

AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (this “**Agreement**”) is made and entered into as of this 1st day of March, 2012, between BECANCOUR SILICON INC., a corporation subject to the *Business Corporations Act* (Québec) (“**BSI**”), TIMMINCO LIMITED, a corporation incorporated under the *Canada Business Corporations Act* (“**Timminco**” and together with BSI, the “**Vendors**”), QSI PARTNERS LTD., a corporation incorporated under the laws of the Cayman Islands (the “**Purchaser**”) and GLOBE SPECIALTY METALS, INC., a corporation incorporated under the laws of Delaware (the “**Guarantor**”).

RECITALS:

- (A) Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 3, 2012 (as amended and as may be further amended or restated from time to time, the “**Initial Order**”), the Vendors are subject to proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”);
- (B) The Vendors desire to sell certain of their assets and the Purchaser has agreed (i) to act as a “stalking horse bidder” in connection therewith and (ii) in the absence of the Vendors’ acceptance of a superior proposal to the Transaction in accordance with the Bidding Procedures, to purchase certain assets of the Vendors, subject to the terms and conditions set forth in this Agreement and in accordance with section 36 and other provisions of the CCAA and the Bidding Procedures Order; and
- (C) The Vendors will obtain the Bidding Procedures Order to authorize the Vendors to enter into this Agreement and authorize the sales process with respect to the Purchased Assets pursuant to the Bidding Procedures.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Vendors, the Purchaser and the Guarantor agree as follows:

SECTION 1 INTERPRETATION

1.1 Definitions

In this Agreement:

- (a) “**April 30 Draft Statement of QSLP Working Capital**” has the meaning set forth in Section 3.9(a);
- (b) “**April 30 Statement of QSLP Working Capital**” has the meaning set forth in Section 3.9(d) or 3.9(e), as applicable;
- (c) “**Affiliate**” has the meaning ascribed to that term under National Instrument 45-106 - Prospectus and Registration Exemptions of the Canadian Securities Administrators;

- (d) **“Agreement”** has the meaning set out in the recitals hereto;
- (e) **“Applicable Law”** means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event;
- (f) **“Approval and Vesting Order”** means an order by the Court approving this Agreement, authorizing the Transaction and vesting in the Purchaser all the right, title and interest of the Vendors in and to the Purchased Assets free and clear of all Encumbrances, other than Permitted Encumbrances, in form and substance acceptable to the Parties, acting reasonably;
- (g) **“Assignment and Assumption Agreement”** means an agreement to be entered into between the Purchaser and the Vendors to be effective as of the Closing Time wherein the Vendors shall assign the Contracts to the Purchaser and the Purchaser shall thereafter assume the Assumed Obligations;
- (h) **“Assignment Order”** means an order or orders of the Court pursuant to Section 11.3 and other applicable provisions of the CCAA, in form and substance satisfactory to the Purchaser, acting reasonably, authorizing and approving (i) the assignment of any Contract for which a Consent and Approval has not been obtained (including the DCC Consent) and preventing any counterparty to the Contract from exercising any right or remedy under the Contract by reason of any defaults arising from the CCAA Proceedings or the insolvency of the Vendors and (ii) where no DCC Consent has been obtained, the vesting in the Purchaser of all right, title and interest of BSI in and to the QSLP Equity free and clear of any rights of DCC arising under any QSLP Contract in connection with the transfer of the QSLP Equity contemplated hereunder;
- (i) **“Assumed Obligations”** has the meaning set out in Section 2.4;
- (j) **“Back-Up Bid”** has the meaning set out in the Bidding Procedures;
- (k) **“Benefit Plans”** means all oral or written plans, arrangements, agreements, programs, policies, practices or undertakings of each Vendor with respect to some or all of the Employees and which provide for or relate to:
 - (i) bonus, profit sharing or deferred profit sharing, performance compensation, deferred or incentive compensation, supplemental retirement arrangements, share compensation, share purchase or share option, share appreciation rights, phantom stock, vacation or

vacation pay, sick pay, employee loans, or any other compensation in addition to salary; or

- (ii) insured or self-insured benefits for or relating to income continuation or other benefits during absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident, death or survivor's benefits, supplementary employment insurance, day care, tuition or professional commitments or expenses and perquisites or similar employment benefits;
- (l) "**Bidding Procedures**" means the bidding procedures substantially in the form attached hereto as Schedule "D" or such other form as the Vendors and the Purchaser may agree;
- (m) "**Bidding Procedures Order**" has the meaning set out in Section 7.1;
- (n) "**Books and Records**" means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including tax and accounting books and records, used or intended for use by, and in the possession of, either Vendors, in connection with the ownership, or operation of the Purchased Assets, including the Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, credit records, records relating to suppliers and other data, in each case, relating to the Purchased Assets;
- (o) "**BSI Owned Property**" means the real property referred to under the heading "**Owned Property**" in Schedule "B";
- (p) "**BSI Working Capital**" means the Silicon Metals Accounts Receivable, the Solar Accounts Receivable, inventory and prepaid expenses of BSI set out in Schedule "L";
- (q) "**Business Day**" means a day on which banks are open for business in Toronto, Montreal and New York but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario, or the Province of Québec or the State of New York;
- (r) "**C\$**" and "**\$**" means the lawful currency of Canada;
- (s) "**CCAA**" has the meaning set out in the recitals hereto;
- (t) "**CCAA Proceedings**" has the meaning set out in the recitals hereto;

- (u) **"Claims"** means any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person;
- (v) **"Closing"** means the successful completion of the Transaction;
- (w) **"Closing Cash Payment"** has the meaning set out in Section 3.2;
- (x) **"Closing Cash Purchase Price"** has the meaning set out in Section 3.2;
- (y) **"Closing Date"** means the fifth (5th) Business Day following the date on which the Approval and Vesting Order is granted or such other date as agreed to in writing by the Parties;
- (z) **"Closing Date Draft Statement of QSLP Working Capital"** has the meaning set out in Section 3.10(a);
- (aa) **"Closing Date Statement of QSLP Working Capital"** has the meaning set out in Sections 3.10(d) and 3.10(e);
- (bb) **"Closing Time"** means 2:00 p.m. (Toronto time) on the Closing Date;
- (cc) **"Collective Agreements"** means all collective bargaining or similar agreements with any type of Employee representative applying or relating to any Employee of either of the Vendors, including the Convention Collective de Travail between BSI, QSLP and La Section Locale 184 du Syndicat Canadien des Communications, de l'Énergie et du Papier dated February 28, 2011 relating to BSI's hourly employees;
- (dd) **"Competition Act"** means the *Competition Act* (Canada) as amended, and includes the regulations promulgated thereunder;
- (ee) **"Consents and Approvals"** means the consents, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) as may be required to complete the Transaction, in form and substance (including without limitation the quantum of the Consent Costs) satisfactory to the Purchaser, acting reasonably, as set forth in Schedule "K", as such Schedule may be amended by the Purchaser and delivered to the Vendors on or before the Phase I Bidding Deadline, and which are effective as of the Closing Time;
- (ff) **"Consent Cost"** has the meaning set out in Section 1.1(ii), for greater certainty and without limitation, Consent Costs do not include any amounts owing to or incurred by the Monitor or its or the Vendors' advisors;

- (gg) "Contracts" means all of the contracts and other written agreements to which the Vendors or either one of them are parties constituting part of the Purchased Assets;
- (hh) "Court" has the meaning set forth in the recitals hereto;
- (ii) "Cure Costs" means amounts that must be paid, if any, in connection with the assignment and assumption of the Purchased Assets, including costs to cure any monetary defaults thereunder that are required to be cured as a condition of such assignment, subject to the CCAA as applicable, together with such other reasonable costs required to obtain any Consent and Approval (such reasonable costs required to obtain any Consent and Approval, the "Consent Cost");
- (jj) "DCC" means Dow Corning Canada, Inc.;
- (kk) "DCC Consent" means the consent to the transfer to the Purchaser (or its permitted assigns in accordance with Section 9.11) of the QSLP Equity hereunder and waiver by DCC (and any of its applicable Affiliates) of any and all rights it has or will become entitled to under any QSLP Contract due to (i) the transfer of the QSLP Equity hereunder, or (ii) the Vendors' insolvency or CCAA Proceedings, such consent and waiver to be in form and substance satisfactory to the Purchaser, acting reasonably;
- (ll) "Deposit" has the meaning set forth in Section 3.3;
- (mm) "DIP Amendment" means the amendment dated the date hereof to the DIP agreement dated January 18, 2012 between the Vendors and the DIP Lender pursuant to which the parties thereto agree, *inter alia*, that if either (i) the Closing takes place, or (ii) the Closing does not occur solely as a result of the failure by the Purchaser to perform any of its obligations hereunder, then the outstanding DIP Obligations (as defined therein) owing by the Vendors under the DIP Facility and the obligation of the Monitor to return the remaining balance, if any, of the Maximum Amount (as defined therein) (and interest earned thereon) to the Purchaser on the Maturity Date (as defined therein) shall be reduced by an aggregate amount equal to the Deposit;
- (nn) "DIP Facility" means the super-priority credit facility provided to the Vendors by the Purchaser pursuant to the DIP agreement dated January 18, 2012 between the Vendors and the DIP Lender (as may be amended), and approved by the DIP Order;
- (oo) "DIP Lender" means QSI Partners Ltd., in its capacity as lender under the DIP Facility;
- (pp) "DIP Lender's Charge" has the meaning set out in the DIP Order;

- (qq) “**DIP Order**” means the Order of the Court dated February 8, 2012, authorizing the DIP Facility, as amended from time to time;
- (rr) “**Disclosure Letter**” means the disclosure letter executed by the Vendors and delivered to the Purchaser prior to the execution of this Agreement;
- (ss) “**Draft Statement of BSI Working Capital**” has the meaning set forth in Section 3.6(a);
- (tt) “**Employee**” means an individual who is employed by either Vendor, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long term disability leave;
- (uu) “**Encumbrances**” means any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, adverse claim or right of a third party of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease);
- (vv) “**Estimated BSI Working Capital Statement**” means the forecasted working capital balances set forth in Schedule “L”;
- (ww) “**Excise Tax Act**” means the *Excise Tax Act* (Canada), as amended;
- (xx) “**Excluded Assets**” means any and all properties, rights, assets and undertakings of the Vendors that do not constitute the Purchased Assets;
- (yy) “**Excluded Equipment**” means any equipment or machinery and any parts and components thereof, that are Excluded Assets;
- (zz) “**Expense Reimbursement**” has the meaning set forth in Section 7.2;
- (aaa) “**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation;
- (bbb) “**Guaranteed Obligations**” has the meaning set forth in Section 8.1(a);
- (ccc) “**HP2 Severance Transaction Documents**” means, collectively, (i) a deed of servitude by which QSGP shall establish by destination of proprietor, mutual and reciprocal real servitudes against and in favour of the

property located at 6400 Yvon-Trudeau, Bécancour, Quebec (the “**HP2 Property**”) and the property located at 6500 Yvon-Trudeau, Bécancour, Quebec (the “**Facility**”), in order to address operational, maintenance, cost sharing, access and other related matters between the Facility and the HP2 Property, including servitudes for illegal views, optical fibres, internet, telephone lines and systems, parking, access to Yvon-Trudeau Street, passage, locker room, security, shared equipment, water, sewer, natural gas, electricity, fire safety systems and equipment, spur lines, shipping and receiving doors and/or compressed air; (ii) a lease agreement between BSI as lessor and QSGP, acting as general partner of QSLP, as lessee, concerning the lease to QSLP of dust collector No. 21 located on the HP2 Property and the related duct connecting Furnaces No. 2 located on the Facility; (iii) a deed of sale under which QSGP, the registered owner of the HP2 Property, shall transfer legal title to the HP2 Property to BSI, its current beneficial owner; and (iv) following the registration in the land register of the deeds referred to in above paragraphs (i) and (iii), a termination agreement of the nominee agreement concerning the HP2 Property entered into on September 30, 2010 between BSI, as owner, and QSGP, as nominee; in each case, in substantially the form provided by BSI to the Purchaser under cover of letter of even date herewith or such other form agreed between the Vendors and the Purchaser, acting reasonably.

- (ddd) “**IFRS**” means the International Financial Reporting Standards, namely the standards, interpretations and the framework for the preparation and presentation of financial statements (in the absence of a standard or an interpretation) adopted by the International Accounting Standards Board(IASB), consistently applied;
- (eee) “**Income Tax Act**” means the *Income Tax Act* (Canada), as amended;
- (fff) “**Initial Order**” has the meaning set out in the recitals hereto;
- (ggg) “**Intellectual Property**” means, any interest in any and all intellectual and industrial property of any kind in any jurisdiction throughout the world, including: (i) all software, computer programs, layouts, interfaces, templates, applications and tools, and code of all types, including object and source code, and including ephemeral aspects, “look and feel”, graphic design and user interface design (“**Software**”); (ii) all information and data, databases, database layouts and data structures (whether or not subject to copyright protection) (“**Databases**”); (iii) all literary, graphical, pictorial, artistic, audio-visual and other works, including webpages and webpage designs, templates, scripts, and similar material, and all compilations of any of the foregoing (collectively, together with Software and Databases, “**Works**”); (iv) all trade-marks, trade names, service marks, trade dress, logos and other marks and associated goodwill (“**Marks**”); (v)all domain names, patents, inventions, discoveries, arts, systems, methods, processes, machines, manufactures, developments and

improvements (“**Inventions**”); (vi) all industrial designs; all formulae, confidential information, proprietary information, trade secrets and know how (“**Know-How**”); and (vii) any other works or other subject-matter that is subject to intellectual or industrial property protection under the laws of any jurisdiction throughout the world; in all cases of the foregoing whether or not registrable, registered or the subject of applications for registration, including Intellectual Property Rights;

- (hhh) “**Intellectual Property Rights**” means: (i) any and all statutory, common law or other intellectual and industrial property rights and interests of any kind or nature in and to Intellectual Property, including all copyrights and other rights in and to Works, moral rights and benefits in all waivers of moral rights, patents, patent rights and other rights in and to Inventions, rights to Marks, rights and benefits in and to domain name registrations, industrial design and design patent rights, trade secret rights and other rights in and to Know-How, (ii) all registrations, pending applications for registration, and rights to file applications, and rights of priority, renewal, extensions, divisionals, continuations (in whole or in part) or other derivative applications and registrations, for any of the foregoing; (iii) all licenses or other contractual rights in and to any of the foregoing (including third party software licenses) and all licenses granted in respect of any of the foregoing Intellectual Property, rights and interests; (iv) all future income and proceeds from any of the foregoing Intellectual Property, rights, interests or licenses; and (v) all rights of enforcement and to obtain remedies, including to damages and profits, by reason of past, present or future infringement of any of the foregoing Intellectual Property, rights, interests or licenses;
- (iii) “**Investment Canada Act**” means *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.), as amended;
- (jjj) “**Litigation Claims**” means, collectively, (i) any and all rights of actions or claims whatsoever of either Vendor against third parties arising by reason of any facts or circumstances that occurred or existed before the Closing but excluding any such rights of actions or claims of either Vendor against counterparties to any Contract, and (ii) all amounts owing or received in respect of any such rights of actions or claims;
- (kkk) “**Material Adverse Change**” means any one or more changes, effects, events or occurrences that, individually or in the aggregate:
- (i) is, or would reasonably be expected to be, material and adverse to the business, properties, assets, liabilities (contingent or otherwise), condition (financial or otherwise), capitalization, operations or results of operations of QSLP and the Purchased Assets, taken as a whole; or

