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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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

(Applicant)

MOTION RECORD OF THE APPLICANT
(RE: APPROVAL AND REVERSE VESTING ORDER AND STAY EXTENSION, DIP AND FEES APPROVAL ORDER)
(RETURNABLE JULY 26, 2024)

July 22, 2024

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TO: THE SERVICE LIST

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

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(Applicant)

I N D E X

TAB 1

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

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

(Applicant)

NOTICE OF MOTION
(APPROVAL AND REVERSE VESTING ORDER AND STAY EXTENSION, DIP, AND FEES APPROVAL ORDER)

Tacora Resources Inc. ("**Tacora**" or the "**Company**") will make a motion before the Honourable Madam Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on July 26, 2024, at 10:00 a.m., or as soon after that time as the Motion can be heard.

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

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

at the following location:

330 University Avenue, Toronto, Ontario.

THE MOTION IS FOR[1]

1. The Approval and Reverse Vesting Order in the form of the draft order included at Tab 4 of the Motion Record:

(a) approving the Subscription Agreement entered into between Tacora, as issuer, and Millstreet Capital Management LLC, as investment manager on behalf of multiple noteholders ("**Millstreet**"), OSP, LLC (on behalf of certain managed funds) ("**OSP**"), and Cargill, Incorporated, as investors (collectively, the "**Investors**") dated July 21, 2024;

(b) approving the transactions (the "**Transactions**") contemplated in the Subscription Agreement, which include, *inter alia*, the execution of a new offtake agreement, new iron ore onshore purchase agreement, and new margin facility between the Company and Cargill to replace the Offtake Agreement, the Stockpile Agreement, and the Margin Advances available to the Company under the APF, and authorizing and directing Tacora to take such additional steps and execute such additional documents as are necessary or desirable for the completion of the Transactions; and

(c) granting releases (the "**Releases**") in favour of: (i) Tacora, ResidualCo (as defined below), and their respective present and former directors, officers, employees, legal counsel and advisors; (ii) the Monitor, its legal counsel, and their respective present and former directors, officers, partners, employees and advisors; (iii) the Notes Trustee and its respective present and former directors, officers, partners, employees and advisors; (iv) the Investors and their respective present and former directors, officers, employees, legal counsel and advisors; and (v) the Other New Equity Investors and their respective present and former directors, officers, employees, legal counsel and advisors (collectively, the "**Released Parties**"), from any and all present and future liabilities of any nature or kind in connection with the CCAA Proceedings, the Subscription Agreement and related documents, and Tacora's assets, business or affairs.

[1] Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the affidavit of Heng Vuong sworn July 21 2024, and the affidavit of Michael Nessim sworn July 19, 2024.

2. The Stay Extension, DIP, and Fees Approval Order in the form of the draft order included at Tab 5 of the Motion Record:

(a) approving the Monitor's Reports, and the activities of the Monitor referred to therein;

(b) approving the fees of the Monitor and its counsel;

(c) approving the Third Amended and Restated DIP Facility Term Sheet dated July 12, 2024, between Tacora and Cargill, Incorporated (the "**Third A&R DIP Agreement**");

(d) extending the Stay Period to October 7, 2024, to facilitate closing of the Transactions; and

(e) such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

Background

1. Tacora operates the Scully Mine which produces high-grade and quality iron ore products. The Company is the second largest employer in the Labrador West region, employing approximately 463 employees, and is an important part of the local and provincial economy of Newfoundland.

2. Since restarting mining operations in 2019, Tacora has been attempting to ramp up production of iron ore concentrate to the Scully Mine's nameplate capacity of approximately 6.0 Mtpa. Tacora needs to implement its capital expenditure plan as soon as possible. These capital investments are critical for the sustainability and stability of Tacora's operations moving forward.

3. As of the commencement of the CCAA Proceedings, Tacora had approximately $298 million in secured debt. As of the date of this affidavit, Tacora has borrowed an additional $125 million of super-priority debt pursuant to the DIP Facility.

4. Following the termination of the Successful Bid identified in the Solicitation Process, the Company sought and obtained Court approval of the Sale Process to identify a going-concern transaction, on June 5, 2024.

5. The Sale Process has concluded with the selection of the bid submitted by the Investors as the Successful Bid, and Tacora now seeks this Court's approval of the Subscription Agreement and the Transactions contemplated therein through the proposed Approval and Reverse Vesting Order.

Pre-Filing Strategic Process

6. The Company engaged Greenhill in January 2023 to undertake the Pre-Filing Strategic Process to explore, review, and evaluate a broad range of alternatives for the Company, including sale opportunities or additional investments into Tacora.

7. Commencing in March 2023, Greenhill reached out to 30 strategic and financial parties in connection with a potential sale or financing transaction with respect to the Company.

8. Ultimately, Tacora was unable to reach an agreement with any of the interested parties and discussions regarding a potential consensual transaction to avoid the need to file for protection under the CCAA failed.

Solicitation Process

9. Following the issuance of the Solicitation Order, Greenhill launched the Solicitation Process on October 31, 2023. The Solicitation Process was designed to be broad in order to provide Tacora and interested parties with the opportunity to pursue a range of Opportunities.

10. Over 130 Potential Bidders were contacted by Greenhill following the commencement of the Solicitation Process. During Phase 1 of the Solicitation Process, Cargill and Jefferies also contacted 43 potential financing parties in an effort to develop a consortium bid.

11. On January 19, 2024, the Phase 2 Bid Deadline, Tacora received three Phase 2 Bids from: (a) the AHG Consortium; (b) Cargill; and (c) Bidder #3. Ultimately, on January 29, 2024, the Board exercised their good faith business judgement and unanimously determined that the Phase 2 Qualified Bid submitted by the AHG Consortium be declared the Successful Bid under the Solicitation Process.

12. As a result of a drop in iron ore prices, Tacora was unable to fulfill a net debt condition in the First Successful Bid under the Solicitation Process. On April 11, 2024, Tacora and the AHG Consortium executed a mutual termination of the First Subscription Agreement.

Conduct of the Sale Process

13. Following termination of the Subscription Agreement, Tacora sought and obtained the Sale Process Order on June 5, 2024. Among other things, the Sale Process Order authorized and directed Tacora to undertake the Sale Process to identify the highest and/or best offer for the sale of: (a) all the shares of Tacora to be implemented pursuant to a subscription agreement; or (b) all or substantially all of Tacora's Property and Business pursuant to an asset purchase agreement.

14. On July 12, 2024, being the Bid Deadline for definitive offers, Tacora received one Bid from the Investors for all the shares of Tacora to be implemented pursuant to a Subscription Agreement. The Bid contained, among other things, a support agreement executed by the Investors, Brigade Capital Management, LP ("Brigade") and MSD, LP ("**MSD**", and together with Brigade, the "**Other RSA Parties**"), pursuant to which the Investors and the Other RSA Parties agreed to support a transaction containing substantially the same terms as those included in the Investors' Bid. The Investors and the Other RSA Parties, collectively, hold 100% of the DIP Obligations, 55.3% of the Senior Priority Notes and 73.4% of the Senior Notes.

15. Following the Bid Deadline, Greenhill and Stikeman, in coordination with the Monitor and its counsel and with assistance from management, reviewed and assessed the submitted Subscription Agreement. Stikeman, Greenhill, the Monitor and its counsel participated in several follow-up calls with the Investors to provide feedback on certain terms of their Bid, ask clarifying questions, and negotiate certain terms of the Subscription Agreement.

16. On July 18, 2024, following these negotiations, the Board, with input and advice from Greenhill and Stikeman, and in consultation with the Monitor and its counsel, assessed and carefully considered the revised Subscription Agreement submitted by the Investors. Following this assessment and considering the factors outlined in the Sales Process to evaluate Bids, the Board exercised its good faith business judgement and determined that the revised Subscription Agreement submitted by the Investors should be declared the Successful Bid under the Sale Process.

17. On July 21, 2024, the revised Subscription Agreement was entered into between Tacora and the Investors. Execution of the Subscription Agreement represents the culmination of extensive solicitation efforts on the part of Tacora and Greenhill, which commenced in March

2023 and continued after the commencement of the CCAA Proceedings in accordance with the Solicitation Process and the Sale Process.

Reverse Vesting Structure and Benefits of the Transactions

18. The Transactions contemplated in the Subscription Agreement have been structured as a "reverse vesting" transaction. The benefits of a reverse vesting structure to Tacora and its stakeholders include, among others:

(a) allowing Tacora, who operates in a highly regulated environment, to maintain its licenses and permits that are required to maintain its mining operations and allow Tacora to perform exploration work on various parts of the Scully Mine, as well as other forest resource licenses and fire permits, without the probable and potentially significant risks and costs associated with getting same transferred to a third party;

(b) maintaining various contracts with commercial counterparties, without the uncertainty of needing consents to assign, re-establish, or enter into new arrangements; and

(c) permitting the preservation of Tacora's tax attributes, which is necessary to maintain in order to provide the value contemplated by the Investors' Bid.

19. The benefits of the Transactions include the following, among others:

(a) provides a significant Deposit to the Company demonstrating the Investors' commitment to closing the Transactions;

(b) eliminates the Company's debt service in respect of all pre-filing indebtedness, which was $21.2 million prior to the CCAA Proceedings;

(c) deleverages the Company's capital structure such that there is no pre-filing indebtedness, and the Company will attempt to raise $100 million of new money senior priority notes, which could provide additional funding to the Company for necessary operating costs and capital expenditures;

(d) provides for partial repayment of approximately $12.5 million of the Company's secured debt owed to Cargill under the APF by way of set-off;

(e) repays the $6.2 million owed under the existing Cargill Margining Facility;

(f) provides for the assumption of, *inter alia*, substantially all Pre-Filing Trade Amounts and royalty obligations of the Company on terms and amounts to be agreed by the Company and the Investors;

(g) includes a firm, irrevocable commitment to finance the Transaction;

(h) contains limited conditions to closing and limited expected regulatory approvals;

(i) provides equity financing and the possibility of new debt to fund emergence costs and the Company's ongoing operational costs;

(j) provides for a new Offtake Agreement with Cargill which removes any mechanism for a profit share, provides Cargill's fee as a fixed percentage of the sales price, and has a 10-year term;

(k) provides working capital to the Company through a Stockpile Agreement and margining facility with Cargill;

(l) provides for the ongoing employment of all the Company's employees; and

(m) if the conditions to Closing the Transactions are not (or cannot reasonably be) satisfied by the contemplated outside date for closing, subject to certain terms, contains an agreement from the DIP Lender to subscribe for and purchase shares of Tacora in exchange for an amount equivalent to all of the outstanding DIP Obligations owed at the applicable time.

20. As a result of the Transactions, Tacora will be well positioned to continue operating as a going concern as the second largest employer in the Labrador West region, preserving employment for all its approximately 463 employees and providing the opportunity for ongoing business relationships for its suppliers of goods and services.

Releases

21. The Applicant is seeking the issuance of the Releases in favour of the Released Parties, being:

(a) Tacora, ResidualCo, and their respective present and former directors, officers, employees, legal counsel and advisors;

(b) the Monitor, its legal counsel, and their respective present and former directors, officers, partners, employees and advisors;

(c) the Notes Trustee and its respective present and former directors, officers, partners, employees and advisors;

(d) the Investors and their respective present and former directors, officers, employees, legal counsel and advisors; and

(e) the Other New Equity Investors and their respective present and former directors, officers, employees, legal counsel and advisors.

22. The Released Claims explicitly carve out any claims resulting from: (a) fraud or wilful misconduct; and (b) that are not permitted to be released pursuant to section 5.1(2) of the CCAA.

23. The Released Parties made significant and material contributions in connection with Tacora's efforts to address its financial difficulties, the Pre-Filing Strategic Process, the Solicitation Process, the Sale Process, the CCAA Proceedings, and negotiation of the Subscription Agreement and the contemplated Transactions, which provide for a going concern solution for Tacora's business and represents the best outcome reasonably available to Tacora in the circumstances. The Released Parties will also be critical to implementing the Transactions, if approved.

Approval of the Third A&R DIP Agreement

24. The cash flow forecast appended to the Ninth Report shows that, subject to Tacora drawing the remaining available funds under the DIP Facility, Tacora is expected to have sufficient liquidity to maintain its operations up to the week ending July 28, 2024.

25. Tacora requires additional DIP financing to continue operating in the normal course while it works towards closing the Transactions. Accordingly, Tacora and Cargill entered into the Third A&R DIP Agreement on July 12, 2024.

26. The terms of the Third A&R DIP Agreement are substantially similar to the Amended DIP Agreement which was approved by the Court on April 26, 2024. The material differences between

the two are:

(a) an increase of $35 million to the maximum principal amount which may be drawn under the DIP Facility from $125 million to $160 million;

(b) a decrease of $5 million to the maximum principal amount of Post-Filing Margin Advances from $25 million to $20 million; and

(c) an incremental exit fee, in cash, in the amount of $600,000 to be payable in connection with the increase to the maximum amount principal amount which may be drawn under the DIP Facility;

(d) the Third A&R DIP Agreement requires the Applicant to reimburse Cargill, OSP, Millstreet, and any other party to the Support Agreement, for additional reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred in connection with the CCAA Proceeding from and after June 24, 2024.

27. The Third A&R DIP Agreement will enhance the prospects of a successful restructuring of Tacora, as it provides the necessary stability for the Company's operations while it advances its efforts to close the Transactions.

Stay Extension

28. Tacora is seeking an extension of the Stay Period from July 29, 2024, to and including October 7, 2024. The extension of the Stay Period is necessary and appropriate in the circumstances to provide Tacora with sufficient time to close the Transactions.

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

30. The Updated Cash Flow Forecast reflects that, subject to the assumptions related thereto, Tacora is expected to maintain liquidity and be able to fund operations until and including October 6, 2024.

31. The proposed extension of the Stay Period will not materially prejudice any of the Applicant's stakeholders and the Monitor supports the proposed extension of the Stay Period.

Approval of the Monitor's Activities and Fees

32. Tacora is seeking approval of the Monitor's activities described in the Monitor's Reports, as well as the fees and disbursements of the Monitor and its counsel in the administration of the CCAA Proceedings.

33. The Monitor and its counsel have provided invaluable assistance to the Company in the CCAA Proceedings and were instrumental in achieving the successful Sale Process outcome.

34. The rates and fees charged by the Monitor and its counsel are reasonable and market for insolvency proceedings of similar complexity.

OTHER GROUNDS:

35. The provisions of the CCAA, including sections 11 and 36, and the inherent and equitable jurisdiction of this Court.

36. Section 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c C.43.

37. Rules 1.04, 2.03, 3.02, 16, 37, and 39 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

38. Such further and other grounds as counsel may advise and this Court may permit.

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

1. The Affidavit of Heng Vuong sworn July 21, 2024;

2. The Affidavit of Michael Nessim sworn July 19, 2024;

3. The Eleventh Report of the Monitor, to be filed; and

4. Such further and other evidence as counsel may advise and this Court may permit.

July 22, 2024

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Counsel for the Applicant

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION
(RETURNABLE JULY 26, 2024)

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TAB 2

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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(Applicant)

AFFIDAVIT OF HENG VUONG
(Sworn July 21, 2024)

I, **HENG VUONG**, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Chief Financial Officer of Tacora Resources Inc. ("**Tacora**" or the "**Company**" or the "**Applicant**"). I have been the Chief Financial Officer of Tacora since September 2022. I have also been a member of the Company's Board of Directors (the "**Board**") since May 23, 2024.

2. Together with other members of management, I am responsible for overseeing the Company's operations, liquidity management and restructuring efforts. As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records, press releases, and public filings of the Company and have spoken with certain of the directors, officers and/or employees of the Company, as necessary. Where I have relied upon such information, I believe such information to be true.

3. Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the affidavits of Joe Broking sworn on October 9, 2023 (the "**First Broking Affidavit**"), February 2, 2024 (the "**Fourth Broking Affidavit**"), and April 21, 2024, and my affidavits sworn on May 31, 2024, and June 14, 2024. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

4. The Sale Process has concluded and Tacora now seeks this Court's approval of the Subscription Agreement entered into with the Investors and the Transactions contemplated therein through the proposed Approval and Reverse Vesting Order (each as defined below). The Transactions are supported by the Company's largest stakeholders; Cargill, Millstreet, OSP,

Brigade, and MSD (each as defined below), who collectively hold approximately 55.3% of the Senior Priority Notes, and approximately 73.4% of the Senior Notes.

5. I swear this affidavit in support of a motion by Tacora for the issuance of an order (the "**Approval and Reverse Vesting Order**"), among other things:

(a) approving the Subscription Agreement entered into between Tacora, as issuer, and Millstreet Capital Management LLC, as investment manager on behalf of multiple noteholders ("**Millstreet**"), OSP, LLC (on behalf of certain managed funds) ("**OSP**"), and Cargill, Incorporated as investors (collectively, the "**Investors**") dated July 21, 2024;

(b) approving the transactions (the "**Transactions**") contemplated in the Subscription Agreement, which include, *inter alia*, the execution of a new offtake agreement, new iron ore onshore purchase agreement, and new margin facility between the Company and Cargill to replace the Offtake Agreement, the Stockpile Agreement, and the Margin Advances available to the Company under the APF, and authorizing and directing Tacora to take such additional steps and execute such additional documents as are necessary or desirable for the completion of the Transactions; and

(c) granting releases (the "**Releases**") in favour of: (i) Tacora, ResidualCo (as defined below), and their respective present and former directors, officers, employees, legal counsel and advisors; (ii) the Monitor, its legal counsel, and their respective present and former directors, officers, partners, employees and advisors; (iii) the Notes Trustee and its respective present and former directors, officers, partners, employees and advisors; (iv) the Investors and their respective present and former directors, officers, employees, legal counsel and advisors; and (v) the Other New Equity Investors and their respective present and former directors, officers, employees, legal counsel and advisors (collectively, the "**Released Parties**"), from any and all present and future liabilities of any nature or kind in connection with the CCAA Proceedings, the Subscription Agreement and related documents, and Tacora's assets, business or affairs (collectively, the "**Released Claims**").

6. I also swear this affidavit in support of a motion by Tacora for the issuance of an order (the "**Stay Extension, DIP, and Fees Approval Order**"), among other things:

(a) approving the Pre-Filing Report of the proposed Monitor dated October 10, 2023, the First Report of the Monitor dated October 20, 2023, the Second Report of the Monitor dated January 18, 2024, the Third Report of the Monitor dated March 13, 2024, the Fourth Report of the Monitor dated March 14, 2024, the Supplement to the Fourth Report of the Monitor dated March 26, 2024, the Second Supplement to the Fourth Report of the Monitor dated April 10, 2024, the Fifth Report of the Monitor dated April 7, 2024, the Sixth Report of the Monitor dated April 9, 2024, the Seventh Report of the Monitor dated April 14, 2024, the Eighth Report of the Monitor dated April 21, 2024, the Supplement to the Eighth Report of the Monitor dated April 24, 2024, the Ninth Report of the Monitor dated June 3, 2024 (the "**Ninth Report**"), the Tenth Report of the Monitor dated June 19, 2024, and the Eleventh Report of the Monitor, to be filed (the "**Eleventh Report**", and collectively, the "**Monitor's Reports**"), and the activities of the Monitor referred to therein;

(b) approving the fees of the Monitor and its counsel;

(c) approving the Third Amended and Restated DIP Facility Term Sheet dated July July 12, 2024, between Tacora and Cargill, Incorporated (the "**Third A&R DIP Agreement**"); and

(d) extending the Stay Period to October 7, 2024, to facilitate closing of the Transactions.

I. BACKGROUND

A. Tacora

7. Tacora operates the Scully Mine which produces high-grade and quality iron ore products. The Company is the second largest employer in the Labrador West region, employing approximately 463 employees, and is an important part of the local and provincial economy of Newfoundland.

8. Since restarting mining operations in 2019, Tacora has been attempting to ramp up production of iron ore concentrate to the Scully Mine's nameplate capacity of approximately 6.0 Mtpa. Tacora needs to implement its capital expenditure plan as soon as possible if it is to achieve this production target. Capital investments are critical for the profitability, sustainability and

stability of Tacora's operations moving forward. Tacora has suffered losses of over $450 million since restarting the Scully Mine.

9. As of the commencement of the CCAA Proceedings, Tacora had approximately $298 million in secured debt. As of the date of this affidavit, Tacora has borrowed an additional $125 million of super-priority debt pursuant to the DIP Facility. Tacora's secured debt is owed primarily to (a) holders of Senior Notes and Senior Priority Notes; and (b) Cargill in respect of an Advance Payments Facility and the DIP Facility. As described in the First Broking Affidavit, substantially all of the secured indebtedness (other than the DIP Facility) shares the same collateral and security package and is subject to an intercreditor agreement between the parties. The Company's secured debt (not including accrued interest since the filing date) and its respective priority rankings are summarized in the chart below:

	Cargill	**Senior Noteholders**
First Ranking	$125,000,000 of Advances under the DIP Facility	
Second Ranking	Approximately $6,200,000 of Margin Advances and Prepay Advances pursuant to the Advance Payments Facility	Approximately $28,000,000 of Senior Priority Notes
Third Ranking	$30,000,000 of Initial Advances pursuant to the Advance Payments Facility	$225,000,000 of Senior Notes in principal and approximately $9,000,000 in unpaid interest
Total	Approximately $161,200,000	Approximately $262,000,000

10. In the First Broking Affidavit, Mr. Broking described, among other things, the events leading up to the Company's CCAA filing, the urgent need for relief under the CCAA, and the Company's intention to conduct a court-approved Solicitation Process to secure a going-concern solution in respect of Tacora's business.

11. Following the termination of the Successful Bid identified in the Solicitation Process, the Company sought and obtained Court approval of the Sale Process to identify another going-concern transaction, on June 5, 2024.

12. The Sale Process has concluded with the selection of the Bid submitted by the Investors as the Successful Bid, and Tacora now seeks this Court's approval of the Subscription Agreement and the Transactions contemplated therein through the proposed Approval and Reverse Vesting Order.

II. DESCRIPTION OF SOLICITATION EFFORTS

A. Pre-Filing Strategic Process

13. As set out in the First Broking Affidavit, prior to initiating these CCAA Proceedings, the Company engaged Greenhill in January 2023 to formally commence the Pre-Filing Strategic Process to explore, review, and evaluate a broad range of alternatives for the Company, including sale opportunities or additional investments into Tacora. The Pre-Filing Strategic Process is described in the affidavits of Michael Nessim sworn February 2, 2024, March 14, 2024, and June 14, 2024, copies of which are attached as Exhibits to the affidavit of Michael Nessim sworn July 19, 2024 (the "**Fourth Nessim Affidavit**", and collectively, the "**Nessim Affidavits**").

14. As described in the Nessim Affidavits, commencing in March 2023, Greenhill reached out to 30 strategic and financial parties in connection with a potential sale or financing transaction. The Company received several LOIs and term sheets in respect of potential transactions and facilitated advanced due diligence for an interested party. While the Company supported a consensual restructuring between Cargill and the Ad Hoc Group, the parties were unable to reach a binding agreement.

B. Solicitation Process

15. On October 30, 2023, this Court granted the Solicitation Order, which, among other things: (a) approved the Solicitation Process to solicit offers or proposals for a sale, restructuring, or recapitalization transaction in respect of Tacora's assets and business operations; (b) authorized Tacora to market and solicit offers in respect of the Offtake Opportunity; and (c) authorized and directed Tacora, Greenhill and the Monitor to immediately commence the Solicitation Process. The Solicitation Process is described in the Fourth Broking Affidavit and the Nessim Affidavits.

16. As described in the Nessim Affidavits, over 130 potential bidders were contacted by Greenhill following the commencement of the Solicitation Process. During Phase 1 of the Solicitation Process, Cargill and Jefferies also contacted 43 potential financing parties in an effort

to develop a consortium bid.

17. On January 19, 2024, the Phase 2 Bid Deadline, Tacora received three Phase 2 Bids from: (a) a consortium of the Ad Hoc Group, RCF and Javelin (collectively, the "**AHG Consortium**"); (b) Cargill; and (c) Bidder #3. Ultimately, on January 29, 2024, the Board exercised their good faith business judgement and unanimously determined that the Phase 2 Qualified Bid submitted by the AHG Consortium should be declared the Successful Bid under the Solicitation Process.

18. As a result of a drop in iron ore prices, Tacora was unable to fulfill a net debt condition in the First Successful Bid under the Solicitation Process. On April 9, 2024, the AHG Consortium advised Tacora that they were no longer able to proceed with the First Successful Bid. On April 11, 2024, Tacora and the AHG Consortium executed a mutual termination of the First Successful Bid.

C. Conduct of the Sale Process[1]

19. Following termination of the First Subscription Agreement, Tacora sought and obtained the Sale Process Order on June 5, 2024. Among other things, the Sale Process Order authorized and directed Tacora to undertake the Sale Process to identify the highest and/or best offer for the sale of: (a) all the shares of Tacora to be implemented pursuant to a subscription agreement; or (b) all or substantially all of Tacora's Property and Business pursuant to an asset purchase agreement.

20. Given the Pre-Filing Strategic Process and the Solicitation Process run during the CCAA Proceedings, the Sale Process contemplated a single-phase bid process with a potential Auction (should more than one Qualified Bid be received by the Bid Deadline).

21. Below is a high-level summary of the conduct of the Sale Process. A detailed summary of the conduct of the Sale Process is set forth in the Fourth Nessim Affidavit. I understand that the Monitor will provide further details and its comments on the Sale Process its Eleventh Report.

22. On July 12, 2024, being the Bid Deadline for definitive offers, Tacora received one Bid from the Investors for all the shares of Tacora to be implemented pursuant to a Subscription

[1]All capitalized terms used in this subsection and not otherwise defined have the meanings ascribed to them in the Sale Process.

Agreement. The Bid contained, among other things, a support agreement (the "**Support Agreement**") executed by the Investors, Brigade Capital Management, LP ("**Brigade**") and MSD, LP ("**MSD**", and together with Brigade, the "**Other RSA Parties**"), pursuant to which the Investors and the Other RSA Parties agreed to support a transaction containing substantially the same terms as those included in the Investors' Bid. The Investors and the Other RSA Parties, collectively, hold 100% of the DIP Obligations, 55.3% of the Senior Priority Notes and 73.4% of the Senior Notes.

23. Following the Bid Deadline, Greenhill and Stikeman, in coordination with the Monitor and its counsel and with assistance from management, reviewed and assessed the submitted Subscription Agreement. Stikeman, Greenhill, the Monitor and its counsel participated in several follow-up calls with the Investors to provide feedback on certain terms of their Bid, ask clarifying questions, and negotiate certain terms of the Subscription Agreement.

24. On July 18, 2024, following these negotiations, the Board, with input and advice from Greenhill and Stikeman, and in consultation with the Monitor and its counsel, assessed and carefully considered the revised Subscription Agreement submitted by the Investors. Following this assessment and considering the factors outlined in the Sales Process to evaluate Bids, the Board exercised its good faith business judgement and determined that the revised Subscription Agreement submitted by the Investors should be declared the Successful Bid under the Sale Process.

25. The Subscription Agreement represents a consensual outcome between Cargill and certain members of the Ad Hoc Group and is the best and only actionable Bid received by the Company through the Sales Process. The Subscription Agreement, among other things:

(a) provides a significant Deposit to the Company demonstrating the Investors' commitment to closing the Transactions;

(b) eliminates the Company's debt service in respect of all pre-filing indebtedness, which was $21.2 million prior to the CCAA Proceedings;

(c) deleverages the Company's capital structure such that there is no pre-filing indebtedness, and the Company will attempt to raise $100 million of new money senior priority notes, which could provide additional funding to the Company for necessary operating costs and capital expenditures;

(d) provides for partial repayment of approximately $12.5 million of the Company's secured debt owed to Cargill under the APF by way of set-off;

(e) repays the $6.2 million owed under the existing Cargill Margining Facility;

(f) provides for the assumption of, *inter alia*, substantially all Pre-Filing Trade Amounts and royalty obligations of the Company on terms and amounts to be agreed by the Company and the Investors;

(g) includes a firm, irrevocable commitment to finance the Transaction;

(h) contains limited conditions to closing and limited expected regulatory approvals;

(i) provides equity financing and the possibility of new debt to fund emergence costs and the Company's ongoing operational costs;

(j) provides for a new Offtake Agreement with Cargill which removes any mechanism for a profit share, provides Cargill's fee as a fixed percentage of the sales price, and has a 10-year term;

(k) provides working capital to the Company through a Stockpile Agreement and margining facility with Cargill;

(l) provides for the ongoing employment of all the Company's employees; and

(m) if the conditions to Closing the Transactions are not (or cannot reasonably be) satisfied by the contemplated outside date for closing, subject to certain terms, contains an agreement from the DIP Lender to subscribe for and purchase shares of Tacora in exchange for an amount equivalent to all of the outstanding DIP Obligations owed at the applicable time.

26. On July 21, 2024, the revised Subscription Agreement was entered into between Tacora and the Investors (the "**Subscription Agreement**"). A copy of the Subscription Agreement is attached hereto as **Exhibit "A"**.

27. As a result of the Transactions, Tacora will be well positioned to continue operating as a going concern as the second largest employer in the Labrador West region, preserving employment for all its approximately 463 employees and providing the opportunity for ongoing

business relationships for its suppliers of goods and services.

II. RELIEF SOUGHT

A. Approval of the Subscription Agreement[2]

(i) Key Terms of the Subscription Agreement

28. The key terms of the Subscription Agreement are summarized below:

Key Terms	Subscription Agreement
Investors	Millstreet Capital Management LLC, as investment manager on behalf of multiple noteholders, OSP, LLC (on behalf of certain managed funds), and Cargill, Incorporated.
Other New Equity Investors	Any Person, other than any Investor, that enters into an Other New Equity Subscription Agreement and that is acceptable to the Investors.
Purchased Assets	The Subscribed Shares and the New Warrants, which represent all the issued outstanding equity interests in the Company on Closing. All contracts, other than the Excluded Contracts will remain with the Company. Excluded Liabilities include, without limitation, all Claims of or against the Company immediately prior to Closing, other than Assumed Liabilities, all pre-filing Claims, any and all Claims relating to any change of control provision that may arise in connection with the change of control contemplated by the Transactions, all Claims relating to or under the Excluded Contracts and Excluded Assets, Liabilities for Employees whose employment is terminated on or before Closing, and Liabilities to or in respect of the Company's Affiliates.
Purchase Price	The subscription price for the Subscribed Shares consists of (1) the New Equity Offering Initial Cash Consideration and New Equity Offering Retained Cash Consideration; and (2) Assumption of Assumed Liabilities. (1) New Equity Offering Initial Cash Consideration and New Equity Offering Retained Cash Consideration The cash consideration for the Subscribed Shares includes $175 million of equity through the New Equity Offering Initial Cash Consideration and New Equity Offering Retained Cash Consideration. (2) Assumption of Assumed Liabilities

[2] All capitalized terms used in this subsection and not otherwise defined have the meanings ascribed to them in the Subscription Agreement.

	Assumed Liabilities are discussed in greater detail below. Company will also work with the Investors to complete the New Secured Priority Notes Offering for New Secured Priority Notes in the maximum aggregate principal amount of $100 million, and up to an additional $25 million to be issued, if applicable, upon conversion of the Unsecured Takeback Notes.
Additional Equity Contribution	Following Closing, an amount of the aggregate New Equity Offering Additional Cash Consideration, being $250 million less the New Equity Offering Initial Cash Consideration and the New Equity Offering Retained Cash Consideration shall, in exchange for a number of additional Subscribed Shares to be issued at such time that is equal to the dollar amount of the New Equity Offering Additional Cash Consideration (or for such other number of Subscribed Shares based on a dollar amount per Subscribed Share to be agreed to among the Investors), be paid by each Investor from time to time.
Deposit	$16,000,000.
Transaction Structure	Reverse vesting structure as well as alternative structures that may be considered.
Regulatory Approvals	The Company and the Investors are to work together to determine whether any material Permits and Licenses required from any Governmental Entity or under any Applicable Law relating to the business and operations of the Company and its Affiliates and the Mining Rights are required to be obtained in order to permit the Company and the Investors to complete the Transactions. In the event any such determination is made, the Company and Investors will use commercially reasonably efforts to apply for and obtain any such Permits and Licenses.
Outside Date for Closing	October 10, 2024.
Employees	All employees will continue to be employed by the Company on the same terms and conditions as they currently enjoy, except in respect of change of control payments for senior management, which amounts shall be waived or are Excluded Liabilities. The Investors acknowledge and agree that the Company shall remain subject to any collective agreement with the Company and shall inherit all obligations and liabilities associated with any collective agreement which applies to the Employees.
Assumed Liabilities	• Substantially all Pre-Filing Trade Amounts and royalty obligations of the Company on terms and amounts to be agreed by the Company and the Investors; • Post-Filing Trade Amounts on terms and amounts to be agreed by the Company and the Investors;

	• Liabilities under Retained Contracts on terms and amounts to be agreed by the Company, the Investors, and the counterparty of the Retained Contracts; • Liabilities relating to the Retained Assets arising from and after the Closing Time; • Liabilities of the Company under the Retained Contracts and Permits and Licenses arising from and after the Closing Time; and • Grievances of the Union under a collective agreement.
Administrative Expense Reserve	On the Closing Date, the Monitor shall be paid an Administrative Expense Reserve such amount to be agreed to by the Investors, the Company and the Monitor on or before July 26, 2024 (or such other date as agreed to by the Investors, the Company and the Monitor)for the benefit of Persons entitled to be paid the Administrative Expense Costs. Any unused portion of the Administrative Expense Reserve after payment or reservation for all Administrative Expense Costs, as determined by the Monitor, shall be transferred by the Monitor to the Company. The Administrative Expense Costs include: • The reasonable and documented fees and costs of the Monitor and its professional advisors and the professional advisors of ResidualCo in each case for services performed prior to and after the Closing Date, in each case, relating directly or indirectly to the CCAA Proceedings or this Agreement, including without limitation, costs required to wind down and/or dissolve and/or bankrupt ResidualCo and costs and expenses required to administer the Excluded Assets, Excluded Contracts, Excluded Liabilities and ResidualCo; and • Amounts owing in respect of obligations secured by the CCAA Charges that rank ahead of the DIP Charge and are not paid or assumed on Closing.
Key Condition to Closing	Court approval of the Approval and Reverse Vesting Order which becomes a Final Order (not vacated, set aside, or stayed, and the time within which an appeal or request for leave to appeal must be initiated has passed with no appeal or leave to appeal having been initiated).
Cost Reimbursement	In consideration for the Investors having expended considerable time and expense in connection with the Subscription Agreement and the negotiation thereof, the Company shall reimburse the Investors, in accordance with the terms of the Subscription Agreement and the Approval and Reverse Vesting Order, documented out-of-pocket third party expenses incurred by the Investors up to a maximum aggregate amount of CAD$3,000,000 (the "**Cost Reimbursement Amount**") on the

	earlier of the termination of the Subscription Agreement and the Closing. The Investors may agree to waive such Cost Reimbursement Amount.

29. Execution of the Subscription Agreement represents the culmination of extensive solicitation efforts on the part of Tacora and Greenhill, which commenced in March 2023 and continued after the commencement of the CCAA Proceedings in accordance with the Solicitation Process and the Sale Process.

30. I believe that the Pre-Filing Strategic Process leading up to the commencement of the CCAA Proceedings and the conduct of the Court-approved Solicitation Process and Sale Process resulted in a broad and robust canvassing of parties potentially interested in Tacora's business and assets. Further, I believe that the timelines under the Solicitation Process and the Sale Process were sufficient to allow all potentially interested parties to properly participate. I am advised by the Monitor that it also believes the timelines and terms of the Solicitation Process and the Sale Process were made well known to all participants and were reasonable in the circumstances.

31. The Transactions contemplate full repayment of the DIP Facility and partial repayment of the APF while the Senior Notes, the Senior Priority Notes, and its associated obligations will be transferred and "vested out" to ResidualCo. The secured claim in favour of the holders of the Senior Notes and Senior Priority Notes from this transfer and "vesting out" will not be satisfied. The "vesting out" is necessary to deleverage Tacora's capital structure which contributed to its inability to raise the necessary financing prior to the CCAA Proceedings. In addition, I do not believe there are any alternative transactions that could have been available that would provide repayment to the Senior Notes or Senior Priority Notes. Due to the length of the CCAA Proceedings, the DIP Facility has grown to $125 million and future draws are expected to be necessary in order reach closing of the Transactions contemplated by the Subscription Agreement. Based on the results of the Sales Process and feedback from participants, I do not believe there are any parties that would expect to pay the DIP Facility in full and also provide recovery to the Senior Priority Notes or Senior Notes.

B. Reverse Vesting Structure

32. The Transactions contemplated in the Subscription Agreement have been structured as a "reverse vesting" transaction. Instead of an asset sale where all purchased assets are purchased and transferred to the purchaser "free and clear" of encumbrances and all excluded assets, the

Transactions contemplate a share transaction whereby:

(a) the Investors and any Other New Equity Investors will subscribe for and purchase various securities of Tacora, who will, in turn, cancel and terminate all of its existing equity securities. As a result, the Investors and any Other New Equity Investors will become the sole shareholders of Tacora; and

(b) all Excluded Assets, Excluded Contracts, and Excluded Liabilities will be transferred and "vested out" to a corporation to be incorporated by Tacora in advance of the Closing Date ("**ResidualCo**") so as to allow the Investors any Other New Equity Investors to acquire Tacora's business and assets on a "free and clear basis".

33. Tacora operates in a regulated environment where it is required to hold various permits and licenses to maintain its mining operations. Tacora maintains eight material permits and licenses and six mining claims, leases, and other property rights that are required to maintain its mining operations and allow Tacora to perform exploration work on various parts of the Scully Mine, as well as other forest resource licenses and fire permits (collectively, the "**Permits and Licenses**"). Each of these Permits and Licenses would need to be in place for any prospective purchaser to continue operations at the Scully Mine.

34. I am advised by Beth McGrath of McInnes Cooper that the transfer of many of these Permits and Licenses under a traditional asset sale transaction structure requires the consent of the relevant government authority or lessor, and in some cases, requires advance discussions between a purchaser and the relevant government authority or lessor. This process may be complicated by the fact that several of the Permits and Licenses are issued by different government departments (both federal and provincial), some of which have no prescribed transfer process.

35. It is my belief that the ability to transfer these Permits and Licenses to a third-party purchaser and the timing of any such transfer is uncertain and has the potential to be significantly delayed. For example, the transfer of many Permits and Licenses may require that a purchaser satisfy the relevant governmental authority that its scope of operations will be substantially the same as Tacora and could potentially give rise to an assessment of whether the purchaser will be required to facilitate consultation with indigenous or community groups. There are also governmental approvals that Tacora is seeking that are critical to future operations of the Scully

Mine that may be delayed further due to the logistics of transferring an application that has been underway for approximately 2 years for approval, which has not yet been obtained.

36. As outlined in the previous court materials filed by the Company in these CCAA Proceedings, fluctuations in the price of iron ore can have a significant impact on Tacora's liquidity. Given the volatile nature of the iron ore market, the uncertainty associated with securing the transfer of Permits and Licenses and the potential for delays in such transfers creates significant risk and uncertainty for the Company and its stakeholders. Additionally, recently there have been significant forest fires in the Labrador West region. On July 12, 2024, the Province of Newfoundland and Labrador issued an evacuation order for Labrador City, which is where the majority of Tacora's employees reside. A copy of the evacuation order is attached hereto as **Exhibit "B"**. As result Tacora shut down operations to ensure the safe evacuation of its employees from the Scully Mine and their homes in Labrador City. As of the date of this affidavit, Tacora's operations remain shut down and the Company is exploring ways to attempt to resume operations in a limited manner. The recent fires emphasize the need to emerge from these CCAA Proceedings to provide more stability and certainty for Tacora, its employees and suppliers. Delays in closing the Transactions will continue to put the Company at risk of factors outside its control.

37. The reverse vesting structure will also permit the preservation of Tacora's tax attributes, which include:

(a) net operating losses in the approximate amount of $450 million;

(b) undepreciated capital cost in the approximate amount of $182 million;

(c) share issuance costs in the approximate amount of $15 million;

(d) Canadian exploration expenses in the approximate amount of $1.1 million; and

(e) Canadian development expenses in the approximate amount of $17 million.

38. Accordingly, I understand that the Subscription Agreement was structured as a reverse vesting transaction because: (a) it will permit Tacora to maintain its Permits and Licenses and contracts with various commercial counterparties without the probable and potentially significant risks and costs associated with delays in attempting to transfer same, allowing for the seamless continuation of operations at the Scully Mine; and (b) it will preserve Tacora's tax attributes. I

further understand that the advantages associated with a reverse vesting structure were an important consideration for the Investors in pricing their Bid.

39. The Subscription Agreement provides that to the extent the proposed Approval and Reverse Vesting Order is not granted, and the structure of the Transaction is converted into an asset sale, the parties thereto shall amend the structure of the Transactions accordingly, so long as the material terms contained therein are continued into the amended structure of the Transactions (including, without limitation, the new Cargill Offtake Agreement), and provided that:

(a) the transfer and assignment of the Mining Rights (or replacements thereof) effective as of the Closing shall be a condition to the implementation of the Transactions pursuant to such asset purchase agreement, and

(b) the Investors and Company shall negotiate, in good faith, a reduction in the amount of the Pre-Filing Trade Amounts that form part of the Assumed Liabilities as reduced consideration under the Transactions to reflect any decrease in value arising from the adverse impact to the tax attributes that would be acquired pursuant to the amended structure of the Transaction or as a result of additional costs that may need to be incurred in connection with an asset purchase, including assigning any Mining Rights or applying for and obtaining any replacement Mining Rights (each as defined in the Subscription Agreement).

40. Accordingly, Tacora's trade suppliers and other key vendors could be significantly impaired if the Approval and Reverse Vesting Order is not granted.

41. In this case, the market has been thoroughly canvassed and there was simply no other viable alternative transaction available to the Company. The only going-concern option, which results in Tacora preserving employment for all its approximately 463 employees and providing the opportunity for ongoing business relationships for its suppliers of goods and services, are the Transactions contemplated under the Subscription Agreement, which are to be implemented through a reverse vesting structure.

42. Finally, based on my involvement with the Pre-Filing Strategic Process, the Solicitation Process, and the Sale Process, I believe that:

(a) the process leading to the proposed Transactions, which began with the Pre-Filing Strategic Process, was reasonable in the circumstances;

(b) Tacora's secured creditors were actively involved in the Pre-Filing Strategic Process, the Solicitation Process, and the Sale Process;

(c) the Company's largest stakeholders and secured creditors support the Transactions;

(d) the Monitor was actively involved in the Solicitation Process and the Sale Process and was consulted by Tacora throughout;

(e) the consideration to be received by the Company in respect of the Transactions is reasonable and fair, considering the market value of the Company and the broad canvassing of potentially interested parties during the Pre-Filing Strategic Process, the Solicitation Process, and the Sale Process;

(f) Tacora has now tested the market on three separate occasions with the benefit of experienced advisors. The Transactions, if approved by this Court, will result in a going concern solution for Tacora's business and represent the best possible outcome for Tacora, its creditors, and other stakeholders in the circumstances; and

(g) the Monitor and Tacora's major secured creditor groups, Cargill and certain holders of the Senior Notes and Senior Priority Notes, are supportive of the relief sought on this motion.

C. Releases

43. As set forth in the draft Approval and Reverse Vesting Order, the Applicant is seeking the issuance of the Releases in favour of the Released Parties, being:

(a) Tacora, ResidualCo, and their respective present and former directors, officers, employees, legal counsel and advisors;

(b) the Monitor, its legal counsel, and their respective present and former directors, officers, partners, employees and advisors;

(c) the Notes Trustee and its respective present and former directors, officers, partners, employees and advisors

(d) the Investors and their respective present and former directors, officers, employees, legal counsel and advisors; and

(e) the Other New Equity Investors and their respective present and former directors, officers, employees, legal counsel and advisors.

44. The Releases in favour of the Released Parties are being sought in order to achieve certainty and finality for the Released Parties in the most efficient and appropriate manner given the circumstances.

45. The Released Parties made significant and material contributions in connection with Tacora's efforts to address its financial difficulties, the Pre-Filing Strategic Process, the Solicitation Process, the Sale Process, the CCAA Proceedings, and negotiation of the Subscription Agreement and the contemplated Transactions, which provide for a going concern solution for Tacora's business and represents the best outcome reasonably available to Tacora in the circumstances. The Released Parties will also be critical to implementing the Transactions, if approved.

46. During these CCAA Proceedings, many of the Released Parties were a necessary part of the successful restructuring and continued in their capacity as directors and/or officers, despite the increase in risk and scrutiny due to the insolvency proceedings. The CCAA Proceedings resulted in the Transactions, which represent a going concern outcome where all of Tacora's approximately 463 employees preserve their employment.

47. Recently, the Company became aware of a *Debtors' Motion for Rule 2004 Examination of Tacora Resources, LLC* recently filed in the chapter 11 proceedings of Aequor Mgt, LLC ("**Aequor**"), a shareholder of Tacora (the "**Rule 2004 Examination**"). As set out in the First Broking Affidavit, Tacora Resources, LLC ("**Tacora US**") has no material assets or liabilities. A copy of the Rule 2004 Examination is attached hereto as **"Exhibit "C"**.

48. While the Rule 2004 Examination permits Aequor to investigate all potential claims and causes of action against Tacora US and Cargill, the underlying allegations are with respect to Tacora and Cargill, and its respective directors and officers.

49. Aequor alleges that Tacora and the Scully Mine was grossly mismanaged, that the value of the Scully Mine was plundered by Cargill at the expense of Aequor's investment in Tacora, and various breaches of fiduciary duty. More particular, Aequor alleges that:

(a) Tacora entered into the Offtake Agreement which was priced at significantly less than fair market value;

(b) Cargill, Tacora, and another shareholder of Tacora opposed a potential sale of Aequor's interest in Tacora and rejected a purchase offer for the Scully Mine that would have resulted in tens of millions of dollars in profit to Aequor; and

(c) Cargill diluted Aequor's investment through additional investments made by Cargill in the Company.

50. On July 16, 2024, counsel for the Company sent a letter to counsel for Aequor, a copy of which is attached hereto as **"Exhibit "D"**. Among other things, the letter advised counsel for Aequor of: (a) the CCAA Proceedings and the stay of proceedings against Tacora and its former, current, and future directors and officers; and (b) the claims process underway in the CCAA Proceedings; and (c) that proofs of claim in respect of pre-filing claims against the Company and its directors and officers were required to be completed and received by the Monitor by May 31, 2024 (the "**Claims Bar Date**"). Aequor did not submit a proof of claim against Tacora by the Claims Bar Date.

51. I understand any claims by Aequor are pre-filing claims or "equity claims" under the CCAA. The Subscription Agreement contemplates that all pre-filing claims will be "vested" to ResidualCo on Closing and not be satisfied. I understand that "equity claims" are not permitted to recover any amounts until claims of all creditors are paid in full. The continuation of such claims will represent a significant distraction for the ongoing management of Tacora.

D. Additional DIP Financing is Necessary

52. The cash flow forecast appended to the Ninth Report shows that, subject to Tacora drawing the remaining available funds under the DIP Facility, Tacora is expected to have sufficient liquidity to maintain its operations up to the week ending July 28, 2024.

53. On June 20, 2024, Tacora submitted a DIP advance request for the remaining maximum amount of $10 million available under the DIP Facility, and Tacora is expected to draw an

additional $5 million on or around July 30, 2024, from the DIP Facility from availability converted from the Post-Filing Credit Extensions.

54. Tacora requires additional DIP financing to continue operating in the normal course while it works towards closing the Transactions. On July 12, 2024, Cargill provided Tacora with a DIP proposal which contemplates an incremental $30 million of additional DIP financing, to be funded by Millstreet and OSP on an equal basis. As Cargill is the existing DIP Lender and Millstreet and OSP are the other Investors under the Subscription Agreement, Tacora did not attempt to solicit DIP proposals from any other third parties. Accordingly, Tacora entered into the Third A&R DIP Agreement on July 12, 2024.

55. The Third A&R DIP Agreement provides for a senior secured, superpriority, debtor-in-possession, non-revolving credit facility up to a maximum principal amount of $160 million and Post-Filing Margin Advances in an amount not to exceed $20 million in the aggregate, as such amounts may be adjusted from time to time, provided that the total availability shall not exceed $180 million at any time. A copy of the Third A&R DIP Agreement is attached hereto as **Exhibit "E"**.

56. The terms of the Third A&R DIP Agreement are substantially similar to the Amended DIP Agreement which was approved by the Court on April 26, 2024. The material differences between the two are:

(a) an increase of $35 million to the maximum principal amount which may be drawn under the DIP Facility from $125 million to $160 million;

(b) a decrease of $5 million to the maximum principal amount of Post-Filing Margin Advances from $25 million to $20 million;

(c) an incremental exit fee, in cash, in the amount of $600,000 to be payable in connection with the increase to the maximum amount principal amount which may be drawn under the DIP Facility; and

(d) the Third A&R DIP Agreement requires the Applicant to reimburse Cargill, OSP, Millstreet, and any other party to the Support Agreement, for additional reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred in connection with the CCAA Proceeding from and after June 24, 2024.

57. Attached hereto as **Exhibit "F"** hereto is a redline showing the differences between the Third A&R DIP Agreement and the Amended DIP Agreement.

58. I believe that the Third A&R DIP Agreement will enhance the prospects of a successful restructuring of Tacora, as it provides the necessary stability for the Company's operations while it advances its efforts to close the Transactions. The Third A&R DIP Agreement also continues to provide the benefits associated with the Amended DIP Agreement, which include:

(a) the Stockpile Agreement remains in place providing predicable and consistent cash flow to the Company; and

(b) the Third A&R DIP Agreement provides the Company with the ability to hedge commodity price exposure if desirable.

E. Stay Extension

59. Tacora is seeking an extension of the Stay Period from July 29, 2024, to and including October 7, 2024. The extension of the Stay Period is necessary and appropriate in the circumstances to provide Tacora with sufficient time to close the Transactions.

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

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

(a) continued to operate in the ordinary course of business;

(b) updated and revised its cash flow forecast (the "**Updated Cash Flow Forecast**");

(c) conducted and finalized the Sale Process by accepting the Investors' Bid as the Successful Bid;

(d) finalized definitive transaction documents for the Successful Bid with the Investors;

(e) solicited and negotiated additional DIP financing;

(f) entered into the Third A&R DIP Agreement; and

(g) responded to creditor and stakeholder enquiries regarding these CCAA Proceedings.

62. The Updated Cash Flow Forecast, which is appended to the Eleventh Report, reflects that, subject to the assumptions related thereto, Tacora is expected to maintain liquidity and be able to fund operations until and including October 6, 2024.

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

64. I understand that the Monitor supports the proposed extension of the Stay Period and will be providing further details with respect to the appropriateness of the requested extension of the Stay Period in its Eleventh Report.

F. Approval of the Monitor's Activities and Fees

65. Tacora is seeking approval of the Monitor's activities described in the Monitor's Reports, as well as the fees and disbursements of the Monitor and its counsel in the administration of the CCAA Proceedings. To this end, I understand that the Monitor and its counsel will prepare and file fee affidavits with the Court in advance of the hearing of this motion, copies of which will be attached to the Eleventh Report.

66. The Monitor and its counsel have provided invaluable assistance to the Company in the CCAA Proceedings and were instrumental in achieving the successful Sale Process outcome.

67. I am advised by Ashley Taylor of Stikeman, that the rates and fees charged by the Monitor and its counsel are reasonable and market for insolvency proceedings of similar complexity.

68. Accordingly, the Company supports the approval of the Monitor's activities described in the Monitor's Reports, as well as the fees and disbursements of the Monitor and its counsel.

III. CONCLUSION

69. For the reasons set out above, I believe that it is in the best interests of Tacora and its stakeholders that the Approval and Reverse Vesting Order and the Stay Extension, DIP, and Fees

Approval Order be granted.

70. I swear this affidavit in support of the Applicant's motion seeking approval of the Approval and Reverse Vesting Order and the Stay Extension, DIP, and Fees Approval Order and for no other or improper purpose.

SWORN remotely via videoconference, by Heng Vuong, stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in Province of Ontario, this 21st day of July, 2024, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.	
DocuSigned by: 36124C4218DD47C...	DocuSigned by: F48C91B9799E448...
Commissioner for Taking Affidavits, etc. Philip Yang | LSO #82084O	**HENG VUONG**

EXHIBIT "A"

referred to in the Affidavit of

HENG VUONG

Sworn July 21, 2024

DocuSigned by:

30124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

Execution Version

THE ENTITIES LISTED ON EXHIBIT "A" HERETO

AS THE INVESTORS

- AND -

TACORA RESOURCES INC.

AS THE COMPANY

SUBSCRIPTION AGREEMENT

DATED July 21, 2024

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SUBSCRIPTION AGREEMENT

This Subscription Agreement is executed on July 21, 2024, is made among:

THE ENTITIES LISTED ON EXHIBIT "A" HERETO

(hereinafter, collectively, the "**Investors**" and individually, an "**Investor**")

-and-

TACORA RESOURCES INC., a corporation incorporated under the laws of Ontario

(hereinafter, the "**Company**")

RECITALS:

WHEREAS the Company is a private company, with a registered head office in Toronto, Ontario, and whose business mainly consists of operating an iron ore mine commonly known as the "Scully Mine", located near Wabush, Newfoundland and Labrador, Canada;

WHEREAS the Company commenced proceedings (the "**CCAA Proceedings**") under the Companies' Creditors Arrangement Act (Canada) (the "**CCAA**") and obtained an initial order from the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on October 10, 2023 (which was amended and restated on October 30, 2023);

WHEREAS the Company obtained an order (the "**Sale Process Order**") from the Court on June 5, 2024, authorizing the Company to undertake a sale process (the "**Sale Process**") to solicit offers or proposals for a sale transaction in respect of the Company and authorizing and directing the Company and Greenhill & Co. Canada Ltd. (the "**Tacora Financial Advisor**") to implement the Sale Process pursuant to the terms thereof;

WHEREAS each of the Investors is an existing debtholder of the Company, with the outstanding amounts of obligations owing by the Company to each Investor as forth in Schedule "A";

WHEREAS in connection with the Sale Process, the Investors entered into a support agreement dated June 22, 2024 (as amended from time to time, and including all schedules thereto, the "**Restructuring Support Agreement**"), whereby such Investors have agreed to the principal aspects of a series of transactions involving the restructuring of the Company, as modified by this Agreement, under which it is contemplated that the Investors, among other things, shall acquire all the equity interests of the Company;

WHEREAS the Company has, in consultation with the Tacora Financial Advisor and the Monitor, designated the Qualified Bid (defined in the Sale Process) submitted by the Investors as the Successful Bid (defined in the Sale Process), and the Parties desire to consummate the Transactions on the terms and subject to the conditions contained in this Agreement;

WHEREAS the Investors have agreed to subscribe for and purchase from the Company, the Subscribed Shares, and the Company has agreed to issue the Unsecured Takeback Notes and the New Warrants to the Investors (excluding Cargill) who are also Existing Noteholders, in each case on the terms and conditions set out in this Agreement and in accordance with the Closing Sequence set out herein;

NOW THEREFORE in consideration of the covenants and mutual promises set forth in this Agreement (including the recitals hereof) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement.

