

approved by the Court by Order dated October 18, 2012. On October 24, 2012, one claimant informed the Monitor that it would not be pursuing its claim and as such, there remains only one potential Priority Claim to be resolved.

8. A schedule for the determination of the one remaining potential Priority Claim has been established and is scheduled to be heard in the Quebec Superior Court of Justice between February 18 and March 15, 2013.

Working Capital Adjustment Dispute

9. Pursuant to an agreement of purchase and sale between, among others, QSI Partners Ltd. ("**QSI**"), Timminco and BSI dated April 25, 2012, as amended, QSI purchased BSI's right, title and interest in and to, *inter alia*, assets comprising effectively all of BSI's silicon metal business for a purchase price of approximately \$32 million, subject to a working capital adjustment (the "**Working Capital Adjustment**").

10. The Timminco Entities and QSI were unable to agree on the amount of the Working Capital Adjustment and in December 2012, the parties appeared before the Court seeking a declaration of the proper Working Capital Adjustment. Subsequent to the hearing of the motion, the Timminco Entities and QSI reached an agreement by which both parties agreed to settle the Working Capital Adjustment dispute (the "**QSI Settlement Agreement**"). The QSI Settlement Agreement was executed as of January 15, 2013 and provides for the Working Capital Adjustment to be fixed at \$5,850,000. The QSI Settlement Agreement is expected to be completed this week. After payment

of true-up costs (\$928,440) and termination payments (\$185,322) to QSLP (which amounts were not in dispute), the Settlement Agreement will result in the release of the holdback from distributions to IQ in the amount of \$787,000 and the payment of a purchase price adjustment in the amount of \$1,341,000 to the Monitor on behalf of BSI.

Resolution of Beauharnois Property Disclaimer Motion

11. Timminco is the registered owner of the real property located at 54 Hauts-Fourneaux in Beauharnois, Québec (the “**Beauharnois Property**”). In December 2004, Timminco entered into an Agreement of Purchase and Sale (the “**Beauharnois Sale Agreement**”) with Quonta Holdings Ltd. (“**Quonta**”) which provides for the conditional sale to Quonta of the Beauharnois Property and certain ancillary assets.

12. Under the terms of the Beauharnois Sale Agreement, title to the Beauharnois Property will not pass to Quonta until Quonta, among other things, completes the remediation of the Beauharnois Property in accordance with a certificate of authorization (as described in the Beauharnois Sale Agreement), which terms have not been met.

13. In November 2012, the Timminco Entities brought a motion for an order disclaiming the Beauharnois Sale Agreement pursuant to s. 32 of the CCAA. Subsequent to the bringing of the disclaimer motion, the Timminco Entities reached a settlement with Quonta by agreement dated January 25, 2013 (the “**Settlement Agreement**”). The terms of the Settlement Agreement are described in greater detail in

my affidavit dated January 25, 2013 in support of a motion for an Order approving the Settlement Agreement and vesting the Beauharnois Property pursuant to a hearing scheduled to be heard on January 30, 2013, which is being filed at the same time as this affidavit.

Haley Property

14. As described in, *inter alia*, the 16th Report of the Monitor dated November 28, 2012 (the “16th Report”), the Haley property consists of approximately 230 acres of land located at 962 Magnesium Road in Haley, Ontario, upon which two open pit dolomite quarries were operated as well as the processing of the resulting ore. The site has been closed since 2008, most of the buildings have been demolished and most of the equipment has been sold.