(ii) prevents or materially delays or would reasonably be expected to prevent or materially delay the Vendors from consummating the Transaction;

other than, in the case of clause (a) or (b), any change, effect, event or occurrence (i) in or relating to the CCAA Proceedings, (ii) in or relating to general political, economic or financial conditions in Canada, or (iii) in or relating to the industry involving the mining, processing and sale of silicon, in general, and which in the case of paragraph (i), (ii) and (iii) does not have a materially disproportionate effect on QSLP and the Purchased Assets, taken as a whole;

(lll) "**Monitor**" means FTI Consulting Canada Inc. in its capacity as Monitor of the Vendors in the CCAA Proceedings;

(mmm) "**Monitor's Certificate**" means the certificate filed with the Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Monitor has received the Closing Cash Purchase Price;

(nnn) "**Ordinary Course of Business**" means the ordinary course of business of the Vendors with respect to the Purchased Assets consistent with the conduct of such business on the date hereof and consistent with the Orders of the Court in the CCAA Proceedings;

(ooo) "**Output and Supply Agreement**" means the output and supply agreement among QSLP, BSI and DCC dated October 1, 2010, as amended;

(ppp) "**Parties**" means, collectively, the Purchaser, the Guarantor and each of the Vendors, and "**Party**" means any one of them;

(qqq) "**Pension Plans**" means any registered or unregistered pension plans of or sponsored by the Vendors, including the following: (i) the Retirement Pension Plan for the Hourly Employees of Timminco Metals, a Division of Timminco, at the Haley Plant (Ontario Registration Number 0589648), (ii) the Régime de Rentes pour les Employés Non Syndiqués de Silicium Bécancour Inc. (Québec Registration Number 26042), (iii) the Régime de Rentes pour les Employés Syndiqués de Silicium Bécancour Inc. (Québec Registration Number 32063) and (iv) the Pension Plan for the Timminco Salaried Employees (Ontario Registration Number 1039312);

(rrr) "**Permitted Encumbrances**" means only those Encumbrances related to the Purchased Assets listed on Schedule "E" hereto, which the Purchaser, in connection with the Approval and Vesting Order, shall be entitled to seek to further limit or narrow; provided that, any refusal by the Court to grant the Approval and Vesting Order in respect of any such further limited or narrowed list of Permitted Encumbrances shall not constitute a

failure to satisfy the condition in Section 5.3(c) hereof so long as the Court grants the Approval and Vesting Order in respect of the Permitted Encumbrances listed on Schedule "E" hereto;

- (sss) "Person" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, governmental authority or other entity however designated or constituted;
- (ttt) "Personal Information" means information about an identifiable individual as defined in Privacy Law;
- (uuu) "Phase I Bidding Deadline" has the meaning set forth in the Bidding Procedures;
- (vvv) "Post-Filing Costs" means any amounts owing or incurred and not paid under the Contracts arising from and after the commencement of the CCAA Proceedings to but excluding the Closing Date that are permitted to be paid pursuant to the Initial Order;
- (www) "Post-Retirement Liabilities" mean: (i) with respect to Employees whose employment is governed by a Collective Agreement and retirees, all liabilities and obligations for the post-retirement benefits provided under the Collective Agreements; and (ii) with respect to non-unionized Employees, all liabilities and obligations for the post-retirement benefits provided under the Benefit Plans, as applicable;
- (xxx) "Privacy Law" means the *Personal Information Protection and Electronic Documents Act* (Canada) and if and to the extent applicable *An Act Respecting the Protection of Personal Information in the Private Sector* (Québec), and any comparable Applicable Law of any other jurisdiction related or applicable to the Transferred Employees and the Unionized Employees transferred from the Vendors to the Purchaser pursuant to this Agreement;
- (yyy) "Purchase Price" has the meaning set out in Section 3.1;
- (zzz) "Purchased Assets" means, collectively, the Purchased Silicon Metal Assets, and the Purchased Solar Grade Silicon Assets;
- (aaaa) "Purchased Silicon Metal Assets" means all of BSI's right, title and interest, in and to those assets and rights set forth in Schedule "A" including the following: the QSLP Equity, the QSLP Contracts, the Silicon Metal Contracts and the ancillary assets and other property set forth in Schedule "A";

- (bbbb) **"Purchased Solar Grade Silicon Assets"** means all of BSI's right, title and interest, in and to all of the tangible and intangible assets, properties, rights and Claims, wherever located, used, intended for use or arising in connection with BSI's currently inactive business of producing solar grade silicon through a division of BSI, Timminco Solar, but only to the extent set forth in Schedule "B", including the Solar Grade Silicon Contracts, Solar Equipment and the Solar Intellectual Property;
- (cccc) **"QSGP"** means Québec Silicon General Partner Inc., a corporation formed under the laws of Québec, and its successors and assigns;
- (dddd) **"QSLP"** means Québec Silicon Limited Partnership, a limited partnership formed under the laws of Québec, and its successors and assigns;
- (eeee) **"QSLP Contracts"** means the Contracts relating to the formation, transfer of assets into, and governance of, QSLP set forth in Schedule "F";
- (ffff) **"QSLP Current Assets"** means, at any date, all current assets of QSLP, determined on a consolidated basis as of such date in accordance with IFRS, plus the aggregate amount of capital expenditures or other expenditures made from the date of this Agreement to such date on account of loss or damage to assets of QSLP or interruption of business of QSLP but only to the extent such amounts are recoverable under insurance policies of QSLP but not yet received by QSLP, and provided however that any such add back of any such capital expenditures or other expenditures will (i) be subject to providing the Purchaser with evidence satisfactory to it, acting reasonably, that such loss or damage is insured and such amounts will be recovered under such insurance policies and (ii) will not be included if the insurance proceeds are otherwise included as a current asset under IFRS;
- (gggg) **"QSLP Current Liabilities"** means, at any time, all current liabilities of QSLP, determined on a consolidated basis as of such time in accordance with IFRS;
- (hhhh) **"QSLP Equity"** means, collectively, 51,000 units in the capital of QSLP and 51 Class A Shares in the capital of QSGP, in each case, registered in the name of BSI;
- (iiii) **"QSLP Mineral Rights"** means the Mining Lease BM674 issued by the Ministry of Natural Resources and Wildlife to BSI (then called Électro-métallurgie S.K.W. Canada ltée) on January 13, 1976, as renewed, extended and amended;
- (jjjj) **"QSLP Real Property"** means the real property municipally known as 6500 Yvon-Trudeau Street, Bécancour Québec,, known and designated as being lot number 4 702 498 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2);

- (kkkk) **"QSLP Working Capital"** means as at any date the amount of the QSLP Current Assets minus the QSLP Current Liabilities in each case as of such date;
- (llll) **"Qualified Bid"** has the meaning set out in the Bidding Procedures;
- (mmmm) **"Representative"** means, in respect of a Party, each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates;
- (nnnn) **"Sales Tax"** means all taxes, interest, penalties and fines imposed under Part IX of the *Excise Tax Act* and *An Act Respecting the Québec Sales Tax* (Québec) and the regulations made thereunder and **"Sales Tax Legislation"** means all such acts and regulations;
- (oooo) **"Sample QSLP Working Capital Statement"** means the sample QSLP working capital statement provided by BSI to the Purchaser under cover of letter of even date herewith;
- (pppp) **"Shortfall"** means that certain amount of silicon metal to be sold by QSLP to DCC on a monthly basis from January 1, 2011 to December 31, 2012, in order to replace that certain amount of silicon metal that was part of the QSLP production allocation that DCC was entitled to receive but was instead sold to by QSLP to BSI pursuant to Section 2.2(b) of the Output and Supply Agreement;
- (qqqq) **"Silicon Metal Accounts Receivable"** means all accounts receivable (net of doubtful accounts) owing to BSI in respect of the silicon metals business of BSI except for (i) any tax refunds or credits or (ii) any Litigation Claims;
- (rrrr) **"Silicon Metal Contracts"** means the Contracts relating solely to the Purchased Silicon Metal Assets set forth in Schedule "G";
- (ssss) **"Solar Accounts Receivable"** means all accounts receivable (net of doubtful accounts) owing to BSI in respect of the Timminco Solar division of BSI except for (i) any tax refunds or credits or (ii) any Litigation Claims;
- (tttt) **"Solar Equipment"** means the machinery, equipment, supplies and accessories, and any of the parts and components thereof, relating to the Purchased Solar Grade Silicon Assets set forth in Schedule "H";
- (uuuu) **"Solar Grade Silicon Contracts"** means the Contracts relating solely to the Purchased Solar Grade Silicon Assets set forth in Schedule "J";
- (vvvv) **"Solar Intellectual Property"** means the Intellectual Property and Intellectual Property Rights of BSI relating to Purchased Solar Grade

Silicon Assets including the Intellectual Property set forth under the heading "Solar Intellectual Property" in Schedule "B";

- (wwww) "**Specific Conveyances**" means all conveyances, deeds of transfer, share transfers, bills of sale, assignments and transfers that are reasonably required to transfer the Purchased Assets to the Purchaser in customary form consistent with Section 2.2;
- (xxxx) "**Stalking Horse Bid**" has the meaning set out in Section 7.1;
- (yyyy) "**Statement of BSI Working Capital**" has the meaning set forth in Section 3.6(d) or 3.6(e), as applicable;
- (zzzz) "**Successful Bid**" has the meaning set out in the Bidding Procedures;
- (aaaa) "**Successful Bidder**" has the meaning set out in the Bidding Procedures;
- (bbbb) "**Termination Date**" means June 20, 2012 or, in the event the Agreement is the Back Up Bid, July 20, 2012.
- (cccc) "**Threshold Amount**" has the meaning set out in Section 5.1(f);
- (dddd) "**Transaction**" means the transaction of purchase and sale contemplated by this Agreement;
- (eeee) "**Transfer Taxes**" means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including Sales Tax but excluding any taxes imposed or payable under the Income Tax Act and any other applicable income tax legislation;
- (ffff) "**Vendors**" has the meaning set out in the recitals hereto.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression "Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement.

1.3 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

1.4 Schedules

The following Schedules are incorporated in and form part of this Agreement:

Schedule "A"	-	Purchased Silicon Metal Assets
Schedule "B"	-	Purchased Solar Grade Silicon Assets
Schedule "C"	-	Intentionally Deleted
Schedule "D"	-	Bidding Procedures Order
Schedule "E"	-	Permitted Encumbrances
Schedule "F"	-	QSLP Contracts
Schedule "G"	-	Silicon Metal Contracts
Schedule "H"	-	Solar Equipment
Schedule "I"	--	Monthly Reimbursement
Schedule "J"	-	Solar Grade Silicon Contracts
Schedule "K"	-	Consents and Approvals
Schedule "L"	-	Estimated BSI Working Capital Statement

SECTION 2 SALE AND PURCHASE AND ASSIGNMENT

2.1 Sale and Purchase of Assets

Subject to the terms and conditions hereof, at the Closing Time, the Vendors hereby agree to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Vendors, all of the Vendors' right, title and interest in and to the Purchased Assets free and clear of all Encumbrances other than Permitted Encumbrances. At any time prior to the Phase I Bidding Deadline and thereafter with the consent of the Vendors, Purchaser may remove any property, asset, right or Contract as a Purchased Asset, upon notification to the Vendors in writing together with the applicable amended Schedule reflecting such removal; provided, however, that there shall be no reduction in the Purchase Price as a result of such removal.

2.2 Assignment of Purchased Assets

Subject to the conditions and terms hereof, at the Closing Time, the Vendors shall assign to the Purchaser all of the Vendors' rights, benefits and interests in and to the Contracts and the Purchaser shall assume the obligations and liabilities of the Vendors under the Contracts at the Closing Time (including Cure Costs but excluding Post-Filing Costs). Notwithstanding the foregoing, this Agreement and any document delivered under this Agreement shall not constitute an assignment or an attempted assignment of any Purchased Asset contemplated to be assigned to the Purchaser under this Agreement that is

not assignable without the Consent and Approval of a third party unless (i) such Consent and Approval has been obtained or (ii) the assignment has been ordered by the Court.

Prior to the application for the Approval and Vesting Order, the Vendors shall use their commercially reasonable efforts to obtain any Consent and Approval necessary for the assignment of any Contract to the Purchaser, including the DCC Consent. The Purchaser shall provide its reasonable cooperation to assist the Vendors in obtaining any such Consents and Approvals.

To the extent any Consent and Approval, including the DCC Consent, necessary for the assignment of any Contract to the Purchaser is not obtained prior to the application for the Approval and Vesting Order, the Vendors shall bring an application to the Court for approval of the Assignment Order.

2.3 "As is, Where is"

The Purchaser acknowledges that the Vendors are selling the Purchased Assets on an "as is, where is" basis as they shall exist at the Closing Time. Except as otherwise provided in Section 4.2(c) and 4.2(d), the Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendors do not guarantee title to the Purchased Assets. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendors to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario), as amended, the Civil Code of Québec or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Purchased Assets contained in the Schedules is for purpose of identification only. Except as otherwise provided in Section 4.2, no representation, warranty or condition has or will be given by the Vendors concerning completeness or accuracy of such descriptions.

2.4 Assumed Obligations

The Purchaser shall assume and perform, discharge and pay when due the following obligations and liabilities of the Vendors (the "**Assumed Obligations**") after the Closing:

- (a) all debts, liabilities and obligations under the Contracts (to the extent assigned or transferred to the Purchaser on Closing) for the period from and after the Closing Date and all Cure Costs (other than Post-Filing Costs);
- (b) all debts, liabilities and obligations for Transfer Taxes payable in connection with the Transaction;
- (c) all debts, liabilities and obligations for realty taxes in respect of the Purchased Assets attributable to the period from and after the Closing Date; and

- (d) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets for the period from and after the Closing Date.

2.5 Excluded Obligations

Other than the Assumed Obligations, the Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any debts, liabilities or other obligations of the Vendors, including, without limiting the generality of the foregoing:

- (a) all debts, liabilities, obligations or Claims related to any Benefit Plans, Collective Agreements, Employees, Pension Plans, Post-Retirement Liabilities or any Excluded Asset;
- (b) all debts, liabilities and obligations related to any Purchased Asset (including Contracts but excluding Cure Costs) arising out of or related to the period prior to the Closing Time;
- (c) all obligations and liabilities owing by either Vendor to the other Vendor or any Affiliate thereof (for greater certainty other than Cure Costs excluding Post-Filing Costs);
- (d) all debts, liabilities and obligations for or related to any obligation for any taxes that are not expressly assumed by the Purchaser pursuant to Sections 2.4(a) and 3.5;
- (e) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes); and
- (f) all debts, liabilities and obligations of the Vendors arising under this Agreement.

SECTION 3 PURCHASE PRICE

3.1 Purchase Price

The aggregate purchase price (the "Purchase Price") payable by the Purchaser to the Vendors for the Purchased Assets is: (i) the sum of C\$20,000,000 payable in cash plus (ii) the assumption by the Purchaser of the Assumed Obligations; subject to the adjustment, if any, in accordance with Section 3.7.