"**Action**" means any claim, counterclaim, application, action, suit, cause of action, Order, charge, indictment, prosecution, demand, complaint, grievance, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at Law or in equity and by or before a Governmental Entity.

"**Administration Charge**" has the meaning given to it in the Initial Order.

"**Administrative Expense Costs**" means (i) the reasonable and documented fees and costs of the Monitor and its professional advisors and the professional advisors of ResidualCo in each case for services performed prior to and after the Closing Date, in each case, relating directly or indirectly to the CCAA Proceedings or this Agreement, including without limitation, costs required to wind down and/or dissolve and/or bankrupt ResidualCo and costs and expenses required to administer the Excluded Assets, Excluded Contracts, Excluded Liabilities and ResidualCo; (ii) amounts owing in respect of obligations secured by the CCAA Charges that rank ahead of the DIP Charge and are not paid or assumed on Closing, which shall be paid exclusively from the Administrative Expense Reserve; and (iii) costs related to a premium for a run-off policy on such terms (including, for certainty, the amount of the premium), as agreed to by the Investors and the Company, each acting reasonably.

"**Administrative Expense Reserve**" means such amount to be agreed to by the Investors, the Company and the Monitor on or before July 26, 2024 (or such other date as agreed to by the Investors, the Company and the Monitor), to be paid to the Monitor on the Closing Date out of the New Equity Offering Initial Cash Consideration and held in trust by the Monitor for the benefit of Persons entitled to be paid the Administrative Expense Costs.

"**Affiliate**" means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to "**control**" another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term "**controlled**" shall have a similar meaning.

"**Agreement**" means this subscription agreement and all attachments, Schedules and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time.

"**APF**" means the Amended and Restated Advance Payment Facility dated May 29, 2023, entered into between the Company and Cargill, as amended and/or restated from time to time.

"**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, any transnational, foreign or domestic, federal, provincial, territorial, state, local or municipal (or any subdivision of them) law (including common law and civil law), constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, by-law (zoning or otherwise),

Order (including any securities laws or requirements of stock exchanges and any consent decree or administrative Order) or other requirement having the force of law ("**Law**"), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

"**Approval and Reverse Vesting Order**" means an Order issued by the Court in the form and substance acceptable to the Investors, the Company and the Monitor, each acting reasonably:

(a) approving this Agreement and the Transactions;

(b) vesting out of the Company all Excluded Assets, Excluded Contracts, Excluded Liabilities and all Claims in respect of any Senior Priority Notes, Senior Secured Notes and the APF (other than those satisfied as contemplated pursuant to Section 7.2(c)), and discharging all Encumbrances to Be Discharged;

(c) terminating and cancelling all Existing Equity as well as any agreement, contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock option or share purchase or equivalent plans), or other documents or instruments governing and/or having been created or granted in connection with the share capital of the Company, if any for no consideration (other than the rights of the Investors under this Agreement); and

(d) authorizing and directing the Company to issue:

(i) the Subscribed Shares to the Investors; and

(ii) the Unsecured Takeback Notes and the New Warrants,

in each case, free and clear of any Encumbrances;

(e) authorizing and directing the Company to file the Articles of Reorganization; and

such additional and/or revised terms as may be agreed to by the Investors, the Company and the Monitor, each acting reasonably.

"**Articles of Reorganization**" means articles of reorganization to change the conditions in respect of the Company's authorized and issued share capital immediately prior to completion of the Transactions to provide for a redemption right in favour of the Company or such other provision acceptable to the Company and the Investors, acting reasonably, that would result in holders of Existing Common Shares ceasing to hold their Existing Common Shares at the time such articles are filed and effective in accordance with the Closing Sequence and receiving nil consideration, and, at the Investors discretion, effect a consolidation of the Existing Common Shares and/or New Common Shares at a ratio to be determined by the Investors, which shall be in form and substance satisfactory to the Investors, as confirmed in writing in advance of the filing thereof.

"**Assumed Liabilities**" means only those Liabilities specifically and expressly designated by the Investors as assumed Liabilities in Schedule "B", which includes certain Pre-Filing Trade Amounts, certain royalty obligations, Post-Filing Trade Amounts and Liabilities under Retained Contracts, in each case, as specifically set forth in Schedule "B" as such Schedule may be amended, supplemented or restated by the Investors from time to time up to two Business Days prior to the Closing Date.

"**Authorization**" means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Entity having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person's property or business and affairs (including any zoning approval, mining permit, development permit or building permit) or from any Person in connection with any easements, contractual rights or other matters.

"**Backstop Commitment Fee**" means an amount payable by the Company to the Investors (other than Cargill) and the Other New Equity Investors that are, in each case, Existing Noteholders, in respect of their commitments hereunder and under the Other New Equity Subscription Agreements, equal to $25,000,000 plus the amount equal to the Warrant Cash Consideration payable to the Investors (other than Cargill) and the Other New Equity Investors that are, in each case, Existing Noteholders, to be satisfied in accordance with Section 2.6.

"**Books and Records**" means all books, records, files, papers, books of account and other financial data related to the Retained Assets and Assumed Liabilities in the possession, custody or control of the Company, including Tax Returns, sales and advertising materials, sales and purchase data, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records, and all records, data and information stored electronically, digitally or on computer-related media.

"**Business**" means the business and operations carried on by the Company as at the date of this Agreement and as at the date of Closing.

"**Business Day**" means any day except Saturday, Sunday or any day on which banks are generally not open for business in each of the Province of Ontario, Canada, the State of New York and the Republic of Singapore.

"**Cargill**" means Cargill International Trading Pte. Ltd. and/or Cargill, Incorporated, as the context provides.

"**Cargill Designee**" has the meaning set out in Section 2.8.

"**Cargill Entity**" means any fund or Person associated with, related to or at the discretion or control of Cargill.

"**Cargill Existing Offtake Agreement**" means the offtake agreement between Cargill and the Company dated November 11, 2018, as amended and/or restated from time to time prior to the date hereof.

"**Cargill Margin Facility**" means the margin advances agreement to be entered into between Cargill and the Company effective on the Closing Date substantially on the terms set forth in the Restructuring Support Agreement and otherwise as agreeable to the Investors and the Company, each acting reasonably.

"**Cargill Offtake Agreement**" means the offtake agreement to be entered into between Cargill and the Company effective on the Closing Date substantially on the terms set forth in the Restructuring Support Agreement and otherwise as agreeable to the Investors and the Company, each acting reasonably.

"**Cargill OPA**" means the iron ore onshore purchase agreement to be entered into between Cargill and the Company effective on the Closing Date substantially on the terms set forth in the Restructuring Support Agreement and otherwise as agreeable to the Investors and the Company, each acting reasonably.

"**Cargill Pre-filing Payable**" means the amounts owing by Cargill to the Company under the Cargill Existing Offtake Agreement (approximately $12,500,000) prior to October 10, 2023.

"**Cargill Security Agreements**" means the security agreements to be entered into by the Company and any other grantors of security interests party thereto in favour of Cargill (or a collateral agent on its behalf) on the Closing Date, which will include the terms and conditions as agreed to by Cargill and the Company, each acting reasonably, and which (i) shall secure obligations under (x) the Cargill Offtake Agreement and the Cargill OPA in respect of the payment of the Termination Fee under the Cargill Offtake Agreement (collectively subject to a maximum amount of $25,000,000 plus legal costs); and (y) the Cargill Margin Facility; and (ii) shall not restrict or inhibit the Company from incurring additional senior indebtedness (including the New Secured Priority Notes) and related Encumbrances to fund operations and capital expenditures.

"**Cash Consideration**" means, collectively, the New Equity Offering Cash Consideration, the Takeback Note Cash Consideration and the Warrant Cash Consideration.

"**CCAA**" has the meaning set out in the Recitals.

"**CCAA Charges**" means the Administration Charge, the Directors' Charge, the KERP Charge and the Transaction Fee Charge.

"**CCAA Proceedings**" has the meaning set out in the Recitals.

"**Claims**" means all debts, obligations, expenses, costs, damages, losses, Actions, Liabilities, Encumbrances (other than Permitted Encumbrances), accounts payable, indebtedness, Contracts, leases, agreements, undertakings, claims, rights and entitlements of any kind or nature whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or in equity and whether based in statute or otherwise).

"**Closing**" means the completion of the Transactions in accordance with the Closing Sequence and the other provisions of this Agreement.

"**Closing Date**" means the date on which Closing occurs.

"**Closing Deliverables**" means all contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing in order to effect the Transactions.

"**Closing Sequence**" has the meaning set out in Section 7.2.

"**Closing Time**" means the time on the Closing Date at which Closing occurs, as evidenced by the Monitor's Certificate.

"**Company**" has the meaning set out in the Recitals.

"**Company Released Parties**" has the meaning set out in Section 5.9.

"**Conditions Certificates**" has the meaning set out in Section 8.4.

"**Contracts**" means all contracts, agreements, deeds, licenses, leases, obligations, commitments promises, undertakings, engagements, understandings and arrangements to which the Company is a party to or by which the Company is bound or under which the Company has, or will have at Closing, any right or liability or contingent right or liability (in each case, whether written or oral, express or

implied) relating to the Business, including any Personal Property Leases, any Real Property Leases and any Contracts in respect of Employees.

"**Cost Reimbursement Amount**" has the meaning set out in Section 10.3.

"**Court**" has the meaning set out in the Recitals.

"**Defaulting Investor**" has the meaning set out in Section 9.1(a)(ix).

"**Deposit**" means an amount equal to $16,000,000.

"**DIP Agreement**" means the Second Amended and Restated DIP Facility Term Sheet dated as of April 21, 2024 between the Company and the DIP Lender, as may be further amended, amended and restated, supplemented and otherwise modified from time to time.

"**DIP Charge**" has the meaning given to it in the Initial Order.

"**DIP Credit Bid Consideration**" has the meaning given to it in Section 6.4.

"**DIP Facility**" means the credit facility provided by the DIP Lender to the Company as part of the CCAA Proceedings, as described by the DIP Agreement.

"**DIP Lender**" means Cargill and/or any other lender under the DIP Facility from time to time.

"**DIP Obligations**" means (i) all Advances under the DIP Facility, (ii) all Excess Margin Amounts, (iii) all other principal, interest, fees (including the Exit Fees) due under the DIP Agreement, (iv) the DIP Lender Expenses, and (v) the Cargill Expenses (each as defined in the DIP Agreement).

"**DIP Participation Agreements**" means the DIP Facility Participation Agreements between each of the Initial Noteholder Investors and Cargill dated July 12, 2024 relating to the sale of a portion of the DIP Obligations from Cargill to the applicable Initial Noteholder Investor.

"**Directors' Charge**" has the meaning given to it in the Initial Order.

"**Discharged**" means, in relation to any Encumbrance against any Person or upon any asset, undertaking or property, including all proceeds thereof, the full, final, complete and permanent waiver, release, discharge, cancellation, termination and extinguishment of such Encumbrance against such Person or upon such asset, undertaking or property and all proceeds thereof.

"**Disclosure Letter**" means the confidential disclosure letter dated as of the date of this Agreement and delivered by the Company to the Investors with this Agreement, in form and substance acceptable to the Investors.

"**Eligible Equity Investor**" means (i) any Investor or an Other New Equity Investor that is an Existing Noteholder with New Equity Investor Commitment Amount equal to or greater than $50,000,000; and (ii) Cargill.

"**Employees**" means all individuals who, as of Closing Time, are employed by the Company, whether on a full-time or part-time basis, and whether union or non-union, and including all individuals who are on an approved and unexpired leave of absence and all individuals who have been placed on temporary lay-off which has not expired and "**Employee**" means any one of them.

"**Encumbrances**" means all claims, Liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, liens, security interests, floating charges, mortgages, pledges, assignments, conditional sales, warrants, adverse claims, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights), restrictive covenants, easements, servitudes, rights of way, licenses, leases, encroachments, and all other encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

"**Encumbrances to Be Discharged**" means all Encumbrances on the Retained Assets, including without limitation the Encumbrances listed in Schedule "C", as such Schedule may be amended, supplemented or restated by the Investors from time to time up to two Business Days prior to the hearing of the motion for the Approval and Reverse Vesting Order (or such other date agreed to by the Investors and the Company), the Administration Charge, the Directors' Charge, the KERP Charge, the Transaction Fee Charge, the DIP Charge, and any other charge granted by the Court in the CCAA Proceedings, excluding only the Permitted Encumbrances.

"**Excluded Assets**" means: (i) all rights, covenants, obligations and benefits in favour of ResidualCo under this Agreement that survive Closing; and (ii) those assets listed in Schedule "D", as such Schedule may be amended, supplemented or restated by the Investors from time to time up to two Business Days prior to the Closing Date.

"**Excluded Contracts**" means all Contracts that are not Retained Contracts, including those Contracts listed in Schedule "E", an amended list of which may be delivered by the Investors no later than two Business Days before the Closing Date.

"**Excluded Liabilities**" means all Claims of or against the Company as of immediately prior to the implementation of the transactions contemplated under Section 7.2(b), other than Assumed Liabilities, including, *inter alia*, the non-exhaustive list of those certain Liabilities set forth in Schedule "F" (as such Schedule may be amended, supplemented or restated by the Investors from time to time up to two Business Days prior to the Closing Date), all pre-filing Claims, including without limitation, any amounts owing in respect of Taxes, any and all Claims relating to any change of control provision that may arise in connection with the change of control contemplated by the Transactions and to which the Company may be bound as of immediately prior to the implementation of the transactions contemplated under Section 7.2(b), all Claims relating to or under the Excluded Contracts and Excluded Assets, and Liabilities for Employees whose employment with the Company or its Affiliates is terminated on or before Closing and all Liabilities to or in respect of the Company's Affiliates. Without limiting the foregoing, Excluded Liabilities includes any Claims that are not Assumed Liabilities.

"**Existing Cargill Margin Facility**" means the facility consisting of Margin Advances (as defined in the APF) made available to the Company by Cargill from and after May 29, 2023 under the APF.

"**Existing Common Shares**" the issued and outstanding common shares in the capital of the Company immediately prior to the Transactions.

"**Existing Equity**" means any capital share (including the Existing Common Shares), capital stock, partnership, membership, joint venture, warrant, option or other ownership or equity interest, participation or securities (whether convertible, non-convertible, voting or nonvoting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights).

"**Existing Noteholder**" means a Senior Secured Noteholder and/or a Senior Priority Noteholder.

"**Final Order**" means, in respect of any Court Order, that such Court Order shall not have been vacated, set aside, or stayed, and that the time within which an appeal or request for leave to appeal must be initiated has passed with no appeal or leave to appeal having been initiated.

"**Governmental Entity**" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them, or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

"**Initial Noteholder Investors**" means, collectively, Millstreet Capital Management LLC and its Affiliates and OSP, LLC on behalf of OSP Value Fund III, LP and OSP Value Fund IV, LP and its and their Affiliates.

"**Initial Order**" means the Initial Order granted by the Court on October 10, 2023 in the context of the CCAA Proceedings, as amended and restated on October 30, 2023, and as such Order may be further amended, restated or varied from time to time.

"**Intercreditor Agreement**" means an intercreditor agreement between Cargill, the Company and the trustee under the New Secured Priority Notes Indenture and, if applicable, any collateral agent under the Security Documents, entered into effective on the Closing Date on terms agreeable to the Investors and the Company, each acting reasonably.

"**Interim Period**" means the period from the date of this Agreement until the Closing Time.

"**Investment Canada Act**" means the *Investment Canada Act*, R.S.C., 1985, c. 28.

"**Investor**" and "**Investors**" have the respective meaning set out in the Recitals.

"**Investor Released Parties**" has the meaning set out in Section 5.10.

"**KERP Charge**" has the meaning given to it in the Initial Order.

"**Law**" has the meaning set out in the definition of "**Applicable Law**".

"**Liability**" means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

"**Management Incentive Plan**" means a management incentive plan on terms determined by the board of directors of the Company following the Closing and accepted by the Investors.

"**Material Adverse Effect**" means any change, effect, event, occurrence, state of facts or development that has or could reasonably be expected to have a material adverse effect on (i) the business, assets, liabilities, financial conditions or results of operations of the Company and its Affiliates, collectively, or (ii) prevents the ability of the Company to perform its obligations under, or to consummate the Transactions contemplated by, this Agreement, taken as a whole; in each case except to the extent that any such change, effect, event, occurrence, state of facts or development is attributable to: (a) general economic or business conditions; (b) Canada, the U.S. or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic

conditions (including (i) any disruption in any of the foregoing markets, (ii) any change in the currency exchange rates or (iii) any decline or rise in the price of any security, commodity, contract or index); (c) acts of God or other calamities (including any earthquake, flood, forest fire, or other natural disaster), national or international political or social conditions, including the engagement and/or escalation by the U.S. or Canada in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the U.S. or Canada or any of their territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S. or Canada; (d) conditions affecting generally the industry in which the Company or any of its subsidiaries participates; (e) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the Transactions, or the identity of the Parties, including any termination of, reduction in or similar adverse impact on relationships, contractual or otherwise, with any customers, suppliers, financing sources, licensors, licensees, distributors, partners, employees or others having relationships with the Company or any of its subsidiaries; (f) changes in Applicable Law or the interpretation thereof; (g) any change in applicable accounting standards or other accounting requirements or principles; (h) the failure of the Company to meet or achieve the results set forth in any internal projections (but not the underlying facts giving rise to such failure unless such facts are otherwise excluded pursuant to the clauses contained in this definition); or (i) any change resulting from compliance with the terms of, or any actions taken (or not taken) by any Party pursuant to or in accordance with, this Agreement; provided that the exceptions set forth in clauses (a), (b), (c), (d), (f), (g) or (h) shall not apply to the extent that such event is disproportionately adverse to the Company and its Affiliates, taken as a whole, as compared to other companies in the industries in which the Company and its Affiliates operate.

"**Material Permits, Mineral Tenures, Licenses and Contracts**" means those Permits and Licenses and Contracts listed in Schedule "G".

"**Mineral Tenures**" means the mining claims, leases and other property rights of the Company, all of which are listed in Schedule "H".

"**Minimum New Equity Allocation**" means, in respect of the New Equity Offering, a portion of the New Equity Investor Commitment Amount no less than:

(a) in respect of Millstreet and its Affiliates, $100,000,000; and

(b) in respect of OSP and its Affiliates, $60,000,000.

"**Mining Rights**" means all rights of the Company, whether contractual or otherwise, and whether in the Permits and Licenses, Mineral Tenures or Real Property Leases, appurtenant to the Owned Real Property, or otherwise, for the exploration for or exploitation of mineral resources and reserves together with surface rights, water rights, royalty interests, fee interests, joint venture interests and other leases, rights of way and enurements related to any such rights, and includes all rights vested in the Company under the Permits and Licenses, Mineral Tenures, the Real Property Leases and Owned Real Property.

"**Mining Rights Acknowledgement**" means an acknowledgement satisfactory to the Parties, acting reasonably, with approval as required by the Minister of Industry, Energy and Technology of Newfoundland and Labrador, acknowledging and confirming the Company's right, title and interest in and to the Mining Rights located in the Province of Newfoundland and Labrador and, to the extent the consent or approval of the Minister of Industry, Energy and Technology of Newfoundland and Labrador is required in connection with the Transactions, that the Mining Rights shall be unaffected by the Transactions contemplated by this Agreement.

"**Monitor**" means FTI Consulting Canada Inc. in its capacity as monitor of the Company in the CCAA Proceedings, and shall include, as the context so requires, FTI Consulting Canada Inc., in its capacity as monitor or trustee in bankruptcy of ResidualCo to the extent subsequently appointed as such.

"**Monitor's Certificate**" means the certificate, substantially in the form attached as Schedule "A" to the Approval and Reverse Vesting Order, to be delivered by the Monitor in accordance with Section 8.4, and thereafter filed by the Monitor with the Court.

"**New Common Shares**" means the common equity of the Company issued pursuant to the Transactions.

"**New Equity Investor Aggregate Commitment Amount**" means the maximum aggregate equity commitment by Investors other than Cargill and any Other New Equity Investors in connection with the New Equity Offering, being an aggregate of $200,000,000.

"**New Equity Investor Commitment Amount**" means in respect of the Investors other than Cargill, the amounts set forth on Exhibit "A" hereto, subject to adjustment in accordance with Section 2.4, and in respect of Other New Equity Investors, the amount committed under their respective Other New Equity Subscription Agreement.

"**New Equity Offering**" means the offering of an aggregate of $250,000,000 of New Common Shares by the Company to the Investors and any Other New Equity Investors pursuant to this Agreement and any Other New Equity Subscription Agreements (subject to dilution from any equity issued in connection with the Management Incentive Plan and the New Warrants).

"**New Equity Offering Additional Cash Consideration**" means an amount equal to $250,000,000 less the New Equity Offering Initial Cash Consideration and the New Equity Offering Retained Cash Consideration, subject to adjustment under Section 2.4(b).

"**New Equity Offering Cash Consideration**" means, collectively, the New Equity Offering Initial Cash Consideration, New Equity Offering Retained Cash Consideration and New Equity Offering Additional Cash Consideration.

"**New Equity Offering Initial Cash Consideration**" means an amount equal to (i) the DIP Obligations, (ii) amounts payable on closing under the Existing Cargill Margin Facility; (iii) the Cost Reimbursement Amount to the extent not waived hereunder; (iv) amounts necessary to fund the Administrative Expense Reserve; and (v) all advisors' expenses of the Company and the Monitor (including advisor and legal counsel fees) that are secured by CCAA Charges that rank ahead of the DIP Charge, and advisors' fees and expenses of each Eligible Equity Investors pursuant to the terms of this Agreement, in each case payable on Closing in accordance with the Closing Sequence, which amounts are, for greater certainty, intended to be used for the payments set forth in the Closing Sequence and as set forth in Section 2.3(a).

"**New Equity Offering Retained Cash Consideration**" means an amount equal to $175,000,000 (or if the Investors determine that additional cash is required on Closing, such higher amount as determined by the Investors but not to exceed $250,000,000) less the New Equity Offering Initial Cash Consideration, subject to adjustment under Section 2.4(b), which amount shall become a Retained Asset of the Company.

"**New Secured Priority Notes**" means the secured priority notes in the maximum aggregate principal amount of $100,000,000 issued pursuant to the New Secured Priority Notes Indenture and up to an additional $25,000,000 to be issued, if applicable, upon conversion of the Unsecured Takeback Notes in accordance with the terms of such Unsecured Takeback Notes.

"**New Secured Priority Notes Indenture**" means the indenture governing the New Secured Priority Notes, which shall include the terms and conditions as set forth in the Restructuring Support Agreement, and such other terms and conditions as agreed to by the Investors and the Company, each acting reasonably.

"**New Secured Priority Notes Offering**" means the offering of up to $100,000,000, in aggregate principal amount of New Secured Priority Notes by the Company.

"**New Secured Priority Notes Offering Subscription Agreement**" means a subscription agreement (or agreements) to be entered into by the Company and those Persons subscribing for New Secured Priority Notes in accordance with the New Secured Priority Notes Offering on terms and conditions acceptable to the Investors and the Company.

"**New Secured Priority Notes Security Agreements**" means the security agreements to be entered into by the Company and any other grantors of security interests party thereto in favour of a collateral agent on behalf of holders of the New Secured Priority Notes (and any other secured parties, if applicable) on the Closing Date, which will include the terms and conditions as agreed to by the Investors and the Company, each acting reasonably.

"**New Securities**" means the Subscribed Shares, New Warrants and Unsecured Takeback Notes.

"**New Warrants**" means the warrants to be issued to the Investors (other than Cargill) and Other New Equity Investors who are Existing Noteholders, as applicable, on Closing, pursuant to the terms hereof and the Approval and Reverse Vesting Order and pursuant to the New Warrant Certificates.

"**New Warrants Certificates**" means the certificates representing and governing the New Warrants, which will include the terms and conditions as set forth in the Restructuring Support Agreement, and such other terms and conditions as agreed to by the Investors and the Company, each acting reasonably.

"**Order**" means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Entity.

"**Organizational Documents**" means any trust document, charter, certificate or articles of incorporation or amalgamation, articles of amendment, articles of association, articles of organization, articles of continuance, bylaws, as amended, partnership agreement or similar formation or governing documents of a Person (excluding individuals).

"**Other New Equity Investors**" means any Person, other than an Investor or any Cargill Designee, that enters into an Other New Equity Subscription Agreement and that is, in accordance with the terms of the Restructuring Support Agreement, acceptable to the Investors.

"**Other New Equity Subscription Agreement**" means a subscription agreement (or agreements) to be entered into by the Other New Equity Investors and the Company on terms and conditions acceptable to the Investors and the Company.

"**Outside Date**" means October 10, 2024, or such other date as the Company (with the consent of the Monitor) and the Investors may agree to in writing.

"**Owned Real Property**" means all real property owned by the Company, a complete list of which is set forth in Schedule "I".

"**Party**" means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and "**Parties**" means more than one of them.

"**Permits and Licenses**" means the permits, licenses, Authorizations, approvals or other evidence of authority Related to the Business or issued to, granted to, conferred upon, or otherwise created for, the Company, or other evidence of authority issued to, granted to, conferred upon, or otherwise created for, the Company which relate to the ownership, maintenance, operation or reclamation of the Scully Mine, including, without limitation, as listed in Schedule "J".

"**Permitted Encumbrances**" means the Encumbrances related to the Retained Assets listed in Schedule "K", an amended list of which may be agreed to by the Investors, the Company and Monitor prior to the granting of the Approval and Reverse Vesting Order.

"**Person**" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Entity, and the executors, administrators or other legal representatives of an individual in such capacity.

"**Personal Property**" means any and all vehicles, equipment, parts, inventory of spare parts, parts and supplies, mine facilities (including maintenance shops, load out bins, crushers, mills, spirals, hydro-sizers, dryers, separation units), furniture and any other tangible personal property in which the Company has a beneficial right, title or interest (including those in possession of suppliers, customers and other third parties).

"**Personal Property Lease**" means a lease, equipment lease, financing lease, conditional sales contract and other similar agreement relating to Personal Property to which the Company is a party or under which it has rights to use Personal Property.

"**Post-Filing Trade Amounts**" means any accrued and unpaid amounts owing by the Company to third parties for leased or financed equipment and for goods and services provided to the Company by third parties Related to the Business relating to the period from and including October 10, 2023, that are unpaid as of the Closing (but excluding, for the avoidance of doubt, any amounts secured by any of the CCAA Charges or any Liabilities owing by the Company in respect of the DIP Facility (including the DIP Obligations), the Existing Cargill Margin Facility, the APF, the Senior Priority Notes and the Senior Secured Notes).

"**Pre-Closing Reorganization**" has the meaning set out in Section 5.11(a).

"**Pre-Filing Trade Amounts"** means the amounts identified on Schedule "L" as Pre-Filing Trade Amounts, as such Schedule may be amended, supplemented or restated by the Investors from time to time up to two Business Days prior to the Closing Date, provided that the aggregate amount of the Pre-Filing Trade Amounts shall not exceed a maximum amount to be agreed by the Investors, in consultation with the Company and the Monitor.

"**Rail Agreement**" means the Confidential Transportation Contract dated 3 November 2017 entered into between Quebec North Shore and Labrador Railway Company Inc. as carrier and Tacora Resources Inc. as shipper as amended, amended and restated, supplemented and modified from time to time.

"**Real Property Leases**" means all leases, subleases, licenses and other occupancy Contracts with respect to all real or immovable property (including subsurface mineral rights), and all plants, buildings, structures, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) thereon, forming part thereof or benefiting such real or immovable property Related to the Business, including those set out under "Real Property Leases" in Schedule "H".

"**Related to the Business**" means primarily (i) used in; (ii) arising from; or (iii) otherwise related to, the Business or any part thereof.

"**Released Claims**" means all Claims and Orders, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including "claims" as defined in the CCAA and including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

"**Representative**" when used with respect to a Person means each director, officer, employee, consultant, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

"**ResidualCo**" means a corporation to be incorporated by the Company in advance of Closing, to which the Excluded Assets, Excluded Contracts, Excluded Liabilities, Senior Priority Notes and Senior Secured Notes will be transferred to as part of the Closing Sequence, which shall have no issued and outstanding shares.

"**Restructuring Support Agreement**" has the meaning set out in the Recitals.

"**Retained Assets**" has the meaning set out in Section 3.1(d).

"**Retained Contracts**" means those Contracts listed in Schedule "M", as such Schedule may be amended, supplemented or restated by the Investors from time to time prior to the Closing.

"**RVO Outside Date**" has the meaning set out in Section 6.1(c).

"**Sale Process**" has the meaning set out in the Recitals.

"**Sale Process Order**" has the meaning set out in the Recitals.

"**Scully Mine**" has the meaning set out in the Recitals.

"**Second Tranche New Equity Payment**" has the meaning set out in Section 2.5(a).

"**Security Agreements**" means the Cargill Security Agreements and the New Secured Priority Notes Security Agreements, as applicable, it being understood and agreed that the Investors may, at their option, agree to shared security documentation in favour of a collateral agent to be held on behalf of Cargill, holders of the New Secured Priority Notes and any other secured parties from time to time, which will include the terms and conditions as agreed to by the Investors and the Company, each acting reasonably and which shall be subject to the Intercreditor Agreement.

"**Senior Priority Noteholders**" means the holders of the Senior Priority Notes.

"**Senior Priority Notes**" means the 9.00% Cash / 4.00% notes due 2023 issued by the Company pursuant to the Senior Priority Notes Indenture.

"**Senior Priority Notes Indenture**" means the second supplemental indenture dated May 11, 2023 between the Company and Trustee, as amended and/or restated from time to time.

"**Senior Secured Noteholders**" means the holders of the Senior Secured Notes.

"**Senior Secured Notes**" means the 8.250% notes due 2023 issued by the Company pursuant to the Senior Secured Notes Indenture.

"**Senior Secured Notes Indenture**" means the first supplemental indenture dated May 11, 2023 between the Company and the Trustee, as amended and/or restated from time to time.

"**Stay Period**" has the meaning given to it in the Initial Order.

"**Subscribed Shares**" means the New Common Shares, to be issued by the Company to the Investors, in accordance with the terms of this Agreement.

"**Tacora Financial Advisor**" has the meaning set out in the Recitals.

"**Takeback Note Cash Consideration**" means the cash consideration of $25,000,000 payable by the Investors (excluding Cargill) and Other New Equity Investors that are, in each case, also Existing Noteholders in consideration for the Unsecured Takeback Notes issued in accordance with Section 2.6(a).

"**Target Closing Date**" means August 30, 2024, or such other date as the Company (with the consent of the Monitor) and the Investors may agree to in writing.

"**Tax Act**" means the *Income Tax Act* (Canada).

"**Tax Returns**" means all returns, reports, declarations, designations, forms, elections, notices, filings, information returns, and statements in respect of Taxes that are filed or required to be filed with any applicable Governmental Entity, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

"**Taxes**" or "**Tax**" means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, global minimum taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, property transfer taxes, capital taxes, net worth taxes, production taxes, sales taxes, goods and services taxes, harmonized sales taxes, use taxes, license taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, governmental pension plan premiums and contributions, social security premiums, workers' compensation premiums, employment/unemployment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add on minimum taxes, customs duties, import and export taxes, countervailing and anti-dumping duties or other taxes of any kind whatsoever imposed or charged by any Governmental Entity and any instalments in respect thereof including amounts or refunds owing in respect of any form of COVID-19 economic support, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties and any liability for the payment of any amounts of the type described in this paragraph as a result any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person, whether disputed or not.

"**Total Transaction Value**" shall be the aggregate value to the Company of all of the Transactions, as set forth in Section 2.2.

"**Transaction Fee Charge**" has the meaning given to it in the Initial Order.

"**Transaction Regulatory Approvals**" has the meaning given to it in Section 5.7.

"**Transactions**" means all of the transactions contemplated by this Agreement and the Restructuring Support Agreement, including:

(a) the New Equity Offering;

(b) the New Secured Priority Notes Offering (as applicable);

(c) repayment of the DIP Obligations, the Existing Cargill Margin Facility and amounts owing under the APF (subject to set-off in accordance with the Closing Sequence);

(d) the cancellation of all Existing Equity;

(e) the assignment by the Company to ResidualCo of the Excluded Assets, Excluded Contracts and Excluded Liabilities and the Claims in respect of the Senior Priority Notes and the Senior Secured Notes and the APF (to the extent not otherwise satisfied as contemplated under Section 7.2(c));

(f) the issuances of any Unsecured Takeback Notes and the New Warrants;

(g) the entering into of the Unanimous Shareholder Agreement, each on and subject to the terms set forth herein, in the Approval and Reverse Vesting Order and Articles of Reorganization; and

(h) the entering into by the Company and Cargill Offtake Agreement and the Cargill OPA.

"**Trustee**" means Computershare Trust Company, N.A., in its capacity as trustee under the Senior Secured Notes and Senior Priority Notes.

"**Unanimous Shareholder Agreement**" means the unanimous shareholder agreement to be entered into, or deemed to be entered into, by the Company, the Investors and any holders of New Common Shares at the Closing Time. The Unanimous Shareholder Agreement shall be on terms and conditions as agreed to by the Investors, each acting reasonably.

"**Unsecured Takeback Notes**" means the unsecured notes in the principal amount of up to $25,000,000 that may be issued to the Investors (excluding Cargill) and Other New Equity Investors that are, in each case, also Existing Noteholders on Closing, pursuant to the terms hereof and the Approval and Reverse Vesting Order. The Unsecured Takeback Notes shall be on substantially the same terms and conditions as set forth in the Restructuring Support Agreement, and such other terms and conditions as agreed to by the Investors and the Company, each acting reasonably.

"**Warrant Cash Consideration**" means the cash consideration, in an amount equal to the fair market value of the New Warrants determined by the Investors, acting reasonably, payable by Investors (excluding Cargill) and Other New Equity Investors that are, in each case, also Existing Noteholders in consideration for the New Warrants issued in accordance with Section 2.6(b).

1.2 Actions on Non-Business Days

If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

1.3 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement, all dollar amounts referred to in this Agreement are stated in the lawful currency of the United States.

1.4 Calculation of Time

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Eastern time on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Eastern time on the next succeeding Business Day.

1.5 Additional Rules of Interpretation

(a) *Consents, Agreements, Approval, Confirmations and Notice to be Written.* Any consent, agreement, approval or confirmations from, or notice to, any party permitted or required by this Agreement shall be written consent, agreement, approval, confirmation, or notice, and email shall be sufficient.

(b) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.

(c) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.

(d) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, and Schedules to this Agreement.

(e) *Words of Inclusion.* Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.

(f) *References to this Agreement.* The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.

(g) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(h) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time

in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules attached thereto.

1.6 Exhibits and Schedules

(a) The following are the Exhibits and Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof, in each case, as such Exhibits and Schedules may be amended pursuant hereto:

SCHEDULES

Exhibit "A"	Investor Entities and Allocations
Exhibit "B"	New Equity Offering Additional Cash Consideration
Exhibit "C"	Additional New Equity Investor Consideration
Schedule "A"	Debt Obligations Owing to Investors
Schedule "B"	Assumed Liabilities
Schedule "C"	Encumbrances to Be Discharged
Schedule "D"	Excluded Assets
Schedule "E"	Excluded Contracts
Schedule "F"	Excluded Liabilities
Schedule "G"	Material Permits, Licenses and Contracts
Schedule "H"	Mineral Tenures
Schedule "I"	Owned Real Property
Schedule "J"	Permits and Licenses
Schedule "K"	Permitted Encumbrances
Schedule "L"	Pre-Filing Trade Amounts
Schedule "M"	Retained Contracts

(b) Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement apply to the Exhibits and Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

(c) The Disclosure Letter itself is confidential information and may not be disclosed unless: (i) it is required to be disclosed pursuant to Applicable Law, unless such Applicable Law permits the Parties to refrain from disclosing the information for confidentiality or other purposes; or (ii) a Party needs to disclose it in order to enforce or exercise its rights under this Agreement and, in that case, only to Persons to which such information must be disclosed in connection therewith.

ARTICLE 2
SUBSCRIPTION FOR SUBSCRIBED SHARES; ASSUMPTION OF LIABILITIES

2.1 Deposit

The Investors paid to the Monitor on or about July 12, 2024 in accordance with the Sale Process, by wire transfer of immediately available funds, their allocation of the Deposit as set forth on Exhibit "A" hereto. The Deposit shall be held in escrow by the Monitor in an interest-bearing account and applied in accordance with this Agreement. On or before the third Business Day prior to the Closing Date, the Monitor shall provide the Investors with the amount of interest that will be accrued on the Deposit as of the Closing Date. Any interest accrued on the Deposit shall be held in escrow by the Monitor on behalf of and for the benefit of the Investors.

2.2 Total Transaction Value

The Total Transaction Value in respect of the Subscribed Shares shall be an amount equal to the aggregate of the following:

(a) Cash Consideration: The New Equity Offering Initial Cash Consideration and New Equity Offering Retained Cash Consideration, which shall be paid and satisfied in consideration for the Subscribed Shares in accordance with Section 2.3; and

(b) Assumption of Assumed Liabilities: An amount equivalent to the Assumed Liabilities which the Investors shall cause the Company to retain, on the Closing Date and in accordance with the Closing Sequence.

2.3 Cash Subscription Amounts

The Investors shall, severally and not jointly nor jointly and severally, cause the New Equity Offering Initial Cash Consideration and the New Equity Offering Retained Cash Consideration to be paid as follows:

(a) On the Closing Date, the New Equity Offering Initial Cash Consideration shall, in exchange for a number of Subscribed Shares that is equal to the dollar amount of New Equity Offering Initial Cash Consideration (or for such other number of Subscribed Shares based on a dollar amount per Subscribed Share to be agreed to among the Investors), be paid and satisfied by each Investor as follows: (i) by the release of its portion of the Deposit (together with any accrued interest thereon); and (ii) by wire transfer from each Investor (such obligation will be several for each Investor on their own behalf and not jointly nor jointly and severally) in immediately available funds to an account designated by the Monitor by no later than the Business Day prior to the Closing Date in the amount of its remaining New Equity Offering Initial Cash Consideration as set forth in Exhibit "A" hereto. The Monitor will be directed to pay on behalf of the Company all (i) amounts owing to the Monitor and its legal counsel; (ii) DIP Obligations; (iii) amounts owing pursuant to the Existing Cargill Margin Facility and (iv) the Company's applicable advisors' expenses, including financial advisor and legal counsel fees, solely to the extent that such expenses are subject to CCAA Charges that rank ahead of the DIP Charge, and expenses of the Investors, including the Investors' financial advisor and legal counsel fees, from the New Equity Offering Initial Cash Consideration and any other exit costs and charges as directed by the Investors, all in accordance with the Closing Sequence and the Approval and Reverse Vesting Order. The payment to Cargill of the amounts owing under the Existing Cargill Margin Facility are being made in consideration for Cargill entering into this Agreement and

its agreements, compromises and obligations hereunder. The Investors may, in the alternative, determine that a payment in the same amount shall be made to Cargill not specifically in repayment of the Existing Cargill Margin Facility but otherwise as a payment to Cargill in connection with the Transactions and this Agreement.

(b) The New Equity Offering Retained Cash Consideration shall, in exchange for a number of Subscribed Shares that is equal to the dollar amount of New Equity Offering Retained Cash Consideration (or for such other number of Subscribed Shares based on a dollar amount per Subscribed Share to be agreed to among the Investors), be paid and satisfied by each Investor by wire transfer from each Investor (such obligation will be several for each Investor on their own behalf and not jointly nor jointly and severally) in immediately available funds to an account designated by the Monitor by no later than the Business Day prior to the Closing Date in the amount of its New Equity Offering Retained Cash Consideration as set forth in Exhibit "A" hereto, subject to adjustment under Section 2.4(b). The New Equity Offering Retained Cash Consideration shall be retained by the Company as a Retained Asset and will not form part of the Excluded Assets.

Upon payment and satisfaction of the New Equity Offering Initial Cash Consideration and the New Equity Offering Retained Cash Consideration in accordance with this Section 2.3, the Subscribed Shares shall be issued to the Investors in accordance with their allocations set forth on Exhibit "A". The actions to take place as contemplated by this Section 2.3 are interdependent and are deemed to take place as nearly as possible, simultaneously.

2.4 Other New Equity Investors

(a) From the date hereof until the date that is five Business Days prior to the anticipated Closing Date, Other New Equity Investors who are acceptable to the Initial Noteholder Investors and Cargill may enter into Other New Equity Investor Subscription Agreements and subscribe for New Common Shares in accordance with the terms and conditions of the Other New Equity Investor Subscription Agreements.

(b) In the event that any Other New Equity Investors subscribe for New Common Shares in accordance with Section 2.4(a) and fund the amounts under their Other New Equity Investor Subscription Agreements by the second Business Day prior to Closing, the Subscribed Shares, the New Equity Offering Initial Cash Consideration, the New Equity Offering Retained Cash Consideration and the New Equity Offering Additional Cash Consideration attributable to each Initial Noteholder Investor shall be reduced *pro rata* (based on the Initial Noteholder Investors' New Equity Investor Commitment Amounts in respect of the Subscribed Shares, New Equity Offering Initial Cash Consideration, New Equity Offering Retained Cash Consideration and New Equity Offering Additional Cash Consideration) by the amount of such Other New Equity Investor's subscription for New Common Shares; provided that, the New Equity Offering Initial Cash Consideration, New Equity Offering Retained Cash Consideration and the New Equity Offering Additional Cash Consideration shall not, in the aggregate, be adjusted pursuant to this Section 2.4(b) below the Minimum New Equity Allocation for each Initial Noteholder Investor.

2.5 New Equity Offering Additional Cash Consideration

(a) Following Closing an amount of the aggregate New Equity Offering Additional Cash Consideration shall, in exchange for a number of additional Subscribed Shares to be issued at such time that is equal to the dollar amount of New Equity Offering Additional

Cash Consideration (or for such other number of Subscribed Shares based on a dollar amount per Subscribed Share to be agreed to among the Investors), be paid by each Investor from time to time in the amount set forth in Exhibit "B" hereto and on the dates set forth in the Unanimous Shareholder Agreement (each such payment, a "**Second Tranche New Equity Payment**"); provided that the amounts of all such Second Tranche New Equity Payments do not exceed the aggregate amount of each Investor's New Equity Offering Additional Cash Consideration as set forth in Exhibit "A" hereto as adjusted in accordance with Section 2.4(b).

(b) Each Second Tranche New Equity Payment, representing a portion of the aggregate New Equity Offering Additional Cash Consideration, shall, in exchange for additional Subscribed Shares to be issued upon receipt of such Second Tranche New Equity Payment, be paid and satisfied by wire transfer from each Investor (such obligation will be several for each Investor on their own behalf and not jointly nor jointly and severally) in immediately available funds to an account designated by the Company on the date set forth for such payment in the Unanimous Shareholder Agreement in the amount equal to such Second Tranche New Equity Payment. The right of the Company to receive the New Equity Offering Additional Cash Consideration, and the Second Tranche New Equity Payments, will be retained by the Company as Retained Assets and shall survive Closing.

Upon payment and satisfaction of the New Equity Offering Additional Cash Consideration, in the form of Second Tranche New Equity Payments, in accordance with this Section 2.5, the additional Subscribed Shares shall be issued to the Investors in accordance with their allocations set forth on Exhibit "B".

2.6 Unsecured Takeback Notes; New Warrants

(a) On the Closing Date, in consideration for the Takeback Note Cash Consideration, the Company shall issue to the Investors (excluding Cargill) and the Other New Equity Investors that are, in each case, also Existing Noteholders, the Unsecured Takeback Notes, in the following allocations:

(i) to the Initial Noteholder Investors, $5,000,000 in principal amount of the Unsecured Takeback Notes in the allocations set forth in Exhibit "C" hereto; and

(ii) to the Initial Noteholder Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, $20,000,000 in principal amount of the Unsecured Takeback Notes in accordance with such Initial Noteholder Investors and Other New Equity Investors' *pro rata* share of their New Equity Investor Commitment Amount in an amount not to exceed the New Equity Investor Aggregate Commitment Amount.

(b) On the Closing Date, in consideration for the Warrant Cash Consideration, the Company shall issue to the Investors (excluding Cargill) and the Other New Equity Investors that are, in each case, also Existing Noteholders, the New Warrants, in the following allocations:

(i) to the Initial Noteholder Investors, 40% of such New Warrants in the allocation set forth in Exhibit "C" hereto; and

(ii) to the Initial Noteholders Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, the remaining 60% of such New Warrants in accordance with such Initial Noteholder Investors and Other New Equity Investors' *pro rata* share of their New Equity Investor Commitment Amount in an amount not to exceed the New Equity Investor Aggregate Commitment Amount.

(c) The obligation of each Investor (excluding Cargill) and Other New Equity Investors that are, in each case, also Existing Noteholders to pay their respective Takeback Note Cash Consideration and the Warrant Cash Consideration in consideration for the issuance of the applicable Unsecured Takeback Notes and New Warrants, respectively, in accordance with Section 2.6(a) and Section 2.6(b), shall, in accordance with the Closing Sequence, be set-off and satisfied in full against the Company's obligation to satisfy such amounts of the Backstop Commitment Fee to such Investors (the "**Set-off**").

(d) The Investors (excluding Cargill) and Other New Equity Investors that are, in each case, also Existing Noteholders may elect among such Investors and Other New Equity Investors to share as between them a combination of Unsecured Takeback Note and New Warrants, such that the allocations as set forth in Section 2.6(a)(ii) and 2.6(b)(ii), as applicable, may be individually (as between Unsecured Takeback Notes and New Warrants) greater than their *pro rata* share of the New Equity Investor Commitment Amount bears to the New Equity Investor Aggregate Commitment Amount (excluding Cargill's New Equity Investor Commitment Amount), provided that, no such Investor or Other New Equity Investor may elect to hold greater than their *pro rata* share of the New Equity Investor Aggregate Commitment Amount in both Unsecured Takeback Notes and New Warrants combined.

(e) Any amount paid or credited by the Company under this Section 2.6 shall be made free and clear of and without deduction or withholding for any amounts under the *Income Tax Act* (Canada) or any other provision of Applicable Law except as required by Applicable Law. If the Company is required under Applicable Law to deduct or withhold any such amount under this Section 2.6, then (i) the sum shall be increased as necessary so that, after making all required deductions or withholdings (including deductions or withholdings applicable to additional sums payable under this Section 2.6(e)), the recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made, (ii) the Company shall make such required deduction or withholding, and (iii) the Company shall pay to the relevant Governmental Entity the full amount deducted or withheld in accordance with, and within the time limits prescribed by, Applicable Law. Each of the Company and the recipient shall use commercially reasonable efforts to cooperate with each other in accordance with Applicable Law to minimize Tax withholding in respect of a payment under this Section 2.6 including the recipient providing, at the request of the Company, tax forms (including Canada Revenue Agency forms in the NR series) that may be reasonably necessary in order for the Company to withhold Tax at a reduced rate under Applicable Law because of a tax treaty.

2.7 Administrative Expense Reserve

On the Closing Date, the Monitor shall be directed by the Company to retain a portion of the New Equity Offering Initial Cash Consideration equal to the Administrative Expense Reserve, which the Monitor shall hold in trust for the benefit of Persons entitled to be paid the Administrative Expense Costs, and which amounts are received by ResidualCo in consideration of the assumption by

ResidualCo of the Excluded Liabilities. Any unused portion of the Administrative Expense Reserve after payment or reservation for all Administrative Expense Costs, as determined by the Monitor, shall be transferred by the Monitor to the Company.

2.8 Cargill Designee

Notwithstanding any other provision of this Agreement, Cargill (a) shall have the right to designate one or more of the Cargill Entities (each, a "**Cargill Designee**") to perform all or any part of the obligations of Cargill under this Agreement (including paying the New Equity Offering Cash Consideration agreed to be paid, and subscribing for the Subscribed Shares agreed to be subscribed for, by Cargill hereunder), and (b) shall cause such Cargill Designee to perform such obligations in accordance with the terms of this Agreement. All references to Cargill in this Agreement shall include such Cargill Designee (as applicable).

ARTICLE 3
TRANSFER OF EXCLUDED ASSETS, EXCLUDED CONTRACTS AND EXCLUDED LIABILITIES

3.1 Transfer of Excluded Assets, Excluded Contracts, Excluded Liabilities, Senior Priority Notes and Senior Secured Notes to ResidualCo

(a) On the Closing Date, in accordance with the Closing Sequence and pursuant to the Approval and Reverse Vesting Order, the Excluded Assets, the Excluded Contracts and Excluded Liabilities shall be transferred to and assumed by ResidualCo, and the same shall be vested in ResidualCo pursuant to the Approval and Reverse Vesting Order. For greater certainty, as consideration for the transfer of the Excluded Assets and the Administrative Expense Reserve and Excluded Contracts, ResidualCo shall assume an amount of the Excluded Liabilities equal to the fair market value of the Excluded Assets and the Administrative Expense Reserve, and any additional Excluded Liabilities that are assumed by ResidualCo shall be assumed for no consideration.

(b) On the Closing Date and in accordance with the Closing Sequence and pursuant to the Approval and Reverse Vesting Order, any Claims in respect of any Senior Priority Notes and Senior Secured Notes and any Claims remaining under the APF that are not otherwise satisfied as contemplated under Section 7.2(c), shall be transferred and assumed by ResidualCo, for no consideration, and the same shall be vested in ResidualCo pursuant to the Approval and Reverse Vesting Order, which transfer shall constitute a novation of the Senior Priority Notes and Senior Secured Notes to ResidualCo.

(c) Notwithstanding any other provision of this Agreement, neither the Investors nor the Company shall assume or have any Liability for any of the Senior Priority Notes, Senior Secured Notes, any Claims remaining under the APF that are not otherwise satisfied as contemplated under Section 7.2(c), Excluded Liabilities or any Liability related to the Excluded Contracts and the Company and its assets, undertaking, business and properties shall be fully and finally Discharged from all Senior Priority Notes, Senior Secured Notes, and any Claims remaining under the APF that are not otherwise satisfied as contemplated under Section 7.2(c), Excluded Liabilities and any Liabilities related to the Excluded Contracts as at and from and after the Closing Time, pursuant to the Approval and Reverse Vesting Order. For greater certainty, the Company shall be solely liable for all Tax liabilities (including any transfer Taxes), if any, arising in connection with or as a result of the transfer of the Excluded Liabilities to ResidualCo and the assumption of the Excluded Liabilities by ResidualCo.

(d) On the Closing Date, the Company shall retain, free and clear of any and all Encumbrances other than Permitted Encumbrances, all of the assets owned by it on the date of this Agreement and any assets acquired by it up to and including Closing, including the Mining Rights, Mineral Tenures, Owned Real Property, Retained Contracts, Permits and Licenses and Books and Records (the "**Retained Assets**"), except, however, any assets sold in the ordinary course of business during the Interim Period in accordance with the terms of this Agreement. For greater certainty, the Retained Assets shall not include the Excluded Liabilities, Excluded Assets or the Excluded Contracts, which the Company shall transfer to ResidualCo in accordance with Section 3.1(a) or the Claims in respect of the Senior Priority Notes or Senior Secured Notes, which the Company shall transfer to ResidualCo in accordance with Section 3.1(b). For greater certainty, the Company shall be solely liable for all Tax liabilities (including any transfer Taxes), if any, arising in connection with or as a result of the transfer of the Excluded Assets, Excluded Liabilities, Excluded Contracts, Senior Priority Notes and Senior Secured Notes to ResidualCo.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties as to the Company

Subject to the issuance of the Approval and Reverse Vesting Order, the Company represents and warrants to the Investors on the date hereof and at Closing as follows and acknowledges and agrees that the Investors are relying upon such representations and warranties in connection with the Transactions:

(a) Incorporation and Status. The Company is a corporation continued, validly existing and in good standing under the laws of the Province of Ontario and has all necessary corporate power, authority and capacity to enter into, deliver and perform its obligations under this Agreement.

(b) Corporate Authorization. The execution, delivery and performance by the Company of this Agreement and the consummation of the Transactions has been authorized by all necessary corporate action on the part of the Company.

(c) No Conflict. Subject to receipt of applicable Transaction Regulatory Approvals, the execution, delivery and performance by the Company of this Agreement does not or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Company or Applicable Law.

(d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms subject only to the Approval and Reverse Vesting Order.

(e) Proceedings. As of the date hereof, other than as disclosed in Schedule 4.1(e) of the Disclosure Letter, there are no Actions pending against the Company with respect to, or in any manner affecting, title to the Retained Assets, the operation of the Business or which would reasonably be expected to enjoin, delay, restrict or prohibit the Closing of the Transactions, as contemplated by this Agreement, or which would reasonably

be expected to delay, restrict or prevent or the Company from fulfilling any of its obligations set forth in this Agreement.

(f) Ownership of Retained Assets. Subject to the Court issuing the Approval and Reverse Vesting Order, the Company will be the sole holder of record of, and will be the sole registered and beneficial owner of, and have good and valid title to its interests in the Retained Assets free and clear of all Encumbrances other than Permitted Encumbrances. The Retained Assets are sufficient to operate the Business as it is currently conducted. All of the mining claims comprising Mining Rights have been properly located and recorded in compliance with Applicable Law in all material respects and are comprised of valid and subsisting mineral claims. Except as set out in the Schedule 4.1(f), no Person other than the Company has any material interest in the Mining Rights or the production or profits therefrom or any royalty or streaming or similar interest in respect thereof or any right to acquire any such interest from the Company.

(g) Material Permits, Mineral Tenures, Licenses and Contracts. The Material Permits, Mineral Tenures, Licenses and Contracts are in full force and effect. The Company is not in default or breach of any Material Permit, Mineral Tenure, License or Contract that would reasonably be expected to create a Material Adverse Effect, other than defaults arising from: (i) the non-payment of liabilities relating to the period prior to the commencement of the CCAA Proceedings; and (ii) the Company's commencement of the CCAA Proceedings.

(h) Compliance with Laws. Except as would not, individually or in the aggregate, have a Material Adverse Effect as of the date hereof, the Company is in compliance with all Applicable Law. To the Company's knowledge upon due inquiry, no facts, circumstances or conditions exist that would reasonably be expected to prevent the expansion of the Tailings Impoundment Area at the Scully Mine as described in the Environmental Assessment Registration for Scully Mine Tailings Impoundment Area Expansion Project, July 9, 2021.

