Sellers or any of their Subsidiaries are bound or with respect to which the Sellers or any of their Subsidiaries participate or have any actual or potential Liability (excluding, for greater certainty, any statutory benefits plan).

"Encumbrance" means any caveats, security interests or similar interests, hypothecations, pledges, mortgages, deeds, deeds of trust, liens, encumbrances, trusts or statutory, constructive or deemed trusts, reservations of ownership, title defects or imperfections, royalties, leases, options, rights including rights of pre-emption or first refusal, privileges, interests, assignments, easements, rights of way, encroachments, restrictive covenants, actions, demands, judgements, executions, levies, taxes, writs of enforcement, proxies, voting trusts or agreements, transfer restrictions under any shareholder agreement or similar agreements, charges, conditional sales or other title retention agreements or other impositions, restrictions on transfer or use of any nature whatsoever or other Claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise.

"Environment" means the components of the earth, and includes: (a) land, water, and air, including all layers of the atmosphere, (b) all organic and inorganic matter and living organisms, and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b).

"Environmental Agreement" means the Environmental Agreement, dated as of January 6, 1997 as amended on April 14, 2003, on April 10, 2013 and on November 21, 2018 between Her Majesty The Queen in Right of Canada and the Government of the Northwest Territories and Dominion Diamond Ekati ULC.

"Environmental Law" means the Environmental Agreement and any Regulation which is related to or which regulates or otherwise imposes obligations, liability or standards of conduct concerning the Environment, health and safety, mineral resources, discharges, Contaminants, reclamation and restoration, Releases or threatened Releases of Contaminants, including Hazardous Materials, into the Environment or otherwise relating to the manufacture, processing, generation, distribution, use, treatment, storage, disposal, cleanup, transport or handling of Hazardous Materials.

"Environmental Liabilities and Obligations" means all Liabilities arising from or relating to the Environment, mineral resources, health or safety, Contaminants, reclamation and restoration or arising under any, or arising from any Environmental Law, including Liabilities related to: (a) the manufacture, processing, handling, generation, treatment, distribution, recycling, transportation, storage, use, cleanup, arrangement for disposal or disposal of, or exposure to, Hazardous Materials and/or Contaminants; (b) the Release of Hazardous Materials and/or Contaminants, including migration onto or from the real property included in the Acquired Assets; (c) any other pollution or contamination of the surface, substrata, soil, air, ground water, surface water or marine environments; (d) any other obligations imposed under Environmental Law including pursuant to any applicable Authorizations issued pursuant to or under any Environmental Law; (e) Orders, notices to comply, notices of violation, alleged non-compliance and inspection reports with respect to any Liabilities pursuant to Environmental Law; and (f) all obligations with respect to personal injury, property damage, environmental damage, wrongful death, endangerment to the health or animal life, damage to plant life and other damages and losses arising under applicable Environmental Law.

"Essential Contracts" means, collectively, (i) the Aboriginal Agreements and related agreements, and (ii) those other Contracts to which a Seller is a party or beneficiary which are Material Contracts and specified as "Essential Contracts" on Schedule A, as may be modified from time to time after the date of this Agreement pursuant to Section 3.6.

"Excluded Assets" shall have the meaning ascribed thereto in Section 3.2.

"Excluded Contracts" means, collectively, those Contracts to which a Seller is a party or beneficiary and specified as "Excluded Contracts" on Schedule A, as may be modified from time to time after the date of this Agreement pursuant to Section 3.6.

"Excluded Liabilities" shall have the meaning ascribed thereto in Section 3.4.

"Filing Date" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Final Order" means an action taken or order issued by the CCAA Court or other applicable Governmental Body as to which: (i) no request or motion for stay of the action or order is pending, no such stay is in effect, and, if any deadline for filing any such request or motion is designated by statute or regulation, it is passed, including any extensions thereof; (ii) no petition or motion for rehearing or reconsideration of the action or order, or protest of any kind, is pending before the Governmental Body and the time for filing any such petition or motion is passed; (iii) the Governmental Body does not have the action or order under reconsideration or review on its own motion and the time for such reconsideration or review has passed; and (iv) the action or order is

not then under judicial review or appeal, there is no notice of leave to appeal, appeal or other motion or application for judicial review pending, and the deadline for filing such notice of appeal or other motion or application for judicial review has passed, including any extensions thereof.

"Finco" shall have the meaning ascribed thereto in the Preamble hereof.

"First Lien Lenders" means the lenders under the Pre-filing Credit Agreement.

"First Lien Lender MSA" means the Mutual Support Agreement dated as of December 4, 2020 between the Bidders, Western Asset Management Company, LLC and the First Lien Lenders and attached hereto as Schedule B.

"Glowworm Lake Property" means the mineral leases held by DDM covering an area of 132,560 hectares bordering the eastern side of the Diavik Diamond Mine.

"GNWT" shall have the Government of the Northwest Territories.

"Governmental Body" means any government, quasi-governmental entity, or other governmental or regulatory body, board, commission, tribunal, agency or political subdivision thereof of any nature, whether national, international, multi-national, supra-national, foreign, federal, state, provincial, territorial, Aboriginal or local, or any agency, branch, department, official, entity, instrumentality or authority thereof, or any court or arbitrator (public or private) of applicable jurisdiction.

"GST" means goods and services tax, including harmonized sales tax, payable under the GST Legislation.

"GST Legislation" means Part IX of the *Excise Tax Act* (Canada), as amended from time to time.

"Guarantee" means any guarantee or other contingent liability, direct or indirect, with respect to any Indebtedness or obligations of another Person, through a Contract or otherwise.

"Hazardous Material" means any substance, material, emission or waste which is defined, regulated, listed or prohibited by any Governmental Body, including petroleum and its by-products, asbestos, polychlorinated biphenyls and any material, waste or substance which is defined or identified as a "hazardous waste," "hazardous substance," "hazardous material," "restricted hazardous waste," "industrial waste," "solid waste," "contaminant,", "dangerous good", "deleterious substance", "greenhouse gas emission", "pollutant," "toxic waste" or "toxic substance" or words of similar import or otherwise regulated under or subject to any provision of Environmental Law.

"IFRS" means generally accepted accounting principles as set out in the CPA Canada Handbook – Accounting for an entity that prepares its financial statements in accordance with International Financial Reporting Standards as applied by the International Accounting Standards Board, at the relevant time, applied on a consistent basis.

"Indebtedness" means, with respect to any Person, (a) all liabilities of such Person for borrowed money, whether secured or unsecured, including all outstanding principal, interest, fees and other amounts payable with respect thereto (including, for the avoidance of doubt, any prepayment penalties, make-whole payments or breakage fees associated with the payment of such borrowed money), (b) all liabilities of such Person evidenced by notes, debentures, bonds or similar instruments, including all outstanding principal, interest, fees and other amounts payable with respect thereto (including, for the avoidance of doubt, any prepayment penalties, make-whole payments or breakage fees associated with the payment thereof), for the payment of which such Person is responsible, (c) all obligations of such Person for the deferred purchase price of property or services (including "earn out" payments), all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement, (d) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction, but excluding any obligations that are fully discharged at the Closing, (e) obligations under any interest rate, currency or other hedging arrangement or derivatives transaction, (f) all obligations of such Person with respect to the posting of collateral and similar obligations or as obligor, guarantor, surety or otherwise, including pursuant to "keep well" agreements, agreements to maintain or contribute cash or capital to any Person or other similar agreements or arrangements, but excluding any such obligations that are fully discharged at the Closing, and (g) any change of control payments or prepayment premiums, penalties, charges or equivalents thereof with respect to any obligations of the type referred to in clauses (a) through (f) that are required to be paid at the time of, or the payment of which would become due and payable solely as a result of, the execution of this Agreement or the consummation of the transactions contemplated hereby.

"Indemnity Assumption" shall have the meaning ascribed thereto in Section 4.2(b).

"Initial Allocation" shall have the meaning ascribed thereto in Section 13.14(e).

"Initial Order" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Intellectual Property" means all intellectual property and proprietary rights of any kind, including the following: (a) trademarks, service marks, trade names, slogans, logos, designs, symbols, trade dress, internet domain names, uniform resource identifiers, rights in design, brand names, any fictitious names, d/b/a's or similar filings related thereto, or any variant of any of them, and other similar designations of source or origin, together with all goodwill, registrations and applications related to the foregoing; (b) copyrights and copyrightable subject matter (including works and any registration and applications for any of the foregoing); (c) trade secrets and other confidential or proprietary business information (including manufacturing and production processes and techniques, research and development information, technology, intangibles, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, customer and supplier lists and information), know how, proprietary processes, formulae, algorithms, models, industrial property rights, and methodologies, in each case whether patentable or not; (d) computer software, computer programs, and databases (whether in source code, object code or other form); (e) patents, industrial designs and inventions, together with all registrations and applications related to the foregoing; and (f) all rights to sue for past, present and future infringement, misappropriation, dilution or other violation of any of the foregoing and all remedies at law or equity associated therewith.

"Interim Facility" means the interim financing facility evidenced by the Interim Facility Credit Agreement, entered into to provide financing during the pendency of the CCAA Proceedings, as the same may be amended, restated or supplemented from time to time.

"Interim Facility Credit Agreement" means that certain Amended and Restated Interim Financing Term Sheet dated as of June 15, 2020 among Washington Diamond Lending, LLC, the other Interim Lenders party thereto, DDM, as the Borrower (as defined therein) thereunder, and the Guarantors (as defined therein), evidencing the Interim Facility to be provided by the Interim Lenders to DDM, as Borrower, as the same may be amended, modified or supplemented from time to time.

"Interim Lenders" means Washington Diamond Lending, LLC and the other Interim Lenders (as defined in the Interim Facility Credit Agreement), as interim lenders under the Interim Facility Credit Agreement and the Interim Facility and any assignee(s) thereof.

"Inventory" means all diamonds and other inventory of any kind or nature, including stockpiles and goods, maintained, held or stored by or for any Seller, whether or not prepaid, and wherever located or held, including any goods in transit, and any prepaid deposits for any of the same, including all diamonds no longer held by DDMI prior to Closing in respect of the Diavik Joint Venture Interests and whose title has transferred to Sellers.

"Investment Canada Act" means the *Investment Canada Act*, as amended.

"IP Assignment and Assumption Agreement" shall have the meaning ascribed thereto in Section 11.2(g).

"Joint Venture" means each of the Diavik Joint Venture, the Ekati Core Zone Joint Venture and the Lac de Gras Joint Venture.

"Joint Venture Agreements" means, collectively, the Diavik Joint Venture Agreement, the Ekati Core Zone Joint Venture Agreement and the Lac de Gras Joint Venture Agreement, and "Joint Venture Agreement" means any one of them as applicable.

"Knowledge of Sellers" or "Sellers' Knowledge" means, with respect to any matter, the actual knowledge, after due inquiry, of each of the individuals set forth on Section 1.1(a) of the Seller Disclosure Letter.

"Lac de Gras" means the exploration property and assets (including products derived from such property) that is the subject of the Lac de Gras Joint Venture Agreement.

"Lac de Gras Joint Venture" means the unincorporated joint venture arrangement established pursuant to the Lac de Gras Joint Venture Agreement in relation to Lac de Gras.

"Lac de Gras Joint Venture Agreement" means the joint venture agreement dated June 30, 2015 entered into among Dominion Diamond Holdings Ltd., 6355137 Canada Inc. and North Arrow Minerals Inc.

"Lac de Gras Joint Venture Interest" means an undivided 77.31% beneficial interest in Lac de Gras Joint Venture held by DDM pursuant to the Lac de Gras Joint Venture Agreement.

"Lac de Gras Leases" means the surface and mining leases constituting Lac de Gras.

"Law" means any federal, territorial, state, provincial, local, municipal, foreign or international, multinational or other law, treaty, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body.

"Liability" means, as to any Person, any debt, Claim, liability (including any liability that results from, relates to or arises out of tort or any other product liability claim), duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

"Mandatory Antitrust Approvals" means each of the approvals or consents of any Governmental Body, or the expiration of the applicable notice or waiting period, in each case required to consummate the Acquisition and the other transactions contemplated by this Agreement under applicable Antitrust Laws, including by means of a decision, in whatever form (including a declaration of lack of jurisdiction or a mere filing or notification, if the Closing can take place, pursuant to the applicable Antitrust Law, without a decision or the expiry of any waiting period) by any Governmental Body under the Antitrust Laws of any of any jurisdiction, authorizing or not objecting to the transactions contemplated by this Agreement, provided that any terms or conditions attached to such decision are acceptable to the Purchaser.

"Material Adverse Effect" means any event, occurrence, fact, condition, or change that is, or would reasonably be expected to become, individually or in the aggregate, materially adverse to: (a) the Business (other than in relation to the Diavik Joint Venture Interest), results of operations, condition (financial or otherwise), Acquired Assets or Assumed Liabilities of Sellers and their respective Subsidiaries, taken as a whole; or (b) the ability of Sellers to consummate the transactions contemplated hereby on a timely basis; provided, however, that, for the purposes of clause (a), a Material Adverse Effect shall not be deemed to include events, occurrences, facts, conditions or changes arising out of, relating to or resulting from: (i) changes generally affecting the economy or credit, financial, or securities markets; (ii) any outbreak or escalation of war or any act of terrorism; (iii) changes in applicable Law; (iv) changes in IFRS; (v) Sellers' failure to meet internal or published projections, forecasts, or revenue or earnings predictions for any period (but, for the avoidance of doubt, not the underlying cause(s) of any such failure to the extent such underlying cause is not otherwise excluded from the definition of Material Adverse Effect); (vi) changes in political conditions; (vii) general conditions in the industry in which Sellers and their respective Subsidiaries operate; (viii) the announcement of the transactions contemplated by this Agreement; or (ix) the commencement or pendency of the CCAA Proceedings; provided further, however, that any event, change, and effect referred to in clauses (i), (ii), (iii), (iv), (vi) and (vii) immediately above shall be taken into account in determining whether a Material Adverse Effect

has occurred or would reasonably be expected to occur to the extent that such event, change, or effect has a disproportionate effect on Sellers and their respective Subsidiaries, taken as a whole, compared to other participants in the industries in which Sellers and their respective Subsidiaries conduct their businesses.

"Material Contract" means any Contract:

(a) that if terminated or modified or if it ceased to be in effect, would reasonably be expected to have a Material Adverse Effect;

(b) that is a partnership agreement, limited liability company agreement, joint venture agreement or similar agreement or arrangement, including the Joint Venture Agreements, relating to the formation, creation or operation of any partnership, limited liability company or joint venture in which Sellers or any of their Subsidiaries is a partner, member or joint venturer (or other participant) that is material to Sellers, their Subsidiaries or the Business, or the ability of Sellers and their Subsidiaries to develop any of their material projects, but excluding any such partnership, limited liability company or joint venture which is a wholly-owned Subsidiary of Sellers;

(c) under which Indebtedness for borrowed money in excess of $7,500,000 is or may become outstanding or pursuant to which any property or asset of Sellers or their Subsidiaries is mortgaged, pledged or otherwise subject to an Encumbrance securing Indebtedness for borrowed money in excess of $7,500,000 or under which Sellers or any of their Subsidiaries has guaranteed any liabilities or obligations of a third party in excess of $7,500,000, in each case, other than any such Contract between two or more wholly-owned Subsidiaries of Sellers or between Sellers and/or one or more of their wholly-owned Subsidiaries;

(d) under which Sellers or any of its Subsidiaries is obligated to make or expects to receive payments in excess of $7,500,000 over the remaining term;

(e) that creates an exclusive dealing arrangement or right of first offer or refusal;

(f) providing for the purchase, sale or exchange of, or option to purchase, sell or exchange, any property or asset where the purchase or sale price or agreed value or fair market value of such property or asset exceeds $15,000,000;

(g) that is a Collective Agreement;

(h) that limits or restricts in any material respect (a) the ability of Sellers or any of their Subsidiaries to incur Indebtedness, to engage in any line of business or carry on business in any geographic area, to compete with any Person, or to engage in any merger, consolidation or other business combination, or (b) the scope of Persons to whom Sellers or any of their Subsidiaries may sell products;

(i) between Sellers or any of their Subsidiaries, on the one hand, and any director or executive officer of the Sellers or any of their Subsidiaries, on the other hand;

(j) with any Aboriginal Group or Aboriginal business, including a joint venture in which an Aboriginal Group is a joint venture party;

(k) providing for the sale of diamonds representing more than 1% of annual production of Sellers and their Subsidiaries or pursuant to which Sellers and their Subsidiaries received during calendar year 2019 or could reasonably be expected to receive in calendar year 2020 or thereafter revenues in excess of $15,000,000;

(l) providing for indemnification by Sellers or their Subsidiaries of another Person, other than Contracts for goods or services, Contracts with directors or officers of Sellers or their Subsidiaries in their capacity as such or Contracts which provide for indemnification obligations of less than $15,000,000;

(m) providing for a royalty, streaming or similar arrangement or economically equivalent arrangement in respect of any of the Mine Properties; or

(n) that is or would reasonably be expected to be material to Sellers and their Subsidiaries, the Business (other than in relation to the Diavik Joint Venture Interest) or the Acquired Assets, taken as a whole.

"Mine Properties" means, collectively, the Diavik Diamond Mine and the Ekati Diamond Mine and "Mine Property" means any one of them as applicable.

"Mineral Rights" has the meaning ascribed thereto in Section 5.13(a).

"Monitor" means FTI Consulting Canada Inc., in its capacity as the CCAA Court-appointed monitor in connection with the CCAA Proceedings.

"Monitor's Certificate" means the certificate, substantially in the form attached as Schedule "A" to the Sale Order, to be delivered by the Monitor to the Sellers and the Bidder Parties on Closing and thereafter filed by the Monitor with the CCAA Court, certifying that the Monitor has received the Conditions Certificates.

"Objection Notice" shall have the meaning ascribed thereto in Section 13.14(e).

"Order" means any decree, order, injunction, rule, judgment, consent, ruling, writ, assessment or arbitration award of or by any court or Governmental Body.

"Ordinary Course of Business" means, with respect to any Person, actions that (i) are taken in the ordinary and usual course of operations of the Business consistent with past practice in effect prior to filing of the CCAA Proceedings and prior to the enactment of measures taken in response to the COVID-19 pandemic, (ii) are taken in accordance with all applicable Laws and (iii) do not result from or arise out of and were not caused by, any breach of Contract, breach of warranty, tort, infringement or violation of Law by such Person or any Affiliate of such Person.

"Organizational Documents" means, with respect to a particular entity Person, (a) if a corporation, the articles or certificate of incorporation and bylaws, (b) if a general partnership, the partnership agreement and any statement of partnership, (c) if a limited partnership, the limited

partnership agreement and certificate of limited partnership, (d) if a limited liability company, the articles or certificate of organization or formation and any limited liability company or operating agreement, (e) if another type of Person, all other charter and similar documents adopted or filed in connection with the creation, formation or organization of the Person, and (f) all amendments or supplements to any of the foregoing.

"Other Contracts" means, collectively, those Contracts to which a Seller is a party or beneficiary and specified as "Other Contracts" on Schedule A, as may be modified from time to time after the date of this Agreement pursuant to Section 3.6.

"Outside Date" shall have the meaning ascribed thereto in Section 12.1(b)(i).

"Parent" means Washington Diamond Investments, LLC.

"Parties" means at a given time, the parties to this Agreement, collectively and a "Party" refers to any of them.

"Permitted Encumbrances" means, as of any particular time and in respect of any Person, each of the following Encumbrances: (1) any subsisting restrictions, exceptions, reservations, limitations, provisos and conditions (including royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grant from the Crown or a Governmental Body and any statutory limitations, exceptions, reservations and qualifications to title or Encumbrances imposed by Law; (2) any claim by any Aboriginal Group based on treaty rights, traditional territory, land claims or otherwise; (3) inchoate or statutory liens solely with respect to Assumed Liabilities not at the time overdue; (4) permits, reservations, covenants, servitudes, watercourse, rights of water, rights of access or user licenses, easements, rights-of-way and rights in the nature of easements (including, without in any way limiting the generality of the foregoing, licenses, easements, rights-of-way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables) in favor of any Governmental Body or utility company in connection with the development, servicing, use or operation of any property which (y) do not individually or in the aggregate materially detract from the value or materially interfere with the use of the real or immovable property subject thereto and (z) have been complied with to date in all material respects; (5) each of the following Encumbrances: (a) permits, reservations, covenants, servitudes, rights of access or user licenses, easements, rights of way and rights in the nature of easements in favor of any Person (other than those in (4) above); (b) any encroachments, title defects or irregularities existing; (c) any instrument, easement, charge, caveat, lease, agreement or other document registered or recorded against title to any property so long as same have been complied with in all material respects; (d) agreements with any Governmental Body and any public utilities or private suppliers of services; and (e) restrictive covenants, private deed restrictions, and other similar land use control agreements; in each of (a), (b), (c), (d) and (e), which (I) do not individually or in the aggregate materially detract from the value or materially interfere with the use of the real or immovable property subject thereto and (II) have been complied with to date in all material respects; (6) Encumbrances granted or arising pursuant to the Joint Venture Agreements included in the Acquired Assets; (7) Encumbrances in respect of all equipment and other tangible assets of Sellers (including all vehicles) which are subject to any true lease, financing lease, conditional

sales contract, or similar agreement that is an Assigned Contract; (8) miner's liens and associated certificates of pending litigation filed by trade creditors party to Assigned Contracts who have agreed that certain Cure Amounts owed to them will be paid after the Closing Date; (9) Encumbrances to which the Purchaser consents in writing; (10) in respect of only the Diavik Realization Assets, Encumbrances that are held by or for the benefit of the First Lien Lenders pursuant to the Pre-filing Credit Agreement; and (11) Encumbrances set out in the schedules to the Sale Order.

"Person" means any corporation, partnership, joint venture, limited liability company, unlimited liability company, organization, entity, authority or natural person.

"Pre-Closing Period" means the period commencing on the Effective Date and ending on the earlier of the date upon which this Agreement is validly terminated pursuant to Article XII or the Closing Date.

"Pre-Closing Tax Period" means any taxable period (or portion thereof) ending on or before the Closing Date and any portion of any Straddle Period ending on the Closing Date.

"Pre-filing Credit Agreement" means the Revolving Credit Agreement, dated as of November 1, 2017 (as amended by the First Amendment and Waiver to Credit Agreement, dated as of July 30, 2019, the Second Amendment, dated as of March 4, 2020, and as further amended from time to time), among DDM, Parent, the lenders from time to time party thereto and Credit Suisse AG, Cayman Islands Branch, as administrative agent.

"Pre-filing Indebtedness Assumption" shall have the meaning ascribed thereto in Section 4.2(a).

"Pre-filing Indenture" means the Indenture, dated as of October 23, 2017, by and among Northwest Acquisitions ULC, Finco and Wilmington Trust, National Association, as trustee (the "Indenture Trustee"), as supplemented by (i) the First Supplemental Indenture, dated as of November 1, 2017, by and among the Northwest Acquisitions ULC, Finco, the guarantors party thereto and the Indenture Trustee, (ii) the Second Supplemental Indenture, dated as of December 21, 2017, by and among Northwest Acquisitions ULC, as successor of Northwest Acquisitions ULC, Finco and the Indenture Trustee, (iii) the Third Supplemental Indenture, dated as of December 21, 2017, by and among DDM, as successor of Northwest Acquisitions ULC, Finco and the Indenture Trustee, (iv) the Fourth Supplemental Indenture, dated as of January 1, 2019, by and among the Indenture Trustee, Finco, DDM, and the guarantors party thereto, and (v) the Fifth Supplemental Indenture, dated as of December 13, 2019, by and among DDM, Finco, Parent, Dominion Diamond Holdings, LLC, and the Indenture Trustee.

"Previously Omitted Contract" shall have the meaning ascribed thereto in Section 3.6(b)(i).

"Previously Omitted Contract Designation" shall have the meaning ascribed thereto in Section 3.6(b)(i).

"Previously Omitted Contract Notice" shall have the meaning ascribed thereto in Section 3.6(b)(ii).

"Purchase Price" shall have the meaning ascribed thereto in Section 4.1.

"Purchaser" shall have the meaning ascribed thereto in the Preamble to this Agreement.

"Purchaser Acquired Interests" means shares of, or other equity interests in, the Acquired Subsidiaries.

"Purchaser's Conditions Certificate" shall have the meaning ascribed thereto in Section 11.4.

"Regulation" means any Law, statute, regulation, code, guideline, protocol, policy, ruling, rule or Order of, administered or enforced by or on behalf of any Governmental Body and all judgments, orders, writs, injunctions, decisions and mandate of any Governmental Body which, although not actually having the force of law, are considered by such Governmental Body as requiring compliance as if having the force of law or which establish the interpretative position of the Law by such Governmental Body.

"Release" means any release, spill, deposit, emission, leaking, pumping, escape, emptying, leaching, seeping, disposal, discharge, dispersal or migration into the indoor or outdoor environment or into or out of any property or assets (including the Acquired Assets) owned or leased by any Seller as at the Closing Date, including the movement of Contaminants, including Hazardous Materials, through or in the air, soil, ground, surface water, groundwater or property.

"Representatives" means the officers, employees, legal counsel, accountants and other authorized representatives, agents and contractors of any Person.

"Retained Subsidiaries" shall have the meaning ascribed thereto in Section 3.2(b).

"Sale Advisor" means Evercore Group LLC.

"Sale Order" means an Order of the CCAA Court in form and content satisfactory to the Sellers and the Bidders, acting reasonably, approving the transactions contemplated by this Agreement, vesting the Acquired Assets in the Purchaser free and clear of all Encumbrances other than the Permitted Encumbrances and containing such other provisions as the Sellers or the Bidders may reasonably require.

"Second Lien Notes" means the secured second lien notes issued under and pursuant to the Pre-filing Indenture.

"Seller Disclosure Letter" means the disclosure letter delivered by Sellers to Purchaser on or prior to December 11, 2020 in form and content satisfactory to the Bidders, acting reasonably.

"Sellers" shall have the meaning ascribed thereto in the Preamble hereof.

"Sellers' Conditions Certificate" shall have the meaning ascribed thereto in Section 11.4.

"Stay" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Straddle Period" shall have the meaning ascribed thereto in Section 13.14(b).

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, unlimited liability company, public liability company, private limited company, joint venture, partnership or other entity of which such Person (a) beneficially owns, either directly or indirectly, more than fifty percent (50%) of (i) the total combined voting power of all classes of voting securities of such entity, (ii) the total combined equity interests, or (iii) the capital or profit interests, in the case of a partnership; or (b) otherwise has the power to vote or to direct the voting of sufficient securities to elect a majority of the board of directors or similar governing body.

"Sureties" means those parties defined as Sureties in the Sureties Support Confirmations.

"Sureties Support Confirmations" means the confirmations of support from the Sureties to the Bidders dated December 4, 2020 and delivered confidentially to Sellers.

"Tax Act" means the Income Tax Act (Canada) and the regulations promulgated thereunder, as amended from time to time.

"Tax Return" means any report, return, information return, election, agreement, declaration, designation, filing or other document of any nature or kind required to be filed with any applicable Governmental Body in respect of Taxes, including any amendment, schedule, attachment or supplement thereto and whether in tangible or electronic form.