3.2 Satisfaction of Purchase Price

Provided that all conditions of Closing have been satisfied or waived in accordance with Section 5, the Purchase Price shall be paid and satisfied on Closing as follows:

- (a) the crediting and set off of the Deposit against outstanding amounts owing to the DIP Lender under the DIP Facility pursuant to the DIP Amendment;
- (b) the application of all outstanding amounts owing to the DIP Lender under the DIP Facility (including any accrued interest thereon and any expenses and other amounts owing thereunder) in excess of the Deposit to the Purchase Price;
- (c) the balance of the cash portion of the Purchase Price (the "**Closing Cash Payment**" and together with the Deposit and the amount referred to in clause (b) above, the "**Closing Cash Purchase Price**") shall be paid on the Closing Date by wire transfer in immediately available funds payable to the Monitor pending further Order of the Court; and
- (d) the assumption by the Purchaser of the Assumed Obligations.

Any adjustment required to be made to the Purchase Price in accordance with Section 3.7 shall be satisfied by the payment of the appropriate amount by the Party owing such payment to the other Party entitled thereto in the manner and at the time contemplated therein.

3.3 Deposit

Effective upon entry of the Bidding Procedures Order, the Vendors acknowledge receipt from the Purchaser of a deposit (the "**Deposit**") of 15% of the Closing Cash Purchase Price (excluding any adjustment contemplated under Section 3.7) pursuant to the credit and set off arrangement contemplated under the DIP Amendment. If the Closing takes place, the Deposit shall be credited and set off against the outstanding amounts owing to the DIP Lender under the DIP Facility pursuant to the DIP Amendment. The Deposit shall be credited and set off against outstanding amounts owing to the DIP Lender under the DIP Facility pursuant to the DIP Amendment in the event that Closing does not occur solely as a result of the failure by the Purchaser to perform any of its obligations hereunder. Notwithstanding any provision herein, there will be no credit or set off of the amount of the Deposit to outstanding amounts owing to the DIP Lender under the DIP Facility on the Business Day following the occurrence of the earliest of any of the following (and the Vendors shall acknowledge the same in writing to the Purchaser):

- (a) if this Agreement is not the Successful Bid or the Back-Up Bid (as determined pursuant to the Bidding Procedures);
- (b) if this Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid is closed; or
- (c) if the Transaction is not completed for any other reason other than solely as a result of the failure of the Purchaser to perform any of its obligations hereunder.

If a bid (other than the Stalking Horse Bid) is accepted as the Successful Bid and this Agreement is the Back-Up Bid, the credit and set off arrangement of the Deposit contemplated under the DIP Amendment shall continue until the closing of the Successful Bid. If the Successful Bid does not close and this Agreement is the Back-Up Bid, the Vendors shall immediately provide written notice to the Purchaser of this fact pursuant to the Bidding Procedures. Upon receipt by the Purchaser of such notice at least 5 Business Days prior to the Termination Date, the Purchaser shall be required to close the Transaction on the same terms set out herein or in the Purchaser's revised bid, as applicable, by no later than the Termination Date and the Deposit shall be credited and set off as provided in Section 3.2.

3.4 Allocation of Purchase Price

The Purchase Price is allocated among the Purchased Assets as follows: (i) the amount of C\$18,800,000 as purchase price for the QSLP Equity; (ii) the amount of C\$25,000 for the QSLP Contracts; (iii) the amount of C\$25,000 for the Silicon Metal Contracts; (iv) the amount of C\$950,000 for the ancillary assets and other property set forth in Schedule "A"; and (v) the amount of C\$200,000 as purchase price for the Purchased Solar Grade Silicon Assets. The Vendors and the Purchaser agree that the allocation of the Purchase Price for tax purposes among each of the classes of Purchased Assets of each of the Vendors shall be determined and agreed upon on a date no later than five (5) Business Days before the Closing Date. Each of the Vendors and the Purchaser shall report the sale and purchase of the Purchased Assets for all tax purposes in a manner consistent with such allocation, and will complete all tax returns, designations and elections in a manner consistent with such allocation and otherwise follow such allocation for all tax purposes on and subsequent to the Closing Date and may not take any position inconsistent with such allocation.

3.5 Transfer Taxes

The Parties agree that:

- (a) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all applicable Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets or the registration of any Specific Conveyance necessitated hereby;
- (b) the Purchaser shall indemnify the Vendors for any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) for which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes; and
- (c) if applicable, they shall jointly elect that no Sales Tax be payable pursuant to the Sales Tax Legislation with respect to the purchase and sale of the Purchased Assets under this Agreement and the Purchaser will file an election pursuant to section 167 of the Excise Tax Act and s. 75 of *An Act Respecting the Québec Sales Tax* (Québec), prepared by the Purchaser and made jointly by the Purchaser and each Vendor, in compliance with the requirements of the Sales Tax Legislation.

3.6 Preparation of BSI Working Capital Statement

- (a) Within 20 Business Days following the Closing Date (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing), the Purchaser will prepare and deliver to the Vendors and the Monitor a draft statement of BSI Working Capital (the "**Draft Statement of BSI Working Capital**") prepared as of the Closing Date. The Draft Statement of BSI Working Capital will be prepared in accordance with IFRS consistent with the Estimated BSI Working Capital Statement referred to in Schedule "L", provided that it is consistent with IFRS.
- (b) The Vendors will have 5 Business Days to review the Draft Statement of BSI Working Capital following receipt of it and the Vendors must notify the Purchaser in writing if they have any objections to the Draft Statement of BSI Working Capital within such 5 Business Day period. The notice of objection must contain a statement of the basis of the Vendors' objections.
- (c) If the Vendors send a notice of objection of the Draft Statement of BSI Working Capital in accordance with Section 3.6(b), the Parties will work expeditiously and in good faith in an attempt to resolve such objections following the date of notification by the Vendors to the Purchaser of such objections. Failing resolution of any objection to the Draft Statement of BSI Working Capital raised by the Vendors, the Vendors or the Purchaser may bring a motion before the Court for a determination of such objections with respect to the Draft Statement of BSI Working Capital.
- (d) If the Vendors do not notify the Purchaser of any objection in accordance with Section 3.6(b), the Parties are deemed to have accepted and approved the Draft Statement of BSI Working Capital and such Draft Statement of BSI Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of BSI Working Capital will become the "**Statement of BSI Working Capital**" on the next Business Day following the end of such 5 Business Day period.
- (e) If the Vendors send a notice of objection within the 5 Business Day period, the Parties will revise the Draft Statement of BSI Working Capital to reflect the final resolution amongst the Vendors and the Purchaser or final determination by the Court of such objections under Section 3.6(c) within two Business Days following such final resolution amongst the Vendors and the Purchaser or determination by the Court, as applicable. Such revised Draft Statement of BSI Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of BSI Working Capital will become the "**Statement of BSI Working Capital**" on the next Business Day following revision of the Draft Statement of BSI Working Capital under this Section 3.6(e).

- (f) The Purchaser and the Vendors will each bear their own fees and expenses, in preparing or reviewing, as the case may be, the Draft Statement of BSI Working Capital.

3.7 BSI Working Capital Purchase Price Adjustment

- (a) Subject to Section 3.7(c), the Purchase Price will be increased or decreased, as the case may be, dollar-for-dollar, to the extent that the BSI Working Capital, as determined from the Statement of BSI Working Capital, is more or less than C\$5,799,000.
- (b) Subject to Section 3.7(c), if the BSI Working Capital, as determined from the Statement of BSI Working Capital, is more than C\$5,799,000, the Purchaser will pay to the Vendor the amount of such difference as an increase to the Purchase Price. If the BSI Working Capital as determined from the Statement of BSI Working Capital is less than C\$5,799,000, the Vendors shall pay to the Purchaser the amount of the difference. Any amounts to be paid by the Purchaser to the Vendors, or by the Vendors to the Purchaser, under this Section will be paid within 2 Business Days after the Draft Statement of BSI Working Capital becomes the Statement of BSI Working Capital in accordance with Section 3.6(d) or Section 3.6(e), as the case may be.
- (c) If the adjustment arising from BSI Working Capital, as determined from the Statement of BSI Working Capital, would increase or decrease the Purchase Price by an amount of less than C\$150,000, then there shall be no adjustment to the Purchase Price; provided, however that any such adjustment of C\$150,000 or more shall increase or decrease the Purchase Price, dollar for dollar, for the entire amount of the adjustment.

3.8 Sufficiency of Funds

The Vendors will not distribute an amount of the Purchase Price equal to C\$5,799,000 (or, after preparation of the Draft Statement of BSI Working Capital, such lesser amount equal to the difference between C\$5,799,000 and the BSI Working Capital amount shown on the Draft Statement of BSI Working Capital) until the Statement of BSI Working Capital is determined in accordance with Section 3.6.

3.9 Preparation of QSLP Working Capital Statement

- (a) On or before May 7, 2012 (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing), the Vendors will prepare in good faith and deliver to the Purchaser and the Monitor a draft statement of QSLP Working Capital (the "**April 30 Draft Statement of QSLP Working Capital**") prepared as of April 30, 2012 (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing). The April 30 Draft Statement of QSLP Working Capital will be prepared in accordance with IFRS and the Sample QSLP Working Capital Statement.

- (b) The Purchaser will have 5 Business Days to review the April 30 Draft Statement of QSLP Working Capital following receipt of it and the Purchaser must notify the Vendors in writing if they have any objections to the April 30 Draft Statement of QSLP Working Capital within such 5 Business Day period. The notice of objection must contain a statement of the basis of the Purchaser's objections.
- (c) If the Purchaser sends a notice of objection of the April 30 Draft Statement of QSLP Working Capital in accordance with Section 3.9(b), the Parties will work expeditiously and in good faith in an attempt to resolve such objections following the date of notification by the Purchaser to the Vendors of such objections. Failing resolution of any objection to the April 30 Draft Statement of QSLP Working Capital raised by the Purchasers, the Vendors or the Purchaser may bring a motion before the Court for a determination of such objections with respect to the April 30 Draft Statement of QSLP Working Capital.
- (d) If the Purchaser does not notify the Vendors of any objection in accordance with Section 3.9(b), the Parties are deemed to have accepted and approved the April 30 Draft Statement of QSLP Working Capital and such April 30 Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The April 30 Draft Statement of QSLP Working Capital will become the "**April 30 Statement of QSLP Working Capital**" on the next Business Day following the end of such 5 Business Day period.
- (e) If the Purchaser sends a notice of objection within the 5 Business Day period, the Parties will revise the April 30 Draft Statement of QSLP Working Capital to reflect the final resolution amongst the Vendors and the Purchaser or final determination by the Court of such objections under Section 3.9(c) within two Business Days following such final resolution amongst the Vendors and the Purchaser or determination by the Court, as applicable. Such revised April 30 Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of QSLP Working Capital will become the "**April 30 Statement of QSLP Working Capital**" on the next Business Day following revision of the April 30 Draft Statement of QSLP Working Capital under this Section 3.9.
- (f) The Purchaser and the Vendors will each bear their own fees and expenses, in preparing or reviewing, as the case may be, the Draft Statement of QSLP Working Capital.
- (g) The Vendors will provide the Purchaser full access to its Books and Records and such other information necessary reasonably for it to evaluate the April 30 Draft Statement of QSLP Working Capital.

3.10 Roll Forward QSLP Working Capital

- (a) Subject to Section 3.10(h), 2 Business Days prior to the expected Closing Date (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing), the Vendors will prepare in good faith and deliver to the Purchaser and the Monitor a draft statement of QSLP Working Capital (the "**Closing Date Draft Statement of QSLP Working Capital**") as of May 31, 2012 (or such other date as mutually agreed by the Vendors and Purchaser in writing). The Closing Date Draft Statement of QSLP Working Capital will be prepared in accordance with IFRS and the Sample QSLP Working Capital Statement.
- (b) The Purchaser will have 2 Business Days to review the Closing Date Draft Statement of QSLP Working Capital following receipt of it and the Purchaser must notify the Vendors in writing if they have any objections to the Closing Date Draft Statement of QSLP Working Capital within such 2 Business Day period. The notice of objection must contain a statement of the basis of the Purchaser's objections.
- (c) If the Purchaser sends a notice of objection of the Closing Date Draft Statement of QSLP Working Capital in accordance with Section 3.10(b), the Vendors or the Purchaser may bring a motion before the Court for a determination of such objections with respect to the Closing Date Draft Statement of QSLP Working Capital.
- (d) If the Purchaser does not notify the Vendors of any objection in accordance with Section 3.10(b), the Parties are deemed to have accepted and approved the Closing Date Draft Statement of QSLP Working Capital and such Closing Date Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Closing Date Draft Statement of QSLP Working Capital will become the "**Closing Date Statement of QSLP Working Capital**" on the next Business Day following the end of such 2 Business Day period.
- (e) If the Purchaser sends a notice of objection within the 2 Business Day period, the Parties will revise the Closing Date Draft Statement of QSLP Working Capital to reflect the final resolution amongst the Vendors and the Purchaser or final determination by the Court of such objections under Section 3.10(c) within two Business Days following such final resolution amongst the Vendors and the Purchaser or determination by the Court, as applicable. Such revised Closing Date Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of QSLP Working Capital will become the "**Closing Date Statement of QSLP Working Capital**" on the next Business Day following revision of the

Closing Date Draft Statement of QSLP Working Capital under this Section 3.10.

- (f) The Purchaser and the Vendors will each bear their own fees and expenses, in preparing or reviewing, as the case may be, the Draft Statement of QSLP Working Capital.
- (g) The Vendors will provide the Purchaser full access to its Books and Records and other such information reasonably necessary for it to evaluate the Closing Date Draft Statement of QSLP Working Capital.
- (h) This Section 3.10 only applies if the Closing is expected to occur after June 8, 2012.

SECTION 4 REPRESENTATIONS AND WARRANTIES

4.1 Purchaser's Representations

The Purchaser represents and warrants to the Vendors as of the date hereof and as of the Closing Time that and acknowledges that the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) the Purchaser is a corporation duly incorporated, organized and subsisting under the laws of the Cayman Islands and has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (b) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein will not breach its constating documents, any agreement binding upon the Purchaser or any Applicable Laws with respect to the Purchaser;
- (c) other than the Bidding Procedures Order, the Approval and Vesting Order, the Assignment Order (if applicable) and any Specific Conveyances, execution, delivery and performance of this Agreement by the Purchaser does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority;
- (d) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by the Purchaser and constitute or will, as at the Closing Time, constitute legal, valid and binding obligations of the Purchaser enforceable in accordance with the terms hereof or thereof;

- (e) except in connection with the CCAA Proceedings, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Purchaser affecting the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;
- (f) the Purchaser is not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;
- (g) the Purchaser has or will have made adequate arrangements to have sufficient funds available to satisfy its obligations to pay the Purchase Price as set forth in Section 3.2;
- (h) the Purchaser is controlled by a WTO Investor, within the meaning of the Investment Canada Act; and
- (i) the Purchaser and its affiliates do not have assets in Canada that exceed \$100 million or gross revenues from sales in, from or into Canada that exceed \$100 million, all as determined in accordance with Part IX of the Competition Act and the Notifiable Transactions Regulations thereunder.

