

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

Applicants

**MOTION RECORD
(Stay Extension to July 15, Extension of CRO Agreement,
Approval of CRO Actions Relating to the Memphis Agreement
and Transfer of Tycos Property)
(Returnable May 14, 2013)**

May 7, 2013

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TAB 1

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**NOTICE OF MOTION
(Stay Extension to July 15, Extension of CRO Agreement,
Approval of CRO Actions Relating to the Memphis Agreement
and Transfer of Tycos Property)
(Returnable May 14, 2013)**

Timminco Limited and Bécancour Silicon Inc. (together, the "Timminco Entities") will make a motion to a judge presiding over the Commercial List on Tuesday, May 14, 2013 at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order, substantially in the form attached to the Motion Record at Tab 3:
 - (a) extending the Stay Period (as defined in the affidavit of Sean Dunphy sworn May 7, 2013 (the "Dunphy Affidavit") until July 15, 2013 (the "Stay Extension");
 - (b) extending the term of the CRO Agreement (as defined in the Dunphy Affidavit) pursuant to the terms of the Third CRO Extension Agreement (as defined in the Dunphy Affidavit); and
 - (c) approving the actions of the CRO in respect of the Memphis Property (as defined in the Dunphy Affidavit).

2. An Order, substantially in the form of the draft order included in the Motion Record at Tab 4, approving the agreement of purchase and sale (the "Tycos Agreement") between Timminco and Ehrlich Samuel Properties Inc. (the "Purchaser") providing for the transfer of the Tycos Property (as defined in the Dunphy Affidavit), and authorizing and directing the Timminco Entities and the Monitor (as defined in the Dunhy Affidavit) to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transaction contemplated by the Tycos Agreement (the "Tycos Transaction").

THE GROUNDS FOR THE MOTION ARE:

3. The facts outlined in the Dunhy Affidavit.
4. Such further and other grounds as counsel may advise and this court may permit.

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

- (a) the Affidavit of Sean Dunphy sworn May 7, 2013, and the exhibits attached thereto;
- (b) the Twentieth Report of the Monitor, to be filed; and
- (c) such further and other materials as counsel may advise and this Court may permit.

May 7, 2013

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Lawyers for the Applicants

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Applicants

**AFFIDAVIT OF SEAN DUNPHY
(Sworn May 7, 2013 re Stay Extension to July 15, Extension of
CRO Agreement, Approval of CRO Actions Relating to the
Memphis Agreement and Transfer of Tycos Property)**

I, SEAN DUNPHY, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the President of Russell Hill Advisory Services Inc. ("**Russell Hill**"), the Court-appointed Chief Restructuring Officer (the "**CRO**") of Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. ("**BSI**" and, together with Timminco, the "**Timminco Entities**"), and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. This affidavit is sworn in connection with the Timminco Entities' motion for:
- (a) an Order, substantially in the form of the draft order included in the Motion Record at Tab 3:
 - (i) extending the Stay Period (as defined below) until July 15, 2013 (the "**Stay Extension**");

- (ii) extending the term of the CRO Agreement (as defined below) pursuant to the terms of the Third CRO Extension Agreement (as defined below); and
 - (iii) approving the actions of the CRO in respect of the Memphis Property (as defined below); and
- (b) an Order, substantially in the form of the draft order included in the Motion Record at Tab 4, approving the agreement of purchase and sale (the “**Tycos Agreement**”) between Timminco and Ehrlich Samuel Properties Inc. (the “**Purchaser**”) providing for the transfer of the Tycos Property (as defined below), and authorizing and directing the Timminco Entities and the Monitor (as defined below) to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transaction contemplated by the Tycos Agreement (the “**Tycos Transaction**”).

BACKGROUND

3. The Timminco Entities’ primary business, the production and sale of silicon, was carried on principally through BSI, a Québec-based wholly-owned subsidiary of Timminco. BSI purchased silicon metal produced by a joint venture partnership for resale to customers in the chemical (silicones), aluminum, and electronics/solar industries.