(i) Employee Matters. Except as would not, individually or in the aggregate, have a Material Adverse Effect as of the date hereof,

(i) the Company is and has been operated in all material respects in compliance with all applicable legislation relating to employees, including but not limited to employment standards, labour relations, wages and hours of work, human rights, occupational health and safety and workers' compensation;

(ii) other than as disclosed in Schedule 4.1(i) of the Disclosure Letter, there is no proceeding, action, suit or claim pending or threatened involving any employee of the Company;

(iii) there are no existing or, to the Company's knowledge, threatened strikes, labour disputes, work slow-downs or stoppages, grievances, controversies or other labour relations difficulties affecting the Company, and no such event has occurred within the last five (5) years; and

(iv) all amounts due and payable by the Company to its former or current employees, consultants and contractors have been paid in full and all amounts accruing due to same have been reflected in the financial records of the Company.

Additionally, the Company has provided the Investors with copies of all employment Contracts that have change of control provisions and all amendments thereto.

4.2 Representations and Warranties as to the Investors

Each Investor severally, on its own behalf only, and not jointly or jointly and severally, represents and warrants to and in favour of the Company as follows and acknowledges and agrees that the Company is relying upon such representations and warranties in connection with the Transactions.

(a) Incorporation and Status. Each Investor is duly incorporated, organized or formed (as applicable), validly existing and in good standing under the Laws of the jurisdiction of its incorporation, organization or formation and has full power and authority to enter into, deliver and perform its obligations under, this Agreement.

(b) Corporate Authorization. The execution, delivery and performance by each Investor (or its general partners or equivalent, as the case may be) of this Agreement and the consummation of the Transactions has been authorized by all necessary corporate action on the part of the applicable Investor.

(c) No Conflict. Subject to receipt of the Transaction Regulatory Approvals, the execution, delivery and performance by each Investor (or its general partner or equivalent, as the case may be) of this Agreement and the completion of the Transactions does not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of such Investor, or Applicable Law.

(d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by each Investor (or its general partner or equivalent, as the case may be), and constitutes a legal, valid and binding obligation of such Investor, enforceable against it in accordance with its terms except in each case as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity and subject only to the Approval and Reverse Vesting Order.

(e) No Commissions. Except as contemplated by the Restructuring Support Agreement, there are no claims for brokerage commissions, finders' fees or similar compensation in connection with the Transactions based on any arrangement or agreement which would result in Liability for the Company.

(f) Proceedings. As of the date hereof, there are no Actions pending, or to the knowledge of each Investor, threatened against such Investor before any Governmental Entity, which would: (i) prevent such Investor from paying the Cash Consideration to the Monitor; (ii) prohibit or seek to enjoin, restrict or prohibit the Transactions or (iii) which would reasonably be expected to materially delay such Investor from fulfilling any of its obligations set forth in this Agreement.

(g) Investment Canada Act. Each Investor is a "Canadian" or a "WTO Investor" or a "Trade Agreement Investor" within the meaning of the Investment Canada Act.

(h) Consents. Except for: (i) the issuance of the Approval and Reverse Vesting Order; and (ii) the Transaction Regulatory Approvals, no Authorization, consent or approval of, or filing with or notice to, any Governmental Entity, court or other Person is required in

connection with the Investor's execution, delivery or performance of this Agreement and each of the agreements to be executed and delivered by the Investor hereunder, including the subscription of the Subscribed Shares hereunder.

(i) Financial Ability. The Investor has cash on hand and/or firm financing commitments in amounts sufficient to allow them to pay the balance of the Cash Consideration and all other costs and expenses in connection with the consummation of the Transactions.

(j) Securities Law Matters.

(i) Each Investor is:

(x) an "accredited investor", as such term is defined in National Instrument 45-106 – Prospectus Exemptions of the Canadian Securities Administrators and it was not created or used solely to purchase or hold securities and acknowledges that the Subscribed Shares will be subject to resale restrictions under applicable securities laws, which may be indefinite under applicable Canadian securities laws; and

(y) it is an "accredited investor" or "qualified institutional buyer" within the meaning of the rules of the United States Securities and Exchange Commission under the Securities Act of 1933, as amended, and the regulations promulgated thereunder, as modified by The Dodd-Frank Wall Street Reform and Consumer Protection Act.

(ii) Each Investor understands and acknowledges that no prospectus or offering memorandum has been or will be filed by the Company with any securities commission or similar regulatory authority in any jurisdiction in connection with the issuance of the Subscribed Shares and that the New Common Shares are being offered for sale only on a "private placement" basis and that the sale of the New Common Shares is conditional upon such sale being exempt from registration requirements and requirements to file and obtain a receipt for a prospectus, and the requirement to sell securities through a registered dealer, or upon the issuance of such orders, consents or approvals as may be required to enable such sale to be made without complying with such requirements, and that as a consequence of acquiring the Subscribed Shares pursuant to such exemptions: (A) the Investors are restricted from using most of the civil remedies otherwise available under applicable securities laws; (B) the Investors will not receive information that would otherwise be required to be provided to it under applicable securities laws; and (C) the Company is relieved from certain obligations that would otherwise apply under applicable securities laws.

4.3 As is, Where is

Each Investor acknowledges and agrees that they have conducted to their satisfaction an independent investigation and verification of the Company, the Business, the New Securities and the Retained Assets, and, based solely thereon and the advice of their financial, legal and other advisors, have determined to proceed with the Transactions. Each Investor has relied solely on the results of their own independent investigation and verification and, except for the representations and warranties of the Company expressly set forth in Section 4.1, each Investor understands, acknowledges and agrees that all other representations, warranties, guarantees, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of

operations, prospects, assets or liabilities of the Company or the Business) are specifically disclaimed by the Company and its financial and legal advisors and the Monitor and its legal counsel. EACH INVESTOR SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE COMPANY EXPRESSLY AND SPECIFICALLY SET FORTH IN SECTION 4.1: (A) THE INVESTORS ARE ACQUIRING THE NEW SECURITIES ON AN "AS IS, WHERE IS" BASIS; AND (B) NONE OF THE COMPANY, THE MONITOR OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF THE COMPANY OR THE MONITOR WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND THE INVESTORS ARE NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, GUARANTEES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE COMPANY, THE BUSINESS, THE NEW SECURITIES, THE RETAINED LIABILITIES, THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES, THIS AGREEMENT OR THE TRANSACTIONS, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) THE INVESTORS OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, GUARANTEES, STATEMENTS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAWS IN ANY JURISDICTION, WHICH THE INVESTORS CONFIRM DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY EACH INVESTOR.

ARTICLE 5
COVENANTS

5.1 Target Closing Date

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing by the Target Closing Date.

5.2 Motion for Approval and Reverse Vesting Order

As soon as practicable after the date hereof, the Company shall serve and file a motion seeking the issuance of the Approval and Reverse Vesting Order.

The Company shall diligently use its commercially reasonable efforts to seek the issuance and entry of the Approval and Reverse Vesting Order and each Investor shall cooperate with the Company in its efforts to obtain the issuance and entry of such Order. The Company's motion materials for the Approval and Reverse Vesting Order shall be in form and substance satisfactory to counsel to the Investors, acting reasonably. The Company will provide counsel to the Investors a reasonable opportunity to review a draft of the motion materials to be served and filed with the Court, it being acknowledged that such motion materials should be served as promptly as reasonably possible following the execution of this Agreement, and will serve such materials on the service list prepared by the Company and reviewed by the Monitor, and on such other interested parties, and in such manner, as counsel to the Investors may reasonably require. Both the Company and the Investors will each promptly notify counsel for the other party of any and all threatened or actual objections to the motion for the issuance of the Approval and Reverse Vesting Order, of which it becomes aware, and will promptly provide to counsel for the other party, a copy of all written objections received.

5.3 Interim Period

(a) During the Interim Period, except: (i) as contemplated or permitted by this Agreement (ii) as necessary in connection with the CCAA Proceedings; (iii) as otherwise provided in the Initial Order and any other Court Orders; or (iv) as consented to by the Investors and the Company:

(i) the Company shall continue to maintain its Business and operations in substantially the same manner as conducted on the date of this Agreement, including preserving, renewing and keeping in full force its corporate existence as well as the Material Permits, Mineral Tenures, Licenses and Contracts;

(ii) the Company shall not transport, remove or dispose of, any of its assets out of its current locations outside of its ordinary course of Business;

(iii) the Company shall use commercially reasonable efforts to keep in full force and effect all of its existing insurance policies and give any notice or present any claim under any such insurance policies consistent with past practices of the Company in the ordinary course of business; and

(iv) Post-Filing Trade Amounts shall continue to be paid in the ordinary course of business.

(b) During the Interim Period, the Company, in consultation with the Investors and the Monitor, shall attempt to reach agreements with trade suppliers, equipment lessors, real property lessors and other Persons owed Pre-Filing Trade Amounts in respect of (i) terms on which such Person's Pre-Filing Trade Amounts may be assumed in accordance with this Agreement; and (ii) credit terms in respect of ongoing supply to the Business following the Closing Date.

(c) During the Interim Period, except as contemplated or permitted by this Agreement or any Court Order, the Company shall not enter into any non-arms' length transactions involving the Company or its assets or the Business without the prior approval of the Investors.

(d) During the Interim Period, the Company shall comply with the DIP Budget (as defined in the DIP Agreement) in all material respects subject to Permitted Variances (as defined in the DIP Agreement), and for certainty, as such DIP Budget may be amended from time to time pursuant to the DIP Agreement.

5.4 Company Support Obligations

(a) During the Interim Period:

(i) the Company will cooperate with the Investors with respect to all material steps required in connection with the Transactions;

(ii) the Company will negotiate in good faith all documentation necessary to consummate the New Equity Offering and New Secured Priority Notes Offering and entry into the Cargill Offtake Agreement, the Cargill OPA and the Cargill Margin Facility with the Investors on terms consistent with the Restructuring Support Agreement and will take any and all commercially reasonable and appropriate actions in furtherance of the New Equity Offering and New

Secured Priority Notes Offering and as agreed to with the Investors, including sending such documentation necessary to consummate the New Equity Offering and New Secured Priority Notes Offering (to the extent finalized) and entry into the Cargill Offtake Agreement, the Cargill OPA and the Cargill Margin Facility at least five Business Days in advance of Closing (or such later date as agreed to between the Company, the Monitor and the Investors, each acting reasonably);

(iii) the Company will promptly notify the Investors, in writing, of receipt of any notice, demand, request or inquiry by any Governmental Entity concerning the Transactions or the issuance by any Governmental Entity of any cease trading or similar Order or ruling relating to any securities of the Company and its Affiliates;

(iv) the Company will take all action as may be necessary so that the Transactions will be effected in accordance with Applicable Law;

(v) the Company will execute any and all documents and perform (or cause its agents and advisors to perform) any and all commercially reasonable acts required in connection with this Agreement;

(vi) the Company and the Investors will use commercially reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain all required Transaction Regulatory Approvals, and material third-party consents and approvals as may be required in connection with the Transactions;

(vii) the Company and the Investors will use commercially reasonable efforts to prepare and finalize the Management Incentive Plan in advance of the Closing Time;

(viii) the Company and the Investors will use commercially reasonable efforts to agree on new individuals to comprise the board of directors of the Company post-Closing; and

(ix) the Company will promptly notify the Investors of any Material Adverse Effect occurring from and after the date hereof.

5.5 Access During Interim Period

During the Interim Period, the Company shall give, or cause to be given, to the Investors, and their Representatives, reasonable access during normal business hours to the Retained Assets and Assumed Liabilities, including the Company's Scully Mine site, Books and Records, personnel, properties, Permits and Licenses, and Contracts, to conduct such investigations of the financial and legal condition of the Business and the Retained Assets as the Investors may deem reasonably necessary or desirable to further familiarize themselves with the Business and the Retained Assets, provided that the Investors shall not be entitled to any confidential, privileged or otherwise sensitive information, as determined by the Company and the Monitor, each acting reasonably. Without limiting the generality of the foregoing: (i) the Investors and their Representatives shall be permitted reasonable access during normal business hours to all documents relating to information scheduled or required to be disclosed under this Agreement and to the Employees; (ii) subject to the ongoing reasonable oversight and participation of the Company and the Monitor, and with prior notice to the Company and consent of the Monitor, the Investors and their Representatives shall be permitted to

contact and discuss the Transactions with Governmental Entities and the Company's customers and contractual counterparties; and (iii) the Company shall instruct its executive officers and senior business managers, employees, counsel, auditors and finance advisors of the Company to reasonably cooperate with the Investors and their Representatives regarding the same. Such investigations shall be carried out at the Investors' sole and exclusive risk and cost, during normal business hours, and the Company shall co-operate reasonably in facilitating such investigations and shall furnish copies of all such documents and materials relating to such matters as may be reasonably requested by or on behalf of the Investors, provided, that: (A) such investigations will not unreasonably interfere with the Company's operations; (B) the Investors shall not conduct invasive or intrusive investigations, inspections, tests or audits in respect of the Retained Assets or Excluded Assets, without the prior written consent of the Company, which consent shall not be unreasonably withheld, and the Investors having given the Company at least two (2) Business Days' prior written notice; (C) the Investors shall provide the Company with evidence of appropriate liability insurance coverage for the Investors and their Representatives and the Company will be entitled to have a Representative present during all such tests, inspections and investigations; (D) any damage to the Retained Assets or Excluded Assets caused by such tests, land surveys, inspections and investigations will be promptly repaired by the Investors and the Investors will indemnify and save the Company harmless from all Claims imposed upon or asserted against it as a result of, in respect of or arising out of such tests, inspections and investigations, such indemnity to survive Closing or in the event this Agreement is terminated in accordance with its terms. No investigation made pursuant to this Section 5.5 by the Investors or their Representatives at any time prior to or following the date of this Agreement shall affect or be deemed to modify any representation or warranty made by the Company herein.

5.6 Employees

Following the Closing Date, except in respect of change of control payments for senior management, which amounts shall be waived or are Excluded Liabilities, the Investors agree that the Company will continue to employ the Employees on the same terms and conditions as they currently enjoy provided such terms and conditions (and any written agreement related to same) are as set forth in the virtual data room of the Company for the Transactions as of July 11, 2024. The Investors acknowledge and agree that that the Company shall remain subject to any collective agreement of the Company and shall inherit all obligations and liabilities associated with any collective agreement which applies to the Employees.

5.7 Regulatory Approvals and Consents

(a) The Company and the Investors shall, from and after the date hereof, work together to determine whether any material Permits and Licenses required from any Governmental Entity or under any Applicable Law relating to the business and operations of the Company and its Affiliates and the Mining Rights would be required to be obtained in order to permit the Company and the Investors to complete the Transactions, including to permit the Company and the Investors to perform their obligations hereunder and the issuance, acquisition and holding of the New Securities (the "**Transaction Regulatory Approvals**"). In the event any such determination is made, the Company and the Investors shall use commercially reasonable efforts to apply for and obtain any such Transaction Regulatory Approvals as soon as reasonably practicable, in accordance with Section 5.7(b), in each case at the sole cost and expense of the Company.

(b) The Company and the Investors shall use commercially reasonable efforts to apply for and obtain the Transaction Regulatory Approvals and shall co-operate with one another in connection with obtaining such approvals. Without limiting the generality of the foregoing, the Company and the Investors shall: (i) give each other reasonable

advance notice of all meetings or other oral communications with any Governmental Entity relating to the Transaction Regulatory Approvals, as applicable, and provide as soon as practicable but in any case, if any, within the required time, any additional submissions, information and/or documents requested by any Governmental Entity necessary, proper or advisable to obtain the Transaction Regulatory Approvals; (ii) not participate independently in any such meeting or other oral communication without first giving the Company or the Investors, as applicable (or their outside counsel) an opportunity to attend and participate in such meeting or other oral communication, unless otherwise required or requested by such Governmental Entity; (iii) if any Governmental Entity initiates an oral communication regarding the Transaction Regulatory Approvals as applicable, promptly notify the Company or the Investors, as applicable, of the substance of such communication; (iv) subject to Applicable Law relating to the exchange of information, provide each other with a reasonable advance opportunity to review and comment upon and consider in good faith the views of the other in connection with all written communications (including any filings, notifications, submissions, analyses, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of the Company or an Investor, as applicable) with a Governmental Entity regarding the Transaction Regulatory Approvals as applicable; and (v) promptly provide each other with copies of all written communications to or from any Governmental Entity relating to the Transaction Regulatory Approvals as applicable.

(c) Each of the Company, its Affiliates and the Investors may, as advisable and necessary, reasonably designate any competitively or commercially sensitive material provided to the other under this Section 5.6 as "Outside Counsel Only Material". Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and, subject to any additional agreements between the Company, its Affiliates and the Investors, will not be disclosed by such outside legal counsel to employees, officers or directors of the recipient unless express written permission is obtained in advance from the source of the materials or its legal counsel.

(d) The obligation of the Company, its Affiliates or an Investor to use its commercially reasonable efforts to obtain the Transaction Regulatory Approvals does not require the Company or the Investors (or any Affiliate thereof) to undertake any divestiture of any business or business segment of the Company or the Investors, to agree to any material operating restrictions related thereto or to incur any material expenditure(s) related therewith, unless agreed to by the Investors and the Company. In connection with obtaining the Transaction Regulatory Approvals, the Company shall not agree to any of the foregoing items without the prior written consent of Investors.

(e) To the extent that any of the Investors' consent in respect of the Transactions is required, each Investor agrees to provide such consent (on such terms and conditions acceptable to it, acting reasonably).

5.8 New Secured Priority Notes Offering

The Company hereby covenants and agrees that it shall use its commercially reasonable efforts to complete the New Secured Priority Notes Offering.

5.9 Release by the Investors

Except in connection with any obligations of the Company contained in this Agreement, any Closing Deliverables or the Approval and Reverse Vesting Order, effective as of the Closing Time, each

Investor and Other New Equity Investor hereby releases and forever discharges the Company, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all current and former officers, directors, partners, employees, agents, financial and legal advisors of each of them (the "**Company Released Parties**"), whether in this jurisdiction or any other, whether or not presently known to them or to the law, and whether in law or equity, of and from, and hereby unconditionally and irrevocably waives, any and all Released Claims that each Investor and Other New Equity Investor ever had, now has or ever may have or claim to have against any of the Company Released Parties in their capacity as such, for or by reason of any matter, circumstance, event, action, inaction, omission, cause or thing whatsoever arising prior to the Closing Time, save and except for Released Claims arising out of fraud or willful misconduct and any Released Claims against ResidualCo in respect of the Investors' Senior Secured Notes and/or Senior Priority Notes.

5.10 Release by the Company

Except in connection with any obligations of each Investor contained in this Agreement, any Closing Deliverables or the Approval and Reverse Vesting Order, effective as of the Closing Time, the Company and its respective Affiliates (including ResidualCo) hereby release and forever discharge each Investor, Other New Equity Investor, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all current and former officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them (the "**Investor Released Parties**"), whether in this jurisdiction or any other, whether or not presently known to them or to the law, and whether in law or equity, of and from, and hereby unconditionally and irrevocably waives, any and all Released Claims that the Company ever had, now has or ever may have or claim to have against any of the Investor Released Parties in their capacity as such, for or by reason of any matter, circumstance, event, action, inaction, omission, cause or thing whatsoever arising prior to the Closing Time, save and except for Released Claims arising out of fraud or willful misconduct.

5.11 Pre-Closing Reorganizations

(a) Subject to Section 5.11(b), the Company agrees to, as close as reasonably practicable to the Closing Date and upon request of the Investors, and with the consent of the Company, not to be unreasonably withheld, conditioned or delayed, and consent of the Monitor, (i) amend the Senior Secured Notes and Senior Priority Notes to include a right for Senior Secured Noteholders and Senior Secured Priority Noteholders to convert their Senior Secured Notes and Senior Priority Notes into Existing Common Shares (at a conversion price to be agreed to between the Company and the Investors); and (ii) perform such reorganizations of its corporate structure, capital structure, business, operations and assets or such other transactions as the Investors may reasonably request (each such action in paragraphs (i) and/or (ii), a "**Pre-Closing Reorganization**"). The Company agrees to use commercially reasonable efforts to cooperate with the Investors and their advisors to determine the nature of any Pre-Closing Reorganizations that might be undertaken and the manner in which they would most effectively be undertaken, including filing or causing the Company to file elections, designations or other forms reasonably required to effect the Pre-Closing Reorganizations if such filing is reasonably proposed to be made at or prior to Closing, and to cooperate with the Investors and their respective advisors to seek to obtain consents or waivers which might be required under any Retained Contracts or any approvals, authorizations, Orders or consents from any Governmental Entity required in respect of any Pre-Closing Reorganization.

(b) Notwithstanding the foregoing, the Company will not be obligated to participate in any Pre-Closing Reorganization if the Company determines, acting reasonably, that such

Pre-Closing Reorganization would (i) materially impair, impede, delay or prevent the satisfaction of any conditions set forth in article 8, or the ability of the Investors or the Company to consummate the Transactions, (ii) in respect of Section 5.11(a)(i), it not be permitted pursuant to the terms of the Senior Priority Note Indenture or Senior Secured Note Indenture; or (iii) (A) materially alter or impact the consideration which the Company and/or their applicable stakeholders will benefit from as part of the Transactions, or (B) have adverse Tax consequences, or impose any Liability on, the Monitor or any director of the Company in each case that is materially greater than the amount of such Tax consequences or Liability in the absence of such action (taking into account Sections 5.9 and 5.10 hereof) taking into account any reasonable mitigation measures including, for greater certainty, disclosure under subsection 237.3(2) of the Tax Act.

(c) This Agreement (including the Closing Sequence) will be amended and restated as required to give effect to a Pre-Closing Reorganization.

ARTICLE 6
INSOLVENCY PROVISIONS

6.1 Court Orders and Related Matters

(a) From and after the date of this Agreement and until the Closing Date, the Company shall deliver to applicable legal counsel for each Investor drafts of any and all pleadings, motions, notices, statements, applications, schedules, reports, and other papers to be filed or submitted by the Company in connection with or related to this Agreement, for the Investors' prior review at least two (2) Business Days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for two (2) Business Days' review, with as much opportunity for review and comment as is practically possible in the circumstances). The Company acknowledges and agrees (i) that any such pleadings, motions, notices, statements, applications, schedules, reports, or other papers in respect of Approval and Reverse Vesting Order shall be in form and substance satisfactory to the Investors, acting reasonably, and (ii) to consult and cooperate with the Investors regarding any discovery, examinations and hearing in respect of any of the foregoing, including the submission of any evidence, including witnesses testimony, in connection with such hearing.

(b) Notice of the motion seeking the issuance of the Approval and Reverse Vesting Order shall be served by the Company on all Persons required to receive notice under Applicable Law and the requirements of the CCAA and the Court, and any other Person determined necessary by the Company or the Investors, acting reasonably.

(c) In the event that the Approval and Reverse Vesting Order has not been issued and entered by the Court by August 8, 2024 (the "**RVO Outside Date**") or such later date agreed to in writing by the each of the Investors, in their sole discretion, the Investors may terminate this Agreement, provided that if all other conditions (including receipt of Transaction Regulatory Approvals) are satisfied, the Company shall be entitled to extend the RVO Outside Date to the Outside Date.

(d) If the Approval and Reverse Vesting Order is appealed or a motion for leave to appeal, rehearing, reargument or reconsideration is filed with respect thereto, the Company agrees to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.

6.2 Form of Vesting Order

The Investors agree that if the Court does not grant the Approval and Reverse Vesting Order prior to the Outside Date, the structure of the Transactions shall be converted to contemplate an asset purchase agreement and approval and vesting Order, and the Parties shall amend the structure of the Transactions accordingly, so long as the material terms contained herein are continued into the amended structure of the Transactions (including, without limitation, the Cargill Offtake Agreement), and provided that (a) the transfer and assignment of the Mining Rights (or replacements thereof) effective as of the Closing shall be a condition to the implementation of the Transactions pursuant to such asset purchase agreement, and (b) the Investors and Company shall negotiate, in good faith, a reduction in the amount of the Pre-Filing Trade Amounts that form part of the Assumed Liabilities as reduced consideration under the Transactions to reflect any decrease in value arising from the adverse impact to the tax attributes that would be acquired pursuant to the amended structure of the Transaction or as a result of additional costs that may need to be incurred in connection with an asset purchase, including assigning any Mining Rights or applying for and obtaining any replacement Mining Rights.

6.3 CCAA Plan

The Investors and the Company shall have the option, in their reasonable discretion and subject to consultation with the Monitor, to proceed with implementing the Transactions pursuant to a CCAA plan of compromise and arrangement, instead of pursuant to an Approval and Reverse Vesting Order, in which case the Parties shall work in good faith to amend this Agreement and negotiate such related agreements, documents and instruments to reflect such alternative implementation process (and, for greater certainty, the economic terms of the Transactions (including, without limitation, the Cargill Offtake Agreement) shall not be amended as a result of such alternative implementation process); provided that such alternative implementation process shall not, in the view of the Investors and the Company, acting reasonably and in consultation with the Monitor, be likely to result in an inability, solely as a result of such alternative implementation process, for the Parties to complete the Transactions prior to the Outside Date. Further, nothing in this Agreement shall be construed to restrict the Investors from advancing an alternative CCAA plan of compromise and arrangement.

6.4 DIP Credit Bid

If the conditions to Closing set forth in article 8 hereof are not (or cannot reasonably be) satisfied by the Outside Date, in accordance with and subject to the DIP Participation Agreements, the DIP Lender agrees that it will subscribe for and purchase the Subscribed Shares in exchange for an amount equivalent to all of the outstanding DIP Obligations owing by the Company to the DIP Lender at the applicable time (the "**DIP Credit Bid Consideration**"), which shall be satisfied by the DIP Lender credit bidding the DIP Credit Bid Consideration as consideration for the Subscribed Shares. The DIP Lender, parties to the DIP Participation Agreements and the Company shall work in good faith to amend the Transactions contemplated hereby to reflect the foregoing.

ARTICLE 7
CLOSING ARRANGEMENTS

7.1 Closing

The Closing shall take place virtually by exchange of documents in PDF format on the Closing Date, in accordance with the Closing Sequence (as defined below), and shall be subject to such escrow document release arrangements as the Parties may agree.

7.2 Closing Sequence

On the Closing Date, subject to the terms of the Approval and Reverse Vesting Order, Closing shall take place in the following sequence (the "**Closing Sequence**"):

(a) First, each Investor shall pay their respective unpaid balance of the New Equity Offering Initial Cash Consideration and New Equity Offering Retained Cash Consideration, each as set forth in Exhibit "A" hereto (and which amounts will, for greater certainty, not include any amount of the Deposit and interest accrued thereon), to be held in escrow by the Monitor on behalf of the Investors;

(b) Second, the Company shall be deemed to transfer to ResidualCo the Excluded Assets, the Excluded Contracts and the Excluded Liabilities, pursuant to the Approval and Reverse Vesting Order;

(c) Third, Cargill shall set-off a portion of the amount owing by the Company under the APF (equal to the amount of the Cargill Pre-filing Payable) against the Cargill Pre-filing Payable;

(d) Fourth, the Company shall be deemed to transfer to ResidualCo all Claims in respect of the Senior Secured Notes and the Senior Priority Notes and any Claims remaining under the APF, pursuant to the Approval and Reverse Vesting Order, and the deemed transfer of the Senior Priority Notes and the Senior Secured Notes to ResidualCo will constitute a novation of such Senior Priority Notes and Senior Secured Notes to ResidualCo;

(e) Fifth, the Retained Assets will be retained by the Company, in each case free and clear of and from any and all Claims and, for greater certainty, all of the Encumbrances, other than Permitted Encumbrances, affecting or relating to the Retained Assets are hereby expunged and discharged as against the Retained Assets;

(f) Sixth, all Existing Equity (other than the Existing Common Shares which will be cancelled in accordance with the Articles of Reorganization) as well as any agreement, Contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock option or share purchase or equivalent plans), or other documents or instruments governing and/or having been created or granted in connection with the share capital of the Company (other than any New Secured Priority Notes Offering Subscription Agreements or Other New Equity Subscription Agreements) shall be deemed terminated and cancelled for no consideration;

(g) Seventh, the following shall occur concurrently:

(i) the Company shall issue the Subscribed Shares in respect of the New Equity Offering Initial Cash Consideration and the New Equity Offering Retained Cash Consideration to the applicable Investors in accordance with their allocations set forth in Exhibit "A" hereto;

(ii) the Unsecured Takeback Notes and the New Warrants shall be issued to the applicable Investors, and the Set-Off shall be effective;

(iii) the Monitor shall release the New Equity Offering Retained Cash Consideration to the Company;

(iv) the Monitor shall be directed to pay on behalf of the Company: (A) all advisors' expenses of the Company and the Monitor (including financial advisor and legal counsel fees) related to the CCAA Proceedings and the Transactions solely to the extent that such expenses are subject to CCAA Charges that rank ahead of the DIP Charge; (B) to each Eligible Equity Investor, an amount no greater than $650,000 as a reimbursement for advisors' fees and expenses incurred in connection with the Transactions by each applicable Eligible Equity Investor; provided that each such Eligible Equity Investor has provided to the Monitor applicable invoices setting out in reasonable detail such professional fees and expenses; and (C) to the Investors, unless waived by the Investors, the Cost Reimbursement Amount, in each case, from the New Equity Offering Initial Cash Consideration;

(v) the Monitor shall retain the Administrative Expense Reserve to a separate interest-bearing account from the New Equity Offering Initial Cash Consideration; and

(vi) the Monitor shall be directed to pay, on behalf of the Company, all DIP Obligations accruing up to the Closing Date (the calculation of such amount to be provided to the Monitor, the Company and the other Investors no later than two (2) Business Days prior to Closing) and the Existing Cargill Margin Facility, each in full and from the New Equity Offering Initial Cash Consideration and all security in respect thereof will be fully Discharged and released;

(h) Eighth, the Articles of Reorganization will be filed and be effective; and

(i) Ninth, the Unanimous Shareholder Agreement shall be effective.

The Investors, in consultation with the Company and Monitor, may change the order of the Closing Sequence or amend the Closing Sequence provided that such amendment to the Closing Sequence does not materially negatively alter or impact the Transactions or the consideration which the Company and/or its applicable stakeholders will benefit from as part of the Transactions.

7.3 The Investors' Closing Deliverables

At or before the Closing (as applicable), the Investors shall deliver or cause to be delivered to the Company (or to the Monitor, if so indicated below), the following:

(a) the aggregate of the New Equity Offering Initial Cash Consideration, less the Deposit and any accrued interest on the Deposit, in accordance with Section 7.2(a), and the New Equity Offering Retained Cash Consideration;

(b) with respect to Cargill only, the Cargill Offtake Agreement, the Intercreditor Agreement, the Cargill OPA and, if applicable, the Security Agreements to which Cargill is a party, in each case, duly executed by Cargill;

(c) counterpart signature of each applicable Investor with respect to the Unsecured Takeback Notes, if applicable;

(d) counterpart signatures from each Investor with respect to the Unanimous Shareholder Agreement;

(e) in the event that the New Secured Priority Notes Offering closes concurrently with Closing, a counterpart signature of the Intercreditor Agreement, New Secured Priority Notes Indenture and the applicable Security Agreements from the trustee and/or collateral agent therefor; and

(f) such other agreements, documents and instruments as may be reasonably required by the Company to complete the Transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

7.4 The Company's Closing Deliverables

At or before the Closing (as applicable), the Company shall deliver or cause to be delivered to the Investors, the following:

(a) a certificate dated as of the Closing Date and executed by an executive officer of the Company confirming and certifying that each the conditions in Sections 8.2(b), 8.2(d) and 8.2(e) have been satisfied;

(b) counterpart signature from the Company with respect to the Unanimous Shareholder Agreement;

(c) counterpart signature from the Company with respect to the Cargill Offtake Agreement, the Cargill OPA, if applicable, the Security Agreements to which Cargill is a party and all related ancillary documents applicable thereunder;

(d) evidence satisfactory to the Investors, acting reasonably, of the filing of the Articles of Reorganization;

(e) share certificates representing the Subscribed Shares (or other acceptable evidence of ownership of the Subscribed Shares);

(f) counterpart signature from the Company with respect to the Unsecured Takeback Notes; and

(g) in the event that the New Secured Priority Notes Offering closes concurrently with Closing, counterpart signature from the Company with respect to the New Secured Priority Notes Indenture, the Intercreditor Agreement and the applicable Security Agreements and all related ancillary documents.

ARTICLE 8
CONDITIONS OF CLOSING

8.1 Mutual Conditions

The respective obligations of each Investor and the Company to consummate the Transactions are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the conditions listed below:

(a) No Violation of Orders or Law. During the Interim Period, no Governmental Entity shall have enacted, issued or promulgated any final or non-appealable Order or Law which has: (i) the effect of making any of the Transactions illegal, or (ii) the effect of otherwise prohibiting, preventing or restraining the consummation of any of the Transactions.

(b) Court Approval. The following conditions shall have been met: (i) the Approval and Reverse Vesting Order shall have been issued by the Court and become a Final Order; and (ii) the Initial Order, the Sale Process Order and the Approval and Reverse Vesting Order shall not have been vacated, set aside or stayed.

(c) Transaction Regulatory Approvals. Each of the Transaction Regulatory Approvals shall have been obtained and shall be in force and effect and shall have not been rescinded or modified.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of the Company and each Investor. Any condition in this Section 8.1 may be waived by the Company and by the Investors, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver will be binding on the Company or the Investors, as applicable, only if made in writing. Notwithstanding anything to the contrary contained herein, the Company and each Investor shall, subject to Section 5.7, take all such commercially reasonable actions, steps and proceedings as are reasonably within its control to ensure that the conditions listed in this Section 8.1 are fulfilled at or before the commencement of the first step in the Closing Sequence.

8.2 The Investors' Conditions

The Investors shall not be obligated to complete the Transactions, unless each of the conditions listed below in this Section 8.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Investors, and may be waived by the Investors in whole or in part, without prejudice to any of its rights of termination in the event of non- fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Investors only if made in writing, provided that if the Investors do not waive a condition(s) and complete the Closing, such condition(s) shall be deemed to have been waived by the Investors. The Company shall take all such commercially reasonable actions, steps and proceedings as are reasonably within its control to ensure that the conditions listed below in this Section 8.2 are fulfilled at or before the commencement of the first step in the Closing Sequence.

(a) The Company's Deliverables. The Company shall have executed and delivered or caused to have been executed and delivered to the Investors at the Closing all the documents contemplated in Section 7.4.

(b) Material Adverse Effect. There shall not have been any Material Adverse Effect since the date hereof.

(c) No New Equity Issuances. The Company shall not have issued any New Common Shares or other securities of the Company, or incurred any new debt obligations, except in each case as provided for in the Approval and Reverse Vesting Order and this Agreement.

(d) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement (including the Approval and Reverse Vesting Order), each of the representations and warranties contained in Section 4.1 shall be true and correct in all material respects (unless qualified by materiality, in which case the foregoing qualification shall not apply): (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.

(e) No Breach of Covenants. The Company shall have performed in all material respects (unless qualified by materiality, in which case the foregoing qualification shall not apply) all covenants, obligations and agreements contained in this Agreement required to be performed by the Company on or before the Closing.

(f) Rail Agreement. The Rail Agreement shall have been renegotiated on terms and conditions acceptable to the Investors, acting reasonably.

(g) Mining Rights Acknowledgment. The Mining Rights Acknowledgement shall have been delivered by the Minister of Industry, Energy and Technology of Newfoundland and Labrador.

Each Investor acknowledges and agrees that (i) its obligations to consummate the Transactions are not conditioned or contingent in any way upon receipt of financing from a third party, and (ii) failure to consummate the Transactions as a result of the failure to obtain financing shall constitute a breach of this Agreement by the Investor which will give rise, *inter alia*, to the Company's recourses for breach.

8.3 The Company's Conditions

The Company shall not be obligated to complete the Transactions unless each of the conditions listed below in this Section 8.3 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Company, and may be waived by the Company in whole or in part, without prejudice to any of their rights of termination in the event of nonfulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Company only if made in writing, provided that if the Company does not waive a condition(s) and completes the Closing, such condition(s) shall be deemed to have been waived by the Company. Each Investor shall take all such actions, steps and proceedings as are reasonably within the Investor's control as may be necessary to ensure that the conditions listed below in this Section 8.3 are fulfilled at or before the commencement of the first step in the Closing Sequence.

(a) Investor's Deliverables. Each Investor shall have executed and delivered or caused to have been executed and delivered to the Company (with a copy to the Monitor) at the Closing all applicable documents and payments required of such Investor contemplated in Section 7.3.

(b) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement (including the Approval and Reverse Vesting Order), each of the representations and warranties contained in Section 4.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.

(c) No Breach of Covenants. The Investors shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Investor on or before the Closing.

(d) Administrative Expense Reserve. The Investors shall have agreed to an amount for the Administrative Expense Reserve on or before July 26, 2024 (or such other date as agreed to by the Investors, the Company and the Monitor) that is satisfactory to the Company, the Investors and the Monitor, each acting reasonably.

8.4 Monitor's Certificate

When the conditions to Closing set out in Section 8.1, 8.2 and 8.3 have been satisfied and/or waived by the Company or the Investors, as applicable, the Company, the Investors or their respective counsel will each deliver to the Monitor confirmation in writing that such conditions of Closing, as applicable, have been satisfied and/or waived and that the Parties are prepared for the Closing Sequence to commence (the "**Conditions Certificates**"). Upon receipt of the Conditions Certificates and the receipt of the entire Cash Consideration, the Monitor shall: (i) issue forthwith its Monitor's Certificate concurrently to the Company and counsel to the Investors, at which time the Closing Sequence will be deemed to commence and be completed in the order set out in the Closing Sequence, and Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the Court (and shall provide a true copy of such filed certificate to the Company and counsel to the Investors). In the case of: (i) and (ii) above, the Monitor will be relying exclusively on the Conditions Certificates without any obligation whatsoever to verify or inquire into the satisfaction or waiver of the applicable conditions, and the Monitor will have no liability to the Company or the Investors as a result of filing the Monitor's Certificate.

ARTICLE 9
TERMINATION

9.1 Grounds for Termination

(a) Subject to Section 9.1(b), this Agreement may be terminated on or prior to the Closing Date:

(i) by the mutual agreement of the Company and the Investors;

(ii) by either the Company or the Investors, upon the termination, dismissal or conversion of the CCAA Proceedings, provided that neither Party may terminate this Agreement pursuant to this Section 9.1(a)(ii) if the termination, dismissal or conversion of the CCAA Proceedings was caused by a breach of this Agreement by such Party;

(iii) by either the Company or the Investors if the Court grants relief terminating the Stay Period with regard to any material assets or business of the Company and any appeal periods relating thereto shall have expired;

(iv) by the Investors, if the Approval and Reverse Vesting Order has not been issued and entered by the Court by the RVO Outside Date, or such later date agreed to in writing by each of the Investors;

(v) by either the Company or the Investors, if a Governmental Entity issues a final, non-appealable Order permanently restraining, enjoining or otherwise prohibiting consummation of the Transactions where such Order was not requested, encouraged or supported by the terminating Party, provided that the right to terminate this Agreement under this Section 9.1(a)(v) shall not apply if an Investor or Investors have assumed another Investor's obligations hereunder in a manner that the restraint, enjoinment or other prohibition on the consummation of the Transactions would no longer apply;

(vi) by either the Company or the Investors, at any time following the Outside Date, if Closing has not occurred on or prior to 11:59 p.m. (Eastern time) on the Outside Date, provided that the reason for the Closing not having occurred is

not due to any act or omission, or breach of this Agreement, by the Party proposing to terminate this Agreement;

(vii) by the Company, if there has been a material violation or breach by an Investor of any agreement, covenant, representation or warranty of the Investor in this Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 8.3, as applicable, by the Outside Date and such violation or breach has not been waived by the Company or cured by the Investor, or some or all of the non-breaching Investors have not assumed such Investor's obligations to acquire New Common Shares under this Agreement within fifteen (15) Business Days of the Company providing notice to the Investor of such breach, unless the Company is itself in material breach of its own obligations under this Agreement at such time;

(viii) by the Investors, if there has been a material violation or breach by the Company of any agreement, covenant, representation or warranty of the Company in this Agreement which would prevent the satisfaction of, or compliance with, any conditions set forth in Section 8.2, as applicable, by the Outside Date and such violation or breach has not been waived by the Investors or cured by the Company within ten (10) Business Days of the Investors providing written notice to the Company of such breach, unless the Investors are themselves in material breach of their own obligations under this Agreement at such time; or

(ix) if an Investor fails or Investors fail to fund its or their Cash Consideration on or prior to the date on which Closing would have otherwise occurred (each a "**Defaulting Investor**"), by the other Investors if some or all of the non-Defaulting Investors have not assumed such Defaulting Investor's obligations to acquire New Common Shares under this Agreement within five (5) Business Days of the date on which Closing would otherwise have occurred.

(b) Prior to the Company agreeing or electing to any termination pursuant to Section 9.1(a), the Company shall first obtain the prior written consent of the Monitor.

(c) The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)(i)) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

9.2 Effect of Termination

(a) If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations to any other Party hereunder, except, subject to Section 9.2(b), as contemplated in Sections 2.1 (*Deposit*), 10.6 (*Expenses*), 10.7 (*Public Announcements*), 10.8 (*Notices*), 10.12 (*Waiver and Amendment*), 10.15 (*Governing Law*), 10.16 (*Dispute Resolution*), 10.17 (*Attornment*), 10.18 (*Successors and Assigns*), 10.19 (*Assignment*), 10.20 (*No Liability; Monitor Holding or Disposing Funds*), and 10.21 (*Third Party Beneficiaries*), which shall survive such termination.

(b) If the Agreement is terminated pursuant to Section 9.1(a)(vii) or 9.1(a)(ix), the Deposit shall become the property of, and shall be transferred to, the Company as liquidated damages (and not as a penalty) to compensate the Company for the expenses

incurred and opportunities foregone as a result of the failure to close the Transactions. The Company agrees that, notwithstanding any other provision herein, the Deposit shall be the exclusive remedy as against the non-Defaulting Investors if any event described in Section 9.1(a)(vii) or 9.1(a)(ix) occurs giving rise to a termination right to the Company under this Agreement. If this Agreement is terminated pursuant 9.1(a)(ix), the Company may pursue any Claims of the Company as against each Defaulting Investor related to the termination of this Agreement and such Claims are fully reserved, provided that the aggregate liability for a Defaulting Investor to the Company will not exceed an amount equal to the amount of the Deposit. Any and all accrued interest in respect of such Deposit shall continue to belong to the Investors.

(c) If the Closing does not occur for any reason and the Agreement is terminated other than the Agreement having been terminated pursuant to Section 9.1(a)(vii) or 9.1(a)(ix), the Deposit (together with any accrued interest, and without offset or deduction) will be forthwith refunded in full to each Investor in accordance with their allocations set forth on Exhibit "A".

ARTICLE 10
GENERAL

10.1 Transaction Structure

The Investors, with the prior consent of the Company and the Monitor, acting reasonably, may amend the structure of the Transactions, including with respect to optimizing tax structures, provided that such amendment to the Closing Sequence does not materially alter or impact the Transactions or the consideration which the Company and/or its applicable stakeholders will benefit from as part of the Transactions.

10.2 Approval, Consent, Waiver, Amendment, Termination

(a) Except as may be otherwise specifically provided for under this Agreement, where this Agreement provides that a matter shall have been approved, agreed to, consented to, waived, amended or terminated by the Investors, or that a matter must be satisfactory or acceptable to the Investors, such approval, agreement, consent, waiver, amendment, termination, satisfaction, acceptance or other action shall be effective or shall have been obtained or satisfied, as the case may be, for the purposes of this Agreement only where each Initial Noteholder Investor and Cargill shall have confirmed their approval, consent, waiver, amendment, termination, satisfaction or acceptance, as the case may be, to the Parties, which confirmation may be delivered by email, provided, further, that any amendment to this Agreement (including any attachment hereto) that would materially and adversely affect any Investor compared to any other Investor shall require the prior written consent of the adversely affected Investor.

(b) Counsel to each Investor shall be able to communicate any required approval, agreement, consent, waiver, amendment, termination, satisfaction, acceptance or other action hereunder on behalf of such Investor, provided such Investor has provided the approval, agreement, consent, waiver, amendment, termination, satisfaction, acceptance or other action hereunder to its counsel. The Investors may be able to rely on such confirmation of approval, agreement, consent, waiver, amendment, termination, satisfaction, acceptance or other action without any obligation to inquire into such counsel's authority to do so on behalf of their respective clients and such communication shall be effective for all purposes of this Agreement.

10.3 Cost Reimbursement Amount

In consideration for the Investors having expended considerable time and expense in connection with this Agreement and the negotiation thereof, the Company shall reimburse the Investors, in accordance with the terms of this Agreement and the Approval and Reverse Vesting Order, documented out-of-pocket third party expenses incurred by the Investors up to a maximum aggregate amount of CAD$3,000,000 (the "**Cost Reimbursement Amount**") on the earlier of the termination of this Agreement, and the Closing. The Investors may agree to waive such Cost Reimbursement Amount. Each of the Parties acknowledges and agrees that the agreements contained in this Section 10.3 are an integral part of the Transactions and this Agreement and that the Cost Reimbursement Amount is not a penalty. Upon the granting and in accordance with the terms of the Approval and Reverse Vesting Order, the Investors will be entitled to the Cost Reimbursement Amount which shall be subject to a Court-ordered charge granted pursuant to the Approval and Reverse Vesting Order against the assets and property of the Company which shall rank immediately behind the DIP Charge and in priority to all other security interests, trusts, liens, charges and Encumbrances, Claims of secured creditors, statutory or otherwise in favour of any Person. The Company does not intend to withhold or deduct any amounts under the *Income Tax Act* (Canada) or any other provision of Applicable Law from any amount paid or credited by the Company under this Section 10.3 and the Company shall immediately notify the Investors of any change in the Company's intention.

10.4 Tax Returns

The Investors shall: (a) prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Company for all Tax periods ending on or prior to the Closing Date and for which Tax Returns have not been filed as of such date; and (b) cause the Company to duly and timely make or prepare all Tax Returns required to be made or prepared by them to duly and timely file all Tax Returns required to be filed by them for periods beginning before and ending after the Closing Date.

10.5 Survival

All representations, warranties, covenants and agreements of the Company or each Investor made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement shall not survive the Closing except where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or obligations extending after the Closing, or as otherwise expressly provided in this Agreement.

10.6 Expenses

Except as set forth in Section 7.2, or as otherwise set forth herein or agreed in writing upon amongst the Parties, each Party shall be responsible for its own costs and expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transactions (including the fees and disbursements of legal counsel, bankers, agents, investment bankers, accountants, brokers and other advisers).

10.7 Public Announcements

(a) All public announcements made in respect of the Transactions shall be made solely by the Company, provided that such public announcements shall be in form and substance acceptable to the Investors, acting reasonably. Notwithstanding the foregoing, nothing herein shall prevent a Party from making public disclosure in respect of the Transactions to the extent required by Applicable Law, provided that if any disclosure is to reference a Party hereto, such Party will be provided notice of such

requirement so that such Party may seek a protective order or other appropriate remedy.

(b) Subject to the above, the Investors will agree to the existence and factual details of this Agreement and the Transactions generally being set out in any public disclosure made by the Company or an Investor, including, without limitation, press releases and court materials, and to the filing of this Agreement and the Restructuring Support Agreement with the Court in connection with the CCAA Proceedings, provided that the Restructuring Support Agreement shall be subject to redactions as may be necessary to protect the commercial interests of the applicable Parties.

(c) Except as required by Applicable Law, the Company shall not without the prior written consent of an Investor (not to be unreasonably withheld, conditioned or delayed), specifically name the Investor in any press release or other public announcement or statement or commentary or make any representation in relation thereto.

10.8 Notices

(a) Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if: (i) delivered personally; (ii) sent by prepaid courier service; or (iii) sent by e-mail, in each case, to the applicable address set out below:

if to the Company to:

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

Attention: Heng Vuong
E-mail: Heng.Vuong@tacoraresources.com

with a copy to:

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

Attention: Ashley Taylor / Lee Nicholson
E-mail: ataylor@stikeman.com / leenicholson@stikeman.com

If to the Monitor to:

FTI Consulting Canada Inc.
79 Wellington Street West
Toronto Dominion Centre, Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jodi Porepa
E-mail: Paul.Bishop@fticonsulting.com / Jodi.Porepa@fticonsulting.com

with a copy to:

Cassels, Brock & Blackwell LLP
Bay Adelaide Centre
40 Temperance St. #3200,
Toronto, ON M5H 2S7

Attention: Ryan Jacobs / Jane Dietrich
E-mail: rjacobs@cassels.com / jdierich@cassels.com

If to Investors or any Investors other than Cargill:

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

Attention: Marc Wasserman / Michael De Lellis / Justin Sherman
E-mail: mwasserman@osler.com / mdelellis@osler.com / jsherman@osler.com

If to Cargill:

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

Attention: Robert J. Chadwick / Caroline Descours / Emily Ting
E-mail: rchadwick@goodmans.ca / cdescours@goodmans.ca / eting@goodmans.ca

(b) Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 5:00 p.m. Eastern time on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

(c) Any Party may from time to time change its address under this Section 10.8 by notice to the other Parties given in the manner provided by this Section 10.8.

10.9 Time of Essence

Time shall be of the essence of this Agreement in all respects.

10.10 Further Assurances

The Company on the one hand, and the Investors on the other hand, shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Parties may reasonably require as being

necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

10.11 Entire Agreement

This Agreement and the deliverables delivered by the Parties in connection with the Transactions constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect to the subject matter herein. There are no conditions, representations, warranties, obligations or other agreements between the Parties with respect to the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.

10.12 Waiver and Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless: (a) executed in writing by the Company and each of the Investors (including by way of email); and (b) the Monitor shall have provided its prior consent. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

10.13 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

10.14 Remedies Cumulative

The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

10.15 Governing Law

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

10.16 Dispute Resolution

If any dispute arises with respect to the interpretation or enforcement of this Agreement, including as to what constitutes a breach or material breach of this Agreement for the purposes of article 8 hereof, such dispute shall be determined by the Court within the CCAA Proceedings, or by such other Person or in such other manner as the Court may direct. The Parties irrevocably submit and attorn to the exclusive jurisdiction of the Court.

10.17 Attornment

Each Party agrees: (a) that any Action relating to this Agreement shall be brought in the Court, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of the Court; (b) that it irrevocably waives any right to, and shall not, oppose any such Action in the Court on any jurisdictional basis, including *forum non conveniens*; and (c) not to oppose the enforcement

against it in any other jurisdiction of any Order duly obtained from the Court as contemplated by this Section 10.17. Each Party agrees that service of process on such Party as provided in this Section 10.17 shall be deemed effective service of process on such Party.

10.18 Successors and Assigns

This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

10.19 Assignment

The Company may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Parties. Prior to Closing, each Investor may assign, upon written notice to the Company, all or any portion of its rights and obligations under this Agreement (including its right to subscribe for New Securities hereunder) to another Investor or an Affiliate provided that such Affiliate is capable of making the same representations and warranties herein and completing the Transactions by the Outside Date. Any purported assignment or delegation in violation of this Section 10.19 is null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder. For certainty, this Section 10.19 shall not restrict or apply to the provisions of Section 2.8.

10.20 No Liability; Monitor Holding or Disposing Funds

Any obligation of or direction to the Monitor to disburse or hold funds or take any action shall be subject to the Approval and Reverse Vesting Order or other order of the Court in all respects. The Investors and the Company acknowledge and agree that the Monitor, acting in its capacity as the Monitor of the Company in the CCAA Proceedings, and the Monitor's Affiliates and their respective former and current directors, officers, employees, agents, advisors, lawyers and successors and assigns will have no Liability under or in connection with this Agreement, the Approval and Reverse Vesting Order or any other related Court orders whatsoever (including, without limitation, in connection with the receipt, holding or distribution of the Cash Consideration (including the Deposit and interest accrued thereon)), whether in its capacity as Monitor, in its personal capacity or otherwise. If, at any time, there shall exist, in the sole and absolute discretion of the Monitor, any dispute between the Company on the one hand, and the Investors on the other hand, with respect to the holding or disposition of any portion of the Cash Consideration (including the Deposit and interest accrued thereon), or any other obligation of the Monitor hereunder in respect of the Cash Consideration (including the Deposit and interest accrued thereon), or if at any time the Monitor is unable to determine the proper disposition of any portion of the Cash Consideration (including the Deposit and interest accrued thereon), or its proper actions with respect to its obligations hereunder in respect of the Cash Consideration (including the Deposit and interest accrued thereon), then the Monitor may (i) make a motion to the Court for direction with respect to such dispute or uncertainty and, to the extent required by law or otherwise at the sole and absolute discretion of the Monitor, pay the Cash Consideration (including the Deposit and interest accrued thereon) or any portion of thereof into the Court for holding and disposition in accordance with the instructions of the Court, or (ii) hold the Cash Consideration (including the Deposit and interest accrued thereon)or any portion thereof and not make any disbursement thereof until: (a) the Monitor receives a written direction signed by both the Company and the Investors directing the Monitor to disburse, as the case may be, the Cash Consideration (including the Deposit and interest accrued thereon) or any portion thereof in the manner provided for in such direction, or (b) the Monitor receives an Order from the Court, which is not stayed or subject to appeal and for which the applicable appeal period has expired, instructing it to disburse, as the case may be, the Cash Consideration (including the Deposit and interest accrued thereon) or any portion thereof in the manner provided for in the Order. For the avoidance of doubt, all references to the Deposit in this Section shall be deemed to include any accrued interest thereon.

10.21 Third Party Beneficiaries

Except with respect to: (i) the Monitor as expressly set forth in this Agreement (including Section 10.20) or ResidualCo as it relates to all rights, covenants, obligations and benefits in favour of the Company under this Agreement that survive Closing and are transferred to ResidualCo as an Excluded Liability at the Closing; and (ii) ResidualCo as it relates to all rights, covenants, obligations and benefits in favour of the Company under this Agreement that survive Closing and are transferred to ResidualCo as an Excluded Asset at the Closing, this Agreement is for the sole benefit of the Parties, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

10.22 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Parties by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

[***Remainder of page intentionally left blank. Signature page follows.***]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

CARGILL, INCORPORATED

By: Mitchell Marcus

Name: MITCHELL MARCUS

Title: VP. Corporate Development

OSP, LLC (on behalf of certain managed funds)

By: 

Name: Chuck Anderson

Title: COO

MILLSTREET CAPITAL MANAGEMENT LLC,
as investment manager on behalf of multiple noteholders

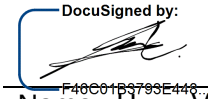
By: 

Name: Craig M. Kelleher

Title: Managing Member

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

TACORA RESOURCES INC.