4.2 Vendors' Representations

The Vendors, jointly and severally, represent and warrant to the Purchaser as of the date hereof and as of the Closing Time as follows and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Timminco is a corporation duly incorporated, organized and subsisting under the *Canada Business Corporations Act*;
- (b) BSI is a corporation duly organized and subject to and subsisting under the *Business Corporations Act (Québec)*;
- (c) except as disclosed in the Disclosure Letter, BSI has good and marketable title to the QSLP Equity, free and clear of Encumbrances other than the Permitted Encumbrances. The total issued and outstanding securities of QSLP consist of 100,010 units. The total issued and outstanding capital of QSGP consists of 51 Class A Shares and 49 Class B Shares. Except as set forth in the QSLP Contracts, there are no existing rights or privileges to acquire any unissued securities of QSLP or QSGP or any of such outstanding securities held by BSI or QSGP;

- (d) except as disclosed in the Disclosure Letter and as of the file currency date specified therein, BSI is the sole and unconditional legal and beneficial owner of and has good and marketable title to the BSI Owned Property and the material personal property purported to be owned by BSI including the Solar Equipment, but excluding Contracts and Intellectual Property, free and clear of Encumbrances other than Permitted Encumbrances;
- (e) except as disclosed in the Disclosure Letter and as of the file currency date specified therein, (i) QSLP has good and marketable title to all of the material personal property purported to be owned by QSLP and the QSLP Real Property and has a valid leasehold interest in the QSLP Mineral Rights; (ii) the QSLP Mineral Rights are in good standing and in full force and effect; and (iii) the QSLP Mineral Rights and product derived from the QSLP Mineral Rights are not subject to or bound by any royalty, royalty interest or similar payment or interest or other Encumbrances;
- (f) except as would not result in a Material Adverse Change and except as disclosed in the Disclosure Letter, to the best of the Vendors' knowledge: (i) the use of the BSI Owned Property by BSI is in compliance with and not subject to any liability under Applicable Laws related to environmental protection, restoration and rehabilitation, occupational health and safety or natural resources matters and (ii) QSLP's operations are in compliance with and not subject to any liability under Applicable Laws related to environmental protection, restoration and rehabilitation, natural resource or occupational health and safety matters;
- (g) except as disclosed in the Disclosure Letter, the Vendors have not licensed their rights in any Intellectual Property held by the Vendors, including the Solar Intellectual Property, to any Person. As of the date hereof, the Vendors have not received from any Person any notice (written or oral) that any of the Vendor's registered Intellectual Property is invalid or defective, or the use of such registered Intellectual Property is or would be infringing, misappropriating or violating in any way any Intellectual Property of such Person;
- (h) the Vendors and their management are unaware of any pending challenge to the validity of Silicon Metal Contracts or the transactions contemplated thereunder and has not received any written notice threatening any such challenge;
- (i) the aggregate amount of the Shortfall at its highest was 5,440 metric tons. As at January 30, 2012, QSLP had produced and delivered to DCC no less than 2,500 metric tons of silicon metal at BSI's request in satisfaction of BSI's obligation to DCC in respect of the Shortfall;

- (j) excluding the CCAA Proceedings, the Vendors are not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Vendors;
- (k) subject to obtaining the Bidding Procedures Order and the Approval and Vesting Order, the Vendors have the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (l) subject to obtaining Bidding Procedures Order and the Approval and Vesting Order, each of the Vendors has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and the entering into of this Agreement and completion of the transactions contemplated herein will not breach its constating documents;
- (m) other than the CCAA Proceedings, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Vendors or affecting any of the Purchased Assets, the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Vendors;
- (n) subject to obtaining the Bidding Procedures Order and the Approval and Vesting Order, this Agreement and all other documents contemplated hereunder to which the Vendors are or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by each of the Vendors and constitute or will, as at the Closing Time, constitute legal, valid and binding obligations of each of the Vendors enforceable in accordance with the terms hereof or thereof;
- (o) neither Vendor is a non-resident of Canada for purposes of section 116 of the *Income Tax Act*;
- (p) the aggregate book value of the Purchased Assets does not exceed \$330 million, as calculated in accordance with the Investment Canada Act and the regulations thereto;
- (q) the Vendors and their affiliates do not have assets in Canada that exceed \$300 million or gross revenues from sales in, from or into Canada that exceed \$300 million, all as determined in accordance with Part IX of the Competition Act and the Notifiable Transactions Regulations thereunder;
- (r) each of the Vendors is a registrant for the purposes of tax imposed under (A) *An Act Respecting the Québec Sales Tax* (Québec) with the following registration numbers for Timminco and BSI, respectively, 1000873612 and

100829788, and (B) Part IX of the Excise Tax Act with the following registration numbers for Timminco and BSI, respectively, 105289094 RT0002 and 104881412 RT0001;

- (s) each of QSLP and QSGP has paid all material taxes which are due and payable by it to all applicable Governmental Authorities and has remitted all material amounts that it withheld or collected on account of amounts that it was required by Applicable Law to have withheld or collected, including for all Canada Pension Plan contributions, provincial pension plan contributions, employment insurance premiums, employer health taxes, Sales Tax and any other material taxes to the appropriate Governmental Authority within the time required under Applicable Law; and
- (t) no finder, broker or similar intermediary acting on behalf of the Vendors or any of their Affiliates is entitled to a commission, fee or other compensation from the Purchaser in connection with the negotiation, execution or delivery of this Agreement or the consummation of the Transaction.

4.3 Limitations

With the exception of the Vendors' representations and warranties in Section 4.2 and the Purchaser's representations and warranties in Section 4.1, neither the Vendors nor the Purchaser, nor their respective Representatives, nor any of their respective officers, directors or employees make, have made or shall be deemed to have made any other representation or warranty, express or implied, at law or in equity, in respect of the Vendors, the Purchaser, or the Purchased Assets or the sale and purchase of the Purchased Assets pursuant to this Agreement.

SECTION 5 CONDITIONS

5.1 Conditions - Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Vendors contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date;
- (b) the Vendors shall have performed in all material respects each of their obligations under this Agreement to the extent required to be performed at or before the Closing Time;
- (c) all stays of proceedings contained in the Initial Order shall have remained in effect as at the Closing Time except where any such stay is terminated

or lifted or amended in a manner which is not prejudicial to the Purchaser or which does not adversely affect the Purchaser's rights under this Agreement or the Purchased Assets and the exercise of rights contained in the Initial Order has not been amended or modified in any manner prejudicial to the Purchaser as at the Closing Time;

- (d) each Consent and Approval including the DCC Consent, shall have been obtained as at the Closing Time or, in the absence of any such Consent and Approval, the Court shall have approved the Assignment Order in respect of such Consent and Approval and it shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom) as at the Closing Time;
- (e) after the date of this Agreement and before the Closing Time, there shall not have occurred any Material Adverse Change;
- (f) the April 30 Statement of QSLP Working Capital shall have been determined on or before May 15, 2012 in accordance with Section 3.9(d) or Section 3.9(e) and the QSLP Working Capital shown on the April 30 Statement by QSLP Working Capital shall not be less than \$7,500,000 (the "Threshold Amount");
- (g) BSI shall have delivered to the Purchaser evidence, reasonably satisfactory to the Purchaser, that the minimum aggregate amount of silicon metal that QSLP shall have produced and delivered to DCC at BSI's request in satisfaction of BSI's obligation to DCC in respect of the Shortfall shall be no less than the amount set forth in Schedule "I";
- (h) if the Closing occurs after June 8, 2012, the Closing Date Statement of QSLP Working Capital shall have been determined in accordance with Section 3.10(d) or 3.10(e) and the QSLP Working Capital shown on the Closing Date Statement of QSLP Working Capital shall not be less than the Threshold Amount; and
- (i) the Vendors shall deliver a certificate, in form and substance satisfactory to the Purchaser, acting reasonably, to the Purchaser certifying that all Post-Filing Costs and taxes payable in respect of the transactions contemplated under the HP2 Severance Transaction Documents in accordance with the valuation specified therein, that are due, have been paid or provided for, and for those incurred but not yet due, provided for.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 5.1 may be waived by the Purchaser 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 Purchaser only if made in writing. If any condition set out in Section 5.1 (other than Section 5.1(f)) is not satisfied or performed on or prior to the date specified therefor, the Purchaser may elect on written notice to the Vendors to terminate this Agreement.

If the condition set out in Section 5.1(f) is not satisfied on or prior to the date specified then the Purchaser may, within three (3) Business Days following the date specified therefor, elect to terminate this Agreement by notice in writing to the Vendor. If the Purchaser fails to deliver any such notice of termination, then it shall be deemed to have waived the condition.

5.2 Conditions - Vendors

The obligation of the Vendors to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date; and
- (b) the Purchaser shall have performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 5.2 may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in Section 5.2 is not satisfied or performed on or prior to the date specified therefor, the Vendors may elect on written notice to the Purchaser to terminate the Agreement.

5.3 Conditions - Purchaser and Vendors

The obligations of the Vendors and the Purchaser to complete the Transaction are subject to the following conditions being fulfilled or performed:

- (a) the Bidding Procedures Order shall have been obtained and shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom);
- (b) this Agreement is the Successful Bid (for greater certainty, in accordance with the Bidding Procedures, to the extent any Portion Bid or an Aggregated Bid is the Successful Bid (each such capitalized term as defined in the Bidding Procedures), the Purchaser shall not be obliged to complete the Transaction or purchase any subset of assets or assume any subset of liabilities which are not covered by such Portion Bid or Aggregated Bid);
- (c) the Approval and Vesting Order shall have been obtained and shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom);

- (d) no order shall have been issued by a Governmental Authority which restrains or prohibits the completion of the Transaction; and
- (e) no motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendors and the Purchaser. If the conditions set out in this Section 5.3 are not satisfied performed or mutually waived on or before the Termination Date, any Party shall have the option to terminate this Agreement upon written notice to the other Parties.

SECTION 6 CLOSING

6.1 Closing

Subject to the conditions set out in this Agreement, the completion of the Transaction shall take place at the Closing Time at the offices of Stikeman Elliott LLP, Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9, or as otherwise determined by mutual agreement of the Parties in writing, but, in any event, shall take place prior to the Termination Date.

6.2 Purchaser's Deliveries on Closing

At or before the Closing Time, the Purchaser shall execute and deliver, or arrange for the delivery, as the case may be, to the Vendors the following, each of which shall be in form and substance satisfactory to the Vendors, acting reasonably:

- (a) the Closing Cash Payment;
- (b) a payoff letter by the DIP Lender in respect of amounts outstanding under the DIP Facility including outstanding amounts advanced to the Vendors, interest accrued and unpaid thereon and any expenses and other amounts owing thereunder;
- (c) the Assignment and Assumption Agreement and any Specific Conveyance requiring execution by the Purchaser;
- (d) payment of Transfer Taxes required by Applicable Law to be collected by any Vendor, or alternatively, if applicable, the election(s) referred to in Section 3.5(c) executed by the Purchaser;
- (e) joinders to the applicable QSLP Contracts, as required thereunder;
- (f) a document specifying the Purchase Price allocation for tax purposes provided for in Section 3.4;

- (g) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all respects the covenants to be performed by it prior to the Closing Time;
- (h) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.1 of this Agreement have been fulfilled, performed or waived as of the Closing Time; and
- (i) such further and other documentation as is referred to in this Agreement or as the Vendors may reasonably require to give effect to this Agreement.

6.3 Vendors' Deliveries on Closing

At or before the Closing Time, the Vendors shall execute and deliver, or arrange for the delivery, as the case may be, to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) an executed copy of each Specific Conveyance;
- (b) all Consents and Approvals, or with respect to any Consent and Approval which is not obtained, a notarial copy of an Assignment Order in lieu of such Consent and Approval;
- (c) the Assignment and Assumption Agreement and the Books and Records relating to the Purchased Assets;
- (d) a notarial copy of the Approval and Vesting Order;
- (e) a certificate dated as of the Closing Date confirming that there has been no Material Adverse Change; that all of the representations and warranties of the Vendors contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendors have performed in all material respects the covenants to be performed by them prior to the Closing Time;
- (f) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.2 of this Agreement have been fulfilled, performed or waived as of the Closing Time;
- (g) an executed copy of the Monitor's Certificate;
- (h) stock/unit certificates or similar documents representing the QSLP Equity;
- (i) if applicable, the election(s) referred to in Section 3.5(c) executed by the Vendors; and

- (j) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

6.4 Possession of Assets

- (a) The Vendors shall remain in possession of the Purchased Assets until Closing. Until Closing and subject to the last sentence of this Section 6.4(a), the Vendors shall (i) subject to the Orders of the Court in the CCAA Proceedings, use the Purchased Assets only in the Ordinary Course of Business and use commercially reasonable efforts to maintain, preserve and protect the Purchased Assets in the condition in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the Ordinary Course of Business, (ii) not dispose of any of the Purchased Assets other than sale of inventory in the Ordinary Course of Business, and (iii) not enter into any material contract or agreement in respect of any of the Purchased Assets other than in the Ordinary Course of Business; except, in each case, with the prior written consent of the Purchaser, not to be unreasonably withheld, and provided that any failure to respond to any such request for consent within two (2) Business Days of receipt by the Purchaser of such request shall be deemed to be consent hereunder. Until Closing, and subject to the last sentence of this Section 6.4(a), BSI shall, to the extent it is empowered to do so pursuant to the QSLP Contracts and the rights attached to the QSLP Equity, (i) cause the business of QSLP to be conducted in the ordinary course consistent with the conduct of such business on the date hereof and (ii) cause QSLP not to make any distributions to the limited partners of QSLP. BSI and QSLP may enter into the HP2 Severance Transaction Documents after the date of this Agreement and before Closing and in connection therewith BSI shall provide updated Schedules "B" and "F" and an updated Disclosure Letter to reflect the transactions contemplated under the HP2 Severance Transaction Documents and such updated Schedules and the Disclosure Letter shall be accepted by the Purchaser as Schedule "B", "F" and the Disclosure Letter, as the case may be, hereunder, provided that the Vendors shall only enter into a HP2 Severance Transaction Document if all HP2 Severance Transaction Documents are entered into on or before Closing.
- (b) On Closing, the Purchaser shall take possession of the Purchased Assets where situate at Closing. The Purchaser acknowledges that the Vendors have no obligation to deliver physical possession of the Purchased Assets to the Purchaser other than as set forth in Section 6.3(h). In no event shall the Purchased Assets be sold, assigned, transferred or set over to the Purchaser until the conditions set out in the Approval and Vesting Order have been satisfied and the Purchaser has satisfied all delivery requirements outlined in Section 6.2. The Purchaser shall promptly notify

the Vendors of any Excluded Assets which may come into the possession or control of the Purchaser shall promptly release such Excluded Assets to the Vendors, or to such other Person as the Vendors may direct in writing, for greater certainty, title shall not be deemed to vest to the Purchaser in respect of any Excluded Assets. The Vendors shall have no obligation to remove any Excluded Equipment from any premises that constitute part of Purchased Assets. The Purchaser shall permit the Vendors and their agents and representatives to have reasonable access to such premises to prepare for sale, sell and remove any such Excluded Equipment for a period of three (3) months after the Closing Date. All right, title and interest in any such Excluded Equipment which is not sold or removed from such premises after three (3) months following Closing shall vest in the Purchaser unless the Purchaser objects to such title transfer in which case, right, title and interest shall continue to vest in the applicable Vendor but the Purchaser shall be entitled to dispose of such Excluded Equipment at the Purchaser's expense.