4. Due to a number of factors, the Timminco Entities were facing severe liquidity issues and were unable to meet their ongoing payment obligations. As such, the Timminco Entities were granted protection from their creditors under the CCAA

pursuant to the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012 (the "**Initial Order**"). FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") pursuant to the Initial Order. A copy of the Initial Order is available, together with all other filings in the CCAA proceedings, on the Monitor's website at: <http://cfcanada.fticonsulting.com/timminco>.

STATUS REPORT AND UPDATE

Haley Property

5. Pursuant to an agreement of purchase and sale (the "**Haley Agreement**") between Timminco and Timminco Silicon Holdings Limited ("**TSHL**"), which agreement and associated transaction was approved by court order dated March 5, 2013 (the "**March 5 Order**"), Timminco transferred its real property located in and around 962 Magnesium Road in Haley, Ontario (the "**Haley Property**") to Timminco Silicon Holdings Limited ("**TSHL**"). TSHL was assigned into bankruptcy on March 8, 2013.

6. The trustee in bankruptcy of TSHL gave notice that it was abandoning the Haley Property on March 13, 2013. By letter dated March 28, 2013, the Ministry of Mines and Northern Development (the "**MNDM**") advised the trustee in bankruptcy that it would be issuing a director's rehabilitation order in respect of the Haley Property forthwith. Such order (the "**Haley Director's Order**") was issued on April 18, 2013. A copy of the Haley Director's Order is attached hereto as **Exhibit "A"**.

7. I am continuing to communicate with the MNDM, the Ministry of the Environment (the "MOE") and TSHL's trustee in bankruptcy to ensure smooth transition of the Haley Property. I will be meeting with MNDM at the Haley Property on May 15, 2013 along with the potential purchaser mentioned in the paragraph next following to review co-ordination efforts, negotiate a possible equipment sale (as described below) and determine further steps in relation to documents which were left in storage on site of which I was unaware until recently.

8. The Timminco Entities expect to seek approval in the near future of a potential sale of some equipment left on the Haley Property due to an expression of interest to purchase same submitted by a potential purchaser. The potential purchaser submitted an offer to purchase the equipment conditional on arriving at an arrangement with the MNDM. The Timminco Entities and the potential purchaser, with the supervision of the Monitor, have engaged in negotiations relating to the potential sale

Silica Fumes Property

9. Pursuant to the deed of sale between Timminco and 2362896 Ontario Inc. ("236") and the March 5 Order, the Timminco Entities have been working to transfer the real property located at 5355 Chemin De Fer in Bécancour, Québec (the "**Silica Fumes Property**") to 236.

10. The Timminco Entities are continuing to await approval from regulatory authorities with respect to restrictions to transfer the Silica Fumes Property.

Particularly, certain of the Silica Fumes Property falls within designated agricultural land and under *An Act Respecting the Acquisition of farm land by Non-Residents* (Quebec), there are restrictions on transferring agricultural land to non-residents of Quebec. The Timminco Entities have applied to have the agricultural designation removed from the Silica Fumes Property and have submitted a parallel application for an exemption from the transfer restrictions and continue to pursue an expeditious resolution to this issue. In the interim, I have renewed attempts to see if a buyer can be located but have not found a broker willing to accept the listing due to its prospects. I shall continue to liaise with a local real estate broker while awaiting regulatory approval in order to sever further connections with the property as soon as possible.

Head Office

11. Timminco has now ended its temporary lease of the office located at 130 King Street West, Toronto and has no remaining physical premises. Timminco's mail will be monitored until June 30, 2013.

12. Certain current files have been retained by the CRO while the balance have been sent into storage. The CRO reviewed records relating to approximately 1,000 boxes in storage. Approximately 60% of these records will be destroyed. Records dated after 2007 will be scheduled for destruction January 1, 2019 unless earlier recalled and cost of storage and destruction will be prepaid.

Toronto Maple Leaf Tickets

13. The Timminco Entities are owners of Maple Leaf season tickets and related license. 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. A tentative agreement for sale has been negotiated and is in the process of being documented which should net approximately \$15,000 - \$20,000 for the estate after brokerage and transaction costs.