By: 

Name: Heng Vuong
Title: Executive Vice President &
Chief Financial Officer

Exhibit "A"
Investors Entities and Allocations

Investor	Deposit	New Equity Offering Initial Cash Consideration	New Equity Offering Initial Cash Consideration (less Deposit)	New Equity Offering Retained Cash Consideration	Total Cash Consideration on Closing (less Deposit)	Total Cash Consideration on Closing
Millstreet[1]	$8,000,000.00	Allocation of subscription amounts amongst New Equity Offering Initial Cash Consideration and New Equity Offering Retained Cash Consideration to be determined prior to Closing.			$79,500,000.00	$87,500,000.00
OSP[1]	$4,800,000.00				$47,700,000.00	$52,500,000.00
Cargill, Incorporated	$3,200,000.00				$31,800,000.00	$35,000,000.00
Total	**16,000,000**				**159,000,000**	**175,000,000**

Note:

1: Subject to adjustment in accordance with Section 2.4 of the Subscription Agreement to the extent any Other New Equity Investors, who are also Existing Noteholders, enter into the Other New Equity Investor Subscription Agreements.

Exhibit "B"

New Equity Offering Additional Cash Consideration

	Millstreet[1]	**OSP**[1]	**Cargill**	**Total**
Aggregate New Equity Offering Additional Cash Consideration:	$37,500,000	$22,500,000	$15,000,000	**75,000,000**

Note:

1: Subject to adjustment in accordance with Section 2.4 of the Subscription Agreement to the extent any Other New Equity Investors, who are also Existing Noteholders, enter into the Other New Equity Investor Subscription Agreements.

Exhibit "C"
Takeback Notes; New Warrants

Investor	Unsecured Takeback Notes for Initial Noteholder Investors	Principal Amount of Unsecured Takeback Notes for Investors (who are also Existing Noteholders)[1]	Takeback Note Cash Consideration[1]	Allocation of 40% of New Warrants	Allocation of 60% of New Warrants [1]
Millstreet	$3,125,000	$12,500,000	$15,625,000	62.50%	62.50%
OSP	$1,875,000	$7,500,000	$9,375,000	37.50%	37.50%
Total	**$5,000,000**	**$20,000,000**	**$25,000,000**		

Note:

1: Subject to adjustment in accordance with Section 2.6 of the Subscription Agreement to the extent any Other New Equity Investors, who are also Existing Noteholders, enter into the Other New Equity Investor Subscription Agreements.

Schedule "A"
Investor Debtholders[1]

Investor	Outstanding Obligations
Millstreet	$**79.5 million**
OSP	$**47.0 million**
Cargill	DIP Facility: approximately **$129.8 million** (comprised of $125m of principal amount drawn and $4.8m of Post-Filing Credit Extensions**)**
	Senior Secured Margining Facility: approximately **$6.2 million**
	APF: **$30 million**

[1] As at July 7, 2024, principal amounts outstanding only, not including accrued interest, fees, expense or any other applicable amounts.

Schedule “B”
Assumed Liabilities

- Grievances of the Union under the collective agreement between the Company and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (United Steel Workers) executed on January 11, 2023, including:

    1. Grievance filed on February 20, 2023, regarding Daniel Critch (Termination date: February 16, 2023; Seniority date: June 24, 2019)

    2. Grievance filed on December 16, 2022, regarding Mark Dandy (Termination date: December 12, 2022; Seniority date: September of 2019)

    3. Grievance filed on October 13, 2023, regarding Stan Hill (Termination date: October 12, 2023; Seniority date: May of 2019)

    4. 4. Grievance filed on October 27, 2023, regarding Anna March (Termination date: October 18, 2023; Seniority date: 2021 or 2022)

- Substantially all Pre-Filing Trade Amounts and royalty obligations of the Company on terms and amounts to be agreed by the Company and the Investors

- Post-Filing Trade Amounts on terms and amounts to be agreed by the Company and the Investors

- Liabilities under Retained Contracts on terms and amounts to be agreed by the Company, the Investors and the counterparty of the Retained Contracts

- All Liabilities of the Company relating to the Retained Assets arising from and after the Closing Time

- All Liabilities of the Company under the Retained Contracts and Permits and Licenses arising from and after the Closing Time

Schedule "C"
Encumbrances to Be Discharged

All Encumbrances concerning, with regard to, arising from, or which otherwise related to:

- Any of the Excluded Contracts or the Excluded Liabilities
- The Senior Priority Notes
- The Senior Secured Notes
- The DIP Agreement
- The APF
- Lien Claims made by JSM Electrical Ltd. subject to proceedings before the Supreme Court of Newfoundland and Labrador (Court File No. 2023 01G 5933)
- Lien Claims made by MacGregors Industrial Group subject to proceedings before the Supreme Court of Newfoundland and Labrador (Court File No. 2024 01G 1503)
- Lien Claims made by 13859380 Canada Inc. subject to proceedings before the Supreme Court of Newfoundland and Labrador (Court File No. 2023 01G 6075)
- Mechanics Lien No. 20544 registered by Energy Lock Inc. on May 16, 2024
- Mechanics Lien No. 20446 registered by Newfound Roofing Ltd. on November 10, 2023

Schedule “D”
Excluded Assets

- Unless otherwise agreed by the Investors, the Existing Equity of the subsidiaries and affiliates of the Company

Schedule "E"
Excluded Contracts

All contracts that are not Retained Contracts as listed in Schedule "M", including but not limited to:

- Amended and Restated Advance Payments Facility Agreement between the Company and Cargill dated May 29, 2023, as amended by the Amendment dated June 23, 2023
- DIP Facility Term Sheet between the Company and Cargill dated October 9, 2023
- Debenture between the Company and Cargill dated January 9, 2023
- General Security Agreement between the Company and Cargill dated January 9, 2023
- Assignment of Material Contracts between the Company and Cargill dated January 9, 2023
- Assignment of Insurance between the Company and Cargill dated January 9, 2023
- Hypothec on Movables between the Company and Cargill dated January 9, 2023
- Share Pledge Agreement between the Company and Cargill dated January 9, 2023
- Blocked Account Agreement between the Company, Bank of Montreal, in its capacity as the provider of banking services, Computershare Trust Company, N.A., in its capacity as notes collateral agent under the Indenture (as defined thereunder) and Cargill dated January 9, 2023
- Collateral and Intercreditor Agreement between the Company, the other Grantors thereto from time to time, Computershare Trust Company, N.S., in its capacity as the Notes Collateral Agent, as the Authorized Representative for the Indenture Secured Parties, Cargill and each Additional Authorized Representative from time to time party thereto dated May 11, 2023
- Pari Passu Intercreditor Agreement between the Company, the other Grantors thereto from time to time, Computershare Trust Company, N.S., in its capacity as the Notes Collateral Agent, as the Authorized Representative for the Indenture Secured Parties, Cargill and each Additional Authorized Representative from time to time party thereto dated January 9, 2023
- Second Amended and Restated Shareholders' Agreement between the Company, Proterra M&M MGCA B.V., Magglobal, Proterra M&M Co-Invest LLC, OMF Fund II (Be) Ltd., Cargill and Titlis Mining AS dated January 9, 2023
- Letter Agreement between the Company, Cargill and certain holders of the Company's (a) 9.00% Cash / 4.00% PIK Senior Secured Priority Notes Due 2023 and (b) 8.250% Senior Secured Notes due May 15, 2026 listed in Schedule "A" thereto dated May 29, 2023
- Sublease Offer between the Company and 12893118 Canada Inc. dated January 31, 2023
- Offer to Lease between the Company and 9356-0563 Quebec Inc. dated February 12, 2021

- Assignment of Insurance by the Company in favour of Wells Fargo Bank, National Association, in its capacity as Notes Collateral Agent dated May 11, 2021

- Assignment of Material Contracts by the Company in favour of Wells Fargo Bank, National Association, in its capacity as Notes Collateral Agent dated May 11, 2021

- Debenture between the Company and Wells Fargo Bank, National Association, in its capacity as Notes Collateral Agent

- Debenture Amendment Agreement between the Company and Computershare Trust Company, N.A., in its capacity as Notes Collateral Agent dated February 16, 2022

- Debenture Second Amendment between the Company and Computershare Trust Company, N.A., in its capacity as Notes Collateral Agent dated May 11, 2023

- General Security Agreement between the Company and Wells Fargo Bank, National Association, in its capacity as Notes Collateral Agent dated May 11, 2021

- Deed of Hypothec between the Company and Wells Fargo Bank, National Association, in its capacity as Notes Collateral Agent dated August 3, 2021

- Share Pledge Agreement between the Company and Wells Fargo Bank, National Association, in its capacity as Notes Collateral Agent

- Note No. A-2 between the Company and Computershare Trust Company, N.S. as Trustee dated February 16, 2022

- Note No. S-1 between the Company and Computershare Trust Company, N.S. as Trustee dated February 16, 2022

- Indenture between the Company and Wells Fargo, National Association as Trustee and Notes Collateral Agent dated May 11, 2021

- First Supplemental Indenture between the Company and Computershare Trust Company, N.A. as Trustee and Notes Collateral Agent dated February 15, 2022

- Second Supplemental Indenture between the Company and Computershare Trust Company, N.A. as Trustee and Notes Collateral Agent dated February 16, 2022

- Purchase Agreement between the Company and Jefferies LLC, in its capacity as representative dated February 8, 2022

- Purchase Agreement between the Company and Jefferies LLC, in its capacity as representative dated May 5, 2021

- Jarvis Hedge Intercreditor Agreement between the Company, Wells Fargo Bank, National Association, as the First Lien Representative and the Indenture Collateral Agent and SAF Jarvis 2 LP dated May 11, 2021

- Amended and Restated Base Indenture between the Company and Computershare Trust Company, N.A., as Trustee dated May 11, 2023

- First Supplemental Indenture between the Company and Computershare Trust Company, N.A. dated May 11, 2023

- Second Supplemental Indenture between the Company and Computershare Trust Company, N.A. dated May 11, 2023

- Third Supplemental Indenture between the Company and Computershare Trust Company, N.A. dated June 23, 2023

- Fourth Supplemental Indenture between the Company and Computershare Trust Company, N.A. dated September 8, 2023

- Sydvaranger Offtake Conditions Precedent Agreement between the Company, Cargill and Sydvaranger Mining AS dated July 21, 2022

- Agreement between the Company, Sydvaranger Mining AS, Tacora Norway AS and OMF Fund II H Ltd dated February 15, 2023

- Royalty Agreement between, inter alios, the Company, Sydvaranger Mining AS, Sydvaranger Eiendom AS, Sydvaranger Drift AS, Sydvaranger Malmtransport AS, Tacora Norway AS and OMF Fund II H Ltd dated January 13, 2021

- Amendment Agreement to Royalty Agreement between the Company, Sydvaranger Mining AS, Sydvaranger Eiendom AS, Sydvaranger Drift AS, Sydvaranger Malmtransport AS, Tacora Norway AS and OMF Fund II H Ltd dated February 15, 2023

- Funding Letter between the Company and OMF Fund II Be Ltd., OMF Fund II Be Ltd., Sydvaranger Mining AS and Tacora Norway AS dated February 8, 2023

- Funding Letter between the Company and OMF Fund II H Ltd., Tacroa Norway and Sydvaranger Mining AS dated February 15, 2023

- Side Letter Agreement between the Company, OMF Fund II (BE) Ltd., OMF Fund II H Ltd., Tacora Norway AS and Sydvaranger Mining AS dated January 3, 2023

- Offtake Agreement between the Company and Cargill dated November 11, 2018

- Iron Ore Stockpile Purchase Agreement between the Company and Cargill dated December 17, 2019

- Iron Ore Sale and Purchase Contract between the Company and Cargill dated April 5, 2017

- First Restatement of Iron Ore Sale and Purchase Contract between the Company and Cargill dated November 9, 2018

- Consent between the Company and Cargill dated May 11, 2023
- Side Letter Agreement between the Company and Cargill dated March 20, 2020
- Side Letter Agreement between the Company and Cargill dated March 2, 2021
- Side Letter Agreement between the Company and Cargill dated March 9, 2022
- Side Letter Agreement between the Company and Cargill dated September 8, 2022
- Side Letter Agreement between the Company and Cargill dated January 25, 2023
- Amendment Letter between the Company and Cargill dated January 9, 2023
- Side Letter Agreement between the Company and Cargill dated January 31, 2023
- Side Letter Agreement between the Company and Cargill dated June 30, 2022
- Side Letter Agreement between the Company and Cargill dated March 28, 2022
- Side Letter Agreement between the Company and Cargill dated July 11, 2022
- Side Letter Agreement between the Company and Cargill dated July 15, 2022
- Side Letter Agreement between the Company and Cargill dated June 27, 2022
- Side Letter Agreement between the Company and Cargill dated May 27, 2022
- Side Letter Agreement between the Company and Cargill dated June 13, 2022
- Side Letter Agreement between the Company and Cargill dated June 16, 2022
- Side Letter Agreement between the Company and Cargill dated April 29, 2022
- Side Letter Agreement between the Company and Cargill dated March 10, 2022
- Side Letter Agreement between the Company and Cargill dated May 15, 2023
- Side Letter Agreement between the Company and Cargill dated May 13, 2022
- Amendment between the Company and Cargill dated July 22, 2022, pursuant to the Side Letter Agreement between the Company and Cargill dated March 10, 2022
- Side Letter Agreement between the Company and Cargill dated February 24,2022
- Amendment between the Company and Cargill dated March 10, 2022, pursuant to the Side Letter Agreement between the Company and Cargill dated February 24, 2022

- Wetcon Purchase and Sale Agreement between the Company and Cargill dated July 10, 2023
- all indemnity agreements with all current and former directors of the Company or any third party that is not an employee of the Company at the time of Closing
- all engagement letters, retainer agreements, fee reimbursement agreements and any similar agreements between the Company and any legal, financial or other advisors to the Company or any other party
- Contribution Agreement between the Company and Atlantic Canada Opportunities Agency dated February 1, 2023
- Contribution Agreement between the Company and Atlantic Canada Opportunities Agency dated October 20, 2020
- Contribution Agreement between the Company and Atlantic Canada Opportunities Agency dated March 9, 2022

and in each case including all amendments, restatements, addendums, modifications, work orders, revisions, statements of work and other documentation or supplements issued thereunder

Schedule "F"
Excluded Liabilities

- Any and all Claims and Liabilities relating to the Senior Priority Notes and the Senior Secured Notes

- Any and all claims under the APF that are not otherwise satisfied pursuant to the Agreement

- Any and all Liabilities with regard to any litigation or other legal proceedings brought or initiated, or which could be brought or initiated, against the Company relating to or arising from any act, occurrence or circumstance existing at or before the Closing Date, including in connection with:

    1. Claims made by JSM Electrical Ltd. subject to proceedings before the Supreme Court of Newfoundland and Labrador (Court File No. 2023 01G 5933);

    2. Claims made by 13859380 Canada Inc. subject to proceedings before the Supreme Court of Newfoundland and Labrador (Court File No. 2023 01G 6075);

    3. Claims made by Quebec Iron Ore Inc. subject to proceedings before the Supreme Court of Newfoundland and Labrador (Court File No. 2023 01G 4195);

    4. Claims made pursuant to letters dated April 27, 2023 and August 25, 2023 from 1128349 B.C. Ltd. and subject to arbitration proceedings in Newfoundland and Labrador; and

    5. Claims made by Construction & Expertise PG Inc. subject to proceedings before the Supreme Court of Newfoundland and Labrador (Court File No. 2022 01G 3243).

- Any and all Liabilities relating directly or indirectly, at Law, under contract or otherwise, to or arising from the Excluded Contracts

- Any and all Liabilities relating directly or indirectly, at Law, under contract or otherwise, to or arising from the Excluded Assets

- Any and all Liabilities under the engagement letter between Greenhill & Co. Canada Ltd. and Tacora Resources Inc., dated as of January 23, 2023 (including all amendments, restatements, addendums, modifications, work orders, revisions, statements of work and other documentation or supplements issued thereunder) that are not secured by a CCAA Charge ranking in priority to the DIP Charge

Schedule “G”

Material Permits, Licenses and Contracts

- See Schedule “J”
- See Schedule “H”
- Insurance Policies

No.	Policy Type	Policy Number	Date	Insurer	Coverage Allowance	Expiration	Annual Premium
1.	Automobile Insurance	43-CAO-150292-04	01-Mar-23	National Liability & Fire Insurance Company	C$2,000,000	01-Mar-24	C$100,680
2.	Commercial General Liability Occurrence	43-GLO-303996-06	01-Mar-23	National Liability & Fire Insurance Company	Each Occurrence Limit(CAD): $2,000,000 Medical Expenses Limit: $25,000 – any one person Tenant’s Legal Liability Limit: $2,000,000 – any one premises Personal and Advertising Injury Limit: $2,000,000 – any one person or organization General Aggregate Limit: $10,000,000 Products-Completed Operations	01-Mar-24	C$196,000

No.	Policy Type	Policy Number	Date	Insurer	Coverage Allowance	Expiration	Annual Premium
					Limit: $2,000,000		
3.	Commercial Umbrella Liability Occurrence	43-UMO-310361-04	01-Mar-23	National Liability & Fire Insurance Company	Each Occurrence Limit(CAD): $8,000,000 General Aggregate Limit: $8,000,000 Products-Completed Operations Aggregate Limit: $8,000,000	01-Mar-24	C$164,640
4.	Excess Liability Policy	1000399279-04	01-Mar-23	Liberty Mutual Insurance Company	Each Occurrence (CAD): $15,000,000 Products and Completed Operations Aggregate: $15,000,000 Other Aggregate: $15,000,000	01-Mar-24	C$171,645
5.	Directors and Officers Liability	02-778-37-62	01-Mar-23	AIG Insurance Company of Canada	Limit of Liability (CAD): $10,000,000 Policy Aggregate $10,000,000 Employment Practices Liability (shared limit) $10,000,000 Fiduciary	01-Mar-24	C$32,800

No.	Policy Type	Policy Number	Date	Insurer	Coverage Allowance	Expiration	Annual Premium
					Liability (shared Limit) $1,000,000 Excell Limit for Insured Persons $25,000 Crisis Fund		
6.	Marine Cargo (Iron Ore)	OCTOABW7KX023	20-Dec-23	Liberty Mutual Insurance Company & Great American Insurance Company	Limits(USD): $10,000 any one rail car in respect to iron ore only $1,680,000 any one train in respect to iron ore $2,500,000 limit in storage in mine site, prior to loading in rail cars $2,500,000 any and/or location and in the annual aggregate for earthquake	20-Dec-24	US$56,900
7.	Railcars and Locomotive Liability	RRP1805-03	10-Mar-23	Evanston Insurance Company	Limit of Liability(USD): $20,000,000 per occurrence $500,000 additionally acquired property $100,000 Debris Removal,	10-Mar-24	US$211,508

No.	Policy Type	Policy Number	Date	Insurer	Coverage Allowance	Expiration	Annual Premium
					Rerail and Rerouting Expense $50,000 Pollutant Clean-Up and Removal $25,000 Rental Reimbursement Expense		

Schedule "H"
Mineral Tenures

All mining claims, leases and other property rights and Mining Rights of the Company appurtenant to the Owned Real Property and pursuant to the Real Property Leases described below:

"**Real Property Leases**"

All of the real property leased, subleased, licensed and/or otherwise used or occupied (whether as tenant, subtenant, licensee or pursuant to any other occupancy arrangement) (including subsurface mineral rights) in connection with the operation of the Business as it is now being conducted, including (without limitation):

1. Offer to Lease effective March 11, 2021 between 9356-0563 Quebec Inc., as landlord, and the Vendor, as tenant, in respect of certain premises on the sixth floor of the building in "Solar Uniquartier" with a municipal address of 3400, De L'Éclipse, Brossard, QC (the "Brossard Head Lease").

2. Offer de Sous-Location dated January 31, 2023 between the Vendor, as sublandlord, and 12893118 Canada Inc., as subtenant, being a sublease of the Brossard Head Lease.

3. Commercial Lease dated December 31, 2017 between Northbank Professional Building, Inc., as landlord, and the Vendor, as tenant, in respect of certain premises constituting suites 120, 130, 140, and 260A located at the building with a municipal address of 102-04 3rd Street NE, Grand Rapids, MN.

And, for greater certainty, also including all leasehold properties acquired by the Vendor pursuant to the Wabush Iron Purchase Agreement, including the following:

Lot 1:

1. Indenture dated May 26, 1956 made by and between the Lieutenant-Governor of the Province of Newfoundland in Council, as lessor, and to Newfoundland and Labrador Corporation Limited ("NALCO"), as lessee, registered at the Registry of Transfers of the Department of Industry, Energy and Technology for the Province of Newfoundland and Labrador as item No. 1 in the Minerals Volume entitled "Volume 1-NALCO and Associates" as assigned by an indenture dated May 26, 1956 between NALCO, as lessor, and Canadian Javelin Limited ("Javelin"), as lessee, registered in the Registry of Deeds for the Province of Newfoundland and Labrador at Volume 349 Folio 333-350 and as Item No. 2 in the Minerals Volume entitled "Volume 1 -NALCO and Associates" as amended and consolidated by an Amendment and Consolidation of Mining Leases dated September 2, 1959 initially made between Javelin, as lessor, and Wabush Iron, as lessee, as the same has been amended and assigned from time to time, including by Deed of Assignment from Wabush Iron and Wabush Resources to the Vendor dated July 18 2017 registered at the Registry of Deeds for Newfoundland and Labrador on November 24, 2017 as registration no. 841257, and by Amendment and Restatement of Consolidation of Mining Leases among 0778539 B.C. Ltd., as Javelin was then known, and the Vendor, as same as been assigned from 0778539 B.C. Ltd., as assignor, to 1128349 B.C. Ltd., as assignee, pursuant to which the Vendor has been granted rights to explore and conduct mining operations at the Scully Mine.

Lots 2, 3, 4:

2. The Crown Lease made by and between the Lieutenant-Governor of the Province of Newfoundland in Council, as lessor, and NALCO, as lessee, dated May 15, 1962 and

registered in the Registry of Deeds at Volume 578, Folios 001-043, as assigned by an indenture dated May 16, 1962, between NALCO, as lessor, and Javelin, as lessee, and registered in the Registry of Deeds at Volume 579, Folios 362-392 (the "NALCO-Javelin Indenture"), as conveyed by Javelin, as lessor, to Wabush, as lessee, pursuant to an indenture dated May 17, 1962, and registered in the Registry of Deeds at Volume 579, Folios 396-426 (the "Javelin-Wabush Indenture"), as assigned to the Vendor, as lessee, by Deed of Assignment from Wabush Iron and Wabush Resources dated July 18 2017 registered at the Registry of Deeds for Newfoundland and Labrador on November 24, 2017 as registration no. 841257, respecting mining rights to areas referred to as Lots 2, 3, and 4, excepting all portions of that real property that have been sold, assigned or conveyed by the Vendor or their predecessors in title to any third parties in deeds of sale, assignment or conveyance registered in the Registry of Deeds for Newfoundland and Labrador, copies of all of which have been provided to the Purchaser.

Wabush Mountain:

3. The Crown Lease made between the Lieutenant-Governor of the Province of Newfoundland in Council, as lessor, and NALCO, as lessee, dated May 15, 1962, and registered in the Registry of Deeds at Volume 577, Folios 522-543, as assigned by NALCO, as lessor, to Javelin, as assignee, pursuant to the NALCO-Javelin Indenture, and registered in the Registry of Deeds at Volume 579, Folios 393-395 as conveyed by Javelin, as lessor, to Wabush, as lessee, pursuant to the Javelin-Wabush Indenture, and registered in the Registry of Deeds at Volume 579, Folios 427-431,as assigned to the Vendor, as lessee, by Deed of Assignment from Wabush Iron and Wabush Resources dated July 18 2017 registered at the Registry of Deeds for Newfoundland and Labrador on November 24, 2017 as registration no. 841257.

Other:

4. Indenture made between the Lieutenant-Governor in and for the Province of Newfoundland in Council, as lessor, and Knoll Lake, as lessee, dated 12 April 1965, as assigned to Wabush Iron and Wabush Resources pursuant to an indenture dated January 1, 1969 between, inter alia, Knoll Lake, as assignor, and Wabush Iron, as assignee, and subsequently assigned to the Vendor by Deed of Assignment from Wabush Iron and Wabush Resources dated July 18 2017 and registered at the Registry of Deeds for Newfoundland and Labrador on November 24, 2017, as registration no. 841250 respecting an area consisting of 8.678 acres of land for installing, maintaining and repairing a pumping facility.

5. Indenture made between the Lieutenant-Governor in and for the Province of Newfoundland in Council, as licensor, and NALCO, as licensee, dated 15 May 1962 and registered in the Registry of Deeds for Newfoundland and Labrador at Volume 577, Folios 544-563, which was assigned from NALCO to Javelin on May 16, 1962, registered in the Registry of Deeds at Volume 579 Folios 393-395 and further assigned to Wabush Iron and Wabush Resources from Javelin on May 17, 1962 registered in the Registry of Deeds in Volume 579, Folios 427-431, and subsequently assigned to the Vendor by Deed of Assignment from Wabush Iron and Wabush Resources dated July 18 2017 and registered at the Registry of Deeds for Newfoundland and Labrador as registration no. 841250, respecting the deposit and recovery of tailings in Flora Lake.

6. Indenture dated January 14, 1983, between Wabush Iron, Stelco Inc., Dofasco Inc. and the Newfoundland and Labrador Ministry of Transportation for proposed Route 530, registered in the Registry of Deeds for Newfoundland and Labrador at Volume 3732, pages 250-257 and Roll 95, Frame 2376, as assigned to the Vendor by Deed of Assignment from Wabush Iron and Wabush Resources dated July 18 2017 and registered at the Registry of Deeds for Newfoundland and Labrador as registration no. 841250.

Schedule "I"
Owned Real Property

All real property interests owned by the Company, including those acquired pursuant to an Asset Purchase Agreement (the "**Wabush Iron Purchase Agreement**") among Wabush Iron Co. Limited ("**Wabush Iron**"), Wabush Resources Inc. ("**Wabush Resources**"), and Wabush Lake Railway Company Limited ("**Wabush Lake**") (collectively as vendors pursuant thereto) and Tacora Resources Inc. (as purchaser pursuant thereto) and Magglobal LLC (as Parent), including the following:

- 1. The Crown Grant of surface and mining rights made by the Lieutenant Governor in Council to NALCO, dated May 26, 1956 and registered in the Registry of Transfers as Item No. 3 in the Land Titles (Concessions) Volume entitled "Volume 1 – NALCO and Associates", as assigned by NALCO, as assignor, to Javelin, as assignee, dated May 26, 1956, and registered in the Registry of Deeds for Newfoundland at Volume 349, Folios 351-365, as amended by agreement from the Lieutenant Governor in Council in favour of Javelin dated June 28, 1957, registered in the Registry of Deeds for Newfoundland and Labrador at Volume 389, Folios 465 to 479, as assigned from Javelin to Wabush Iron Co. Limited and Wabush Resources Inc. in an Amendment and Consolidation of Mining leases dated September 2, 1959 and subsequently assigned to the Company by Deed of Assignment from Wabush Iron and Wabush Resources dated July 18 2017 and registered at the Registry of Deeds for Newfoundland and Labrador as registration no. 841250, respecting the surface rights to areas referred to as Lots 2, 3, and 4, excepting all portions of that real property that have been sold, assigned or conveyed by the Company or their predecessors in title to any third parties in deeds of sale, assignment or conveyance registered in the Registry of Deeds for Newfoundland and Labrador, copies of all of which have been provided to the Investors.

- All right, title and interest of the Company in the Jean River (Railway) Bridge acquired pursuant to indentures of conveyance from Wabush Resources, Wabush Iron and Wabush Lake dated July 18, 2017 registered in the Registry of Deeds for Newfoundland and Labrador as registration nos. 841249 and 841247, including that parcel of land referred to as "Parcel 14-2" in the Indenture made as of February 23, 2018 between Quebec Iron Ore Inc. and the Company, registered in the Registry of Deeds as registration number 852093.

- All buildings, infrastructure, fixtures and other immovable assets, if any, located on the on the property set out at item 1 above, or any properties described in the Real Property Leases.

- All real property described in the indenture dated 31 October 1961 between Wabush Iron and Wabush Lake and registered in the Registry of Deeds for Newfoundland and Labrador at Volume 559, Folios 383 to 389, as conveyed to the Company by indenture of conveyance dated July 18 2017 registered in the Registry of Deeds for Newfoundland and Labrador as registration no. 841247, excepting all portions of that real property that have been sold, assigned by conveyed by the Company or its predecessors to any third parties in deeds of sale, assignment or conveyance registered in the Registry of Deeds for Newfoundland and Labrador, copies of all of which have been provided to the Investors.

- All real property described in the indenture dated 30 September 1981 made between Newfoundland and Labrador Housing Corporation, as vendor, and Wabush Lake, as purchaser, registered in the Registry of Deeds for Newfoundland and Labrador at Roll 8858,

Frame 664, as conveyed to the Company by indenture of conveyance dated July 18 2017 registered in the Registry of Deeds for Newfoundland and Labrador as registration no. 841247.

Schedule "J"

Permits and Licenses

- Nuclear Substance and Radiation Device License No. 17061-1-25.2 dated September 23, 2021, issued by the Canadian Nuclear Safety Commission to the Company

- Certificate of Approval dated March 27, 2023, issued by the Government of Newfoundland and Labrador for the operation of an iron ore mine and mill at Wabush, including: pit dewatering; processing ore to concentrate; and disposal of tailings at Flora Lake. (Approval No. AA23-035696)

- Certificate of Approval dated March 27, 2023, issued by the Government of Newfoundland and Labrador (Department of Municipal Affairs and Environment) to the Company for the operation of an iron ore mine and mill at Wabush (Approval No. AA23-035696) and all related permits and licences

- Certificate of Approval dated March 27, 2023, issued by the Government of Newfoundland and Labrador (Department of Environment and Climate Change) to the Company for the operation of an iron ore mine and mill at Wabush (Approval No. AA23-035696) and all related permits and licences

- Certificate of Approval dated November 30, 2023, issued by the Government of Newfoundland and Labrador (Department of Digital Government and Service NL) to the Company for the continued maintenance and operation of a waste management system (Approval No. LB-WMS23-01023N)

- Mill License No. ML-TRI-02 dated November 22, 2023, issued by the Government of Newfoundland and Labrador (Department of Natural Resources) to the Company (for the processing of 18 million tonnes of ore per year; issued November 22, 2023 and valid for 5 years)

- Water Use License – Industrial (General Purpose) – No. WUL-21-12126 dated October 1, 2021, issued by the Government of Newfoundland and Labrador (Department of Environment and Climate Change Water Resources Management Division) to the Company to withdraw water from a groundwater well within the Town of Wabush

- Water Use License – Industrial (Mining) – No. WUL-23-12921 dated January 18, 2023, issued by the Government of Newfoundland and Labrador (Department of Environment and Climate Change Water Resources Management Division) to the Company to withdraw and use water from Little Wabush Lake

- Water Use License – Industrial (Mining) – No. WUL-23-12922 dated January 18, 2023, issued by the Government of Newfoundland and Labrador (Department of Environment and Climate Change Water Resources Management Division) to the Company for the dewatering of certain pits

- Written confirmation from the Minister of Environment and Climate Change, Newfoundland and Labrador that the Scully Mine Tailings Impoundment Area Expansion Project is released from further provincial environmental assessment requirements and that the Company may

proceed with the Project pursuant to section 56 of the Newfoundland Environmental Protection Act, SNL 2002 c.E-14.2

Schedule "K"
Permitted Encumbrances

- Reservations, limitations, proviso and conditions, if any, expressed in any original grant from the Crown provided that they do not materially adversely affect value, use or exploration or exploitation rights

- Title defects or irregularities which are of minor nature, encroachments, easements, rights-of-way, rights to use, servitudes or similar interests provided that same does not materially adversely affect value, use or exploration or exploitation rights

- Rights-of-way for or reservations or rights of others for, sewers, drains, water lines, gas lines, electric lines, railways, telegraph, telecommunications and telephone lines, or cable conduits, poles, wires and cables, and other similar utilities, or zoning by-laws, ordinances or other restrictions as to the use of the Company's real property, that arise in the ordinary course of business and which do not individually or in the aggregate materially adversely affect value, use or exploration or exploitation rights

- The Mineral Tenures

- Encumbrances permitted in writing by the Investors

- Encumbrances in respect of any Retained Contracts

Schedule “L”
Pre-Filing Trade Amounts

- Substantially all Pre-Filing Trade Amounts on terms and amounts to be agreed by the Company and the Investors

Schedule “M”
Retained Contracts

- Mine Rehabilitation and Closure Performance Bond between the Company and Intact Insurance Company dated March 14, 2019
- Impact and Benefit Agreement between the Company and Innu Nation Inc. dated March 21, 2018
- Agreement between the Company and Her Majesty of Newfoundland and Labrador, as represented by the Minister of Natural Resources, dated April 14, 2019
- Agreement between the Company and Town Council of the Town of Wabush, on behalf of the Town of Wabush, dated January 1, 2023
- Limited Liability Company Agreement between the Company and Tacora Resources LLC dated July 20, 2017
- Commercial Lease between the Company and Northbank Professional Building, Inc. dated December 31, 2017
- Direct Debit Agreements between the Company and Sandvik Canada, Inc. dated August 19, 2022
- Direct Debit Agreement between the Company and Sandvik Canada, Inc. dated October 7, 2022
- Extension Agreements between the Company and Komatsu Financial dated March 29, 2023
- All Security Agreements – Conditional Sales Contracts among the Vendor and Equipement SMS Inc., as assigned to Komatsu International (Canada) Inc. dba Komatsu Financial, including:
    - Security Agreements – Conditional Sales Contracts between the Company and Komatsu Financial dated May 21, 2019
    - Security Agreements – Conditional Sales Contracts between the Company and Komatsu Financial dated May 28, 2019
    - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated May 31, 2019
    - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated May 26, 2021
    - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated June 24, 2019

  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated July 5, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated July 15, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated August 30, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated August 6, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated September 6, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated June 14, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated May 10, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated January 22, 2020
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated September 2, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated September 24, 2021
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated May 14, 2019
  - Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated May 10, 2019

- Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated August 6, 2021
- Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated July 6, 2022
- Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated June 1, 2021
- Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated May 26, 2021

- Security Agreement – Conditional Sales Contract between the Company and Komatsu Financial dated April 15, 2021

- Security Agreements – Conditional Sales Contracts between the Company and Komatsu Financial dated July 7, 2022

- Lease Contract between the Company and Caterpillar Financial Services Limited dated August 31, 2022

- Lease Contracts between the Company and Caterpillar Financial Services Limited dated April 25, 2019

- Lease Contracts between the Company and Caterpillar Financial Services Limited dated July 15, 2019

- Lease Contract between the Company and Caterpillar Financial Services Limited dated December 18, 2019

- Master Equipment Lease Agreement between the Company and Sandvik Canada, Inc. dated August 18, 2022

- Amended and Restated Master Lease Agreement between the Company and Caterpillar Financial Services Limited dated August 3, 2022

- Equipment Purchase Offer, Order, and Sale Agreement between the Company and SMS Equipment Inc. dated June 21, 2022

- Specific Security Agreement made by the Company in favour of Caterpillar Financial Services Limited dated April 15, 2019

- Lease Agreement between the Company and JSM Properties Inc. dated December 5, 2023

- Operational Agreement between the Company and Société Ferroviaire et Portuaire de Pointe-Noire, S.E.C. dated December 24, 2022

- Joinder Agreement between the Company, Société Ferroviaire et Portuaire de Pointe-Noire, S.E.C., Société du Plan Nord, Quebec Iron Ore Inc. and Tata Steel Minerals Canada Limited dated February 5, 2019

- Contract between the Company and Set-îles Port Authority

- Contract (for users of the Port's multi-user berth) dated July 13, 2012 between Sept-Iles Port Authority and New Millennium Iron Corp. (now operating as Abaxx Technologies Inc.), as since assigned to the Company by the Assignment of Contractual Rights dated April 19, 2018 between New Millennium Iron Corp. (now operating as Abaxx Technologies Inc.) and the Company, as amended by the Amending Agreement dated August 24, 2018

- Agreement between the Company, Set-îles Port Authority and New Millenium Iron Corp. (now operating at Abaxx Technologies Inc.) dated April 19, 2018

- Locomotive Rental Agreement between the Company and Quebec North Shore & Labrador Railway Company Inc. dated November 8, 2017

- Confidential Transportation Contract between the Company and Quebec North Shore & Labrador Railway Company Inc. dated November 3, 2017 subject to Section 5.3(d) of the Agreement

- Agreement to Amend the Confidential Transportation Contract between the Company and Quebec North Shore & Labrador Railway Company Inc. dated February 13, 2019

- Second Agreement to Amend the Confidential Transportation Contract between the Company and Quebec North Shore & Labrador Railway Company Inc. dated May 20, 2019

- Third Agreement to Amend the Confidential Transportation Contract and the Locomotive Rental Agreement between the Company and Quebec North Shore & Labrador Railway Company Inc. dated July 1, 2019

- Fourth Agreement to Amend the Confidential Transportation Contract between the Company and Quebec North Shore & Labrador Railway Company Inc. dated April 24, 2020

- Sixth Agreement to Amend the Confidential Transportation Contract between the Company and Quebec North Shore & Labrador Railway Company Inc. dated November 30, 2021

- Seventh Agreement to Amend the Confidential Transportation Contract between the Company and Quebec North Shore & Labrador Railway Company Inc.

- Eighth Agreement to Amend the Confidential Transportation Agreement between the Company and Quebec North Shore & Labrador Railway Company Inc. dated January 9, 2023

- Contract Pertaining to the Purchase of Assets between the Company and Société Ferroviaire et Portuaire de Pointe-Noire S.E.C. dated June 1, 2018

- Indenture between the Company and Quebec Iron Ore Inc. dated February 23, 2018 in respect of their co-ownership of certain railway lands benefitting the Scully Mine and the Bloom Lake Mine, as registered in the Registry on March 1, 2018 as Registration Number 852093

- Amended and Restated Agreement for Right-of-Way and Easement between the Company and Quebec Iron Ore Inc. dated February 23, 2018

- Amendment and Restatement of Consolidation of Mining Leases between the Company and 0778539 B.C. Ltd. dated November 17, 2017

- Settlement Agreement between the Company and Construction & Expertise PG Inc. dated October 7, 2023

- Agreement for Consulting Services between the Company and Partners in Performance dated March 2, 2023
- Offer for the Supply of Explosives Products and Services between the Company and Orica Canada Inc. dated March 30, 2023
- Lease Order Agreement between the Company and Xerox Canada Ltd. dated May 30, 2019
- Services Agreement between the Company and Ascencia Group dated July 15, 2022
- Consulting Agreement between the Company and Kelly Rivers dated October 17, 2022
- Service Agreement between the Company and Newfoundland and Labrador Hydro dated May 16, 2018
- Petroleum Products Supply Agreement between the Company and Harnois Energies
- Railroad Operation and Maintenance Services Agreement between the Company and Western Labrador Rail Services Inc. dated March 12, 2019
- Bunker Resale Agreement between the Company, Iron Ore Company of Canada and Quebec North Shore & Labrador Railway Company Inc. dated May 20, 2019
- First Amendment to the Bunker Resale Agreement between the Company, Iron Ore Company of Canada and Quebec North Shore & Labrador Railway Company Inc. dated August 17, 2019
- Second Amendment to the Bunker Resale Agreement between the Company, Iron Ore Company of Canada and Quebec North Shore & Labrador Railway Company Inc. dated June 16, 2020
- Third Amendment to the Bunker Resale Agreement between the Company, Iron Ore Company of Canada and Quebec North Shore & Labrador Railway Company Inc. dated June 16, 2021
- Fourth Amendment to the Bunker Resale Agreement between the Company, Iron Ore Company of Canada and Quebec North Shore & Labrador Railway Company Inc. dated July 6, 2023
- Planned Maintenance Service Agreement between the Company and Maritime Pressure Works Ltd. dated February 18, 2023
- Staged Labor Agreement between the Company and Wabush SMS dated February 6, 2023
- Agreement between the company and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (United Steel Workers) dated December 2022
- Settlement Agreement among the Company, MagGlobal LLC, and 0778539 B.C. LTD. (formerly, MFC BANCORP LTD) dated October 30, 2017

- Vendor Deposit Letter between the Company and SMS Equipment Inc. dated October 12, 2023
- Vendor Deposit Letter between the Company and Sikumiut Environmental Management Ltd. dated October 13, 2023
- Vendor Deposit Letter between the Company and Industrial Rubber Labrador dated October 16, 2023
- Vendor Deposit Letter between the Company and Modern Pumps & Metals Inc. dated October 16, 2023
- Vendor Deposit Letter between the Company and Graybar Canada dated October 19, 2023
- Vendor Deposit Letter between the Company and Industrial Sales Ltd. dated October 19, 2023
- Vendor Deposit Letter between the Company and North Star Associates Inc. dated October 19, 2023
- Vendor Deposit Letter between the Company and Pneus Ratté (Pneus Colosse) dated October 20, 2023
- Vendor Deposit Letter between the Company and Toromont Cat dated October 23, 2023
- Vendor Deposit Letter between the Company and Labrador Rewinding dated October 24, 2023
- Vendor Deposit Letter between the Company and Source Atlantic Limited dated October 24, 2023
- Vendor Deposit Letter between the Company and Air Liquide Canada Inc. dated October 27, 2023
- Vendor Deposit Letter between the Company and BBA Hagerty Penashue Limited Partnership dated October 27, 2023
- Vendor Deposit Letter between the Company and Nuera Industrial Inc. dated October 27, 2023
- Vendor Deposit Letter between the Company and JECANAKA INVESTMENTS INC. O/A Canadian Tire Labrador City #901 dated October 30, 2023
- Vendor Deposit Letter between the Company and TransferEase Relocation Inc. dated October 31, 2023
- Vendor Deposit Letter between the Company and Centre de Mecanique du Golfe Inc. dated November 2, 2023

- Vendor Deposit Letter between the Company and Manitoulin Transport Inc. dated November 3, 2023
- Vendor Deposit Letter between the Company and JSM Electrical Ltd. dated November 6, 2023
- Vendor Deposit Letter between the Company and Wajax Limited dated November 6, 2023
- Vendor Deposit Letter between the Company and Rogers Electric & Machine dated November 7, 2023
- Vendor Deposit Letter between the Company and Energy Lock Inc. dated November 8, 2023
- Vendor Deposit Letter between the Company and GFL Environmental Services Inc. dated November 10, 2023
- Vendor Deposit Letter between the Company and Les Services JAG Inc. dated November 13, 2023
- Vendor Deposit Letter between the Company and Tyco Integrated Fire & Security O/A Johnson Controls dated November 16, 2023
- Vendor Deposit Letter between the Company and FCowen Engineering Inc. dated November 21, 2023
- Vendor Deposit Letter between the Company and Metalium Inc. dated November 22, 2023
- Vendor Deposit Letter between the Company and The Fluid Life Corporation dated November 27, 2023
- Vendor Deposit Letter between the Company and Bureau Veritas dated November 29, 2023
- Vendor Deposit Letter between the Company and Stagg & Templeman dated November 29, 2023
- Vendor Deposit Letter between the Company and Pumpaction Inc. dated January 12, 2024
- Letter Agreement between the Company, Tacora Norway AS and OMF Fund II H Ltd. dated February 15, 2023
- Voya 401k Retirement Plan for Tacora Resources employees
- Lincoln Life and Accidental Death and Dismemberment Insurance for Tacora Resources employees
- Lincoln Short-Term Disability Insurance for Tacora Resources employees
- Lincoln Long-Term Disability Insurance for Tacora Resources employees

- Delta Dental Plan for Tacora Resources employees
- Tacora Staff Overtime Policy dated January 1, 2022
- Tacora Staff Vacation Policy dated January 1, 2023
- 2023 Safe Quality Tonnes Bonus
- Lumino Health Virtual Care Employee Assistance Program, powered by Dialogue
- Relocation Assistance Policy for Tacora Resources
- Group Benefits Plan for management and office employees of Tacora Resources Inc. provided by Sun Life Financial effective March 1, 2023 (contract no. 184598)
- Group Benefits Plan for hourly employees of Tacora Resources Inc. provided by Sun Life Financial effective March 1, 2023 (contract no. 184598)
- 2023 Allowances (travel allowance, northern living allowance, hydro allowance, housing/rental allowance, healthy living allowance, safety clothing allowance)
- Blue Cross and Blue Shield of Minnesota Group Health Care Coverage Contract with Tacora Resources
- Blue Cross and Blue Shield of Minnesota Group Vision Care Coverage Contract with Tacora Resources
- Group Retirement Savings Plan of Tacora Resources Inc. (contract no. G700058) with Desjardins Financial Security Life Assurance Company
- Supplemental Unemployment Benefit Top-Up Program for apprentices actively attending approved block training pursuant to Section 8:10 of the Collective Bargaining Agreement dated January 11, 2023

and in each case including all amendments, restatements, addendums, modifications, work orders, revisions, statements of work and other documentation or supplements issued thereunder

EXHIBIT "B"

referred to in the Affidavit of

HENG VUONG

Sworn July 21, 2024

DocuSigned by:

38124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

Public Advisory: Update on Forest Fire Impacting Labrador City and Wabush; Evacuation Order Issued for Labrador City

Fisheries, Forestry and Agriculture
Justice and Public Safety
July 12, 2024

The Provincial Government has advised that an evacuation order is in place for Labrador City. The order stems from extreme re behaviour that has occurred today and expected into tomorrow (Saturday).

The re has the potential to grow significantly closer to Labrador West over the next 24 to 48 hours. Residents are encouraged to remain vigilant and closely monitor local media and news reports as conditions are likely to change on short notice.

An incident management team has been activated to manage the response. Aerial resources are actioning the re and will be sectioning the re once it is safe to do so. Forestry of cials are coordinating with the Provincial Emergency Operations Centre, which has been activated to Level 2 – Enhanced Monitoring. Emergency management partners have been engaged to respond, if necessary.

Currently, there are 11 active wildfires in Labrador and current weather conditions have increased potential for re activity throughout this weekend. The public can view updated active wildfire information, including maps identifying the location of res, on the online NL Active Wild re Dashboard.

Information on how to be prepared can be accessed at www.gov.nl.ca/beprepared/be-prepared/#individuals-families.

EXHIBIT "C"

referred to in the Affidavit of

HENG VUONG

Sworn July 21, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

In re:	§	Chapter 11
AEQUOR MGT, LLC,[1]	§	Case No. 23-60010
Debtors.	§	Jointly Administered

DEBTORS' MOTION FOR RULE 2004 EXAMINATION OF CARGILL INCORPORATED

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this Motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading *WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE* shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order granting the relief sought. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter.

TO THE HONORABLE JOSHUA P. SEARCY, U.S. BANKRUPTCY JUDGE:

COME NOW Aequor Mgt, LLC ("MGT") and Aequor Holdings, LLC ("Holdings" and, with MGT, each a "Debtor" and together, the "Debtors"), the reorganized debtors in the above styled and numbered jointly administered bankruptcy case (the "Bankruptcy Case"), and file this their *Motion for Rule 2004 Examination of Cargill Incorporated* (the "Motion"), respectfully stating as follows:

[1] The jointly-administered chapter 11 Debtors, along with the last four digits of each Debtor's federal tax identification number are: Aequor Mgt, LLC (2916) and Aequor Holdings, LLC (0273).

I. SUMMARY

1. As the Debtors have previously represented to the Court, they believe that the largest assets of the Holdings' estate are causes of action related to Tacora and to the Scully Mine (both as defined below), resulting from the gross mismanagement of the Scully Mine, various breaches of fiduciary duty, and the plundering of the value of the Scully Mine by Cargill Incorporated ("Cargill") for itself, all at the expense of Holdings and its $44 million investment in Tacora. By this Motion, the Debtors request authority to conduct an examination under Bankruptcy Rule 2004 (the "Examination") of Cargill, for the purpose of investigating all resulting potential claims and causes of action against Cargill and potentially other parties. The Examination would be taken pursuant to the proposed order attached hereto and to the Requests for Production attached as Exhibit "A" to said proposed order.

II. PROCEDURAL BACKGROUND

2. On January 5, 2023 (the "Petition Date"), the Debtors filed their voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code"), thereby initiating the Bankruptcy Case and creating their bankruptcy estates (the "Estates").

3. The Debtors operated their businesses and to manage their Estates as debtors-in-possession. No trustee or examiner was appointed in the Bankruptcy Cases.

4. On February 23, 2024, the Court entered its *Order Confirming Debtors' Modified Amended Joint Non-Consolidated Plan of Liquidation* [docket no. 200] (the "Confirmation Order"), by which the Court confirmed the *Debtors' Modified Amended Joint Non-Consolidated Plan of Liquidation* [docket no. 177] (the "Plan"). All conditions precedent to the effectiveness of the Plan occurred on March 18, 2024 (the "Effective Date"), and the Plan became effective on that date. *See* Docket No. 206].

5. This Court has jurisdiction over the Bankruptcy Case and the subject matter of this

Motion pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this Motion is a core proceeding under 28 U.S.C. § 157(b)(2). All such jurisdiction was reserved and preserved in the Confirmation Order (*see* p. 10) and in the Plan (*see* § 10.1.19).

III. FACTUAL BACKGROUND

6. Between mid-2017 through late 2018, Holdings made investments totaling $43.9 million in Tacora and the Scully Mine.

7. The "Scully Mine" is an iron ore mine and processing facility in the Province of Newfoundland, Canada, opened in 1965 and closed in 2014.

8. Tacora Resources, Inc. ("Tacora") is a corporation organized under the laws of the Province of Ontario, Canada. Tacora was created to purchase and to revitalize the Scully Mine, which it did in 2017, restarting operations of the Scully Mine in 2019. Thus, Tacora owned the Scully Mine.

9. The website for Tacora states that: "[t]he Company is privately owned by a collection of world-class mining investors including Proterra Investment Partners, Cargill, Aequor Holdings, Orion, MagGlobal, and the Tschudi group." *See* https://tacoraresources.com/company/. While generally accurate, the actual ownership structure is more complicated.

10. That ownership was effectuated through Proterra M&M MGCA Cooperatief U.A. ("Proterra Coop"), a Dutch entity, which was created to own and to manage Tacora. The members of Proterra Coop, in turn, were: (i) Holdings; (ii) Black River Capital Partners Fund (Metals and Mining A) L.P. ("Black River A"), a Cayman Islands fund; (iii) Black River Capital Partners Fund (Metals and Mining B) L.P. ("Black River B"), a Delaware limited partnership believed to be a fund; and (iv) Proterra Investment Partners, L.P. ("Proterra"), a Delaware limited partnership. Furthermore, Proterra is the registered fund advisor for Black River A and Black River P. Thus, Proterra is believed to be in possession of relevant and responsive documents for and on behalf of

Black River A and Black River B.

11. It was Proterra who, as the promoter, put the "deal" together giving rise to Tacora and the reopening of the Scully Mine. The ultimate owner of Holdings, David Durrett ("Durrett"), was solicited in Texas to invest in the project and, upon information and belief, multiple, substantial misrepresentations were made to him (and therefore to Holdings) to secure his investment, in violation of federal and state securities and Blue Sky laws.

12. Cargill is also an indirect owner of Tacora, as reflected on its website. In addition, Cargill had economic and governing control over Tacora, and influence over its operations, through Black River A and Black River B. Moreover, Cargill was the prior owner of Proterra, before it was spun-off. There remained a significant overlap of interests and of management.

13. Upon information and belief, Cargill used its indirect ownership and control of Tacora, and hence the Scully Mine, to enrich itself at the expense of Holdings by taking advantage of Holdings' investment and ultimately taking the value of the Scully Mine for itself. In other words, while Holdings' large investment was used to reopen the Scully Mine and then fund its operations, that investment was effectively converted by Cargill through its indirect control of Tacora's management and with the acquiescence, if not the active participation, of Proterra (including Black River A and Black River B).

14. This was accomplished through various mechanisms. First, Tacora entered into an exclusive agreement with Cargill whereby the Scully Mine would sell all of its production to Cargill through an "off-take" agreement. *See* https://tacoraresources.com/wp-content/uploads/2021/09/Tacora-Announces-Purchase-of-Scully-Mine-20170719.pdf. This, however, was priced at significantly less than fair market value *and* the costs of production, thus: (i) giving large profit to Cargill at the expense of Tacora; and (ii) rendering Tacora operationally not cash flowing.

15. In 2019, it became clear to Holdings that Cargill's off-take agreement with Tacora would prevent the latter from achieving the returns that Holdings had expected when it invested in Tacora. For that reason, Holdings sought the advice of Hannam & Partners ("H&P"), a London-based leading investment bank specializing in metals and mining, to assist Holdings in selling its investment in Tacora. Cargill, Proterra and Tacora opposed the sale. By phone, Tacora Director R.S.N. "Sam" Byrd, exhorted Holdings and H&P to stop approaching potential buyers, which was tantamount to banning the sale of Holdings' interest. By email dated November 26, 2019, Byrd stated: "[a]s discussed on recent calls, Tacora, Cargill and Proterra are extremely concerned about the potential adverse impact of approaching the 'Strategics' and 'Traders' listed in the Hannam & Partners potential buyers list. As stated on our most recent call, we would request that these parties are not approached at this time." Byrd further stated "if a rumour gets to the market that Tacora has financial difficulties, it could be catastrophic for the product demand which will have a big impact on sales and realized prices" and stressed that "Cargill has invested significant resources on building the customer base, which is allowing Tacora to outperform competitors on pricing." Thereafter, Cargill and Proterra caused Tacora to reject a purchase offer for the Scully Mine that would have returned tens of millions of dollars in profit to Holdings which rejection was due, upon information and belief, not on the inadequacy of any sale price, but rather because of the profits that Cargill was making from its off-take agreement.

16. Third, because the Scully Mine was operating at a loss, additional investments had to be made into it, which had the effect of diluting Holdings' equity investments. Cargill or its affiliates invested the additional capital, whether by way of equity or debt, which had the alleged effect of diluting Holdings' investment. And, some of this dilution occurred postpetition, in violation of the automatic stay.

17. Ultimately, on October 10, 2023, Tacora filed a bankruptcy petition in Canada.

That proceeding remains ongoing. On June 5, 2024, the Ontario Superior Court of Justice (Commercial List), which is overseeing the Tacora bankruptcy in a proceeding akin to a Chapter 11 debtor-in-possession restructuring, issued a Sale Process Order permitting Tacora to obtain further investment that Tacora believes would further its efforts to obtain a consensual restructuring with its two largest stakeholders, one of which is Cargill.

18. As a result of the foregoing, Holdings believes that it has claims and causes of action against Proterra, Tacora, the management of both, and Cargill, generally as follows:

(i) violations of securities laws;

(ii) breaches of fiduciary duty (including for the off-take agreement and vetoing the potential sale);

(iii) conspiracy to illegally oppress and dilute Holdings' investments;

(iv) breach of contract, including for illegal dilution; and

(v) violations of the automatic stay.

19. The foregoing is in addition to whatever claims and causes of action Tacora may itself hold.

20. The foregoing claims and causes of action have been expressly preserved in the Debtors' disclosure statement, the Plan, and the Confirmation Order. *See* Docket No. 146 (Disclosure Statement) at pp. 26-27 & 29; Plan at § 10.5; and Confirmation Order at p. 10.