15. The site has a number of known environmental issues. These may briefly be summarized as follows:

- (a) Upon demolition of certain buildings, it was discovered that some of the soil was contaminated with hydrocarbons consistent with leaking or spillage from fuel storage tanks or similar activities - the hydrocarbons have not migrated to a significant degree to date, the CCAA proceedings intervened before Timminco could develop and implement a remediation plan in respect of this issue;
- (b) One of the buildings was the former site of a research and development laboratory in the Second World War and some of the floor materials have been found to contain some relatively small amounts of thorium which

need to be disposed of in a safe manner when the building is ultimately demolished; and

- (c) The mining activities left a quarry which fills naturally with water whose alkalinity is elevated due to leaching from the exposed rock and from the nearby tailings pile - pending development of a means of mitigating the run-off issue, Timminco has been pumping water from the quarry and treating it to reduce its alkalinity prior to its discharge into a nearby creek which flows into the Ottawa River.

16. Since my appointment, I have engaged in a series of meetings with personnel from the Ministry of the Environment ("MOE") and the Ministry of Northern Development and Mines ("MNDM", and collectively with the MOE, the "Ministry Group") to develop constructive means of handling the issues associated with Haley. In that regard, we have scheduled bi-monthly telephone meetings with the Ministry Group and have facilitated a site visit by Ministry Group personnel.

17. Timminco still has on deposit with the MNDM financial assurances in respect of its mine closure obligations of over \$900,000. However, the costs of monitoring the site, keeping winter access, conducting testing, filing reports and operating the twice-yearly pumping of the quarry have been running at over \$80,000 per quarter in 2012. With co-operation from the Ministry Group, we have been able to reduce very significantly the level of testing and reporting being conducted over the winter months which ought to greatly reduce Timminco's costs associated with Haley for the time being.

18. As described in the 16th Report, my view is that it will not be possible to find a purchaser for the site unless the “carrying cost” of the land can be brought to a level that a potential purchaser will find to be acceptable relative to potential future uses of the land and, failing such a solution, abandonment of the site will become the only solution. Discussions are on-going with the Ministry Group with a goal of developing a definitive solution that will enable the financial assurance funds held on deposit to be utilized to maximum advantage to bring the carrying cost of the land to a level where a commercial owner would agree to hold it. Our joint intention is to develop and implement such a solution by the end of February prior to the Spring melt and the next requirement to conduct activity on the site (the first of two annual pumping of the quarry and treating of the water). I expect to be presenting such solution or, alternatively, seeking leave of the Court to abandon the land, before the expiry of the stay extension sought herein to March 15, 2013.

Silica Fumes Site

19. As described in the 16th Report, Timminco owns a site formerly used for the disposal of silica fumes (the “**Silica Fumes Site**”) outside of Montreal, Quebec.

20. One end of the disposal site contained a kiln operation used to dry silica fumes which were subsequently sold commercially (primarily to cement manufacturers). The kiln operation has, in addition to some machinery and a building, three oil storage tanks that were used to store fuel oil used in the operation. Investigation revealed the storage tanks to be owned by a third party. In early January, arrangements were made

to have the tanks pumped out of their remaining inventory of fuel oil and the owner of the tanks has agreed to remove them as soon as the ground has thawed sufficiently to enable that to occur. Quebec environmental officials have been kept up to date on these developments.

21. To the best of my knowledge, the land has negative value unless utilized as an authorized disposal site as the cost of restoration of the land will very likely exceed, by a significant measure, the value of the land as restored. I have sought to initiate discussions with at least one party who has expressed tentative interest in acquiring the land as a disposal site in connection with activities at the nearby Industrial Park. However, if a buyer cannot be found, I expect to seek approval of the Court to abandon the land shortly and in any event before the expiry of the stay extension sought herein.

Timminco Head Office

22. Timminco formerly leased office space in downtown Toronto from Sun Life Assurance Company of Canada. By notice dated August 13, 2012, Timminco disclaimed the lease pursuant to s. 32 of the CCAA, effective September 13, 2012. Timminco has moved into much smaller temporary office space in a shared office environment at the Exchange Tower, 130 King Street West with a lease expiring at the end of March, 2013. I do not expect that Timminco will require office space after that date.