Corporate Attributes

14. 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 had been expressed; however, Parliament's recent budget and a downturn in commodity prices has made the purchase of these assets less attractive and reduced the number of interested parties. There has been little progress since February, 2013 but some parties continue to express an interest in reviewing the matter further, but not until later in the year.

MEMPHIS PROPERTY

15. Timminco Properties Inc. (“TPI”), an indirect U.S. subsidiary of Timminco, owns an approximately 96 acre site on Fite Road in Millington, Shelby County, Tennessee, near Memphis (the “**Memphis Property**”). TPI, formerly known as “Chromasco”, once had a chromium smelting operation on the Memphis Property. TPI is a Delaware corporation.

16. TPI is a wholly-owned subsidiary of Timminco Holdings Inc. (“THI”). THI is also a Delaware corporation and is a wholly-owned subsidiary of Timminco.

17. Directors and officers of TPI and THI were formerly employees of Timminco and all resigned as of August 17, 2012.

18. THI and TPI are inactive and have no operations.

19. The Memphis Property is the only known remaining asset of TPI. THI has no assets other than the shares of TPI.

20. The Memphis Property is now a vacant lot. Remaining buildings on the site were demolished in 2008. A portion of the property which once served as a landfill site for the operations and the area of the landfill site are subject to certain restrictive covenants on future use pursuant to an agreement with environmental authorities in order to prevent disturbing the site.

21. The Memphis Property is subject to real property taxes of approximately \$6,000 per year which have been unpaid since April, 2012.

22. The Memphis Property is subject to an agreement of Right of First Refusal in favour of Shelton and Bruce Harrison (collectively, the "**Beneficiary**"). A copy of the agreement is attached hereto as **Exhibit "B"**. Pursuant to this agreement, TPI must pay the Beneficiary 25% of net proceeds from the sale of the Memphis Property.

23. Prior to my appointment, the Memphis Property had been the object of a non-exclusive purchase option agreement. The prospective purchaser advised in January, 2013 that it was no longer interested in pursuing a possible acquisition of the land. A local broker was engaged in January, 2013 to list the Memphis Property. Pursuant to a purchase agreement dated April 22, 2013 (the "**Memphis Agreement**"), the purchaser, Voight & Schweitzer LLC, agreed to purchase approximately 30 acres of the Memphis Property from TPI (following severance of this parcel from the larger lot). The purchase price for the severed 30 acres of land under the Memphis Agreement is \$525,000. A copy of the Memphis Agreement is attached hereto as **Exhibit "C"**.

24. In order to be able to execute the Memphis Agreement on behalf of TPI utilizing my authority to exercise Timminco's shareholder rights contained in paragraph 3(l) of the Order dated August 17, 2012 appointing the CRO (the "**CRO Appointment Order**"), it was necessary to amend the charter first of THI and then of TPI to confirm my authority. Copies of such Charter amendments prepared on the advice of US counsel are attached hereto as **Exhibit "D"**.

25. Pursuant to the Right of First Refusal, TPI will receive 75% of the net sale proceeds and the Beneficiary will receive 25% of the net sale proceeds. It is expected that the proceeds net of expenses and the Right of First Refusal should exceed \$300,000 and, subject to verification, I believe that intercompany claims in excess of that amount can be utilized to upstream the funds to Timminco upon receipt. However, the process of transferring net proceeds to Timminco's estate will require further advice from counsel as well as the verification of intercompany accounts which will take some time.

26. Other than intercompany accounts and claims relating to the land itself (i.e. realty taxes), the only potential claim against TPI of which I am aware is a law suit filed last year which was forwarded to Timminco's former head office after we had vacated it and came to my attention earlier this year. In or about December, 2012, Chromasco, TPI's predecessor, was named in a lawsuit filed in Delaware alleging asbestos liability against Chromasco as well as many other listed defendants. In the case of the Memphis Property, the exposure was alleged to date from 37 years ago. I have no information suggesting that asbestos was ever employed at the site. TPI will need to obtain advice regarding impact, if any, of these unproven allegations. It is anticipated that any residual funds will be paid to Timminco to further satisfy outstanding inter-company debt once these amounts have been established and TPI will retain the remaining 60 acres of land to deal with contingent claims if any.