21. The resulting damages are not just damages to the Debtors, but also to their creditors, primarily its senior secured creditor, CL V Funding, LLC ("Castlelake"). Namely, in November, 2018, MGT obtained a loan from Castlelake in the original principal amount of $22 million. Holdings guaranteed this loan and pledged its interests in Proterra Coop as collateral. As of the Petition Date, Castlelake's claim had grown to $39.8 million which, which could and would have been satisfied by the value of Holdings' interests in Proterra Coop but for the gross

mismanagement and self-dealing outlined above. Indeed, on its schedules filed in the Bankruptcy Case, the book value of those interests was listed as $48,345,900.00. Subsequent events have demonstrated that this was incorrect.

22. Under the Plan, the Debtors, Durrett (who asserts personal claims regarding the foregoing outline of potential causes of action), Castlelake, and the Official Committee of Unsecured Creditors of MGT agreed to prosecute all resulting causes of action, defined in the Plan as the "Proterra Causes of Action," as follows: (i) Durrett will fund any litigation, in his discretion; (ii) Durrett will receive 70% of any net proceeds thereof; (iii) Castlelake will receive 24% of any net proceeds thereof; and (iv) the holders of Subordinated Claims (as defined in the Plan) against MGT will receive 6% of any net proceeds thereof, *pro-rata*.

IV. DISCUSSION

23. Bankruptcy Rule 2004 provides that, "[o]n motion of any party in interest, the court may order the examination of any entity." FED. R. BANKR. P. 2004(a) (emphasis added). *See also In re Fearn*, 96 B.R. 135, 138 (Bankr. S.D. Ohio 1989) (the "examination is not limited to the debtor or his agents, but may properly extend to creditors and third parties who have had dealings with the debtor"); *In re GHR Energy Corp.*, 35 B.R. 534, 537 (Bankr. D. Mass. 1983); *In re Maidman*, 2 B.R. 18, 18-19 (Bankr. S.D. Fla. 1979).

24. The scope of the Rule 2004 examination "may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge." FED. R. BANKR. P. 2004(b). "The purpose of a Rule 2004 examination is to determine the condition, extent, and location of the debtor's estate in order to maximize distribution to unsecured creditors." *In re Lufkin*, 255 B.R. 204, 208 (Bankr. E.D. Tenn. 2000).

25. The scope of a Rule 2004 examination is "extremely broad," and has even been

likened by some courts to a "lawful 'fishing expedition.'" *Id.* (*quoting Bank One, Columbus, N.A. v. Hammond (In re Hammond)*, 140 B.R. 197, 201 (S.D. Ohio 1992)). "The scope of a [ ] Rule 2004 examination is 'unfettered and broad.' Its purpose is to facilitate the discovery of assets and the unearthing of frauds and has been likened to a quick 'fishing expedition' into general matters and issues regarding the administration of the bankruptcy case." *In re Bakalis*, 199 B.R. 443, 447 (Bankr. E.D.N.Y. 1996) (quoting *In re GHR Energy Corp.*, 33 B.R. 451, 453 (Bankr. D. Mass. 1983). The standard for granting a Rule 2004 examination is whether the movant has established "good cause." *In re Hammond*, 140 B.R. 197, 201 (S.D. Ohio 1992).

26. Rule 2004 examinations are an appropriate tool for investigating causes of action in particular. *See Rhodes v. Litig. Trust of the Rhodes Cos., LLC (In re Rhodes Cos., LLC)*, 475 B.R. 733 (D. Nev. 2012) ("the subpoenas were an appropriate method of investigating potential fraudulent transfer claims"); *Kirschner v. Agoglia (In re Refco Inc.)*, 461 B.R. 181, 187 (Bankr. S.D.N.Y. 2011) (listing rule 2004 as one of the "several sections of the Bankruptcy Code ... [that] govern the trustee or debtor in possession's unique role in investigating ... fraudulent transfer claims ...."). "The purpose of a Rule 2004 examination is to show the condition of the estate and to enable the Court to discover its extent and whereabouts, and to come into possession of it, that the rights of the creditor may be preserved." *In re Express One Int'l*, 217 B.R. 215, 216 (Bankr. E.D. Tex. 1998) (*quoting In re Coffee Cupboard, Inc.*, 128 B.R. 509, 514 (Bankr.E.D.N.Y.1991)).

27. Here, there is no question that the Debtors preserved whatever claims and causes of action they may have related to Tacora in their Plan, and hence that this Court retained all core jurisdiction over the same. Among other provisions of the Plan, the Plan expressly reserves and preserves the "Proterra Causes of Action." Plan at § 10.5(ii). The Plan contains a detailed and exhaustive definition of "Proterra Causes of Action," including:

all legal and equitable claims and causes of action of Aequor Holdings against any

> person for the devaluation of, or harm and damage to, the value of the Proterra Interests, and the disgorgement of any benefits to any such person, including indirectly to the value of Tacora Resources, Inc. and its mine, business, and operations, existing or arising at any time prior to the Effective Date, including breach of fiduciary duty, mismanagement, self-dealing, insider trading, breach of contract, shareholder oppression, conspiracy, fraudulent transfer, unjust enrichment, restitution, dilution, devaluation, negligence, gross negligence, breach of contract, breach of the duties of loyalty and care, tortious interference with contract, tortious interference with prospective business opportunity, claims for securities fraud under federal and state statutes . . . conversion, common law fraud, common law fraudulent inducement claims . . . including the laws of the United States of America and its member States, the laws of Canada and its member Provinces, and the Netherlands, and including as assertable against Cargill Incorporated, Black River Capital Partners Fund (Metals and Mining A) LP, Black River CPF (Metals and Mining) GP LP, Black River Capital Partners Fund (Metals and Mining B) LP, Proterra Investment Partners LP, Proterra M&M MGCA Cooperatief U.A. (Netherlands), Tacora Resources, Inc., all prior and current directors, officers, partners, members, managers, agents, and professionals of Tacora Resources, Inc. and any parent, affiliate, or subsidiary.

Plan at p. 6.

28. There should also be no question that the scope of the Examination is within the scope of Rule 2004. As pointed out above, Rule 2004 exists, in part, to assist with investigating and uncovering potential assets and causes of action of the Estate. Here, Cargill indirectly managed Tacora and the Scully Mine, caused Tacora to enter into the disastrous agreements with Cargill, blocked a highly profitable sale at the expense of other owners and for its sole benefit, devalued Holdings' indirect equity interests, forced the bankruptcy of Tacora, and ultimately muscled out every other investor. Whether the Estate has causes of action as a result, and whether those causes of action have merit or value, is something that the Debtors and the creditors have a right to investigate under Rule 2004.

29. Finally, sufficient grounds to order the Examination exist. Not only does it appear that Cargill will have relevant information—whether or not that information suggests potentially causes of action against Cargill itself or against third parties—but the investigation into what happened with Tacora and the Scully Mine is of key interest to the Debtors and to the creditors.

Either there are causes of action, in which case everyone benefits, or there are none and an innocent answer is found for the loss of tens of millions of dollars of Holdings' investment, in which case at least that is known. Either way, the creditors relied on the Debtors' repeated representations that "they intend to take Rule 2004 Examinations of the various entities involved, including Cargill." *See* Disclosure Statement at Docket No. 146, p. 29.

30. Rule 2004 provides that "the attendance of an entity for examination and for the production of documents or electronically stored information, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial." FED. R. BANKR. P. 2004(c). Thus, to the extent of any concerns regarding the Court's personal jurisdiction over Cargill, in that Cargill has not appeared in this Bankruptcy Case, the Debtors request authority to issue and serve a subpoena, in addition to the Proposed Order, ensuring Cargill's compliance with the Examination.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Debtors respectfully request that the Court enter an order: (i) granting this Motion; (ii) ordering the Examination and authorizing the issuance of a subpoena commanding the same; and (iii) granting the Debtors such other and further relief to which they may be justly entitled.

RESPECTFULLY SUBMITTED this 1st day of July, 2024.

MUNSCH HARDT KOPF & HARR, P.C.

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ATTORNEYS FOR THE REORGANIZED DEBTORS

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that he attempted on multiple occasions to discuss the relief requested herein with counsel for Cargill, including by communicating with Cargill's in-house assistant general counsel and by e-mailing outside attorneys known to the undersigned to represent Cargill in the Tacora Canadian and to therefore have some knowledge of these issues, but that none of the foregoing responded to the undersigned despite more than one month having passed.

By: /s/ Davor Rukavina
Davor Rukavina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this the 1st day of July, 2024, true and correct copies of this document, with the proposed order hereon, were electronically served by the Court's ECF system on parties entitled to notice thereof, including counsel for the United States Trustee, and that, additionally, on the same day he caused true and correct copies of this document, with the proposed order hereon, to be served by U.S. first class mail, postage prepaid, on the parties listed on the attached Service List and on the parties listed below:

Tacora Resources, LLC c/o National Registered Agents, Inc. Registered Agent 1209 Orange Street Wilmington, DE 19801	Proterra Investment Partners, LP c/o Corporation Trust Center Registered Agent 1209 Orange Street Wilmington, DE 19801
Cargill Incorporated c/o United Agent Group Inc. Registered Agent 5444 We3stheimer #1000 Houston, TX 77056	Cargill Corporation c/o David MacLennan, President 15407 McGinty Rd W MS26 Wayzata, MN 55391 USA

By: /s/ Davor Rukavina
Davor Rukavina

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

In re:	§	Chapter 11
AEQUOR MGT, LLC,[1]	§	Case No. 23-60010
Debtors.	§	Jointly Administered

ORDER GRANTING DEBTORS' MOTION FOR RULE 2004 EXAMINATION OF CARGILL INCORPORATED

CAME ON FOR CONSIDERATION the *Debtors' Motion for Rule 2004 Examination of Cargill Incorporated* (the "Motion"), filed by Aequor Mgt, LLC ("MGT") and Aequor Holdings, LLC ("Holdings" and, with MGT, each a "Debtor" and together, the "Debtors"), the debtors in the above styled and numbered jointly administered bankruptcy case (the "Bankruptcy Case"), whereby the Debtors seek to take an examination under Bankruptcy Rule 2004 (the "Examination") of Cargill Incorporated ("Cargill"), consisting of: (i) document production pursuant to the requests attached to this Order as Exhibit "A" (the "Requests"); and (ii) at the election of the Debtors, a corporate deposition under Rule 30(b)(6) (the "Deposition").

Finding that service and notice of the Motion was sufficient and appropriate and that cause to grant the Motion exists, based on the representations in the Motion and in the Bankruptcy Case, and that the Court has the subject matter jurisdiction to enter this Order and, with respect to personal jurisdiction over Cargill, to the extent of any issues regarding the same, that the issuance of a subpoena will ensure to confer such personal jurisdiction (without finding that the Court otherwise lacks such personal jurisdiction), it is hereby:

ORDERED that the Motion is GRANTED; it is further

[1] The jointly-administered chapter 11 Debtors, along with the last four digits of each Debtor's federal tax identification number are: Aequor Mgt, LLC (2916) and Aequor Holdings, LLC (0273).

ORDERED that the Debtor may take the Examination, by serving the Requests substantially in the form attached hereto and, thereafter, noticing the Deposition, and that Cargill shall submit to the Examination, subject to all of its privileges; it is further

ORDERED that Cargill shall respond to the Requests, and provide responsive documents to the Requests, both as may be otherwise appropriate, no later than thirty (30) days after the proper service of the Requests by the Debtors, unless such deadline is extended by the Debtors; it is further

ORDERED that, at the election of the Debtors, Cargill shall sit for the Deposition upon proper and timely topics designated by the Debtors under Rule 30(b)(6), subject to its privileges and such objections as may be appropriate, and that the Debtors shall reasonably cooperate with Cargill as to the timing and location of said Deposition, and that this Court shall decide all disputes regarding the same; it is further

ORDERED that the Debtors may issue and serve a subpoena to enforce this Order and compel compliance with the Examination; it is further

ORDERED that, in order to properly serve the Requests and any notice of the Deposition, the Debtors shall serve the same, together with a copy of this Order and the subpoena, as is otherwise appropriate; it is further

ORDERED that the Court shall otherwise retain jurisdiction to the maximum extent possible to interpret and to enforce this Order, to grant relief from this Order, and over all privilege, objection, and other issues that may arise with respect to the Requests and the Deposition.

SO ORDERED.

Dated : _____

By: _____
JOSHUA P. SEARCY
U.S. BANKRUPTCY JUDGE

DEFINITIONS

A. The term "all" shall mean all and any.

B. The connectives "and" and "or" should be construed either disjunctively or conjunctively as necessary to bring within the scope of discovery all responses that might otherwise be construed as outside of its scope.

C. The term "Communication" shall mean the transmittal of information (in the form of facts, ideas, inquires or otherwise) by any means.

D. The term "Concerning" shall mean relating to, referring to, describing, evidencing, or constituting.

E. The term "Document" shall mean and include Documents and tangible things as defined herein in its broadest sense to include writings, letters, correspondence, e-mails, text messages, telegrams, telexes, memoranda, records, books of account, ledgers, balance sheets, diaries, calendars, journals, minutes, contracts, drafts of contracts, insurance policies, drawings, graphs, charts, photographs, memoranda or records of telephone or personal conversations or conferences, notes, interoffice Communications, microfilm, tape recordings, software, bulletins, circulars, schedules, guides, pamphlets, studies, surveys, notices, summaries, reports, analysis, work sheets, price sheets, catalogs, invoices, checks, vouchers, newspaper inserts, computer listings, charts, records, or summaries prepared or relating to any of the foregoing and writings of every kind or character that are in your possession, custody or control or subject thereto. If you have the right to secure the Document or a copy from any person or public or private entity having possession (including your attorney), it is considered within your control and should be produced, and includes emails, text messages and instant messages from company or personal accounts. A draft or non-identical copy is a separate Document within the meaning of this term.

F. The term "each" shall mean each and every.

G. The term "identify" with respect to Documents, shall mean to give, to the extent known, the: (i) type of Document; (ii) general subject matter; (iii) date of that Document; and (iv) author(s), addressee(s) and recipient(s).

H. The term "identify" with respect to a Person, shall mean to give, to the extent known, the (i) person's full name; (ii) present or last known address; and when referring to a natural person, additionally, (iii) the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery Requesting the identification of that person.

I. The term "including" shall mean including, but not limited to.

J. The term "person" shall mean any natural person or any legal entity, including, without limitation, any business, governmental entity or association.

K. The term "relate(s) to" or "relating to" or " related to" shall mean to have any logical or natural association with; to compromise, mention, describe, contain, enumerate, involve, or in any way Concern, pertain to, refer to, be connected with, reflect upon, or result from, in whole or in part, directly or indirectly, the stated subject matter.

L. The use of the singular form of any word includes the plural and vice versa.

M. The term "Aequor Mgt" shall mean Aequor Mgt, LLC.

N. The term "Aequor Holdings" shall mean Aequor Holdings LLC.

O. The term "Bankruptcy Case" shall mean the jointly administered Chapter 11 case filed by Aequor Mgt and Aequor Holdings on January 5, 2023, in the United States Bankruptcy Court for the Eastern District of Texas, captioned *Aequor Mgt, LLC*, Case No. 23-60010.

P. The term "Petition Date" shall mean January 5, 2023.

Q. The term "CL V" shall mean CL V Funding, LLC.

R. The term "Proterra" shall mean Proterra M&M MGCA Cooperatief U.A.

S. The term "Black River A" shall mean Black River Capital Partners Fund (Metals and Mining A) LP.

T. The term "Black River B" shall mean Black River Capital Partners Fund (Metals and Mining B) LP

U. The term "Tacora" shall mean Tacora Resources Inc.

V. The term "Cargill" shall mean Cargill Incorporated.

W. The term "Proterra LP" shall mean Proterra Investment Partners LP.

X. The term "Credit Agreement" shall mean the credit agreement entered on November 7, 2018, between Aequor Mgt as Borrower and CL V as Lender wherein CL V made a single advance term loan to Aequor Mgt for $22,000,000.

Y. The term "Loan" shall mean the single advance term loan from CL V to Aequor Mgt for $22,000,000.

Z. The term "Durrett Pledge Agreement" shall mean the pledge agreement executed by David J. Durrett and Deborah M. Durrett (the "Durretts") on November 7, 2018, wherein the Durretts granted CL V a security interest in the collateral as defined therein, which includes each of the Durretts membership interest in Aequor Mgt.

AA. The term "Original Forbearance Agreement" shall mean the forbearance agreement dated July 3, 2019, between Aequor Mgt and CL V, which was amended by a First Amended Forbearance Agreement between Aequor Mgt and CL V dated October 2, 2019.

BB. The term "Holdings Guaranty" shall mean the guaranty dated October 2, 2019, executed by Aequor Holdings as a condition to the extension granted to Aequor Mgt in the First Amended Forbearance Agreement.

CC. The term "Holdings Security Agreement" shall mean the security agreement dated October 2, 2019, executed by Aequor Holdings as a condition to the extension granted to Aequor Mgt in the First Amended Forbearance Agreement.

DD. The term "First Amended Credit Agreement" shall mean the amendment to the Original Credit Agreement dated October 7, 2020, entered by and among CL V as Lender, Aequor Mgt as Borrower, Aequor Holdings, and the Durretts.

EE. The term "Amended and Restated Holdings Security Agreement" shall mean the security agreement dated October 7, 2020, executed by Aequor Holdings, which removed the exclusion of the Aequor Holdings' equity and other ownership interest in Proterra from the Holdings Security Agreement.

FF. The term "Consent to Security Agreement" shall mean the security agreement dated September 1, 2021, wherein Aequor Holdings, Black River A, Black River B, and Cargill Incorporated (the "Members") granted CL V a security interest in all membership or other equity interest in Proterra that Aequor Holdings has or acquires.

GG. The term "Cooperative Security Agreement" shall mean the consent to security interest executed by the Members and Proterra on September 1, 2021.

HH. The term "Scully Mine" shall means the iron ore concentrate producer located near Wabush, Newfoundland and Labrador, Canada currently owned and operated by Tacora Resources, Inc.

II. The term "Scully Mine Agreement" shall mean the Scully Mine Binding Co-Investment Memorandum of Agreement dated April 11, 2017.

JJ. The term "Tacora Resources Shareholders' Agreement" shall mean the Proterra M&M MGCA B.V. and MagGlobel LLC and Tacora Resources Inc. Shareholders' Agreement dated July 17, 2017.

KK. The term "Proterra Member Contribution Agreement": shall mean the "Member and Contribution Agreement—Proterra M&M MGCA Cooperatief U.A. dated June 29, 2017 between Proterra, Black River A, Black River B and Aequor Holdings.

LL. The term "Vaststllingsovereenkomst ATR" shall mean the Document of the same name in the Dutch language dated June 6, 2019.

MM. The term "Amended and Restated Proterra Agreement" shall mean the Amended and Restated Member Agreement Proterra M&M MCGA Cooperatief U.A. Dated December 2022 between Proterra, Black River A, Black River B, Aequor Holdings and Cargill.

NN. The term "Strikeman Letter" refers to the letter from Strikeman Elliot to Proterra dated December 19, 2022 informing Proterra and its Board of Directors of Tacora's purported financial distress and urging Proterra to adopt the Amended and Restated Proterra Agreement and the Tacora Advance Payments Facility.

OO. The term "Tacora Advance Payments Facility" refers to the proposal by Cargill, dated December 15, 2022, pursuant to which Cargill proposes to advance up to $35 million to Tacora subject to certain conditions and consideration, including revision of Proterra's management structure and the issuance to Cargill of penny warrants exercisable into Tacora common shares or other class of Tacora equity interests.

PP. The term "Houthoff Letter" refers to the letter dated January 5, 2023 from the Houthoff law firm to Proterra Concerning Aequor Holdings' limited approval of the Amended and Restated Proterra Agreement.

QQ. The term "Tacora US" refers to Tacora US, Inc. a wholly-owned subsidiary of Tacora, incorporated pursuant to the laws of the State of Delaware with its principal place of business in Grand Rapids, Minnesota.

RR. The term "Offtake Agreement" will refer to the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018 between Tacora and Cargill, as it Relates to the Scully Mines which is an iron ore concentrate producer near Wabash, Newfoundland and Labrador, Canada.

SS. The term "Stockpile Agreement" will refer to the Stockpile Agreement between Tacora and Cargill dated December 17, 2019.

TT. The term "Scully Mine Memorandum Agreement" will refer to the Scully Mine Binding Memorandum of Agreement, dated April 11, 2017, between and among Black River A, Black River, and David J. Durrett.

UU. The term "Ad Hoc Group of Senior Noteholders" will refer to a representative body of Tacora creditors holding approximately $260 million in senior notes.

VV. The term "Partners in Performance" will refer to the consultant retained by Tacora commencing February 27, 2023 to initiate an operational stabilization and turnaround program at the Scully Mine.

WW. The term "Champion Iron" will refer to an entity that was involved in a proposed transaction to purchase Tacora or an interest in Tacora.

INSTRUCTIONS

A. The responses to these Requests shall include all Documents in your possession, custody, or control, including those held by your agents, employees, attorneys, representatives, or any other person over whom you have control.

B. If existing Documents are responsive to one or more Requests, but are not in your possession, custody, or control, please indicate in writing that the Documents exist and identify the person with current possession, custody, or control of the Documents.

C. If you cannot fully satisfy one or more of the Requests herein, you are instructed to produce the information that is responsive to that Request to the extent possible and specify, in writing, the reason why you are unable to produce further responsive information. Your explanation shall state what knowledge, information, or belief you have Relating to the Requests. If you object to any portion of any Request, you shall answer the remainder.

D. For any Document responsive to the Requests herein that is known to have been destroyed or lost, or is otherwise unavailable, identify each such Document by author, addressee, date, number of pages, and subject matter, and explain in detail the events leading to the destruction or loss, or the reason for the unavailability of such Document, including the location of such Document when last in your possession, custody, or control, and the date and manner of its disposition.

E. All Documents that respond, in whole or in part, to any part or clause of any paragraph of these Requests shall be produced in their entirety, including all attachments and enclosures. Documents that in their original condition were stapled, clipped, or otherwise fastened together shall be produced in such form.

F. For any Document withheld under a claim of privilege, please identify the Document by author, addressee, date, number of pages, and subject matter, specify the nature and basis of the claimed privilege and the paragraph number of the Request to which the Document is responsive, and identify each person to whom the Document or its contents, or any part thereof, has been disclosed.

G. If, in responding to a Request, you encounter a perceived ambiguity, either in the Request itself or in any applicable definition or instruction, answer the Request fully, and include in your answer an identification of the perceived ambiguity and the construction thereof used in your answer.

H. **PRODUCTION OF ELECTRONIC DATA: Debtor Requests that electronically stored information be produced in the manner in which it is ordinarily maintained, and saved to CD-ROM, USB storage stick, or external hard drive for production, as may be applicable depending on the nature of the information being produced. <u>For Documents:</u> Documents should be produced in the format in which they were originally maintained, including PDFs, Word Documents, Word Perfect Documents, Excel files, or any other native format. <u>For emails:</u> Email should be produced in the format in which it was ordinarily maintained. Normally, this would consist of MS-PST File for Microsoft Outlook, MSG or PST files for Microsoft Exchange, NSF file for Lotus Notes, and GWT file for Novell GroupWise. If a different email program is utilized, then a comparable data file is to be produced. When producing electronically stored information:**

i. **The respondent must produce Documents as they are kept in the usual course of business or organize and label them to correspond to the categories in the Request;**

ii. **The respondent, if unable to produce electronic data in the form specified by these instructions or Requests, must produce it is the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.**

<u>REQUESTS FOR PRODUCTION</u>

REQUEST FOR PRODUCTION NO. 1: All Documents and Communications Concerning Aequor Mgt.

REQUEST FOR PRODUCTION NO. 2: All Documents and Communications Concerning Aequor Holdings.

REQUEST FOR PRODUCTION NO. 3: All Documents and Communications Concerning Proterra.

REQUEST FOR PRODUCTION NO. 4: All Documents and Communications Concerning Black River A.

REQUEST FOR PRODUCTION NO. 5: All Documents and Communications Concerning Black River B.

REQUEST FOR PRODUCTION NO. 6: All Documents and Communications Concerning Tacora.

REQUEST FOR PRODUCTION NO. 7: All Documents and Communications Concerning Tacora US.

REQUEST FOR PRODUCTION NO. 8: All Documents and Communications Concerning Proterra LP.

REQUEST FOR PRODUCTION NO. 9: All Documents and Communications Concerning contracts or agreements between Cargill and Proterra.

REQUEST FOR PRODUCTION NO. 10: All Documents and Communications Concerning money or anything of value exchanged between Cargill and Proterra.

REQUEST FOR PRODUCTION NO. 11: All Documents and Communications Concerning money or anything of value exchanged between Cargill and Proterra LP.

REQUEST FOR PRODUCTION NO. 12: All Documents and Communications Concerning money or anything of value exchanged between Cargill and Black River A.

REQUEST FOR PRODUCTION NO. 13: All Documents and Communications Concerning money or anything of value exchanged between Cargill and Black River B.

REQUEST FOR PRODUCTION NO. 14: All Documents and Communications Concerning money or anything of value exchanged between Cargill and Tacora.

REQUEST FOR PRODUCTION NO. 15: All Documents and Communications Concerning any contracts or agreements between Cargill and Tacora.

REQUEST FOR PRODUCTION NO. 16: All Documents and Communications Relating to any offtake agreements or potential offtake agreements between Cargill and Tacora.

REQUEST FOR PRODUCTION NO. 17: All Documents and Communications Concerning the Consent to Security Interest.

REQUEST FOR PRODUCTION NO. 18: All Documents and Communications Concerning the Cooperative Security Agreement.

REQUEST FOR PRODUCTION NO. 19: All Documents and Communications Concerning the Scully Mine.

REQUST FOR PRODUCTION NO. 20: All Documents and Communications Concerning the Scully Mine Memorandum Agreement.

REQUEST FOR PRODUCTION NO. 21: All Documents and Communications Concerning the Tacora Resources Shareholders' Agreement.

REQUEST FOR PRODUCTION NO. 22: All Documents and Communications Concerning capital calls, capital contributions or capital contribution agreements by Proterra or among its shareholders.

REQUEST FOR PRODUCTION NO. 23: All Documents and Communications Concerning the Proterra Member Contribution Agreement.

REQUEST FOR PRODUCTION NO. 24: All Documents and Communications Concerning the Vaststellingsovereenkomst ATR.

REQUEST FOR PRODUCTION NO. 25: All translations into English of the Vaststellingsovereenkomst ATR.

REQUEST FOR PRODUCTION NO. 26: All Documents and Communications Concerning the Amended and Restated Tacora Shareholders' Agreement.

REQUEST FOR PRODUCTION NO. 27: All non-privileged Documents and Communications Concerning Baker McKenzie.

REQUEST FOR PRODUCTION NO. 28: All Documents and Communications Concerning the Strikeman Letter.

REQUEST FOR PRODUCTION NO. 29: All Documents and Communications Concerning the Tacora Advance Payments Facility.

REQUEST FOR PRODUCTION NO. 30: All Documents and Communications Concerning the Houthoff Letter.

REQUEST FOR PRODUCTION NO. 31: All Documents and Communications Concerning the Amended and Restated Proterra Agreement.

REQUEST FOR PRODUTION NO. 32: All Documents and Communications Concerning the purchase by or distribution of securities of Proterra to Cargill.

REQUEST FOR PRODUCTION NO. 33: All Documents and Communications Concerning the distribution of revenue, profits or dividends by Tacora to its shareholders.

REQUEST FOR PRODUCTION NO. 34: All Documents and Communications Concerning the distribution of revenue, profits or dividends by Proterra to its shareholders.

REQUEST FOR PRODUCTION NO. 35: All Documents and Communications Concerning any past or present affiliation between the officers, directors, members or managers of Cargill and Proterra.

REQUEST FOR PRODUCTION NO. 36: All Documents and Communications Concerning any past or present affiliation between the officers, directors, members or managers of Cargill and Proterra LP.

REQUEST FOR PRODUCTION NO. 37: All Documents and Communications Concerning any past or present affiliation between the officers, directors, members or managers of Cargill and Black River A.

REQUEST FOR PRODUCTION NO. 38: All Documents and Communications Concerning any past or present affiliation between the officers, directors, members or managers of Cargill and Black River B.

REQUEST FOR PRODUCTION NO. 39: All Documents and Communications Concerning any past or present affiliation between the officers, directors, members or managers of Cargill and Tacora.

REQUEST FOR PRODUCTION NO. 40: All Documents and Communications sufficient to identify all parent corporations, subsidiaries, or affiliates for Cargill.

REQUEST FOR PRODUTION NO. 41: All Documents and Communications Concerning the purchase by or distribution of securities of Proterra to Cargill.

REQUEST FOR PRODUCTION NO. 42: All Documents and Communications sufficient to identify all officers, directors, members or managers of Cargill.

REQUEST FOR PRODUCTION NO. 43: All balance sheets and income statements of Cargill produced during the period from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 44: All Documents and Communications sufficient to identify the location of all offices of Cargill.

REQUEST FOR PRODUCTION NO. 45: All Documents and Communications sufficient to identify all agents for service of process for Cargill within the United States.

REQUEST FOR PRODUCTION NO. 46: All Documents and Communications Concerning Champion Iron.

REQUEST FOR PRODUCTION NO. 47: All Documents and Communications Concerning any sales process by Tacora.

REQUEST FOR PRODUCTION NO. 48: All Documents and Communications Concerning any sales process by Proterra.

REQUEST FOR PRODUCTION NO. 50: The original Offtake Agreement and all amendments thereto and any agreements between Tacora and Cargill that are or were intended to supersede the Offtake Agreement, including but not limited to the amendment extending the Offtake Agreement to the life of the mine.

REQUEST FOR PRODUCTION NO. 51: All Communications between Cargill and any other party that refers to, Relates to, or Concerns the Offtake Agreement or any amendment to the Offtake Agreement, including but not limited to correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 52: All internal Cargill Communications that refer to, Relate to, or Concern the Offtake Agreement or any amendment to the Offtake Agreement, including but not limit to memoranda, emails, and texts.

REQUEST FOR PRODUCTION NO. 53: All Documents that refer to, Relate to, or Concern that number of metric tons of ore produced per annum by the Scully Mine from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 54: All Documents that disclose the monthly production of ore by the Scully Mine from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 55: All Documents that refer to, Relate to, or Concern Cargill's loading, transportation, or purchase of iron ore from the Scully Mine, including but not limited to all bills of lading.

REQUEST FOR PRODUCTION NO. 56: All Documents that refer to, Relate to, or Concern payments by Cargill to any third party shipper for the shipment of ore from the Scully Mine, including wire transfers and checks.

REQUEST FOR PRODUCTION NO. 57: All Documents that refer to, Relate to, or Concern payments made by Tacora to Cargill, including but not limited to all wire transfers and checks.

REQUEST FOR PRODUCTION NO. 58: All offtake agreements between Cargill and any party other than Tacora from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 59: All invoices sent by Tacora to Cargill pursuant to the Offtake Amendment or any amendment to the Offtake Agreement.

REQUEST FOR PRODUCTION NO. 60: The original Stockpile Agreement and all amendments thereto and any agreements between Tacora and Cargill that are or were intended to supersede the Stockpile Agreement, including but not limited to any amendment extending the Stockpile Agreement to the life of the mine.

REQUEST FOR PRODUCTION NO. 61: All Communications between Cargill and any other party that refer to, Relate to, or Concern the Stockpile Agreement or any amendment to the Stockpile Agreement, including but not limited to correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 62: All Cargill internal Communications that refer to, Relate to, or Concern the Stockpile Agreement or any amendment to the Stockpile Agreement, including but not limited to memoranda, emails, and texts.

REQUEST FOR PRODUCTION NO. 63: All stockpile agreements between Cargill and any party other than Tacora from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 64: All Documents that refer to, Relate to, Concern, or constitute any contract or commercial arrangement between Tacora and Cargill from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 65: All Documents that refer to, Relate to, or Concern any payments from Tacora to Cargill pursuant to the Stockpile Agreement or any amendments to the Stockpile Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 66: All Advance Payment Facility Agreements and amendments to Advance Facility Agreements between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 67: A copy of the Advance Payment Facility Agreement between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 68: A copy of the Second Advance Facility Agreement between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 69: All Communications between Cargill and any other party Concerning the Advance Payment Agreement and any amendments to the Advance Payment Agreement, including but not limited to correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 70: All internal Cargill Communications that refer to, Relate to, or Concern the Advance Payment Agreement or any amendment to the Advance Payment Agreement, including but not limited to memoranda, emails, and texts.

REQUEST FOR PRODUCTION NO. 71: All Documents that refer to, Relate to, or Concern payments made by Tacora to Cargill under the Advance Payment Agreement or any amendment to the Advance Payment Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 72: All Wet Concentrate Facility Agreements and any amendments to Wet Concentrate Facility Agreements between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 73: All Communications between Cargill and any other party Concerning the Wet Concentrate Facility Agreement or any amendments to the Wet Concentrate Facility Agreement, including but not limited to correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 74: All internal Cargill Communications that refer to, Relate to, or Concern the Wet Concentrate Facility Agreement or any amendments to the Wet Facility Agreement, including but not limited to memoranda, emails, and texts.

REQUEST FOR PRODUCTION NO. 75: All Documents that refer to, Relate to, or Concern payments made by Tacora to Cargill under the Wet Concentrate Facility Agreement or any amendments to the Wet Concentrate Facility Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 76: Any and all employment agreements between Cargill and Matt Lehtinen.

REQUEST FOR PRODUCTION NO. 77: All Communications between Cargill and Matt Lehtinen Relating to the Scully Mine, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 78: Any and all employment agreements between Cargill and Leon Davies.

REQUEST FOR PRODUCTION NO. 79: All Communications between Cargill and Leon Davies Relating to the Scully Mine, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 80: All work papers and reports from Partners in Performance, Relating to the Scully Mine, in the possession, custody, or control of Cargill.

REQUEST FOR PRODUCTION NO. 81: A copy of the MFC Royalty Agreement and any amendments to the MFC Royalty Agreement.

REQUEST FOR PRODUCTION NO. 82: All Documents that refer to, Relate to, or Concern payments made by Tacora to 0778539 B.C. Ltd. pursuant to the MFC Royalty Agreement and amendments to the MFC Royalty Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 83: All Documents that refer to Margin Payments made by Cargill to Tacora or by Tacora to Cargill under the Offtake Agreement or any amendments to the Offtake Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 84: Copies of all rail agreements between Tacora and any rail carrier Relating to the Scully Mine.

REQUEST FOR PRODUCTION NO. 85: Copies of all port agreements entered into by Tacora Relating to the Scully Mine.

REQUEST FOR PRODUCTION NO. 86: All Documents that refer to, Relate to, or Concern funds paid by Tacora to Tacora US during the period from January 1, 2017 to the present, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 87: All Documents that refer to, Relate to, or Concern funds paid by Tacora US to Tacora during the period from January 1, 2017 to the present, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 88: All Communications between Tacora and Tacora US Relating to Aequor Mgt., including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 89: All Communications between Tacora and Tacora US Relating to Aequor Holdings, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 90: All Documents that refer to, Relate to, or Concern Tacora's purchase of the Scully Mine on July 18, 2017 from Cliffs Natural Resources, including but not limited to any and all contracts Related to Tacora's purchase of the Scully Mine from Cliffs Natural Resources.

REQUEST FOR PRODUCTION NO. 91: Documents sufficient to identity all members of the Ad Hoc Group of Senior Noteholders.

REQUEST FOR PRODUCTION NO. 92: All Communications between Tacora and members of the Ad Hoc Group of Senior Noteholders, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 93: All reports and memoranda describing Tacora's Cash Management System.

REQUEST FOR PRODUCTION NO. 94: All financial statements of Tacora produced or created between January 1, 2017 and the present, including but not limited to balance sheets and income statements.

REQUEST FOR PRODUCTION NO. 95: All minutes of the Tacora Board of Directors that reflect any vote by Leon Davies Relating to the Scully Mine.

REQUEST FOR PRODUCTION NO. 96: All minutes of the Tacora Board of Directors that reflect any vote by Matt Lehntinen Relating to or affecting the Scully Mine.

REQUEST FOR PRODUCTION NO. 97: All Communications between Cargill and Tacora US that refer to, Relate to, or Concern the Scully Mine, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 98: All Documents between Cargill and Tacora that refer to, Relate to, or Concern any agreement giving Cargill authority to approve or disapprove Tacora's sale of ore from the Scully Mine to any party other than Cargill.

REQUEST FOR PRODUCTION NO. 99: All Communications between Cargill and Tacora that refer to, Relate to, or Concern Cargill's approval or disapproval of any Tacora proposal to sell ore from the Scully Mine to any parties other than Cargill, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 100: All Communications between Cargill and any other party that refer to, Relate to, or Concern Cargill's approval or disapproval of any Tacora proposal to sell ore from the Scully Mine to any parties other than Cargill, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PROCUCTION NO. 101: All Documents that refer to, Relate to, or Concern any agreement between Cargill and Tacora giving Cargill authority to approve or disapprove of the sale of Tacora, its shares, or assets to any third party, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 102: All Communications between Cargill and Tacora that refer to, Relate to, or Concern Cargill's approval or disapproval of any Tacora proposal Concerning the sale of Tacora, its shares, or assets to any third party, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 103: All Communications between Cargill and any other party that refer to, Relate to, or Concern Cargill's approval or disapproval of the sale of Tacora, its shares, or assets to any third party, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 104: All Communications between Cargill and Tacora that refer to, Relate to, or Concern Cargill's approval or disapproval by any proposed financing arrangement pursuant to which Tacora was seeking additional capital from any third party, including but not limited to memoranda, correspondence, emails, or texts.

REQUEST FOR PRODUCTION NO. 105: All Documents that refer to, Relate to, or Concern any offer to purchase Tacora or any interest in Tacora or any proposed sale of Tacora or any interest in Tacora from June 1, 2017 to the present, including but not limited to correspondence, emails, letters of intent, and contracts.

REQUEST FOR PRODUCTION NO. 106: All Communications that refer to, Relate to, or Concern any offer to purchase Tacora or any interest in Tacora or any proposed sale of Tacora or

any interest in Tacora from June 1, 2017 to the present, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 107: All Documents that refer to, Relate to, or Concern any offer to purchase Proterra or any interest in Proterra or any proposed sale of Proterra or any interest in Proterra from June 1, 2017 to the present, including but not limited to correspondence, emails, letters of intent, and contracts.

REQUEST FOR PRODUCTION NO. 108: All Communications that refer to, Relate to, or Concern any offer to purchase Proterra or any interest in Proterra or any proposed sale of Proterra or any interest in Proterra from June 1, 2017 to the present, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 109: All Documents that refer to, Relate to, or Concern any offer to purchase the assets of Tacora or any interest in the assets of Tacora or any proposed sale of the assets of Tacora or any interest in the assets of Tacora from June 1, 2017 to the present, including but not limited to correspondence, emails, letters of intent, or contracts.

REQUEST FOR PRODUCTION NO. 110: All Communications that refer to, Relate to, or Concern any offer to purchase the assets of Tacora or any interest in the assets of Tacora or any proposed sale of the assets of Tacora from June 1, 2017 to the present, including but not limited to memoranda, correspondence, emails, and texts.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

In re:	§	Chapter 11
AEQUOR MGT, LLC,[1]	§	Case No. 23-60010
Debtors.	§	Jointly Administered

DEBTORS' MOTION FOR RULE 2004 EXAMINATION OF TACORA RESOURCES, LLC

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this Motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading *WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE* shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order granting the relief sought. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter.

TO THE HONORABLE JOSHUA P. SEARCY, U.S. BANKRUPTCY JUDGE:

COME NOW Aequor Mgt, LLC ("MGT") and Aequor Holdings, LLC ("Holdings" and, with MGT, each a "Debtor" and together, the "Debtors"), the reorganized debtors in the above styled and numbered jointly administered bankruptcy case (the "Bankruptcy Case"), and file this their *Motion for Rule 2004 Examination of Tacora Resources, LLC* (the "Motion"), respectfully stating as follows:

[1] The jointly-administered chapter 11 Debtors, along with the last four digits of each Debtor's federal tax identification number are: Aequor Mgt, LLC (2916) and Aequor Holdings, LLC (0273).

I. SUMMARY

1. As the Debtors have previously represented to the Court, they believe that the largest assets of the Holdings' estate are causes of action related to Tacora and to the Scully Mine (both as defined below), resulting from the gross mismanagement of the Scully Mine, various breaches of fiduciary duty, and the plundering of the value of the Scully Mine by Cargill Incorporated ("Cargill") for itself, all at the expense of Holdings and its $44 million investment in Tacora. By this Motion, the Debtors request authority to conduct an examination under Bankruptcy Rule 2004 (the "Examination") of Tacora Resources, LLC ("Tacora US"), for the purpose of investigating all resulting potential claims and causes of action against Cargill and potentially other parties. The Examination would be taken pursuant to the proposed order attached hereto and to the Requests for Production attached as Exhibit "A" to said proposed order.

II. PROCEDURAL BACKGROUND

2. On January 5, 2023 (the "Petition Date"), the Debtors filed their voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code"), thereby initiating the Bankruptcy Case and creating their bankruptcy estates (the "Estates").

3. The Debtors operated their businesses and to manage their Estates as debtors-in-possession. No trustee or examiner was appointed in the Bankruptcy Cases.

4. On February 23, 2024, the Court entered its *Order Confirming Debtors' Modified Amended Joint Non-Consolidated Plan of Liquidation* [docket no. 200] (the "Confirmation Order"), by which the Court confirmed the *Debtors' Modified Amended Joint Non-Consolidated Plan of Liquidation* [docket no. 177] (the "Plan"). All conditions precedent to the effectiveness of the Plan occurred on March 18, 2024 (the "Effective Date"), and the Plan became effective on that date. *See* Docket No. 206].

5. This Court has jurisdiction over the Bankruptcy Case and the subject matter of this

Motion pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this Motion is a core proceeding under 28 U.S.C. § 157(b)(2). All such jurisdiction was reserved and preserved in the Confirmation Order (*see* p. 10) and in the Plan (*see* § 10.1.19).

III. FACTUAL BACKGROUND

6. Between mid-2017 through late 2018, Holdings made investments totaling $43.9 million in Tacora and the Scully Mine.

7. The "Scully Mine" is an iron ore mine and processing facility in the Province of Newfoundland, Canada, opened in 1965 and closed in 2014.

8. Tacora Resources, Inc. ("Tacora") is a corporation organized under the laws of the Province of Ontario, Canada. Tacora was created to purchase and to revitalize the Scully Mine, which it did in 2017, restarting operations of the Scully Mine in 2019. Thus, Tacora owned the Scully Mine.

9. Tacora US is a Delaware limited liability company which, upon information and belief, is wholly owned by Tacora and is the entity through which Tacora operates in the United States. *See* https://tacoraresources.com/wp-content/uploads/2022/04/2021-Annual-Report.pdf. The Debtors seek the examination from Tacora US, as opposed to Tacora, because: (i) this Court unquestionably has jurisdiction over Tacora US, as a United States entity; (ii) the Debtors believe that Tacora US has possession, custody, or control of responsive documents, including those of Tacora, and including because these entities are consolidated for accounting and other purposes, *see, e.g., id.*; and (iii) the Debtors do not know whether, under Canadian law, any bankruptcy law or rule prevents them from seeking any discovery or related relief against Tacora (which, as noted below, is in Canadian bankruptcy proceedings).

10. The website for Tacora states that: "[t]he Company is privately owned by a collection of world-class mining investors including Proterra Investment Partners, Cargill, Aequor

Holdings, Orion, MagGlobal, and the Tschudi group." *See* https://tacoraresources.com/company/. While generally accurate, the actual ownership structure is more complicated.

11. That ownership was effectuated through Proterra M&M MGCA Cooperatief U.A. ("Proterra Coop"), a Dutch entity, which was created to own and to manage Tacora. The members of Proterra Coop, in turn, were: (i) Holdings; (ii) Black River Capital Partners Fund (Metals and Mining A) L.P. ("Black River A"), a Cayman Islands fund; (iii) Black River Capital Partners Fund (Metals and Mining B) L.P. ("Black River B"), a Delaware limited partnership believed to be a fund; and (iv) Proterra Investment Partners, L.P. ("Proterra"), a Delaware limited partnership. Furthermore, Proterra is the registered fund advisor for Black River A and Black River P. Thus, Proterra is believed to be in possession of relevant and responsive documents for and on behalf of Black River A and Black River B.

12. It was Proterra who, as the promoter, put the "deal" together giving rise to Tacora and the reopening of the Scully Mine. The ultimate owner of Holdings, David Durrett ("Durrett"), was solicited in Texas to invest in the project and, upon information and belief, multiple, substantial misrepresentations were made to him (and therefore to Holdings) to secure his investment, in violation of federal and state securities and Blue Sky laws.

13. Cargill is also an indirect owner of Tacora, as reflected on its website. In addition, Cargill had economic and governing control over Tacora, and influence over its operations, through Black River A and Black River B. Moreover, Cargill was the prior owner of Proterra, before it was spun-off. There remained a significant overlap of interests and of management.

14. Upon information and belief, Cargill used its indirect ownership and control of Tacora, and hence the Scully Mine, to enrich itself at the expense of Holdings by taking advantage of Holdings' investment and ultimately taking the value of the Scully Mine for itself. In other words, while Holdings' large investment was used to reopen the Scully Mine and then fund its

operations, that investment was effectively converted by Cargill through its indirect control of Tacora's management and with the acquiescence, if not the active participation, of Proterra (including Black River A and Black River B).

15. This was accomplished through various mechanisms. First, Tacora entered into an exclusive agreement with Cargill whereby the Scully Mine would sell all of its production to Cargill through an "off-take" agreement. *See* https://tacoraresources.com/wp-content/uploads/2021/09/Tacora-Announces-Purchase-of-Scully-Mine-20170719.pdf. This, however, was priced at significantly less than fair market value *and* the costs of production, thus: (i) giving large profit to Cargill at the expense of Tacora; and (ii) rendering Tacora operationally not cash flowing.

16. In 2019, it became clear to Holdings that Cargill's off-take agreement with Tacora would prevent the latter from achieving the returns that Holdings had expected when it invested in Tacora. For that reason, Holdings sought the advice of Hannam & Partners ("H&P"), a London-based leading investment bank specializing in metals and mining, to assist Holdings in selling its investment in Tacora. Cargill, Proterra and Tacora opposed the sale. By phone, Tacora Director R.S.N. "Sam" Byrd, exhorted Holdings and H&P to stop approaching potential buyers, which was tantamount to banning the sale of Holdings' interest. By email dated November 26, 2019, Byrd stated: "[a]s discussed on recent calls, Tacora, Cargill and Proterra are extremely concerned about the potential adverse impact of approaching the 'Strategics' and 'Traders' listed in the Hannam & Partners potential buyers list. As stated on our most recent call, we would request that these parties are not approached at this time." Byrd further stated "if a rumour gets to the market that Tacora has financial difficulties, it could be catastrophic for the product demand which will have a big impact on sales and realized prices" and stressed that "Cargill has invested significant resources on building the customer base, which is allowing Tacora to outperform competitors on pricing."

Thereafter, Cargill and Proterra caused Tacora to reject a purchase offer for the Scully Mine that would have returned tens of millions of dollars in profit to Holdings which rejection was due, upon information and belief, not on the inadequacy of any sale price, but rather because of the profits that Cargill was making from its off-take agreement.

17. Third, because the Scully Mine was operating at a loss, additional investments had to be made into it, which had the effect of diluting Holdings' equity investments. Cargill or its affiliates invested the additional capital, whether by way of equity or debt, which had the alleged effect of diluting Holdings' investment. And, some of this dilution occurred postpetition, in violation of the automatic stay.

18. Ultimately, on October 10, 2023, Tacora filed a bankruptcy petition in Canada. That proceeding remains ongoing. On June 5, 2024, the Ontario Superior Court of Justice (Commercial List), which is overseeing the Tacora bankruptcy in a proceeding akin to a Chapter 11 debtor-in-possession restructuring, issued a Sale Process Order permitting Tacora to obtain further investment that Tacora believes would further its efforts to obtain a consensual restructuring with its two largest stakeholders, one of which is Cargill.

19. As a result of the foregoing, Holdings believes that it has claims and causes of action against Proterra, Tacora, the management of both, and Cargill, generally as follows:

(i) violations of securities laws;

(ii) breaches of fiduciary duty (including for the off-take agreement and vetoing the potential sale);

(iii) conspiracy to illegally oppress and dilute Holdings' investments;

(iv) breach of contract, including for illegal dilution; and

(v) violations of the automatic stay.

20. The foregoing is in addition to whatever claims and causes of action Tacora may

itself hold.

21. The foregoing claims and causes of action have been expressly preserved in the Debtors' disclosure statement, the Plan, and the Confirmation Order. *See* Docket No. 146 (Disclosure Statement) at pp. 26-27 & 29; Plan at § 10.5; and Confirmation Order at p. 10.

22. The resulting damages are not just damages to the Debtors, but also to their creditors, primarily its senior secured creditor, CL V Funding, LLC ("Castlelake"). Namely, in November, 2018, MGT obtained a loan from Castlelake in the original principal amount of $22 million. Holdings guaranteed this loan and pledged its interests in Proterra Coop as collateral. As of the Petition Date, Castlelake's claim had grown to $39.8 million which, which could and would have been satisfied by the value of Holdings' interests in Proterra Coop but for the gross mismanagement and self-dealing outlined above. Indeed, on its schedules filed in the Bankruptcy Case, the book value of those interests was listed as $48,345,900.00. Subsequent events have demonstrated that this was incorrect.

23. Under the Plan, the Debtors, Durrett (who asserts personal claims regarding the foregoing outline of potential causes of action), Castlelake, and the Official Committee of Unsecured Creditors of MGT agreed to prosecute all resulting causes of action, defined in the Plan as the "Proterra Causes of Action," as follows: (i) Durrett will fund any litigation, in his discretion; (ii) Durrett will receive 70% of any net proceeds thereof; (iii) Castlelake will receive 24% of any net proceeds thereof; and (iv) the holders of Subordinated Claims (as defined in the Plan) against MGT will receive 6% of any net proceeds thereof, *pro-rata*.

IV. DISCUSSION

24. Bankruptcy Rule 2004 provides that, "[o]n motion of any party in interest, the court may order the examination of any entity." FED. R. BANKR. P. 2004(a) (emphasis added). *See also In re Fearn*, 96 B.R. 135, 138 (Bankr. S.D. Ohio 1989) (the "examination is not limited to the

debtor or his agents, but may properly extend to creditors and third parties who have had dealings with the debtor"); *In re GHR Energy Corp.*, 35 B.R. 534, 537 (Bankr. D. Mass. 1983); *In re Maidman*, 2 B.R. 18, 18-19 (Bankr. S.D. Fla. 1979).

25. The scope of the Rule 2004 examination "may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge." FED. R. BANKR. P. 2004(b). "The purpose of a Rule 2004 examination is to determine the condition, extent, and location of the debtor's estate in order to maximize distribution to unsecured creditors." *In re Lufkin*, 255 B.R. 204, 208 (Bankr. E.D. Tenn. 2000).

26. The scope of a Rule 2004 examination is "extremely broad," and has even been likened by some courts to a "lawful 'fishing expedition.'" *Id. (quoting Bank One, Columbus, N.A. v. Hammond (In re Hammond)*, 140 B.R. 197, 201 (S.D. Ohio 1992)). "The scope of a [ ] Rule 2004 examination is 'unfettered and broad.' Its purpose is to facilitate the discovery of assets and the unearthing of frauds and has been likened to a quick 'fishing expedition' into general matters and issues regarding the administration of the bankruptcy case." *In re Bakalis*, 199 B.R. 443, 447 (Bankr. E.D.N.Y. 1996) (quoting *In re GHR Energy Corp.*, 33 B.R. 451, 453 (Bankr. D. Mass. 1983). The standard for granting a Rule 2004 examination is whether the movant has established "good cause." *In re Hammond*, 140 B.R. 197, 201 (S.D. Ohio 1992).

27. Rule 2004 examinations are an appropriate tool for investigating causes of action in particular. *See Rhodes v. Litig. Trust of the Rhodes Cos., LLC (In re Rhodes Cos., LLC)*, 475 B.R. 733 (D. Nev. 2012) ("the subpoenas were an appropriate method of investigating potential fraudulent transfer claims"); *Kirschner v. Agoglia (In re Refco Inc.)*, 461 B.R. 181, 187 (Bankr. S.D.N.Y. 2011) (listing rule 2004 as one of the "several sections of the Bankruptcy Code ... [that] govern the trustee or debtor in possession's unique role in investigating ... fraudulent transfer

claims ...."). "The purpose of a Rule 2004 examination is to show the condition of the estate and to enable the Court to discover its extent and whereabouts, and to come into possession of it, that the rights of the creditor may be preserved." *In re Express One Int'l*, 217 B.R. 215, 216 (Bankr. E.D. Tex. 1998) (*quoting In re Coffee Cupboard, Inc.*, 128 B.R. 509, 514 (Bankr.E.D.N.Y.1991)).

28. Here, there is no question that the Debtors preserved whatever claims and causes of action they may have related to Tacora in their Plan, and hence that this Court retained all core jurisdiction over the same. Among other provisions of the Plan, the Plan expressly reserves and preserves the "Proterra Causes of Action." Plan at § 10.5(ii). The Plan contains a detailed and exhaustive definition of "Proterra Causes of Action," including:

> all legal and equitable claims and causes of action of Aequor Holdings against any person for the devaluation of, or harm and damage to, the value of the Proterra Interests, and the disgorgement of any benefits to any such person, including indirectly to the value of Tacora Resources, Inc. and its mine, business, and operations, existing or arising at any time prior to the Effective Date, including breach of fiduciary duty, mismanagement, self-dealing, insider trading, breach of contract, shareholder oppression, conspiracy, fraudulent transfer, unjust enrichment, restitution, dilution, devaluation, negligence, gross negligence, breach of contract, breach of the duties of loyalty and care, tortious interference with contract, tortious interference with prospective business opportunity, claims for securities fraud under federal and state statutes . . . conversion, common law fraud, common law fraudulent inducement claims . . . including the laws of the United States of America and its member States, the laws of Canada and its member Provinces, and the Netherlands, and including as assertable against Cargill Incorporated, Black River Capital Partners Fund (Metals and Mining A) LP, Black River CPF (Metals and Mining) GP LP, Black River Capital Partners Fund (Metals and Mining B) LP, Proterra Investment Partners LP, Proterra M&M MGCA Cooperatief U.A. (Netherlands), Tacora Resources, Inc., all prior and current directors, officers, partners, members, managers, agents, and professionals of Tacora Resources, Inc. and any parent, affiliate, or subsidiary.

Plan at p. 6.