"Taxes" means all taxes, charges, fees, duties, levies or other assessments, including, without limitation, income, gross receipts, net proceeds, ad valorem, turnover, real and personal property (tangible and intangible), sales, use, franchise, excise, value added (including GST), capital, license, payroll, employment, employer health, unemployment, pension, environmental, customs duties, capital stock, disability, stamp, leasing, lease, user, transfer (including land registration or transfer), fuel, excess profits, occupational and interest equalization, windfall profits, severance and withholding and social security taxes imposed by Canada, the United States or any other country or by any state, province, territory, municipality, subdivision or instrumentality of Canada or the United States or of any other country or by any other Governmental Body, and employment or unemployment insurance premiums, Canada Pension Plan or Quebec Pension Plan contributions, together with all applicable penalties and interest, and such term shall include any interest, penalties or additions to tax attributable to such Taxes.

A "third party" means any Person other than any Seller, Bidder Party or any of their respective Affiliates.

"Transfer Taxes" shall have the meaning ascribed thereto in Section 13.14(a).

"Transferred Employees" shall have the meaning ascribed thereto in Section 8.1(a).

"Treasury Regulations" means the regulations promulgated under the Code by the United States Department of the Treasury (whether in final, proposed or temporary form), as the same may be amended from time to time.

"US$" means the currency of the United States, and all references to monetary amounts herein shall be in Dollars unless otherwise specified herein.

"Wind-Down Account" shall have the meaning ascribed thereto in Section 7.1(a)(iii).

"Working Capital Financing" shall have the meaning ascribed thereto in Section 4.3.

1.2 Other Terms. Other terms may be defined elsewhere in the text of this Agreement and, unless otherwise indicated, shall have such meaning through this Agreement.

1.3 Other Definitional Provisions.

(a) The words "hereof," "herein," and "hereunder" and words of similar import, when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(b) The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

(c) References herein to a specific Section, Subsection or Schedule shall refer, respectively, to Sections, Subsections or Schedules of this Agreement, unless the express context otherwise requires.

(d) Accounting terms which are not otherwise defined in this Agreement have the meanings given to them under IFRS consistently applied. To the extent that the definition of an accounting term defined in this Agreement is inconsistent with the meaning of such term under IFRS, the definition set forth in this Agreement will control.

(e) Any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived.

(f) Any provision of this Agreement that requires the Bidder Parties to act reasonably shall not be deemed to require the Bidder Parties to accept, agree or consent to any Order or supplement, amendment or modification thereto, or any other matter that adversely affects such Bidder Parties or is inconsistent with the terms of this Agreement, in each case, other than in any de minimis respect.

(g) Any provision of this Agreement that requires any Party to use commercially reasonable efforts to satisfy conditions to Closing having a sole discretion standard do not require such Party to accept any term or agreement not acceptable to such Party in its sole discretion.

(h) Wherever the word "include," or "includes," or "including" is used in this Agreement, it shall be deemed to be followed by the words "without limitation."

ARTICLE II

FORMATION OF PURCHASER; BIDDERS' COVENANT

2.1 Formation. The Bidders shall use commercially reasonable efforts to take all steps, deliver all documents and comply with all requirements, as soon as reasonably practicable, to ensure that Purchaser is formed in accordance with applicable Law and pursuant to the terms and conditions of this Agreement. The Bidders shall cause the Purchaser to enter into and accept the terms and conditions under this Agreement.

2.2 Purpose of Purchaser. Purchaser shall be formed with the purpose and objects as would facilitate the due exercise and performance by Purchaser of the rights and obligations under this Agreement set out in respect of the "Purchaser" and for undertaking such other activities as are necessary for or incidental to the transactions contemplated by this Agreement.

2.3 Bidders' Covenant. The Bidders shall, or shall cause the Purchaser to, purchase the Acquired Assets, satisfy the Purchase Price (including, to the extent necessary, funding all or a portion of the Closing Cure Amount from the Working Capital Financing) and provide the Working Capital Financing and otherwise consummate the transactions contemplated hereby, subject to the terms and conditions of this Agreement.

2.4 First Lien Lender MSA. The Bidders shall comply with their obligations pursuant to the First Lien Lender MSA. The Bidders shall use reasonable best efforts to have executed and delivered the definitive documentation, in form and content satisfactory to the First Lien Lenders and the Bidders, regarding the transactions between such parties contemplated by the First Lien Lender MSA prior to the Outside Date in satisfaction of the condition set out in Section 9.15.

2.5 Sureties Support Confirmations. The Bidders shall use reasonable best efforts to have executed and delivered the definitive documentation, in form and content satisfactory to the Sureties and the Bidders, regarding the transactions contemplated by the Sureties Support Confirmations prior to the Outside Date in satisfaction of Section 9.9.

ARTICLE III

PURCHASE AND SALE; ASSUMPTION OF CERTAIN LIABILITIES

3.1 Acquired Assets. Subject to the terms and conditions set forth in this Agreement, at the Closing, Sellers shall sell, assign, transfer and deliver to Purchaser, and Purchaser shall purchase, acquire and take assignment and delivery of, all of the Sellers' right, title and interest in the assets and properties of Sellers other than the Excluded Assets (the "Acquired Assets") subject to Section 3.6, free and clear of all Claims and Encumbrances of whatever kind or nature (other than Permitted Encumbrances), including the following:

(a) all of the issued and outstanding equity interests held by any Seller in Dominion Diamond (India) Private Limited, Dominion Diamond Marketing N.V., Dominion Diamond (Cyprus) Limited and, if and to the extent elected by the Bidders before Closing, in another Seller (collectively, the "Acquired Subsidiaries");

(b) assignment of all of Sellers' rights and interests in relation to the receipt of realizations and recoveries from or in respect of the Diavik Joint Venture Interest (including, without limitation, all receivables, diamond production entitlements, claims, sales proceeds, cash and other collateral given for the benefit of the First Lien Lenders or other persons, and other assets realized or realizable by or on behalf of Sellers) (collectively, the "Diavik Realization Assets"), which shall be assigned to Purchaser subject only to the continuing liens and charges of the First Lien Lenders pursuant to the Pre-filing Credit Agreement until such time as all letters of credit issued by the First Lien Lenders in respect of the Diavik Diamond Mine shall have been cash collateralized or cancelled and all related fees shall have been paid;

(c) the Ekati Core Zone Joint Venture Interest, all rights and interests of any Seller under the Ekati Core Zone Joint Venture Agreement, and all other rights, title and interests of any Seller in the Ekati Diamond Mine, the Ekati Core Zone, the Ekati Core Zone Leases and the Ekati Core Zone Joint Venture;

(d) all rights, title and interests of any Seller in the Ekati Buffer Zone and the Ekati Buffer Zone Leases;

(e) the Lac de Gras Joint Venture Interest, all rights and interests of any Seller under the Lac de Gras Joint Venture Agreement, and all other rights, title and interests of any Seller in the Lac de Gras Leases and the Lac de Gras Joint Venture;

(f) all mineral rights held by DDM, including all mineral rights included in the Ekati Core Zone, the Ekati Buffer Zone, Lac de Gras and the Glowworm Lake Property;

(g) all of Sellers' Cash and Cash Equivalents, including all cash collateral and deposits posted by or for the benefit of Sellers as security for any letter of credit, surety or other bond, rent, utilities, contractual obligations or otherwise (except for retainers held by any professional in the CCAA Proceedings);

(h) all trade and non-trade accounts receivable, notes receivable and negotiable instruments of Sellers, including all intercompany receivables, notes, rights and claims from any Acquired Subsidiary and payable or in favor of a Seller provided, however, that all receivables in respect of the Diavik Joint Venture Interest collected by the Sellers following the Effective Date shall constitute Diavik Realization Assets;

(i) all prepaid charges and expenses, including all prepaid rent and all prepaid charges, expenses and rent under any personal property leases;

(j) all equipment and other tangible assets of Sellers, including all vehicles, tools, parts and supplies, fuel, machinery, furniture, furnishing, appliances, fixtures, office equipment and supplies, owned and licensed computer hardware and related documentation, stored data, communication equipment, trade fixtures and leasehold improvements, in each case, with any transferable warranty and service rights of any Seller related thereto;

(k) all Inventory;

(l) subject to Section 3.6, all of the Essential Contracts and Other Contracts set forth on Schedule A hereto (the "Assigned Contracts") and all rights thereunder;

(m) all Authorizations and all pending applications therefor, in each case, to the extent such Authorizations and pending applications therefor are transferrable;

(n) all rights, options, Claims or causes of action of any Seller or other applicant against any party arising out of events occurring prior to the Closing, including and, for the avoidance of doubt, arising out of events occurring prior to the Filing Date, and including (i) any rights under or pursuant to any and all warranties, representations and Guarantees made by suppliers, manufacturers and contractors relating to products sold, or services provided, to Sellers, and (ii) any and all causes of action under applicable Law;

(o) all other right, title and interest of any Seller in real property (including and all fixtures, improvements and appurtenances thereto);

(p) all Assumed Plans, together with all funding arrangements relating thereto (including but not limited to all assets, trusts, insurance policies and administration service contracts related thereto), and all rights and obligations thereunder;

(q) all personnel files for Transferred Employees except as prohibited by Law; provided, however, that Sellers have the right to retain copies at Sellers' expense to the extent required by Law;

(r) any chattel paper owned or held by Sellers;

(s) any lock boxes to which account debtors of any Seller remit payment relating to the Business, the Assumed Liabilities or the Acquired Assets;

(t) the Intellectual Property owned or purported to be owned by any Seller;

(u) all goodwill, payment intangibles and general intangible assets and rights of Sellers to the extent associated with the Business, the Assumed Liabilities or the Acquired Assets;

(v) to the extent permitted by Law, Sellers' Documents; provided, however, that Sellers have the right to retain copies of all of the foregoing at Sellers' expense to the extent required by Law or as is necessary to wind-down Sellers;

(w) to the extent transferable, all rights and obligations under or arising out of all insurance policies relating to the Business or any of the Acquired Assets or Assumed Liabilities (including returns and refunds of any premiums paid, or other amounts due back to any Seller, with respect to cancelled policies);

(x) all rights and obligations under non-disclosure, confidentiality, non-competition, non-solicitation and similar arrangements with (or for the benefit of) former or current employees and agents of Sellers or with third parties (including any non-disclosure,

confidentiality agreements or similar arrangements entered into in connection with or in contemplation of the filing of the CCAA Proceedings);

(y) telephone, fax numbers (if any) and email addresses, as well as the right to receive mail and other communications addressed to Sellers;

(z) any claim, right or interest of Sellers in or to any refund, rebate, credit, abatement or recovery for Taxes, together with any interest due thereon or penalty rebate arising therefrom (to the extent that any such refund, rebate, credit, abatement or recovery for Taxes is received by the Sellers in the form of payment, Sellers agree that they will hold all such amounts in trust for the Purchaser and will pay such amounts to the Purchaser forthwith following receipt thereof);

(aa) all prepaid Taxes and Tax credits of Sellers (to the extent that any such refund, rebate, credit, abatement or recovery for Taxes is received by the Sellers in the form of payment, Sellers agree that they will hold all such amounts in trust for the Purchaser and will pay such amounts to the Purchaser forthwith following receipt thereof);

(bb) all of Sellers' bank accounts (excluding the Diavik Realization Account and the Wind-Down Account); and

(cc) all other or additional assets, properties, privileges, rights and interests of Sellers relating to the Business, the Assumed Liabilities or the Acquired Assets (other than any Excluded Assets) of every kind and description and wherever located, whether known or unknown, fixed or unfixed, accrued, absolute, contingent or otherwise, and whether or not specifically referred to in this Agreement.

3.2 Excluded Assets. Notwithstanding anything in this Agreement to the contrary, the Acquired Assets shall not include any of the following (collectively, the "Excluded Assets"):

(a) the Diavik Joint Venture Agreement;

(b) subject to Section 3.1(a), all shares of capital stock or other equity interests in, or securities convertible into, exchangeable or exercisable for any such shares of capital stock or other equity interests in, Dominion Finco Inc., Dominion Diamond Delaware Company LLC, Dominion Diamond Canada ULC and Dominion Diamond (Cyprus) Limited (the "Retained Subsidiaries");

(c) all Excluded Contracts;

(d) Sellers' rights under this Agreement, and under any Ancillary Documents;

(e) all current and prior director and officer insurance policies of Sellers and all rights of any nature with respect thereto running in favor of any Seller, including all insurance recoveries thereunder and rights to assert Claims with respect to any such insurance recoveries, in each case, as the same may run in favor of any Seller and arising out of actions taking place prior to the Closing Date;

(f) all equipment and other tangible assets of Sellers (including all vehicles) which are subject to any financing lease, true lease, conditional sales contract or similar agreement that is not an Assigned Contract;

(g) all assets that are removed from the Acquired Assets pursuant to Section 3.6 or by designation of Bidders or Purchaser prior to Closing; and

(h) Sellers' Organizational Documents, corporate charter, minute and stock record books, income tax returns and corporate seal; provided that Purchaser shall have the right to reasonably request, and Sellers shall reasonably cooperate to provide, copies of any portions of such documents solely as they relate to the Acquired Assets.

3.3 Assumed Liabilities. At the Closing, except as provided in Section 3.2 and/or in Section 3.4 hereof, and subject to Section 3.6, Purchaser shall assume, and agree to pay, perform, fulfill and discharge only the following Liabilities of Sellers (and only the following Liabilities) (collectively, the "Assumed Liabilities"):

(a) all Liabilities and obligations of any Seller under the Assigned Contracts, including by making available the Closing Cure Amount (to the extent necessary, from the Working Capital Financing) at Closing in connection with the assumption and assignment of the Assigned Contracts, but excluding (i) trade payables arising on or after the Filing Date that are overdue for payment as of Closing, and (ii) any other Liabilities related to or arising out of a breach, non-monetary default, violation or non-compliance by any Seller or any Affiliate thereof prior to the Closing;

(b) all trade payables arising on or after the Filing Date for which the permitted payment period has not yet expired as of the Closing in the ordinary course and which the Sellers have not yet paid but has reserved for in the Budget;

(c) the Liabilities with respect to Transferred Employees under the terms of Assumed Plans to the extent arising following the Closing;

(d) all payroll liabilities with respect to Transferred Employees for the payroll period which includes the Closing Date;

(e) any and all Liabilities relating to Claims, Actions, suits, arbitrations, litigation matters, proceedings, investigations or other Actions (in each case, whether involving private parties, Governmental Bodies, or otherwise) arising from the operation of the Business as it relates to the Ekati Diamond Mine and the Acquired Assets from and after the Closing but excluding, for the avoidance of doubt, any such Liabilities (i) arising in the CCAA Proceedings unrelated to the go-forward operations of the Business as it relates to the Ekati Diamond Mine, (ii) insured under insurance policies that are not transferable to Purchaser; (iii) with respect to Excluded Contracts or any other Excluded Assets, (iv) to Employees or former Employees who are not Transferred Employees, or (v) expressly excluded pursuant to Section 3.4;

(f) solely with respect to the Acquired Assets, and subject to such agreements and arrangements as Purchaser may enter into in satisfaction of the Sureties Support

Confirmations, or otherwise in connection with the transactions contemplated hereby, any and all Environmental Liabilities and Obligations;

(g) all intercompany Indebtedness among Sellers and the Acquired Subsidiaries;

(h) all Liabilities under Authorizations included in the Acquired Assets, in each case solely in respect of the period commencing at the Closing Date and not related to any matter, circumstance or default existing at, prior to or as a consequence of Closing, subject to such agreements and arrangements as Purchaser may enter into in connection with the Sureties Support Confirmations; and

(i) all Liabilities with respect to letters of credit issued pursuant to the Pre-filing Credit Agreement with respect to Ekati Diamond Mine, subject to such Liabilities being assumed in the manner contemplated by the First Lien Lender MSA.

3.4 Excluded Liabilities. Notwithstanding anything in this Agreement to the contrary, the Purchaser is not assuming, and shall not be obligated to pay, perform or otherwise discharge any Liability that is not an Assumed Liability (collectively, the "Excluded Liabilities"), including the following:

(a) any and all Liabilities arising out of, relating to or otherwise in respect of the Acquired Assets and/or Business arising prior to the Closing, other than the Assumed Liabilities;

(b) any and all Liabilities of any Seller relating to or otherwise arising, whether before, on or after the Closing, out of, or in connection with, any of the Excluded Assets;

(c) any and all Liabilities of the Retained Subsidiaries;

(d) any and all Liabilities of any Seller for Indebtedness, including (i) all Liabilities with respect to the Pre-filing Credit Agreement (other than pursuant to the Pre-filing Indebtedness Assumption), the Pre-filing Indenture and the Interim Facility, (ii) all intercompany Indebtedness between any Seller, on the one hand, and the Retained Subsidiaries, on the other hand, and (iii) all Guarantees by Sellers, but excluding any intercompany Indebtedness among Sellers and the Acquired Subsidiaries;

(e) except as set forth in Section 13.14(a), any and all (i) Liabilities of any Seller for any Taxes (including, without limitation, Taxes payable by reason of contract, assumption, transferee or successor Liability, operation of Law, pursuant to section 160 of the Tax Act, Treasury Regulation section 1.1502-6 (or any similar provision of any other Law) or otherwise and any Taxes owed by any Seller and arising in connection with the consummation of the transactions contemplated by this Agreement) arising or related to any period(s) on or prior to the Closing Date, and (ii) Taxes arising from or in connection with an Excluded Asset;

(f) any and all Liabilities of any Seller in respect of the Excluded Contracts and any other Contracts to which such Seller is party or is otherwise bound that are not Assigned Contracts;

(g) any and all Liabilities of any Seller in respect of the Diavik Joint Venture Agreement, the Diavik Joint Venture, the Diavik Joint Venture Interest, the Diavik Diamond Mine and the Diavik Realization Assets;

(h) all Liabilities and obligations of any Seller under the Assigned Contracts in respect of (i) a breach, non-monetary default, violation or non-compliance by any Seller or any Affiliate thereof prior to the Closing, and (ii) trade payables arising on or after the Filing Date that are overdue for payment as of Closing;

(i) any and all Liabilities arising out of or relating to any business or property formerly owned or operated by any Seller, any Affiliate or predecessor thereof, but not owned and operated by such Seller immediately prior to Closing;

(j) any and all Liabilities of any Seller or its predecessors arising out of any Contract, Authorization, franchise or claim that is not transferred to Purchaser as part of the Acquired Assets;

(k) any and all Liability for: (i) costs and expenses incurred by Sellers or owed in connection with the administration of the CCAA Proceedings (including the Monitor's fees, the fees and expenses of attorneys, accountants, financial advisors, consultants and other professionals retained by Sellers or the Monitor, and the fees and expenses of the post-filing lenders or the pre-filing lenders incurred or owed in connection with the administration of the CCAA Proceedings); (ii) all costs and expenses of Sellers incurred in connection with the negotiation, execution and consummation of the transactions contemplated under this Agreement; and (iii) all other Sellers' legal, financial, advisory, consulting or similar costs and expenses incurred or arising prior to the Closing;

(l) any and all Liabilities in respect of Employees other than the Liabilities relating to Transferred Employees that are expressly assumed under Section 3.3;

(m) any and all Liabilities with respect to change of control, severance, termination or similar arrangements with any officer, employee or contractor of any Seller;

(n) any and all Liabilities arising out of, relating to or otherwise in respect of any violation of Law by, or any Action against, any Seller or any breach, default or violation by any Seller of or under any Assigned Contracts occurring prior to the Closing;

(o) any and all Liabilities of Sellers under this Agreement;

(p) any and all Liabilities to any broker, finder or financial advisor for Sellers in connection with the transactions contemplated by this Agreement or otherwise;

(q) any and all Liabilities for any Tax or Taxes arising out of or relating to the operation of the Business (as currently or formerly conducted) or the ownership of the Acquired Assets for any Pre-Closing Tax Period, including any and all property Taxes with respect to any Pre-Closing Tax Period;

(r) any Liability for any Tax or Taxes of Sellers or their Affiliates (other than the Acquired Subsidiaries) for any taxable period; and

(s) any Liability for any withholding Tax or Taxes imposed as a result of the transactions contemplated by this Agreement.

3.5 Conveyance and Consideration. Further to Section 3.1 and Section 3.3, above, (i) the Acquired Assets shall be conveyed to Purchaser from Sellers in consideration of the Purchase Price, which shall be allocated to the Acquired Assets in accordance with Section 13.14(e).

3.6 Assigned Contracts/Previously Omitted Contracts.

(a) Assignment and Assumption at Closing.

(i) Schedule A sets forth, to the Sellers' Knowledge, (A) a list of all Contracts to which any Seller is party, including all Contracts that, to the Sellers' Knowledge, were entered into by a Seller following the Filing Date and, (B) with respect to each Contract listed therein, Sellers' good-faith estimate of the Cure Amount if such Contract were an Assigned Contract. The "Assigned Contracts" shall be the Essential Contracts and Other Contracts designated on such Schedule A.

(ii) From and after the date hereof until the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court, Bidders shall be entitled to make additions, deletions and modifications to the Contracts classified as an "Essential Contract," "Other Contract" or "Excluded Contract" on Schedule A in their sole discretion following consultation with Sellers by delivery of written notice to Sellers. For greater certainty, (A) any Contract designated by Bidders as an Excluded Contract on Schedule A after the date of this Agreement shall be deemed to no longer be an Assigned Contract and to be an Excluded Contract, (B) any Contract designated by Bidders as an Essential Contract on Schedule A after the date of this Agreement shall be deemed an Essential Contract for the purposes of this Agreement, and (C) any Contract designated by Bidders as an Other Contract on Schedule A after the date of this Agreement shall be deemed an Other Contract for the purposes of this Agreement.

(iii) Sellers shall use commercially reasonable efforts to obtain all consents required to assign the Assigned Contracts to the Purchaser. The Bidder Parties may request, in their reasonable commercial judgment, certain modifications and amendments to any Contract as a condition to such Contract becoming an Assigned Contract, and Sellers shall cooperate with all reasonable requests of the Bidder Parties to seek to obtain such modifications or amendments or to assist the Bidder Parties in obtaining such modifications or amendments; provided that Purchaser shall make available the Cure Funding Amount to satisfy the Cure Amount. If the Bidder Parties and Sellers are unable to obtain such modifications or amendments, the Bidder Parties may, in their sole discretion following consultation with Sellers, designate any Contract as an Excluded Contract. For the avoidance of doubt, the failure to obtain modifications or amendments to an Essential

Contract requested by the Bidder Parties shall not result in a failure to satisfy the condition to closing set out in Section 9.7.

(iv) To the extent that any Assigned Contract is not assignable without the consent of the counterparty or any other Person and such consent has not been obtained prior to the Closing Date, (A) the Sellers' rights, benefits and interests in, to and under such Assigned Contract may be conveyed to the Purchaser pursuant to an Assignment Order, (B) the Sellers will use commercially reasonable efforts to obtain an Assignment Order in respect of such Assigned Contract on or prior to the Closing Date, and (C) if an Assignment Order is obtained in respect of such Assigned Contract, the Purchaser shall accept the assignment of such Assigned Contract on such terms.

(v) Unless the Parties otherwise agree, to the extent that any Cure Amount is payable with respect to any Assigned Contract, Sellers shall (A) where such Assigned Contract is assigned pursuant to an Assignment Order, pay such Cure Amount in accordance with such Assignment Order, including paying the Closing Cure Amount at Closing, and (B) where such Assigned Contract is not assigned pursuant to an Assignment Order, pay such Cure Amount in the manner set out in the consent of the applicable counterparty or as otherwise may be agreed to by the Purchaser and such counterparty, including paying the Closing Cure Amount at Closing.

(b) Previously Omitted Contracts.

(i) If prior to Closing, (A) it is discovered that a Contract should have been listed but was not listed on Schedule A, or (B) a Contract is entered into after the Effective Date that would have been listed on Schedule A if any Seller had entered into such Contract on or before the Effective Date (any such Contract, a "Previously Omitted Contract"), Sellers shall, promptly following the discovery thereof or entry into such Contract (but in no event later than five (5) Business Days thereafter), notify the Bidder Parties in writing of such Previously Omitted Contract and any Cure Amount for such Previously Omitted Contract. The Bidder Parties shall thereafter deliver written notice to Sellers, promptly following notification of such Previously Omitted Contract from Sellers and in any event prior to the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court, designating such Previously Omitted Contract as an "Essential Contract", "Other Contract" or "Excluded Contract" (a "Previously Omitted Contract Designation"). A Previously Omitted Contract designated in accordance with this Section 3.6 as an "Excluded Contract" or with respect to which the Bidder Parties fail to timely deliver a Previously Omitted Contract Designation, shall be an Excluded Contract.

(ii) If the Bidder Parties designate a Previously Omitted Contract as an "Essential Contract" or "Other Contract" in accordance with Section 3.6, Schedule A shall be amended to include such Previously Omitted Contract and Sellers shall serve a notice (the "Previously Omitted Contract Notice") on the counterparties to such Previously Omitted Contract notifying such counterparties of the Cure Amount with respect to such Previously Omitted Contract and Sellers' intention to assign such Previously Omitted Contract in accordance with this Section 3.6. The Previously Omitted Contract Notice shall

provide the counterparties to such Previously Omitted Contract with seven (7) days to object, in writing to Sellers and the Bidder Parties, to the Cure Amount or the assumption of its Contract. If the counterparties, Sellers and the Bidder Parties are unable to reach a consensual resolution with respect to an objection relating to a Previously Omitted Contract that has been designated as an "Essential Contract" in accordance with Section 3.6, Sellers will seek an expedited hearing before the CCAA Court for an Assignment Order in respect of such Essential Contract.

(c) Disclaimer of Assigned Contracts. Sellers shall not disclaim or seek to disclaim any Assigned Contract in the CCAA Proceedings or any other proceeding following the Effective Date and prior to any termination of this Agreement without the prior written consent of the Bidder Parties, which the Bidder Parties may withhold, condition or delay, in their sole discretion. For greater certainty, (i) all Contracts that have not been designated as "Assigned Contracts" as at the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court shall be deemed to be Excluded Contracts, and (ii) the Sellers shall be entitled, at any time from and after the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court, to disclaim or seek to disclaim any Excluded Contracts.

3.7 Assets Held by the Retained Subsidiaries. If it is determined at any time before or after the Closing that the Retained Subsidiaries hold any right, title or interest in or to any assets or properties that are used or useful in connection with the Business or that would otherwise constitute Acquired Assets if held by any Seller, then Sellers shall, and shall cause the Retained Subsidiaries to transfer and assign such assets to Purchaser or to one or more Designated Purchasers, as directed by Purchaser, subject to the terms of this Agreement. Without limiting the foregoing, Sellers shall cause the Retained Subsidiaries to transfer and assign to Purchaser or to one or more Designated Purchasers, as directed by Purchaser, all rights, options, Claims or causes of action of the Retained Subsidiaries against any party arising out of events occurring prior to the Closing, to the extent permitted under applicable Law. All assets, properties, rights, options, Claims or causes of action transferred to Purchaser or a Designated Purchaser pursuant to this Section 3.7 shall constitute Acquired Assets for the purposes of this Agreement.