6.5 Material Adverse Change

The Vendors shall notify the Purchaser upon the occurrence of a Material Adverse Change or the occurrence of any material loss or damage to the Purchased Assets.

6.6 Access Rights

Upon at least two (2) Business Days' prior notice by the Purchaser to the Vendors and at any time (i) prior to the Phase I Bidding Deadline, (ii) after the Purchaser has become the Successful Bidder, or (iii) after notice to the Purchaser from the Vendors of the occurrence of an event or circumstance referred to in Section 6.5, the Purchaser may have reasonable access to the Purchased Assets during normal business hours and in each case prior to Closing for the purpose of enabling the Purchaser to conduct such inspections of the Purchased Assets as it deems appropriate, acting reasonably. Such inspection shall only be conducted in the presence of a representative of the Vendors, if so required at the discretion of the Vendors. The Purchaser shall not conduct any tests, drilling or other invasive action with respect to the Purchased Assets without the prior written consent of the Vendors, which consent may be withheld in the Vendors' sole and absolute discretion. The Purchaser agrees to indemnify and save the Vendors harmless from and against all claims, demands, losses, actions and costs incurred or arising from or in any way directly related to physical harm to property or people caused by the Purchaser's inspection of the Purchased Assets or the attendance of the Purchaser, its employees or agents at properties comprising part of the Purchased Assets. For greater certainty, the Purchaser shall not be responsible to indemnify and save the Vendors harmless from and against the findings of the Purchaser's inspection.

The Vendors shall continue to make the online data room available to the Purchaser, its employees and advisors. To the extent that any information relating to the Vendors, their Affiliates or the Purchased Assets is made available to any Phase I Bidder or Qualified Bidder (each as defined in the Bidding Procedures), such information will be added to the

data room as soon as possible and not later than one (1) Business Day after disclosure to the Phase I Bidder or Qualified Bidder.

6.7 Risk

The Purchased Assets shall be and remain at the risk of the Vendors to the extent of their interest until Closing and at the risk of the Purchaser from and after Closing. If, prior to Closing, the Purchased Assets shall be substantially damaged or destroyed by fire or other casualty, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) days after notification to the Purchaser by the Vendors of the occurrence of damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) days of the Closing Date) in which event this Agreement shall (for greater certainty and without limitation subject to Section 6.10) be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial (or if it is substantial but the Purchaser declines its option to terminate), the Purchaser shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction provided that such damage or destruction is insured or, otherwise, to an agreed abatement. If any dispute arises under this section as to whether damage or destruction is substantial or with respect to the amount of any abatement, such dispute will be determined in accordance with Section 6.8.

6.8 Dispute Resolution

If any dispute arises:

- (a) under Section 6.7 as to whether any damage or destruction is substantial or with respect to the amount of any abatement; or
- (b) with respect to any other matter related to the Transaction or the interpretation or enforcement of this Agreement;

such dispute will be determined by the Court, or by such other Person or in such other manner as the Court may direct.

6.9 Termination

This Agreement shall automatically terminate at any time prior to the Closing Time upon the occurrence of any of the following:

- (a) by mutual written agreement of the Vendors and the Purchaser;
- (b) if the Agreement is not the Successful Bid or the Back-Up Bid (as determined pursuant to the Bidding Procedures); or
- (c) if the Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid is closed.

This Agreement may be terminated at any time prior to the Closing Time upon the occurrence of any of the following:

- (d) as provided in Section 5 (provided that the terminating Party has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled) or Section 6.7; or
- (e) by any of the Parties (provided that the terminating Party has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled) if Closing shall not have occurred on or prior to the Termination Date in accordance with Section 5.3.

If this Agreement is terminated in the circumstances set out in this Section, all further obligations of the Parties under this Agreement will terminate and neither Party shall have any liability or further obligations hereunder, except as contemplated in Section 6.10, which shall survive such termination.

6.10 Effects of Termination and Closing

- (a) If this Agreement is terminated pursuant to Section 5, 6.7 or 6.9, all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of: (i) Section 3.3 (Deposit); (ii) Section 6.10 (Effects of Termination and Closing); and (iii) Section 7.2 (Expense Reimbursement).
- (b) If the Transaction is not completed solely as a result of Purchaser's failure to perform any of its obligations hereunder, then the Deposit shall be forfeited to the Vendors as liquidated damages and the Vendors shall have no other rights and remedies against the Purchaser available at law or in equity.
- (c) Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

SECTION 7 BIDDING PROCEDURES

7.1 Bidding Procedures

The Parties acknowledge and agree that the Vendors shall apply to the Court by no later than March 12, 2012, for an order (the "**Bidding Procedures Order**") recognizing this Agreement, and in particular the Purchase Price, as a baseline or "stalking horse bid" (the "**Stalking Horse Bid**") and approving the Bidding Procedures, the payment of the Expense

Reimbursement in the circumstances set out in Section 7.2, the entering into the DIP Amendment and the amendment of the DIP Order to conform to the terms of the DIP Amendment, and all Parties will use best efforts to have the Bidding Procedures Order issued. The Purchaser acknowledges and agrees that the Bidding Procedures are in contemplation of determining whether a superior bid can be obtained for the Purchased Assets.

7.2 Expense Reimbursement

In consideration for the Purchaser's expenditure of time and money and agreement to act as the initial bidder through the Stalking Horse Bid and the preparation of this Agreement, and in performing due diligence pursuant to this Agreement and subject to Court approval, the Purchaser shall be entitled to an expense reimbursement for the Purchaser's legal and other costs incurred in connection with the Stalking Horse Bid in an amount of C\$500,000 (the "**Expense Reimbursement**"), payable only by the Vendors to the Purchaser in the event that a Successful Bid other than the Stalking Horse Bid is accepted and the transaction contemplated thereby is completed. The payment of the Expense Reimbursement shall be approved in the Bidding Procedures Order and shall be made in priority to amounts secured by existing security other than amounts secured by the various charges approved by the Court in the Initial Order. The Expense Reimbursement shall be payable to the Purchaser out of the sale proceeds derived from and upon completion of the Successful Bid. Each of the Parties hereto acknowledges and agrees that the Expense Reimbursement represents a fair and reasonable estimate of the costs and damages which will be incurred by the Purchaser as a result of non-completion of this Agreement, and is not intended to be punitive in nature nor to discourage competitive bidding for the Purchased Assets.

SECTION 8 PERFORMANCE GUARANTEE

8.1 Performance Guarantee

- (a) The Guarantor irrevocably and unconditionally guarantees the timely and complete performance of, and compliance with the Purchaser's obligations under Sections 3.1, 3.2 (excluding 3.2(d)), 3.4, 3.5, 3.6, 3.7, 9.1 and 9.10 (collectively, the "**Guaranteed Obligations**").
- (b) If for any reason the Purchaser fails at any time to perform or comply with any Guaranteed Obligation that is to be performed or complied with by the Purchaser under this Agreement, then the Guarantor shall perform or comply with such Guaranteed Obligation in accordance with and subject to the provisions of this Agreement. Such performance or compliance by the Guarantor is deemed to be performance or compliance by the Purchaser under this Agreement.
- (c) The Guarantor is jointly and severally liable with the Purchaser for the performance of, and compliance with, the Guaranteed Obligations. The Vendors are not bound to proceed against the Purchaser or to pursue any

rights or remedies against the Purchaser before being entitled to pursue its rights against the Guarantor.

- (d) The obligation of the Guarantor in this Section 8 shall terminate immediately upon Closing or a termination of this Agreement that is not solely as a result of a failure of the Purchaser to perform any of its obligations hereunder except, in the case of a Closing, for the Guaranteed Obligations in respect of (i) the determination of the Statement of BSI Working Capital in accordance with Section 3.6, (ii) the payment of the Purchase Price adjustment, if any, pursuant to Section 3.7 and (iii) the indemnity obligation of the Purchaser in Section 9.10 which shall survive until satisfaction of the matters referred to in paragraphs (i) and (ii) above have been completed and thereafter shall terminate (except in respect of any amounts that have become due under Section 9.10 prior to such date).
- (e) The guarantee shall be in favour of the Vendors and no other party shall be considered a third party beneficiary.

8.2 Absolute Liability

The liability of the Guarantor is absolute and unconditional irrespective of: (i) any lack of validity or enforceability of any Guaranteed Obligation against the Purchaser (other than the termination of any Guaranteed Obligations in accordance with the terms hereof); (ii) any change in the time or times for, or place or manner of performance or any other indulgences which the Vendors may grant to the Purchaser; (iii) any amendment, restatement, replacement, supplement, modification or renewal of this Agreement; (iv) any assignment of all or any part of this Agreement; (v) any limitation of status or power, disability, incapacity or other circumstance relating to the Purchaser, including any bankruptcy, insolvency, winding-up, dissolution, liquidation, restructuring or other creditors' proceedings involving or affecting the Purchaser; or (vi) any change in the ownership, control, name, objects, businesses, assets, capital structure or constitution of the Purchaser or any reorganization, amalgamation or other change in the existence of the Purchaser.

8.3 Defences

The liabilities and obligations of the Guarantor under this Section 8 are subject to the terms of this Agreement and will not exceed any liability or obligation of the Purchaser to the Vendors under this Agreement. The Guarantor is entitled to all rights, privileges and defences available to the Purchaser with respect to any obligation or liability, including without limitation all provisions of this Agreement relating to limitation of liability and the resolution of disputes.

8.4 Payment on Demand

The Guarantor will pay and perform its liabilities and obligations under this Section 8 immediately after demand for such payment and performance is made in writing to it. Under no circumstances shall the Guarantor's obligation hereunder exceed the

Purchase Price, as it may be adjusted pursuant to Section 3.7. For the avoidance of doubt, upon the payment of the Purchase Price by the Guarantor, the Guarantor shall be subrogated to the rights of the Purchaser and subject to the obligations of the Purchaser, all in accordance with the terms of this Agreement.

SECTION 9 GENERAL

9.1 Access to Books and Records

- (a) For a period of 6 years from the Closing Date or for such longer period as may be required by law, the Purchaser will retain all original Books and Records that are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement and subject to Section 9.1(c), each Vendor (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of either Vendor) has the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser.
- (b) Subject to Section 9.1(c), for a period of the lesser of (x) 6 years from the Closing Date and (y) so long as the Purchaser together with any Affiliate thereof controls QSLP or QSGP, the Purchaser shall cause QSGP to permit each Vendor (and any representative, agent or trustee in bankruptcy of the estate of either Vendor) to inspect the books and records of the Vendors maintained by QSGP and QSLP and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser. Any information received by the Purchaser or its representatives pursuant to this Section 9.1 shall be held in strict confidence except as may be required by Applicable Law (including disclosure required in connection with any tax returns or bankruptcy and insolvency proceedings).
- (c) If a Vendor or its affiliates are engaged in any business that competes, directly or indirectly, with the business carried on by QSLP, then the Purchaser shall only be required to provide the right to inspect as contemplated in Section 9.1(a) or (b) to such Vendor if the sole purpose is of evaluating or preparing any of its tax returns, the sale of the remaining assets of either Vendor, in respect of any third party claim against such Person or in connection with any bankruptcy and insolvency proceeding. For greater certainty, the right of Monitor, any former director or officer or any trustee in bankruptcy of the estate of either Vendor to inspect books and records and make copies thereof shall not be restricted under this Section 9.1(c).

9.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by fax or e-mail, addressed:

in the case of the Purchaser, as follows:

QSI Partners Ltd.
1st Floor - Windward 1
Regatta Office Park
PO BOX 10338
Grand Cayman KY1-1003
Cayman Islands

Attention: Desiree Mercer
Fax: (345) 949-7230
Telephone: (345) 949-7232

with a copy to:

Torys LLP
79 Wellington Street West
Suite 3000
Toronto, Ontario
M5K 1N2

Attention: David Bish
Fax: (416) 865-7380
Email: dbish@torys.com

and in the case of the Guarantor, as follows:

Globe Specialty Metals, Inc.
One Penn Plaza
250 West 34th Street, Suite 4125
New York, NY 10119

Attention: Stephen Lebowitz
Fax: (212) 798-8137
Telephone: (212) 798-8122

with a copy to:

Torys LLP
79 Wellington Street West
Suite 3000
Toronto, Ontario
M5K 1N2

Attention: David Bish
Fax: (416) 865-7380
Email: dbish@torys.com

and in the case of the Vendors, as follows:

Timminco Limited
150 King Street West, 2401
Toronto, Ontario
M5H 1J9

Attention: Peter Kalins,
President, General Counsel and Corporate Secretary
Fax: (416) 364-3451
Email: PKalins@timminco.com

with a copy to:

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

Attention: Daphne MacKenzie
Fax: (416) 947-0866
Email: dmackenzie@stikeman.com

with a copy to the Monitor:

FTI Consulting Canada Inc.
TD Waterhouse Tower, Suite 2010
79 Wellington Street
Toronto, Ontario
M5K 1G8

Attention: Nigel Meakin
Fax: (416) 649-8101
Email: nigel.meakin@fticonsulting.com

with a copy to:

Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario
M5L 1A9

Attention: Linc Rogers
Fax: (416) 863-2653
Email: Linc.Rogers@blakes.com

Any such notice or other communication, if given by personal delivery, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by fax or e-mail before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by fax or e-mail after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

9.3 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendors and the Purchaser or by their respective solicitors.

9.4 Currency

Except where otherwise indicated, all references herein to money amounts are in Canadian currency.

9.5 Survival

The representations and warranties of the Parties contained in this Agreement shall merge on Closing and the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

9.6 Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and no Person, other than the Parties and their successors and their permitted assigns, shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

9.7 Entire Agreement

This Agreement, the attached Schedules hereto, the letter contemplated in Sections 1.1 (ccc) and (oooo), the Disclosure Letter and the confidentiality and standstill agreement dated as of January 6, 2012 between Timminco and the Purchaser, as supplemented by the addendum thereto dated as of January 11, 2012, and the DIP Amendment constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by all of the Parties.

9.8 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

9.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

9.10 Commission

The Purchaser agrees to indemnify the Vendors against any claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, the Transaction and the Vendors shall jointly and severally indemnify the Purchaser for any third party or agent or broker fees or other commissions payable by the Vendors on the Purchase Price or otherwise in connection with the Transaction.

9.11 Assignment by Purchaser

This Agreement may not be assigned by the Purchaser without the prior written consent of the Vendors, which consent may be withheld in the Vendors' sole and absolute discretion; provided, however that the Purchaser shall be permitted to assign the benefit of all or a portion of this Agreement prior to or after Closing to an Affiliate thereof in circumstances where (i) prior notice of such assignment is provided to the Vendors, (ii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment, and (iii) such assignment shall not release the Purchaser or the Guarantor (in the case of the Guarantor during the existence of the Guarantee) from any obligation or liability hereunder in favour of the Vendors and the Purchaser and the Guarantor (in the case of the Guarantor during the existence of the Guarantee) shall acknowledge and confirm their continuing obligations and liabilities in favour of the Vendors in form and substance satisfactory to the Vendors; for greater certainty, the Purchaser shall be permitted to assign the right to buy all or a portion of the Purchased Assets to one or more Affiliates and such assignment shall be

permitted so long as the requirements of this Section 9.11 are complied with. This Agreement may not be assigned by the Vendors without the consent of the Purchaser.