Tycos Property

23. The Timminco Entities continue to assess their options to maximize a return on the sale of the property at 90 Tycos Drive in Toronto, Ontario. The property is subject to a long-term lease (17 years remaining) at below market rates and, in addition, requires on-going monitoring and compliance costs to pump and treat ground water tainted from a spill associated with industrial activities that a Timminco predecessor formerly carried on at the site. While the rent received covers the costs of the treatment, the property remains a difficult one to market. The property was listed for sale shortly before Christmas with Cushman Wakefield Canada. A number of buyers have expressed interest in the property but require time to conduct due diligence. I expect that an agreement subject to due diligence may be reached very soon with Court approval being sought upon due diligence being completed, likely in late February or early March.

Metrobank Claim

24. The settlement of the Metrobank claim in which Timminco was a plaintiff, described in my affidavit sworn October 26, 2012, has been completed.

Toronto Maple Leaf Tickets

25. The Timminco Entities are owners of Maple Leaf season tickets. The Timminco Entities are receiving refunds for NHL games which were cancelled during the lockout. The tickets for the remainder of the abbreviated season have been sold at no loss to Timminco and a tentative buyer for the license has been found but has not yet

completed the purchase. I have engaged a broker for the purpose and fully expect the license to be sold shortly as demand for the tickets remains strong despite recent events.

Memphis Property

26. An indirect U.S. subsidiary of Timminco owns a "brownfield" site near Memphis, Tennessee. The subsidiary, Timminco Properties Inc. ("**Properties**") is a Delaware corporation whose officers and directors resigned at the same time as the officers and directors of the Timminco Entities resigned on or about August 17, 2012. A local broker is being engaged to list the property with a view to determining whether the property can be sold at a value sufficient to warrant the cost of resurrecting the inactive entity which owns it. Earlier this month, I became aware of a lawsuit filed in Delaware in December, 2012 against a predecessor of Properties alleging asbestos liability against such predecessor as well as many other listed defendants. In the case of Properties, the exposure was alleged to date from 37 years ago although we have no information suggesting that asbestos was ever employed at the site (the demolition records from 2008 make no mention of it). It is too early to estimate what recovery, if any, can be anticipated from the Memphis property.

Corporate Attributes

27. I have been in discussions with several parties regarding a possible sale of one or the other of the corporate entities to a purchaser who may find value in their attributes. Significant interest has been expressed however no concrete offer has yet been received.

Two of the prospective purchasers have indicated their intention to make an offer before the end of February with the intention of proceeding to close very quickly thereafter. I think that it is reasonable to expect that a final decision should be taken as regards whether or not such a transaction will be feasible before the end of February.

Sale of Mining Claims

28. The sale and vesting of 11 mining claims held by Timminco to Pavey Ark Minerals Inc. was completed pursuant to an asset purchase agreement dated December 6, 2012 and as approved by the Court by Order of the Honourable Mr. Justice Morawetz dated December 20, 2012. The transaction has since successfully closed.

THE STAY EXTENSION REQUEST

29. The Initial Order granted a stay of proceedings up to and including February 2, 2012, which has been extended from time to time. Most recently the Stay Period was extended to January 31, 2013, by Order dated December 4, 2012 (the "Stay Period").

30. The Timminco Entities have been working diligently to complete the winding down of their businesses within the CCAA proceedings. An extension of the Stay Period to March 15, 2013, is necessary to give the Timminco Entities sufficient time to substantially effect the winding up of their estates. Particularly, in order to allow the Timminco Entities to continue to (a) complete the settlement of the Beauharnois matter; (b) pursue a resolution in respect of the Haley Property and the Silica Fumes Property; (c) work to sell remaining assets such as the Tycos Property, the Toronto Maple Leaf

licence; (d) determine what value if any can be derived from the Memphis Property and the corporate entities; and (e) review outstanding Claims, all for the value and benefit of their creditors.

31. It is my belief that the Timminco Entities have acted and continue to act in good faith and with due diligence. I do not believe that any creditor will suffer any material prejudice if the Stay Period is extended as requested. The Timminco Entities continue to have sufficient cash on hand and with the Monitor to cover their greatly reduced costs.