ARTICLE IV

PURCHASE PRICE AND PAYMENT

4.1 Purchase Price. The purchase price for the Acquired Assets shall be the aggregate of:

(a) the amount of the Pre-filing Indebtedness Assumption;

(b) the amount of the Indemnity Assumption; and

(c) the amount of the Assumed Liabilities,

(the aggregate of the foregoing being collectively referred to herein as the "Purchase Price")

4.2 Satisfaction of Purchase Price. The Purchase Price shall be paid and satisfied by the Purchaser as follows:

(a) the assumption by Purchaser on Closing (or, at Purchaser's option and if permitted under the First Lien Lender MSA, the repayment on Closing) of US$70,000,000 of outstanding Indebtedness under the Pre-filing Credit Agreement, on and subject to the terms and conditions set out in the First Lien Lender MSA and the definitive documents to be delivered pursuant thereto (the "Pre-filing Indebtedness Assumption");

(b) the assumption by Purchaser on Closing of indemnity and related obligations in respect of certain bonds in the face amount of $278,970,785 Canadian dollars issued by the Sureties for the benefit of the Sellers, on and subject to the terms and conditions set out in the Sureties Support Confirmations and the definitive documents to be delivered pursuant thereto (the "Indemnity Assumption");

(c) The cash payment on Closing of the Closing Cure Amount (to be paid, to the extent necessary, from the Working Capital Financing) and the assumption by the Purchaser of the obligation to pay the balance of the Cure Funding Amount;

(d) the assumption by Purchaser on Closing of the Assumed Liabilities (other than any amounts addressed in Section 4.2(a) through Section 4.2(c)), by execution and delivery of the Assignment and Assumption Agreement.

4.3 Additional Consideration/Capitalization. At Closing, the Bidders shall provide to and make available to the Purchaser new financing (the "Working Capital Financing") of US$70,000,000 to fund Purchaser's post-Closing satisfaction of Assumed Liabilities, operations at the Ekati Diamond Mine and general working capital, all on and subject to the terms and conditions set out in the First Lien Lender MSA and the definitive documents to be delivered pursuant thereto.

4.4 Further Assurances. From time to time after the Closing and without further consideration, (a) Sellers, upon the request of Purchaser, shall use commercially reasonable efforts to execute and deliver such documents and instruments of conveyance and transfer as Purchaser may reasonably request in order to consummate more effectively the purchase and sale of the Acquired Assets as contemplated hereby and to vest in Purchaser title to the Acquired Assets transferred hereunder, and (b) Purchaser, upon the request of Sellers, shall use commercially reasonable efforts to execute and deliver such documents and instruments of assumption as Sellers may reasonably request in order to confirm Purchaser's Liability for the obligations under the Assumed Liabilities or otherwise more fully consummate the transactions contemplated by this Agreement.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Seller Disclosure Letter, Sellers represent and warrant to the Bidder Parties as of the Effective Date and the Closing Date, as follows:

5.1 Organization and Power. Each Seller is duly formed and validly existing under its jurisdiction of formation and is validly existing in good standing thereunder. Subject to the CCAA and the Amended and Restated Initial Order, each Seller has full power and authority to own, use and lease its properties and to conduct its Business as such properties are owned, used or leased and as such Business is currently conducted. Each Seller has previously delivered to the Bidder Parties true, complete and correct copies of its Organizational Documents, as amended and in effect on the Effective Date. Each Seller is duly qualified to do business and is in good standing in each jurisdiction where the character of the Business or the nature of its properties makes such qualification or licensing necessary, except for such failures to be so qualified or licensed or in good standing as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.2 Authority; No Violation. Subject to the issuance of the Sale Order, each Seller has all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby, and the execution, delivery and performance of this Agreement by each Seller shall be duly and validly authorized and approved by all necessary company action. Subject to the issuance of the Sale Order (and assuming the due authorization, execution and delivery by the other Parties hereto), this Agreement shall constitute the legal and binding obligation of each Seller, enforceable against each Seller in accordance with its terms, except that equitable remedies and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding may be brought.

5.3 Consents.

(a) Except as set forth on Section 5.3(a) of the Seller Disclosure Letter, the execution, delivery and performance by Sellers of this Agreement or any Ancillary Document to which it is a party and the consummation of the transactions contemplated hereby or thereby in accordance with the Sale Order do not and will not (with or without notice or the passage of time): (i) contravene, violate or conflict with any term or provision of Sellers' Organizational Documents; (ii) violate any material Law applicable to any Seller or any Acquired Subsidiary or by which any property or asset of any Seller or any Acquired Subsidiary is bound; or (iii) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under, create in any party thereto the right to terminate or cancel, or require any consent under, or result in the creation or imposition of any Encumbrance (other than a Permitted Encumbrance) on any property or asset of any Seller or any Acquired Subsidiary under any Authorization or Material Contract, except in each case described in this clause (iii) to the extent that any such breach, default, right or requirement arises out of the commencement of the CCAA Proceedings or would be cured and the applicable Authorization or Material Contract would be assignable upon payment of the applicable Closing Cure Amount hereunder.

(b) Except (i) for the issuance of the Sale Order, (ii) for compliance as may be required with the Competition Act or other applicable Antitrust Laws, and (iii) as set forth on Section 5.3(a) of the Seller Disclosure Letter, no filing with, notice to or consent from any Person is required in connection with the execution, delivery and performance by Sellers of this Agreement or the Ancillary Documents to which it is a party and the consummation of the transactions contemplated hereby or thereby, other than such filings, notices or consents, the failure of which to make or obtain would not, individually or in the aggregate, reasonably be

expected to be material to the Acquired Assets, the Assumed Liabilities or the Business (other than in relation to the Diavik Joint Venture Interest), in each case taken as a whole.

5.4 Subsidiaries.

(a) Except as would not, individually or in the aggregate, have a Material Adverse Effect, each Acquired Subsidiary is duly incorporated, organized or formed and validly existing under the laws of its jurisdiction of incorporation, organization or formation, and has the requisite power and capacity to own, lease, license and operate its assets and properties and conduct its business as now conducted and is duly registered to carry on business and is in good standing in each jurisdiction in which the character of its assets and properties, owned, leased, licensed or operated by it, or the nature of its activities, make such registration necessary.

(b) Section 5.4(b) of the Seller Disclosure Letter sets out, with respect to each Subsidiary of Sellers as of the date hereof: (A) its name; (B) the percentage owned directly or indirectly by any Seller and the percentage owned by registered holders of capital stock or other equity interests if other than Sellers and their Subsidiaries; and (C) its jurisdiction of incorporation, organization or formation.

(c) Dominion Holdings or DDM is, directly or indirectly, the registered and beneficial owner of all of the outstanding common shares or other equity interests as reflected as being owned by Dominion Holdings or DDM, as applicable, in Section 5.4(b) of the Seller Disclosure Letter, directly or indirectly, of each of its Subsidiaries, free and clear of any Encumbrance, other than Permitted Encumbrances, all such shares or other equity interests so owned by Sellers have been validly issued and are fully paid and non-assessable, as the case may be, and no such shares or other equity interests have been issued in violation of any pre-emptive or similar rights. Except for the shares or other equity interests owned by Dominion Holdings or DDM, directly or indirectly, in any Subsidiary, and except as set forth in Section 5.4(b) of the Seller Disclosure Letter neither any Seller nor any Subsidiary owns, beneficially or of record, any equity interests of any kind in any other Person as of the date hereof.

(d) No Acquired Subsidiary has any Indebtedness, other than with respect to the intercompany Indebtedness owed solely to Sellers or other Acquired Subsidiaries (and for the avoidance of doubt, trade payables incurred in the Ordinary Course of Business) and no Acquired Subsidiary has provided any Guarantee.

5.5 Title and Sufficiency of Assets.

(a) Sellers have good and valid title to (or with respect to leased property included in the Acquired Assets, valid leasehold interests in) the Acquired Assets, free and clear of all Encumbrances other than Permitted Encumbrances.

(b) The Acquired Subsidiaries have good and valid title to (or with respect to leased property included in the Acquired Assets, valid leasehold interests in) all assets and property which any such Acquired Subsidiary purports to own, free and clear of all Encumbrances other than Permitted Encumbrances, and there is no agreement, option or other right or privilege outstanding in favor of any Person for the purchase of any material asset from any Acquired Subsidiary outside the Ordinary Course of Business.

(c) The Acquired Assets, together with the assets and properties held by the Acquired Subsidiaries, include all of the properties and assets required to operate the Business (other than in relation to the Diavik Joint Venture Interest) in the Ordinary Course of Business.

(d) To the Knowledge of Sellers, neither Parent nor the Retained Subsidiaries hold any right, title or interest in or to any assets or properties that are used or useful in connection with the Business or that would otherwise constitute Acquired Assets if held by any Seller.

5.6 Financial Statements. Sellers have delivered to the Bidder Parties Parent's audited consolidated financial statements as at and for the fiscal year ended December 31, 2019 and unaudited consolidated financial statements as at March 31, 2020 and for the three months ended March 31, 2020 and 2019 (including, in each case, any of the notes or schedules thereto, any report thereon and related management's discussion and analysis), each of which: (i) were prepared in accordance with IFRS; and (ii) present fairly, in all material respects, the assets, liabilities and financial condition of Parent and its Subsidiaries on a consolidated basis as at the respective dates thereof and the revenues, earnings, results of operations, changes in shareholders' equity and cash flow of Parent and its Subsidiaries on a consolidated basis for the periods covered thereby (except as may be indicated in the notes to such financial statements and subject in the case of unaudited financial statements to normal, year-end audit adjustments). Except as set forth in such financial statements, neither any Seller nor any Acquired Subsidiary is party to any off-balance sheet transaction with unconsolidated Persons.

5.7 Compliance with Laws. Sellers and each of the Acquired Subsidiaries are, and since February 1, 2018 have been, in compliance with Law in all material respects. Neither any Seller nor any Acquired Subsidiary is, to the Knowledge of Sellers, under any material investigation with respect to, or has been charged or threatened to be charged with, or has received notice of, any material violation or potential material violation of any Law from any Governmental Body.

5.8 Authorizations. Except as would not, individually or in the aggregate, have a Material Adverse Effect, (i) each Seller and each Acquired Subsidiary owns, possesses or has obtained all Authorizations that are required by Law (including, for greater certainty, Environmental Law) to be owned, possessed or obtained by Sellers or any of the Acquired Subsidiaries in connection with the operation of the Business (other than in relation to the Diavik Joint Venture Interest) or in connection with the ownership, operation or use of the Acquired Assets; (ii) Sellers and the Acquired Subsidiaries, as applicable, lawfully hold, own or use, and have complied with all such Authorizations; (iii) each such Authorization is valid and in full force and effect, and is renewable by its terms or in the Ordinary Course of Business; and (iv) no action, investigation or proceeding is pending, or to the Knowledge of Sellers, threatened, against any Seller or any Acquired Subsidiary in respect of or regarding any such Authorization that could reasonably be expected to result in the suspension, loss or revocation of any such Authorization.

5.9 Material Contracts. Section 5.9 of the Seller Disclosure Letter sets out a complete and accurate list of all Material Contracts in effect or pursuant to which any Seller or any Acquired Subsidiary has surviving obligations as of the date hereof. True and complete copies of the Material Contracts have been disclosed in the Data Room and, other than as set out in the Data Room, no such Material Contract has been modified in any material respect. Each Material Contract is a

legal, valid and binding agreement of the applicable Seller or the applicable Acquired Subsidiary, and is in full force and effect. Except as disclosed in Section 5.9 of the Seller Disclosure Letter and other than monetary defaults or such breaches arising out of the commencement of the CCAA Proceedings, neither any Seller nor any Acquired Subsidiary or, to the Knowledge of Seller, any other parties thereto, is in material breach or violation of or in default under (in each case, with or without notice or lapse of time or both) any Material Contract and no Seller or any Acquired Subsidiary has received or given any notice of any material breach or default under any Material Contract which remains uncured, and there exists no state of facts which after notice or lapse of time or both would constitute a material breach of or default under any Material Contract by any Seller or any Acquired Subsidiary or, to the Knowledge of Sellers, any other party thereto.

5.10 Intentionally Deleted.

5.11 Ekati Mine.

(a) DDM owns each of the Ekati Buffer Zone and the Ekati Core Zone Joint Venture Interest free and clear of any Encumbrance other than Permitted Encumbrances. Except as specified in the Ekati Core Zone Joint Venture Agreement, as applicable, no Person has any Contract, or any right or privilege capable of becoming such, for the purchase from DDM of any of its interest in the Ekati Buffer Zone or the Ekati Core Zone Joint Venture. Except as specified in the Ekati Core Zone Joint Venture Agreement, as applicable, there are no back-in rights, earn-in rights, rights of first refusal, pre-emptive rights or similar provisions or rights which affect DDM's interest in the Ekati Buffer Zone, the Ekati Core Zone or the Ekati Core Zone Joint Venture.

(b) A copy of the Ekati Core Zone Joint Venture Agreement as currently in effect as of the date hereof has been made available to the Bidder Parties in the Data Room.

5.12 Leased Property. With respect to the real property leased or subleased by any Seller or any Acquired Subsidiary: (i) each lease or sublease for such property constitutes a legal, valid and binding obligation of the applicable Seller or the applicable Acquired Subsidiary, as the case may be, enforceable against such Seller or such Acquired Subsidiary, as the case may be, in accordance with its terms and is in full force and effect; (ii) except as disclosed in Section 5.12 (ii) of the Seller Disclosure Letter, neither any Seller nor any Acquired Subsidiary, as the case may be, is in breach of or default under any such lease or sublease and no event has occurred which, without the giving of notice or lapse of time, or both, would constitute a breach of or default under any such lease or sublease; and (iii) except as disclosed in Section 5.12 (iii) of the Seller Disclosure Letter, to the Knowledge of Sellers, no counterparty to any such lease or sublease is in default thereunder. Each Seller and each Acquired Subsidiary, as applicable, has good and valid leasehold title to the leased premises demised by such lease or sublease, free and clear of all Encumbrances, except for Permitted Encumbrances. Except as disclosed in Section 5.12 of the Seller Disclosure Letter, no third-party consent is required to be obtained by the Seller or the Acquired Subsidiary, nor is any notice required to be given by the Seller or the Acquired Subsidiary under any such lease or sublease in connection with the completion of the transactions contemplated herein. Except as disclosed in Section 5.12 of the Seller Disclosure Letter, neither the Seller nor any Acquired Subsidiary is a party to any written or oral subleases, licences or other contracts granting any Person the right to use, occupy, possess, lease or enjoy any leased premises nor has the Seller

or any Acquired Subsidiary collaterally assigned or granted any other security interest in any of the leased premises or any interest therein.

5.13 Interests in Properties and Mineral Rights.

(a) The Diavik Leases, the Ekati Buffer Zone Leases and the Ekati Core Zone Leases comprise all of Sellers' and the Acquired Subsidiaries' material real properties and all of Sellers' and the Acquired Subsidiaries' material mineral interests and rights, in each case, either existing under contract, by operation of Law or otherwise (collectively, and where material, the "Mineral Rights"). Neither Sellers nor the Acquired Subsidiaries own or have any interest in any other material real property or any other material mineral interests and rights.

(b) Other than pursuant to the Joint Venture Agreements, no Person has any interest in the Mineral Rights or any right to acquire any such interest, and no Person has any back-in rights, earn-in rights, rights of first refusal, pre-emptive rights or similar provisions or rights which would affect, in any material respect, DDM or, to the Knowledge of Sellers, DDMI's interest in any of the Mineral Rights.

5.14 Litigation. Except as disclosed in Section 5.14 of the Seller Disclosure Letter, as of the date hereof, there are no claims, actions, suits, arbitrations, inquiries, investigations or proceedings pending, or, to the Knowledge of Sellers, threatened, against any Seller, any Acquired Subsidiary or, to the Knowledge of Sellers, DDMI, by or before any Governmental Body that, if determined adverse to the interests of any Seller, any Acquired Subsidiary or DDMI, would, individually or in the aggregate, have a Material Adverse Effect, or would be reasonably expected to prevent or materially delay the consummation of the transactions contemplated hereby, and no Seller or Acquired Subsidiary or, to the Knowledge of Sellers, DDMI or any of the Mine Properties is subject to any outstanding judgment, order, writ, injunction or decree that would reasonably be expected to have a Material Adverse Effect.

5.15 Environmental Matters. Except as would not, individually or in the aggregate, have a Material Adverse Effect, to the Knowledge of Sellers, (i) there exists no fact, condition or occurrence concerning any Seller, any Acquired Subsidiary, DDMI or the operation of the Business or Acquired Assets (including the Joint Ventures or the Mine Properties) with respect to any non-compliance with or obligation or liability under Environmental Laws; (ii) no unresolved complaint, notice or violation, citation, summons or order has been issued to any Seller or any Acquired Subsidiary or any of the Joint Ventures or the applicable manager/operator, as the case may be, alleging any violation by or liability of any Seller or any Acquired Subsidiary or any businesses or assets thereof, including the Joint Ventures or the Mine Properties, with respect to any Environmental Law; and (iii) the operation of the Business, including the Joint Ventures and the Mine Properties, is in compliance with Environmental Laws.

5.16 Aboriginal Claims.

(a) Section 5.16 of the Seller Disclosure Letter (to the Knowledge of Sellers, in respect of matters relating to the Diavik Joint Venture) contains a list of the current impact benefit or participation agreements, memoranda of understanding or similar arrangements (the "Aboriginal Agreements") with all Aboriginal Groups with whom any Seller, any Acquired

Subsidiary or any of the Joint Ventures has any such dealings and any written notices of an Aboriginal Claim received by any Seller or any Acquired Subsidiary where there is no current Aboriginal Agreement in place with the Aboriginal Group, in each case, as of the date hereof. Copies of the Aboriginal Agreements as in effect as of the date hereof have been made available in the Data Room. Other than as disclosed in the Seller Disclosure Letter (including the Aboriginal Agreements), as of the date hereof, to the Knowledge of Sellers, neither Sellers, any of the Acquired Subsidiaries, the Ekati Buffer Zone, the Ekati Core Zone Joint Venture, nor any of the Diavik Joint Venture or its manager, as the case may be, has received any written notice of an Aboriginal Claim which materially affects Sellers, any of the Acquired Subsidiaries, the Business, the Acquired Assets, the Joint Ventures or the Mine Properties.

(b) The Sellers have not received written notice of any material Claims from any Aboriginal Group with respect to Sellers, any Acquired Subsidiary, the Business, the Acquired Assets, the Joint Ventures or the Mine Properties.

(c) The Sellers have materially complied with all material obligations under the Aboriginal Agreements.

5.17 Employees.

(a) All material written contracts in relation to Employees (calculated based on annual base salary plus target cash bonus) have been made available in the Data Room.

(b) The independent contractors of Sellers and the Acquired Subsidiaries are not entitled to any severance or similar payments upon termination of their Contracts that would be material and each of such Contracts can be terminated with no more than 60 days' advance notice.

(c) Other than as disclosed in Section 5.17 of the Seller Disclosure Letter, no Employee has any agreement as to length of notice or severance payment required to terminate his or her employment or is entitled to notice or severance payments other than such as results by Law, nor are there any change of control payments or severance payments or agreements with Employees providing for cash or other compensation or benefits upon the consummation of, or relating to, the transactions contemplated by this Agreement other than the key employee retention plan approved by the CCAA Court in the Amended and Restated Initial Order.

5.18 Collective Agreements. Section 5.18 of the Seller Disclosure Letter sets forth a list of all Collective Agreements as of the date hereof. Except as disclosed in Section 5.18 of the Seller Disclosure Letter (A) there are no collective bargaining or union agreements or employee association agreements or other binding commitments in force with respect to Employees, (B) no Person holds bargaining rights with respect to any Employees and (C) to the Knowledge of Sellers, no Person has applied to be certified as the bargaining agent of any Employees.

5.19 Employee Plans.

(a) Section 5.19(a) of the Seller Disclosure Letter lists all written Employee Plans in effect as of the date hereof. Sellers have made available in the Data Room true, complete and up to date copies of all such material Employee Plans, as amended, together with all related

documentation, including all material regulatory filings (including actuarial valuations) required to be filed with a Governmental Body and correspondence with Governmental Bodies with respect to such material regulatory filings (including actuarial valuations) of any Pension Plan (as defined in Section 5.19(a) of the Sellers Disclosure Letter).

(b) Sellers and the Acquired Subsidiaries have made all contributions and paid all premiums in respect of each material Employee Plan in a timely fashion in accordance with Law and in accordance with the terms of the applicable Employee Plan and all Collective Agreements. Except as would not, individually or in the aggregate, have a Material Adverse Effect, all financial liabilities of Sellers and the Acquired Subsidiaries (whether accrued, absolute, contingent or otherwise) related to all Employee Plans have been fully and accurately disclosed in accordance with IAS 19 Employee Benefits in the financial statements referred to in Section 5.6 as of the dates of such financial statements.

(c) None of the Employee Plans (other than pension, retirement savings or retirement income plans) provide for retiree benefits or for benefits to retired or terminated Employees or to the beneficiaries or dependents of retired or terminated Employees.

(d) The execution of this Agreement and the completion of the transactions contemplated will not (either alone or in conjunction with any additional or subsequent events) constitute an event under any Employee Plan that will or may result in any payment (whether of severance pay or otherwise), acceleration of payment or vesting of benefits, forgiveness of Indebtedness, vesting, distribution, restriction on funds, increase in benefits or obligation to fund benefits with respect to any Employee or former Employee or their beneficiaries.

5.20 Taxes.

(a) Each of the Sellers and the Acquired Subsidiaries has duly and timely filed all material Tax Returns and such Tax Returns are true, complete and correct in all material respects.

(b) Each of the Sellers and the Acquired Subsidiaries has paid all Taxes, including all installments on account thereof, that are due and payable by it.

(c) Each Seller: (i) is not a non-resident of Canada for purposes of section 116 of the Tax Act; or (ii) is not disposing of Acquired Assets which are considered to be "taxable Canadian property" of the Seller for purposes of section 116 of the Tax Act.

(d) Each of the Sellers and the Acquired Subsidiaries has withheld or collected all amounts required to be withheld or collected by it on account of Taxes and has remitted all such amounts to the appropriate Governmental Body when required by Law to do so.

(e) The Canadian Assets include all or substantially all of each Seller's "Canadian resource property" for the purposes of sections 66 and 66.7 of the Tax Act.

(f) Each of DDM, DDCU and Dominion Marketing is registered for purposes of the GST Legislation. Each of DDM, DDCU and Dominion Marketing's GST registration numbers are set out in Section 5.20(f) of the Seller Disclosure Letter.

(g) The Purchaser Acquired Interests are "financial instruments" for the purposes of the GST Legislation.

(h) DDC is, and at all times has been, classified as an entity disregarded from its owner for U.S. federal tax purposes.

5.21 Brokers and Finders. Other than the Sale Advisor, no Person has acted, directly or indirectly, as a broker, finder or financial advisor for Sellers in connection with the transactions contemplated by this Agreement and the Bidder Parties are not and will not become obligated to pay any fee or commission or like payment to any broker, finder or financial advisor as a result of the consummation of the transactions contemplated by this Agreement based upon any arrangement made by or on behalf of Sellers or their Subsidiaries.

5.22 No Other Representations or Warranties. Except for the representations, warranties and covenants of Sellers expressly contained herein or any certificate delivered hereunder, neither Sellers nor any of their respective Representatives, nor any other Person, makes any other express or implied warranty (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose) on behalf of Sellers, including, without limitation, as to (a) the probable success or profitability of ownership, use or operation of the Acquired Assets by Purchaser after the Closing, (b) the probable success or results in connection with the CCAA Court and the Sale Order, or (c) the value, use or condition of the Acquired Assets, which are being conveyed hereby on an "As-Is", "Where-Is" condition at the Closing Date, without any warranty whatsoever (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose).

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF THE BIDDERS

Each Bidder hereby represents and warrants, on a several and not joint basis, to Sellers as of the Effective Date as follows:

6.1 Organization and Power. Such Bidder Party is duly formed and validly existing under its jurisdiction of formation and is validly existing in good standing thereunder. Such Bidder has full power and authority to own, use or lease its properties and to conduct its business as such properties are owned, used or leased and as such business is currently conducted.

6.2 Purchaser's Authority; No Violation. Such Bidder has all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby, and the execution, delivery and performance of this Agreement by such Bidder shall be duly and validly authorized and approved by all necessary company action. This Agreement shall constitute the legal and binding obligation of such Bidder, enforceable against such Bidder in accordance with its terms, except that the enforceability hereof may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar Laws now or hereafter in effect relating to creditors' rights generally and that equitable remedies and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding may be brought. Subject to the issuance of the Sale Order and subject to compliance with the

applicable requirements of the Competition Act, the entering into of this Agreement, and the consummation by such Bidder of the transactions contemplated hereby will not (a) violate the provisions of any applicable federal, state or local Laws or (b) violate any provision of such Bidder's Organizational Documents, violate any provision of, or result in a default or acceleration of any obligation under, or result in any change in the rights or obligations of such Bidder under, any Encumbrance, contract, agreement, license, lease, instrument, indenture, Order, arbitration award, judgment, or decree to which such Bidder is a party or by which it is bound, or to which any property of such Bidder is subject.

6.3 Consents, Approvals or Authorizations. Except for compliance as may be required by the Competition Act or other applicable Antitrust Laws, no consent, waiver, approval, Order or Authorization of, or registration, qualification, designation or filing with any Person or Governmental Body is required in connection with the execution, delivery and performance by such Bidder of this Agreement or the Ancillary Documents to which such Bidder is a party, the compliance by such Bidder with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby, the assumption and performance of the Assumed Liabilities by Purchaser or the taking by such Bidder of any other action contemplated hereby or thereby, other than such filings, notices or consents, the failure of which to make or obtain would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on such Bidder's ability to perform its obligations under this Agreement and the Ancillary Documents to which such Bidder is a party, or to consummate the transactions contemplated hereby or thereby, including the assumption of the Assumed Liabilities by Purchaser.

6.4 Brokers. Other than the Bidder Advisor, no Person has acted, directly or indirectly, as a broker, finder or financial advisor for such Bidder in connection with the transactions contemplated by this Agreement that would obligate Sellers to pay any fee or commission or like payment to any broker, finder or financial advisor as a result of the consummation of the transactions contemplated by this Agreement based upon any arrangement made by or on behalf of such Bidder.

6.5 GST Registration. By or before the Closing Date, the Purchaser shall be registered for the purposes of the GST Legislation. This registration will have an effective date on or before the Closing Date.

6.6 "As Is, Where Is" Basis. Notwithstanding any other provision of this Agreement, each Bidder acknowledges, agrees and confirms that:

(a) except for the representations and warranties of the Sellers set forth in Article V, and subject to the other covenants and agreements set forth herein, such Bidder is entering into this Agreement and the Purchaser will acquire the Acquired Assets and assume the Assumed Liabilities on an "as is, where is" basis as they exist as at Closing and will accept the Acquired Assets in their state, condition and location as at Closing except as expressly set forth in this Agreement and the sale of the Acquired Assets is made without legal warranty and at the risk of the Purchaser;

(b) except for the representations and warranties of the Sellers set forth in Article V, neither the Sellers, the Sale Advisor, nor the Monitor or their Representatives have made

or are making, and such Bidder is not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Acquired Assets, the Sellers' right, title or interest in or to the Acquired Assets, the Business or the Assumed Liabilities, including with respect to merchantability, physical or financial condition, description, fitness for a particular purpose, suitability for development, title, description, use or zoning, environmental condition, existence of any parts/and/or components, latent defects, quality, quantity or any other thing affecting any of the Acquired Assets or the Assumed Liabilities, or normal operation thereof, or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or representations expressed or implied pursuant to any applicable Law in any jurisdiction, which such Bidder confirms does not apply to this Agreement and are hereby waived in their entirety by such Bidder;

(c) except as otherwise expressly provided in this Agreement, such Bidder hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims such Bidder might have against the Sellers, Monitor, Sale Advisor and their Representatives pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those representations and warranties of the Sellers expressly set forth in Article V. Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including Claims regarding defects, whether or not discoverable or latent, product liability Claims, or similar Claims, and all other Claims that may be later created or conceived in strict liability or as strict liability type Claims and rights;

(d) none of the representations and warranties of the Sellers contained in this Agreement shall survive Closing and, subject to Section 12.1, the Bidders' sole recourse for any breach of representation or warranty of the Sellers in Article V shall be for the Bidders not to complete the transactions as contemplated by this Agreement pursuant to the rights set forth in Article XII and for greater certainty the Bidders shall have no recourse or claim of any kind against the Sellers or the proceeds of the transactions contemplated by this Agreement following Closing; and

(e) this Section 6.6 shall not merge on Closing and is deemed incorporated by reference in all Closing documents and deliveries.