27. I am advised that the purchaser of the Memphis Lands intends to construct a new manufacturing facility. Should this come to pass, our broker has advised that it is

possible that the neighboring, unsold 60 acres may have greater potential sale value. I would intend to pursue that possibility once this sale has been completed.

28. The Timminco Entities have no operations and no use for the Memphis Property.

THE ACTIONS OF THE CRO RELATING TO THE MEMPHIS PROPERTY SHOULD BE APPROVED

29. Under the CRO Agreement and the CRO Appointment Order, the CRO is authorized to plan and oversee the orderly disposition of the Timminco Entities' property and the power to exercise such shareholder rights as may be available to the Timminco Entities, which includes the power to execute the Amending Materials.

30. The CRO's actions in respect of the Memphis Property were taken to further the disposition and/or wind-up of the Timminco Entities' assets and to increase the funds available to creditors for distribution.

31. I believe that the disposition of the Memphis Property is in the best interest of the Timminco Entities' creditors, as I expect it will result in net proceeds being brought into the Timminco Entities' estate which will correspondingly increase the distribution pool available to their creditors. The Timminco Entities have no operations and no use for the Memphis Property.

32. I understand that the Monitor supports the Timminco Entities' request for approval of the CRO's actions relating to the Memphis Property.

THE TYCOS PROPERTY

The Property

33. The Timminco Entities also continue to own real property located at 90 Tycos Drive in Toronto, Ontario (the “**Tycos Property**”).

34. The Tycos Property is subject to a long-term lease in favour of 2113721 Ontario Inc. (the “**Tenant**”). The lease is dated January 1, 2007 for a fifteen year term, renewable for further five years at a fixed rent (\$4,375 plus GST) with the tenant covering all ownership expenses. The rent is below market rates.

35. During prior operations on the site, there was a spill of a solvent which has necessitated the installation of a series of wells and pumps to collect groundwater to mitigate migration of the chemicals and to facilitate the dispersement via an air stripper.

36. Timminco is operating under a Certificate of Approval issued by the MOE and the property 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.

37. Under the lease, Timminco pays 10% of Tenant hydro costs in lieu of separate metering for pump and treatment operation

38. Currently, net of expenses of remediation/compliance under the Certificate of Approval, Timminco is deriving approximately \$25,000 per year of net revenue from

the Tycos Property. This amount varies depending upon, among other things, timing of testing and reporting obligations and changing costs of these as well as the need to replace some equipment from time to time.

39. The Timminco Entities have ceased operations and, as a direct result of such cessation, have no further use for the Tycos Property and, therefore, attempted to market and sell it.

The Tycos Agreement

40. The Tycos Property was a difficult one to market due to the long term, low-rent lease and the perceived environmental risk associated with ownership.

41. The Timminco Entities attempted to negotiate a proceeds-sharing agreement with the Tenant to permit a marketing of the property clear of the lease without success as the tenant was unwilling to contemplate moving at this time.

42. After considering proposals from other agents, Cushman Wakefield was retained pursuant to a sale agent and listing agreement signed December 17, 2012. Due to the unique nature of property, a flat fee commission of \$25,000 was agreed to be payable from the proceeds of a successful sale.

43. There was some interest from potential buyers shown in January, 2013, but only two parties made offers to purchase the Tycos Property.

44. One of these parties made a conditional offer to purchase the Tycos Property at a price of \$500,000. Although this price was higher than the price offered by Purchaser, after consultation with the Monitor, I determined not to pursue this offer for the following reasons:

- (a) The proposed purchaser had conducted no environmental due diligence and had no known experience in dealing with "brownfield" sites. I considered it important to have an owner who could assume the obligations under the Certificate of Approval and work with the Ministry of the Environment;
- (b) The proposed purchaser had not met the Tenant and its proposal was conditional upon reaching an agreement with the Tenant. As I had already attempted without success to reach a joint marketing arrangement with the Tenant to enable the property to be considered by the market clear of some or all of the overhang of the lease obligation, I was concerned this condition could not be met; and
- (c) The price appeared to bear little relationship to the economic value of a property subject to a long term lease with net income of approximately \$25,000 per year. Given the highly conditional nature of the proposed transaction, I feared that the estate of Timminco was at risk of having the property tied up for an extended period of time in favour of a purchaser who would very likely seek to renegotiate the price before agreeing to waive conditions.