32. The stability provided by the stay of proceedings is critical to the Timminco Entities in order to be able to continue assessing claims for the benefit of their creditors and continue to wind down its business in an orderly manner.

33. I am informed by the Monitor that it supports the Timminco Entities' request to extend the Stay Period.

EXTENSION OF CRO AGREEMENT TO MARCH 15, 2013

34. The Board of Directors and remaining officers of each of the Timminco Entities resigned their respective positions on or about August 17, 2012, which would have left the Timminco Entities with no means of instructing legal counsel, consulting with the Monitor with respect to the completion of these CCAA Proceedings, dealing with the remaining assets of the Timminco Entities and authorizing other mechanisms necessary for a successful wind up of the Timminco Entities' estates.

35. As such, the Timminco Entities sought and received approval of Russell Hill's appointment as CRO and the approval of the engagement letter dated July 24, 2012 (the "CRO Agreement") between the Timminco Entities and Russell Hill by order of the Court dated August 17, 2012. The terms of the CRO's engagement are set out in the

36. The CRO's powers were expanded by order of the Court dated November 5, 2012, to include the power to settle claims, actions and suits of the Timminco Entities, including the power to enter into settlement agreements, accept settlement offers, grant releases and execute any other documents in respect of such settlements with the prior written consent of the Monitor.

37. The term of the CRO Agreement is set to expire on January 31, 2013. Any extension agreement must be negotiated with the Monitor and is subject to Court approval. A form of extension agreement, satisfactory to the Monitor, is appended hereto as **Exhibit "A"**. The other terms of the CRO Agreement, including the remuneration of the CRO, will remain in effect.

38. As described above, the Timminco Entities have remaining steps to take before their estates are successfully wound up. An extension of the CRO Agreement to coincide with the extension of the Stay Period will allow for completion of the remaining issues described throughout this Affidavit and particularly at paragraph 28 hereto.

39. The Monitor has indicated that it supports the extension of the CRO Agreement to March 15, 2013. At that time, it is expected that many of the issues described in this affidavit will have been resolved and a decision can be made as to what means will permit the most expeditious and efficient resolution of the remaining matters to complete the administration of the estate and hopefully permit a distribution to creditors.


PURPOSE OF AFFIDAVIT

40. This Affidavit is sworn in support of the Timminco Entities' motion for the relief described in paragraph 2 above and for no improper purpose.

SWORN BEFORE ME at the City of
Toronto, Province of Ontario on
January 25, 2012.



Commissioner for Taking Affidavits



Sean Dunphy

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

Court File No. CV12-9539-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

Proceeding commenced at Toronto

**AFFIDAVIT OF SEAN DUNPHY
(SWORN JANUARY 25, 2013)**

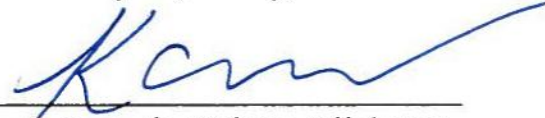
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Lawyers for the Applicants

TAB A

This is Exhibit "A"
to the affidavit of Sean Dunphy,
sworn before me on the
25th day of January, 2013

A handwritten signature in blue ink, appearing to read 'K. C. M.', written over a horizontal line.

Commissioner for Taking Affidavits

January 23, 2012

VIA EMAIL: nigel.meakin@fticonsulting.com

Timminco Limited
Suite 1800, 130 King Street West
Toronto, ON
M5X 1E3

Dear Sirs,

Re: Engagement of Russell Hill Advisory Services Inc. re Timminco Ltd. et al.

I refer to the Engagement Letter dated July 24, 2012 in respect of Russell Hill Advisory Services Inc. ("RHAS") as Chief Restructuring Officer ("CRO") of the Timminco Entities which was approved by the Court on August 17, 2012. It appears that the necessity for the continuation of the engagement of the CRO remains at the present time although it is expected that such necessity will diminish or be reduced significantly fairly shortly.