6.7 Investment Canada Act. As of the Closing Date, the Purchaser shall be a trade agreement investor or a WTO investor for the purposes of the Investment Canada Act.

6.8 Financial Capability. The Bidders have and will have on the Closing Date access without condition to the requisite financial resources to, or to cause the Purchaser to, purchase the Acquired Assets, satisfy the Purchase Price, provide the Working Capital Financing and otherwise consummate the transactions contemplated hereby, subject to the terms and conditions set out herein. The performance of any obligation by the Bidders under this Agreement is not conditioned on any third party financing commitments or arrangements.

6.9 No Other Representations or Warranties. Except for the representations, warranties and covenants of the Bidders expressly contained herein or any certificate delivered hereunder,

none of the Bidders nor any of their Representatives, nor any other Person, makes any other express or implied warranty (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose) on behalf of the Bidders.

6.10 Joint and Several. Without limiting the generality of Section 13.4, the representations and warranties of each Bidder to Sellers under this Agreement are several, and not joint and not joint and several.

ARTICLE VII

COVENANTS OF SELLERS AND/OR PURCHASER

7.1 Conduct of Business of Sellers.

(a) During the Pre-Closing Period, except (x) as required by Law, (y) as expressly required or authorized by this Agreement, the Amended and Restated Initial Order or (z) as consented to in writing by the Bidders (such consent not to be unreasonably withheld, delayed or conditioned), Sellers shall, and shall cause their Subsidiaries to:

(i) take all actions reasonably necessary or appropriate in furtherance of re-starting operations at the Ekati Diamond Mine as soon as possible, and shall in any case ensure that such operations are re-started by no later than January 29, 2021, all in accordance with the re-start plan shown to and approved by the Bidders including, without limitation, by procuring all necessary or desirable supplies, equipment, contractors and employees and taking such other actions as may be reasonably requested by the Bidders in furtherance of satisfying the requirements of this Section 7.1, provided, however, that the foregoing shall be subject to the terms of the First Lien Lender MSA;

(ii) use commercially reasonable efforts to (A) preserve intact its business organizations, (B) maintain the Business and the Acquired Assets (normal wear and tear excepted), (C) keep available the services of its officers and Employees, subject to continuation of all temporary employee layoffs in place as of the Effective Date except as may be otherwise required by Section 7.1(a)(i) of this Agreement, (D) minimize discretionary expenditures, and (E) maintain and preserve satisfactory relationships with Aboriginal Groups and Governmental Bodies;

(iii) from cash on hand, fund a designated bank account (which may be a bank account in the name of the Monitor) with a sufficient amount to cover the costs to facilitate the wind-down of the Sellers' estates including the administration of the Diavik Realization Assets both before and after the Closing, such amount not to exceed US$250,000 (the "Wind-Down Account");

(iv) from cash on hand, fund a designated bank account (which may be a bank account in the name of the Monitor) with a sufficient amount to cover the costs to administer the Diavik Realization Assets both before and after the Closing, in the amount of US$1,000,000 (the "Diavik Realization Account");

(v) immediately prior to Closing, pay in full, net of any retainers, all unpaid obligations secured by priority charges ordered by the Court in the CCAA Proceedings and all professional fees and expenses of the legal and financial advisors to the Sellers and the Monitor due and payable at Closing; and

(vi) immediately prior to Closing, pay in full all professional fees and expenses of the legal and financial advisors to the First Lien Lenders due and payable at Closing.

(b) Without limiting the generality of Section 7.1(a), during the Pre-Closing Period, except (x) as required by Law, (y) as expressly required or authorized by this Agreement or contemplated in the First Lien Lender MSA or (z) as consented to in writing by the Bidders (such consent not to be unreasonably withheld, delayed or conditioned), Sellers shall not:

(i) end any temporary employee layoff or similar arrangement that is in place as of the Effective Date, except as may be required under Section 7.1(a)(i), or terminate the employment of any employee of the Sellers;

(ii) sell, lease, exchange, transfer or otherwise dispose of, or agree to sell, lease, exchange, transfer or otherwise dispose of, any material Acquired Asset, other than the sale of Inventory in accordance with the Budget, with reasonable prior notice delivered to the Monitor and the Bidders;

(iii) settle or compromise any material litigation or claims relating to the Business or the Acquired Assets or that would impose any restrictions or Liabilities on the Business or Purchaser's use of the Acquired Assets after the Closing;

(iv) permit, allow or suffer any assets that would be Acquired Assets to be subjected to any Encumbrance other than Permitted Encumbrances and, if required, any DIP loan in the manner contemplated by the First Lien Lender MSA;

(v) cancel or compromise any material debt or claim that would be included in the Acquired Assets or waive or release any material right of Sellers that would be included in the Acquired Assets;

(vi) recognize any labor organization as a collective bargaining representative of any Persons employed by Sellers or their Subsidiaries, or enter into a collective bargaining agreement or employee association agreement with any labor organization affecting any such Persons;

(vii) grant any increase in the compensation or benefits of any employee or former employee or any dependent or other person claiming through an employee or former employee, including the grant, increase or acceleration in any severance, change in control, termination or similar compensation or benefits payable to any employee;

(viii) enter into any Material Contract or terminate, amend, restate, supplement, extend or waive (partially or completely) any rights under any Material Contract;

(ix) take any action that would reasonably be expected to prevent or significantly impede or materially delay the completion of the transactions contemplated hereunder;

(x) make, revoke or change any election relating to Taxes, file any amended Tax Return, request, enter into or obtain any Tax ruling with or from a Governmental Body, or execute or file, or agree to execute or file, with any Governmental Body any agreement or other document extending, or having the effect of extending, the period of assessment or collection of any Taxes, in each case, that may reasonably be expected to have any adverse effect on the Purchaser or any of its Affiliates, for any taxable period, or portion thereof, beginning after the Closing Date; or

(xi) agree in writing to do any of the foregoing.

7.2 Consents and Approvals.

(a) Sellers and the Bidders shall each use commercially reasonable efforts (i) to obtain all consents and approvals, as reasonably requested by the Bidder Parties and Sellers, to more effectively consummate the purchase and sale of the Acquired Assets and the assumption and assignment of the Assigned Contracts and Assumed Liabilities, as applicable, together with any other necessary consents and approvals to consummate the transactions contemplated hereby, including, if required, the Competition Act Approval and any other Mandatory Antitrust Approvals, (ii) to make, as reasonably requested by the Bidder Parties and Sellers, all filings, applications, statements and reports to all authorities which are required to be made prior to the Closing Date by or on behalf of the Bidder Parties and/or Sellers or any of their respective Affiliates pursuant to any applicable Regulation in connection with this Agreement and the transactions contemplated hereby, (iii) to obtain, as reasonably requested by the Bidder Parties and Sellers, all required consents and approvals (if any) to assign and transfer the Authorizations to Purchaser at Closing and, to the extent that one or more of the Authorizations are not transferable, to obtain replacements therefor, and (iv) to satisfy the conditions precedent set out in Article IX and Article X by such dates as required to achieve the Closing on or prior to the Outside Date.

(b) In furtherance and not in limitation of the foregoing, each of Sellers and the Bidder Parties shall prepare and file: (i) within 10 Business Days after the date of the Sale Order or on such other timetable as may be agreed to by the Parties, all filings required and desirable to obtain Competition Act Approval and, to the extent required, including pre-merger notification filings in accordance with Part IX of the Competition Act, (ii) as soon as reasonably practicable after the date of this Agreement, all filings required and desirable to obtain any other Mandatory Antitrust Approvals, and (iii) all other necessary documents, registrations, statements, petitions, filings and applications for other Antitrust Approvals and any other consent or approval of any other Governmental Body required to satisfy the conditions set forth in Section 9.2 and Section 10.2.

(c) Subject to the provisions of Section 4.4 and this Section 7.2, in the event that certain Authorizations are not transferable or replacements therefor are not obtainable on or before the Closing, but such Authorizations are transferable or replacements therefor are obtainable after the Closing, the Bidder Parties and Sellers shall continue to use such reasonable

efforts in cooperation with the other after the Closing as may be required to obtain all required consents and approvals to transfer, or obtain replacements for, such Authorizations after Closing and shall do all things reasonably necessary to give Purchaser the benefits which would be obtained under such Authorizations; provided, however, that Sellers' obligations under this Section 7.2(c) shall not restrict Sellers from making any distributions in or terminating the CCAA Proceedings or otherwise winding up their respective affairs or cancelling their existence upon the completion of any such winding up.

(d) Sellers and the Bidder Parties shall use commercially reasonable efforts to (i) cooperate with each other in connection with any filing or submission and in connection with any investigation or other inquiry, including any proceeding initiated by a private party; (ii) keep the other Parties informed in all material respects of any material communication received by such Party from, or given by such Party to, any Governmental Body and of any material communication received or given in connection with any proceeding by a private party, in each case regarding any of the transactions contemplated hereby, including providing to the other Parties copies of all such material communications given or received; (iii) provide to the other Party reasonable opportunity to comment on drafts of filings and submissions prior to submitting same to a Governmental Body; and (iv) consult with each other in advance of any meeting or conference (whether in person or by telephone) with any Governmental Body, including in connection with any proceeding by a private party, and provide the other Party an opportunity to participate with at least one attendee in any meetings of a substantive nature with a Governmental Body. The foregoing obligations in this Section 7.2(d) shall be subject to any attorney-client, solicitor-client, work product, or other privilege, and each of the Parties hereto shall coordinate and cooperate fully with the other Parties hereto in exchanging such information and providing such assistance as such other Parties may reasonably request in connection with the foregoing.

(e) If, (i) notwithstanding the applicable provisions of the CCAA, the Sale Order, the Assignment Order (if applicable) and the commercially reasonable efforts of Sellers, any consent to the assignment of an Assigned Contract is not obtained prior to Closing and as a result thereof the Purchaser shall be prevented by a third party from receiving the rights and benefits with respect to an Acquired Asset intended to be transferred hereunder, (ii) any attempted assignment of an Acquired Asset would adversely affect the rights of Sellers thereunder so that the Purchaser would not in fact receive all of the rights and benefits contemplated or (iii) any Acquired Asset is not otherwise capable of sale and/or assignment (after giving effect to the Sale Order, the Assignment Order and the CCAA), then, in each case, Sellers shall, subject to any approval of the CCAA Court that may be required, at the request of the Bidders and subject to Section 4.4, cooperate with the Bidders in any lawful and commercially reasonable arrangement under which the Purchaser would, to the extent practicable, obtain the economic claims, rights and benefits under such asset and assume the economic burdens and obligations with respect thereto in accordance with this Agreement, including by subcontracting, sublicensing or subleasing to the Purchaser.

(f) Notwithstanding any other provision of this Agreement, the Bidders shall control and lead all communications and strategy relating to the Competition Act Approval and any other Mandatory Antitrust Approvals, and the final determination as to any appropriate courses of action shall be made by the Bidders.

7.3 Confidentiality. The Bidders and the Sellers acknowledge that the confidential information provided to them in connection with this Agreement, including under Section 7.5, and the consummation of the transactions contemplated hereby, is subject to the Confidentiality Agreements dated June 8, 2020 between each of the Bidders and DDM (the "Confidentiality Agreement"). Sellers agree that except as may otherwise be required in connection with the CCAA Proceedings or by Law, they will treat any confidential information provided to or retained by them in accordance with this Agreement as if they were the receiving party under the Confidentiality Agreement and Sellers agree that for purposes of Sellers' confidentiality obligation hereunder, the term contained in the fourteenth paragraph of the Confidentiality Agreement shall be deemed to be three (3) years from the Closing Date. The Parties agree that the provisions regarding confidentiality contained in the Confidentiality Agreement shall survive the termination of this Agreement and the Confidentiality Agreement in accordance with the terms set forth therein but shall terminate upon the Closing as to the Bidder Parties and their Representatives (as defined therein).

7.4 Change of Name. Promptly following the Closing, Sellers shall, and shall cause their respective direct and indirect Subsidiaries to, discontinue the use of the "Dominion Diamonds" name (and any other trade names or "d/b/a" names currently utilized by Sellers or their respective direct or indirect Subsidiaries) and shall not subsequently change its name to or otherwise use or employ any name which includes the words "Dominion Diamond Mines" or any other similar name or mark confusingly similar thereto without the prior written consent of Purchaser, and Sellers shall, if requested by the Purchaser, make an application to the CCAA Court requesting the name of Sellers in the title of the CCAA Proceedings to be changed; provided, however, that Sellers and their respective Subsidiaries may continue to use their current names (and any other names or d/b/a's currently utilized by Sellers or their respective Subsidiaries) included on any business cards, stationery and other similar materials following the Closing for a period of up to seventy-five (75) days solely for purposes of winding down the affairs of Sellers; provided that when utilizing such materials, other than in incidental respects, Sellers and each of their respective direct and indirect Subsidiaries shall use commercially reasonable efforts to indicate its new name and reference its current name (and any other trade names or "d/b/a" names currently utilized by each).

7.5 Bidder Parties' Access to Sellers' Records. The Sellers' shall provide the Bidder Parties (or their designated Representatives) reasonable access, upon reasonable advance notice to Sellers, to Sellers' Employees, books and records, corporate offices and other facilities for the purpose of conducting such additional due diligence as the Bidder Parties deem appropriate or necessary in order to facilitate the Bidder Parties' efforts to consummate the transaction provided for herein. Sellers hereby covenant and agree to reasonably cooperate with the Bidder Parties in this regard.

7.6 Notification of Certain Matters.

(a) As promptly as reasonably practicable, Sellers shall give notice to the Bidder Parties of (i) any notice or other communication from any Person alleging that the consent of such Person, which is or may be required in connection with the transactions contemplated by this Agreement or the Ancillary Documents, is not likely to be obtained prior to Closing, (ii) any written objection or proceeding that challenges the transactions contemplated hereby or to the

issuance of the Sale Order, and (iii) the status of matters relating to the completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by Sellers or by any of their respective Affiliates (as the case may be), from any third party and/or any Governmental Body with respect to the transactions contemplated by this Agreement other than communications which are confidential, without prejudice or privileged by their nature.

(b) Each Party hereto shall promptly notify the other party in writing of any fact, change, condition, circumstance or occurrence or nonoccurrence of any event that would or would reasonably be expected to (i) constitute a breach or inaccuracy of any of the representations and warranties of such Party had such representation or warranty been made at the time of the occurrence or nonoccurrence of such event, (ii) constitute a breach of any covenant of such Party, or (iii) make the satisfaction of any condition to Closing impossible or unlikely to be satisfied; provided that no such notice shall be deemed to amend or modify the representations and warranties made hereunder or the Seller Disclosure Letter for purposes of Section 9.4, Section 10.4 or otherwise, or limit the remedies available to any Party hereunder.

7.7 Preservation of Records. Sellers (or any subsequently appointed bankruptcy estate representative, including, but not limited to, a trustee, a creditor trustee or a plan administrator) agree and the Purchaser shall agree that each of them shall preserve and keep the books and records held by it relating to the pre-Closing Business for a period commencing on the Effective Date and ending at such date on which an orderly wind-down of Sellers' operations has occurred in the reasonable judgment of the Bidder Parties and Sellers and shall make such books and records available to the other Parties (and permit such other Party to make extracts and copies of such books and records at its own expense) as may be reasonably required by such Party in connection with, among other things, facilitating the continuing administration of the CCAA Proceedings, any insurance Claims by, legal proceedings or Tax audits against or governmental investigations of Sellers or the Bidder Parties or in order to enable Sellers or the Bidder Parties to comply with their respective obligations under this Agreement and each other agreement, document or instrument contemplated hereby or thereby. In the event that Sellers, on the one hand, or the Bidder Parties, on the other hand, wish to destroy such records during the foregoing period, such Party shall first give twenty (20) days' prior written notice to the other and such other Party shall have the right at its option and expense, upon prior written notice given to such Party within that twenty (20) day period, to take possession of the records within thirty (30) days after the date of such notice.

7.8 Publicity. Neither Sellers nor the Bidder Parties shall issue any press release or public announcement concerning this Agreement or the transactions contemplated hereby without obtaining the prior written approval of the other Party hereto, which approval will not be unreasonably withheld or delayed, unless, in the reasonable judgment of the Bidder Parties or Sellers, disclosure is otherwise required by such party by applicable Law or by the CCAA Court with respect to filings to be made with the CCAA Court in connection with this Agreement; provided that the Party intending to make such release shall use commercially reasonable efforts consistent with such applicable Law or the CCAA Court requirement to consult with the other Party with respect to the text thereof.

7.9 Material Adverse Effect. Sellers shall promptly inform the Bidder Parties in writing of the occurrence of any event that has had, or is reasonably expected to have, a Material Adverse

Effect or otherwise cause the failure of any of the Bidder Parties' conditions to Closing set forth in Article IX.

7.10 Sale Free and Clear; No Successor Liability. On the Closing Date, the Acquired Assets shall be transferred to the Purchaser free and clear of all obligations, Liabilities and Encumbrances (other than Permitted Encumbrances) to the fullest extent permitted by the CCAA.

7.11 Casualty Loss. If, before the Closing, all or any portion of the Acquired Assets is (a) condemned or taken by eminent domain, or (b) is damaged or destroyed by fire, flood or other casualty, Sellers shall promptly notify the Bidder Parties promptly in writing of such fact, (i) in the case of condemnation or taking, Sellers shall promptly assign or pay, as the case may be, any proceeds thereof to Purchaser at the Closing, and (ii) in the case of fire, flood or other casualty, Sellers shall promptly assign the insurance proceeds therefrom to Purchaser at Closing. Notwithstanding the foregoing, the provisions of this Section 7.11 shall not in any way modify the Bidder Parties' other rights under this Agreement, including any applicable right to terminate the Agreement if any condemnation, taking, damage or other destruction resulted in a Material Adverse Effect or otherwise cause the failure of any of the Bidder Parties' conditions to Closing set forth in Article IX.

7.12 Debtors-in-Possession. From the commencement of the CCAA Proceedings through the Closing, Sellers shall continue to operate their business pursuant to and in accordance with the CCAA and Orders of the CCAA Court. Sellers shall not convert or seek to convert the CCAA Proceedings into any form of a liquidation proceeding under the CCAA or any other applicable legislation.

7.13 CCAA Court Filings.

(a) Sellers shall use their reasonable best efforts to cause the CCAA Court to issue the Sale Order on or prior to December 11, 2020.

(b) Sellers shall serve notices of assumption of the Assigned Contracts, including the designation of Cure Amounts, on all necessary parties on or prior to the date which is not less than five (5) Business Days prior to the date designated by the Bidders to appear before the CCAA Court to request the Assignment Order, or such other date as may be agreed to by the Parties.

(c) Sellers shall use their reasonable best efforts to cause the CCAA Court to issue the Assignment Order on or prior to such date as may be designated by the Bidders, acting reasonably.

(d) Sellers shall use their commercially reasonable efforts to provide the Bidder Parties for review reasonably in advance of filing drafts of such material motions, pleadings or other filings relating to the process of consummating the transactions contemplated by this Agreement to be filed with the CCAA Court, including the motions for issuance of the Sale Order and the Assignment Order (if applicable).

(e) In the event an appeal is taken or a stay pending appeal is requested from the Sale Order, Sellers shall promptly notify the Bidder Parties of such appeal or stay request and

shall provide the Bidder Parties promptly a copy of the related notice of appeal or order of stay. Sellers shall also provide the Bidder Parties with written notice of any motion or application filed in connection with any appeal from such orders. Sellers agree to take all action as may be reasonable and appropriate to defend against such appeal or stay request and Sellers and the Bidder Parties agree to use their reasonable best efforts to obtain an expedited resolution of such appeal or stay request, provided that nothing herein shall preclude the Parties hereto from consummating the transactions contemplated hereby, if the Sale Order shall have been issued and has not been stayed and the Bidder Parties, in their sole discretion, waive in writing the condition that the Sale Order be a Final Order.

(f) Sellers and the Bidder Parties acknowledge that this Agreement and the sale of the Acquired Assets and the assumption of the Assumed Liabilities are subject to approval by the CCAA Court.

(g) After issuance of the Sale Order, neither the Bidder Parties nor Sellers shall take any action which is intended to, or fail to take any action the intent of which failure to act is to, result in the reversal, voiding, modification or staying of the Sale Order.

7.14 Payment of Cure Amount. The Closing Cure Amount shall be paid in accordance with Section 4.2(c). Any Cure Amounts other than the Closing Cure Amount shall be paid by the Purchaser following Closing pursuant to the terms and conditions set out in settlement agreements entered into by the Sellers and which are in respect of or constitute the Assigned Contracts. Following the Closing, Purchaser shall provide to Sellers, if requested, evidence that the Closing Cure Amount, and subsequent payments of the Cure Amount (if any) in respect of each Assigned Contract has been paid by Purchaser in accordance with (i) the Assignment Order where such Assigned Contract is assigned pursuant to an Assignment Order, or (ii) the consent of the applicable counterparty or as otherwise agreed upon by Purchaser and such counterparty, where such Assigned Contract is not assigned pursuant to an Assignment Order, in each case promptly following such payment.

7.15 GNWT Royalties. Prior to or concurrent with the Closing, Sellers shall pay and/or otherwise obtain releases in full in a form satisfactory to the Bidder Parties of all obligations in respect of any period that are due and payable prior to Closing in respect of royalties or similar payment obligations to GNWT, which shall include (for the avoidance of any doubt) all royalty and similar payments obligations to GNWT in respect of fiscal year 2019.

7.16 Permitted Encumbrances/Assigned Contracts. For greater certainty, Purchaser shall not be required at Closing to assume any Encumbrance or agreement other than Permitted Encumbrances and Assigned Contracts. If the Sale Order designates any Permitted Encumbrances that prior to Closing are determined to relate to agreements which are not Assigned Contracts, Sellers shall give prompt written notice thereof to the beneficiaries of such Encumbrances. Upon Sellers giving such written notice, which shall be given not less than 10 days prior to Closing, the effect of the Sale Order shall be to vest title in the Acquired Assets in Purchaser free and clear of all such Encumbrances at Closing without need for further order of the Court and notwithstanding their original inclusion in the Sale Order's list of Permitted Encumbrances.

ARTICLE VIII

EMPLOYEE MATTERS

8.1 Covenants of Sellers with respect to Employees.

(a) Purchaser shall make employment offers to substantially all Employees of Sellers, subject to and consistent with requirements based on the plan for resumption of operations at Sellers' facilities, and in consultation with Sellers' management on terms and conditions that are substantially similar to those under which the Employees are employed at the time of Closing. Sellers shall provide reasonable assistance to facilitate the transfer of all Employees that Purchaser elects to hire, which may be subject to any temporary layoff or reduction in effect at Closing, including, without limitation, providing Purchaser access to such Employees' personnel records and such other information regarding the Employees as Purchaser may reasonably request, consistent with Section 8.2 hereof. All Employees who receive employment offers from Purchaser and who accept such offers of employment are hereinafter referred to as the "Transferred Employees". The Purchaser shall acknowledge that it is successor under all collective agreements set out in Section 5.18 of the Seller Disclosure Letter.

(b) During the Pre-Closing Period, except as consented to in writing by the Bidders (such consent not to be unreasonably withheld, delayed or conditioned), and without limiting the obligations and restrictions set forth in Section 7.1, Sellers (i) shall satisfy all pre-Closing legal or contractual requirements to provide notice to, or to enter into any consultation procedure with, any labor union or organization, which is representing any Employee, in connection with the transactions contemplated by this Agreement, and (ii) shall not (A) enter into, establish, adopt, materially amend or terminate any Employee Plan (or any plan or arrangement that would be an Employee Plan if in existence on the date of this Agreement), other than as required by Law, (B) increase the compensation and benefits payable or to become payable to Employees or former Employees or any dependent or other person claiming through an Employee or former Employee, (C) grant any extraordinary bonuses, benefits or other forms of directors' or consultants' compensation, (D) promote, hire or terminate the employment of (other than for cause) any Employee or (E) transfer the employment of any individual such that such individual becomes an Employee or transfer the employment of any Employee such that such individual no longer qualifies as an Employee.

8.2 Covenants of Purchaser with respect to Employees.

(a) Purchaser shall assume the Employee Plans (collectively, the "Assumed Plans"). Purchaser, on the one hand, and Sellers, on the other, shall take such actions as are necessary and reasonably requested by any Party to cause Purchaser to assume sponsorship of and responsibility for administration and operation of such Employee Plans as of the Closing and to effect the transfer of all assets and benefit liabilities of the Assumed Plans together with all related trust, insurance policies and administrative services agreements, effective as soon as practicable following the Closing.

(b) On and following the Effective Date, Sellers and the Bidder Parties shall reasonably cooperate in all matters reasonably necessary to effect the transactions contemplated

by this Section 8.2, including exchanging information and data relating to workers' compensation, employee benefits and employee benefit plan coverage, and in obtaining any governmental approvals required hereunder, except as would result in the violation of any applicable Law, including without limitation, any Law relating to the safeguarding of data privacy.

(c) The provisions of this Section 8.2 are for the sole benefit of the Parties to this Agreement only and shall not be construed to grant any rights, as a third party beneficiary or otherwise, to any person who is not a Party to this Agreement, nor shall any provision of this Agreement except solely for the purpose of giving effect to Section 8.2(a) and Section 8.2(b) hereof be deemed to be the adoption of, or an amendment to, any Employee Plan, or otherwise to limit the right of Purchaser or Sellers to amend, modify or terminate any such Employee Plan. In addition, nothing contained herein shall be construed to (i) prohibit any amendments to or termination of any Employee Plan or (ii) prohibit the termination or change in terms of employment of any Employee (including any Transferred Employee) as permitted under applicable Law. Nothing herein, expressed or implied, shall confer upon any Employee (including any Transferred Employee) any rights or remedies (including, without limitation, any right to employment or continued employment for any specified period) of any nature or kind whatsoever, under or by reason of any provision of this Agreement.

ARTICLE IX

CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER

The obligations of the Purchaser, and of the Bidders to cause Purchaser, to consummate the Closing are subject to satisfaction (or, to the extent permitted by applicable Law, waiver by the Bidders) of the following conditions precedent on or before the Closing Date.

9.1 CCAA Court Approvals. The Sale Order and the Assignment Orders (if applicable) shall have been issued by the CCAA Court and shall have become a Final Order.