45. The Purchaser submitted an offer to purchase the Tycos Property and the parties entered into the Tycos Agreement, which is dated January 31, 2013.

46. Under the Tycos Agreement, the Purchaser will pay a purchase price of \$250,000. The Tycos Agreement contemplates a closing three days following court approval of the Tycos Transaction. A copy of the Tycos Agreement is attached hereto as **Exhibit "E"**.

THE TYCOS TRANSACTION SHOULD BE APPROVED

47. As CRO, I recommend approval of the Tycos Agreement and the Tycos Transaction for the following reasons:

- (a) The Tycos Property was included in the sales process leading to the sales transactions with Grupo Ferro Atlantica, S.A. and QSI Partners Ltd and failed to garner any bid from prospective purchasers. Since that time, the Timminco Entities and the CRO have attempted to market and/or negotiate a solution to the environmental liabilities that would make the properties marketable without success;
- (b) The Purchaser has conducted extensive environmental due diligence on the Tycos Property;
- (c) The Purchaser has experience in "brownfield" transactions and I believe has a good reputation with the MOE and is thus likely to be a prudent candidate to assume Timminco's obligations toward the MOE;
- (d) The Tycos Property has remained listed despite the conditional agreement with the Purchaser since January 31, 2013 and no further offers have been received;
- (e) The only other party that submitted an offer to purchase the Tycos Property has not sought to pursue its interest further although was not discouraged from doing so; and

- (f) The proposed purchase price represents a reasonable valuation of the Tycos Property given limited net revenue from the property, an existing lease with about nine years remaining on the term (and subject to further renewal options) at a low, fixed rate of rent and risk of environmental compliance costs increasing over the life of the lease with the effect of further reducing net income derivable from the property.

48. The Timminco Entities have no operations and no use for the Tycos Property.

THE STAY EXTENSION REQUEST SHOULD BE APPROVED

49. 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 May 15, 2013, by Order dated March 5, 2013 (the “**Stay Period**”).

50. 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 July 15, 2013, is necessary to give the Timminco Entities sufficient time to substantially effect the winding up of their estates, including to allow the Timminco Entities to continue to review outstanding Claims for the value and benefit of their creditors and to obtain a ruling in Quebec with respect to the priority claims.

51. 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.

52. 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.

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

THE EXTENSION OF CRO AGREEMENT SHOULD BE APPROVED

54. 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.

55. 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 the CRO Appointment Order. By Court order dated January 30, 2013, the CRO Agreement was extended from January 31, 2013 to March 15, 2013 pursuant to an extension agreement (the "**First CRO Extension Agreement**") between the CRO and the Monitor (which was further extended, by a second extension agreement, to May 15, 2013).

56. 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 outstanding issues surrounding the Timminco Entities' CCAA proceedings.

57. Among other things, the First CRO Extension Agreement provided that the Monitor may consent to further extension of the CRO Agreement without requiring court approval; however, in an abundance of care, the Timminco Entities are seeking approval, *nunc pro tunc*, of the further extension of the CRO Agreement dated April 25, 2013 (the "**Third CRO Extension Agreement**"). A copy of the Third CRO Extension Agreement is appended hereto as **Exhibit "F"**.

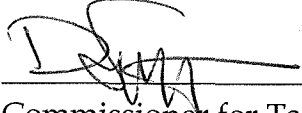
MONITOR'S APPROVAL

58. I understand that the Monitor approves of the process leading to the proposed disposition of the Tycos Property and supports the Tycos Transaction, the extension of the Stay Period, the extension of the CRO Agreement and the approval of the CRO's actions in respect of the Memphis Property.