Accordingly, it is proposed that the Engagement Letters shall, subject to Court approval, continue and be extended on the same terms subject to the following amendments:

1. Term – shall be extended to March 15, 2013 or such other later date as the Monitor may approve in writing;
2. Fees – the work fee shall remain unchanged for the month of February, 2013 and 50% of the monthly work fee shall be payable for the period March 1 to March 15, 2013. If the term is

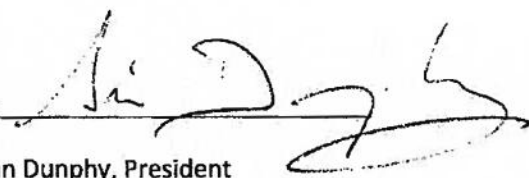
Russell Hill Advisory Services Inc.
290 Russell Hill Rd., Toronto, ON M4V 2T6
Tel: (647) 988-4029; Cell: (647) 988-4029; Email: dunphy@russellhilladvisory.com

extended beyond March 15, 2013 with the written approval of the Monitor, the work fee shall be at such fraction of the monthly work fee originally provided as the Monitor and RHAS shall agree in advance prior to the commencement of the month until the engagement is terminated. There shall be no Success Fee applicable.

It is understood that this extension of the appointment of RHAS as CRO shall be subject to Court approval.

Yours very truly,

Russell Hill Advisory Services Inc.

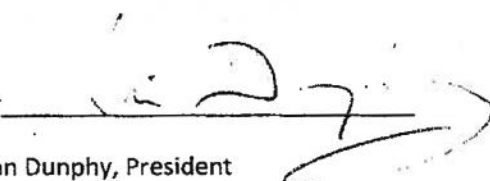
Per 
Sean Dunphy, President

**Approved by FTI Consulting Canada Inc. as Monitor
of the Timminco Entities and subject to Court approval**

Per _____

Nigel Meakin

**Agreed subject to court approval
Timminco Limited and Bécancour Silicon Inc. by their
Chief Restructuring Officer, Russell Hill Advisory Services Inc.**

Per 
Sean Dunphy, President

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 30TH
JUSTICE MORAWETZ)
DAY OF JANUARY, 2013

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

Applicants

**ORDER
(Re Stay Extension to March 15, 2013 and
Extension of the Term of the CRO Agreement)**

THIS MOTION, made by Timminco Limited and Bécancour Silicon Inc. (together, the "Timminco Entities"), for an order extending the Stay Period (as defined below) until March 15, 2013, and extending the term of the CRO Agreement (as defined below) to March 15, 2013, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sean Dunphy sworn January 25, 2013 and on hearing the submissions of counsel for the Timminco Entities and the Monitor, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Kathryn Esaw sworn January ●, 2013, filed:

SERVICE

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

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 18 of the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012) is hereby extended until and including March 15, 2013.

EXTENSION OF CRO AGREEMENT

3. **THIS COURT ORDERS** that extension of the appointment of the CRO to March 15, 2013, on the terms set forth in the CRO Engagement Letter Amendment filed as Exhibit "A" to the Affidavit of Sean Dunphy sworn January 25, 2013, is hereby approved.

GENERAL

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor, Russell Hill Advisory Services Inc. in its capacity as Chief Restructuring Officer of the Timminco Entities (the "CRO"), and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor and to the CRO, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

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

Court File No. CV-12-9539-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

Proceeding commenced at Toronto

**ORDER
(Re Stay Extension to March 15, 2013)**

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

Court File No. CV-12-9539-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

Proceeding commenced at Toronto

**MOTION RECORD
(RETURNABLE JANUARY 25, 2013)
(RE STAY EXTENSION AND EXTENSION OF
THE TERM OF THE CRO AGREEMENT)**

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