9.2 Antitrust Approvals. All Antitrust Approvals and other necessary regulatory approvals shall have been obtained.

9.3 No Court Orders. No court or other Governmental Body shall have issued, enacted, entered, promulgated or enforced any Law or Order that has not been vacated, withdrawn or overturned restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

9.4 Representations and Warranties True as of Both Effective Date and Closing Date. Each of the representations and warranties of Sellers (a) contained herein (other than as set forth in clause (c) below) that are not qualified by "materiality" or "Material Adverse Effect" shall be true and correct in all material respects on and as of the Effective Date (except for such representations and warranties that specifically relate to an earlier date, which shall be true and correct in all material respects as of such earlier date) and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, (b) contained herein (other than as set forth in clause (c) below) that are qualified by "materiality" or "Material Adverse Effect" shall be true and correct in all respects on and as of the Effective Date (except for such

representations and warranties that specifically relate to an earlier date, which shall be true and correct in all respects as of such earlier date) and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, and (c) contained in Section 5.1, Section 5.2, Section 5.4 and Section 5.6 shall be true and correct in all respects on and as of the Effective Date (except for such representations and warranties that specifically relate to an earlier date, which shall be true and correct in all respects as of such earlier date) and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

9.5 Compliance with Covenants. Sellers shall have performed or complied in all material respects with all of their covenants and obligations hereunder which are required to be performed or complied with at or prior to Closing.

9.6 No Material Adverse Effect. Since the Effective Date, there shall not have been a Material Adverse Effect.

9.7 Essential Contracts; Cure Amount. (i) All consents, approvals or waivers necessary to assign the Essential Contracts to the Purchaser shall have been obtained, or an Assignment Order shall have been granted by the CCAA Court in respect of such Essential Contracts where necessary consents, approvals or waivers have not been obtained, provided for clarity that any consent in respect of the Aboriginal Agreements and related agreements shall be in form and substance satisfactory to the Bidder Parties; (ii) the Cure Amount shall not exceed the Cure Funding Amount (calculated based on an exchange rate of US$1 to Cdn$1.32 with respect to any amounts to be paid in Canadian dollars) and (iii) the Assignment Order shall provide that the Cure Amount with respect to Assigned Contracts subject to the Assignment Order shall not be payable earlier than 30 days following Closing.

9.8 Authorizations. Purchaser (or the applicable Designated Purchaser) shall have received (and there shall be in full force and effect), in each case in form and substance satisfactory to the Bidder Parties, either by transfer or re-issuance, all material Authorizations required to operate the Business and Acquired Assets, including the Environmental Agreement and Aboriginal Agreements and related agreements and those other Authorizations set forth (or required to be set forth) on Section 5.3(a) of the Seller Disclosure Letter, consistent in all material respects with historical operations.

9.9 Sureties Support Confirmations. The Sureties shall have taken all steps contemplated by the Sureties Support Confirmations.

9.10 Ordinary Course Operations. Purchaser shall not be subject to any mandatory governmental Regulations or restrictions related to COVID-19 which would prevent or materially restrict: (i) Purchaser from taking actions and conducting operations at the Ekati Diamond Mine substantially consistent with the re-start plan shown to and approved by Bidders; or (ii) Purchaser's ability to transport, sort and conduct diamond sales in a quantum substantially consistent with past practices prior to COVID-related impacts.

9.11 Delivery of Acquired Assets. Each of the deliveries required to be made to Purchaser pursuant to Section 11.2 shall have been so delivered and, at Closing, Sellers shall

deliver possession of all Acquired Assets to Purchaser, *in situ*, wherever such Acquired Assets are located at Closing consistent with the terms of this Agreement.

9.12 Corporate Documents. Sellers shall have delivered to Purchaser copies of the resolutions of Sellers' board of directors or similar governing body, as applicable, evidencing the approval of this Agreement and the transactions contemplated hereby.

9.13 Release of Encumbrances. The Sale Order shall provide for the release of any and all Encumbrances on the Acquired Assets other than Permitted Encumbrances, and Purchaser shall have received such documents or instruments as may be required, in Purchaser's reasonable discretion, to demonstrate that, effective as of the Closing Date, the assets of the Acquired Subsidiaries are released from any and all Encumbrances other than Permitted Encumbrances.

9.14 Accounts Payable. Sellers shall have paid all trade payables arising from the provision of goods and services on or after the Filing Date for which the permitted payment period has not yet expired as of Closing, other than such amounts which are disputed by the Sellers in good faith for which adequate reserves have been created under the Budget.

9.15 First Lien Lender MSA Documents. The First Lien Lenders shall have executed and delivered the definitive documentation, in form and content satisfactory to the First Lien Lenders and the Bidder Parties, acting reasonably, regarding the transactions between such parties contemplated by the First Lien Lender MSA.

ARTICLE X

CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS

The obligations of Sellers to consummate the Closing are subject to satisfaction (or, to the extent permitted by applicable Law, waiver by Sellers) of the following conditions precedent on or before the Closing Date:

10.1 CCAA Court Approvals. The Sale Order shall have been issued by the CCAA Court and shall have become Final Orders.

10.2 Antitrust Approvals. All Antitrust Approvals shall have been obtained.

10.3 No Court Orders. No court or other Governmental Body shall have issued, enacted, entered, promulgated or enforced any Law or Order that has not been vacated, withdrawn or overturned restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

10.4 Representations and Warranties True as of Both Effective Date and Closing Date. The representations and warranties of the Bidder Parties (a) contained herein that are not qualified by "materiality" or "material adverse effect" shall be true and correct in all material respects on and as of the Effective Date, and shall also be true in all material respects on and as of the Closing Date (except for representations and warranties which specifically relate to an earlier date, which shall be true and correct in all material respects as of such earlier date) with the same force and effect as though made by the Bidder Parties on and as of the Closing Date, and (b) contained herein

that are qualified by "materiality" or "material adverse effect" shall be true and correct in all respects on and as of the Effective Date, and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date (except for representations and warranties which specifically relate to an earlier date, which shall be true and correct in all material respects as of such earlier date), in each case, except where the failure of such representations and warranties to be so true and correct has not had, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Bidder Parties' ability to consummate the transactions contemplated by this Agreement.

10.5 Compliance with Covenants. The Bidders shall have performed or complied in all material respects with all of their covenants and obligations hereunder which are required to be performed or complied with at or prior to Closing.

10.6 Corporate Documents. Purchaser shall have delivered to Sellers copies of the resolutions of Purchaser's board of directors or other governing body evidencing the approval of this Agreement and the transactions contemplated hereby.

ARTICLE XI

CLOSING

11.1 Closing. Unless otherwise mutually agreed by the Parties, the closing of the purchase and sale of the Acquired Assets, the payment of the Purchase Price, the assumption of the Assumed Liabilities and the consummation of the other transactions contemplated by this Agreement (the "Closing") shall take place on the fifth (5^{th}) Business Day following full satisfaction or due waiver (by the Party entitled to the benefit of such condition) of the closing conditions set forth in Article IX and Article X (other than conditions that by their terms or nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at the Closing), or at such other place and time as the Parties may agree.

11.2 Deliveries by Sellers. At or prior to the Closing, Sellers shall deliver, in addition to the other documents contemplated by this Agreement, the following to Purchaser:

(a) a bill of sale in form and content satisfactory to Sellers and Bidders, acting reasonably, duly executed by Sellers;

(b) an assignment and assumption agreement in form and content satisfactory to Sellers and Bidders, acting reasonably (the "Assignment and Assumption Agreement"), duly executed by Sellers;

(c) duly executed instruments for the sale, transfer, assignment or other conveyance to Purchaser or relevant Designated Purchasers, of the equity interests in the Acquired Subsidiaries, in accordance with the requirements of applicable local Law and this Agreement;

(d) a true copy of the Sale Order and any Assignment Orders (if applicable);

(e) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of each Seller certifying that the conditions set forth in Section 9.4 and Section 9.5 have been satisfied;

(f) an instrument of assumption and assignment of the Assigned Contracts regarding leased real property in form and content satisfactory to Sellers and Bidders, acting reasonably (the "Assignment and Assumption of Leases"), duly executed by each Seller, in form for recordation with the appropriate public land records to the extent the underlying lease is of record;

(g) an Intellectual Property Assignment and Assumption Agreement in form and content satisfactory to Sellers and Bidders, acting reasonably (the "IP Assignment and Assumption Agreement"), duly executed by each Seller;

(h) possession of all owned real property included in the Acquired Assets, together with duly executed and acknowledged transfer deeds for all such owned real property conveying the owned real property subject only to Permitted Encumbrances, and any existing surveys, legal descriptions and title policies that are in the possession of Sellers;

(i) possession of the Acquired Assets and the Business *in situ*, wherever such Acquired Assets are located at the Closing consistent with the terms of this Agreement;

(j) stock powers or similar instruments of transfer, duly executed by the applicable Seller, transferring all of the capital stock or other equity interests of the Acquired Subsidiaries to Purchaser (it being understood that such instruments shall address the requirements under applicable Law local to the jurisdiction of organization of each such Acquired Subsidiary necessary to effect and make enforceable the transfer to Purchaser of the legal and beneficial title to such capital stock or other equity interests);

(k) all tax elections or designations described in Section 13.14;

(l) a certificate duly executed by each Seller, in the form prescribed under Treasury Regulation section 1.1445-2(c);

(m) a bill of sale and assignment agreement with respect to the conveyance of any Acquired Assets required to be transferred and assigned to Purchaser pursuant to Section 3.7, in form and substance reasonably satisfactory to Purchaser, duly executed by Parent and the Retained Subsidiaries; and

(n) such other bills of sale, deeds, endorsements, assignments and other good and sufficient instruments of conveyance and transfer, in form and substance reasonably satisfactory to the Bidder Parties, as the Bidder Parties may reasonably request to vest in Purchaser all of Sellers' right, title and interest in, to or under any or all the Acquired Assets, including all owned real property included in the Acquired Assets.

11.3 Deliveries by Purchaser. At the Closing, Purchaser will deliver the following:

(a) the Assignment and Assumption Agreement duly executed by the Purchaser;

(b) the Assignment and Assumption of Leases duly executed by the Purchaser;

(c) the IP Assignment and Assumption Agreement, executed by the Purchaser;

(d) all tax elections or designations described in Section 13.14, duly executed by Purchaser;

(e) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of the Purchaser certifying that the conditions set forth in Section 10.4 and Section 10.5 have been satisfied; and

(f) definitive documentation executed by the Bidders to provide the Working Capital Financing;

(g) to the extent necessary and from the Working Capital Facility, the portion of the Cure Funding Amount required to satisfy the Closing Cure Amount;

(h) such other documents as Sellers may reasonably request that are not inconsistent with the terms of this Agreement and customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

11.4 Monitor's Certificate. Upon satisfaction or waiver by the Purchaser of all conditions precedent to Closing under Article IX and delivery to the Purchaser of all Closing deliverables under Section 11.2, the Purchaser shall deliver to the Monitor a certificate, dated as of the Closing Date, confirming the satisfaction or waiver of such conditions precedent and delivery of such Closing deliverables (the "Purchaser's Conditions Certificate"). Upon satisfaction or waiver by the Sellers of all conditions precedent to Closing under Article X and delivery to the Sellers of all Closing deliverables under Section 11.3, the Sellers shall deliver to the Monitor a certificate, dated as of the Closing Date, confirming the satisfaction or waiver of such conditions precedent and delivery of such Closing deliverables (the "Sellers' Conditions Certificate" and together with the Purchaser's Conditions Certificate, the "Conditions Certificates"). Upon receipt by the Monitor of each of the Conditions Certificates, the Monitor shall (i) forthwith issue its Monitor's Certificate concurrently to the Sellers and the Purchaser, at which time the Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to the Sellers and the Purchaser). For greater certainty, the Monitor shall be entitled to rely exclusively on the basis of the Conditions Certificates and without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

ARTICLE XII

TERMINATION

12.1 Termination of Agreement. This Agreement and the transactions contemplated hereby may be terminated at any time on or prior to the Closing Date:

(a) Mutual Consent. By mutual written consent of the Bidders and Sellers.

(b) Termination by the Bidder Parties or Sellers.

(i) by the Bidders or Sellers, if the Closing shall not have occurred on or prior to February 1, 2021 or such later date as may be designated by the Bidders (the "Outside Date"); provided that neither the Bidders nor the Sellers shall be entitled to terminate this Agreement pursuant to this Section 12.1(b)(i) if the failure of the Closing to have occurred by the date specified above is caused by such Party's breach of any of its obligations under this Agreement; provided, however, that either the Bidders or the Sellers may, on the day that is not less two (2) Business Days immediately prior to the then Outside Date, elect to extend the Outside Date by delivering a written notice to the other Party stating that, if, on the Outside Date, the required approvals from any Governmental Body to transfer or reissue any material Authorization required to operate the Business and the Acquired Assets, including any of those set forth (or required to be set forth) on Section 5.3(a) of the Seller Disclosure Letter, has not been obtained, then the Outside Date shall extend by seven (7) days; provided, further, that there shall be no more than four of such seven (7) day extensions; or

(ii) by the Bidders or Sellers, if the CCAA Court or other court of competent jurisdiction or a governmental, quasi-governmental, regulatory or administrative department, agency, commission or authority shall have issued or enacted an Order or Law restraining, enjoining or otherwise prohibiting the Closing, which is not capable of appeal; provided, however, that Sellers and the Bidders shall not be entitled to terminate this Agreement pursuant to this Section 12.1(b)(ii) if such Order is caused by such Party's breach of any of its obligations under this Agreement.

(c) Termination by the Bidders.

(i) by the Bidders, if (A) the Sale Order shall not have been issued on or prior to December 11, 2020 or if the Sale Order has been issued by such date but has been amended, supplemented or otherwise modified in any respect without the prior written consent of the Bidders, or (B) following its issuance, the Sale Order shall fail to be in full force and effect or shall have been stayed, reversed, modified or amended in any respect without the prior written consent of the Bidders, acting reasonably;

(ii) by the Bidders, if the CCAA Proceedings are terminated or a licensed insolvency trustee or receiver is appointed in respect of the Sellers, and such licensed insolvency trustee or receiver refuses to proceed with the transactions contemplated by this Agreement;

(iii) by the Bidders, if a breach of any representation, warranty, covenant or agreement on the part of Sellers set forth in this Agreement shall have occurred that would cause any of the conditions set forth in Article IX not to be satisfied, and such breach is incapable of being cured or, if capable of being cured, Sellers have failed to cure such breach within thirty (30) days of receipt of written notification thereof or which by its nature or timing cannot be cured within such time period;

(iv) by the Bidders, if either (a) Sellers or their Affiliates request or (b) the CCAA Court approves any amendment or modification to the Amended and Restated Initial Order that adversely affects the interests of the Bidder Parties;

(v) by the Bidders, acting reasonably, if the CCAA Court enters any Order inconsistent with the Sale Order or the Acquisition (including, without limitation, any provisions of this Agreement), other than in any de minimis respect;

(vi) by the Bidders, if any creditor of any Seller obtains a final and unstayed Order of the CCAA Court granting relief from the stay to foreclose or exercise enforcement rights on any portion of the Acquired Assets in excess of Cdn$500,000 in the aggregate; or

(vii) by the Bidders, if a Material Adverse Effect occurs.

(d) Termination by Sellers.

(i) by Sellers, if a breach of any representation, warranty, covenant or agreement on the part of Bidders set forth in this Agreement shall have occurred that would cause any of the conditions set forth in Article X not to be satisfied, and such breach is incapable of being cured or, if capable of being cured, Bidders have failed to cure such breach within thirty (30) days of receipt of written notification thereof or which by its nature or timing cannot be cured within such time period.

12.2 Procedure and Effect of Termination. If this Agreement is terminated pursuant to Section 12.1, written notice thereof shall forthwith be given to the other Parties to this Agreement and the Monitor and all further obligations of the Parties under this Agreement shall terminate; provided, however, that the Parties shall, in all events, remain bound by and continue to be subject to the provisions set forth in this Article XII.

12.3 Breach by Bidder. If this Agreement is terminated solely as a result of a material breach by any Bidder pursuant to Section 12.1(d) hereof, Sellers, as their sole remedy, shall be entitled to liquidated damages in the amount of US$7,000,000 (the "Purchaser Termination Fee"), which shall be payable by the breaching Bidder or Bidders by wire transfer of immediately available funds. Liability for the Purchaser Termination Fee shall be several, and not joint, and shall be the sole responsibility of the breaching Bidder or Bidders. In the event that there is more than one breaching Bidder, liability for payment of the Purchaser Termination Fee shall be split among all breaching Bidders on a pro rata basis relative to their respective holdings of Second Lien Notes on the Effective Date and Sellers shall in no event be entitled to recover in the aggregate more than the amount of the Purchaser Termination Fee. The Parties hereby agree that the foregoing dollar amount of the Purchaser Termination Fee is a fair and reasonable estimate of the

total detriment that Sellers would suffer in the event of any Bidder's default and failure to complete the transaction hereunder. Sellers' receipt of the Purchaser Termination Fee in full pursuant to and in accordance with this Section 12.3 shall be the sole and exclusive remedy of Sellers and their Affiliates, attorneys, accountants, Representatives or agents, and, except for payment of the Purchaser Termination Fee pursuant to and in accordance with this Section 12.3, in no event shall any of the foregoing Persons be entitled to seek or obtain any recovery or judgment against the Bidder Parties, any Bidder Related Party, any potential debt or equity financing source and any of their respective former, current or future general or limited partners, stockholders, members, managers, directors, officers, employees, agents, Representatives or Affiliates, for any Liability suffered with respect to this Agreement and the transactions contemplated by or in connection with this Agreement (including any breach or failure to perform by Bidder Parties, whether willfully, intentionally, unintentionally or otherwise), the termination of this Agreement, the failure of the transactions contemplated under this Agreement to be consummated for any reason or no reason or any breach of this Agreement by Bidders, and in no event shall Sellers or any of the other applicants be entitled to seek or obtain any other damages or other remedy of any kind, at law or in equity, against any such Person, including consequential, special, indirect, exemplary or punitive damages or for diminution in value, lost profits or lost business. Sellers further acknowledged that the Purchaser Termination Fee is not a penalty, but rather is liquidated damages in a reasonable amount that will appropriately compensate Sellers under the circumstances.

12.4 Break-up Fee

(a) In consideration of the Bidders having expended considerable time and expense in connection with this Agreement and the negotiation thereof, and the identification and quantification of assets to be included in the Acquired Assets, if: (i) this Agreement is terminated or the transaction contemplated herein is not completed for any reason other than the Bidders' non-compliance with their obligations under this Agreement; and (ii) an alternative transaction is consummated within nine (9) months of the date of this Agreement for the sale or restructuring of the Sellers or any material portion of their assets and pursuant to which Indebtedness under the Pre-filing Credit Agreement is repaid in full in cash ("Alternate Transaction"); then in such event (and in addition to such other amounts to which the Bidder Parties may be entitled pursuant to Section 13.1 hereof and otherwise) Sellers shall pay to Bidders immediately following the closing of such Alternate Transaction an amount equal to US$2,522,140 (the "Break-Up Fee") as consideration for the disposition of Bidders' rights under this Agreement.

(b) Sellers' obligation to pay the Break-Up Fee pursuant to this Section 12.4 shall survive termination of this Agreement and shall be secured by a charge against all of the Sellers' properties and assets to be included in the Sale Order, which charge shall rank subsequent to: (i) other priority charges ordered by the Court in the CCAA Proceedings prior to the date of this Agreement; and (ii) charges in respect of Indebtedness under the Pre-filing Credit Agreement.

ARTICLE XIII

MISCELLANEOUS

13.1 Expenses. Sellers shall, immediately upon issuance of the Sale Order and from time to time thereafter, promptly pay and reimburse all costs and expenses incurred and to be incurred

by Bidder Parties and the ad hoc group of holders of Second Lien Notes in the CCAA Proceedings in respect of this Agreement, the transactions contemplated hereby, and participation or representation in the CCAA Proceedings including, without limitation: (i) any and all professional fees and expenses of legal and financial advisors; and (ii) a maximum of US$150,000 in respect of any and all fees or expense reimbursements or other amounts of any kind payable to actual or prospective sources of debt or equity financing incurred on or prior to the Effective Date. In addition to the foregoing, Sellers shall on Closing pay and reimburse all legal fees and expenses incurred by the trustee under the Pre-filing Indenture in respect of its participation or representation in the CCAA Proceedings up to an aggregate maximum amount satisfactory to the Bidders.

13.2 Survival of Representations and Warranties; Survival of Confidentiality. The Parties agree that the representations and warranties contained in this Agreement shall expire upon the Closing Date. Except as otherwise provided herein, the Parties agree that the covenants contained in this Agreement to be performed at or after the Closing shall survive in accordance with the terms of the particular covenant or until fully performed.

13.3 Amendment; Waiver. This Agreement may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Agreement signed by the Party against whom enforcement of any such amendment, supplement, modification or waiver is sought; provided that, notwithstanding the foregoing, the Acquired Assets and Assigned Contracts may be amended in accordance with Section 3.6. No action taken pursuant to this Agreement, including any investigation by or on behalf of any Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, covenant or agreement contained herein. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by applicable Law.

13.4 Bidders.

(a) Any right given to, or election or decision to be made by, Bidders in this Agreement or any Ancillary Documents may be exercised by a majority in number of all Bidders who control, at the relevant time, a majority in principal amount of the aggregate Second Lien Notes held by all Bidders in their managed or advisory funds and accounts. Bidders agree to cooperate with each other reasonably and in good faith with respect to all matters relating to this Agreement and the transaction contemplated herein. The representations, warranties, covenants, agreements, obligations and commitments of Bidders to Sellers or any other Person under this Agreement or any Ancillary Document are several, and not joint. The Parties acknowledge and agree that Bidders and Purchaser are separate Persons and that any obligations, liabilities or commitments of Purchaser, under this Agreement or otherwise, are not obligations, liabilities or commitments of Bidders. Sellers acknowledge that Bidders are financial management and advisory companies and are entering into this Agreement on behalf of certain managed or advisory funds and accounts. No such managed or advisory funds and accounts shall under any

circumstance whatsoever assume or incur any obligation, liability or commitment whatsoever to Sellers in respect of this Agreement, the Ancillary Documents or the transaction contemplated therein. Any obligation or commitment of Bidders herein to cause Purchaser to take any action or omit to take any action shall be limited to the commercially reasonable efforts of each such Bidder.

(b) The Parties hereto acknowledge that all representations, warranties, covenants and other agreements made by any Bidder that is an investment manager on behalf of a separately managed account managed by such Bidder are being made only with respect to the assets managed by such Bidder on behalf of such separately managed account, and shall not apply to (or be deemed to be made in relation to) any assets or interests that may be beneficially owned by such separately managed account that are not held through accounts managed by such Bidder.

13.5 Notices. Any notice, request, instruction or other document to be given hereunder by a Party hereto shall be in writing and shall be deemed to have been given (i) when received if given in person, (ii) on the date of transmission if sent by electronic mail, or (iii) one (1) Business Day after being delivered to a nationally known commercial courier service providing next day delivery service (such as FedEx):

(A) If to Sellers, addressed as follows:

Dominion Diamond Mines
900 – 606 4 Street SW
Calgary, Alberta, Canada
T2P 1T1
Attention: Brendan Bell
Email: brenbellnt@gmail.com

With a copy (which shall not constitute notice) to:

Blake, Cassels & Graydon LLP
595 Burrard Street, Suite 2600
Vancouver, BC, Canada
V7X 1L3
Attention: Susan Tomaine
Email: susan.tomaine@blakes.com

(B) If to the Bidder Parties, to each Bidder Party, addressed as follows:

to DDJ:

DDJ Capital Management, LLC
130 Turner Street
Building 3, Suite 600
Waltham, MA 02453
Attention: Beth Duggan and Eric Hoff
Email: legal@ddjcap.com

to Brigade:

Brigade Capital Management, LP
399 Park Avenue, 16th Floor
New York, NY 10022
Attention: Andy Petitjean
Attention: Chris Chaice
Email: apetitjean@brigadecapital.com
Email: cchaice@brigadecapital.com

With a copy (which shall not constitute notice) to

Torys LLP
79 Wellington St. West, 30th Floor
Toronto, Ontario, M5K1N2
Attention: Tony DeMarinis
Email: tdemarinis@torys.com

(C) If to the Monitor, addressed as follows

FTI Consulting Canada Inc.
520 5th Ave SW
Calgary AB T2P 3R7
Attention: Deryck Helkaa
E-Mail: deryck.helkaa@fticonsulting.com

With a copy (which shall not constitute notice) to

Bennett Jones LLP
4500 Bankers Hall East
855 - 2nd Street SW
Calgary AB T2P 4K7
Attention: Chris Simard
Email: simardc@bennettjones.com

or to such other individual or address as a Party hereto may designate for itself by notice given as herein provided.

13.6 Effect of Investigations. Any due diligence review, audit or other investigation or inquiry undertaken or performed by or on behalf of the Bidder Parties shall not limit, qualify, modify or amend the representations, warranties and covenants of, and indemnities by, Sellers made or undertaken pursuant to this Agreement, irrespective of the knowledge and information received (or which should have been received) therefrom by the Bidder Parties.

13.7 Counterparts; Electronic Signatures.

(a) This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) The exchange of copies of this Agreement and of signature pages by electronic mail in "portable document format" form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted electronically shall be deemed to be their original signatures for all purposes.

13.8 Headings. The headings preceding the text of Articles and Sections of this Agreement and the Seller Disclosure Letter are for convenience only and shall not be deemed part of this Agreement.

13.9 Applicable Law and Jurisdiction. Subject to any provision in this Agreement and any Ancillary Document to the contrary, this Agreement (and all documents, instruments, and agreements executed and delivered pursuant to the terms and provisions hereof) shall be governed by and construed and enforced in accordance with the laws of Alberta and the laws of Canada applicable therein. Bidders and Sellers further agree that the CCAA Court shall have jurisdiction over all disputes and other matters relating to (a) the interpretation and enforcement of this Agreement or any Ancillary Document and/or (b) the Acquired Assets and/or Assumed Liabilities and the Parties expressly consent to and agree not to contest such jurisdiction.

13.10 Binding Nature; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interest or obligations hereunder shall be assigned by any of the Parties hereto without prior written consent of the other Parties, provided that, the Bidder Parties may grant a security interest in their rights and interests hereunder to their third party lender(s). Nothing contained herein, express or implied, is intended to confer on any Person other than the Parties hereto or their successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13.11 Designated Purchasers. In connection with the Closing, notwithstanding Section 13.10 or anything to the contrary contained herein, the Bidders and the Purchaser shall be entitled to designate, in accordance with the terms of this paragraph, one or more Subsidiaries or Affiliates of Purchaser to (a) purchase specified Acquired Assets (including specified Assigned Contracts) and pay the corresponding Purchase Price amount, (b) assume specified Assumed Liabilities, (c) employ specified Transferred Employees on and after the Closing Date, (d) perform any of the other covenants and agreements hereunder to be performed by Purchaser, and (e) be entitled to the rights and benefits afforded to Purchaser hereunder (any such Subsidiary or Affiliate of Purchaser that shall be designated in accordance with this clause, a "Designated Purchaser"). Upon any such designation of a Designated Purchaser, such Designated Purchaser shall be solely responsible with respect to the payment of the corresponding Purchase Price (if any), the specified Assumed Liabilities and employment of the specified Transferred Employees. Any reference to Purchaser

or Bidder Party made in this Agreement in respect of any right, obligation, purchase, assumption or employment referred to in this paragraph shall be deemed a reference to the appropriate Designated Purchaser, if any, with respect to the applicable obligation or right. All obligations of Purchaser and any Designated Purchaser shall be several and not joint and, notwithstanding anything to the contrary contained herein, neither Purchaser nor any other Designated Purchaser shall have any obligation for any Assumed Liabilities assumed by a particular Designated Purchaser at the Closing and any prior obligations of Purchaser are novated and released. For the avoidance of doubt, no designation of a Designated Purchaser hereunder shall expand or otherwise affect any limitation on Purchaser's obligations hereunder, it being understood that such limitations shall apply to the aggregate Liabilities of Purchaser and any Designated Purchaser(s) hereunder. The above designations shall be made by the Bidder Parties by way of a written notice to be delivered to Sellers in no event later than five (5) Business Days prior to the anticipated Closing Date; provided, however, that no such designation may be made if the timing of such designation would reasonably be expected to delay the Closing; provided, further, that such designation shall not be permitted unless Sellers confirm, acting reasonably, that the Designated Purchaser(s), or any party guaranteeing the obligations of such Designated Purchaser(s), are sufficiently creditworthy. In addition, the Parties agree to modify any Closing deliverables in accordance with the foregoing designation. Any Designated Purchaser(s) are intended third party beneficiaries of this Agreement, and this Agreement may be enforced by such Designated Purchaser(s).