PURPOSE OF AFFIDAVIT

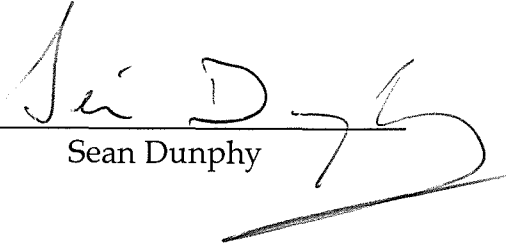
59. This Affidavit is sworn in support of the Timminco Entities' motion for the relief described in paragraph 2 above and for no improper purpose.

SWORN BEFORE ME at the City of
Toronto, Province of Ontario on
May 7, 2013.



Commissioner for Taking Affidavits

**David James Spence, a
Commissioner etc., Province of Ontario,
while a Student-at-Law.
Expires May 10, 2014.**



Sean Dunphy

EXHIBIT "A"

*THIS IS EXHIBIT "A", referred to in the
Affidavit of Sean Dunphy, sworn on
May 7, 2013.*



Commissioner for Taking Affidavits

DIRECTOR'S ORDER
CROWN TO CARRY OUT REHABILITATION
Mining Act, R.S.O.1990, c. M.14, s. 145(2) ("Mining Act")

Order number: 2013002

April 18th 2013

TO: Timminco Silicon Holdings Limited
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Toronto, ON M5H 1J9

Timminco Silicon Holdings Limited
c/o Stikeman, Elliott LLP,
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199 Bay Street
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Grant Thornton Limited
Royal Bank Plaza, 200 Bay Street
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Toronto, ON M5J 2P9

Attn: Jonathon D. Krieger

PART 1. LEGAL AUTHORITY

- 1.1. Pursuant to subsection 139 (1) of the Mining Act (MA), R.S.O. 1990, c. M. 14, "proponent" means the holder of an unpatented mining claim or licence of occupation or an owner as defined in section 1;
- 1.2. Pursuant to subsection 1(1) of the MA, "owner" includes:
 - (a) every current owner, lessee or occupier of all or part of a mine, mine hazard or mining lands,
 - (b) an agent of the current owner, lessee or occupier, or a person designated by the owner, lessee, occupier or agent as being responsible for the control, management and direction of all or part of a mine, mine hazard or mining lands, and
 - (c) subject to subsections (4) to (13), a secured lender who enters into possession of all or part of a mine, mine hazard or mining lands pursuant to the security it holds with respect to the mine, mine hazard or mining lands;
- 1.3. Timminco Limited ("Timminco") owned a former dolomite mine and magnesium processing facilities located in Haley, Ontario (the "Property") as described in the attached *Schedule 1*. Timminco, as a proponent under the MA, provided a Closure Plan for the Property that was acknowledged as filed by the Director on May 1, 2006.