29. There should also be no question that the scope of the Examination is within the scope of Rule 2004. As pointed out above, Rule 2004 exists, in part, to assist with investigating and uncovering potential assets and causes of action of the Estate. Here, Cargill indirectly

managed Tacora and the Scully Mine, caused Tacora to enter into the disastrous agreements with Cargill, blocked a highly profitable sale at the expense of other owners and for its sole benefit, devalued Holdings' indirect equity interests, forced the bankruptcy of Tacora, and ultimately muscled out every other investor. Whether the Estate has causes of action as a result, and whether those causes of action have merit or value, is something that the Debtors and the creditors have a right to investigate under Rule 2004.

30. Finally, sufficient grounds to order the Examination exist. Not only does it appear that Tacora US will have relevant information—whether or not that information suggests potentially causes of action against Cargill itself or against third parties—but the investigation into what happened with Tacora and the Scully Mine is of key interest to the Debtors and to the creditors. Either there are causes of action, in which case everyone benefits, or there are none and an innocent answer is found for the loss of tens of millions of dollars of Holdings' investment, in which case at least that is known. Either way, the creditors relied on the Debtors' repeated representations that "they intend to take Rule 2004 Examinations of the various entities involved, including Cargill." *See* Disclosure Statement at Docket No. 146, p. 29.

31. Rule 2004 provides that "the attendance of an entity for examination and for the production of documents or electronically stored information, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial." FED. R. BANKR. P. 2004(c). Thus, to the extent of any concerns regarding the Court's personal jurisdiction over Tacora US, in that Tacora US has not appeared in this Bankruptcy Case, the Debtors request authority to issue and serve a subpoena, in addition to the Proposed Order, ensuring Tacora US's compliance with the Examination.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Debtors respectfully request that the Court enter an order: (i) granting this Motion; (ii) ordering the Examination and authorizing the issuance of a subpoena commanding the same; and (iii) granting the Debtors such other and further relief to which they may be justly entitled.

RESPECTFULLY SUBMITTED this 1st day of July, 2024.

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Davor Rukavina
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ATTORNEYS FOR THE REORGANIZED DEBTORS

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that he has tried to locate contact information for any attorney at or for Tacora US and has not been able to do so. The undersigned has discussed the general examination with counsel for Proterra and has sought to do so with counsel for Tacora and Cargill in Canada, and has asked that anyone with Tacora US contact the undersigned, and he believes that, notwithstanding the lack of direct contact, that personnel at Tacora are generally aware of the requested examination.

By: /s/ Davor Rukavina
Davor Rukavina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this the 1st day of July, 2024, true and correct copies of this document, with the proposed order hereon, were electronically served by the Court's ECF system on parties entitled to notice thereof, including counsel for the United States Trustee, and that, additionally, on the same day he caused true and correct copies of this document, with the proposed order hereon, to be served by U.S. first class mail, postage prepaid, on the parties listed on the attached Service List and on the parties listed below:

Tacora Resources, LLC c/o National Registered Agents, Inc. Registered Agent 1209 Orange Street Wilmington, DE 19801	Proterra Investment Partners, LP c/o Corporation Trust Center Registered Agent 1209 Orange Street Wilmington, DE 19801
Cargill Incorporated c/o United Agent Group Inc. Registered Agent 5444 We3stheimer #1000 Houston, TX 77056	Cargill Corporation c/o David MacLennan, President 15407 McGinty Rd W MS26 Wayzata, MN 55391 USA

By: /s/ Davor Rukavina
Davor Rukavina

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

In re:	§	Chapter 11
AEQUOR MGT, LLC,[1]	§	Case No. 23-60010
Debtors.	§	Jointly Administered

ORDER GRANTING DEBTORS' MOTION FOR RULE 2004 EXAMINATION OF TACORA RESOURCES, LLC

CAME ON FOR CONSIDERATION the *Debtors' Motion for Rule 2004 Examination of Tacora Resources, LLC* (the "Motion"), filed by Aequor Mgt, LLC ("MGT") and Aequor Holdings, LLC ("Holdings" and, with MGT, each a "Debtor" and together, the "Debtors"), the debtors in the above styled and numbered jointly administered bankruptcy case (the "Bankruptcy Case"), whereby the Debtors seek to take an examination under Bankruptcy Rule 2004 (the "Examination") of Tacora Resources, LLC, a Delaware entity ("Tacora"), consisting of: (i) document production pursuant to the requests attached to this Order as Exhibit "A" (the "Requests"); and (ii) at the election of the Debtors, a corporate deposition under Rule 30(b)(6) (the "Deposition").

Finding that service and notice of the Motion was sufficient and appropriate and that cause to grant the Motion exists, based on the representations in the Motion and in the Bankruptcy Case, and that the Court has the subject matter jurisdiction to enter this Order and, with respect to personal jurisdiction over Tacora, to the extent of any issues regarding the same, that the issuance of a subpoena will ensure to confer such personal jurisdiction (without finding that the Court otherwise lacks such personal jurisdiction), it is hereby:

[1] The jointly-administered chapter 11 Debtors, along with the last four digits of each Debtor's federal tax identification number are: Aequor Mgt, LLC (2916) and Aequor Holdings, LLC (0273).

ORDERED that the Motion is GRANTED; it is further

ORDERED that the Debtors may take the Examination, by serving the Requests substantially in the form attached hereto and, thereafter, noticing the Deposition, and that Tacora shall submit to the Examination, subject to all of its privileges; it is further

ORDERED that Tacora shall respond to the Requests, and provide responsive documents to the Requests, both as may be otherwise appropriate, no later than thirty (30) days after the proper service of the Requests by the Debtors, unless such deadline is extended by the Debtors; it is further

ORDERED that, at the election of the Debtors, Tacora shall sit for the Deposition upon proper and timely topics designated by the Debtors under Rule 30(b)(6), subject to its privileges and such objections as may be appropriate, and that the Debtors shall reasonably cooperate with Tacora as to the timing and location of said Deposition, and that this Court shall decide all disputes regarding the same; it is further

ORDERED that the Debtors may issue and serve a subpoena to enforce this Order and compel compliance with the Examination; it is further

ORDERED that, in order to properly serve the Requests and any notice of the Deposition, the Debtors shall serve the same, together with a copy of this Order and the subpoena, as is otherwise appropriate; it is further

ORDERED that the Court shall otherwise retain jurisdiction to the maximum extent possible to interpret and to enforce this Order, to grant relief from this Order, and over all privilege, objection, and other issues that may arise with respect to the Requests and the Deposition.

SO ORDERED.

Dated : _____

By: _____
JOSHUA P. SEARCY
U.S. BANKRUPTCY JUDGE

DEFINITIONS

A. The term "all" shall mean all and any.

B. The connectives "and" and "or" should be construed either disjunctively or conjunctively as necessary to bring within the scope of discovery all responses that might otherwise be construed as outside of its scope.

C. The term "Communication" shall mean the transmittal of information (in the form of facts, ideas, inquires or otherwise) by any means.

D. The term "Concerning" shall mean relating to, referring to, describing, evidencing, or constituting.

E. The term "Document" shall mean and include Documents and tangible things as defined herein in its broadest sense to include writings, letters, correspondence, e-mails, text messages, telegrams, telexes, memoranda, records, books of account, ledgers, balance sheets, diaries, calendars, journals, minutes, contracts, drafts of contracts, insurance policies, drawings, graphs, charts, photographs, memoranda or records of telephone or personal conversations or conferences, notes, interoffice Communications, microfilm, tape recordings, software, bulletins, circulars, schedules, guides, pamphlets, studies, surveys, notices, summaries, reports, analysis, work sheets, price sheets, catalogs, invoices, checks, vouchers, newspaper inserts, computer listings, charts, records, or summaries prepared or relating to any of the foregoing and writings of every kind or character that are in your possession, custody or control or subject thereto. If you have the right to secure the Document or a copy from any person or public or private entity having possession (including your attorney), it is considered within your control and should be produced, and includes emails, text messages and instant messages from company or personal accounts. A draft or non-identical copy is a separate Document within the meaning of this term.

F. The term "each" shall mean each and every.

G. The term "identify" with respect to Documents, shall mean to give, to the extent known, the: (i) type of Document; (ii) general subject matter; (iii) date of that Document; and (iv) author(s), addressee(s) and recipient(s).

H. The term "identify" with respect to a Person, shall mean to give, to the extent known, the (i) person's full name; (ii) present or last known address; and when referring to a natural person, additionally, (iii) the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery Requesting the identification of that person.

I. The term "including" shall mean including, but not limited to.

J. The term "person" shall mean any natural person or any legal entity, including, without limitation, any business, governmental entity or association.

K. The term "relate(s) to" or "relating to" or " related to" shall mean to have any logical or natural association with; to compromise, mention, describe, contain, enumerate, involve, or in any way Concern, pertain to, refer to, be connected with, reflect upon, or result from, in whole or in part, directly or indirectly, the stated subject matter.

L. The use of the singular form of any word includes the plural and vice versa.

M. The term "Aequor Mgt" shall mean Aequor Mgt, LLC.

N. The term "Aequor Holdings" shall mean Aequor Holdings LLC.

O. The term "Bankruptcy Case" shall mean the jointly administered Chapter 11 case filed by Aequor Mgt and Aequor Holdings on January 5, 2023, in the United States Bankruptcy Court for the Eastern District of Texas, captioned *Aequor Mgt, LLC*, Case No. 23-60010.

P. The term "Petition Date" shall mean January 5, 2023.

Q. The term "CL V" shall mean CL V Funding, LLC.

R. The term "Proterra" shall mean Proterra M&M MGCA Cooperatief U.A.

S. The term "Black River A" shall mean Black River Capital Partners Fund (Metals and Mining A) LP.

T. The term "Black River B" shall mean Black River Capital Partners Fund (Metals and Mining B) LP

U. The term "Tacora" shall mean Tacora Resources Inc.

V. The term "Cargill" shall mean Cargill Incorporated.

W. The term "Proterra LP" shall mean Proterra Investment Partners LP.

X. The term "Credit Agreement" shall mean the credit agreement entered on November 7, 2018, between Aequor Mgt as Borrower and CL V as Lender wherein CL V made a single advance term loan to Aequor Mgt for $22,000,000.

Y. The term "Loan" shall mean the single advance term loan from CL V to Aequor Mgt for $22,000,000.

Z. The term "Durrett Pledge Agreement" shall mean the pledge agreement executed by David J. Durrett and Deborah M. Durrett (the "Durretts") on November 7, 2018, wherein the Durretts granted CL V a security interest in the collateral as defined therein, which includes each of the Durretts membership interest in Aequor Mgt.

AA. The term "Original Forbearance Agreement" shall mean the forbearance agreement dated July 3, 2019, between Aequor Mgt and CL V, which was amended by a First Amended Forbearance Agreement between Aequor Mgt and CL V dated October 2, 2019.

BB. The term "Holdings Guaranty" shall mean the guaranty dated October 2, 2019, executed by Aequor Holdings as a condition to the extension granted to Aequor Mgt in the First Amended Forbearance Agreement.

CC. The term "Holdings Security Agreement" shall mean the security agreement dated October 2, 2019, executed by Aequor Holdings as a condition to the extension granted to Aequor Mgt in the First Amended Forbearance Agreement.

DD. The term "First Amended Credit Agreement" shall mean the amendment to the Original Credit Agreement dated October 7, 2020, entered by and among CL V as Lender, Aequor Mgt as Borrower, Aequor Holdings, and the Durretts.

EE. The term "Amended and Restated Holdings Security Agreement" shall mean the security agreement dated October 7, 2020, executed by Aequor Holdings, which removed the exclusion of the Aequor Holdings' equity and other ownership interest in Proterra from the Holdings Security Agreement.

FF. The term "Consent to Security Agreement" shall mean the security agreement dated September 1, 2021, wherein Aequor Holdings, Black River A, Black River B, and Cargill Incorporated (the "Members") granted CL V a security interest in all membership or other equity interest in Proterra that Aequor Holdings has or acquires.

GG. The term "Cooperative Security Agreement" shall mean the consent to security interest executed by the Members and Proterra on September 1, 2021.

HH. The term "Scully Mine" shall means the iron ore concentrate producer located near Wabush, Newfoundland and Labrador, Canada currently owned and operated by Tacora Resources, Inc.

II. The term "Scully Mine Agreement" shall mean the Scully Mine Binding Co-Investment Memorandum of Agreement dated April 11, 2017.

JJ. The term "Tacora Resources Shareholders' Agreement" shall mean the Proterra M&M MGCA B.V. and MagGlobel LLC and Tacora Resources Inc. Shareholders' Agreement dated July 17, 2017.

KK. The term "Proterra Member Contribution Agreement": shall mean the "Member and Contribution Agreement—Proterra M&M MGCA Cooperatief U.A. dated June 29, 2017 between Proterra, Black River A, Black River B and Aequor Holdings.

LL. The term "Vaststllingsovereenkomst ATR" shall mean the Document of the same name in the Dutch language dated June 6, 2019.

MM. The term "Amended and Restated Proterra Agreement" shall mean the Amended and Restated Member Agreement Proterra M&M MCGA Cooperatief U.A. Dated December 2022 between Proterra, Black River A, Black River B, Aequor Holdings and Cargill.

NN. The term "Strikeman Letter" refers to the letter from Strikeman Elliot to Proterra dated December 19, 2022 informing Proterra and its Board of Directors of Tacora's purported financial distress and urging Proterra to adopt the Amended and Restated Proterra Agreement and the Tacora Advance Payments Facility.

OO. The term "Tacora Advance Payments Facility" refers to the proposal by Cargill, dated December 15, 2022, pursuant to which Cargill proposes to advance up to $35 million to Tacora subject to certain conditions and consideration, including revision of Proterra's management structure and the issuance to Cargill of penny warrants exercisable into Tacora common shares or other class of Tacora equity interests.

PP. The term "Houthoff Letter" refers to the letter dated January 5, 2023 from the Houthoff law firm to Proterra Concerning Aequor Holdings' limited approval of the Amended and Restated Proterra Agreement.

QQ. The term "Tacora US" refers to Tacora US, Inc. a wholly-owned subsidiary of Tacora, incorporated pursuant to the laws of the State of Delaware with its principal place of business in Grand Rapids, Minnesota.

RR. The term "Offtake Agreement" will refer to the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018 between Tacora and Cargill, as it Relates to the Scully Mines which is an iron ore concentrate producer near Wabash, Newfoundland and Labrador, Canada.

SS. The term "Stockpile Agreement" will refer to the Stockpile Agreement between Tacora and Cargill dated December 17, 2019.

TT. The term "Scully Mine Memorandum Agreement" will refer to the Scully Mine Binding Memorandum of Agreement, dated April 11, 2017, between and among Black River A, Black River, and David J. Durrett.

UU. The term "Ad Hoc Group of Senior Noteholders" will refer to a representative body of Tacora creditors holding approximately $260 million in senior notes.

VV. The term "Partners in Performance" will refer to the consultant retained by Tacora commencing February 27, 2023 to initiate an operational stabilization and turnaround program at the Scully Mine.

WW. The term "Champion Iron" will refer to an entity that was involved in a proposed transaction to purchase Tacora or an interest in Tacora.

INSTRUCTIONS

A. The responses to these Requests shall include all Documents in your possession, custody, or control, including those held by your agents, employees, attorneys, representatives, or any other person over whom you have control.

B. If existing Documents are responsive to one or more Requests, but are not in your possession, custody, or control, please indicate in writing that the Documents exist and identify the person with current possession, custody, or control of the Documents.

C. If you cannot fully satisfy one or more of the Requests herein, you are instructed to produce the information that is responsive to that Request to the extent possible and specify, in writing, the reason why you are unable to produce further responsive information. Your explanation shall state what knowledge, information, or belief you have Relating to the Requests. If you object to any portion of any Request, you shall answer the remainder.

D. For any Document responsive to the Requests herein that is known to have been destroyed or lost, or is otherwise unavailable, identify each such Document by author, addressee, date, number of pages, and subject matter, and explain in detail the events leading to the destruction or loss, or the reason for the unavailability of such Document, including the location of such Document when last in your possession, custody, or control, and the date and manner of its disposition.

E. All Documents that respond, in whole or in part, to any part or clause of any paragraph of these Requests shall be produced in their entirety, including all attachments and enclosures. Documents that in their original condition were stapled, clipped, or otherwise fastened together shall be produced in such form.

F. For any Document withheld under a claim of privilege, please identify the Document by author, addressee, date, number of pages, and subject matter, specify the nature and basis of the claimed privilege and the paragraph number of the Request to which the Document is responsive, and identify each person to whom the Document or its contents, or any part thereof, has been disclosed.

G. If, in responding to a Request, you encounter a perceived ambiguity, either in the Request itself or in any applicable definition or instruction, answer the Request fully, and include in your answer an identification of the perceived ambiguity and the construction thereof used in your answer.

H. **PRODUCTION OF ELECTRONIC DATA: Debtor Requests that electronically stored information be produced in the manner in which it is ordinarily maintained, and saved to CD-ROM, USB storage stick, or external hard drive for production, as may be applicable depending on the nature of the information being produced. <u>For Documents:</u> Documents should be produced in the format in which they were originally maintained, including PDFs, Word Documents, Word Perfect Documents, Excel files, or any other native format. <u>For emails:</u> Email should be produced in the format in which it was ordinarily maintained. Normally, this would consist of MS-PST File for Microsoft Outlook, MSG or PST files for Microsoft Exchange, NSF file for Lotus Notes, and GWT file for Novell GroupWise. If a different email program is utilized, then a comparable data file is to be produced. When producing electronically stored information:**

i. **The respondent must produce Documents as they are kept in the usual course of business or organize and label them to correspond to the categories in the Request;**

ii. **The respondent, if unable to produce electronic data in the form specified by these instructions or Requests, must produce it is the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.**

<u>REQUESTS FOR PRODUCTION</u>

REQUEST FOR PRODUCTION NO. 1: The original Offtake Agreement and all amendments thereto and any agreements between Tacora and Cargill that are or were intended to supersede the

Offtake Agreement, including but not limited to the amendment extending the Offtake Agreement to the life of the mine.

REQUEST FOR PRODUCTION NO. 2: All Communications between Cargill and any other party that refers to, Relates to, or Concerns the Offtake Agreement or any amendment to the Offtake Agreement, including but not limited to correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 3: All internal Cargill Communications that refer to, Relate to, or Concern the Offtake Agreement or any amendment to the Offtake Agreement, including but not limit to memoranda, emails, and texts.

REQUEST FOR PRODUCTION NO. 4: All Documents that refer to, Relate to, or Concern that number of metric tons of ore produced per annum by the Scully Mine from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 5: All Documents that disclose the monthly production of ore by the Scully Mine from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 6: All Documents that refer to, Relate to, or Concern Cargill's loading, transportation, or purchase of iron ore from the Scully Mine, including but not limited to all bills of lading.

REQUEST FOR PRODUCTION NO. 7: All Documents that refer to, Relate to, or Concern payments by Cargill to any third party shipper for the shipment of ore from the Scully Mine, including wire transfers and checks.

REQUEST FOR PRODUCTION NO. 8: All Documents that refer to, Relate to, or Concern payments made by Tacora to Cargill, including but not limited to all wire transfers and checks.

REQUEST FOR PRODUCTION NO. 9: All invoices sent by Tacora to Cargill pursuant to the Offtake Amendment or any amendment to the Offtake Agreement.

REQUEST FOR PRODUCTION NO. 10: The original Stockpile Agreement and all amendments thereto and any agreements between Tacora and Cargill that are or were intended to supersede the Stockpile Agreement, including but not limited to any amendment extending the Stockpile Agreement to the life of the mine.

REQUEST FOR PRODUCTION NO. 11: All Communications between Cargill and any other party that refers to, Relates to, or Concerns the Stockpile Agreement or any amendment to the Stockpile Agreement, including but not limited to correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 12: All internal Cargill internal Communications that refer to, Relate to, or Concern the Stockpile Agreement or any amendment to the Stockpile Agreement, including but not limited to memoranda, emails, and texts.

REQUEST FOR PRODUCTION NO. 13: All stockpile agreements between Cargill and any party other than Tacora from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 14: All Documents that refer to, Relate to, Concern, or constitute any contract or commercial arrangement between Tacora and Cargill from January 1, 2018 to the present.

REQUEST FOR PRODUCTION NO. 15: All Documents that refer to, Relate to, or Concern any payments from Tacora to Cargill pursuant to the Stockpile Agreement or any amendments to the Stockpile Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 16: All Advance Payment Facility Agreements and amendments to Advance Facility Agreements between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 17: A copy of the Advance Payment Facility Agreement between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 18: A copy of the Second Advance Facility Agreement between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 19: All Communications between Cargill and any other party Concerning the Advance Payment Agreement and any amendments to the Advance Payment Agreement, including but not limited to correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 20: All internal Cargill Communications that refer to, Relate to, or Concern the Advance Payment Agreement or any amendment to the Advance Payment Agreement, including but not limited to memoranda, emails, and texts.

REQUEST FOR PRODUCTION NO. 21: All Documents that refer to, Relate to, or Concern payments made by Tacora to Cargill under the Advance Payment Agreement or any amendment to the Advance Payment Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 22: All Wet Concentrate Facility Agreements and any amendments to Wet Concentrate Facility Agreements between Tacora and Cargill.

REQUEST FOR PRODUCTION NO. 23: All Documents that refer to, Relate to, or Concern payments made by Tacora to Cargill under the Wet Concentrate Facility Agreement or any amendments to the Wet Concentrate Facility Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 24: A copy of the MFC Royalty Agreement and any amendments to the MFC Royalty Agreement.

REQUEST FOR PRODUCTION NO. 25: All Documents that refer to, Relate to, or Concern payments made by Tacora to 0778539 B.C. Ltd. pursuant to the MFC Royalty Agreement and

amendments to the MFC Royalty Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 26: All Documents that refer to Margin Payments made by Cargill to Tacora or by Tacora to Cargill under the Offtake Agreement or any amendments to the Offtake Agreement, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 27: Copies of all rail agreements between Tacora and any rail carrier Relating to the Scully Mine.

REQUEST FOR PRODUCTION NO. 28: Copies of all port agreements entered into by Tacora Relating to the Scully Mine.

REQUEST FOR PRODUCTION NO. 29: All Documents that refer to, Relate to, or Concern funds paid by Tacora to Tacora US during the period from January 1, 2017 to the present, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 30: All Documents that refer to, Relate to, or Concern funds paid by Tacora US to Tacora during the period from January 1, 2017 to the present, including but not limited to wire transfers and checks.

REQUEST FOR PRODUCTION NO. 31: All Communications between Tacora and Tacora US Relating to Aequor Mgt., including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 32: All Communications between Tacora and Tacora US Relating to Aequor Holdings, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 33: All Documents that refer to, Relate to, or Concern Tacora's purchase of the Scully Mine on July 18, 2017 from Cliffs Natural Resources, including but not limited to any and all contracts Related to Tacora's purchase of the Scully Mine from Cliffs Natural Resources.

REQUEST FOR PRODUCTION NO. 34: Documents sufficient to identify all members of the Ad Hoc Group of Senior Noteholders.

REQUEST FOR PRODUCTION NO. 35: All Communications between Tacora and members of the Ad Hoc Group of Senior Noteholders, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 36: All reports and memoranda describing Tacora's Cash Management System.

REQUEST FOR PRODUCTION NO. 37: All financial statements of Tacora produced or created between January 1, 2017 and the present, including but not limited to balance sheets and income statements.

REQUEST FOR PRODUCTION NO. 38: All minutes of the Tacora Board of Directors that reflect any vote by Leon Davies Relating to the Scully Mine.

REQUEST FOR PRODUCTION NO. 39: All minutes of the Tacora Board of Directors that reflect any vote by Matt Lehntinen Relating to the Scully Mine.

REQUEST FOR PRODUCTION NO. 40: All Communications between Cargill and Tacora US that refer to, Relate to, or Concern the Scully Mine, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 41: All Communications between Proterra and Tacora US that refer to, Relate to, or Concern the Scully Mine, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 42: All Documents that refer to, Relate to, or Concern the payment of $3,954,171.43, or any part thereof, to Tacora in full and final satisfaction of all deferred amounts owing by Cargill to Tacora under the Wet Concentrate Agreement.

REQUEST FOR PRODUCTION NO. 43: Any and all contracts, term sheets, and letters of intent executed by Tacora Relating to any proposed sale of Tacora to any interested investor or investors.

REQUEST FOR PRODUCTION NO. 44: All Documents that refer to, Relate to, or Concern any offer to purchase Tacora or any interest in Tacora or any proposed sale of Tacora or any interest in Tacora from June 1, 2017 to the present, including but not limited to correspondence, emails, letters of intent, and contracts.

REQUEST FOR PRODUCTION NO. 45: All Communications that refer to, Relate to, or Concern any offer to purchase Tacora or any interest in Tacora or any proposed sale of Tacora or any interest in Tacora from June 1, 2017 to the present, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 46: All Documents that refer to, Relate to, or Concern any offer to purchase Proterra or any interest in Proterra or any proposed sale of Proterra or any interest in Proterra from June 1, 2017 to the present, including but not limited to correspondence, emails, letters of intent, and contracts.

REQUEST FOR PRODUCTION NO. 47: All Communications that refer to, Relate to, or Concern any offer to purchase Proterra or any interest in Proterra or any proposed sale of Proterra or any interest in Proterra from June 1, 2017 to the present, including but not limited to memoranda, correspondence, emails, and texts.

REQUEST FOR PRODUCTION NO. 48: All Documents that refer to, Relate to, or Concern any offer to purchase the assets of Tacora or any interest in the assets of Tacora or any proposed sale of the assets of Tacora or any interest in the assets of Tacora from June 1, 2017 to the present, including but not limited to correspondence, emails, letters of intent, or contracts.

REQUEST FOR PRODUCTION NO. 49: All Communications that refer to, Relate to, or Concern any offer to purchase the assets of Tacora or any interest in the assets of Tacora or any proposed sale of the assets of Tacora from June 1, 2017 to the present, including but not limited to memoranda, correspondence, emails, and texts.

EXHIBIT "D"

referred to in the Affidavit of

HENG VUONG

Sworn July 21, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

Stikeman Elliott

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July 16, 2024 **By Email (drukavina@munsch.com)**

Munsch Hardt Kopf & Harr, P.C.
500 N. Akard Street, Suite 4000
Dallas, Texas 75201-6605
United States of America

Attention: Davor Rukavina

Dear Mr. Rukavina:

Re: Tacora Resources Inc. (Court File No. CV-23-00707394-00CL)

We are counsel to Tacora Resources Inc. ("**Tacora**" or the "**Company**").

On July 11, 2024, the Company received a copy of the *Debtors' Motion for Rule 2004 Examination of Tacora Resources Inc.* (Doc 242) recently filed in the chapter 11 proceedings of your client, Aequor Mgt, LLC ("**Aequor**").

As you appear to be aware, on October 10, 2023, the Company filed for protection under the *Companies' Creditors Arrangement Act* (the "**CCAA**") and the Ontario Superior Court of Justice (Commercial List) (the "**Court**") granted an initial order (as amended and restated from time to time, the "**Initial Order**"). Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor of Tacora (the "**Monitor**"). A copy of the Initial Order and the other materials filed in the CCAA proceedings can be found on the Monitor's case website at http://cfcanada.fticonsulting.com/Tacora/.

Pursuant to the CCAA and the Initial Order, no person may commence or continue any proceeding or enforcement process against or in respect of Tacora, or affecting Tacora's business or property, except with the written consent of the Company and the Monitor or with leave of the Court. Except as permitted by subsection 11.03(2) of the CCAA, the stay of proceedings also applies to any proceedings commenced against Tacora's former, current, and future directors and officers. Further, all rights and remedies of all persons are stayed and suspended, except with the written consent of the Company and the Monitor or with leave of the Court.

Please be advised that the current stay of proceedings is in effect until July 29, 2024 and remains subject to further extension by the Court. Accordingly, any proceedings commenced by Aequor or any of its affiliates against or in respect of Tacora or its current or former directors or officers are stayed, and any steps taken in pursuit of such proceedings constitute a violation of the CCAA and the Initial Order.

Please also be advised that on April 23, 2024, the Court granted an order (the "**Claims Procedure Order**") in the CCAA proceedings, which approved a process for Tacora, in consultation with its advisors and the Monitor, to solicit, identify, quantify and, if appropriate, resolve all claims against the Company and its current and former directors and officers. The Claims Procedure Order and other information and documentation related thereto can be accessed on the Monitor's case website referenced above.

Proofs of claim in respect of pre-filing claims against the Company and directors or officers of Tacora were required to be completed and received by the Monitor, together with all relevant supporting documentation, on or before the Claims Bar Date of May 31, 2024 at 5:00 p.m. (Eastern Time), which has now passed. If Aequor intends to pursue such claims it must seek relief from the Court to file a late claim and Tacora reserves all rights, remedies and defences in respect of such relief.

We trust that you will take no further action against our client or the directors and officers of the Company.

Please contact the undersigned if you have any questions or concerns.

Yours truly,

Stikeman Elliott LLP

Lee Nicholson

cc: Paul Bishop and Jodi Porepa, FTI Consulting Canada Inc.
Ryan Jacobs and Jane Dietrich, Cassels Brock & Blackwell LLP
Ashley Taylor, Natasha Rambaran and Philip Yang, Stikeman Elliott LLP

EXHIBIT "E"

referred to in the Affidavit of

HENG VUONG

Sworn July 21, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

THIRD AMENDED AND RESTATED DIP FACILITY TERM SHEET

This third amended and restated term sheet dated as of July 12, 2024 (this "**Term Sheet**") sets out the terms on which Cargill, Incorporated ("**Cargill**") is prepared to provide debtor-in-possession financing to Tacora Resources Inc. ("**Tacora**", together with Cargill, the "**Parties**").

Recitals

CITPL (as defined in Schedule "**A**") is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the "**Existing Arrangements**") and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") commenced before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") pursuant to the initial order (the "**Initial Order**") granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

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

The Parties amended and restated the Original Term Sheet in its entirety and without novation, in accordance with an amended and restated interim term sheet dated as of as of March 18, 2024 (the "**First Amended and Restated Term Sheet**");

The Parties amended and restated the First Amended and Restated Term Sheet in its entirety and without novation, in accordance with a second amended and restated interim term sheet dated as of April 21, 2024 (the "**Second Amended and Restated Term Sheet**");

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

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

1. **BORROWER:** Tacora Resources Inc. (the "**Borrower**").

2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company's existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the "**DIP Lender**"). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.

3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this

Term Sheet have the meanings given thereto in Schedule "**A**".

4. **DIP FACILITY ADVANCES:**

A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the "**DIP Facility**") up to a maximum principal amount of $160,000,000 (as such amount may be adjusted from time to time in accordance with this Section 4, the "**DIP Facility Limit**").

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

(a) an initial advance (the "**Initial Advance**") in the principal amount of $15,500,000; and

(b) subsequent advances (each a "**Subsequent Advance**") made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than $10,000,000 and no more than $15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the DIP Facility Limit. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and provided that no Subsequent Advances shall be made while the Borrower's cash on hand is above $15,000,000 (or such other amount as agreed by the Borrower, the Monitor and the DIP Lender).

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule "**B**" (an "**Advance Confirmation Certificate**").

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

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

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing,

providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

The Borrower and the DIP Lender may, with the consent of the Monitor, agree to adjust the DIP Facility Limit and the Post-Filing Margin Advances Limit from time to time, provided that the aggregate amount of the DIP Facility Limit and the Post-Filing Margin Advances Limit shall not exceed $180,000,000 at any time (the "**Facility Limit**").

5. l **EXISTING ARRANGEMENTS:** In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) in accordance with Section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date (the "**Post-Filing Margin Advances**") in an amount not to exceed $20,000,000 in the aggregate (as such amount may be adjusted from time to time in accordance with Section 4, the "**Post-Filing Margin Advances Limit**"), provided that, any Margin Amounts required to be paid by the Borrower in accordance with the Offtake Agreement that are in excess of the Post-Filing Margin Advances Limit (the "**Excess Margin Amounts**") shall, without further notice or action by Cargill or any other Person, form part of the DIP Obligations and shall be secured by the DIP Lender Charge.

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

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

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

(a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of

the Court in accordance with section 24 hereof;

(b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through September 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);

(c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof;

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

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

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

6. **PURPOSE AND PERMITTED PAYMENTS:** The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

(a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the "**Borrower Restructuring Expenses**");

(b) to pay the reasonable and documented DIP Lender Expenses and Cargill Motion Expenses;

(c) to concurrently pay the Permitted Noteholder Expenses and the Ongoing Cargill Expenses;

(d) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and

(e) to fund, in accordance with the DIP Budget, the Borrower's funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person other than the Borrower, the Monitor and the DIP Lender, except for (i) Permitted Noteholder Expenses which shall be permitted only with the concurrent payment of the Ongoing Cargill Expenses in the same amount (provided that the Ongoing Cargill Expenses may, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations) and (ii) as required pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL ADVANCE CONDITIONS:** The DIP Lender's agreement to make the DIP Facility available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Initial Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

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

or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;

(b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;

(c) The Borrower shall have executed and delivered this Term Sheet; and

(d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

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

(a) The Court shall have issued a Court Order (the "**July DIP Amendment Order**") approving this Term Sheet, and authorizing and empowering the Borrower to borrow hereunder, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the DIP Facility Limit, (ii) authorize and approve any Post-Filing Credit Extensions (including Post-Filing Margin Advances in an amount up to the Post-Filing Margin Advances Limit) to be secured by the DIP Lender Charge, and (iii) provide that the DIP Lender Charge shall be amended to include the full DIP Facility Limit together with any Post-Filing Credit Extensions as well as any Excess Margin Amounts, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

(b) The Amended and Restated Initial Order, the April DIP Amendment Order and the July DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;

(c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and

(d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:** The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (including from and after the date of this Term Sheet) in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings (the "**DIP Lender Expenses**"), provided that the legal fees and expenses of

the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility shall be capped at $125,000 plus applicable taxes. Without duplication of the foregoing, (i) Cargill's out-of-pocket legal and financial advisory fees and expenses in connection with the CCAA Proceedings from and after June 24, 2024 (the "**Ongoing Cargill Expenses**"), in an amount not to exceed the amount of Permitted Noteholder Expenses paid in respect of the same period and (ii) Cargill's out-of-pocket legal and financial advisory fees and expenses (in an amount mutually agreed by Cargill and the Borrower, with approval of the Monitor) in respect of the Borrower's motion seeking approval of sale transaction with a consortium group of investors (the "**Cargill Motion Expenses**" and together with the Ongoing Cargill Expenses, collectively, the "**Cargill Expenses**") shall, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations. The DIP Lender Expenses and the Cargill Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

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

11. **PERMITTED LIENS: AND PRIORITY:** All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:** The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

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

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

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

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

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

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender's accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions, as well as any Excess Margin Amounts.

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

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

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees and Incremental Fee) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month, provided that from and after the granting of the DIP Amendment Order, the Borrower shall have the right to defer the payment of accrued interest to the DIP Lender in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month.

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

basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of $75,000,000, being equal to $2,250,000 (the "**Initial Exit Fee**") which was fully earned and payable upon the issuance of the Amended and Restated Initial Order, (ii) a subsequent exit fee, in cash, in an amount of $800,000 (the "**Subsequent Exit Fee**" and together with the Initial Exit Fee, collectively, the "**Exit Fees**") and (iii) an incremental exit fee, in cash, in an amount of $600,000 (the "**Incremental Fee**") in connection with the increase to the DIP Facility Limit under this Term Sheet. The amount of the Subsequent Exit Fee and the Incremental Fee shall remain fixed at $800,000 and $600,000, respectively, and shall not be adjusted notwithstanding any funding of Excess Margin Amounts under the DIP Facility agreed to by the Borrower, the DIP Lender and the Monitor.

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

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

20. **REPS AND WARRANTIES:** The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

    (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;

(b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:

(i) are within the powers of the Borrower;

(ii) have been duly executed and delivered by or on behalf of the Borrower;

(iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;

(iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and

(v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.

(c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;

(d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;

(e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;

(f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;

(g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;

(h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation,

action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;

(i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

(j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;

(k) No Default or Event of Default has occurred and is continuing;

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

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

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

(a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting

reasonably, are necessary to protect the Borrower's restructuring process;

(b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

(c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;

(d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;

(e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;

(f) Obtain the DIP Amendment Order, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;

(g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;

(h) Preserve, renew and keep in full force its corporate existence;

(i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;

(j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;

(k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the

CCAA Proceeding;

(l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;

(m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

(n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;

(o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

(p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;

(q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;

(r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;

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

(t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of $100,000;

(u) Comply with the DIP Budget subject to the Permitted Variance; and

(v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

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

(a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;

(b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;

(c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;

(d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or

indebtedness (including any payment of principal, interest, fees or any other payments thereon);

(e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;

(f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;

(g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;

(h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;

(i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;

(j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);

(k) [reserved]

(l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;

(m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;

(n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;

(o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;

(p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;

(q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or

(r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

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

(a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;

(b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;

(c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;

(d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps

to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;

(e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

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

(g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;

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

(i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or

(j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final

judgements, writs of execution, garnishment or attachment representing a claim in excess of $500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

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

(a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;

(b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations (including the Post-Filing Credit Extensions and the Excess Margin Amounts); and

(c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

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

Notwithstanding anything to the contrary herein, the indemnities granted

under this Term Sheet shall survive any termination of the DIP Facility.

26. **TERMINATION BY BORROWER:** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the DIP Facility when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

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

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

28. **TAXES:** All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies

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

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

29. **[RESERVED]**

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

As of the date of this Term Sheet, the Borrower acknowledges and agrees that the incremental additional availability of $30,000,000 provided under the DIP Facility from and after the date hereof shall be funded by the Approved Participants on a 50/50 basis and the Borrower acknowledges

that such participation is permitted hereunder and approved for purposes of Section 2 hereof and this Section 30.

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

31. **AMENDMENT AND RESTATEMENT** The terms and provisions of the Second Amended And Restated Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

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

TACORA RESOURCES INC., as Borrower

Per: DocuSigned by: F40C01B3793E448...

Name: Heng Vuong
Title: Executive Vice President & Chief Financial Officer

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name: MITCHELL MARCUS

Title: VP, Corporate Development

SCHEDULE "A"
DEFINED TERMS

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

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

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

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

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

"**Amended and Restated Initial Order**" means the Amended and Restated Initial Order granted by the Court in the CCAA Proceedings on October 30, 2023.

"**Ancillary Post-Filing Services Amounts**" has the meaning given thereto in Section 5.

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

"**Approved Participants**" means (i) Millstreet Capital Management LLC on behalf of certain funds managed or administered by it and (ii) OSP, LLC on behalf of certain funds managed or administered by it.

"**April DIP Amendment Order**" means the order granted by the Court in the CCAA Proceedings on April 26, 2024.

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

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

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

"**Cargill**" has the meaning given thereto in the preamble.

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

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

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

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

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

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

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

"**Court**" has the meaning given thereto in the recitals.

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

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

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

"**DIP Budget**" means the weekly financial projections prepared by the Borrower covering the period to and including the week of October 6, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

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

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

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

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

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

"**DIP Lender Charge**" means the Court-ordered priority charge over the Borrower's Collateral securing all DIP Obligations.

"**Directors' Charge**" means a Court-ordered priority charge over the Borrower's Collateral granted by the Court in an aggregate amount not to exceed $5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

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

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

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

"**Existing Arrangements**" has the meaning given thereto in the preamble.

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

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

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

"**Filing Date**" means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

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

"**Incremental Fee**" has the meaning given thereto in Section 17.

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

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

"**Initial Advance Conditions**" has the meaning given thereto in Section 7.

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

"**Initial Exit Fee**" has the meaning given thereto in Section 17.

"**Initial Order**" has the meaning given thereto in the recitals.

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

"**KERP Charge**" means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed $3,035,000 to secure the Borrower's obligations under the KERP.

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

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

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

"**Monitor**" means FTI Consulting Canada Inc.

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

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

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

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

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

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

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

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

"**Outside Date**" means October 10, 2024.

"**Parties**" has the meaning given thereto in the preamble.

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

"**Permitted Noteholder Expenses**" means the reasonable and documented professional and advisory fees and expenses of the Borrower's senior secured noteholders that are party to a restructuring support agreement dated as of June 22, 2024, in connection with the CCAA Proceedings incurred in the period from and after June 24, 2024.

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

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

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

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

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

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

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

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

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

"**Services**" has the meaning given thereto in Section 5.

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

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

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

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

"**Tacora**" has the meaning given thereto in the recitals.

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

"**Transaction Fee Charge**" means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed $5,600,000.

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

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

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

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

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Second Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

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

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: $_____

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

The Borrower hereby certifies:

(i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;

(ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;

(iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and

(iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

EXHIBIT "F"

referred to in the Affidavit of

HENG VUONG

Sworn July 21, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

~~SECOND~~THIRD AMENDED AND RESTATED DIP FACILITY TERM SHEET

This ~~second~~third amended and restated term sheet dated as of ~~April 21~~July 12, 2024 (this "**Term Sheet**") sets out the terms on which Cargill, Incorporated ("**Cargill**") is prepared to provide debtor-in-possession financing to Tacora Resources Inc. ("**Tacora**", together with Cargill, the "**Parties**").

Recitals

CITPL (as defined in Schedule "**A**") is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the "**Existing Arrangements**") and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") commenced before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") pursuant to the initial order (the "**Initial Order**") granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

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

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

The Parties amended and restated the First Amended and Restated Term Sheet in its entirety and without novation, in accordance with a second amended and restated interim term sheet dated as of April 21, 2024 (the "**Second Amended and Restated Term Sheet**");

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

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

1.	**BORROWER:**	Tacora Resources Inc. (the "**Borrower**").
2.	**DIP LENDER:**	(i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company's existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the "**DIP Lender**"). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.

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

4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the "**DIP Facility**") up to a maximum principal amount of $~~125,000,000~~160,000,000 (as such amount may be adjusted from time to time in accordance with this Section 4, the "**DIP Facility Limit**").

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

(a) an initial advance (the "**Initial Advance**") in the principal amount of $15,500,000; and

(b) subsequent advances (each a "**Subsequent Advance**") made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than $10,000,000 and no more than $15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the DIP Facility Limit. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and provided that no Subsequent Advances shall be made while the Borrower's cash on hand is above $15,000,000 (or such other amount as agreed by the Borrower, the Monitor and the DIP Lender).

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule "**B**" (an "**Advance Confirmation Certificate**").

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

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

Each Advance Confirmation Certificate shall be deemed to be acceptable

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

The Borrower and the DIP Lender may, with the consent of the Monitor, agree to adjust the DIP Facility Limit and the Post-Filing Margin Advances Limit from time to time, provided that the aggregate amount of the DIP Facility Limit and the Post-Filing Margin Advances Limit shall not exceed $~~150,000,000~~180,000,000 at any time (the "**Facility Limit**").

5. **EXISTING ARRANGEMENTS:** In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) in accordance with Section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date (the "**Post-Filing Margin Advances**") in an amount not to exceed $~~25,000,000~~20,000,000 in the aggregate (as such amount may be adjusted from time to time in accordance with Section 4, the "**Post-Filing Margin Advances Limit**"), provided that, any Margin Amounts required to be paid by the Borrower in accordance with the Offtake Agreement that are in excess of the Post-Filing Margin Advances Limit (the "**Excess Margin Amounts**") shall, without further notice or action by Cargill or any other Person, form part of the DIP Obligations and shall be secured by the DIP Lender Charge.

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

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

Cargill also agrees, provided that no Event of Default has occurred, that it

shall cause CITPL to:

(a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;

(b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through ~~June 24~~September 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);

(c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof;

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

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

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

6. **PURPOSE AND PERMITTED PAYMENTS:** The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

(a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the "**Borrower**

Restructuring Expenses");

(b) to pay the reasonable and documented DIP Lender Expenses and Cargill Motion Expenses;

(c) to concurrently pay the Permitted Noteholder Expenses and the Ongoing Cargill Expenses;

(d) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and

(e) to fund, in accordance with the DIP Budget, the Borrower's funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person other than the Borrower, the Monitor and the DIP Lender, except for (i) Permitted Noteholder Expenses which shall be permitted only with the concurrent payment of the Ongoing Cargill Expenses in the same amount (provided that the Ongoing Cargill Expenses may, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations) and (ii) as required pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL ADVANCE CONDITIONS:** The DIP Lender's agreement to make the DIP Facility available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Initial Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

(a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached ~~hereto~~to the Original Term Sheet as Schedule "**D**" and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to $20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge on the Borrower's Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of

up to $20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower's Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;

(b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;

(c) The Borrower shall have executed and delivered this Term Sheet; and

(d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

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

(a) The ~~Court shall have issued an amended and restated Initial Order in substantially the form attached hereto as Schedule "E" (the "Amended and Restated Initial Order"), and the~~ Court shall have issued a Court Order (the "**July DIP Amendment Order**") approving this Term Sheet, and authorizing and empowering the Borrower to borrow hereunder, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the DIP Facility Limit, (ii) authorize and approve any Post-Filing Credit Extensions (including Post-Filing Margin Advances in an amount up to the Post-Filing Margin Advances Limit) to be secured by the DIP Lender Charge, and (iii) provide that the DIP Lender Charge shall be amended to include the full DIP Facility Limit together with any Post-Filing Credit Extensions as well as any Excess Margin Amounts, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

(b) The Amended and Restated Initial Order, the April DIP Amendment Order and the July DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;

(c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted

Priority Liens; and

(d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:** The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (including from and after the date of this Term Sheet) in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings (the "**DIP Lender Expenses**"), provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility shall be capped at $125,000 plus applicable taxes. Without duplication of the foregoing, (i) Cargill's out-of-pocket legal and financial advisory fees and expenses in connection with the CCAA Proceedings from ~~the date of this Term Sheet the (~~and after June 24, 2024 (the "**Ongoing Cargill Expenses**"), in an amount not to exceed the amount of Permitted Noteholder Expenses paid in respect of the same period and (ii) Cargill's out-of-pocket legal and financial advisory fees and expenses (in an amount mutually agreed by Cargill and the Borrower, with approval of the Monitor) in respect of the Borrower's motion seeking approval of sale transaction with a consortium group of investors (the "**Cargill Motion Expenses**" and together with the Ongoing Cargill Expenses, collectively, the "**Cargill Expenses**") shall, at the Borrower's option, be paid in cash or added to and form part of the DIP Obligations. The DIP Lender Expenses and the Cargill Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

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

11. **PERMITTED LIENS: AND PRIORITY:** All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:** The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

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

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

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

At any time, the latest DIP Budget accepted by the DIP Lender shall be the

DIP Budget for the purpose of this Term Sheet.

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

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender's accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions, as well as any Excess Margin Amounts.

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

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

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees and Incremental Fee) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month, provided that from and after the granting of the DIP Amendment Order, the Borrower shall have the right to defer the payment of accrued interest to the DIP Lender in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month.

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

same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of $75,000,000, being equal to $2,250,000 (the "**Initial Exit Fee**") which was fully earned and payable upon the issuance of the Amended and Restated Initial Order ~~and~~, (ii) a subsequent exit fee, in cash, in an amount of $800,000 (the "**Subsequent Exit Fee**" and together with the Initial Exit Fee, collectively, the "**Exit Fees**") ~~provided that the Subsequent Exit Fee shall only be earned and payable on May 8, 2024 and shall not be earned if the Borrower repays all DIP Obligations (including Excess Margin Amounts) and all Post-Filing Credit Extensions on or prior to such date~~and (iii) an incremental exit fee, in cash, in an amount of $600,000 (the "**Incremental Fee**") in connection with the increase to the DIP Facility Limit under this Term Sheet. The amount of the Subsequent Exit Fee and the Incremental Fee shall remain fixed at $800,000 and $600,000, respectively, and shall not be adjusted notwithstanding any funding of Excess Margin Amounts under the DIP Facility agreed to by the Borrower, the DIP Lender and the Monitor.

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

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

20. **REPS AND WARRANTIES:** The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP

Credit Documents, that:

(a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;

(b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:

(i) are within the powers of the Borrower;

(ii) have been duly executed and delivered by or on behalf of the Borrower;

(iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;

(iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and

(v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.

(c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;

(d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;

(e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;

(f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;

(g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;

(h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending

or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;

(i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

(j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;

(k) No Default or Event of Default has occurred and is continuing;

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

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

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

(a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable

privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

(b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

(c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;

(d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;

(e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;

(f) Obtain the DIP Amendment Order, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;

(g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;

(h) Preserve, renew and keep in full force its corporate existence;

(i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;

(j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;

(k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible

to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;

(l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;

(m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

(n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;

(o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

(p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;

(q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;

(r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of

such expenses for purposes of the DIP Budget;

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

(t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of $100,000;

(u) Comply with the DIP Budget subject to the Permitted Variance; and

(v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

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

(a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;

(b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;

(c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;

(d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or

other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);

(e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;

(f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;

(g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;

(h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;

(i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;

(j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);

(k) [reserved]

(l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;

(m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a

Court Order;

(n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;

(o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;

(p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;

(q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or

(r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

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

(a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;

(b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;

(c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;

(d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or

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

(e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

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

(g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;

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

(i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or

(j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of $500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

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

(a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;

(b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations (including the Post-Filing Credit Extensions and the Excess Margin Amounts); and

(c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

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

any other person for consequential or punitive damages.

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

26. **TERMINATION BY BORROWER:** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the DIP Facility when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

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

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

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

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

29. **[RESERVED]**

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

As of the date of this Term Sheet, the Borrower acknowledges and agrees that the incremental additional availability of $30,000,000 provided under the DIP Facility from and after the date hereof shall be funded by the Approved Participants on a 50/50 basis and the Borrower acknowledges that such participation is permitted hereunder and approved for purposes of Section 2 hereof and this Section 30.

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

31. **AMENDMENT AND RESTATEMENT**

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

[signature pages follow]

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

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE "A"
DEFINED TERMS

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

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

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

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

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

"**Amended and Restated Initial Order**" ~~has the meaning given thereto in Section 8(a)~~means the Amended and Restated Initial Order granted by the Court in the CCAA Proceedings on October 30, 2023.

"**Ancillary Post-Filing Services Amounts**" has the meaning given thereto in Section 5.

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

"**Approved Participants**" means (i) Millstreet Capital Management LLC on behalf of certain funds managed or administered by it and (ii) OSP, LLC on behalf of certain funds managed or administered by it.

"**April DIP Amendment Order**" means the order granted by the Court in the CCAA Proceedings on April 26, 2024.

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

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

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

"**Cargill**" has the meaning given thereto in the preamble.

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

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

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

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

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

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

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

"**Court**" has the meaning given thereto in the recitals.

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

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

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

"**DIP Budget**" means the weekly financial projections prepared by the Borrower covering the period to and including the week of ~~June 23~~October 6, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

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

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

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

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

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

"**DIP Lender Charge**" means the Court-ordered priority charge over the Borrower's Collateral securing all DIP Obligations.

"**Directors' Charge**" means a Court-ordered priority charge over the Borrower's Collateral granted by the Court in an aggregate amount not to exceed $5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

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

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

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

"**Existing Arrangements**" has the meaning given thereto in the preamble.

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

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

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

"**Filing Date**" means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

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

"**Incremental Fee**" has the meaning given thereto in Section 17.

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

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

"**Initial Advance Conditions**" has the meaning given thereto in Section 7.

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

"**Initial Exit Fee**" has the meaning given thereto in Section 17.

"**Initial Order**" has the meaning given thereto in the recitals.

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

"**KERP Charge**" means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed $3,035,000 to secure the Borrower's obligations under the KERP.

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

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

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

"**Monitor**" means FTI Consulting Canada Inc.

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

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

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

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

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

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

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

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

"**Outside Date**" means October 10, 2024.

"**Parties**" has the meaning given thereto in the preamble.

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

"**Permitted Noteholder Expenses**" means the reasonable and documented professional and advisory fees and expenses of the ~~ad hoc group of the~~ Borrower's senior secured noteholders ~~up to a maximum of $250,000 per month, payable in respect of expenses~~that are party to a restructuring support agreement dated as of June 22, 2024, in connection with the CCAA Proceedings incurred in the period ~~commencing on the date of the issuance of the DIP Amendment Order and ending a maximum of one month thereafter (as such period may be extended by mutual agreement among Cargill, the Borrower and the Monitor in each such party's respective sole discretion).~~from and after June 24, 2024.

"**Permitted Priority Liens**" means (i) the Administration Charge, (ii) the Directors' Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has

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

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

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

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

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

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

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

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

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

"**Services**" has the meaning given thereto in Section 5.

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

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

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

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

"**Tacora**" has the meaning given thereto in the recitals.

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

"**Transaction Fee Charge**" means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed $5,600,000.

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

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

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

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

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Second Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

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

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: $_____

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

The Borrower hereby certifies:

(i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;

(ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;

(iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and

(iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

~~SCHEDULE "D"~~
~~INITIAL ORDER~~

~~See attached.~~

~~SCHEDULE "E"~~
~~AMENDED AND RESTATED INITIAL ORDER~~

~~See attached.~~

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

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

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

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF
HENG VUONG
(SWORN JULY 21, 2024)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
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Lawyers for the Applicant

TAB 3

Court File No. 23-00707394-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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

(Applicant)

AFFIDAVIT OF MICHAEL NESSIM
(Sworn July 19, 2024)

I, **MICHAEL NESSIM**, of the City of Toronto, in the Province of Ontario, Canada, MAKE OATH AND SAY:

1. I am a Managing Director of Greenhill & Co. Canada Ltd. (together with its affiliates, "**Greenhill**" or the "**Financial Advisor**") and Head of Greenhill's Metals & Mining Group in North America. I have been working with Tacora Resources Inc. ("**Tacora**" or the "**Company**") since Greenhill's engagement in January 2023, and assisted with the Company's Pre-Filing Strategic Process, the Solicitation Process and the Sale Process. As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. Capitalized terms used in this affidavit and not otherwise defined have the meanings given to them in my affidavits sworn on February 2, 2024, March 14, 2024, and June 14, 2024 (together, the "**Nessim Affidavits**", copies of which are attached hereto as **Exhibits "A"**, **"B"**, and **"C"**), and the affidavit of Heng Vuong sworn in support of the Company's motion seeking approval of the Subscription Agreement entered into between Tacora, as issuer, and Millstreet Capital Management LLC, as investment manager on behalf of multiple noteholders ("**Millstreet**"), OSP, LLC (on behalf of certain managed funds) ("**OSP**"), and Cargill, Incorporated as investors (collectively, the "**Investors**").

3. This affidavit is sworn in support of the Company's motion seeking approval of the Subscription Agreement and the Transactions contemplated therein.

I. PRE-FILING STRATEGIC PROCESS[1]

4. The Company engaged Greenhill in January 2023 to undertake the Pre-Filing Strategic Process to explore, review, and evaluate a broad range of alternatives for the Company, including sale opportunities or additional investments into Tacora.