13.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto and their respective Affiliates and, other than with respect to the Purchaser or Designated Purchasers, no provision of this Agreement shall be deemed to confer upon third parties any remedy, claim, Liability, reimbursement, Claim of Action or other right.

13.13 No Recourse. This Agreement may only be enforced against, and any Claims or causes of Action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement may only be made against the entities that are expressly identified as Parties hereto and no Bidder Related Party shall have any Liability for any obligations or liabilities of the Parties to this Agreement or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated hereby or in respect of any oral representations made or alleged to be made in connection herewith. Without limiting the rights of Sellers against the Bidder Parties hereunder, in no event shall Sellers or any of their Affiliates, and Sellers agree not to and to cause their Affiliates not to, seek to enforce this Agreement against, make any Claims for breach of this Agreement against, or seek to recover monetary damages from, any Bidder Related Party.

13.14 Tax Matters.

(a) Any sales, use, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp, use or similar fees or Taxes (other than any Taxes based on income, receipts, profits, or capital), governmental charges and recording charges (including any interest and penalty thereon) which may be applicable to, or resulting from, or payable by reason of the sale of the Acquired Assets or the assumption of the Assumed Liabilities under this Agreement or the transactions contemplated hereby (the "Transfer Taxes") shall be borne by Purchaser as applicable to the transfer of the Acquired Assets pursuant to this Agreement. Purchaser shall properly file on

a timely basis all necessary Tax Returns and other documentation with respect to any Transfer Tax and provide to Sellers evidence of payment of applicable Transfer Taxes.

(b) In the case of any taxable period that begins before, and ends after, the Closing Date (a "Straddle Period"), (i) Taxes imposed on the Acquired Assets that are based upon or related to income or receipts or imposed on a transaction basis (including all related items of income, gain, deduction or credit) will be deemed equal to the amount that would be payable if the Tax year or period ended on the Closing Date, and (ii) any real property, personal property, ad valorem and similar Taxes allocable to the portion of such Straddle Period ending with the end of the day on the Closing Date shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that is in the Pre-Closing Tax Period and the denominator of which is the number of days in the entire Straddle Period and in each of (i) and (ii), such amounts shall be the responsibility of Sellers (and, for the avoidance of doubt, such amounts shall be an Excluded Liability for purposes of clause (ii) of Section 3.4(e)).

(c) Purchaser shall prepare and file (or cause to be prepared and filed) all Tax Returns for any Pre-Closing Tax Period or Straddle Period in respect of the Acquired Subsidiaries that is required to be filed after the Closing Date. Prior to filing any such Tax Returns, Purchaser shall provide a draft thereof to Sellers for Sellers' review, comment and approval (such approval not to be unreasonably withheld or delayed), unless otherwise required by applicable Law. Purchaser shall consider in good faith any comments provided by Sellers to such Tax Returns. To the extent any Taxes reflected on any such Tax Return are an Excluded Liability, Sellers shall pay to Purchaser the amount of such liability within ten (10) days of receiving notice from Purchaser that such Tax Return has been filed or that Purchaser has paid such Liability, except to the extent such Taxes were paid by Sellers to the applicable Governmental Body prior to the filing of such Tax Return.

(d) Cooperation on Tax Matters. Purchaser shall make available to Sellers, and Sellers shall make available to Purchaser such records, personnel and advisors (i) as any such Party may require for the preparation of any Tax Returns required to be filed by Sellers or Purchaser, as the case may be, and (ii) as Sellers or Purchaser may require for the defense of any audit, examination, administrative appeal, or litigation of any Tax Return in which Sellers or Purchaser was included. Sellers agree to provide all reasonable cooperation to Purchaser, and shall make available to Purchaser such records, personnel and advisors as is reasonably necessary for Purchaser, in determining the Tax attributes of Sellers and their Subsidiaries.

(e) Allocation of Purchase Price. The Purchase Price shall be allocated among the Acquired Assets in accordance with their respective fair market values. As soon as reasonably practicable and in no event later than sixty (60) days after the Closing Date, Purchaser shall provide Sellers with a draft allocation of the Purchase Price for all purposes, including any liabilities properly included therein among the Acquired Assets and the agreements provided for herein, for all purposes (the "Initial Allocation"). Sellers may make reasonable inquiries of Purchaser and their accountants and employees relating to the Initial Allocation, and Purchaser shall use reasonable efforts to cause any such accountants and employees to cooperate with, and provide such requested information to, Sellers in a timely manner. Within forty-five (45) days of the receipt of the Initial Allocation, Sellers shall either (i) deliver a written notice (the "Objection

Notice") to Purchaser, setting forth in reasonable detail those items in the Initial Allocation that Sellers disputes or (ii) notify Purchaser in writing that they will not provide any Objection Notice (or if Sellers do not deliver an Objection Notice within such forty-five (45)-day period) in which case the Purchaser's proposed Initial Allocation shall be deemed final, conclusive and binding upon each of the Parties hereto. Within thirty (30) days of Sellers' delivery of the Objection Notice, Sellers and Purchaser shall attempt to resolve in good faith any disputed items, and failing such resolution, the unresolved disputed items shall be referred for final binding resolution to an Arbitrating Accountant. The fees and expenses of the Arbitrating Accountant shall be paid 50% by Purchaser and 50% by Sellers, unless the Arbitrating Accountant determines that one party's position was unreasonable in light of the circumstances, in which case such party shall bear 100% of such costs. Such determination by the Arbitrating Accountant shall be (i) in writing, (ii) furnished to Purchaser and Sellers as soon as practicable (and in no event later than thirty (30) days after the items in dispute have been referred to the Arbitrating Accountant), (iii) made in accordance with the principles set forth in this Section 13.14(e), and (iv) non-appealable and incontestable by Purchaser and Sellers. As used herein, the "Allocation" means the allocation of the Purchase Price, the Assumed Liabilities and other related items among the Acquired Assets and the agreements provided for herein as finally agreed between Purchaser and Sellers or ultimately determined by the Arbitrating Accountant, as applicable, in accordance with this Section 13.14(e). The Allocation shall be prepared in accordance with section 1060 of the Code and the Treasury Regulations thereunder (and any similar provision of state, provincial, territorial, local or foreign Law, as appropriate). Purchaser and Sellers shall each report the federal, state provincial, territorial and local income and other Tax consequences of the transactions contemplated hereby in a manner consistent with the Allocation, including, if applicable, the preparation and filing of Forms 8594 under section 1060 of the Code (or any successor form or successor provision of any future Tax Law) with their respective U.S. federal income Tax Returns for the taxable year which includes the Closing Date, and neither will take any position inconsistent with the Allocation, including in the course of any Tax audit, Tax review or Tax litigation relating thereto, unless otherwise required under applicable Law. Sellers shall provide Purchaser and Purchaser shall provide Sellers with a copy of any information required to be furnished to the Secretary of the Treasury under section 1060 of the Code.

(f) Section 22 Election. To the extent available and if requested by Purchaser, in Purchaser's sole discretion, one or more of DDM, DDCU and Dominion Marketing and Purchaser shall jointly execute and file an election pursuant to section 22 of the Tax Act and the corresponding provisions of any applicable provincial/territorial legislation, in the prescribed manner and within the prescribed time limits, with respect to the sale of accounts receivable, and shall designate therein the portion of the Purchase Price allocated to the accounts receivable pursuant to Section 13.14(e) hereof as consideration paid by Purchaser for the accounts receivable of Sellers.

(g) Subsection 20(24) Election. One or more of DDM, DDCU and Dominion Marketing and Purchaser shall, if applicable, jointly execute and file an election pursuant to subsection 20(24) of the Tax Act and the corresponding provisions of any applicable provincial/territorial legislation, in the prescribed manner and within the prescribed time limits, as to such amount paid by Sellers to Purchaser for assuming future obligations of the Business or relating to the Canadian Assets. In this regard, DDM, DDCU and Dominion Marketing, as applicable, and Purchaser acknowledge that if such election is made, a portion of the Canadian

Assets having a value equal to the elected amount under subsection 20(24) of the Tax Act is being transferred by DDM, DDCU and Dominion Marketing, as applicable, to Purchaser as a payment for the assumption of such future obligations by Purchaser.

(h) Successor Election and Designation. If requested by Purchaser, in Purchaser's sole discretion, (i) one or more of DDM and DDCU and Purchaser shall jointly execute and file an election described in paragraph 66.7(7)(e) of the Tax Act and the corresponding provisions of any applicable provincial/territorial legislation, in the prescribed manner and within the time limits set out in that section, in respect of the "Canadian resource property" (as that term is defined in subsection 66(15) of the Tax Act) acquired by Purchaser from DDM or DDCU, as applicable, under this Agreement and (ii) DDM or DDCU, as applicable, shall execute and file the designation contemplated by subsection 66.7(12.1) of the Tax Act (within the time and in the manner prescribed therefor by the Tax Act) so as to designate in favour of Purchaser the maximum amount of successored pools reasonably available pursuant to the Tax Act, provided that any such filings would not give rise to any Tax Liability to DDM or DDCU, as applicable.

(i) Section 167 Election. At the Closing, each of DDM, DDCU and Dominion Marketing and the Purchaser will, if applicable, jointly execute an election pursuant to subsections 167(1) and (1.1) of the GST Legislation so that it is not required to collect GST in respect of the transfer of the Canadian Assets. The Purchaser shall file the election within the time prescribed by the GST Legislation.

(j) Withholding. Purchaser, and any Person acting on its behalf, shall be entitled to deduct or withhold from the consideration otherwise payable pursuant to this Agreement to any Seller or any other Person such amounts as Purchaser is required to deduct or withhold under the Code, the Tax Act or any Tax Law, with respect to the making of such payment; provided that Purchaser shall consult with the affected Sellers or other Persons in good faith prior to making such withholding or deduction and the Parties hereto shall reasonably cooperate to reduce or eliminate any such amounts. To the extent that amounts are so deducted or withheld, such deducted or withheld amounts shall be treated for all purposes of this Agreement as having been paid to Sellers or the Person in respect of whom such deductions or withholding was made, as the case may be.

13.15 Construction.

(a) The information contained in the Seller Disclosure Letter is disclosed solely for the purposes of this Agreement and may include items or information not required to be disclosed under this Agreement, and no information contained in any Seller Disclosure Letter shall be deemed to be an admission by any Party hereto to any third Person of any matter whatsoever, including an admission of any violation of any Laws or breach of any agreement. No information contained in any section of the Seller Disclosure Letter shall be deemed to be material (whether individually or in the aggregate) to the Business, assets, liabilities, financial position, operations, or results of operations of Sellers nor shall it be deemed to give rise to circumstances which may result in a Material Adverse Effect, in each case solely by reason of it being disclosed. Information contained in a section or subsection of the Seller Disclosure Letter (or expressly incorporated therein) shall qualify the representations and warranties made in the identically numbered Section or, if applicable, Subsection of this Agreement and all other representations and warranties made

in any other section or subsection of the Seller Disclosure Letter to the extent its applicability to such section or subsection of the Seller Disclosure Letter is reasonably apparent on its face. References to agreements in the Seller Disclosure Letter are not intended to be a full description of such agreements, and all such disclosed agreements should be read in their entirety, and nothing disclosed in any section or subsection of the Seller Disclosure Letter is intended to broaden any representation or warranty contained in Article V or Article VI.

(b) References in Article V or Article VI to documents or other materials "provided" or "made available" to the Bidder Parties or similar phrases mean that such documents or other materials were present (and available for viewing by the Bidder Parties and its Representatives) in the Data Room.

13.16 Entire Understanding. This Agreement, together with the Ancillary Documents, set forth the entire agreement and understanding of the Parties hereto in respect to the transactions contemplated hereby, and this Agreement and the Ancillary Documents hereto supersede all prior agreements, arrangements and understandings relating to the subject matter hereof. There have been no representations or statements, oral or written, that have been relied on by any Party hereto, except those expressly set forth in this Agreement or in any Ancillary Documents hereto.

13.17 No Presumption Against Drafting Party. Each of the Bidders and Sellers acknowledge that each Party to this Agreement has been represented by legal counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule or Law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting Party has no application and is expressly waived.

13.18 No Punitive Damages. The Parties hereto expressly acknowledge and agree that no Party hereto shall have any Liability under any provision of this Agreement for any punitive damages relating to the breach or alleged breach of this Agreement.

13.19 Time of Essence. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

13.20 Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

[SIGNATURE PAGES FOLLOW.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered on the date first above written

BIDDERS:

DDJ Capital Management, LLC, acting in its capacity as investment manager on behalf of certain funds and accounts it manages and/or advises that are beneficial owners of Second Lien Notes

By: David J. Breazzano
Its: President

Brigade Capital Management, LP, on behalf of certain funds and accounts that it manages and/or advises

_____

By:
Its:

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered on the date first above written

BIDDERS:

DDJ Capital Management, LLC, acting in its capacity as investment manager on behalf of certain funds and accounts it manages and/or advises that are beneficial owners of Second Lien Notes

_____

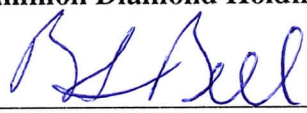
By:
Its:

Brigade Capital Management, LP, on behalf of certain funds and accounts that it manages and/or advises

By: Aaron Daniels
Its: GC/CCO

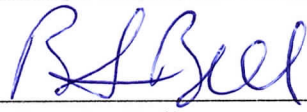
SELLERS:

Dominion Diamond Holdings, LLC



By: Brendan Bell
Its: Authorized Signatory

Dominion Diamond Mines ULC



By: Brendan Bell
Its: Director

Dominion Diamond Delaware Company LLC

_____

By: Kristal Kaye
Its: Chief Financial Officer

Dominion Diamond Marketing Corporation

_____

By: Kristal Kaye
Its: Chief Financial Officer

Dominion Diamond Canada ULC

_____

By: Kristal Kaye
Its: Chief Financial Officer

SELLERS:

Dominion Diamond Holdings, LLC

_____
By: Brendan Bell
Its: Authorized Signatory

Dominion Diamond Mines ULC

_____
By: Brendan Bell
Its: Director

Dominion Diamond Delaware Company LLC

By: Kristal Kaye
Its: Chief Financial Officer

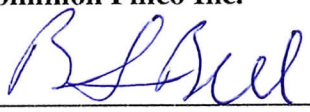
Dominion Diamond Marketing Corporation

By: Kristal Kaye
Its: Chief Financial Officer

Dominion Diamond Canada ULC

By: Kristal Kaye
Its: Chief Financial Officer

Dominion Finco Inc.



By: Brendan Bell
Its: Authorized Signatory

SCHEDULE A

ASSIGNED AND EXCLUDED CONTRACTS

[***To be finalized pursuant to Section 3.6.***]

SCHEDULE B

FIRST LIEN LENDER MSA

MUTUAL SUPPORT AGREEMENT

WHEREAS, this mutual support agreement (the "**Support Agreement**"), dated as of December 6, 2020, sets out the agreement among (i) the undersigned first lien secured lenders (collectively, the "**1L Lenders**") to Dominion Diamond Mines ULC (the "**Company**") and various of its affiliates pursuant to a Revolving Credit Agreement dated as of November 1, 2017 (the revolving facility draws outstanding thereunder and interest accrued thereon being the "**First Lien Debt**"); and (ii) the undersigned holders of the 7.125% secured second lien notes of the Company (the "**Second Lien Notes**") (collectively, the "**2L AHG**") regarding an acquisition transaction in respect of the Company (the "**Transaction**"), as further described in the term sheet attached as Schedule A (the "**Term Sheet**", with the terms of the Transaction set out therein and herein being, collectively, the "**Transaction Terms**"), which Transaction Terms are to form the basis of the Transaction to be implemented within the Company's ongoing proceedings under the *Companies' Creditors Arrangement Act* (the "**Proceedings**").

NOW THEREFORE, the 1L Lenders and the 2L AHG (collectively the "**Parties**" and each a "**Party**") hereby agree as follows:

1. Transaction

The Transaction Terms as agreed among the Parties are set forth in this Support Agreement and in the Term Sheet, which Term Sheet is incorporated herein and made a part of this Support Agreement. In the case of a conflict between the provisions contained in the main body of this Support Agreement and the Term Sheet, the provisions of the main body of this Support Agreement shall govern.

2. Subject Debt Purchase

(a) Each member of the 2L AHG irrevocably and unconditionally agrees, on a several basis in accordance with its respective amount set forth on its signature page to this Support Agreement, to purchase the Subject Debt (as defined below) from the 1L Lenders on the earlier of the closing of the Transaction and January 29, 2021 (the "**Subject Debt Purchase**"). The Parties shall enter into assignment agreements in respect of their applicable portion of the Subject Debt Purchase substantially in the form of The Loan Syndication and Trading Association ("**LSTA**") form attached as Schedule B.

(b) For the purposes of this Support Agreement, "**Subject Debt**" shall mean (i) in the event that the Transaction is not completed prior to January 29, 2021, an aggregate principal amount of US$15 million of the funded portion of the First Lien Debt; or (ii) in the event of the completion of the Transaction prior to January 29, 2021, an aggregate principal amount of US$15 million of the term loan debt to be received by the 1L Lenders under the Transaction as contemplated hereby. For greater certainty, Subject Debt shall not include any debts or liabilities relating to letters of credit issued by the 1L Lenders for the benefit of the Company.

(c) The aggregate purchase price for the Subject Debt shall be US$15 million.

(d) The 2L AHG shall have no voting rights with respect to the Subject Debt other than with respect to changes to any of the following terms of the Subject Debt, which shall require approval of all Subject Debt holders: (i) principal amount; (ii) term or maturity date; (iii) interest rate or fees; (iv) payment dates; (v) security interests, charges or guarantees; (vi) pro rata sharing rights among lenders; (vii) agent and agent's powers; (viii) rights of transfer, sale and assignment by lenders; (ix) information, disclosure, reporting, Company representations and warranties, and notice rights; and (x) the voting and approval rights provided for in this Section 2(d).

(e) For the avoidance of doubt, the Subject Debt Purchase shall not be subject to any conditions precedent to completion, including but not limited to completion of the Transaction, but shall be conditional on satisfaction and compliance by the 1L Lenders of their obligations and commitments under this Support Agreement.

3. Representations and Warranties

Each Party, severally and not jointly, hereby represents and warrants to the other Parties that as of the date hereof:

(a) it is the sole beneficial owner of First Lien Debt and Second Lien Notes (collectively, "**Debt**"), as applicable, in the principal amount(s) set forth on its signature page to this Support Agreement (together with all obligations owing in respect thereof, including accrued and unpaid interest and any other amount that such Party is entitled to claim in respect thereof, its "**Relevant Debt**"), and no other Debt.

(b) it (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Support Agreement; (ii) has conducted its own analysis and made its own decision to enter into this Support Agreement; (iii) has obtained such independent advice in this regard as it deemed appropriate; and (iv) has not relied in such analysis or decision on any person other than its own independent advisors;

(c) this Support Agreement has been duly authorized, executed and delivered by it, and, assuming the due authorization, execution and delivery by the other Parties, this Support Agreement constitutes a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, subject to laws of general application and bankruptcy, insolvency and other similar laws affecting creditors' rights generally and general principles of equity;

(d) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all approvals necessary to execute and deliver this Support Agreement and to perform its obligations hereunder; and

(e) it has not deposited any of its Relevant Debt into a voting trust, or granted (or permitted to be granted) any proxies or powers of attorney or attorney in fact, or entered into a voting agreement, understanding or arrangement with respect to its Relevant Debt that would reasonably be expected to restrict in any material manner the ability of such Party to comply with its obligations under this Support Agreement, including the obligations in Section 4.

4. Parties' Covenants and Agreements

Each Party hereby acknowledges, covenants and agrees:

(a) to the Transaction and the Transaction Terms and the implementation of same within the Proceedings;

(b) not to, directly or indirectly, from the date hereof to the date this Support Agreement is terminated, sell, assign, lend, pledge, hypothecate, dispose or otherwise transfer any of its Relevant Debt or any rights or interests therein (or permit any of the foregoing with respect to any of its Relevant Debt) or enter into any agreement, arrangement or understanding in connection therewith except with the prior written consent of the other Parties, provided that each Party may transfer some or all of its Relevant Debt to any other Party or to a transferee that has executed a joinder agreement in form and substance satisfactory to the other Parties, acting reasonably, whereby such transferee is bound by the terms of this Support Agreement in respect of such transferred Relevant Debt and in which event the transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Support Agreement in respect of such Relevant Debt;

(c) not to take any action, or omit to take any action, that is inconsistent with its obligations under this Support Agreement or that would frustrate, hinder or delay the consummation of the Transaction;

(d) not to propose, file, solicit, or otherwise support any alternative transaction, offer, restructuring, liquidation, workout or plan of compromise or arrangement or reorganization of, for or in respect of the Company that is inconsistent with the Transaction;

(e) to the extent applicable, to vote (or cause to be voted) all of its Relevant Debt in favour of the approval, consent ratification and adoption of the Transaction (and any actions required in furtherance thereof) and against the approval, consent, ratification and adoption of any matter or transaction that, if approved, consented to, ratified or adopted could reasonably be expected to delay, challenge, frustrate or hinder the consummation of the Transaction;

(f) to disclose this Agreement to the Company and its representatives and to allow the Company to disclose the existence and essential terms of this Agreement in any public disclosure including, without limitation, in any press releases and court materials relating to the approval and implementation of the Transaction;

(g) that the Company shall be permitted to make the expenditures set out in the attached Schedule C for the restart of the Ekati mine prior to obtaining court approval of the APA (as defined below) in the Proceedings, which is anticipated to occur by December 11, 2020, and only such other expenditures for the restart of the Ekati mine as may be expressly consented to by the Parties (such consent not to be unreasonably withheld);

(h) in the event that approval of the APA in the Proceedings has not been obtained by December 18, 2020, the Parties shall preserve their rights to oppose or support expenditures by the Company to restart the Ekati mine prior to obtaining approval of the APA in the Proceedings;

(i) following approval of the APA in the Proceedings and provided that there shall not exist or have occurred any material adverse change that would have a materially adverse effect on or prevent or materially delay the consummation of the Transaction, to support the making of the expenditures set out in the Company's Ekati mine restart budget attached as Schedule D and to support the taking of other reasonable Company actions that have been determined by the Company in consultation with the Parties in furtherance of the re-start of full operations at the Ekati mine as soon as possible; and

(j) for the avoidance of doubt, the Schedules hereto cannot be modified in any manner whatsoever without the express consent of each of the Parties hereto, in their sole discretion.

5. Negotiation of Documents and Transaction Terms

(a) Each Party hereby covenants and agrees (i) to cooperate and negotiate in good faith, and consistent with this Support Agreement, the definitive documents implementing, achieving and relating to the Transaction and any Court orders relating thereto, and (ii) to the extent it is a party thereto, to execute, deliver and perform its obligations under such documents.

(b) The Parties shall cooperate with each other and shall coordinate their activities in respect of (i) the timely satisfaction of conditions with respect to the effectiveness of the Transaction, (ii) all matters concerning the implementation of the Transaction, and (iii) the pursuit and support of the Transaction, subject to the terms hereof, and each of the Parties shall take such actions as may be reasonably necessary to carry out the purposes and intent of this Support Agreement.

(c) The Parties acknowledge and agree that the Transaction Terms set out in this Agreement are intended to be indicative and not exhaustive or definitive with respect to the proposed Transaction. Any obligations and commitments of the Parties to complete the Transaction (including, without limitation, with respect to the 2L AHG's obligations regarding the New Money Commitment set out in the Term Sheet) are subject to and conditional on the negotiation, settlement and execution of: (i) a definitive APA (as defined below) satisfactory to the Parties;

and (ii) other definitive Transaction documents satisfactory to the 2L AHG; in each case containing additional terms and conditions not specified in this Agreement. Nothing herein shall be interpreted as restricting the discretion of: (x) the Parties with respect to the negotiation and settlement of such definitive APA; and (y) the 2L AHG with respect to the negotiation and settlement of such other definitive Transaction documents; in each case in a manner consistent with Sections 5(a) and (b) hereof.

6. Transaction Process/Structure

Unless otherwise agreed by the Parties, the Transaction shall be implemented pursuant to an asset purchase agreement (the "**APA**") to be executed by DDJ Capital Management, LLC, Brigade Capital Management, LP, and the Company under which a newly created entity or entities ("**NewCo**") shall acquire substantially all of the assets of the Company other than the Company's Diavik mine joint venture agreement interests but including (subject to the 1L Lenders' continuing lien until cash collateralization or cancellation of all Diavik letters of credit issued by the 1L Lenders and the payment of all related fees) all receivables, diamond production, claims, sales proceeds and other rights and assets realized or recovered in respect of such Diavik mine joint venture agreement interests (collectively, the "**Diavik Assets**"). The Parties shall agree to a mechanism for the pursuit of the realization and recovery of the Diavik Assets, which among other things shall provide for a duly authorized independent official to have control and carriage thereof and for the costs thereof to be funded initially by the Company's payment at closing of the Transaction of US$1,000,000 from the Transaction proceeds at NewCo's direction to such official and thereafter to be funded at the cost of the 1L Lenders if they so elect in their sole discretion. The APA shall have terms and conditions satisfactory to the Parties and consistent with this Support Agreement including, without limitation, with respect to: (i) the Company's prompt payment and reimbursement, upon and from time to time following court approval of the APA in the Proceedings, of all the 2L AHG's reasonable and documented (with only brief summary descriptions of service) costs and expenses incurred from and after the commencement of the Proceedings; and (ii) the Company's prompt payment of a break fee in the event that the Company APA is terminated or the Transaction is not completed for any reason other than the non-compliance by DDJ Capital Management, LLC or Brigade Capital Management, LP with their obligations under the APA and an alternative transaction is consummated within nine (9) months of the date of the APA for the sale or restructuring of the Company or any material portion of its assets pursuant to which the First Lien Debt is repaid in full in cash. The Parties shall work cooperatively in furtherance of obtaining court approval for the APA on December 11, 2020 or as soon thereafter as is practicable.

7. Termination

(a) 1L Lenders holding in aggregate not less than half (50%) of the aggregate principal amount of the First Lien Debt may terminate this agreement, in their sole discretion, by providing written notice to the 2L AHG in accordance with Section 11(l) hereof: (i) upon the breach of any representation, warranty, covenant or acknowledgement of a Party within the 2L AHG made in this Support

Agreement that could reasonably be expected to have a material adverse impact on the Transaction and that remains uncured within five (5) business days after the receipt by the 2L AHG of written notice of such breach (unless the event giving rise to the termination right is caused by the 1L Lender(s)); or (ii) if the Transaction has not been completed by January 29, 2021 or such other date as the Parties may agree in writing (the "**Outside Date**").