9.12 Further Assurances

Each of the Parties shall, at the request and expense of the requesting party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such documents (including registrations and removal of Encumbrances (other than Permitted Encumbrances)) and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

9.13 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.


9.14 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein, other than those contained in Section 3.1, Section 3.5, Section 6 or Section 8, is prohibited or unenforceable pursuant to applicable law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.


[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]

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

BECAINCOUR SILICON INC.

By: 
Name: *Peter A. Kalins*
Title: *President, General Counsel
and Corporate Secretary*

TIMMINCO LIMITED

By: 
Name: *Douglas Fastuca*
Title: *Chief Executive Officer*

QSI PARTNERS LTD.

By: _____
Name:
Title:

GLOBE SPECIALTY METALS, INC.

By: _____
Name:
Title:

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

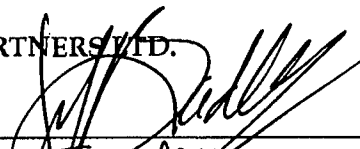
BECANCOUR SILICON INC.

By: _____
Name:
Title:

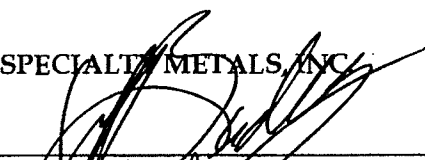
TIMMINCO LIMITED

By: _____
Name:
Title:

QSI PARTNERS LTD.

By:  _____
Name: JEFF BRABLEY
Title: AUTH'D REP

GLOBE SPECIALTY METALS INC.

By:  _____
Name: JEFF BRABLEY
Title: CEO

Schedule A
Purchased Silicon Metal Assets

All of BSI's right, title and interest, in the QSLP Equity, the QSLP Contracts, the Silicon Metal Contracts and ancillary assets to the extent set forth in these Schedules.

1. Intellectual Property
 - (a) See attached Silicium Bécancour Inc. Non-Solar IP Portfolio Summary regarding patents and patent applications.
 - (b) Intellectual Property License Agreement among Québec Silicon Limited Partnership as Licensor and Bécancour Silicon Inc. and Dow Corning Corporation as Licensees, dated October 1, 2010.
 - (c) Intellectual Property License Agreement among Québec Silicon as Licensee and Bécancour Silicon Inc. and Dow Corning Corporation as Licensors, dated October 1, 2010.
 - (d) Intellectual property owned by Bécancour Silicon Inc. relating to the Composite Electrode Technology as such term is defined in the Intellectual Property Assignment Agreement dated September 30, 2010 between Bécancour Silicon Inc. and Québec Silicon Limited Partnership.
2. Silicon Metals Accounts Receivables
3. All Prepaid Expenses
4. All Inventory - Silicon Metals
5. All Inventory - Packing Supplies

Schedule B
Purchased Solar Grade Silicon Assets

All of BSI's right, title and interest, in and to all of the tangible and intangible assets, properties, rights and Claims, wherever located, used, intended for use or arising in connection with BSI's currently inactive business of producing solar grade silicon through a division of BSI, Timminco Solar, including the Solar Grade Silicon Contracts, Solar Equipment and the Solar Intellectual Property.

1. Owned Property

HP1 PROPERTY:

Legal (registered) and beneficial owner: BSI

DESCRIPTION OF IMMOVABLE

An immovable situated in the City of Bécancour, Province of Québec, known and designated as being composed of the following lots, namely:

lot number THREE MILLION TWO HUNDRED AND NINETY-FOUR THOUSAND AND FIFTY-FOUR (3 294 054) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2); and

lot number FOUR MILLION ONE HUNDRED AND TEN THOUSAND FIVE HUNDRED AND NINETY-EIGHT (4 110 598) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2);

With the buildings and all other structures, fixtures, equipment and ancillary improvements located thereon (other than Excluded Assets), including the building bearing the civic address 5500 Yvon-Trudeau Street, City of Bécancour, Province of Québec, G9H 0G1.

The whole as it is currently found with all that is or will be incorporated, attached, joined or united by accession to this immovable and that is considered an immovable under the law.

HP2 PROPERTY:

Registered (legal) owner: QSGP (as nominee for BSI)

Beneficial owner: BSI

DESCRIPTION OF IMMOVABLE

An immovable situated in the City of Bécancour, Province of Québec, known and designated as being lot number FOUR MILLION SEVEN HUNDRED AND TWO THOUSAND FOUR HUNDRED NINETY-SEVEN (4 702 497) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2).

With the buildings and all other structures, fixtures, equipment and ancillary improvements located thereon (other than Excluded Assets), including the building bearing the civic address 6400 Yvon-Trudeau Street, City of Bécancour, Province of Québec, G9H 2V8.

The whole as it is currently found with all that is or will be incorporated, attached, joined or united by accession to this immovable and that is considered an immovable under the law.

2. Leased Property

Lease dated September 30, 2010 between Québec Silicon General Partner Inc. and Bécancour Silicon Inc., in respect of office premises at 6500 Yvon Trudeau, Bécancour, Québec, for a term expiring September 30, 2040.

3. Solar Intellectual Property

- (a) See attached Silicium Bécancour Inc. IP Portfolio Summary regarding patents and patent applications.
- (b) Rights contained in Joint Development Agreement by and between Bécancour Silicon Inc. and AMG Conversion Ltd., dated July 20, 2009.
- (c) Rights contained in the Exclusive Marketing Agreement entered into by and between Timminco Limited and Major Furnace International Pty Ltd, dated January 1, 2009.
- (d) Intellectual Property developed by Bécancour Silicon Inc. relating to: (i) melting and casting of solar grade silicon; (ii) casting of solar grade silicon with gallium doping; (iii) blending of solar grade silicon with polysilicon; (iv) processing of solar grade silicon wafers into cells; and (v) theoretical and empirical relationships between solar grade silicon dopant concentration as measured by resistivity and solar grade silicon dopant concentration as measured by ICP-MS.

4. Solar Accounts Receivables

5. All Inventory - Solar

6. See Schedule H - Solar Equipment

For greater certainty, no personal property or movable property leased by BSI or subject to a registered movable hypothec created thereon under Article 2954 of the Civil Code of Québec upon the acquisition of such movable asset or subject to a title retention arrangement in favour of the vendor thereof shall be included in the Purchased Assets.

Schedule C
Intentionally Deleted

Schedule D Bidding Procedures

On January 3, 2012, Timminco Limited ("Timminco") and Bécancour Silicon Inc. ("BSI", and together with Timminco, the "Debtors") commenced proceedings (the "CCAA Proceedings") under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") before the Ontario Superior Court of Justice (Commercial List) (the "Court") pursuant to an order granted by the Court on January 3, 2012 (as amended, the "Initial Order").

On ●, 2012, the Debtors filed a motion (the "**Bidding Procedures Motion**") with the Court seeking, among other things, approval of (a) the Debtors' entry into a certain agreement of purchase and sale for certain assets of the Debtors (the "**Stalking Horse Assets**") between the Debtors, QSI Partners Ltd. (the "**Stalking Horse Bidder**") and Globe Specialty Metals, Inc. dated February ●, 2012 (the "**Stalking Horse Agreement**") so as to set a minimum floor price in respect of the Debtors' sales process; (b) certain protections granted to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement; and (c) certain bidding procedures for the solicitation of offers or proposals (each a "**Bid**") for the acquisition of the Debtors' property, assets and undertakings (collectively, the "**Assets**") or some portion thereof.

On ●, 2012, the Court entered an order (the "**Bidding Procedures Order**") granting the relief requested in the Bidding Procedures Motion including approval of these Bidding Procedures. Accordingly, the following procedures (the "**Bidding Procedures**") shall govern the proposed sale of all or substantially all of the Stalking Horse Assets pursuant to one or more Bids. These Bidding Procedures shall govern the Debtors' sales process relating to the solicitation by the Debtors of one or more Bids for the Assets, including the Stalking Horse Assets, that are superior to that contemplated by the Stalking Horse Agreement.

All denominations are in Canadian Dollars.

1. Assets for Sale

The Debtors are soliciting superior offers for all or a portion of the Stalking Horse Assets.

2. Bidding Deadlines

All Phase I Bids (as defined below) must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received by each of the Notice Parties (as defined below) no later than 10:00 a.m. (Eastern time) on **[March 26, 2012]**, 2012 (the "**Phase I Bid Deadline**"). All Phase II Bids (as defined below) must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received no later than 10:00 a.m. (Eastern time) on **[April 16, 2012]** (the "**Phase II Bid Deadline**"). Written copies of the Bids shall be delivered by the applicable deadline to: (a) the Debtors, 150 King Street West, 2401, Toronto, Ontario, M5H 1J9, Attn: Peter Kalins, President, General Counsel and Corporate Secretary, PKalins@timminco.com; (b) counsel to the Debtors, Stikeman Elliott LLP, 199 Bay Street, 5300 Commerce Course West, Toronto, Ontario, M5L 1B9, Attn: Daphne MacKenzie, dmackenzie@stikeman.com; (c) the Court-

appointed monitor of the Debtors, FTI Consulting Canada Inc. (the “**Monitor**”), TD Waterhouse Tower, 79 Wellington Street, Suite 2100, Toronto, Ontario M5K 1G8 Attn.: Nigel Meakin, nigel.meakin@fticonsulting.com; and (d) counsel to the Monitor, Blake, Cassels & Graydon LLP, 199 Bay Street, Suite 2800, Toronto, Ontario M5L 1A9, Attn.: Linc Rogers, linc.rogers@blakes.com (collectively, the “**Notice Parties**”). A Bid received after the Phase I Bid Deadline shall not constitute a Phase I Bid and a Phase II Bid received after the Phase II Bid Deadline shall not constitute a Qualified Bid (as defined below). A Bid shall be delivered to all Notice Parties at the same time. Interested bidders requesting information about the qualification process, including a copy of the Stalking Horse Agreement, and information in connection with their due diligence, should contact the Monitor, FTI Consulting Canada Inc., Attention: Nigel Meakin, Senior Managing Director, TD Waterhouse Tower, 79 Wellington Street, Suite 2100, Toronto, Ontario, M5K 1G8, (416) 649-8065.

3. Participant Requirements

To participate in the process detailed by these Bidding Procedures and to otherwise be considered for any purpose hereunder, an interested party must submit an initial Bid (a “**Phase I Bid**”) and each bidder submitting a Phase I Bid (a “**Phase I Bidder**”) must be determined by the Debtors, with the assistance of their advisors and in consultation with the Monitor, to have satisfactorily provided the Debtors and the Monitor with each of the following on or before the Phase I Bid Deadline (collectively, the “**Participant Requirements**”):

- (a) Identification of Phase I Bidder. Identification of the Phase I Bidder and any Principals (defined below), and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) Non-Binding Expression of Interest. An executed non-binding indication of interest satisfactory to the Debtors that must reasonably identify the contemplated transaction, including the assets proposed to be acquired, the proposed purchase price, and any contingencies, and conditions precedent to closing;
- (c) Corporate Authority. Written evidence of the Phase I Bidder’s chief executive officer or other appropriate senior executive’s approval of the contemplated transaction; provided, however, that, if the Phase I Bidder is an entity specially formed for the purpose of effectuating the contemplated transaction (an “**Acquisition Entity**”), then the Phase I Bidder must furnish written evidence reasonably acceptable to the Debtors of the approval of the contemplated transaction by the equity holder(s) of such Phase I Bidder and any guarantor of the Bid (the “**Principals**”);
- (d) Confidentiality Agreement. An executed confidentiality and standstill agreement (the “**Confidentiality Agreement**”) in form and substance acceptable to the Debtors and their counsel, and in any event a confidentiality and standstill agreement on substantially the same terms as the

confidentiality and standstill agreement executed by the Stalking Horse Bidder; and

- (e) Proof of Financial Ability to Perform. Written evidence upon which the Debtors may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
- (i) the Phase I Bidder's or, in the case of an Acquisition Entity, the Principals', current financial statements (audited if they exist);
 - (ii) contact names and numbers for verification of financing sources;
 - (iii) evidence of the Phase I Bidder's or Principals' internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and
 - (iv) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors demonstrating that such Phase I Bidder has the ability to close the contemplated transaction;

provided, however, that the Debtors shall determine, in their reasonable discretion, in consultation with their advisors, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Phase I Bidder's financial qualifications.

4. Designation as Qualified Bidder

A "**Qualified Phase I Bidder**" is a Phase I Bidder that delivers the documents described in paragraphs (a) through (e) in Section 3 above, and that the Debtors, with the assistance of their advisors and in consultation with the Monitor, determine is reasonably likely to submit a binding bona fide offer that would result in greater value being received for the Stalking Horse Assets for the benefit of the Debtors' creditors than under the Stalking Horse Agreement and would be able to consummate a sale if selected as a Successful Bidder (as defined below).

A party who does not wish to purchase all or substantially all of the Stalking Horse Assets (a "**Portion Bidder**") may submit a Bid (a "**Portion Bid**") in respect of a smaller subset of such assets and shall constitute a Qualified Phase I Bidder if such Portion Bid satisfies the requirements in paragraphs (a) through (e) in Section 3 above.

Upon receipt from a Phase I Bidder of the information required under paragraphs (a) through (e) in Section 3 above the Debtors shall notify the Phase I Bidder with respect to whether it is a Qualified Phase I Bidder as soon as practicable after the Phase I Bid Deadline.

For greater certainty, the Stalking Horse Bidder is and is deemed to be a Qualified Phase I Bidder and a Qualified Phase II Bidder (as defined below) for all purposes of these Bidding Procedures.

5. Access to Due Diligence Materials

Only parties that execute the Confidentiality Agreement are eligible to receive due-diligence access or additional non-public information. If the Debtors determine that a Phase I Bidder who has satisfied the Participant Requirements does not constitute a Qualified Phase I Bidder, then such Phase I Bidder's right to receive due-diligence access or additional non-public information shall terminate. The Debtors will designate an employee or other representative to coordinate all reasonable requests for additional information and due-diligence access from such Qualified Phase I Bidders. The Debtors shall not be obligated to furnish any due diligence information after the Phase II Bid Deadline. The Debtors are not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Assets.

6. Due Diligence From Bidders

Each Qualified Phase I Bidder and each Qualified Phase II Bidder (each, a "Bidder") shall comply with all reasonable requests for additional information by the Debtors or the Monitor regarding such Bidder and its contemplated transaction. Failure by a Bidder to comply with requests for additional information will be a basis for the Debtors to determine that the Bidder is not a Qualified Phase I Bidder or Qualified Phase II Bidder, as applicable.

7. Bidding Procedures

The Debtors, with the assistance of their advisors and in consultation with the Monitor, shall: (a) determine whether a Phase I Bidder is a Qualified Phase I Bidder; (b) coordinate the efforts of Bidders in conducting their due-diligence investigations, as permitted by the provisions herein; (c) receive offers from Qualified Phase I Bidders and Qualified Phase II Bidders, as applicable; and (d) negotiate offers made in accordance with these Bidding Procedures to purchase Assets. Subject to these Bidding Procedures and the Bidding Procedures Order, the Debtors, after consultation with the Monitor, shall have the right to adopt such other rules for these Bidding Procedures (including rules that may depart from those set forth herein), that in their reasonable business judgement will better promote the goals of these Bidding Procedures; provided that the adoption of any rule that materially deviates from these Bidding Procedures shall require the prior consent of the Stalking Horse Bidder or an order of the Court.

8. Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid (as defined below). To participate in the Auction (as defined below) a Qualified Phase I Bidder (including a Portion Bidder) must submit a Bid (a "Phase II Bid") that is determined by the Debtors, with the assistance of their advisors and in consultation with the Monitor, to satisfy each of the following conditions (a "Qualified Phase II Bid", and any party making such a Qualified Phase II Bid, a "Qualified Phase II Bidder"):

- (a) Written Submission of Modified APA and Commitment to Close. Qualified Phase I Bidders (other than the Stalking Horse Bidder) must submit a Phase II Bid by the Phase II Bid Deadline in the form of an executed mark-up of the Stalking Horse Agreement (each a "**Modified APA**") reflecting such Qualified Phase I Bidder's proposed changes to the Stalking Horse Agreement (together with a blackline of the Modified APA against the Stalking Horse Agreement), and a written and binding commitment to close on the terms and conditions set forth therein.
- (b) Irrevocable. A Phase II Bid must be irrevocable until (i) June 20, 2012; or (ii) in the event the Phase II Bid is determined to be the Back-up Bid, July 20, 2012;
- (c) Contingencies. A Phase II Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies associated with a Phase II Bid may not, in aggregate, be more burdensome than those set forth in the Stalking Horse Agreement;
- (d) Financing Sources. A Phase II Bid must contain written evidence of a commitment for financing or other evidence of the ability to consummate the sale satisfactory to the Debtors with appropriate contact information for such financing sources;
- (e) No Fees payable to Qualified Phase II Bidder. A Phase II Bid may not request or entitle the Qualified Phase II Bidder, other than the Stalking Horse Bidder, to any break-up fee, expense reimbursement or similar type of payment;
- (f) Good-Faith Deposit. Each Phase II Bid must be accompanied by a cash deposit (the "**Good Faith Deposit**") equal to fifteen (15) percent of the total purchase price contemplated under the Modified APA that shall be paid to the Monitor, to be held by the Monitor in trust in accordance with these Bidding Procedures; and
- (g) Minimum Overbid. The aggregate consideration in a Phase II Bid must have a cash purchase price of at least the amount of the cash purchase price payable to the Debtors under the Stalking Horse Agreement of \$●, plus the Expense Reimbursement of \$500,000, plus \$250,000 for a total minimum consideration of \$● (the "**Minimum Overbid**"); provided that any Portion Bidder shall not be subject to the Minimum Overbid; provided further that any "Aggregated Bid" (as defined below) shall be subject to the Minimum Overbid.

9. Auction

Only if a Qualified Phase II Bid (other than the Stalking Horse Bid) is received by the Phase II Bid Deadline shall the Debtors conduct an auction (the "**Auction**") to determine the highest and/or best Bid with respect to the Stalking Horse Assets. The Auction shall

commence on [April 24, 2012], at 10:00 a.m. (Eastern Time) at the offices of Stikeman Elliott LLP, 199 Bay Street, 5300 Commerce Course West, Toronto, Ontario, M5L 1B9.

If no such Qualified Phase II Bid is received by the Phase II Bid Deadline, then the Auction shall not take place, the Stalking Horse Bidder shall be declared the Successful Bidder (as defined below), the Debtors shall seek approval of, and authority to consummate, the Stalking Horse Agreement and the transactions provided for therein at the Sale Hearing (as defined below) and the Monitor shall post notice of such facts on its website established in connection with the CCAA Proceedings.

If a Qualified Phase II Bid is received in accordance with these Bidding Procedures, the Auction shall be conducted according to the following procedures:

- (a) Participation At The Auction. Only a Qualified Phase II Bidder that has submitted a Qualified Phase II Bid is eligible to participate at the Auction; provided that the Debtors may allow any or all Portion Bidders that are Qualified Phase II Bidders to participate in the Auction. For greater certainty, the Stalking Horse Bidder is a Qualified Phase II Bidder and eligible to participate at this Auction. Only the authorized representatives (including counsel and other advisors) of each of the Qualified Phase II Bidders, the Debtors and the Monitor shall be permitted to attend at the Auction. Subject to Section 9(c)(v), during the Auction, the bidding shall begin with the highest Qualified Phase II Bid (the "**Opening Bid**") and each subsequent round of bidding shall continue in minimum increments of at least the Minimum Overbid Increment (as defined below). For greater certainty, a combination of Portion Bids that do not overlap for the Stalking Horse Assets sought to be purchased, and which, when totaled, exceed the Minimum Overbid (an "**Aggregated Bid**") may be determined to be the Opening Bid.
- (b) Debtors Shall Conduct The Auction. The Debtors and their professionals, in consultation with the Monitor, shall direct and preside over the Auction. At the start of the Auction, the Debtors shall provide the terms of the Opening Bid to all participating Qualified Phase II Bidders at the Auction and a blackline of such Opening Bid to the Stalking Horse Agreement. The determination of which Qualified Phase II Bid constitutes the Opening Bid shall take into account any factors the Debtors, with the assistance of their advisors and in consultation with the Monitor, reasonably deem relevant to the value of the Qualified Phase II Bid to the Debtors, including, among other things, the following: (i) the amount and nature of the consideration; (ii) the proposed assumption of any liabilities, if any; (iii) the ability of the Qualified Phase II Bidder to close the proposed transaction; (iv) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (v) any purchase-price adjustments; (vi) the impact of the contemplated transaction on any actual or potential litigation; (vii) the net economic effect of any changes from the Stalking Horse Agreement, if any, contemplated by the contemplated transaction documents (the "**Contemplated Transaction Documents**"), (viii) the net after-tax consideration to be received by the

Debtors; and (ix) such other considerations as the Debtors deem relevant in their reasonable business judgement (collectively, the “**Bid Assessment Criteria**”). All Bids made after the Opening Bid shall be Overbids (as defined below), and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Phase II Bidders that are participating in the Auction. The Debtors shall maintain a transcript of the Opening Bid and all Overbids made and announced at the Auction, including the Successful Bid and the Back-up Bid (as defined below).

- (c) Terms of Overbids. An “**Overbid**” is any Bid made at the Auction subsequent to the Debtors’ announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Phase II Bidder must comply with the following conditions:

- (i) **Minimum Overbid Increment**

Any Overbid shall be made in increments of at least \$250,000 or such lower amount (such lower amount not to be less than \$100,000) as the Debtors may determine in order to facilitate the Auction (the “**Minimum Overbid Increment**”). When considering whether the Minimum Overbid Increment has been satisfied, the Debtors shall compare the Bids (including Aggregated Bids) only as they relate to the Stalking Horse Assets. The amount of the cash purchase price consideration of any Overbid shall not be less than the cash purchase price consideration of the Opening Bid; provided, that, without duplication, application of any amounts advanced to the Debtors under the DIP Facility between the Debtors and the Stalking Horse Bidder shall be considered as cash purchase price consideration in connection with any Overbid by the Stalking Horse Bidder.

- (ii) **Remaining terms are the same as for Qualified Phase II Bids**

Except as modified herein, an Overbid must comply with the conditions for a Qualified Phase II Bid set forth above, provided, however, that the Phase II Bid Deadline shall not apply.

Any Overbid made by a Qualified Phase II Bidder must provide that it remains irrevocable and binding on the Qualified Phase II Bidder until (A) in the event such Qualified Phase II Bid is declared the Successful Bid, June 20, 2012; and (B) in the event such Qualified Phase II Bid is declared the Back-up Bid, July 20, 2012.

The Debtors shall credit the amount of the Expense Reimbursement to each and every Overbid submitted by the Stalking Horse Bidder at the Auction, meaning that if the Stalking Horse Bidder’s subsequent Overbid is the then highest and/or best Overbid at the Auction, any subsequent Overbid must exceed the Stalking Horse Bidder’s Overbid

by the amount of the Expense Reimbursement and Minimum Overbid Increment.

To the extent not previously provided (which shall be determined by the Debtors), a Qualified Phase II Bidder submitting an Overbid must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors) demonstrating such Qualified Phase II Bidder's ability to close the transaction proposed by such Overbid.

(iii) Announcing Overbids

At the end of each round of bidding, the Debtors shall announce the material terms of the then highest and/or best Overbid, the basis for calculating the total consideration offered in such Overbid, and the resulting benefit to the Debtors' based on, among other things, the Bid Assessment Criteria. For greater certainty, an Aggregated Bid may be determined to be the highest and/or best Overbid.

(iv) Consideration of Overbids

The Debtors reserve the right, in their reasonable business judgement, to make one or more adjournments in the Auction to, among other things: (A) facilitate discussions between the Debtors and individual Qualified Phase II Bidders; (B) allow individual Qualified Phase II Bidders to consider how they wish to proceed; (C) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (D) give Qualified Phase II Bidders the opportunity to provide the Debtors and the Monitor with such additional evidence as they may require, in their reasonable business judgement, that the Qualified Phase II Bidder has obtained all required internal corporate approvals, has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount.

(v) Portion Bids

Notwithstanding the forgoing, each Portion Bidder entitled to participate in the Auction shall be entitled to submit an Overbid (in a minimum increment to be determined by the Debtors) with respect to the Assets it is bidding on without being required to submit an Overbid with respect to all Assets subject to the Stalking Horse Agreement or the applicable Opening Bid; provided that any Aggregated Bid that is an Overbid shall be subject to these Auction procedures as any other Overbid, including that such Aggregated Bid that is an Overbid shall be subject to the Minimum Overbid Increment

described in section 9(c)(i). As part of any Overbid, the Stalking Horse Bidder shall be entitled to make a Portion Bid.

For greater certainty, to the extent any Portion Bid or an Aggregated Bid is the Successful Bid (including through the deeming of the Backup Bid as the Successful Bid), including any Portion Bid or Aggregated Bid where the Stalking Horse Bidder is also a Portion Bidder, the Stalking Horse Bidder shall not be obliged to complete the transactions under the Stalking Horse Agreement or purchase any subset of assets or assume any subset of liabilities which are not covered by such Portion Bid or Aggregated Bid.

(vi) Failure to Bid

If at the end of any round of bidding a Qualified Phase II Bidder (other than a Portion Bidder, or the Qualified Phase II Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Qualified Phase II Bidder shall not be entitled to continue to participate in the next round of the Auction.

- (d) Additional Procedures. The Debtors may, with the assistance of their advisors and in consultation with the Monitor, adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction and that are not inconsistent with any of the provisions of these Bidding Procedures or the Bidding Procedures Order; provided that no such rules may change the requirement that all Overbids shall be made and received in one room, within a defined period, on an open basis, and all other Qualified Phase II Bidders (that have not failed to make an Overbid in a prior round of bidding) shall be entitled to be present for all bidding with the understanding that the true identity of each Qualified Phase II Bidder – i.e., Principals submitting the Bid – shall be fully disclosed to all other Qualified Phase II Bidders and that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Qualified Phase II Bidders provided further that the adoption of any rule that materially deviates from the Auction procedures set forth herein shall require the prior written consent of the Stalking Horse Bidder or an Order of the Court.
- (e) Closing the Auction. Upon conclusion of the bidding, the Auction shall be closed, and the Debtors shall, with the assistance of their advisors and in consultation with the Monitor, (i) immediately review the final Overbid of each Qualified Phase II Bidder on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the proposed sale, and (ii) identify the highest and/or best Overbid or Opening Bid (the “Successful Bid” and the entity or entities submitting such Successful Bid, the “Successful Bidder”), and the next highest and/or best Overbid, Opening Bid, or Stalking

Horse Agreement after the Successful Bid (the “**Back-up Bid**” and the entity or entities submitting such Back-up Bid, the “**Back-Up Bidder**”), and advise the Qualified Phase II Bidders of such determination. One or more Portion Bid(s) can form part of a Successful Bid and Back-up Bid so long as such Portion Bid(s) do not overlap in respect of the Assets sought to be purchased and in such case, such Portion Bidder(s) shall be included in the definition of Successful Bidder or Back-up Bidder, as applicable.

- (f) Consent to Jurisdiction as Condition to Bid. All Qualified Phase II Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to the Auction, and the construction and enforcement of the Bidder’s Contemplated Transaction Documents, as applicable.
- (g) Expense Reimbursement. In the event that the Stalking Horse Bidder is not the Successful Bidder (or in the event the Stalking Horse Bidder is the Back-up Bidder but does not become the Successful Bidder in accordance with section 13 hereof), the Stalking Horse Agreement shall be terminated pursuant to Section ● of the Stalking Horse Agreement, and the Expense Reimbursement (in the amount of \$500,000) shall be immediately paid to the Stalking Horse Bidder from the proceeds received upon closing of the Successful Bid or the Back-up Bid. The obligation to pay the Expense Reimbursement under the Stalking Horse Agreement shall be absolute and unconditional and shall not be subject to any defense, claim, counterclaim, offset, recoupment or reduction of any kind whatsoever. Section ● of the Stalking Horse Agreement and the rights and obligations created thereunder shall survive termination of the Stalking Horse Agreement.

10. Acceptance of Successful Bid

The Debtors shall complete the sale transaction or transactions with the Successful Bidder following approval of the Successful Bid by the Court. The Debtors will be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by the Court. The Debtors will be deemed to have accepted a Back-up Bid only when it has been approved by the Court and has been deemed to be a Successful Bid.

11. “As Is, Where Is”

The sale of Assets pursuant to these Bidding Procedures shall be on an “as is, where is” basis and without representations or warranties of any kind, nature, or description by the Debtors, their agents or estates except to the extent set forth in the Stalking Horse Agreement or the purchase agreement of another Successful Bidder. The Stalking Horse Bidder and each Qualified Phase II Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or

otherwise, regarding the Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or (a) as to the Stalking Horse Bidder, the terms of the sale of the Assets shall be set forth in the Stalking Horse Agreement, or (b) as to another Successful Bidder, the terms of the sale of the Assets shall be set forth in the applicable purchase agreement

12. Free Of Any And All Encumbrances

Except as otherwise provided in the Stalking Horse Agreement or another Successful Bidder's purchase agreement, all of the Debtors' right, title, and interest in and to the Assets subject thereto shall be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests thereon and there against (collectively, and other than any permitted encumbrances under the Stalking Horse Agreement or another Successful Bidder's purchase agreement, the "Encumbrances") in accordance with a vesting order of the Court, with such Encumbrances to attach to the net proceeds of the sale of the Assets.

13. Sale Hearing

A hearing to approve the sale of Assets to the Successful Bidder shall be conducted by the Court within [28 days] of the conclusion of the Auction at 330 University Avenue, Toronto, Ontario (the "Sale Hearing"). Following the approval of the sale to the Successful Bidder at the Sale Hearing, if such Successful Bidder fails to consummate the sale in accordance with the terms and conditions of the purchase agreement of the Successful Bidder, the Debtors shall be authorized, but not required, to deem the Back-up Bid, as disclosed at the Sale Hearing, the Successful Bid and the Debtors shall be authorized, but not required, to consummate the sale with the Back-up Bidder and upon so doing the Back-up Bidder shall be deemed to be the Successful Bidder, subject to approval by the Court, which approval may be sought by the Debtors on a conditional basis at the Sale Hearing, at the Debtors' discretion.