5. As part of the Pre-Filing Strategic Process, Greenhill prepared an approved outreach list of potentially interested parties and, commencing in March 2023, reached out to 30 strategic and financial parties[2] in connection with a potential sale or financing transaction with respect to the Company. Eleven parties executed confidentiality agreements with the Company, and Greenhill and the Company facilitated due diligence for interested parties. I understand that both Cargill and the Ad Hoc Group also independently attempted to solicit new investment into the Company during 2023.

6. In May 2023, the Company executed a letter of intent (the "**Executed LOI**") for a sale of the Company that was supported by Cargill and the Ad Hoc Group and facilitated advanced due diligence for the interested party. In July 2023, the interested party advised it was no longer interested in advancing the transaction contemplated by the Executed LOI.

7. In July 2023, following termination of the exclusivity period in the Executed LOI, Cargill and the Ad Hoc Group engaged in extensive discussions regarding a possible consensual restructuring and recapitalization transaction for the Company. RCF, a new potential equity investor previously contacted by Greenhill, also executed a confidentiality agreement with the Company in late June 2023 and participated in discussions with Cargill and the Ad Hoc Group. Ultimately, the parties were unable to reach an agreement to avoid the need for Tacora to file for protection under the CCAA. As a result, on October 10, 2023, Tacora commenced CCAA Proceedings and the Court granted the Initial Order.

II. SOLICITATION PROCESS[3]

8. On October 30, 2023, this Court granted the Solicitation Order, which, among other things, authorized and directed Tacora to undertake the Solicitation Process to solicit interest in, and

[1] The Pre-Filing Strategic Process is also described in the Nessim Affidavits.
[2] For clarity, this figure does not include parties who were pre-existing stakeholders of the Company at that time.
[3] The Solicitation Process is also described in the Nessim Affidavits.

opportunities for: (a) a sale of all or substantially all, or certain portions of the Property or the Business; or (b) an investment in, restructuring, recapitalization, refinancing or other form of reorganization of Tacora or its Business as a going concern, or a combination thereof. The Solicitation Process and the SISP Procedures were designed to be broad in order to provide Tacora and interested parties with the flexibility to pursue a range of Opportunities and transaction structures.

9. During the Solicitation Process, over 130 potential bidders were contacted by Greenhill following commencement of the SISP and on December 1, 2023, being the Phase 1 Bid Deadline, seven non-binding Bids were submitted.

10. During Phase 2 of the SISP, Greenhill continued to engage with parties to facilitate due diligence and negotiations, which included site visits to the Scully Mine and access to management and Q&A sessions. Greenhill also provided regular guidance and feedback to the parties participating in the Solicitation Process.

11. On January 19, 2024, the Phase 2 Bid Deadline, Greenhill received three Phase 2 Bids:

(a) a Bid from a consortium consisting of the Ad Hoc Group, RCF and Javelin (collectively, the "**AHG Consortium**") for all the shares of Tacora pursuant to a reverse vesting order;

(b) a Bid from Cargill for all the assets of Tacora; and

(c) a Bid from Bidder #3 for all the shares of Tacora pursuant to a reverse vesting order.

12. Following the Phase 2 Bid Deadline, Greenhill and Stikeman, in consultation with the Monitor and its counsel and with assistance from management, reviewed and assessed the Phase 2 Bids and the transaction documents submitted. Greenhill and the Company's advisors also participated in follow-up calls with each of the Phase 2 Bidders to provide feedback on key issues with respect to each Phase 2 Bid and ask clarifying questions.

13. Ultimately, the Company determined that the Phase 2 Bid submitted by the AHG Consortium was the superior bid and therefore was declared the Successful Bid under the Solicitation Process. Subsequently, as a result of a drop in iron ore prices, Tacora was unable to fulfill a net debt condition in the First Successful Bid under the Solicitation Process, which resulted

in a mutual termination of the same on April 11, 2024.

III. SALE PROCESS[4]

A. Sale Procedures

14. Following the termination of the Subscription Agreement, Tacora sought and obtained the Sale Process Order on June 5, 2024. Among other things, the Sale Process Order authorized and directed Tacora to undertake the Sale Process to identify the highest and/or best offer for the sale of: (a) all the shares of Tacora to be implemented pursuant to a subscription agreement; or (b) all or substantially all of Tacora's Property and Business pursuant to an asset purchase agreement.

15. The Sale Procedures contemplated the following milestones for the Sale Process:

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

[4] All capitalized terms used in this section and not otherwise defined have the meanings ascribed to them in the Sale Process.

Outside Date by which the Successful Bid must close.	Tacora will announce such date to Bidders in advance of the Bid Deadline.

16. Given the Pre-Filing Strategic Process and the Solicitation Process run during the CCAA Proceedings, the Sale Process contemplated a single-phase bid process with a potential Auction.

B. Conduct of the Sale Process

17. The Sale Process commenced in or around the latter half of May 2024, prior to Court approval and ratification of the same. In preparation for the commencement of the Sale Process, Greenhill, in consultation with the Company, Stikeman, and the Monitor, prepared or updated from the previous Solicitation Process, as applicable:

(a) a process letter describing the Opportunity;

(b) the NDAs;

(c) the VDR containing information on the Company and its Business and Property; and

(d) a list of Potential Bidders consisting of financial and strategic parties that Greenhill believed may be able to submit or participate in a Qualified Bid.

18. In accordance with the Sale Procedures:

(a) the Monitor published notice of the Sale Process and the Sale Procedures on the Monitor's Website on June 11, 2024;

(b) Tacora, in consultation with Greenhill and the Monitor, prepared a Template Subscription Agreement and Template APA, which were posted to the VDR ; and

(c) Greenhill distributed the process letter and NDAs to Potential Bidders.

19. Thirteen Potential Bidders were contacted by Greenhill following the commencement of the Sale Process. Greenhill also had knowledge of certain other potentially interested parties who were working with Bidders in the Sale Process and therefore did not contact these parties individually.

20. On July 6, 2024, Greenhill contacted all Bidders through electronic mail to remind parties

of the Bid Deadline.

21. On July 12, 2024, being the Bid Deadline for definitive offers, Tacora received one Bid from the Investors for all the shares of Tacora to be implemented pursuant to a Subscription Agreement. The Bid contained, among other things, a support agreement executed by the Investors, Brigade Capital Management, LP ("**Brigade**") and MSD, LP ("**MSD**", and together with Brigade, the "**Other RSA Parties**"), pursuant to which the Investors and the Other RSA Parties agreed to support a transaction containing substantially the same terms as those included in the Investors' Bid. The Investors and the Other RSA Parties, collectively, hold 100% of the DIP Obligations, 55.3% of the Senior Priority Notes and 73.4% of the Senior Notes.

22. Following the Bid Deadline, Greenhill and Stikeman, in consultation with the Monitor and its counsel and with assistance from management, reviewed and assessed the submitted Subscription Agreement. Stikeman, Greenhill, the Monitor and its counsel participated in several follow-up calls with the Investors to provide feedback on certain terms of their Bid, ask clarifying questions, and negotiate certain terms of the Subscription Agreement.

C. Selection of Successful Bid

23. On July 18, 2024, following these negotiations, the Board, with input and advice from Greenhill and Stikeman, and in consultation with the Monitor and its counsel, assessed and carefully considered the revised Subscription Agreement submitted by the Investors. Following this assessment and considering the factors outlined in the Sales Process to evaluate Bids, the Board exercised its good faith business judgement and determined that the revised Subscription Agreement submitted by the Investors should be declared the Successful Bid under the Sale Process.

24. The Subscription Agreement represents a consensual outcome between Cargill and certain members of the Ad Hoc Group and is the best and only actionable Bid received by the Company through the Sales Process. The Subscription Agreement, among other things:

(a) provides a significant Deposit to the Company demonstrating the Investors' commitment to closing the Transactions;

(b) eliminates the Company's debt service in respect of all pre-filing indebtedness, which was $21.2 million prior to the CCAA Proceedings;

(c) deleverages the Company's capital structure such that there is no pre-filing indebtedness, and the Company will attempt to raise $100 million of new money senior priority notes, which could provide additional funding to the Company for necessary operating costs and capital expenditures;

(d) provides for partial repayment of approximately $12.5 million of the Company's secured debt owed to Cargill under the APF by way of set-off;

(e) repays the $6.2 million owed under the existing Cargill Margining Facility;

(f) provides for the assumption of, *inter alia*, substantially all Pre-Filing Trade Amounts and royalty obligations of the Company on terms and amounts to be agreed by the Company and the Investors;

(g) includes a firm, irrevocable commitment to finance the Transaction;

(h) contains limited conditions to closing and limited expected regulatory approvals;

(i) provides equity financing and the possibility of new debt to fund emergence costs and the Company's ongoing operational costs;

(j) provides for a new Offtake Agreement with Cargill which removes any mechanism for a profit share, provides Cargill's fee as a fixed percentage of the sales price, and has a 10-year term;

(k) provides working capital to the Company through a Stockpile Agreement and margining facility with Cargill;

(l) provides for the ongoing employment of all the Company's employees; and

(m) if the conditions to Closing the Transactions are not (or cannot reasonably be) satisfied by the contemplated outside date for closing, subject to certain terms, contains an agreement from the DIP Lender to subscribe for and purchase shares of Tacora in exchange for an amount equivalent to all of the outstanding DIP Obligations owed at the applicable time.

25. Based on my experience and my review of comparable recent sale and investment solicitation processes and other out-of-court strategic processes, the combination of the Pre-Filing

Strategic Process, the Solicitation Process, and the Sale Process, was robust and thorough and achieved the best transaction available in the circumstances. The Monitor was also actively involved and consulted throughout the Solicitation Process and the Sale Process. I believe that the Subscription Agreement and the definitive documents represent the best terms the Company could achieve in the circumstances.

SWORN remotely via videoconference, by Michael Nessim, stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in Province of Ontario, this 19th day of July, 2024, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*. DocuSigned by:  30124C4218DD47C... Commissioner for Taking Affidavits, etc. Philip Yang | LSO #82084O	DocuSigned by: Michael Nessim AD29E5782594445... **MICHAEL NESSIM**

EXHIBIT "A"

referred to in the Affidavit of

MICHAEL NESSIM

Sworn July 19, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

Court File No. 23-00707394-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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

(Applicant)

AFFIDAVIT OF MICHAEL NESSIM
(Sworn February 2, 2024)

I, **MICHAEL NESSIM**, of the City of Toronto, in the Province of Ontario, Canada, MAKE OATH AND SAY:

1. I am a Managing Director of Greenhill & Co. Inc. ("**Greenhill**" or the "**Financial Advisor**") and Head of Greenhill's Metals & Mining Group in North America. I have been working with Tacora Resources Inc. ("**Tacora**" or the "**Company**") since Greenhill's engagement in January 2023, and assisted with the Company's Pre-Filing Strategic Process and, more recently, the Solicitation Process (each as defined below). As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. Capitalized terms used herein and not otherwise defined have the meaning given to them in the Affidavit of Joe Broking sworn February 2, 2024 (the "**Broking Affidavit**"). All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

3. This affidavit is sworn in support of the Company's motion seeking approval of the Subscription Agreement dated January 29, 2024, entered into between Tacora, as issuer, and the Investors.

I. PRE-FILING STRATEGIC PROCESS[1]

4. The Company engaged Greenhill in January 2023 to undertake a strategic process to explore, review, and evaluate a broad range of alternatives for the Company, including sale

[1] The Pre-Filing Strategic Process is also described in the Affidavit of Joe Broking sworn October 9, 2023 (the "**Initial Broking Affidavit**").

opportunities or additional investments into Tacora (the "**Pre-Filing Strategic Process**").

5. After input from the Company's management team and existing key stakeholders, Greenhill prepared an approved outreach list of potential interested parties and commencing in March 2023, Greenhill reached out to 30[2] strategic and financial parties (including RCF but excluding the existing stakeholders and any potential offtake parties) in connection with a potential sale or financing transaction with respect to the Company. Eleven parties executed confidentiality agreements with the Company, and Greenhill and the Company facilitated due diligence for interested parties. Cargill was actively involved in the Pre-Filing Strategic Process, including with the review of marketing documents. Both Cargill and the Ad Hoc Group received regular updates from Greenhill on the process. I understand that both Cargill and the Ad Hoc Group also independently attempted to solicit new investment into the Company during 2023. Certain of the parties introduced by Cargill or the Ad Hoc Group to the Pre-Filing Strategic Process were introduced to Greenhill to facilitate the sharing of confidential information to such parties. In April 2023, the Company received several letters of intent ("**LOIs**") and term sheets in respect of potential transactions. Each of the LOIs and term sheets received by the Company as part of the Pre-Filing Strategic Process contemplated significant concessions from Cargill in respect of the Offtake Agreement and/or the Senior Noteholders in respect of the Senior Secured Notes for the contemplated transactions to be pursued. Greenhill facilitated conversations for the interested parties to discuss separately with Cargill and the Ad Hoc Group to explore whether terms acceptable to all parties could be reached but no such agreement was obtained.

6. In May 2023, the Company executed a letter of intent (the "**Executed LOI**") for a sale of the Company that was supported by Cargill and the Ad Hoc Group and facilitated advanced due diligence for the interested party. In July 2023, the interested party advised it was no longer interested in advancing the transaction contemplated by the Executed LOI. I understand one of the reasons communicated by the interested party for no longer being interested in pursuing the transaction was that the Offtake Agreement would limit the party's ability to use Tacora's iron ore in its own operations preventing realization of potential synergies.

7. In July 2023, following termination of the exclusivity period in the Executed LOI, Cargill and the Ad Hoc Group engaged in extensive discussions regarding a possible consensual restructuring and recapitalization transaction for the Company. RCF, a new potential equity

[2] For clarity, this figure does not include parties who were pre-existing stakeholders of the Company at that time.

investor previously contacted by Greenhill, also executed a confidentiality agreement with the Company in late June 2023 and participated in discussions with Cargill and the Ad Hoc Group. As further described in the Broking Affidavit, ultimately, the parties were unable to reach an agreement to avoid the need for Tacora to file for protection under the CCAA. As a result, on October 10, 2023, Tacora commenced the CCAA Proceedings and the Court granted the Initial Order.

II. THE SISP[3]

A. SISP Procedures

8. On October 30, 2023, the Court granted the Solicitation Order, which, among other things, authorized Tacora to undertake a sale, investment and services solicitation process (the "**Solicitation Process**" or the "**SISP**") to solicit interest in, and opportunities for: (a) a sale of all or substantially all, or certain portions of the Property or the Business; or (b) an investment in, restructuring, recapitalization, refinancing or other form of reorganization of Tacora or its Business as a going concern, or a combination thereof (collectively, the "**Transaction Opportunity**"). The procedures under the SISP (the "**SISP Procedures**") were developed by the Company in consultation with its counsel, Stikeman Elliott LLP ("**Stikeman**"), Greenhill and the Monitor, FTI Consulting Canada Inc. ("**FTI**" or the "**Monitor**"). The SISP Procedures were provided to Cargill and the Ad Hoc Group, and their respective advisors, in draft form for input prior to their approval.

9. The Solicitation Process also provided the ability for interested parties to investigate and conduct due diligence regarding an opportunity to arrange an offtake, service or other agreement in respect of the Business (the "**Offtake Opportunity**" and together with the Transaction Opportunity, the "**Opportunity**").

10. The SISP Procedures contemplated the following milestones for the Solicitation Process:

Event	Timing
Phase 1	
1. Notice Monitor to publish a notice of the Solicitation	No later than five (5) days following issuance of the Solicitation Order

[3] Capitalized terms used in this section and not otherwise defined have the meanings given to them in the Procedures for the Sale, Investment and Services Solicitation Process (the "**SISP Procedures**").

Process on the Monitor's Website Financial Advisor / Tacora to publish notice of the Solicitation Process in industry trade publications, as determined appropriate Greenhill to distribute Teaser Letter and NDA (if requested) to potentially interested parties	
2. Phase 1 - Access to VDR Phase 1 Bidders provided access to the virtual data room ("**VDR**"), subject to execution of appropriate NDAs	October 30, 2023, to December 1, 2023
3. Phase 1 Bid Deadline Deadline for Phase 1 Bidders to submit non-binding LOIs	December 1, 2023, at 12:00 p.m. (Eastern Time)
4. Notification of Phase 1 Qualified Bid Deadline to notify a Phase 1 Bidder whether it has been designated as a Phase 2 Bidder invited to participate in Phase 2	December 6, 2023, at 12:00 p.m. (Eastern Time)
Phase 2	
5. Phase 2 Bid Deadline Phase 2 Bid Deadline for delivery of definitive offers by Phase 2 Qualified Bidders	January 19, 2024, at 12:00 p.m. (Eastern Time)
6. Definitive Documentation Deadline for completion of definitive documentation in respect of a Successful Bid and filing of the Approval Motion	February 2, 2024
7. Approval Motion Hearing of Approval Motion in respect of	Week of February 5, 2024

Successful Bid (subject to Court availability)	
8. Outside Date – Closing Outside Date by which the Successful Bid must close	February 23, 2024 (subject to customary conditions related to necessary and required regulatory approvals acceptable to Tacora, in consultation with Greenhill and the Monitor, in their sole discretion)

11. The Solicitation Process and the SISP Procedures were designed to be broad in order to provide Tacora and interested parties with the opportunity to pursue a range of Opportunities and transaction structures.

B. Conduct of the SISP

12. In preparation for the commencement of the SISP, Greenhill, in consultation with the Company, Stikeman and the Monitor, prepared:

(a) a teaser letter describing the Opportunity (the "**Teaser Letter**");

(b) a form of non-disclosure agreement ("**NDA**");

(c) a VDR containing information on the Company and its Business and Property, which included a confidential information presentation describing key aspects of the Business and consolidated summary financial forecasts for the Company; and

(d) a list of Potential Bidders, which included strategic and financial parties, including those who might act as potential equity financing sources in a consortium and/or restructuring solution and those who might wish to use Tacora's product as part of their business.

13. Following issuance of the Solicitation Order, Greenhill launched the SISP on October 31, 2023. In accordance with the SISP Procedures, the following steps took place shortly after issuance of the Solicitation Order:

(a) Tacora issued a press release with AccessWire on November 3, 2023, a copy of which is attached hereto as **Exhibit "A"**;

(b) the Monitor published notice of the Solicitation Process and the SISP Procedures on the Monitor's Website on November 4, 2023, a copy of which is attached hereto as **Exhibit "B"**; and

(c) Greenhill distributed the Teaser Letter, NDA, approved SISP Procedures and communicated the Qualified Bid Deadline of December 1, 2023, to Potential Bidders.

1. Phase 1

14. Over 130 Potential Bidders were contacted by Greenhill following the commencement of the SISP.

15. On November 2, 2023, Greenhill followed up with Potential Bidders who had not responded to Greenhill's initial outreach. A total of 48 Potential Bidders responded to Greenhill and 26 Potential Bidders executed NDAs. The 26 parties who executed NDAs: (a) received access to the Phase 1 VDR, which was periodically updated; (b) were given the opportunity to request additional information and conduct additional due diligence; and (c) were given the opportunity to meet with the Company's management team, if requested and appropriate, with participation by representatives of Greenhill and the Monitor. Management meetings with Potential Bidders took place in the latter half of November.

16. In November 2023, five Phase 1 Bidders requested and attended a meeting with Tacora's management team in advance of the Phase 1 Bid Deadline. Representatives from Greenhill and the Monitor were present at each of these meetings.

17. On November 24, 2023, Greenhill distributed a process letter to all Phase 1 Bidders, which reminded Phase 1 Bidders of the requirements for a Bid to be considered a Phase 1 Qualified Bid under the Solicitation Process.

18. On November 27, 2023, Greenhill contacted all Phase 1 Bidders through electronic mail to remind parties of the Phase 1 Bid Deadline.

19. On December 1, 2023, being the Phase 1 Bid Deadline, Greenhill, Stikeman and the

Monitor received seven non-binding Bids, which included:

(a) two LOIs that expressed an interest in both the Transaction Opportunity and the Offtake Opportunity;

(b) three LOIs that expressed an interest solely in the Transaction Opportunity; and

(c) two indications of interest ("**IOIs**") that expressed an interest solely in the Offtake Opportunity.

20. Only one of the above LOIs, received from Cargill, contemplated an assumption of the Offtake Agreement.

21. Following the Phase 1 Bid Deadline, the board of directors of the Company (the "**Board**"), in consultation with Greenhill, Stikeman, the Company's management team and the Monitor, assessed the five Bids and two IOIs received in accordance with the SISP Procedures and determined that the five Phase 1 Bids received constituted Phase 1 Qualified Bids. The Board directed Greenhill to advise six of the Phase 1 Bidders and Financing Parties (inclusive of the parties that submitted IOIs in respect of the Offtake Opportunity) that, in order to pursue a standalone proposal, they would need to significantly improve the terms of their Bids to enhance the value available to Tacora's stakeholders. Greenhill also proposed an alternative option for these Phase 1 Bidders and Financing Parties to join in a potential consortium bid with Cargill in an effort to enhance the potential value that could be offered by these Phase 1 Bidders and Financing Parties. As described below, three Phase 1 Bidders were admitted into Phase 2 on December 6, 2023, and the other parties were introduced to Cargill to form a consortium.

2. Phase 2

22. During Phase 2 of the SISP, Greenhill continued to engage with parties to facilitate due diligence and negotiations, which included site visits to the Scully Mine and access to management and Q&A sessions. Any Bidders who had not requested meetings with the Company management team in Phase 1 were provided opportunities to meet with management in Phase 2 as part of management presentations and site visits. Greenhill also provided regular guidance and feedback to the parties, including reminding parties of the SISP Procedures and the Phase 2 Bid Deadline.

23. Of the six Phase 1 Bidders and Financing Parties that were informed they needed to

materially improve the value of their Bids, two parties pursued stand-alone proposals, one party withdrew from the process (as it was only interested in the Offtake Opportunity and no other Bidder was interested in forming a consortium with the Bidder) and three parties were introduced to Cargill (whose Bid contemplated the need to raise third party financing) in an effort to allow the parties to submit a consortium bid.

24. Cargill also identified 51 potential financing parties with whom they were interested in speaking. Certain of these parties had previously been contacted by Greenhill during its initial outreach and were participants in Phase 1 of the SISP. The parties contacted by Greenhill and others identified by Cargill included those that had already conducted extensive due diligence on the Company either as part of the Pre-Filing Strategic Process, the DIP solicitation process, or through other strategic and operational discussions with the Company over the past several years. Of the potential financing parties identified by Cargill, 19 informed Greenhill that they were potentially interested in participating in a consortium bid with Cargill. The Company facilitated diligence with 18 of those financing parties who executed NDAs. The remaining 33 financing parties either: (a) did not respond to Greenhill or the Company to request an NDA; or (b) did not execute an NDA with the Company.

25. On January 8, 2024, Greenhill provided Phase 2 Bidders with a process letter, which reiterated the requirements under the SISP Procedures, including the Phase 2 Qualified Bid criteria. In addition, prior to the Phase 2 Bid Deadline, Tacora's advisors engaged in discussions with all Phase 2 Bidders to remind them of the SISP Procedures, including, among other things, the requirements to submit a deposit prior to the Phase 2 Bid Deadline and to submit a Bid in the form of duly authorized and executed transaction agreements.

26. On January 19, 2024, the Phase 2 Bid Deadline, Greenhill received three Phase 2 Bids:

(a) the Investors' Bid for all the shares of Tacora pursuant to the Subscription Agreement;

(b) a Bid from Cargill for all the assets of Tacora; and

(c) a Bid from Bidder #3 for all the shares of Tacora pursuant to a reverse vesting order.

27. Following the Phase 2 Bid Deadline, Greenhill and Stikeman in coordination with the Monitor and its counsel and with assistance from management, reviewed and assessed the

Phase 2 Bids and the transaction documents submitted. Greenhill and the Company's advisors also participated in follow-up calls with each of the Phase 2 Bidders to provide feedback on key issues with respect to each Phase 2 Bid and ask clarifying questions.

3. Selection of Successful Bid

28. Pursuant to the SISP Procedures, following receipt of the Phase 2 Bids, Tacora, in consultation with Greenhill and the Monitor, reviewed and assessed the Phase 2 Bids received by the Phase 2 Bid Deadline to determine whether each Bid constituted a Phase 2 Qualified Bid. Under the SISP, in order to constitute a Phase 2 Qualified Bid, a Phase 2 Bid was required to, among other things:

(a) be binding and irrevocable until the selection of the Successful Bidder;

(b) be in the form of duly authorized and executed transaction agreements;

(c) include written evidence of a firm commitment for financing or other evidence of an ability to consummate the proposed transaction;

(d) not be subject to the outcome of unperformed due diligence, internal approvals, or contingency financing;

(e) set forth in detail any conditions to closing or required approvals, the anticipated time frame and any anticipated impediments for obtaining such approvals;

(f) fully disclose the identity of each entity that will be entering into the transaction or the financing or that is sponsoring, participating or benefiting from such Bid; and

(g) be accompanied by a non-refundable cash Deposit equal to ten percent (10%) of the total cash component of the purchase price or investment contemplated under the Phase 2 Bid.

29. The Solicitation Process permits Tacora, in consultation with the Financial Advisor and with the consent of the Monitor, to waive strict compliance with any one or more of the Phase 2 Bid requirements and deem a non-compliant Bid to be a Phase 2 Qualified Bid.

30. The Solicitation Process further sets out a list of non-exhaustive criteria for Tacora, Greenhill and the Monitor to evaluate when reviewing Phase 2 Qualified Bids. Following such

evaluation, Tacora may, in consultation with the Financial Advisor and the Monitor, (a) accept one Phase 2 Qualified Bid as the Successful Bid; (b) continue negotiations with Phase 2 Bidders who have submitted a Phase 2 Qualified Bid; or (c) schedule an auction with all Bidders that submitted Phase 2 Qualified Bids.

31. On January 24, 2024, the Board held a meeting to review and assess the Phase 2 Bids and determine whether each Phase 2 Bid constituted a Phase 2 Qualified Bid and consider next steps and the path forward following the Phase 2 Bid Deadline. The Board meeting was adjourned following initial deliberations, and continued on January 28, 2024, and again on January 29, 2024. Each of the Board meetings was attended by the Company's three directors, Greenhill, Stikeman and the Monitor and its counsel. Independent counsel for the Board also attended the deliberations on January 24, 2024, and January 29, 2024.

32. The Company determined that (a) the Investors' Bid should be declared the Successful Bid under the Solicitation Process, and (b) the other Phase 2 Bids did not constitute Phase 2 Qualified Bids and should not be deemed to be Phase 2 Qualified Bids by waiving the criteria established by the SISP Procedures. In making these decisions, the Company reviewed and assessed the benefits and weaknesses of each of the Phase 2 Bids, received input and advice from Greenhill and Stikeman and considered the views of the Monitor. A detailed overview of the deliberations of the Board is provided in the Broking Affidavit.

33. Based on the Phase 2 Bids received, I believe that the Investors' Bid was the only actionable Phase 2 Bid received during the SISP and puts the Company in the best position to succeed upon emergence.

34. The Phase 2 Bid submitted by Cargill was contingent on raising new equity financing and contained a number of other problematic features, including:

(a) the Bid was structured as an asset sale but contained a condition that required that the purchaser be satisfied, in its sole discretion, that the Company's tax attributes be preserved in all material respects and available to be utilized by the purchaser, which is not possible in an asset sale. Cargill referenced in their bid letter that their Phase 2 Bid could be implemented in a different manner, but no definitive documents were provided in respect of such alternative structures;

(b) the Bid did not specify the new equity participants to be new majority owners of the Company (or the purchaser) following Closing as the Bid was contingent on raising new equity from third parties. This adversely impacted the Company's ability to evaluate necessary regulatory approvals and the ability and willingness of the equity participants to provide necessary further financing;

(c) the Bid contained conditions which, based on the Company's analysis, were likely not achievable, including, among others, (i) a minimum cash condition; (ii) a condition to maintain tax attributes (as noted, a different structure would have been required to preserve tax attributes); and (iii) a financing condition to raise new equity; and

(d) even assuming the contingent financing could be raised by Cargill, the Bid did not provide sufficient financing to adequately capitalize the Company to fund required capital expenditures and operating costs necessary to achieve the required "ramp up" of production at the Scully Mine to allow for the business to sustainably operate in the future.

35. The Phase 2 Bid of Cargill also did not contemplate repayment in full of the Senior Secured Notes on closing of the transaction but contemplated that such Senior Secured Notes would be reinstated, and the Company would seek an order of the Court waiving any past defaults thereunder. The Company expected the Senior Noteholders would have contested such a transaction and any relief seeking a deemed waiver of past defaults.

36. The Phase 2 Bid submitted by Bidder #3, among other things:

(a) contemplated reinstatement of Tacora's DIP facility and all of Tacora's other secured debt, including debt obligations which had matured, and was contingent on obtaining extensions of such debt obligations;

(b) required certain key contracts of Tacora to be renegotiated on terms acceptable to Bidder #3;

(c) did not provide for the assumption or payment of the Company's trade claims; and

(d) did not provide sufficient financing to fund emergence costs and required capital expenditures and operating costs post-emergence.

37. The Investors' Bid represents a successful outcome of the SISP which will achieve a going-concern solution for the Company, the payment or satisfaction of all the Company's secured debt, assumption or payment of the unsecured trade claims and an improved capital structure for the Company. Following the completion of the Transactions contemplated by the Investors' Bid:

(a) the Company will de-leverage a significant amount of secured debt, reducing Tacora's pre-filing indebtedness by approximately $119.3 million, from approximately $325.6 million to approximately $206.3 million;

(b) the maturity profile of the Company's funded debt will be extended to better align with the Company's business plan and anticipated "ramp up" efforts over the next several years;

(c) the Company's annualized debt service will be reduced from $21.2 million pre-filing to $12.6 million post-emergence which will allow for additional funding to be used for necessary operating costs and capital expenditures;

(d) the Company will have raised significant capital to sustainably operate in the future and make necessary investments in the Scully Mine; and

(e) the Offtake Agreement will be replaced by a marketing agreement with Javelin Global Commodities (SG) Pte Ltd. ("**Javelin**"). The agreement with Javelin is expected to lead to higher profitability for Tacora over the long-term and provides greater flexibility to the Company as the new marketing agreement has a defined term and option to terminate in favour of the Company. As referenced above, interested parties indicated in the Pre-Filing Strategic Process that the Offtake Agreement was one impediment to investing in or acquiring Tacora.

38. Greenhill's analysis of the Phase 2 Bids, prepared in consultation with the Company's other advisors, is attached hereto as **Confidential Exhibit "C"**.

39. Based on my experience and my review of comparable recent sale and investment solicitation processes and other out-of-court strategic processes, the Solicitation Process was a robust and thorough process to achieve the best transaction available in the circumstances. The Monitor was also actively involved and consulted throughout the Solicitation Process. Based on the feedback received during the Solicitation Process, I believe that the Subscription Agreement and the definitive documents represent the best terms the Company could achieve in the circumstances based on the competitive Solicitation Process.

SWORN remotely via videoconference, by Michael Nessim, stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in Province of Ontario, this 2nd day of February 2024, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*. Rambaran Commissioner for Taking Affidavits, etc. Natasha Rambaran | LSO #80200N	DocuSigned by: Michael Nessim AD29F578259A445... **MICHAEL NESSIM**

EXHIBIT "A"
referred to in the Affidavit of
MICHAEL NESSIM
Sworn February 2, 2024

A Commissioner for Taking Affidavits
Natasha Rambaran | LSO #80200N

Tacora Resources Inc.
Notice of Solicitation Process

On October 10, 2023, Tacora Resources Inc. (the "**Tacora**") sought and obtained an Order under the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36 as amended (the "**Initial Order**") granting, *inter alia*, a stay of proceedings in favour of Tacora and appointing FTI Consulting Canada Inc. as monitor (in such capacity, the "**Monitor**").

Pursuant to an order granted by the Court on October 30, 2023 (the "**Solicitation Order**"), Tacora, with the assistance of Greenhill & Co. Canada Ltd. ("**Greenhill**"), and under the supervision of the Monitor, has initiated a solicitation process (the "**Solicitation Process**") to solicit interest in, and opportunities for: (a) a sale of all, substantially all, or certain portions of the property or the business of Tacora; or (b) an investment in, restructuring, recapitalization, refinancing or other form of reorganization of Tacora or its business as a going concern, or a combination thereof. The Solicitation Process also provides the ability for interested parties to investigate and conduct due diligence regarding an opportunity to arrange an offtake, service or other agreement in respect of the business.

The Solicitation Process is a two-phased process. Qualified interested parties who wish to submit a bid in the Solicitation Process must deliver a non-binding letter of interest to Greenhill with a copy to the Monitor in accordance with the Solicitation Order, by no later than 12:00 p.m. (Eastern Time) on December 1, 2023. Binding offers must be submitted by no later than January 19, 2024, at 12:00 p.m. (Eastern Time) in accordance with the Solicitation Order.

Copies of the Initial Order, the Solicitation Order and all related materials may be obtained from the website of the Monitor at http://cfcanada.fticonsulting.com/tacora/

Any party interested receiving additional information about, or in participating in, the Solicitation Process should contact Greenhill at ProjectElement2023@greenhill.com.

EXHIBIT "B"
referred to in the Affidavit of
MICHAEL NESSIM
Sworn February 2, 2024

A Commissioner for Taking Affidavits
Natasha Rambaran | LSO #80200N

Tacora Resources Inc. Notice of Solicitation Process

Friday, 03 November 2023 17:00

Tacora Resources Inc

Topic: Company Update

TORONTO, ON / ACCESSWIRE / November 3, 2023 / Tacora Resources Inc. (the "**Tacora**") on October 10, 2023, sought and obtained an Order under the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36 as amended (the "**Initial Order**") granting, *inter alia*, a stay of proceedings in favour of Tacora and appointing FTI Consulting Canada Inc. as monitor (in such capacity, the "**Monitor**").

Pursuant to an order granted by the Court on October 30, 2023 (the "**Solicitation Order**"), Tacora, with the assistance of Greenhill & Co. Canada Ltd. ("**Greenhill**"), and under the supervision of the Monitor, has initiated a solicitation process (the "**Solicitation Process**") to solicit interest in, and opportunities for: (a) a sale of all, substantially all, or certain portions of the property or the business of Tacora; or (b) an investment in, restructuring, recapitalization, refinancing or other form of reorganization of Tacora or its business as a going concern, or a combination thereof. The Solicitation Process also provides the ability for interested parties to investigate and conduct due diligence regarding an opportunity to arrange an offtake, service or other agreement in respect of the business.

The Solicitation Process is a two-phased process. Qualified interested parties who wish to submit a bid in the Solicitation Process must deliver a non-binding letter of interest to Greenhill with a copy to the Monitor in accordance with the Solicitation Order, by no later than 12:00 p.m. (Eastern Time) on December 1, 2023. Binding offers must be submitted by no later than January 19, 2024, at 12:00 p.m. (Eastern Time) in accordance with the Solicitation Order.

Copies of the Initial Order, the Solicitation Order and all related materials may be obtained from the website of the Monitor at http://cfcanada.fticonsulting.com/tacora/

Any party interested receiving additional information about, or in participating in, the Solicitation Process should contact Greenhill at ProjectElement2023@greenhill.com.

About Tacora Resources Inc.

Tacora is a private company that is focused on the production and sale of high-grade and quality iron ore products that improve the efficiency and environmental performance of steel making and, subject to final process verification and economic assessment, the development of a high purity manganese product for advanced battery technology

Forward-Looking Statements

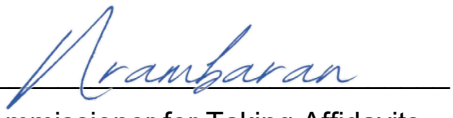
This press release contains statements that are forward-looking in nature and relate to our expectations, beliefs, and intentions. All statements other than statements of historical fact are statements that could be deemed to be forward-looking. Although Tacora believes the expectations expressed in such forward-looking statements are based on reasonable assumptions, such statements involve known and unknown risks, uncertainties and other factors and are not guarantees of future performance and actual results may accordingly differ materially from those in forward-looking statements, and these statements are subject to risks, uncertainties and assumptions that could cause outcomes to differ from our expectations, including risks related to the continued operations and performance during the CCAA Proceedings. The forward-looking information set forth herein reflects Tacora's expectations as at the date of this press release and is subject to change after such date. Tacora disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

SOURCE: Tacora Resources Inc

Topic: Company Update

Back to Newsroom

CONFIDENTIAL EXHIBIT "C"
referred to in the Affidavit of
MICHAEL NESSIM
Sworn February 2, 2024



A Commissioner for Taking Affidavits
Natasha Rambaran | LSO #80200N

[Subject to Sealing Order]

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

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

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

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF
MICHAEL NESSIM
(SWORN FEBRUARY 2, 2024)

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

Ashley Taylor (LSO #39932E)
Tel: (416) 869-5236
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Tel: (416) 869-5604
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Natasha Rambaran (LSO #80200N
Tel: (416) 869-5504
Email: nrambaran@stikeman.com

Philip Yang (LSO #82084O)
Tel : (416) 869-5593
Email: pyang@stikeman.com

Lawyers for the Applicant

EXHIBIT "B"

referred to in the Affidavit of

MICHAEL NESSIM

Sworn July 19, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

Court File No. 23-00707394-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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

(Applicant)

REPLY AFFIDAVIT OF MICHAEL NESSIM
(Sworn March 14, 2024)

I, **MICHAEL NESSIM**, of the City of Toronto, in the Province of Ontario, Canada, MAKE OATH AND SAY:

1. I am a Managing Director of Greenhill & Co. Inc. ("**Greenhill**" or the "**Financial Advisor**") and Head of Greenhill's Metals & Mining Group in North America. I have been working with Tacora Resources Inc. ("**Tacora**" or the "**Company**") since Greenhill's engagement in January 2023, and assisted with the Company's Pre-Filing Strategic Process and, more recently, the Solicitation Process (each as defined below). As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. Capitalized terms used herein and not otherwise defined have the meaning given to them in the Affidavit of Joe Broking sworn February 2, 2024 (the "**Broking Affidavit**"). All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

3. I swore an affidavit dated February 2, 2024 (the "**First Nessim Affidavit**") in support of the Company's motion seeking approval of the Subscription Agreement dated January 29, 2024, entered into between Tacora, as issuer, and the Investors. I have reviewed the affidavit of Matthew Lehtinen sworn March 1, 2024 (the "**Lehtinen Affidavit**") and the report of David Roland dated March 1, 2024 (the "**Roland Report**") filed in connection with Cargill's opposition to the Company's sale approval motion.

4. I swear this affidavit in reply to the Lehtinen Affidavit. This affidavit also addresses certain of the factual contentions or assumptions that appear to have been made in the Roland Report.

5. Nothing contained in the Lehtinen Affidavit or the Roland Report has caused me to change any of the statements I made in the First Nessim Affidavit. To the extent that this affidavit does not address any particular point that is raised in the Lehtinen Affidavit or the Roland Report, it should not be taken as an acknowledgement or admission that I agree with them.

6. As a brief overview, the Lehtinen Affidavit and Roland Report allege various unfounded complaints regarding the Solicitation Process. However, neither addresses the fundamental deficiency of Cargill's Phase 2 Bid – that it was an unqualified and non-actionable Bid that contained an unsatisfied financing condition. This condition was contained in the Phase 2 Bid submitted by Cargill, despite the Company's (and apparently Cargill's) attempts to raise new equity financing for almost a year. As described in the First Nessim Affidavit and further below, the Company had expended significant efforts during the Pre-Filing Strategic Process and the Solicitation Process to identify potential parties who would provide Tacora with new money financing with Tacora's current capital structure and Offtake Agreement. However, the market feedback was clear – third party investors are not interested in providing new money without significant changes to the capital structure, the Offtake Agreement, or both.

I. THE SOLICITATION PROCESS

A. Process for Engaging With Financing Parties

7. The Lehtinen Affidavit raises several complaints related to the specific protocol Cargill was required to follow in their engagement with potential financing parties. In paragraphs 69 – 72 of the Lehtinen Affidavit, Mr. Lehtinen describes the protocol that Greenhill followed in permitting Cargill and Jefferies LLC ("**Jefferies**") to engage with specific potential equity financing parties. Mr. Lehtinen essentially complains that Cargill was not provided with free reign to engage immediately with each potential financing party that it identified.

8. Though Mr. Lehtinen complains that Greenhill required Cargill to follow certain procedures, the protocol setting out these procedures was expressly incorporated into the SISP Procedures at paragraphs 17 – 21. The Solicitation Order authorized and directed the Company and Greenhill to follow the Court-approved SISP Procedures and all parties were required to follow the incorporated protocol in order to engage with potential financing parties.

9. The communication protocol, and the SISP Procedures, generally were only approved by the Court after Cargill and its advisors had been provided with a draft form for their input. On

September 4, 2023, when Tacora was initially preparing to file for CCAA protection in order to obtain additional critical liquidity, draft SISP Procedures were provided to Cargill's counsel for their review and comment. On October 7, 2024, following the recommencement of planning for a potential CCAA filing, Tacora again provided Cargill's counsel with draft SISP Procedures for their review and comment. I understand from Lee Nicholson of Stikeman Elliott LLP ("**Stikeman**"), counsel to the Company, that the draft SISP Procedures provided to Cargill on October 7, 2024, included a final bid deadline of January 19, 2024, and substantially similar milestones to the final SISP Procedures. I also understand that the communication protocol was included in draft SISP Procedures which were provided to Cargill on October 14, 2023. I understand from Mr. Nicholson that Cargill's counsel reviewed and commented on these SISP Procedures, and I understand that Cargill consented to the approval of the Solicitation Order.

10. The protocol contained in the SISP Procedures expressly contemplates that Phase 1 Bidders and potential financing parties are prohibited from speaking without the consent of Greenhill and the Monitor, except as specifically provided in the SISP Procedures. The SISP Procedures provide specific protocols for engaging with potential equity financing parties, debt financing parties and offtake financing parties. The guidelines were included in the SISP Procedures to allow Greenhill, under the supervision of the Monitor, to appropriately balance allowing bidders to engage with financing parties to develop a consortium Bid while attempting to prevent bidders from "front running" the process in an attempt to achieve less competition, all with a view to obtain the best Bid available in the circumstances. Greenhill's actions and engagement throughout the Solicitation Process were guided by these principles.

11. For example, as described in paragraph 71 of the Lehtinen Affidavit, during Phase 1 of the Solicitation Process, Greenhill did not consent to Cargill contacting five parties which Cargill and Jefferies had requested permission to speak with. The primary reason that Greenhill, in consultation with the Monitor, did not consent to Cargill contacting these five specific parties was that each of them had already been in contact with Greenhill and, through experience, Greenhill knew that these parties would potentially be interested in a standalone Bid or the Offtake Opportunity. If such a party might potentially develop a standalone Bid, it was important to the process to surface such a Bid in order to generate competitive tension within the Solicitation Process. Further, if a party was potentially interested in the Offtake Opportunity, they were not a natural party to participate in a potential Cargill consortium given the existing Offtake Agreement and Cargill's desire to preserve it. These decisions were made with the input and approval of the Monitor, in accordance with the SISP Procedures.

B. Greenhill's Efforts to Assist Cargill

12. At paragraph 15 of the Lehtinen Affidavit, Mr. Lehtinen alleges that Tacora and its advisors created numerous challenges, delay and obstacles for bidders to obtain financing. I strongly disagree with Mr. Lehtinen complaint. On the contrary, Greenhill, in conjunction with the Monitor, provided Cargill and Jefferies with constant feedback throughout the Solicitation Process and attempted to assist Cargill with their efforts to form a potential consortium bid after it became clear after Phase 1 of the Solicitation Process that Cargill was the only likely Bidder that could compete with the Investors' Bid.

13. As examples of the activities Greenhill, Stikeman and the Monitor undertook to assist Cargill and Jefferies:

(a) Tacora, Greenhill and the Monitor held weekly calls with Cargill and Jefferies on the status of operations at Tacora to provide them with the latest information regarding performance of the Scully Mine;

(b) On October 19, 2023, Greenhill contacted Cargill and Jefferies and invited them to provide names of potential bidders that Greenhill should contact during the Solicitation Process. Neither Cargill nor Jefferies responded to this request;

(c) During Phase 1 of the Solicitation Process, Greenhill permitted Cargill to speak to financing parties, unless such parties had the potential to be a stand-alone Bidder or interested in the Offtake Opportunity;

(d) Prior to the Phase 1 Bid Deadline, Cargill provided Greenhill, Stikeman and the Monitor will a draft transaction term sheet with undisclosed economic terms. Tacora's advisors held calls with Cargill and Jefferies on November 14, 2024 to discuss the term sheet. Greenhill offered Jefferies the opportunity to complete the economic terms of the term sheet in order for Greenhill to explore with other parties participating in the process whether they would be potentially interested in the proposed transaction structure. Neither Cargill nor Jefferies provided economic terms of the proposed transaction. On November 29, 2023, Stikeman formally wrote Cargill's counsel indicating that "[t]he principal economic terms of the Term Sheet… have not been provided" and therefore Greenhill and the Monitor were not

able to provide detailed feedback. A copy of the correspondence sent by Stikeman to Cargill's counsel is attached at **Exhibit "A"**.[1]

(e) Stikeman provided Cargill and Jefferies with a specific form of confidentiality agreement that Cargill could use with potential financing parties to streamline the confidentiality agreement negotiation process;

(f) Greenhill arranged for recorded management presentations and provided access to the VDR to allow Cargill's potential financing parties to get up to speed as quickly as possible without the need to schedule separate management presentations;

(g) On December 21, 2023, Greenhill offered Jefferies the opportunity to record a presentation from PIP (as defined below), Tacora's mining and operational consultant, that could be used in a manner similar to the recorded management presentation to allow Cargill's potential financing parties to get up to speed as quickly as possible. Jefferies never responded to Greenhill on this offer; and

(h) Following Phase 1 of the Solicitation Process, after it became clear that Cargill was the primary Bidder that could compete with the Investors' Bid, Greenhill offered each other Phase 1 Bidder (other than the Investors and Bidder #3 who indicated they preferred to pursue a standalone Bid) an opportunity to engage with Cargill on a potential consortium bid. Greenhill also referred Cargill to other parties that were potentially interested in a transaction but did not submit a Bid. One prospective new money equity investor and one of the prospective new debt investors referenced at paragraph 92 of the Lehtinen Affidavit were Phase 1 Bidders that Greenhill directed to Cargill following the Phase 1 Bid Deadline.

C. Feedback on the Offtake Agreement

14. Contrary to the allegations at paragraph 82 in the Lehtinen Affidavit, Tacora did provide feedback on amendments to the Offtake Agreement to Cargill and Jefferies during the Solicitation Process. On November 17, 2023, Tacora, Greenhill and the Monitor convened a call with Cargill

[1] Despite the Company indicating it was willing to facilitate discussions with third party financing parties, Cargill submitted a Phase 1 Bid that contemplated a transaction fully backstopped by Cargill and was not conditional upon raising new financing from third parties. The Bid structure contemplated by Cargill during the Solicitation Process significantly changed from Phase 1 to Phase 2.

and Jefferies to communicate amendments to the Offtake Agreement that the Company thought would be necessary to attract new equity to be invested into the Company. Greenhill communicated to Jefferies and Cargill that they could provide details on what amendments could be made to the Offtake Agreement in order for that to be communicated to potential financing parties. Neither Jefferies nor Cargill ever indicated during the Solicitation Process what Cargill was willing to amend. None of these amendments suggested by the Company were reflected in Cargill's Phase 2 Bid.

D. Engagement with the Investors

15. In paragraph 82 of the Lehtinen Affidavit, Mr. Lehtinen complains that Tacora and its advisors did not attempt to facilitate discussions between Cargill and the Ad Hoc Group during the Solicitation Process. As an initial matter, Greenhill and the Monitor were aware that both Cargill and the Ad Hoc Group would participate as bidders during the Solicitation Process. The SISP Procedures expressly restricted discussions between parties acting as competing bidders as it is generally important to prevent competing bidders from colluding during an active sales process to preserve tension and achieve the best results in the circumstances. Greenhill had also participated in the extensive discussions between Cargill and the Ad Hoc Group prior to the CCAA Proceedings where the parties were unable to achieve a resolution. Despite the Company's best efforts to achieve a consensual restructuring transaction, the parties were unable to reach an agreement.

16. I am informed by Lee Nicholson of Stikeman that on January 29, 2024, prior to execution of the Subscription Agreement, in response to a request by counsel to Cargill, Stikeman made inquiries of counsel to the Investors as to whether they were interested in having a discussion with Cargill. I am informed by Mr. Nicholson that counsel to the Investors indicated that the Investors were not interested in such a discussion. Additionally, I am informed by Mr. Nicholson that Stikeman sent an email to the Monitor on or around February 5, 2024, advising that Tacora does not have an issue with discussions between Cargill's counsel and the Investors' counsel, provided that such discussions are attended by the Monitor. I understand Cargill has not initiated any such discussions despite being invited to do so.

E. PIP Engagement

17. Throughout the Solicitation Process, Greenhill, in consultation with the Monitor, facilitated due diligence for interested parties, including arranging management meetings and meetings with other consultants engaged by Tacora. Each confidentiality agreement entered into by interested parties in connection with the Solicitation Process required that requests for information be directed to Greenhill, the Monitor or Stikeman. Controlling the information flow for interested parties is important for ensuring fairness for all parties involved in a sales process.

18. Partners in Performance ("**PIP**") is a global mining consulting firm that had been engaged in February 2023 by Tacora to initiate an operational stabilization and turnaround program at the Scully Mine. On December 14, 2023, following the Phase 1 Bid Deadline, Jefferies requested authorization from Greenhill for PIP to be available to participate on calls with potential equity financing parties. On December 18, 2023, Greenhill responded to Jefferies and noted that it was necessary to put some protocols in place and separate calls between PIP and Cargill's potential equity financing parties would require supervision by the Monitor. Jefferies responded on December 19, 2023, and noted its preference was to not have the Monitor included since it would add additional logistical challenges. Ultimately, on December 19, 2023, Greenhill advised Jefferies that the Monitor would need to be involved from a process perspective, but Jefferies never responded. Attached hereto as **Exhibit "B"** is a copy of the above-referenced email thread between Greenhill and Jefferies.

19. It was important to Greenhill and the Company that participants in the Solicitation Process respected the terms of the confidentiality agreements being entered into and the terms of the Solicitation Process generally.

20. I am informed by Joe Broking that the Company advised PIP that they should only engage in discussions with Cargill or any of its advisors and representatives with the permission of the Company, as PIP is working for the Company as a representative of the Company during the Solicitation Process. Further, I understand from Mr. Broking that the Company also advised PIP that they should not provide any Company information to any party without Tacora's consent.

II. EQUITY FINANCING

21. The Lehtinen Affidavit baldly states at paragraph 93 that "it was essentially impossible for any third party to have been in a position to make a binding commitment to invest equity in Tacora by the January 19, 2024 deadline in the SISP, unless the third party had been involved with Tacora well in advance of December 2023."

22. As set out above, on October 7, 2023, following the recommencement of planning for a potential CCAA filing, Tacora provided Cargill's counsel with draft SISP Procedures for review and comment, which included a final bid deadline of January 19, 2024, and substantially similar milestones to the final SISP Procedures. Cargill did not propose extending the timelines contemplated by the SISP Procedures at the time.

23. I also believe, contrary to the statements of Mr. Lehtinen, that there was sufficient time for Cargill and the interested parties they had identified to fully participate in the Solicitation Process to produce an actionable Bid. Interested parties were provided access to management, opportunities to submit diligence questions, travel windows to perform site visits before the winter holiday season, and otherwise fully able to perform due diligence and evaluate Tacora with the time provided by the Solicitation Process. Additionally, four of the five equity financing parties that Cargill referenced in its Bid had previously been involved in Tacora and had conducted due diligence well in advance of the Solicitation Process. Two of the parties participated in either the Pre-Filing Strategic Process or DIP solicitation process, one party had been working with Cargill on a potential investment since early 2023, and one party is a significant customer of Tacora's iron ore that is very familiar with Tacora and had performed a site visit in October 2023.

24. I do not believe that lack of time is what caused Cargill to be unable to find an equity financing party. On the contrary, based on the Pre-Filing Strategic Process and Solicitation Process, I believe that Cargill is unable to raise additional financing because investors are not interested in providing new money equity without significant changes to Tacora's capital structure, the Offtake Agreement, or both.

25. In addition, Mr. Lehtinen's assertions that Cargill simply needed to be provided with more time are demonstrably false when considered against the fact that Cargill originally asked for three additional weeks beyond January 19, 2024, to satisfy its equity financing condition. Cargill still has access to Tacora's virtual dataroom and its potential equity financing parties had access until February 9, 2024 – three weeks following the Phase 2 Bid Deadline. Based on the Lehtinen

Affidavit, I understand that Cargill continues to work on securing third party financing. It has now been nearly eight weeks past the Court-ordered Phase 2 Bid Deadline. As of the date of the Lehtinen Affidavit, I understand that Cargill has still not been able to secure any third-party financing.

SWORN remotely via videoconference, by Michael Nessim, stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in Province of Ontario, this 14th day of March 2024, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.	
DocuSigned by:  36124C4218DD47C...	DocuSigned by: Michael Nessim AD30E578359A445...
Commissioner for Taking Affidavits, etc. Philip Yang	**MICHAEL NESSIM**

EXHIBIT "A"

referred to in the Affidavit of

MICHAEL NESSIM

Sworn March 14, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang

Stikeman Elliott

Stikeman Elliott LLP
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November 29, 2023 **By Email**

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

Attention: Robert Chadwick

Dear Sir:

Re: Tacora Resources Inc. (CV-23-00707394-00CL) – Transaction Term Sheet for Recapitalization Transaction (the "Term Sheet")

We write in response to the Term Sheet delivered to Tacora Resources Inc. ("**Tacora**" or the "**Company**") on November 14, 2023, by Cargill International Trading Pte. Ltd and Cargill, Incorporated (collectively, "**Cargill**"). The Company and its advisors, and the Monitor, have reviewed, analyzed and considered the Term Sheet and contemplated recapitalization transaction (the "**Transaction**") on a preliminary basis.

The principal economic terms of the Term Sheet and the Transaction have not been provided (including, the proposed purchase price and related stakeholder recoveries) and the financing and other key components of the Transaction are not committed by Cargill or other required financing parties. Accordingly, as previously communicated by Greenhill & Co. Canada Ltd. to Jefferies LLC, the Company, its advisors and the Monitor are not able to provide detailed feedback at this time. It appears that Cargill requires further discussions with financing parties to advance the Term Sheet such that the contemplated Transaction can be fully developed and presented to the Company as a potentially actionable solution. As you know, the Company and its advisors have been working with Cargill and its advisors to facilitate further discussions with potential financing parties through the Court-approved sale and investment solicitation process (the "**SISP**"). We hope to continue to facilitate such discussions to allow Cargill to advance a transaction as a bid in accordance with the milestones contemplated by the SISP.