(b) Members of the 2L AHG holding in aggregate not less than half (50%) of the aggregate principal amount of Second Lien Notes held by the 2L AHG may terminate this agreement, in their sole discretion, by providing written notice to the 1L Lenders in accordance with Section 11(l) hereof: (i) upon the breach of any representation, warranty, covenant or acknowledgement of the 1L Lenders made in this Support Agreement that could reasonably be expected to have a material adverse impact on the Transaction and that remains uncured within five (5) business days after the receipt by the 1L Lenders of written notice of such breach (unless the event giving rise to the termination right is caused by a Party or Parties within the 2L AHG); or (ii) if the Transaction has not been completed by the Outside Date.

8. Effect of Termination

(a) Subject to paragraphs 8(b) and 8(c) below, this Support Agreement, upon its termination, shall be of no further force and effect, and each Party hereto shall be automatically and simultaneously released from its commitments, undertakings, covenants, and agreements under or directly related to this Support Agreement.

(b) Each Party shall be responsible and shall remain liable for any breach of this Support Agreement by such Party occurring prior to the termination of this Support Agreement.

(c) Notwithstanding the termination of this Support Agreement pursuant to Section 8, the agreements and obligations of the Parties in Sections 2 and 11 hereof shall survive such termination and shall continue in full force and effect for the benefit of the Parties in accordance with the terms hereof.

9. Further Assurances

Each Party shall take all such actions as are commercially reasonable, deliver to the other Parties such further information and documents and execute and deliver to the other Parties such further instruments and agreements as another Party shall reasonably request to consummate or confirm the transactions provided for in this Support Agreement, to accomplish the purpose of this Support Agreement or to assure to the other Party the benefits of this Support Agreement, including, the consummation of the Transaction.

10. Public Announcements

All public announcements made in respect of this Support Agreement shall be in form and substance acceptable to the Parties, each acting reasonably. Notwithstanding the

foregoing, nothing herein shall prevent a Party from making public disclosure in respect of the Transaction to the extent required by applicable law.

11. Miscellaneous

(a) The headings in this Support Agreement are for reference only and shall not affect the meaning or interpretation of this Support Agreement.

(b) Unless the context otherwise requires, words importing the singular shall include the plural and vice versa and words importing any gender shall include all genders.

(c) This Support Agreement (including the Term Sheet), as it may be modified, amended and supplemented pursuant to Section 11(d) hereof, constitutes the entire agreement and supersedes all prior agreements and understandings, both oral and written, among the Parties with respect to the subject matter hereof.

(d) This Support Agreement may be modified, amended or supplemented as to any matter in writing (which may include e-mail) by the Parties.

(e) Any person signing this Support Agreement in a representative capacity (i) represents and warrants that he/she is authorized to sign this Support Agreement on behalf of the Party he/she represents and that his/her signature upon this Support Agreement will bind the represented Party to the terms hereof, and (ii) acknowledges that the other Parties hereto have relied upon such representation and warranty.

(f) Any provision of this Support Agreement may be waived if, and only if, such waiver is in writing (which may include e-mail) by the Party against whom the waiver is to be effective. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise.

(g) Any date, time or period referred to in this Support Agreement shall be of the essence except to the extent to which the Parties agree in writing to vary any date, time or period, in which event the varied date, time or period shall be of the essence.

(h) This Support Agreement shall be governed by, construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (excluding any conflict of laws rule or principle which might refer such construction to the laws of another jurisdiction) and all actions or proceedings arising out of or relating to this Support Agreement shall be heard and determined exclusively in the courts of the Province of Ontario.

(i) It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Support Agreement and each non-breaching Party shall be entitled, in addition to any other remedy that may be

available under applicable law, to specific performance and injunctive or other equitable relief as a remedy of any such breach, including an order by a court of competent jurisdiction requiring any Party to comply promptly with any of such obligations.

(j) Unless expressly stated otherwise herein, this Support Agreement is intended to solely bind and inure to the benefit of the Parties and their respective successors, permitted assigns, heirs, executors, administrators and representatives. No other person or entity shall be a third party beneficiary hereof.

(k) Except as is otherwise contemplated herein, no Party may assign, delegate or otherwise transfer any of its rights, interests or obligations under this Support Agreement without the prior written consent of the other Parties hereto.

(l) All notices, requests, consents and other communications hereunder to any Party shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by internationally-recognized overnight courier or e-mail. All notices required or permitted hereunder shall be deemed effectively given: (i) upon personal delivery to the Party to be notified, (ii) when sent by email if sent during normal business hours of the recipient and, if not, then on the next business day of the recipient; or (iii) one (1) business day after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All deliveries required or permitted hereunder shall be deemed effectively made: (A) upon personal delivery to the Party receiving the delivery; (B) one (1) business day after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt; or (C) upon receipt of delivery in accordance with instructions given by the Party receiving the delivery. Any Party may change the address to which notice should be given to such Party by providing written notice to the other Parties hereto of such change. The address and email for each of the Parties shall be as follows:

(i) If to one or more of the 1L Lenders at:

The address set forth for each applicable 1L Lender on its signature page to this Support Agreement, with a required copy (which shall not be deemed notice) to:

Osler, Hoskin & Harcourt LLP
100 King Street West, Suite 6200
Toronto, Ontario
M5X 1B8

Attention: Marc Wasserman & Michael De Lellis
Email: mwasserman@osler.com;
mdelellis@osler.com

-and-

Cahill Gordon & Reindel LLP
32 Old Slip, New York,
NY 10005

Attention: Joel H. Levitin
Email: jlevitin@cahill.com

(ii) If to the 2L AHG at:

The address set forth on the applicable signature pages to this Support Agreement, with a required copy (which shall not be deemed notice) to:

Torys LLP
79 Wellington St., 30th Floor
Toronto, Ontario
M5K 1N2

Attention: Tony DeMarinis
Email: tdemarinis@torys.com

(m) The Parties acknowledge that each member of the 2L AHG is an investment manager (a "**Manager**") who holds Second Lien Notes in its managed and advisory accounts. All representations, warranties, covenants and other agreements made by a Manager herein are being made: (i) on behalf of holders of Second Lien Notes that are separately managed or advisory accounts of the Manager; and (ii) only with respect to the assets managed by such Manager on behalf of such holders of Second Lien Notes, and shall not apply to (or be deemed to be made in relation to) any assets or interests that may be beneficially owned by such holders of Second Lien Notes that are not held through accounts managed by such Manager.

(n) If any term, provision, covenant or restriction of this Support Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions, including terms, covenants and restrictions, of this Support Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the Parties shall negotiate in good faith to modify this Support Agreement so as to effect the original intent of the Parties as closely as possible in a reasonably acceptable manner so that the transactions contemplated herein are consummated as originally contemplated to the greatest extent possible.

(o) This Support Agreement may be executed by electronic means and in one or more counterparts, all of which shall be considered one and the same agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned has caused this Support Agreement to be duly executed and delivered by its proper and duly authorized officer as of the date first written above.

Name of Party: _____

By: _____
Name:
Title:

_____

_____

_____

_____

_____

Debt	**Principal Amount**
First Lien Debt	
Second Lien Notes	
Amount of Subject Debt Purchase	

SCHEDULE A

TERM SHEET[1]

New Money Commitment:

- US$70 million New 2L Bond funded by the 2L AHG (and by other Second Lien Noteholders if the APA or applicable court orders provide for their participation in such funding, in which case the 2L AHG shall fully backstop the funding), with the following terms:
    - Interest Rate: 5.0% cash / 12.5% PIK (compounded)
    - Maturity Date: 12/31/2027
    - Security: Second Lien on Ekati and other assets of NewCo (or the restructured Company, if applicable in an alternative transaction process)
    - Backstop Fees: To be determined by the parties, acting reasonably
    - Other: Stapled to 100% of the equity of NewCo (or the restructured Company, if applicable in an alternative transaction process), or such other agreed structure
    - Other: No priority baskets available
- US$25 million DIP loan to be provided by 2L AHG if necessary for the purposes of funding Company operations in the Proceedings and to execute on completing the Transaction;
- DIP loan will rank pari passu to the funded portion of the First Lien Debt (the "**RCF**") and will be converted into New 2L Bond debt on completion of Transaction.

RCF Lenders Receive:

- A $70 million Term Loan (plus approximately C$6 million of pre-filing LCs to secure the Ekati operating licenses and permits) with the following terms:
    - Interest Rate:
        - Year 1: L + 500 (1.00% LIBOR floor)
        - Year 2: L + 600 (1.00% LIBOR floor)
        - Year 3: L + 800 (1.00% LIBOR floor)
        - Year 4: L + 1000 (1.00% LIBOR floor)
    - Amortization Rate: 7.5% / year (on initial principal amount)
    - Maturity Date: 12/31/2024
    - Security: First Lien on Ekati and other assets of NewCo (or the restructured

[1] All amounts in US$ millions, unless otherwise noted. This is a non-exhaustive list of key economic terms and conditions.

Company, if applicable in an alternative transaction process)

- The approximately C$6 million of pre-filing LCs securing certain Ekati operating licenses and permits are to be rolled forward on the above terms;

- The Term Loan shall be structured as either: (i) an assumption and amendment of the funded portion of the existing First Lien Debt; or (ii) repayment of the funded portion of the existing First Lien Debt and the advance of new funding to NewCo in respect of the Term Loan, all on closing.

- $10 million of Incremental 2L Bond with the following terms:

    - Interest Rate: 5.0% cash / 12.5% PIK (compounded)

    - Maturity Date: 12/31/2027

    - Security: Second Lien on Ekati and other assets of NewCo (or the restructured Company, if applicable in an alternative transaction process) for the Incremental 2L Bond (which will be pari passu with the New 2L Bond)

    - Other: Callable at par plus accrued interest

    - Not stapled to equity of NewCo (or the restructured Company, if applicable in an alternative transaction process)

- $8.5 million New 3L Bond with the following terms:

    - Interest Rate: 14% PIK (compounded)

    - Maturity Date: 12/31/2030

    - Security: Third Lien on Ekati and other assets of NewCo (or the restructured Company, if applicable in an alternative transaction process)

    - Change of Control Put Right (percentage is applicable to principal + compounded PIK):

        - Year 1-2: 200%

        - Year 3: 175%

        - Year 4: 150%

        - Year 5: 125%

        - Year 6 and thereafter: 100%

    - Callable at applicable put right price

- Any net proceeds realized with respect to the Company's interest in Diavik on the sale of Diavik diamonds delivered to or for the benefit of the Company following the date hereof or otherwise will be used first to cash collateralize any outstanding Diavik LCs or to repay the 1L Lenders for any Diavik LCs that are called (not to exceed the total amount of any outstanding Diavik LCs existing as of the date hereof, less any existing

cash collateral for those Diavik LCs);

- 1L Lenders to retain their First Lien claims against the Company's Diavik interests and any other assets not purchased by NewCo for the approximately C$105 million existing as of the date hereof (less cash collateral currently held) of pre filing LCs securing the Company's Diavik reclamation obligations

- 1L Lenders to keep $15 million cash collateral securing the Diavik LCs

- 25% of quarterly net excess free cash flow, as reasonably determined by NewCo in accordance with generally accepted accounting standards and subject to maintenance at all times of minimum NewCo cash-on-hand of at least US$15 million, to be utilized within forty-five days of the calendar quarter ending on December 31, 2021 and each calendar quarter thereafter at the direction of NewCo (the "**Cash Flow Terms**") to cash collateralize Ekati LCs or paydown Term Loan and (i) no dividends or distributions shall be declared or paid; (ii) no NewCo or Company shares or equity interests shall be redeemed, purchased or otherwise acquired; and (iii) no loans or other benefits shall be given to direct or indirect shareholders or holders of other equity interests of NewCo or the Company, in each case until the Term Loan is paid down in full in cash. The 2L AHG represents and warrants that the Cash Flow Terms, including the standard for determining excess free cash flow, minimum cash-on-hand requirements and utilization terms, are each as or more favorable to the 1L Lenders as those terms that are or may be provided to any sureties. If, on or after the date hereof, any surety is provided any terms that differ from the Cash Flow Terms, this Agreement shall be, without any further action by any Party, automatically amended and modified in an economically and legally equivalent manner such that the 1L Lenders shall receive the benefit of any more favourable term to be provided to such surety. The 2L AHG shall provide immediate written notice to the Agent of any such terms being provided to a surety and the automatic changes being provided to the 1L Lenders as a result.

- The value of all payments or cash collateral received by the 1L Lenders in respect of: (i) the Company's Diavik mine joint venture agreement interests (including, without limitation, receivables, diamond production, claims, sales proceeds and other rights and assets); and (ii) the existing $15 million cash collateral securing the Diavik LC's; shall in no circumstance exceed the total liability exposure of the 1L Lenders under the Diavik LC's

Second Lien Notes:

- Right to participate in the New 2L Bond if provided for in the APA or applicable court orders.

Unsecured Claims:

- Critical vendors paid in cash, unless otherwise agreed by the 1L Lenders and the 2L AHG.

Surety Bonds:

- $205 million commitment remains outstanding and on terms to be determined

- Cash collateralized over time, terms to be determined, subject to the provisions set forth under *"RCF Lenders Receive"*.

Existing Equity: No consideration shall be given to or for the benefit of the existing equity of the Company or any existing Second Lien Noteholder other than, if provided for in the APA or applicable court orders, participation in funding the New 2L Bond.

Other:

- Payment of all remaining professional fees upon emergence
- Mine to restart as soon as possible, in consultation with the 2L AHG;
- Need to get an acceptable deal with the sureties / GNWT;
- Transaction to close on or before January 29, 2021; and
- The Approval & Vesting Order with respect to the Transaction shall be in form and substance satisfactory to the 1L Lenders, acting reasonably.

SCHEDULE B

LSTA FORM

SCHEDULE C

APPROVED EKATI RESTART EXPENDITURES

SCHEDULE D

COMPANY'S EKATI RESTART BUDGET

SCHEDULE "B"

FORM OF MONITOR'S CERTIFICATE

CLERK'S STAMP

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY, LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC, DOMINION FINCO INC. AND DOMINION DIAMOND MARKETING CORPORATION**
DOCUMENT	**MONITOR'S CERTIFICATE**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice K. Eidsvik of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated April 22, 2020 (as amended and restated on May 1, 2020, further amended on May 15, 2020, and further amended and restated on June 19, 2020, and as may be further amended, restated or supplemented from time to time, the "**Initial Order**"), FTI Consulting Canada Inc. was appointed as the monitor (in such capacity, and not in its personal or corporate capacity, the "**Monitor**") of the undertaking, property and assets of Dominion Diamond Mines ULC ("**Dominion Diamond**"), Dominion Diamond Holdings, LLC ("**Dominion Holdings**"), Dominion Diamond Delaware Company LLC ("**DDC**"), Dominion Diamond Marketing Corporation ("**Dominion Marketing**"), Dominion Diamond Canada ULC ("**DDCU**"), Dominion Finco Inc. ("**Finco**") (Dominion Diamond, Dominion Holdings, DDC, Dominion Marketing, DDCU and Finco collectively, the "**Sellers**") and Washington Diamond Investments, LLC.

B. Pursuant to an Order of the Court dated December 11, 2020, the Court approved the sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement (as may be amended from time to time in accordance with the terms thereof and this Order, the "**Purchase Agreement**") dated as of December 6, 2020, by and among, *inter alia*, the Sellers, as sellers, and DDJ Capital Management, LLC and Brigade Capital Management, LP (the "**Contracting Purchasers**") and provided for the vesting in one or more entities duly designated by the Contracting Purchasers in accordance with the Purchase Agreement (collectively, the "**Purchasers**" and each, a "**Purchaser**") of all of the Sellers' right, title and interest in and to the Acquired Assets, free and clear of all encumbrances other than the Permitted Encumbrances, which vesting is to be effective with respect to the Acquired Assets upon the delivery by the Monitor to the Purchasers of a certificate confirming (i) satisfaction of the Purchase Price by the Purchasers for the Acquired Assets; and (ii) receipt of each of the Conditions Certificates confirming that each of the conditions to Closing as set out in Article 9 and Article 10 of the Purchase Agreement have been satisfied or waived by the Sellers and the Purchasers.

C. All capitalized terms not defined herein shall have the respective meanings ascribed to them in the Purchase Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchasers have satisfied the Purchase Price for the Acquired Assets in accordance with the Purchase Agreement; and

2. The Sellers and the Purchasers have each delivered to the Monitor the Conditions Certificates evidencing that all applicable conditions to Closing as set out in Article 9 and Article 10 of the Purchase Agreement have been satisfied or waived, as applicable.

3. This Certificate was delivered by the Monitor at Calgary, Alberta on _____, 20____, at _____ [**a.m./p.m.**]

FTI Consulting Canada Inc., in its capacity as Monitor and not in its personal or corporate capacity

Per:_____
Name

SCHEDULE “C”

MINING CLAIMS, MINERAL LEASES AND SURFACE LEASES

SCHEDULE C – MINING LEASES, MINERAL CLAIMS AND SURFACE LEASES

76D/9-3-2 - Misery Pit and Road	Surface Lease	GNWT - Dept. of Lands	
76D/9-4-2 - Misery Facilities	Surface Lease	GNWT - Dept. of Lands	
76D/10-2-2 - Koala Panda Fox Mining	Surface Lease	GNWT - Dept. of Lands	
76D/10-5-2 - Main Camp Ekati	Surface Lease	GNWT - Dept. of Lands	
76D/10-3-2 - LLCF	Surface Lease	GNWT - Dept. of Lands	
76D/10-4-2 - Airstrip	Surface Lease	GNWT - Dept. of Lands	
76D/15-4-4 - Sable Pit	Surface Lease	GNWT - Dept. of Lands	
76D/10-7-2 - Pigeon Pit	Surface Lease	GNWT - Dept. of Lands	
76D/9-10-2 - Lynx WRSA	Surface Lease	GNWT - Dept. of Lands	
4090	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4091	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4092	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4096	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

4149	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4150	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4151	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4158	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4159	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4160	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4161	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4162	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4163	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4169	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4170	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4171	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

4172	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4173	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4188	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4189	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4190	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4191	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4194	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4195	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4196	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4205	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4206	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4207	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

4220	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4221	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4222	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4223	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4224	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4225	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4226	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4230	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4231	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4232	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4233	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4393	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

4394	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4395	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4396	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4401	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4402	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4403	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4404	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4405	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4406	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4407	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4408	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4409	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

4410	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4413	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4414	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4415	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4416	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4417	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4418	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4419	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4420	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4422	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5394	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5415	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

5417	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5419	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4411	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4412	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4421	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4423	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4424	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4425	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4426	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4427	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4428	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4429	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

4430	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4431	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5421	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5423	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5425	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5382	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5383	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5384	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5385	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5386	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5388	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5407	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

4958	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5362	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5363	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5364	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5365	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5366	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5367	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5368	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5369	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5370	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5371	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5372	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

5373	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5374	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5375	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5376	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5377	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5378	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5379	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5381	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5189	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5190	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5191	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5192	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

5193	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5197	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5198	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5199	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5200	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5201	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5202	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5203	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5204	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5205	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5206	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5207	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT

5208	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5209	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5213	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5214	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5215	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5409	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5411	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
5413	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
4585	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5395	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5416	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5418	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU

5420	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
4580	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
4581	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
4582	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
4583	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
4584	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5422	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5424	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5426	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5408	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5410	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
5412	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU

5414	Mineral Lease	Indigenous and Northern Affairs Canada (Nunavut)	Glowworm Property - NU
M10713	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
M10714	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
M10715	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
M10716	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Glowworm Property - NT
NT-5117	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5118	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5119	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5120	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5121	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5122	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

NT-5123	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5124	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5128	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5129	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5130	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5131	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5132	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5133	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5134	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5135	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5136	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5137	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

NT-5138	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5139	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5140	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5141	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5142	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5143	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5144	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5145	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5146	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5147	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5148	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5149	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

NT-5150	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
NT-5151	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K01381	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K01382	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K01383	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02804	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02805	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02806	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02807	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02808	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02809	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02810	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K02811	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K02812	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06550	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06551	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06552	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06553	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06554	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06555	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06556	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06557	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06558	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06559	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K06560	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06561	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06562	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06563	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06564	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06566	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06567	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06568	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06569	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06570	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06571	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06572	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K06573	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06574	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06575	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06576	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06577	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06578	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06579	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06580	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06581	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06582	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06583	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06584	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K06585	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06586	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06587	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06588	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06589	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06590	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06591	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06592	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06593	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06594	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06595	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06596	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K06597	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06598	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06599	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06600	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06601	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06602	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06603	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06604	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06605	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06606	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06607	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06608	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K06609	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06610	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06611	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06612	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06613	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06614	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06615	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06616	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06617	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06618	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06619	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06620	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K06621	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06622	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06623	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06624	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06625	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06626	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06627	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06628	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K06629	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K07308	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K07309	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14323	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K14324	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14325	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14326	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14327	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14331	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14332	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14333	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14334	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14335	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14336	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14337	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14338	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K14339	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14340	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14341	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14342	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14343	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14344	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14345	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14346	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14347	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14348	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14349	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14350	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K14351	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14352	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
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K14354	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
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K14358	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14359	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K14360	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16026	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16027	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property

K16028	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16029	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16030	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16031	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16032	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16831	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16832	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
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K16834	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16835	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
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K16838	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16839	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16840	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16841	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16842	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16843	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16844	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16845	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16846	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
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K16850	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16851	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16852	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
K16853	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
M10510	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
M10511	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
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M10513	Mineral Claim	GNWT - ITI (Mining Recorder's Office)	Lac De Gras Property
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4028	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4029	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property

4030	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4031	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4032	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4033	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4034	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4035	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4036	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4037	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4038	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4039	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4040	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4041	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property

4042	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4043	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4273	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4274	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4275	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4276	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4277	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4281	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4282	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4287	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4288	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4289	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property

4290	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4351	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4352	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4353	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4354	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4355	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4356	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4357	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4358	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4359	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4360	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4361	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property

4362	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4363	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4364	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4365	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4366	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4367	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4368	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4369	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4370	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4371	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4372	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4380	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property

4532	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property
4533	Mineral Lease	GNWT - ITI (Mining Recorder's Office)	Ekati Property

SCHEDULE “D”

VESTED ENCUMBRANCES

SCHEDULE "D"

VESTED ENCUMBRANCES AND FILINGS MADE IN THE NWT MINING RECORDER'S OFFICE[1]

Mining Recorder's Office Filings – Lease Number NT-3482				
Effective Date	**Reference ID**	**Event Description**	**Counter Party**	**Comments**
2020-08-11	36533	Certificate of Lis Pendens - Approved	Ron's Auto Service Ltd.	Certificate of pending litigation
2020-07-29	36516	Certificate of Lis Pendens - Approved	Canadian Dewatering L.P.	Certificate of pending litigation
2020-05-15	36402	Claim of Lien – Approved	Ron's Auto Service Ltd.	Lien filed under the *Miners Lien Act*
2020-05-07	36334	Claim of Lien – Approved	Canadian Dewatering L.P.	Lien filed under the *Miners Lien Act*
Filed Date: 2020-09-14	36572	Certificate of Lis Pendens – Record Document	Knight Piesold Ltd.	Documentation filed in connection with a certificate of pending litigation
2020-06-16	36424	Claim of Lien - Approved	Knight Piesold Ltd.	Lien filed under the *Miners Lien Act*
2020-05-15	36403	Claim of Lien – Approved	Grimshaw Trucking L.P.	Lien filed under the *Miners Lien Act*
2020-05-07	36332	Claim of Lien – Approved	Grimshaw Trucking L.P.	Lien filed under the *Miners Lien Act*
2020-08-13	36542	Certificate of Lis Pendens - Approved	JDS Energy and Mining Inc.	Certificate of pending litigation
2020-05-15	36404	Claim of Lien – Approved	JDS Energy and Mining Inc.	Lien filed under the *Miners Lien Act*
2020-10-14	36600	Claim of Lien - Approved	Dene-Tire North Joint Venture, by its managing joint venturer 507170 N.W.T. Ltd. o/a TIRE North	Lien filed under the *Miners Lien Act*
2020-06-25	36495	Claim of Lien - Approved	Procon Mining & Tunneling Ltd.	Lien filed under the *Miners Lien Act*
2020-05-15	36406	Claim of Lien – Approved	SMS Equipment Inc.	Lien filed under the *Miners Lien Act*
Filed Date: 2020-09-25	36592	Certificate of Lis Pendens – Record Document	KETE WHII/Procon Joint Venture, By its managing joint venturer Procon Mining and Tunnelling Ltd.	Documentation filed in connection with a certificate of pending litigation

[1] To the extent there are any ancillary filings in the Mining Recorder's Office which constitute an encumbrance under the terms of this approval and vesting order, this Schedule D shall be deemed to include any such filings.

2020-07-10	36514	Certificate of Lis Pendens - Approved	Dene Dyno Nobel (DWEI) Inc.	Certificate of pending litigation
2020-07-31	36524	Certificate of Lis Pendens - Approved	Waiward Industrial LP (formerly, Waiward Steel LP)	Certificate of pending litigation
2020-05-06	36331	Claim of Lien – Approved	Waiward Industrial L.P. (formerly, Waiward Steel L.P.)	Lien filed under the *Miners Lien Act*
2020-05-06	36335	Claim of Lien – Approved	Dene Dyno Nobel (DWEI) Inc.	Lien filed under the *Miners Lien Act*
2020-06-19	36503	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Caselines Service Order
2020-06-19	36502	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Sealing Order
2020-06-19	36501	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order
2020-06-19	36500	Court Order – Approved	Applicants to filing made under the *Companies*	Order (Sealing)

			Creditors Arrangement Act – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	
2020-06-19	36499	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Sealing)
2020-06-19	36498	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Delivery of Diamonds)
2020-06-19	36497	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Amended and Restated Initial Order
2020-06-19	36496	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond	CCAA Initial Order

			Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	

Mining Recorder's Office Filings – Lease Number NT-3517

Effective Date	Reference ID	Event Description	Counter Party	Comments
2020-06-25	36495	Claim of Lien	Procon Mining & Tunneling Ltd.	Lien filed under the *Miners Lien Act*
2020-05-15	36406	Claim of Lien – Approved	SMS Equipment Inc.	Lien filed under the *Miners Lien Act*
2020-06-19	36503	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Caselines Service Order
2020-06-19	36502	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Sealing Order
2020-06-19	36501	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC,	Order

			Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	
2020-06-19	36500	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Sealing)
2020-06-19	36499	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Sealing)
2020-06-19	36498	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Delivery of Diamonds)
2020-06-19	36497	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion	Amended and Restated Initial Order

			Diamond Holdings, LLC and Dominion Finco Inc.	
2020-06-19	36496	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	CCAA Initial Order
2019-07-30	35974	Agreement - Approved	Wilmington Trust, National Association, as Trustee	Assumption, Confirmation and Reaffirmation of Canadian Pledge and Security Agreement
2019-07-30	35973	Agreement - Approved	Credit Suisse AG, Cayman Islands Branch, as Administrative Agent	Assumption, Confirmation and Reaffirmation of Canadian Pledge and Security Agreement **[NTD: To be determined]**
2017-11-01	34893	Notice to Third Parties – Approved	Wilmington Trust, National Association	Purchase Agreement
2017-11-01	34892	Notice to Third Parties – Approved	Credit Suisse AG, Cayman Islands Branch	Credit Agreement **[NTD: To be determined]**

Mining Recorder's Office Filings – Lease Number NT-3593

Effective Date	Reference ID	Event Description	Counter Party	Comments
2020-05-15	36406	Claim of Lien – Approved	SMS Equipment Inc.	Lien filed under the *Miners Lien Act*
Filed Date: 2020-09-25	36592	Certificate of Lis Pendens – Record Document	KETE WHII/Procon Joint Venture, By its managing joint venturer Procon Mining and Tunnelling Ltd.	Documentation filed in connection with a certificate of pending litigation

2020-07-10	36514	Certificate of Lis Pendens - Approved	Dene Dyno Nobel (DWEI) Inc.	Certificate of pending litigation in regards to an interest under the *Miners Lien Act*
2020-05-06	36335	Claim of Lien – Approved	Dene Dyno Nobel (DWEI) Inc.	Lien filed under the *Miners Lien Act*
2020-06-19	36503	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Caselines Service Order
2020-06-19	36502	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Sealing Order
2020-06-19	36501	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order
2020-06-19	36500	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond	Order (Sealing)

			Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	
2020-06-19	36499	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Sealing)
2020-06-19	36498	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Delivery of Diamonds)
2020-06-19	36497	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Amended and Restated Initial Order
2020-06-19	36496	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion	CCAA Initial Order

			Diamond Holdings, LLC and Dominion Finco Inc.	