14. Return of Good Faith Deposit

Good Faith Deposits of all Qualified Phase II Bidders shall be held in an interest-bearing account. Good Faith Deposits of all Qualified Phase II Bidders, other than the Successful Bidder and the Back-Up Bidder shall be returned to such Qualified Phase II Bidders two (2) business days after the selection of the Successful Bidder and Back-Up Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Good Faith Deposit of the Back-Up Bidder shall be held in an interest-bearing account until two (2) business days after the closing of the transactions contemplated by the Successful Bid, and thereafter returned to the Back-Up Bidder. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Debtors shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-Up Bidder, the Good Faith Deposit of the Back-Up Bidder shall be applied to the purchase

price of the transactions contemplated by the purchase agreement of the Back-Up Bidder at closing.

15. Modifications and Reservations

These Bidding Procedures may be modified or amended only upon the express written consent of the Debtors, after consultation with the Monitor, and, if such modification or amendment materially deviates from these Bidding Procedures, with the written consent of the Stalking Horse Bidder, or by order of the Court.

The Debtors may, after consultation with the Monitor, reject at any time before entry of an order of the Court approving a Successful Bid, any Bid (except the Stalking Horse Agreement, other than in accordance with its terms) that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the CCAA, these Bidding Procedures, or the terms and conditions of sale, or (c) contrary to the best interests of the Debtors, their estates and creditors thereof.

16. Investment Bid

Notwithstanding any other provision of these Bidding Procedures, if a Qualified Phase II Bidder submits an investment bid involving a restructuring, recapitalization or other form of reorganization of the business and affairs of the Debtors, or either one of them, as a going concern or a plan of compromise and arrangement concerning the Debtors, or either one of them, which the Debtors, after consultation with the Monitor, consider would result in a greater value being received for the benefit of the Debtors' creditors than the Qualified Phase II Bids, then the Debtors may consider such investment bid a Qualified Phase II Bid and allow such Qualified Phase II Bidder to participate in the Auction, notwithstanding that such investment bid does not otherwise comply with the terms of Section 8 of these Bidding Procedures. In such case, the Debtors, with the assistance of their advisors and in consultation with the Monitor, may adopt appropriate rules to facilitate such Qualified Phase II Bidder's participation in the Auction.

Schedule E
Permitted Encumbrances

1. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the shares in the capital of Québec Silicon General Partner Inc. pursuant to the Articles of Incorporation of Québec Silicon General Partner Inc.
2. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the shares in the capital of Québec Silicon General Partner Inc. pursuant to the Shareholders Agreement between all the Shareholders of Québec Silicon General Partner Inc. dated October 1, 2010.
3. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the units of Québec Silicon Limited Partnership pursuant to the Amended and Restated Limited Partnership Agreement between Dow Corning Corporation and Québec Silicon General Partners Inc. dated October 1, 2010.
4. Any limitation to the right of ownership associated with the nominee agreement between BSI and Québec Silicon General Partner Inc. relating to the HP2 property located at 6400 Yvon-Trudeau, Bécancour, Québec.
5. The right reserved to or vested in any municipality or government, or to any statutory or public authority, by the terms of any grant or permit acquired by the Vendors or any statutory provision to terminate any such grant or permit, or to require annual or other periodic payments as a condition to the continuance thereof.
6. The reservations, limitations, provisos and conditions (if any) expressed in any original grant from the Crown.
7. Servitudes, easements, rights of way or similar rights in land granted to or reserved by other persons, including without limitation:
 - a. a servitude of passage by foot and vehicles against lot 3 417 110 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2), in favour of the HP1 Property, the HP2 Property and the Facility, created by virtue of a Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002;
 - b. a servitude in favour of the HP1 Property, the HP2 Property and the Facility (with greater extent) to construct railroad tracks on lot 708-30, now known as lot 3 294 053 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2) to connect railroad lines to the main lines of the Canadian National Railway Company situated on lot 708-12, now known as lot 3 417 065 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2) created by virtue of a Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002;

- c. rights and obligations resulting from the Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002, including, without limitation, a right of access to and use of all roadways and other public facilities of the infrastructure of the Central Quebec Industrial Park at Bécancour, rights of access and use of the harbour and dock facilities and the right of storage on the dock facilities in the Central Quebec Industrial Park at Bécancour, a right to erect a fence, a right to extend a private set of railroad tracks and a right to make available by means of water mains a supply of water sufficient to meet the needs;
 - d. a servitude in favour of Hydro-Québec against the HP1 Property registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under numbers 108 397 and 110 709; and
 - e. any and all servitudes to be granted in favour of and against the HP2 Property and the Facility by destination of proprietor and to be registered once executed.
8. Encroachments disclosed by and any errors or omissions existing in surveys of the Purchased Solar Grade Silicon Assets - Owned Property (described in Schedule B) or neighbouring properties and any title defect, encroachment or breach of a zoning, land-use or building by-law or any other Applicable Law, by-law or regulation which might be disclosed by a more up-to-date survey of the Purchased Solar Grade Silicon Assets - Owned Property (described in Schedule B) and survey matters generally, provided that the same does not materially impair the use or materially affect the value of the Purchased Solar Grade Silicon Assets - Owned Property (described in Schedule B) for the purposes of the Ordinary Course of Business.
9. Title defects or irregularities which are of minor nature, encroachments, easements, rights-of-way, rights to use, servitudes or similar interests, including, without restricting the generality of the foregoing, any remarks, comments, reserves, information, comments, issues, errors or omissions contained in title opinions, summaries of limited subsearch and/or "note de service" of the Purchased Solar Grade Silicon Assets - Owned Property (described in Schedule B) or which might be disclosed by more up-to-date title opinions, which are of minor nature provided that same does not materially impair the use or materially affect the value of the Purchased Solar Grade Silicon Assets - Owned Property (described in Schedule B) for the purposes of the Ordinary Course of Business.
10. Statutory or inchoate liens which relate to obligations not yet due on account of taxes, local improvement rates or utilities.

Schedule F
QSLP Contracts

The Contracts relating to the formation, transfer of assets into and governance of QSGP and QSLP:

1. Framework Agreement dated as of August 10, 2010 entered into by and among Dow Corning Corporation, Timminco Limited and Bécancour Silicon Inc. as amended by (i) a letter agreement dated March 31, 2011; and (ii) Amendment No. 1 dated November 1, 2011.
2. Business Transfer Agreement dated September 30, 2010 among Bécancour Silicon Inc. and Québec Silicon Limited Partnership, by its general partner, Québec Silicon General Partner Inc.
3. Intellectual Property Assignment Agreement dated September 30, 2010 between Bécancour Silicon Inc. and Québec Silicon Limited Partnership.
4. Pension Transfer Agreement dated September 30, 2010 among Bécancour Silicon Inc., Québec Silicon Limited Partnership, by its general partner Québec Silicon General Partner Inc., and Dow Corning Corporation.
5. Amended and Restated Limited Partnership Agreement dated October 1, 2010 by and between Bécancour Silicon Inc., Dow Corning Canada Inc. and Québec Silicon General Partner Inc., as amended by the First Amendment thereto dated October 14, 2010.
6. Shareholders Agreement dated October 1, 2010 by and between Bécancour Silicon Inc., Dow Corning Netherlands, B.V. (now known as DC Global Holdings S.a.r.l.) and Québec Silicon General Partner Inc.

Schedule G
Silicon Metal Contracts

Contracts relating solely to the Purchased Silicon Metal Assets:

1. Long-Term Supply Agreement dated June 1, 2011, and effective January 1, 2011, between Bécancour Silicon Inc. and Wacker Chemie AG, as amended by Amendment No. 1 thereto dated September 6, 2011.
2. Output and Supply Agreement among Québec Silicon Limited Partnership, Bécancour Silicon Inc. and Dow Corning Corporation dated October 1, 2010, as amended by: (i) Amendment No. 1 dated November 16, 2010, effective as of October 1, 2010; (ii) Amendment No. 2 dated November 1, 2011, effective as of October 1, 2010; and (iii) Amendment No. 3 dated November 1, 2011, effective as of October 20, 2011.
3. Shared Services Agreement between Bécancour Silicon Inc. and Québec Silicon Limited Partnership dated September 30, 2010.
4. Shared Expenses Agreement dated October 1, 2010 between Québec Silicon General Partner Inc. and Québec Silicon Limited Partnership and Bécancour Silicon Inc. This agreement was amended on November 1, 2011.
5. Agency Services Agreement among Bécancour Silicon Inc. and Québec Silicon Limited Partnership dated September 30, 2010.
6. Purchase Agreement dated September 6, 2011 between Sudamin HOLDING SPRL and Bécancour Silicon Inc.
7. Purchase Order dated September 20, 2011 between Environmental Materials Corp. and Bécancour Silicon Inc. for the sale and delivery of silicon metal.
8. Purchase Order dated November 17, 2011 between Alliages Zabo Inc. and Silicium Bécancour Inc. for the sale and delivery of silicon metal.
9. Purchase Order dated December 13, 2011 between Cable Alcan and Bécancour Silicon Inc. for the sale and delivery silicon metal.
10. Purchase Order dated December 13, 2011 received from Novelis Corp. and Bécancour Silicon Inc. for silicon metal.
11. Purchase Order dated January 9, 2012 between GNP Ceramics, LLC and Bécancour Silicon Inc. for the sale and delivery of silicon metal.

Schedule H
Solar Equipment

1. The machinery, equipment, supplies and accessories, and any of the parts and components thereof, relating to the Purchased Solar Grade Silicon Assets, and all other machinery equipment, supplies and accessories including parts and components thereof, in each case relating to the Timminco Solar division of BSI and located at the HP1 Property or at the HP2 Property or servicing the HP1 Property or the HP2 Property (described in Schedule B), which for greater certainty shall not include the equipment owned by AMG Conversion Ltd. located in the ingoting facility on the HP1 Property or at the HP2 Property or servicing the HP2 Property and/or the HP1 Property.
2. See attached Bécancour Silicon Inc. Schedule of Solar Fixed Assets.

Schedule I
Monthly Reimbursement

The minimum aggregate amount of silicon metal that QSLP shall have produced and delivered to DCC at BSI's request in satisfaction of BSI's obligations to DCC in respect of the Shortfall shall be no less than the amount set forth in the table below that corresponds to the month end period that is no less than fifteen (15) days prior to the Closing.

Month	Amount (in metric tons)
March 31, 2012	3,000
April, 30, 2012	3,250
May 31, 2012	3,500
June 30, 2012*	3,750
July 31, 2012*	4,167
August 31, 2012*	4,584
September 30, 2012*	4,941
October 31, 2012*	5,108
November 30, 2012*	5,275
December 31, 2012*	5,440

*Closing can only occur in the month following this date if agreed in writing by the Parties hereto

Schedule J
Solar Grade Silicon Contracts

The Contracts relating solely to the Purchased Solar Grade Silicon Assets:

1. Purchase Order dated November 17, 2011 between Alliages Zabo Inc. and Silicium Bécancour Inc. for the sale and delivery of silicon metal.
2. Transport Agreement (Entente de Transport) dated September 13, 2011 between Silicium Québec S.E.C. and N. Simard et Frères Inc.
3. Service Agreement dated October 16, 2007 between Gardium Sécurité and Silicium Bécancour Inc.
4. Janitorial Service Agreement Renewal dated September 20, 2011 between Silicium Bécancour Inc. and Les Services d'entretien Bécancour.
5. Supply Agreement dated May 28, 2008, as amended on January 1, 2011 between Prodair Canada Ltée. and Silicium Bécancour Inc.
6. Supply Agreement dated September 24, 2008 between Prodair Canada Ltée. and Silicium Bécancour Inc., as amended on September 27, 2010 and January 1, 2011.
7. Lease Agreement Re: Dust Collector No. 21 and Duct (44") connecting the Furnaces No. 2 located on the Facility to the Dust Collector No. 21 dated [February 28, 2012] between Québec Silicon Limited Partnership and Bécancour Silicon Inc.
8. Exclusive Marketing Agreement between Timminco Limited and Major Furnace International Pty Ltd. dated January 1, 2009.
9. Lease listed under "Leased Property" heading in Schedule B hereto.
10. Lease Agreement No. B-18517 Re: Trailer and Accessories between Clément & Frère Ltée and Silicium Bécancour Inc. dated January 31, 2008.
11. Lease Agreement No. 387425 Re: ModSpace Equipment between Services Financiers Modspace Canada Ltée and Silicium Bécancour Inc. dated November 30, 2008.
12. Lease Agreement No. 387386 Re: ModSpace Equipment between Services Financiers Modspace Canada Ltée and Silicium Bécancour Inc. dated November 30, 2008.
13. Lease Agreement No. 387384 Re: ModSpace Equipment between Services Financiers Modspace Canada Ltée and Silicium Bécancour Inc. dated November 30, 2008.
14. Lease Agreement No. 029247 Re: ModSpace Equipment between Services Financiers Modspace Canada Ltée and Silicium Bécancour Inc. dated April 14, 2008.
15. Lease Agreement No. 023816 Re: ModSpace Equipment between Services Financiers Modspace Canada Ltée and Silicium Bécancour Inc. dated August 25, 2010.

16. Lease Agreement No. 064643 Re: ModSpace Equipment between Services Financiers Modspace Canada Ltée and Silicium Bécancour Inc. dated October 16, 2008.

Schedule K Consents and Approvals

The consents, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) which are effective as of the Closing Time.

Consents and Approvals related to the Purchased Silicon Metal Assets

1. DCC Consent
2. Long-Term Supply Agreement dated June 1, 2011, and effective January 1, 2011, between Bécancour Silicon Inc. and Wacker Chemie AG, as amended by Amendment No. 1 thereto dated September 6, 2011. This agreement is not assignable by either party without the prior written consent of the other.

Consents and Approvals related to the Purchased Solar Grade Silicon Assets

1. Lease dated September 30, 2010 between Québec Silicon General Partner Inc. and Bécancour Silicon Inc., in respect of office premises at 6500 Yvon Trudeau, Bécancour, Québec, for a term expiring September 30, 2040.
2. Nominee Agreement dated September 30, 2010 between Bécancour Silicon Inc. and Québec Silicon General Partner Inc., in respect of the HP2 Property.
3. Service Agreement dated October 16, 2007 between Gardium Sécurité and Silicium Bécancour Inc. The Agreement cannot be assigned or transferred without the prior written consent of Gardium Sécurité.
4. Supply Agreement dated May 28, 2008, as amended on January 1, 2011 between Prodair Canada Ltée. and Silicium Bécancour Inc. The Agreement cannot be assigned without the prior written consent of Prodair Canada Ltée.
5. Supply Agreement dated September 24, 2008, as amended on September 27, 2010 and January 1, 2011 between Prodair Canada Ltée. and Silicium Bécancour Inc. The Agreement cannot be assigned without the prior written consent of Prodair Canada Ltée.
6. Certificates of Authorization and Authorizations for the HP1 Property and the HP2 Property issued by the Quebec Ministry of Sustainable Development, Environment and Parks (“MSDEP”) pursuant to the *Environment Quality Act* cannot be assigned without the approval and issuance by the MSDEP of a certificate of assignment or modification.

Schedule L
Estimated BSI Working Capital Statement

WC Assets (CAD 000s)	5/31/2012
Accounts Receivable – Si Metal	933
Accounts Receivable – Solar	-
Prepaid Expenses	10
Inventory – Si Metal	2,060
Inventory – Solar	1,290
Inventory – Packing Supplies	1,506
<u>WC Assets</u>	<u>5,799</u>