If Cargill can advance the Term Sheet and a transaction in the context of the SISP such that they are a potentially actionable restructuring solution for Tacora and its stakeholders, the Company and the Monitor will fully consider such option.

This letter should not be construed to suggest that the non-economic terms of the Term Sheet are acceptable to the Company and the Company expects such terms would need to be negotiated and discussed if the Transaction can be advanced by Cargill, including, among other things, the treatment and the commercial terms of the offtake agreement and other related agreements, the contemplated purchase price adjustments, the milestones and the implementation method.

We appreciate Cargill's continued willingness to advance potential transactions to find a going-concern solution in respect of Tacora.

Yours truly,

Stikeman Elliott LLP

Lee Nicholson

LN/kl

cc: Paul Bishop, Jodi Porepa – FTI Consulting Canada Inc.
Ryan Jacobs, Jane Dietrich – Cassels Brock & Blackwell LLP
Ashley Taylor, Philp Yang – Stikeman Elliott LLP
Chetan Bhandari, Michael Nessim, Usman Masood – Greenhill & Co. Canada Ltd.
Caroline Descours – Goodmans LLP
Jeremy Matican – Jefferies LLC

EXHIBIT "B"

referred to in the Affidavit of

MICHAEL NESSIM

Sworn March 14, 2024

DocuSigned by:

30124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang

From: Usman Masood <usman.masood@greenhill.com>
Sent: Tuesday, December 19, 2023 4:11 PM
To: Ryan Sheehy <rsheehy@jefferies.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: Re: Project Element - Management Presentation

Thanks Ryan.

Re: agenda - what we are trying to ascertain is if the discussion requires mgmt input as well. The PiP role has evolved over time and mgmt has hired additional staff at certain roles. Want to make sure appropriate folks are on from Tacora side if required. Are you trying to give Mresources a sense for the PiP operating team or trying to cover operational topics?

Wrt to monitor involvement, they will need to be involved from a process perspective, but are generally quite flexible based on our experience.

Kind Regards,
Usman

—

Usman Masood
Managing Director

Greenhill & Co. Canada Ltd.
79 Wellington Street West, Suite 3403
Toronto, ON, Canada | M5K 1K7

Tel (Voice & Text): +1.416.601.2578
Personal Mobile (No Texting): +1.647.391.5531
Email: usman.masood@greenhill.com

Sent from my iPhone. Kindly excuse any typos.

From: Ryan Sheehy <rsheehy@jefferies.com>
Sent: Tuesday, December 19, 2023 7:47:59 PM
To: Usman Masood <usman.masood@greenhill.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: RE: Project Element - Management Presentation

> You don't often get email from rsheehy@jefferies.com. Learn why this is important

Usman,

We would like to facilitate a call between M Resources and PIP but expect there will be others. Preference would be not to have the monitor included since it will add additional logistical challenges. We would expect ahead of any call that sufficient detail on agenda would be provided to PIP.

Regards,

Ryan Sheehy
Senior Vice President
Jefferies LLC
Cell: 917.750.8647

From: Usman Masood <usman.masood@greenhill.com>
Sent: Monday, December 18, 2023 12:32 PM
To: Ryan Sheehy <rsheehy@jefferies.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: Re: Project Element - Management Presentation

Hi Ryan -

Do you expect to host a single investor call at this point where PiP would be asked to join? We have to put some protocols in place and will likely require the supervision of the Monitor.

Also - do you have a set of DD questions you envision posing to PiP?

Not saying we won't be able to accommodate In some form, but will need to be a structured session. Unfortunately, having PiP join on an ad hoc basis is unlikely to be feasible.

Usman

—

Usman Masood
Managing Director

Greenhill & Co. Canada Ltd.
79 Wellington Street West, Suite 3403
Toronto, ON, Canada | M5K 1K7

Tel (Voice & Text): +1.416.601.2578
Personal Mobile (No Texting): +1.647.391.5531
Email: usman.masood@greenhill.com

Sent from my iPhone. Kindly excuse any typos.

From: Ryan Sheehy <rsheehy@jefferies.com>
Sent: Monday, December 18, 2023 12:58 PM

To: Usman Masood <usman.masood@greenhill.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: RE: Project Element - Management Presentation

Usman,

Wanted to follow-up on our PIP request. Can you please confirm?

Thank you,

Ryan Sheehy
Senior Vice President
Jefferies LLC
Cell: 917.750.8647

From: Ryan Sheehy
Sent: Thursday, December 14, 2023 10:16 AM
To: Usman Masood <usman.masood@greenhill.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: RE: Project Element - Management Presentation

We would like general approval for them to engage with our financing sources to be most efficient given the tight timeline. We believe based on conversations, many parties will want to speak to them over the course of the marketing process. Of course, these would all be within the names that you've approved for our outreach.

Ryan Sheehy
Senior Vice President
Jefferies LLC
Cell: 917.750.8647

From: Usman Masood <usman.masood@greenhill.com>
Sent: Thursday, December 14, 2023 10:01 AM
To: Ryan Sheehy <rsheehy@jefferies.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: Re: Project Element - Management Presentation

Thanks Ryan.

To confirm, which investor calls are you referring to?

Usman

—

Usman Masood
Managing Director

Greenhill & Co. Canada Ltd.
79 Wellington Street West, Suite 3403
Toronto, ON, Canada | M5K 1K7

Tel (Voice & Text): +1.416.601.2578
Personal Mobile (No Texting): +1.647.391.5531
Email: usman.masood@greenhill.com

Sent from my iPhone. Kindly excuse any typos.

From: Ryan Sheehy <rsheehy@jefferies.com>
Sent: Thursday, December 14, 2023 9:55:23 AM
To: Usman Masood <usman.masood@greenhill.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: RE: Project Element - Management Presentation

We can do earlier than 9 if no other options, but that remains our preference given other obligations.

Separately we would like to have PIP available to participate on investor calls. We consider them a Representative as defined by the NDA between Cargill and Tacora. Can you please OK this request?

Ryan Sheehy
Senior Vice President
Jefferies LLC
Cell: 917.750.8647

From: Usman Masood <usman.masood@greenhill.com>
Sent: Thursday, December 14, 2023 9:42 AM
To: Ryan Sheehy <rsheehy@jefferies.com>; Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>

Subject: Re: Project Element - Management Presentation

Let us double check and revert. Availability into late am was more spotty, that is why we suggested an early start. Could 8 or 8:30 am also work, or is 9 am the absolute earliest?

Usman

—

Usman Masood
Managing Director

Greenhill & Co. Canada Ltd.
79 Wellington Street West, Suite 3403
Toronto, ON, Canada | M5K 1K7

Tel (Voice & Text): +1.416.601.2578
Personal Mobile (No Texting): +1.647.391.5531
Email: usman masood@greenhill com

Sent from my iPhone. Kindly excuse any typos.

From: Ryan Sheehy <rsheehy@jefferies.com>
Sent: Thursday, December 14, 2023 8:57:32 AM
To: Kevin Zhao <kevin.zhao@greenhill.com>; Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: RE: Project Element - Management Presentation

> Some people who received this message don't often get email from rsheehy@jefferies.com. Learn why this is important

Greenhill team,

We would have strong preference for 9am ET tomorrow. Is this possible?

Thank you,

Ryan Sheehy
Senior Vice President
Jefferies LLC
Cell: 917.750.8647

From: Kevin Zhao <kevin.zhao@greenhill.com>

Sent: Wednesday, December 13, 2023 6:10 PM
To: Project.Caramel.2023.All <Project.Caramel.2023.All@jefferies.com>
Cc: Project Element 2023 <ProjectElement2023@greenhill.com>
Subject: Project Element - Management Presentation

[External Message]

Jefferies Team,

Can you let us know if you are available for a management presentation (2 hours) this Friday beginning at either 7am or 730am ET?

Regards,
Kevin

Jefferies archives and monitors outgoing and incoming e-mail. The contents of this email, including any attachments, are confidential to the ordinary user of the email address to which it was addressed. If you are not the addressee of this email you may not copy, forward, disclose or otherwise use it or any part of it in any form whatsoever. This email may be produced at the request of regulators or in connection with civil litigation. Jefferies accepts no liability for any errors or omissions arising as a result of transmission. Use by other than intended recipients is prohibited.

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

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

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

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

REPLY AFFIDAVIT OF
MICHAEL NESSIM
(SWORN MARCH 14, 2024)

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

Ashley Taylor (LSO #39932E)
Tel: (416) 869-5236
Email: ataylor@stikeman.com

Lee Nicholson (LSO #66412I)
Tel: (416) 869-5604
Email: leenicholson@stikeman.com

Natasha Rambaran (LSO #80200N
Tel: (416) 869-5504
Email: nrambaran@stikeman.com

Philip Yang (LSO #82084O)
Tel : (416) 869-5593
Email: pyang@stikeman.com

Lawyers for the Applicant

EXHIBIT "C"

referred to in the Affidavit of

MICHAEL NESSIM

Sworn July 19, 2024

DocuSigned by:

36124C4218DD47C...

A Commissioner for Taking Affidavits
Philip Yang | LSO #82084O

Court File No. 23-00707394-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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

(Applicant)

AFFIDAVIT OF MICHAEL NESSIM
(Sworn June 14, 2024)

I, **MICHAEL NESSIM**, of the City of Toronto, in the Province of Ontario, Canada, MAKE OATH AND SAY:

1. I am a Managing Director of Greenhill & Co. Inc. ("**Greenhill**" or the "**Financial Advisor**") and Head of Greenhill's Metals & Mining Group in North America. I have been working with Tacora Resources Inc. ("**Tacora**" or the "**Company**") since Greenhill's engagement in January 2023, and assisted with the Company's Pre-Filing Strategic Process and the Solicitation Process. As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. Capitalized terms used in this affidavit and not otherwise defined have the meanings given to them in my affidavits sworn on February 2, 2024, and March 14, 2024 (together, the "**Nessim Affidavits**"). All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

3. The Company gave notice of its intent to disclaim the Offtake Agreement and the Stockpile Agreement on May 16, 2024, with the consent of the Monitor (the "**Disclaimer**"). I have reviewed the affidavit of Heng Vuong sworn on June 14, 2024 (the "**Vuong Affidavit**"). I swear this affidavit in conjunction with the Vuong Affidavit in opposition to Cargill's motion for an order that the Offtake Agreement and the Stockpile Agreement are not to be disclaimed (the "**Disclaimer Motion**").

A. Overview

4. Tacora is conducting a sale process which was approved and ratified by the Court on June 5, 2024 (the "**Sale Process**").

5. I have been directly involved in the prior attempts to either sell Tacora or attract additional investment in Tacora through the Pre-Filing Strategic Process and Solicitation Process. The market feedback from those solicitation processes has been clear – potential third-party buyers and investors view the Offtake Agreement as an off-market agreement that is a significant impediment to investing new capital into Tacora. The pricing formula in the Offtake Agreement, which determines the sales price realized by Tacora in respect of the product sold to Cargill, allows Cargill to extract significant value from Tacora's ore which effectively increases Tacora's operating costs on a per tonne basis and generally makes Tacora a less valuable investment opportunity. In addition, the "life-of-mine" term, coupled with the pricing formula, significantly restricts potential exit transactions for investors and limits flexibility for the Company. Accordingly, as described further below, almost all third parties potentially interested in buying Tacora or making an investment in Tacora have indicated that the Offtake Agreement either needs to be significantly amended or terminated as a condition to them moving forward with a transaction.

6. As a result of this market feedback and the need for Tacora to achieve a restructuring transaction in an expedited manner, on May 14, 2024, the Board of the Company, with the benefit of advice from Greenhill and Stikeman, and input from the Monitor, determined that the Disclaimer of the Offtake Agreement and the Stockpile Agreement is in the best interests of the Company and its stakeholders as it will enhance the Company's prospects of successfully securing a going-concern transaction through this Sale Process.

7. Based on my previous experience in the Pre-Filing Strategic Process and Solicitation Process, which are described below, I agree with this conclusion. Tacora is more likely to attract sale and restructuring transactions and the new capital needed to ramp up production at the Scully Mine if Tacora can be marketed "free and clear" of the Offtake Agreement and without the prospect of protracted litigation and potential delay associated with a potential disclaimer of the Offtake Agreement following selection of the successful bid. Without terminating, significantly amending, or replacing the Offtake Agreement, I do not believe any third parties will be willing to buy or invest in Tacora.

8. In addition to the above, Greenhill has been leading the solicitation of a potential replacement interim offtake and/or marketing agreement in the event Cargill did not dispute the Disclaimer or the Court determines that the effective date of the Disclaimer will occur prior to Tacora closing a restructuring transaction. The results of the offtake solicitation process have reinforced my view that the Offtake Agreement is off-market and alternative superior options exist

for the Company as other potential buyers of Tacora's ore have provided proposals that offer significantly improved terms to Tacora compared to the Offtake Agreement.

B. Pre-Filing Strategic Process[1]

9. The Company engaged Greenhill in January 2023 to undertake the Pre-Filing Strategic Process to explore, review, and evaluate a broad range of alternatives for the Company, including sale opportunities or additional investments into Tacora.

10. As part of the Pre-Filing Strategic Process, Greenhill prepared an approved outreach list of potential interested parties and, commencing in March 2023, reached out to 30 strategic and financial parties[2] in connection with a potential sale or financing transaction with respect to the Company. Eleven parties executed confidentiality agreements with the Company, and Greenhill and the Company facilitated due diligence for interested parties. I understand that both Cargill and the Ad Hoc Group also independently attempted to solicit new investment into the Company during 2023.

11. During the Pre-Filing Strategic Process, which commenced in or around March 2023 and continued until the commencement of the CCAA Proceedings, the Offtake Agreement was a focal point for investors. Each of the LOIs received by the Company as part of the Pre-Filing Strategic Process contemplated that the transaction was conditional upon significant concessions from Cargill in respect of the Offtake Agreement and/or the Senior Noteholders in respect of the Senior Secured Notes.

12. In May 2023, the Company executed a letter of intent (the "**Executed LOI**") for a sale of the Company that was supported by Cargill and the Ad Hoc Group and facilitated advanced due diligence for the interested party. In July 2023, the interested party advised it was no longer interested in advancing the transaction contemplated by the Executed LOI. I understand one of the reasons communicated by the interested party for no longer being interested in pursuing the transaction was that the Offtake Agreement would limit the party's ability to use Tacora's iron ore in its own operations preventing realization of potential synergies.

[1] The Pre-Filing Strategic Process is also described in the Nessim Affidavits.
[2] For clarity, this figure does not include parties who were pre-existing stakeholders of the Company at that time.

C. The Solicitation Process[3]

13. On October 30, 2023, this Court granted the Solicitation Order, which, among other things, authorized and directed Tacora to undertake the Solicitation Process to solicit interest in, and opportunities for: (a) a sale of all or substantially all, or certain portions of the Property or the Business; or (b) an investment in, restructuring, recapitalization, refinancing or other form of reorganization of Tacora or its Business as a going concern, or a combination thereof. The Solicitation Process and the SISP Procedures were designed to be broad in order to provide Tacora and interested parties with the flexibility to pursue a range of Opportunities and transaction structures.

14. The Company generally understood that replacing the Offtake Agreement may be required to complete a transaction and accordingly, the Solicitation Process provided the ability for interested parties to investigate and conduct due diligence regarding an opportunity to arrange an offtake, service or other agreement in respect of the Business and permitted the Company to market the Offtake Opportunity.

15. During the Solicitation Process, the Offtake Agreement continued to be a focal point for potential buyers and investors. Over 130 Potential Bidders were contacted by Greenhill following the commencement of the SISP and on December 1, 2023, being the Phase 1 Bid Deadline, Greenhill, Stikeman and the Monitor received seven non-binding Bids. Only one LOI (received from Cargill) contemplated the assumption of the Offtake Agreement. Each of the other Bids contemplated replacing the Offtake Agreement and/or operating the Scully Mine without an offtake and/or marketing agreement.

16. During Phase 2 of the SISP, Greenhill continued to engage with parties to facilitate due diligence and negotiations, which included site visits to the Scully Mine and access to management and Q&A sessions. Greenhill also provided regular guidance and feedback to the parties participating in the Solicitation Process.

17. In addition to the Company's process, Cargill identified 51 potential financing parties with whom they were interested in speaking in respect of a potential joint bid. Certain of these parties had previously been contacted by Greenhill during its initial outreach and were participants in Phase 1 of the SISP. Of the potential financing parties identified by Cargill, 19 informed Greenhill

[3] The SISP is also described in the Nessim Affidavits.

that they were potentially interested in participating in a consortium bid with Cargill. The Company facilitated diligence with 18 of those financing parties who executed NDAs. The remaining 33 financing parties either: (a) did not respond to Greenhill or the Company to request an NDA; or (b) did not execute an NDA with the Company.

18. On January 8, 2024, Greenhill provided Phase 2 Bidders with a process letter, which reiterated the requirements under the SISP Procedures.

19. On January 19, 2024, the Phase 2 Bid Deadline, Greenhill received three Phase 2 Bids:

(a) the Investors' Bid for all the shares of Tacora pursuant to a reverse vesting order;

(b) a Bid from Cargill for all the assets of Tacora; and

(c) a Bid from Bidder #3 for all the shares of Tacora pursuant to a reverse vesting order.

20. Only Cargill's Phase 2 Bid contemplated the assumption of the Offtake Agreement in its current form. The Investors' Phase 2 Bid contemplated a replacement of the Offtake Agreement with a new offtake agreement from another party and Bidder #3's Phase 2 Bid required certain key contracts of Tacora, including the Offtake Agreement, be renegotiated on terms acceptable to Bidder #3. Bidder #3's Phase 2 Bid contemplated that if the Offtake Agreement could not be renegotiated it would need to be excluded from the transaction.

21. The Phase 2 Bid submitted by Cargill had no committed new money financing to either close the contemplated transaction or make the required investments in the Scully Mine, and despite their efforts, Cargill could not find a co-investor to provide necessary financing for their contemplated transaction.

22. It is worth mentioning that over a year has passed since Cargill started looking for capital providers and Tacora commenced the Solicitation Process. Eight months have passed since Tacora commenced these CCAA Proceedings. Nearly five months have passed since the Phase 2 Bid Deadline in the Solicitation Process where Cargill submitted a Phase 2 Bid that did not include committed financing. Notwithstanding its continuing efforts, Cargill has still not secured any committed financing in connection with a viable transaction. The Offtake Agreement in its current form has remained in place throughout the history of Cargill's efforts looking for capital providers willing to invest in Tacora.

D. Solicitation of Alternative Offtake and/or Marketing Agreements

23. More recently, to address the risk that Cargill may not oppose the Disclaimer or seek to terminate the Offtake Agreement prior to the Company transitioning to a new long-term agreement for the sale of its iron ore, Greenhill has explored the possibility of alternative offtake and/or marketing agreements for the sale Tacora's iron ore.

24. Confidential discussions remain ongoing with a number of participants in the process, however, multiple potential buyers for Tacora's iron ore have provided proposals offering superior terms to the Offtake Agreement. The potential proposals have offered a higher price for Tacora's ore relative to the Offtake Agreement, including basing the purchase price formula on the Platts 65% index rather than the Platts 62% index. The alternatives have also proposed agreements that provide similar benefits to the Offtake Agreement without the same structural issues. For example, potential alternative agreements provide potential hedging and similar working capital benefits that the Stockpile Agreement provides, without requiring a long duration quotational period, as explained in the Vuong Affidavit.

25. This market check has reinforced my view that superior alternatives exist for the sale of Tacora's ore relative to the Offtake Agreement.

E. Cargill's Evidence

26. I have reviewed the affidavit of Matthew Lehtinen sworn June 11, 2024 (the "**Lehtinen Affidavit**") filed in support of Cargill's Disclaimer Motion. To the extent that this affidavit does not address any particular point that is raised in the Lehtinen Affidavit, it should not be taken as an acknowledgment or admission that I agree with them. However, I wish to address paragraphs 33 and 34 of the Lehtinen Affidavit, where Mr. Lehtinen asserts that the potential for the Offtake Agreement and the Stockpile Agreement to be disclaimed is: (a) disruptive to Cargill's discussions with parties that want to participate in a consensual resolution and; (b) limits Tacora's restructuring solutions.

27. Potential bidders in the Sale Process need to see a viable path forward for Tacora to exit the CCAA Proceedings as a going concern. The Disclaimer, if approved by the Court, will pave a clear path forward for the Company by demonstrating to potential bidders that they are not required to assume the Offtake Agreement in any transaction. Based on my discussions with potential bidders, I understand parties are concerned, based on the previous Sale Approval

Motion, that if the Offtake Agreement is not assumed as part of the proposed restructuring transaction, approval of their transaction could be subject to extensive and protracted litigation.

28. In addition, the Disclaimer is not a barrier to Cargill's discussions and negotiations with potential investors. Cargill and any potential investors that may submit a consortium bid in the Sale Process are free to do so, with any offtake arrangement being transitioned to Cargill's consortium if it is designated as the successful bid in the Sale Process.

29. Therefore, contrary to Mr. Lehtinen's assertion that the Disclaimer limits Tacora's restructuring solutions, I believe that the Disclaimer improves Tacora's restructuring options by increasing interest from potential bidders without negatively impacting Cargill's discussions with other third parties in relation to a potential consortium bid in the Sale Process.

F. Conclusion

30. Based on the Pre-Filing Strategic Process and the Solicitation Process, I believe the market feedback through these multiple, robust processes has been clear – third party investors are not interested in providing new capital to Tacora with the current Offtake Agreement in place. The Offtake Agreement results in significant value of Tacora's ore being paid to Cargill, rather than the Company. Third parties are not interested in making the necessary investments in the Scully Mine while a significant portion of the profits from the investments are paid to Cargill.

31. An inability to disclaim the Offtake Agreement will significantly impair Tacora's ability to find a value-maximizing transaction.

32. I am therefore of the view that, at this time, the disclaimer of the Offtake Agreement and the Stockpile Agreement is in the best interests of the Company and its stakeholders, as it will enhance the Company's prospects of successfully securing a going-concern transaction through the Sale Process.

SWORN remotely via videoconference, by Michael Nessim, stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in Province of Ontario, this 14th day of June, 2024, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.	
DocuSigned by:  36124C4218DD47C...	DocuSigned by: Michael Nessim AD29E578259A445...
Commissioner for Taking Affidavits, etc. Philip Yang | LSO #82084O	**MICHAEL NESSIM**

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

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

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

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF
MICHAEL NESSIM
(SWORN JUNE 14, 2024)

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

Ashley Taylor (LSO #39932E)
Tel: (416) 869-5236
Email: ataylor@stikeman.com

Lee Nicholson (LSO #66412I)
Tel: (416) 869-5604
Email: leenicholson@stikeman.com

Natasha Rambaran (LSO #80200N
Tel: (416) 869-5504
Email: nrambaran@stikeman.com

Philip Yang (LSO #82084O)
Tel : (416) 869-5593
Email: pyang@stikeman.com

Lawyers for the Applicant

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

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

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Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF
MICHAEL NESSIM
(SWORN JULY 19, 2024)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
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Ashley Taylor (LSO #39932E)
Tel: (416) 869-5236
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Philip Yang (LSO #82084O)
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Lawyers for the Applicant

TAB 4

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM	)	FRIDAY, THE 26TH
	)	
JUSTICE KIMMEL	)	DAY OF JULY, 2024

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

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

(Applicant)

APPROVAL AND REVERSE VESTING ORDER

THIS MOTION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") for an order, *inter alia*: (a) approving the subscription agreement entered into by and between the Applicant, as issuer, and the entities listed on **Schedule "A"** hereto, as investors (the "**Investors**") dated July 21, 2024, (the "**Subscription Agreement**"), a copy of which was attached as Exhibit "E" to the Vuong Affidavit (as defined below) and the Transactions (as defined in the Subscription Agreement); (b) adding a new company to be formed ("**ResidualCo**") as an applicant to these proceedings (the "**CCAA Proceedings**"); (c) vesting out of the Applicant all Excluded Assets, Excluded Contracts, Excluded Liabilities and all Claims in respect of any Senior Priority Notes, Senior Secured Notes and the APF (other than those Claims under the APF satisfied as contemplated pursuant to Section 7.2(c) of the Subscription Agreement) and discharging all Encumbrances against the Applicant, the New Common Shares, New Secured Priority Notes (as applicable), New Warrants, Unsecured Takeback Notes and the Retained Assets, except only the Permitted Encumbrances (as defined in the Subscription Agreement); (d) authorizing and directing the Applicant to file the Articles of Reorganization; (e) terminating and cancelling all Existing Equity (other than the Existing Common Shares which will be cancelled in accordance with the Articles of Reorganization), as well as any Equity Documents (as defined below), for no consideration; (f) authorizing and directing the Applicant to issue (i) the Subscribed Shares to the Investors and the applicable New Common Shares to the Other New Equity Investors, as applicable, and vesting in the Investors and the Other New Equity Investors, as applicable (or as any such Investor or Other

New Equity Investor, as applicable, may direct, subject to the terms of the Subscription Agreement) all right, title and interest in and to the New Common Shares, (ii) the New Warrants and the Unsecured Takeback Notes to the Initial Noteholder Investors and the Other New Equity Investors, as applicable, that are, in each case, Existing Noteholders, and vesting in the Initial Noteholder Investors and the Other New Equity Investors, as applicable, that are, in each case, Existing Noteholders, (or as any such Initial Noteholder Investor or Other New Equity Investor, as applicable, may direct, subject to the terms of the Subscription Agreement) all right, title and interest in and to the New Warrants and the Unsecured Takeback Notes; (g) authorizing the Administrative Expense Reserve (as defined in the Subscription Agreement) pursuant to the Subscription Agreement; and (h) granting certain ancillary relief, was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the Motion Record of the Applicant, including the affidavit of Heng Vuong sworn July 21, 2024 (the "**Vuong Affidavit**") and the Exhibits thereto, the affidavit of Michael Nessim sworn July 19, 2024 (the "**Nessim Affidavit**") and the Exhibits thereto, the Eleventh Report (the "**Eleventh Report**") of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as the Court-appointed monitor of the Applicant (the "**Monitor**"), and on being advised that the secured creditors who are likely to be affected by this Order herein were given notice;

ON HEARING the submissions of counsel for the Applicant, counsel for the Monitor, and counsel for Cargill, Incorporated and Cargill International Trading Pte. Ltd., counsel for Millstreet Capital Management LLC, OSP, LLC, Brigade Capital Management, LP and MSD, LP, and such other counsel and parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Philip Yang, filed

SERVICE

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

DEFINITIONS

2. **THIS COURT ORDERS** that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meanings given to them in the Subscription Agreement.

APPROVAL AND VESTING

3. **THIS COURT ORDERS** that the Subscription Agreement and the Transactions are hereby approved and the execution of the Subscription Agreement by the Applicant is hereby authorized and approved, with such amendments as the Applicant and the Investors may deem necessary or otherwise agree to, with the approval of the Monitor. The Applicant is hereby authorized and directed to perform its obligations under the Subscription Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions, including (a) the filing of the Articles of Reorganization, (b) the termination and cancellation of all Existing Equity (other than the Existing Common Shares which will be cancelled in accordance with the Articles of Reorganization) as well as any agreement, contract, plan, indenture, deed, certificate, subscription, rights, conversion rights, pre-emptive rights, options (including stock option or share purchase or equivalent plans), or other documents or instruments governing and/or having been created or granted in connection with the share capital of the Applicant, if any (other than the rights of the Investors under the Subscription Agreement, and the Other New Equity Investors, as applicable, under the Other New Equity Investor Subscription Agreements, as applicable) (the "**Equity Documents**") for no consideration, and (c) the issuance of (i) the Subscribed Shares to the Investors and the applicable New Common Shares to the Other New Equity Investors, as applicable; and (ii) the New Warrants and the Unsecured Takeback Notes to the Initial Noteholder Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, as applicable.

4. **THIS COURT ORDERS** that notwithstanding any provision hereof, the closing of the Transactions shall be deemed to occur pursuant to the terms and in the manner, order and sequence set out in the Subscription Agreement, including in accordance with the Closing Sequence, with such alterations, changes or amendments as may be agreed to pursuant to the terms of the Subscription Agreement. Additionally, notwithstanding any provision hereof, (a) no fractional New Warrants will be issuable, with any entitlement to a fractional New Warrant for any Initial Noteholder Investor and the Other New Equity Investor that are, in each case, Existing Noteholders, as applicable, being round down to the nearest whole, and (b) Unsecured Takeback Notes will be issued in minimum denominations of US$1,000 principal amount, with no entitlement to any Unsecured Takeback Notes for less than US$1,000 principal amount.

5. **THIS COURT ORDERS** that this Order shall constitute the only authorization required by the Applicant to proceed with the Transactions and that no shareholder or other approval shall be required in connection therewith.

6. **THIS COURT ORDERS** that, at the time of the delivery of the Monitor's certificate (the "**Monitor's Certificate**") to counsel to the Applicant and counsel to the Investors as set out in the Subscription Agreement (the "**Effective Time**"), substantially in the form attached as **Schedule "B"** hereto, the following shall occur and shall be deemed to have occurred commencing at the Effective Time, all in accordance with the terms of the Subscription Agreement and in accordance with the Closing Sequence set out in the Subscription Agreement and the steps contemplated thereunder:

(a) each Investor shall pay their respective unpaid balance of the New Equity Offering Initial Cash Consideration and New Equity Offering Retained Cash Consideration, each as set forth in Exhibit "A" to the Subscription Agreement (and which amounts will, for greater certainty, not include any amount of the Deposit and interest accrued thereon), to be held in escrow by the Monitor on behalf of the Investors and the entire Cash Consideration shall be dealt with in accordance with the Closing Sequence;

(b) the Applicant shall be deemed to transfer to ResidualCo the Excluded Assets, the Excluded Contracts and the Excluded Liabilities;

(c) Cargill shall set-off a portion of the amount owing by the Applicant under the APF (equal to the amount of the Cargill Pre-Filing Payable) against the Cargill Pre-filing Payable;

(d) the Applicant shall be deemed to transfer to ResidualCo all Claims in respect of the Senior Secured Notes and the Senior Priority Notes and any Claims remaining under the APF, and the deemed transfer of the Senior Priority Notes and the Senior Secured Notes to ResidualCo will constitute a novation of such Senior Priority Notes and Senior Secured Notes to ResidualCo;

(e) the Retained Assets will be retained by the Applicant, in each case free and clear of and from any and all debts, Liabilities, Actions, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or liquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise, including any and all encumbrances, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or

otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other Order of the Court; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia), *Personal Property Security Act* (Newfoundland and Labrador), *Le Registre Des Droits Personnels Et Réels Mobiliers* (Quebec), the *Uniform Commercial Code* or any other personal property registry system or pursuant to the *Lands Title Act* (Newfoundland and Labrador) or the *Mining Act* (Newfoundland and Labrador), (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "C"** hereto (the **"Permitted Encumbrances**")) and, for greater certainty, all of the Encumbrances affecting or relating to the Retained Assets are hereby expunged and discharged as against the Retained Assets, provided that Retained Contracts will be retained by the Company subject only to those Claims of the counterparty to the applicable contract as agreed between the Investors, the Company, and the counterparty to the applicable contract;

(f) all Existing Equity (other than the Existing Common Shares which will be cancelled in accordance with the Articles of Reorganization) as well as any agreement, Contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock option or share purchase or equivalent plans), or other documents or instruments governing and/or having been created or granted in connection with the share capital of the Applicant (other than any New Secured Priority Notes Offering Subscription Agreements, Other New Equity Subscription Agreements, as applicable, or rights of the Investors under the Subscription Agreement) shall be deemed terminated and cancelled for no consideration;

(g) the following shall occur concurrently:

(A) the Applicant shall issue the Subscribed Shares to the Investors and the Other New Equity Investors, as applicable, in accordance with the Subscription Agreement and the Other New Equity Subscription

Agreements, as applicable, and all of the right, title and interest in and to the New Common Shares issued by the Applicant to the Investors and the Other New Equity Investors, as applicable, in accordance with the Subscription Agreement and the Other New Equity Subscription Agreements, as applicable, shall vest absolutely in the Investors and the Other New Equity Investors, , as applicable, free and clear of and from any and all Claims and, for greater certainty, all of the Encumbrances affecting or relating to the New Common Shares are hereby expunged and discharged as against the New Common Shares;

(B) the Applicant shall issue the New Warrants and Unsecured Takeback Notes to the Initial Noteholder Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, as applicable, and all of the right, title and interest in and to the New Warrants and the Unsecured Takeback Notes issued by the Applicant to the the Initial Noteholder Investors and the Other New Equity Investors, as applicable, that are, in each case, Existing Noteholders, shall vest absolutely in the Initial Noteholder Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, as applicable, free and clear of and from any and all Claims and, for greater certainty, all of the Encumbrances affecting or relating to the New Warrants and the Unsecured Takeback Notes are hereby expunged and discharged as against the New Warrants and the Unsecured Takeback Notes, and the Set-Off shall be effective;

(C) the Monitor shall have been authorized and directed to release, and shall release, to the Applicant the New Equity Offering Retained Cash Consideration;

(D) the Monitor shall be directed to pay, and shall pay, on behalf of the Applicant, (a) all advisors' expenses of the Applicant and the Monitor (including financial advisor and legal counsel fees) related to the CCAA Proceedings and the Transactions solely to the extent that such expenses are subject to CCAA Charges that rank ahead of the DIP Charge from the New Equity Offering Initial Cash Consideration and upon payment of all amounts owing under the Transaction Fee Charge, the Transaction Fee Charge shall be automatically released and terminated without any further

action; (b) to each Eligible Equity Investor, an amount no greater than US$650,000 as a reimbursement for advisors' fees and expenses incurred in connection with the Transactions by each applicable Eligible Equity Investors from the New Equity Offering Initial Cash Consideration, provided that each such Eligible Equity Investor has provided to the Monitor applicable invoices setting out in reasonable detail such professional fees and expenses; and (c) to the Investors, unless waived by the Investors, the Cost Reimbursement Amount, if incurred, from the New Equity Offering Initial Cash Consideration;

(E) the Monitor shall retain the Administrative Expense Reserve in a separate interest bearing account from the New Equity Offering Initial Cash Consideration to be dealt with in accordance with the Subscription Agreement;

(F) the Monitor shall be directed to pay, and shall pay, on behalf of the Applicant, all DIP Obligations accruing up to the Closing Date and the Existing Cargill Margin Facility, each in full and from the New Equity Offering Initial Cash Consideration and upon payment of such amounts all security in respect thereof shall be automatically and fully discharged, released and terminated without any further action;

(h) the Articles of Reorganization shall have been filed; and

(i) the Unanimous Shareholder Agreement shall be effective and any person receiving New Common Shares on the Closing Date will be deemed a party thereto.

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Applicant and the Investors regarding the satisfaction or waiver of conditions to closing under the Subscription Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

8. **THIS COURT ORDERS** that the Monitor file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof in connection with the Transactions.

9. **THIS COURT ORDERS** that upon delivery of a copy of the Monitor's Certificate and a 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 Applicant, the Retained Assets or the Excluded Assets (collectively, the "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of a copy of the Monitor's Certificate and a copy of this Order as though they were originals and to register such transfers and interest authorizations as may be required to give effect to the terms of this Order and the Subscription 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 interest against any of the Retained Assets or Excluded Assets and the Monitor, the Applicant and the Investors are hereby specifically authorized to discharge the registrations on the Retained Assets and the Excluded Assets, as applicable.

10. **THIS COURT ORDERS** that the Subscription Agreement and the Transactions shall constitute a "proposal" and this Order shall constitute a "reorganization", in each case for the purposes of Section 186 of the *Business Corporations Act* (Ontario).

11. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the New Equity Offering Additional Cash Consideration, with the same priority as they had with respect to the Retained Assets immediately prior to Closing, as if the Excluded Contracts and Excluded Liabilities had not been transferred to ResidualCo, and remained liabilities of the Applicant immediately prior to the foregoing transfer.

12. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicant or the Monitor, as the case may be, is authorized, permitted and directed to, at the Effective Time, disclose to the Investors and Other New Equity Investors, as applicable, all human resources and payroll information in the Applicant records pertaining to past and current employees of the Applicant. The Investors and Other New Equity Investors, as applicable, shall maintain and cause the Applicant, after Closing, to maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Applicant prior to Closing.

13. **THIS COURT ORDERS** that, at the Effective Time and without limiting the provisions of paragraph 6 hereof, the Applicant and the Investors shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to, the Applicant, including without limiting the generality of the foregoing all taxes that could be assessed against the Applicant, the Investors or the Other New Equity Investors, as applicable, (including its affiliates and any

predecessor corporations) pursuant to section 160 of the *Income Tax Act* (Canada), or any provincial equivalent, in connection with the Applicant (provided, as it relates to the Applicant, such release shall not apply to (a) Transaction Taxes, or (b) Taxes in respect of the business and operations conducted by the Applicant after the Effective Time).

14. **THIS COURT ORDERS** that except to the extent expressly contemplated by the Subscription Agreement, all Contracts (excluding the Excluded Contracts) to which the Applicant is a party upon delivery of the Monitor's Certificate will be and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

(a) any event that occurred on or prior to the delivery of the Monitor's Certificate and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicant);

(b) the insolvency of the Applicant or the fact that the Applicant sought or obtained relief under the CCAA;

(c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Subscription Agreement, the Transactions or the provisions of this Order, or any other Order of the Court in these proceedings; or

(d) any change of control of the Applicant arising from the implementation of the Subscription Agreement, the Transactions or the provisions of this Order.

15. **THIS COURT ORDERS**, for greater certainty, that: (a) nothing in paragraph 14 hereof shall waive, compromise or discharge any obligations of the Applicant in respect of any Assumed Liabilities, and (b) the designation of any Claim as an Assumed Liability is without prejudice to the Applicant's right to dispute the existence, validity or quantum of any such Assumed Liability, and (c) nothing in this Order, the Subscription Agreement, the Other New Equity Subscription

Agreements, as applicable, or the New Secured Priority Notes Offering Subscription Agreements, as applicable, shall affect or waive the Applicant's rights and defences, both legal and equitable, with respect to any Assumed Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Assumed Liability.

16. **THIS COURT ORDERS** that from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of the Applicant then existing or previously committed by the Applicant, or caused by the Applicant, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Retained Contract, existing between such Person and the Applicant arising directly or indirectly from the filing by the Applicant under the CCAA and the implementation of the Transactions, including without limitation any of the matters or events listed in paragraph 14 hereof, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a Retained Contract shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Applicant, the Investors, the Other New Equity Investors, as applicable, or the investors of New Secured Priority Notes, as applicable, from performing their respective obligations under the Subscription Agreement or be a waiver of defaults by the Applicant under the Subscription Agreement, Other New Equity Subscription Agreements, as applicable, or New Secured Priority Notes Offering Subscription Agreements, as applicable, and the related documents.

17. **THIS COURT ORDERS** that from and after the Effective Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessment, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Applicant or the Retained Assets relating in any way to or in respect of any Excluded Assets, Excluded Contracts, Excluded Liabilities or Claims in respect of any Senior Priority Notes, Senior Secured Notes and the APF (other than those Claims under the APF satisfied as contemplated pursuant to Section 7.2(c) of the Subscription Agreement) and any other claims, obligations and other matters which are waived, released, expunged or discharged pursuant to this Order.

18. **THIS COURT ORDERS** that, from and after the Effective Time:

(a) the nature of the Assumed Liabilities retained by the Applicant, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;

(b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to ResidualCo;

(c) any Person that prior to the completion of all steps in the Closing Sequence had a valid right or claim against the Applicant under or in respect of any Excluded Contract, Excluded Liability, Senior Priority Note, Senior Secured Note and APF (other than those Claims under the APF satisfied as contemplated pursuant to Section 7.2(c) of the Subscription Agreement) (each an "**Excluded Liability Claim**") shall no longer have such right or claim against the Applicant but will have an equivalent Excluded Liability Claim against ResidualCo in respect of the Excluded Contract, Excluded Liability, Senior Priority Note, Senior Secured Note and APF (other than those Claims under the APF satisfied as contemplated pursuant to Section 7.2(c) of the Subscription Agreement) from and after the completion of all steps in the Closing Sequence in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against ResidualCo; and

(d) the Excluded Liability Claim of any Person against ResidualCo following the completion of all steps in the Closing Sequence shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the Applicant prior to the completion of all steps in the Closing Sequence.

19. **THIS COURT ORDERS** that:

(a) upon completion of all steps in the Closing Sequence, the Applicant shall cease to be an applicant in these CCAA Proceedings and the Applicant shall be deemed to be released from the purview of the Initial Order and all other Orders of this Court granted these CCAA Proceedings, save and except for this Order the provisions of which (as they relate to the Applicant) shall continue to apply in all respects;

(b) as of the date of this Order, ResidualCo shall be a company to which the CCAA applies, and ResidualCo shall be added as an applicant in these CCAA

Proceedings and all references in any Order of this Court in respect of these CCAA Proceedings to (i) an "*Applicant*" shall refer to and include ResidualCo, *mutatis mutandis*, (ii) "*Property*", as defined in the Initial Order, shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of ResidualCo (collectively, the "**ResidualCo. Property**"), and, for greater certainty, each of the Charges (as defined in the Initial Order) shall constitute a charge on the ResidualCo. Property.

20. **THIS COURT ORDERS** that for greater certainty, nothing in this Order, including the release of the Applicant from the purview of these CCAA Proceedings pursuant to paragraph 19(a) hereof and the addition of ResidualCo as an applicant in these CCAA Proceedings shall affect, vary, derogate from, limit or amend, and FTI shall continue to have the benefit of, any and all rights and approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, this Order, any other Orders in these CCAA Proceedings or otherwise, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Monitor, all of which are expressly continued and confirmed.

21. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these CCAA Proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of the Applicant or ResidualCo and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Applicant or ResidualCo;

the Subscription Agreement, the implementation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contracts, Excluded Liabilities and all Claims in respect of any Senior Priority Notes, Senior Secured Notes and APF (other than those Claims under the APF satisfied as contemplated pursuant to Section 7.2(c) of the Subscription Agreement) in and to ResidualCo, and the issuance of (i) the New Common Shares to the Investors and the Other New Equity Investors, as applicable, (ii) the New Warrants and the Unsecured Takeback Notes to the Initial Noteholder Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, as applicable, (iii) any payments by the Investors and Other New Equity Investors, as applicable, authorized herein or pursuant to the Subscription

Agreement and Other New Equity Subscription Agreements, as applicable, and (v) the terms of this Order, shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and/or ResidualCo, and shall not be void or voidable by creditors of the Applicant or ResidualCo, as applicable, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

ADMINISTRATIVE EXPENSE RESERVE

22. **THIS COURT ORDERS** that on the Closing Date and in accordance with the Subscription Agreement, the Monitor shall establish the Administrative Expense Reserve by retaining a portion of the New Equity Offering Initial Cash Consideration, in such amount as determined pursuant to the Subscription Agreement, which the Monitor shall be authorized and directed to hold in a segregated interest-bearing account for the benefit of those entitled to be paid under the Administrative Expense Reserve and in accordance with the Subscription Agreement and this Order.

23. **THIS COURT ORDERS** that the Monitor is authorized and directed to pay from the Administrative Expense Reserve, in the name of and on behalf of the Applicant prior to the Closing and on behalf of ResidualCo following the Closing:

(a) the reasonable and documented fees and costs of (i) the professional advisors of the Applicant incurred up to the Closing; and (ii) the Monitor and its professional advisors and the professional advisors of ResidualCo, in each case for services performed prior to and after the Closing Date, in each case, relating directly or indirectly to the CCAA Proceedings or the Subscription Agreement, including without limitation, costs required to wind down and/or dissolve and/or bankrupt ResidualCo and costs and expenses required to administer the Excluded Assets, Excluded Contracts, Excluded Liabilities and ResidualCo;

(b) amounts owing in respect of obligations secured by the CCAA Charges that rank ahead of the DIP Charge and are not paid or assumed on Closing; and

(c) costs related to a premium for a run-off policy or the continuation of the Applicant's existing director and officer liability insurance policy in such amount and form, and

on such terms, as agreed to by the Investors and the Applicant, each acting reasonably.

24. **THIS COURT ORDERS** that any amounts remaining in the Monitor's accounts after payment of all Administrative Expense Costs in accordance with the Subscription Agreement and this Order shall be paid by the Monitor to the Applicant.

RELEASES

25. **THIS COURT ORDERS** that effective upon the delivery of the Monitor's Certificate to the Applicant and the Investors, (i) the Applicant and ResidualCo and their respective present and former directors, officers, employees, legal counsel and advisors, (ii) the Monitor and its legal counsel, and their respective present and former directors, officers, partners, employees and advisors, (iii) the Trustee and their respective present and former directors, officers, partners, employees and advisors, and (iv) the Investors, their affiliates and their respective present and former directors, officers, employees, legal counsel and advisors, (the Persons listed in (i), (ii), (iii) and (iv) being collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future claims whatsoever (including, without limitation, claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, offer, investment proposal, dealing, or other fact, matter, occurrence or thing existing or taking place prior to the delivery of the Monitor's Certificate, or undertaken or completed in connection with or pursuant to the terms of this Order or these CCAA Proceedings, or arising in connection with or relating to the Subscription Agreement, the closing documents, the Applicant's assets, business or affairs, prior dealings with the Applicant, or any agreement, document, instrument, matter or transaction involving the Applicant arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions (collectively, the "**Released Claims**"), which Released Claims are hereby fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, provided that nothing in this paragraph shall waive, discharge, release, cancel or bar any claim for fraud or wilful misconduct, any claim against ResidualCo in respect of the Investors' Senior Secured Notes

and/or Senior Priority Notes, or any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA.

THE MONITOR

26. **THIS COURT ORDERS** that the Monitor, its employees and representatives shall not be deemed directors of ResidualCo, *de facto* or otherwise, and shall incur no liability as a result of acting in accordance with this Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of the Monitor.

27. **THIS COURT ORDERS** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court following a motion brought on not less than fifteen (15) days' notice to the Monitor and its legal counsel. The entities related or affiliated with the Monitor or belonging to the same group as the Monitor (including, without limitation, any agents, employees, legal counsel or other advisors retained or employed by the Monitor) shall benefit from the protection granted to the Monitor under the present paragraph.

28. **THIS COURT ORDERS** that the Monitor shall not, as a result of this Order or any matter contemplated hereby: (i) be deemed to have taken part in the management or supervision of the management of the Applicant or ResidualCo, or to have taken or maintained possession or control of the business or property of any of the Applicant or ResidualCo, or any part thereof; or (ii) be deemed to be in Possession (as defined in the Initial Order) of any property of the Applicant or ResidualCo within the meaning of any applicable Environmental Legislation (as defined in the Initial Order) or otherwise.

29. **THIS COURT ORDERS** that, within ten (10) days of the Closing Date, the Monitor shall release the KERP Funds (as defined by the Initial Order) to the Applicant and the Applicant is authorized and directed to pay the KERP Funds, net of applicable withholdings and remittances payable, to the Key Employees (as defined by the Initial Order) which are entitled to receive such KERP Funds under the KERP (as defined by the Initial Order), as may be reallocated pursuant to the Order granted by this Court on July 5, 2024.

30. **THIS COURT ORDERS** that nothing in this Order shall affect, vary, derogate from, limit or amend any rights, approvals and protections afforded to the Monitor in these CCAA Proceedings and FTI shall continue to have the benefit of any and all rights and approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, and any other Orders in

these CCAA Proceedings or otherwise, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Monitor, all of which are expressly continued and confirmed.

GENERAL

31. **THIS COURT ORDERS** that, following the Effective Time, the Investors and the Applicant shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances as against the Applicant, the New Common Shares, Secured Priority Notes (as applicable), New Warrants, Unsecured Takeback Notes and the Retained Assets.

32. **THIS COURT ORDERS** that, following the Effective Time, the title of these proceedings is hereby changed to:

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 [●]

33. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date that it is made and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need to be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court.

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

35. **THIS COURT ORDERS** that the Applicant shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States or elsewhere, for orders which aid and complement this Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and the Monitor as may be deemed necessary or appropriate for that purpose.

36. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby

respectfully requested to make such orders and to provide such assistance to the Applicant and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order.

37. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof, provided that the transaction steps set out in paragraph 6 hereof shall be deemed to have occurred sequentially, one after the other, in the order set out in paragraph 6 hereof.

SCHEDULE "A" – INVESTORS

1. Millstreet Capital Management LLC, as investment manager on behalf of multiple noteholders

2. OSP, LLC (on behalf of certain managed funds).

3. Cargill, Incorporated

SCHEDULE "B" – FORM OF MONITOR'S CERTIFICATE

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Initial Order of the Ontario Superior Court of Justice (the "**Court**") dated October 10, 2023 (the "**Initial Order**"), Tacora Resources Inc. (the "**Applicant**") was granted creditor-protection pursuant to the *Companies' Creditors Arrangement Act* R.S.C. 1985, c. C-36, as amended (the "**CCAA**") and FTI Consulting Canada Inc. was appointed as court-appointed monitor of the Applicant.

B. Pursuant to an Order of the Court dated July 26, 2024 (the "**Approval and Reverse Vesting Order**"), the Court, *inter alia*, (i) approved the Subscription Agreement and the Transactions, (ii) vested out of the Applicant all Excluded Assets, Excluded Contracts, Excluded Liabilities and all Claims in respect of any Senior Priority Notes, Senior Secured Notes and the APF (other than those satisfied as contemplated pursuant to Section 7.2(c) of the Subscription Agreement) and discharged all Encumbrances against the Applicant, the New Common Shares, New Secured Priority Notes (as applicable), New Warrants**,** Unsecured Takeback Notes and the Retained Assets, except only the Permitted Encumbrances; (iii) authorized and directed the Applicant to file the Articles of Reorganization; (iv) terminated and cancelled all Existing Equity (other than the Existing Common Shares which were cancelled with the Articles of Reorganization), as well as any Equity Documents for no consideration; (v) authorized and directed the Applicant to issue the (A) Subscribed Shares to the Investors and Other New Equity Investors, as applicable (or as any such Investor or Other New Equity Investor, as applicable, may direct, subject to the terms of the Subscription Agreement); (B) the New Warrants and Unsecured Takeback Notes to the Initial Noteholder Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, as applicable, and vested in the Initial Noteholder

Investors and the Other New Equity Investors that are, in each case, Existing Noteholders, as applicable, (or as any such Existing Noteholder or Other New Equity Investor, as applicable, may direct, subject to the terms of the Subscription Agreement) all right, title and interest in and to the New Common Shares, New Secured Priority Notes (as applicable), New Warrants and Unsecured Takeback Notes, free and clear of any Encumbrances.

C. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Approval and Reverse Vesting Order.

THE MONITOR CERTIFIES that:

1. The Monitor has received the entire Cash Consideration;

2. The Monitor has received written confirmation from each of the Investors and the Applicant, in form and substance satisfactory to the Monitor, that all conditions to closing under the Subscription Agreement have been satisfied or waived by the Investors or the Applicant, as applicable; and

3. This Certificate was delivered by the Monitor at _____ **[TIME]** on _____ **[DATE]**.

FTI Consulting Canada Inc., in its capacity as Monitor of Tacora Resources Inc., and not in its personal capacity

Per: _____
Name:
Title:

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

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

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

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

ORDER
(APPROVAL AND REVERSE VESTING ORDER)

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Lawyers for the Applicant

TAB 5

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM	)	FRIDAY, THE 26TH
	)	
JUSTICE KIMMEL	)	DAY OF JULY, 2024

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

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

(Applicant)

ORDER
(STAY EXTENSION, DIP, AND FEES APPROVAL)

THIS MOTION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order: (a) extending the stay of proceedings; (b) approving the Monitor's Reports (as defined below) of FTI Consulting Canada Inc., in its capacity as the Monitor of the Applicant (in such capacity, the "**Monitor**") and the activities of the Monitor described therein; (c) approving the fees and disbursements of the Monitor, as described in the Affidavit of **[●]**, sworn July **[●]**, 2024 (the "**[●] Affidavit**") and the fees and disbursements of the Monitor's counsel, Cassels Brock & Blackwell LLP ("**Cassels**") as described in the Affidavit of **[●]**, sworn July **[●]**, 2024 (the "**[●] Affidavit**", and together with the **[●]** Affidavit, the "**Fee Affidavits**"); and (d) approving the Third Amended and Restated DIP Facility Term Sheet dated July 12, 2024, between Tacora and Cargill, Incorporated (the "**Third A&R DIP Agreement**"), was heard this day at 330 University Avenue, Toronto.

ON READING the Motion Record of the Applicant dated July 21, 2024, the Affidavit of Heng Vuong sworn July 21, 2024 (the "**Vuong Affidavit**"), the Eleventh Report of the Monitor dated July **[●]**, the Fee Affidavits, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for the Investors (as defined below), and such other counsel and parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Philip Yang, filed,

SERVICE AND DEFINITIONS

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

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

EXTENSION OF STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period is extended to and including October 7, 2024 or such later date as this Court may order.

APPROVAL OF THE MONITOR'S REPORTS, ACTIVITIES AND FEES

4. **THIS COURT ORDERS AND DECLARES** that the Monitor's Reports and the activities of the Monitor referred to therein are hereby ratified and approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own liability, shall be entitled to rely upon or utilize in any way such approvals.

5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor for the period from **[●]**, 2023, to **[●]**, 2024, as set in the **[●]** Affidavit, are hereby approved.

6. **THIS COURT ORDERS** that the fees and disbursements of Cassels for the period from **[●]**, 2023, to **[●]**, 2024, as set in the **[●]** Affidavit, are hereby approved.

DIP AGREEMENT

7. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to enter into the Third A&R DIP Agreement.

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

> "36. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the "**DIP Facility**") under the DIP Loan Agreement dated October 9, 2023 (as amended and restated by the Amended and Restated Interim DIP Facility Term Sheet dated March 18, 2024, the Second Amended and Restated DIP Facility Term Sheet dated April 21, 2024, and the Third Amended and Restated DIP Facility Term Sheet dated July 12, 2024, the "**DIP Agreement**") entered into with Cargill, Incorporated (in such capacity, the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of US$160 million and Post-Filing Margin Advances (as defined in the DIP Agreement) shall not exceed the principal amount of US$20 million, other than in accordance with the terms of the DIP Agreement (including pursuant to Section 4 of the DIP Agreement) or as permitted by further Order of this Court."

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

10. **THIS COURT ORDERS** that the Applicant is authorized to enter into Post-Filing Hedging Arrangements (as defined by the Third A&R DIP Agreement) from time-to-time the obligations under which shall be secured by and have the benefit of the DIP Charge with the same priority as the DIP Obligations.

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

GENERAL

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

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

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

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

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

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ORDER
(STAY EXTENSION, DIP, AND FEES APPROVAL ORDER)

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MOTION RECORD OF THE APPLICANT (APPROVAL AND REVERSE VESTING ORDER AND STAY EXTENSION, DIP AND FEES APPROVAL ORDER)

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