Mining Recorder's Office Filings – Lease Number NT-4372				
Effective Date	**Reference ID**	**Event Description**	**Counter Party**	**Comments**
2020-06-25	36495	Claim of Lien – Approved	Procon Mining & Tunneling Ltd.	Lien filed under the *Miners Lien Act*
2020-05-15	36406	Claim of Lien – Approved	SMS Equipment Inc.	Lien filed under the *Miners Lien Act*
2020-06-19	36503	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Caselines Service Order
2020-06-19	36502	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Sealing Order
2020-06-19	36501	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion	Order

			Diamond Holdings, LLC and Dominion Finco Inc.	
2020-06-19	36500	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Sealing)
2020-06-19	36499	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Sealing)
2020-06-19	36498	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Order (Delivery of Diamonds)
2020-06-19	36497	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	Amended and Restated Initial Order

2020-06-19	36496	Court Order – Approved	Applicants to filing made under the *Companies Creditors Arrangement Act* – Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Finco Inc.	CCAA Initial Order
2019-07-30	35974	Agreement - Approved	Wilmington Trust, National Association, as Trustee	Assumption, Confirmation and Reaffirmation of Canadian Pledge and Security Agreement
2019-07-30	35973	Agreement - Approved	Credit Suisse AG, Cayman Islands Branch, as Administrative Agent	Assumption, Confirmation and Reaffirmation of Canadian Pledge and Security Agreement **[NTD: To be determined]**
2017-11-01	34893	Notice to Third Parties – Approved	Wilmington Trust, National Association	Purchase Agreement
2017-11-01	34892	Notice to Third Parties – Approved	Credit Suisse AG, Cayman Islands Branch	Credit Agreement **[NTD: To be determined]**

PPSA: British Columbia Registrations				
Registration Number	**Expiry Date**	**Collateral Description**	**Base Debtor**	**Secured Party**
221624M	2025-May-19	ALL GOODS NOW OR HEREAFTER ACQUIRED BY THE DEBTOR OR HELD TO BE BY THE DEBTOR PURSUANT TO THAT CERTAIN GOODS AND SERVICES ALLIANCE AGREEMENT DATED OCTOBER 1, 2018 BETWEEN THE DEBTOR AND THE SECURED PARTY, INCLUDING, WITHOUT LIMITATION, ALL PARTS, COMPONENTS AND OTHER PERSONAL PROPERTY PROVIDED TO THE DEBTOR PURSUANT TO SUCH AGREEMENT, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND	Dominion Diamond Mines ULC Dominion Diamond Ekati ULC	FINNING (CANADA), A DIVISION OF FINNING INTERNATIONAL INC. FINNING INTERNATIONAL INC.

		IMPROVEMENTS THERETO. ALL PROCEEDS OF EVERY ITEM OR KIND INCLUDING BUT NOT LIMITED TO TRADE INS, EQUIPMENT, INVENTORY, GOODS, NOTES, CHATTEL PAPER, CONTRACT RIGHTS, ACCOUNTS, RENTAL PAYMENTS AND INSURANCE PAYMENTS, INSTRUMENTS, INVESTMENT PROPERTY, INTANGIBLES, DOCUMENTS OF TITLE, MONEY AND ANY OTHER PROPERTY OR OBLIGATIONS RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS THEREOF ARE SOLD, COLLECTED, DEALT WITH, EXCHANGED OR OTHERWISE DISPOSED OF.		

PPSA: North West Territories Registrations				
Registration Number	**Expiry Date**	**Collateral Description**	**Base Debtor**	**Secured Party**
Registration Number: 1658227 File Number: N/A	2025-05-20	All goods now or hereafter acquired by the Debtor or held to be acquired by the Debtor pursuant to that certain Good and Services Alliance Agreement dated October 1, 2018 between the Debtor and the Secured Party, including, without limitation, all parts, components and other personal property provided to the Debtor pursuant to such agreement, together with all attachments, accessories, accessions, replacements, substitutions, additions and improvements thereto. All proceeds of every item or kind including but not limited to trade-ins, equipment, inventory, goods, notes, chattel paper, contract rights, accounts, rental payments and insurance payments, instruments, investment property, intangibles, documents of title, money and any other property or obligations received when such collateral or proceeds thereof are sold, collected, dealt with, exchanged or otherwise disposed of.	Dominion Diamond Mines ULC Dominion Diamond Ekati ULC	FINNING (CANADA), A DIVISION OF FINNING INTERNATIONAL INC. FINNING INTERNATIONAL INC.

PPSA: Alberta Registrations				
Registration Number	**Expiry Date**	**Collateral Description**	**Base Debtor**	**Secured Party**

20051906448	2025-May-19	All goods now or hereafter acquired by the Debtor or held to be acquired by the Debtor pursuant to that certain Goods and Services Alliance Agreement dated October 1, 2018 between the Debtor and the Secured Party, including, without limitation, all parts, components and other personal property provided to the Debtor pursuant to such agreement, together with all attachments, accessories, accessions, replacements, substitutions, additions and improvements thereto. All proceeds of every item or kind including but not limited to trade-ins, equipment, inventory, goods, notes, chattel paper, contract rights, accounts, rental payments and insurance payments, instruments, investment property, intangibles, documents of title, money and any other property or obligations received when such collateral or proceeds thereof are sold, collected, dealt with, exchanged or otherwise disposed of.	Dominion Diamond Mines ULC Dominion Diamond Ekati ULC	FINNING (CANADA), A DIVISION OF FINNING INTERNATIONAL INC. FINNING INTERNATIONAL INC.

SCHEDULE “E”

PERMITTED ENCUMBRANCES

SCHEDULE "E"

PERMITTED ENCUMBRANCES

PPSA: British Columbia Registrations				
Registration Number	**Expiry Date**	**Collateral Description**	**Base Debtor**	**Secured Party**
736557K	MAY 04, 2024	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FVRBT00191 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC
805861K	JUN 05, 2024	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FARBT00192 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC
826280K	JUN 13, 2024	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FLRBT00193 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC

		PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.		
864547K	JUN 29, 2024	ONE (1) 2018 CATERPILLAR 6060FS HYDRAULIC SHOVEL S/N CAT06060ADH360193 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC
888518K	JUL 11, 2022	ALL PRESENT AND AFTER-ACQUIRED GOODS LEASED BY THE SECURED PARTY TO THE DEBTOR PURSUANT TO A MASTER LEASE AGREEMENT DATED JUNE 18, 2018 AND SCHEDULE NUMBER 1 TO THE MASTER LEASE AGREEMENT, INCLUDING ONE (1) 2007 REFURBISHED CAT 793D HAUL TRUCK, SERIAL NUMBER FDB00254, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS, AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL, AND A RIGHT TO AN INSURANCE PAYMENT OR ANY OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF	Dominion Diamond Ekati ULC	SOMERSET EQUIPMENT FINANCE LTD. AND ITS ASSIGNS

		THE COLLATERAL. PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED GOODS, INVESTMENT PROPERTY, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES, CROPS, LICENCES AND MONEY, ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT OF BRITISH COLUMBIA AND REGULATIONS THEREUNDER, DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALINGS WITH THE ORIGINAL COLLATERAL.		
195733M	2025-May-01	MV 3H3C413S79T220033 CAT XQ GENERATOR MV KEN00187 CAT XQ GENERATOR ONE (1) CAT XQ 2000 KW DIESEL TRAILER-MOUNTED 480/208V, 480V, 60HZ, 3 PHASE, SINGLE SHIFT GENERATOR AND ONE (1) XMER 2500 KVA 480V 600V TRANSFORMER, TOGETHER WITH ALL ACCESSIONS, REPLACEMENT PARTS, ACCESSORIES OR ATTACHMENTS (SERIAL NO. KEN00187 / VIN 3H3C413S79T220033) ALL PROCEEDS OF EVERY ITEM OR KIND INCLUDING BUT NOT LIMITED TO TRADE- INS, EQUIPMENT, INVENTORY, GOODS, NOTES, CHATTEL PAPER, CONTRACT RIGHTS, ACCOUNTS, RENTAL PAYMENTS AND INSURANCE PAYMENTS, INSTRUMENTS, INVESTMENT PROPERTY, INTANGIBLES, DOCUMENTS OF TITLE, MONEY AND ANY OTHER PROPERTY OR OBLIGATIONS RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS THEREOF ARE SOLD, COLLECTED, DEALT WITH, EXCHANGED OR OTHERWISE DISPOSED OF.	Dominion Diamond Mines ULC Dominion Diamond Ekati ULC	FINNING (CANADA), A DIVISION OF FINNING INTERNATIONAL INC. FINNING INTERNATIONAL INC.

PPSA: North West Territories Registrations

Registration Number	Expiry Date	Collateral Description	Base Debtor	Secured Party
Registration Number: 1473373 File Number: AVS7358277	2024-05-04	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FVRBT00191 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL	Dominion Diamond Ekati ULC	Caterpillar Financial Services Leasing ULC

		AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.		
Registration Number: 1481417 File Number: AVS7509621	2024-06-05	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FARBT00192 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.	Dominion Diamond Ekati ULC	Caterpillar Financial Services Leasing ULC
Registration Number: 1484003 File Number: AVS7551265	2024-06-13	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FLRBT00193 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.	Dominion Diamond Ekati ULC	Caterpillar Financial Services Leasing ULC
Registration Number: 1488198 File Number: AVS7640700	2024-06-29	ONE (1) 2018 CATERPILLAR 6060FS HYDRAULIC SHOVEL S/N CAT06060ADH360193 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVE MENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY	Dominion Diamond Ekati ULC	Caterpillar Financial Services Leasing ULC

		DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.		
Registration Number: 1491291 File Number: 651397803	2022-07-12	All present and after-acquired goods leased by the Secured Party to the Debtor pursuant to a Master Lease Agreement dated June 18, 2018 and Schedule Number 1 to the Master Lease Agreement, including one (1) 2007 refurbished CAT 793D Haul Truck, serial number FDB00254, together with all attachments, accessories, accessions, replacements, substitutions, additions, and improvements thereto and all proceeds in any form derived directly or indirectly from any dealing with the collateral, and a right to an insurance payment or any other payment that indemnifies or compensates for loss or damage to the collateral or proceeds of the collateral. Proceeds: all of the Debtor's present and after-acquired goods, investment property, instruments, documents of title, chattel paper, intangibles, crops, licences and money, all as defined in the Personal Property Security Act of the Northwest Territories and regulations thereunder, derived directly or indirectly from any dealings with the original collateral.	Dominion Diamond Ekati ULC	Somerset Equipment Finance Ltd. and its assigns
Registration Number: 1654490 File Number: 130753EWG	2025-05-01	3H3C413S79T220033 Motor Vehicle CAT XQ Generator KEN00187 Motor Vehicle CAT XQ Generator One (1) CAT XQ 2000 kW Diesel Trailer-Mounted 480/208V, 480V, 60HZ, 3 Phase, Single Shift Generator and one (1) XMER 2500 kVA 480V/600V transformer, together with all accessions, replacement parts, accessories or attachments (Serial No. KEN00187 / VIN 3H3C413S79T220033) All proceeds of every item or kind including but not limited to trade-ins, equipment, inventory, goods, notes, chattel paper, contract rights, accounts, rental payments and insurance payments, instruments, investment property, intangibles, documents of title, money and any other property or obligations received when such collateral or proceeds thereof are sold,	Dominion Diamond Mines ULC Dominion Diamond Ekati ULC	FINNING (CANADA), A DIVISION OF FINNING INTERNATIONAL INC. FINNING INTERNATIONAL INC.

		collected, dealt with, exchanged or otherwise disposed of.		
Registration Number: 1653268 File Number: ROADTRAIN, 572042-2	2022-04-24	Six (6) 2021 K-Line Steel Side Dump Box having body serial numbers 9846 1, 9486 2, 9846 3, 9846 4, 9846 5, and 9846 6; and Brand Tires w/ Unique Sequential Numbers L700 To L885. 5KKJASD14LPLZ4256 Motor Vehicle 2020 WESTERN STAR 5KKJASD16LPLZ4257 Motor Vehicle 2020 WESTERN STAR 5KKJASD18LPLZ4258 Motor Vehicle 2020 WESTERN STAR 2K9DP3567ML072010 Trailer 2021 K-Line Power Semi Ore Trailer 2K9DP3566ML072015 Trailer 2021 K-Line Power Semi Ore Trailer 2K9DP356XML072020 Trailer 2021 K-Line Power Semi Ore Trailer 98461 Trailer 2021 K-Line Steel Side DumpBox 98462 Trailer 2021 K-Line Steel Side DumpBox 98463 Trailer 2021 K-Line Steel Side DumpBox 98464 Trailer 2021 K-Line Steel Side DumpBox 98465 Trailer 2021 K-Line Steel Side DumpBox 98466 Trailer 2021 K-Line Steel Side DumpBox 2K9DP3476ML072011 Trailer 2021 K-Line Tridem Rear Side Dump Train 2K9DP3478ML072012 Trailer 2021 K-Line Tridem Rear Side Dump Train 2K9DP3475ML072016 Trailer 2021 K-Line Tridem Rear Side Dump Train 2K9DP3477ML072017 Trailer 2021 K-Line Tridem Rear Side Dump Train 2K9DP3479ML072021 Trailer 2021 K-Line Tridem Rear Side Dump Train 2K9DP3470ML072022 Trailer 2021 K-Line Tridem Rear Side Dump Train 2K9CD2185ML072013 Trailer 2021 K-Line Tandem Axle Converter Dolly 2K9CD2187ML072014 Trailer 2021 K-Line Tandem Axle Converter Dolly 2K9CD2184ML072018 Trailer 2021 K-Line Tandem Axle Converter Dolly 2K9CD2186ML072019 Trailer 2021 K-Line Tandem Axle Converter Dolly 2K9CD2188ML072023 Trailer 2021 K-Line Tandem Axle Converter Dolly 2K9CD218XML072024 Trailer 2021 K-Line Tandem Axle Converter Dolly PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED GOODS, MOTOR VEHICLES, ACCOUNTS, MONEY, CHATTEL PAPER, DOCUMENTS OF TITLE, INVESTMENT PROPERTY, INSTRUMENTS	Dominion Diamond Mines ULC	HAY RIVER HEAVY TRUCK SALES

		AND INTANGIBLES AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT, INSURANCE PROCEEDS AND ALL OTHER SUBSTITUTIONS, RENEWALS, ALTERATIONS OR PROCEEDS OF EVERY DESCRIPTION AND OF ANY KIND WHATSOEVER DERIVED COLLATERAL OR SERIAL NUMBER COLLATERAL (IF ANY) DESCRIBED ABOVE, OR PROCEEDS THEREFROM.		

PPSA: Alberta Registrations

Registration Number	Expiry Date	Collateral Description	Base Debtor	Secured Party
17031604754	2021-Mar-16	ALL PRESENT AND FUTURE OFFICE EQUIPMENT AND SOFTWARE SUPPLIED OR FINANCED FROM TIME TO TIME BY THE SECURED PARTY (WHETHER BY LEASE, CONDITIONAL SALE OR OTHERWISE), WHETHER OR NOT MANUFACTURED BY THE SECURED PARTY OR ANY AFFILIATE THEREOF, AND ALL PROCEEDS THEREOF.	Dominion Diamond Corporation	XEROX CANADA LTD
18050411960	2024-May-04	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FVRBT00191 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVE MENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC
18060510857	2024-Jun-05	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FARBT00192 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC

		ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.		
18061319923	2024-Jun-13	ONE (1) 2018 CATERPILLAR 793F OFF HIGHWAY TRUCK S/N CAT0793FLRBT00193 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVE MENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC
18062933064	2024-Jun-29	ONE (1) 2018 CATERPILLAR 6060FS HYDRAULIC SHOVEL S/N CAT06060ADH360193 TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS: GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL	Dominion Diamond Ekati ULC	CATERPILLAR FINANCIAL SERVICES LEASING ULC

		PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.		
18071140259	2022-Jul-11	CAT 793D HAUL TRUCK 2007 S/N FDB00254 MV ALL PRESENT AND AFTER-ACQUIRED GOODS LEASED BY THE SECURED PARTY TO THE DEBTOR PURSUANT TO A MASTER LEASE AGREEMENT DATED JUNE 18, 2018 AND SCHEDULE NUMBER NO.1 TO THE MASTER LEASE AGREEMENT, INCLUDING ONE 2007 CAT 793D HAUL TRUCK, SERIAL NUMBER FDB00254, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS, AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL, AND A RIGHT TO AN INSURANCE PAYMENT OR ANY OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL. PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED GOODS, INVESTMENT PROPERTY, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES, CROPS, LICENCES AND MONEY, ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT OF ALBERTA AND REGULATIONS THEREUNDER, DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALINGS WITH THE ORIGINAL COLLATERAL.	Dominion Diamond Ekati ULC	SOMERSET EQUIPMENT FINANCE LTD. AND ITS ASSIGNS
20050126893	2025-May-01	3H3C413S79T220033 1111 CAT XQ Generator MV - Motor Vehicle KEN00187 1111 CAT XQ Generator MV - Motor Vehicle One (1) CAT XQ 2000 kW Diesel Trailer-Mounted 480/208V, 480V, 60HZ, 3 Phase, Single Shift Generator and one (1) XMER 2500 kVA 480V/600V transformer, together with all accessions, replacement parts, accessories or attachments (Serial No. KEN00187 / VIN 3H3C413S79T220033)	Dominion Diamond Mines ULC Dominion Diamond Ekati ULC	FINNING (CANADA), A DIVISION OF FINNING INTERNATIONAL INC. FINNING INTERNATIONAL INC.

		All proceeds of every item or kind including but not limited to trade-ins, equipment, inventory, goods, notes, chattel paper, contract rights, accounts, rental payments and insurance payments, instruments, investment property, intangibles, documents of title, money and any other property or obligations received when such collateral or proceeds thereof are sold, collected, dealt with, exchanged or otherwise disposed of.		
20042421512	2024-Apr-24	5KKJASD14LPLZ42568 2020 Western Star MV - Motor Vehicle	Dominion Diamond Mines ULC	HAY RIVER HEAVY TRUCK SALES
20042423168	2024-Apr-24	5KKJASD16LPLZ4257 2020 Western Star MV - Motor Vehicle 5KKJASD14LPLZ4256 2020 Western Star MV - Motor Vehicle	Dominion Diamond Mines ULC	HAY RIVER HEAVY TRUCK SALES
20052210908	2022-May-22	5KKJASD16LPLZ4257 2020 Western Star Road Train MV - Motor Vehicle 98461 2021 K-Line Steel Side DumpBox TR - Trailer 8462 2021 K-Line Steel Side DumpBox TR - Trailer 98463 2021 K-Line Steel Side DumpBox TR - Trailer 98464 2021 K-Line Steel Side DumpBox TR - Trailer 98465 2021 K-Line Steel Side DumpBox TR - Trailer Current By 20052524498 98466 2021 K-Line Steel Side DumpBox TR - Trailer 2K9DP3567ML072010 2021 K-Line Power Semi Ore TR - Trailer 2K9DP3566ML072015 2021 K-Line Power Semi Ore TR - Trailer 2K9DP356XML072020 2021 K-Line Power Semi Ore TR - Trailer 2K9DP3476ML072011 2021 K-Line Tridem Rear Side TR - Trailer 2K9DP3478ML072012 2021 K-Line Tridem Rear Side TR - Trailer	Dominion Diamond Mines ULC	HAY RIVER HEAVY TRUCK SALES LTD.

		2K9DP3475ML072016 2021 K-Line Tridem Rear Side TR - Trailer 2K9DP3477ML072017 2021 K-Line Tridem Rear Side TR - Trailer 2K9DP3479ML072021 2021 K-Line Tridem Rear Side TR - Trailer 2K9DP3470ML072022 2021 K-Line Tridem Rear Side TR - Trailer 2K9CD2185ML072013 2021 K-Line Tandem Axle TR - Trailer 2K9CD2187ML072014 2021 K-Line Tandem Axle TR - Trailer 2K9CD2184ML072018 2021 K-Line Tandem Axle TR - Trailer 2K9CD2186ML072019 2021 K-Line Tandem Axle TR - Trailer 2K9CD2188ML072023 2021 K-Line Tandem Axle TR - Trailer 2K9CD218XML072024 2021 K-Line Tandem Axle TR – Trailer Six (6) 2021 K-Line Steel Side Dump Box having body serial numbers 9846 1, 9486 2, 9846 3, 9846 4, 9846 5, and 9846 6 Brand Tires w/ Unique Sequential Numbers L700 To L885 Proceeds: all of the debtor's present and after-acquired personal property including, but not limited to, all accounts, chattel paper, money, intangibles, goods, documents of title, instruments, investment property, and insurance proceeds (as each of those terms are defined in the PPSA). Full make and model of the serial numbered collateral listed in blocks 8; 9; 10 is as follows: K-Line Power Semi Ore Trailer Full make and model of the serial numbered collateral listed in blocks 11; 12; 13; 14; 15; 16 is as follows: K-Line Tridem Rear Side Dump Train Trailer Full make and model of the serial numbered collateral listed in blocks 17; 18;		

		19; 20; 21; 22 is as follows: K-Line Tandem Axle Converter Dolly		
20052211073	2022-May-22	5KKJASD14LPLZ4256 2020 Western Star Road Train MV - Motor Vehicle	Dominion Diamond Mines ULC	HAY RIVER HEAVY TRUCK SALES LTD.
20052211275	2022-May-22	5KKJASD18LPLZ4258 2020 Western Star Road Train MV - Motor Vehicle	Dominion Diamond Mines ULC	HAY RIVER HEAVY TRUCK SALES LTD.

Mining Recorder's Office Filings – Lease Number NT-3482

Effective Date	Reference ID	Event Description	Counter Party	Comments
2020-10-19	36616	Certificate of Lis Pendens – Approved	Tundra Site Services Ltd.	Certificate of pending litigation
2020-09-16	36580	Claim of Lien - Approved	Tundra Site Services Ltd.	Lien filed under the *Miners Lien Act*
2020-08-13	36543	Certificate of Lis Pendens - Approved	Finning (Canada), A division of Finning International Inc.	Certificate of pending litigation
2020-06-08	36419	Claim of Lien – Approved	Finning (Canada), A Division of Finning International Inc.	Lien filed under the *Miners Lien Act*
20020-10-02	36598	Certificate of Lis Pendens - Approved	Hay River Heavy Truck Sales Ltd.	Certificate of pending litigation
2020-10-02	36599	Certificate of Lis Pendens - Approved	Dene Aurora Mining Ltd.	Certificate of pending litigation
2020-08-12	36541	Claim of Lien – Approved	Dene Aurora Mining Ltd.	Lien filed under the *Miners Lien Act*
2020-07-08	36512	Claim of Lien – Approved	Hay River Heavy Truck Sales Ltd.	Lien filed under the *Miners Lien Act*
2020-07-29	36517	Certificate of Lis Pendens - Approved	Metshaw Freighters Ltd. and Grimshaw Trucking L.P.	Certificate of pending litigation
2020-05-15	36405	Claim of Lien – Approved	Metshaw Freighters Ltd.	Lien filed under the *Miners Lien Act*
2020-05-07	36333	Claim of Lien – Approved	Metshaw Freighters Ltd.	Lien filed under the *Miners Lien Act*

Mining Recorder's Office Filings – Lease Number NT-3517

Effective Date	Reference ID	Event Description	Counter Party	Comments
2020-06-02	36407	Notice to Third Parties – Approved	Archon Minerals Ltd.	Archon Minerals Ltd. claiming to have an interest in the mineral claims and mining leases pursuant to a Gross Production Royalty Agreement dated as of June 5, 2017.
2019-07-30	35973	Agreement - Approved	Credit Suisse AG, Cayman Islands Branch, as Administrative Agent	Assumption, Confirmation and Reaffirmation of

				Canadian Pledge and Security Agreement **[NTD: To be determined]**
2017-11-01	34892	Notice to Third Parties – Approved	Credit Suisse AG, Cayman Islands Branch	Credit Agreement **[NTD: To be determined]**

Mining Recorder's Office Filings – Lease Number NT-4372				
Effective Date	**Reference ID**	**Event Description**	**Counter Party**	**Comments**
2020-06-02	36407	Notice to Third Parties – Approved	Archon Minerals Ltd.	Archon Minerals Ltd. claiming to have an interest in the mineral claims and mining leases pursuant to a Gross Production Royalty Agreement dated as of June 5, 2017.
2019-07-30	35973	Agreement - Approved	Credit Suisse AG, Cayman Islands Branch, as Administrative Agent	Assumption, Confirmation and Reaffirmation of Canadian Pledge and Security Agreement **[NTD: To be determined]**
2017-11-01	34892	Notice to Third Parties – Approved	Credit Suisse AG, Cayman Islands Branch	Credit Agreement **[NTD: To be determined]**

Mining Recorder's Office Filings – Lease Number NT-3593				
Effective Date	**Reference ID**	**Event Description**	**Counter Party**	**Comments**
2020-08-12	36541	Claim of Lien – Approved	Dene Aurora Mining Ltd.	Lien filed under the *Miners Lien Act*
2020-07-08	36512	Claim of Lien – Approved	Hay River Heavy Truck Sales Ltd.	Lien filed under the *Miners Lien Act*

SCHEDULE “B”

STAY EXTENSION ORDER

CLERK'S STAMP	
COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**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 DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY, LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC DOMINION FINCO INC. AND DOMINION DIAMOND MARKETING CORPORATION**
DOCUMENT	**ORDER (STAY EXTENSION)**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309

DATE ON WHICH ORDER WAS PRONOUNCED:	December 11, 2020
LOCATION OF HEARING:	Calgary
NAME OF JUDGE WHO MADE THIS ORDER:	The Hon. Madam Justice K. Eidsvik

UPON the application of Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, Dominion Finco Inc., and Dominion Diamond Marketing Corporation (collectively, the "**Applicants**"); **AND UPON** having read the notice of application of the Applicants, filed; and the Affidavit of Brendan Bell, sworn December [-], 2020, filed; **AND UPON** reading the Eleventh Report of FTI Consulting Canada, Inc. (the "**Monitor**"), filed; **AND UPON** hearing counsel for the Applicants, counsel for the Monitor, and other counsel present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. Service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.

Extension of Stay Period

2. The Stay Period (as defined in the Second Amended and Restated Initial Order of this Court dated June 19, 2020) is hereby extended until and including March 1, 2021.

Justice of the Court of Queen's Bench of Alberta