- 1.4. Timminco Limited entered into *Companies' Creditors Arrangements Act, R.S.C. 1985, c. C-36* ("CCAA") protection by order of the Ontario Superior Court dated January 3, 2013. Subsequently, the Court by order dated March 5, 2013 approved a transfer of the Property from Timminco Limited to Timminco Silicon Holdings Limited ("TSH"). That transfer was completed on or about March 7, 2013, whereupon TSH became the owner of the Property and a proponent under the MA.
- 1.5. TSH filed for bankruptcy on or about March 8, 2013 and Grant Thornton Limited is the trustee in bankruptcy for TSH
- 1.6. I understand that at the time of the bankruptcy TSH owned certain property including the Property described in the Closure Plan as: Lots 19-22 inclusive, Concession V and VI, Township of Whitewater Region, Formerly Township of Ross, Renfrew County but otherwise had no assets.
- 1.7. I further understand that the Trustee has given notice to abandon the Property under s. 14.06(4) of the *Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3*, to relieve the Trustee of any liability with respect to rehabilitation of the Property and that the estate of TSH in any event, would not have funds to undertake rehabilitation measures required in the closure plan.
- 1.8. For the foregoing reasons, I have reasonable and probable grounds for believing that neither TSH nor the Trustee will carry out the rehabilitation measures required by the filed closure plan for the Property.
- 1.9. Pursuant to subsection 145 (2) of the MA, if the Director of Mine Rehabilitation (the "Director") has reasonable and probable grounds for believing that a rehabilitation measure required by a filed closure plan in respect of which financial assurance was given, has not been or will not be carried out in accordance with the closure plan, the Director may by order provide for the performance of the rehabilitation measure in the manner set out in subsection 145(5) of the *Mining Act* ;
- 1.10. Pursuant to subsection 145(3) of the MA the Director shall give the proponent written notice of his or her intention to issue the order referred to in subsection 145(2) at least 15 days prior to the date the Order is to be issued and both the notice and the order are to be directed to the proponent who filed the closure plan or to their successor;
- 1.11. Notice of intent to issue an order under subsection was given to Timminco Silicon Holdings Limited and Grant Thornton Limited on April 2, 2013.
- 1.12. Pursuant to subsection 145(5) of the MA, upon the issuance of an order by the Director under subsection 145(2) ,the Crown may use any cash obtained by the Crown as financial assurance for the performance of the rehabilitation measures and may carry out those measures, or appoint an agent to do so, as the Director considers necessary


PART 2. WORK ORDERED

Pursuant to Subsection 145(5) of the Mining Act I hereby order:

- 2.1. That the Crown may, through employees of the Ministry of Northern Development and Mines, and by contracting with competent persons as its agents carry out required rehabilitation measures with respect to the Property as the Director considers necessary, including but not limited to the following:
- Maintain and operate the water treatment plant in accordance with the amended Certificate of Approval (OWRA 2784-7T4RL9, dated June 26, 2009) including, pumping water from Quarry One and then treating on site prior to discharge to the natural environment. Typically this work is undertaken in the spring and the fall;
 - all monitoring, sampling and analysis of the water quality will be undertaken, as required;
 - Complete the clay cover and establish vegetation on the mill tailings area;
 - Complete the removal of the thorium wastes from the former Research and Development building, including surveying the building once the thorium is removed;
 - Dispose of the thorium wastes in the appropriate disposal area located within the tailings pile;
 - Establish the clay soil and vegetative cover over the thorium disposal area;
 - Re-survey the area to ensure the cover is effective and measure a minimum 30 m buffer zone outside the thorium disposal site;
 - Establish fencing at the perimeter of the 30 m buffer zone, as per the work outlined in the Closure Plan Amendment;
 - Remove all the buildings remaining at the mine site; dispose of all building materials e.g. asphalt shingles, asbestos siding and insulation, wood and scrap metal (e.g. industrial wastes) in accordance with applicable legislation;
 - Undertake a detailed hydrogeological assessment of subsurface soil and groundwater impacts related to the Solid Mill Tailings (SMT) area in accordance with the Mine Rehabilitation Code, as identified in S.10.2.2 "Groundwater Monitoring", pg. 58, Haley Mine Closure Plan, Sept.2003;
 - Undertake additional hydrogeological investigation to complete the delineation of the vertical and lateral extent of the petroleum hydrocarbon contamination identified in the Timminco Ltd. Closure Plan supporting documents titled, "Supplemental Subsurface Investigation, Timminco Metals Haley, Ontario", dated November 2011, and, " Preliminary Subsurface Investigation, Timminco Metals, Haley, Ontario", dated February 2011, both prepared by WESA Inc. on behalf of Timminco Ltd.
- 2.2. The Crown may use the financial assurance provided with the closure plan for the Property to pay for the performance of rehabilitation measures and for any related costs including but not limited to, the supply of hydroelectricity to the Property, for snow removal to obtain access to the Property and for maintenance and security at the Property

PART 3. GENERAL

3.1. This order does not in any way restrict the issuance of amendments to this Order, Emergency Orders or Emergency Directions, or Director's Orders under the MA related to the rehabilitation measures or the Property;



Gordon MacKay
Director of Mine Rehabilitation,
Ministry of Northern Development and Mines

April 18, 2013
Date

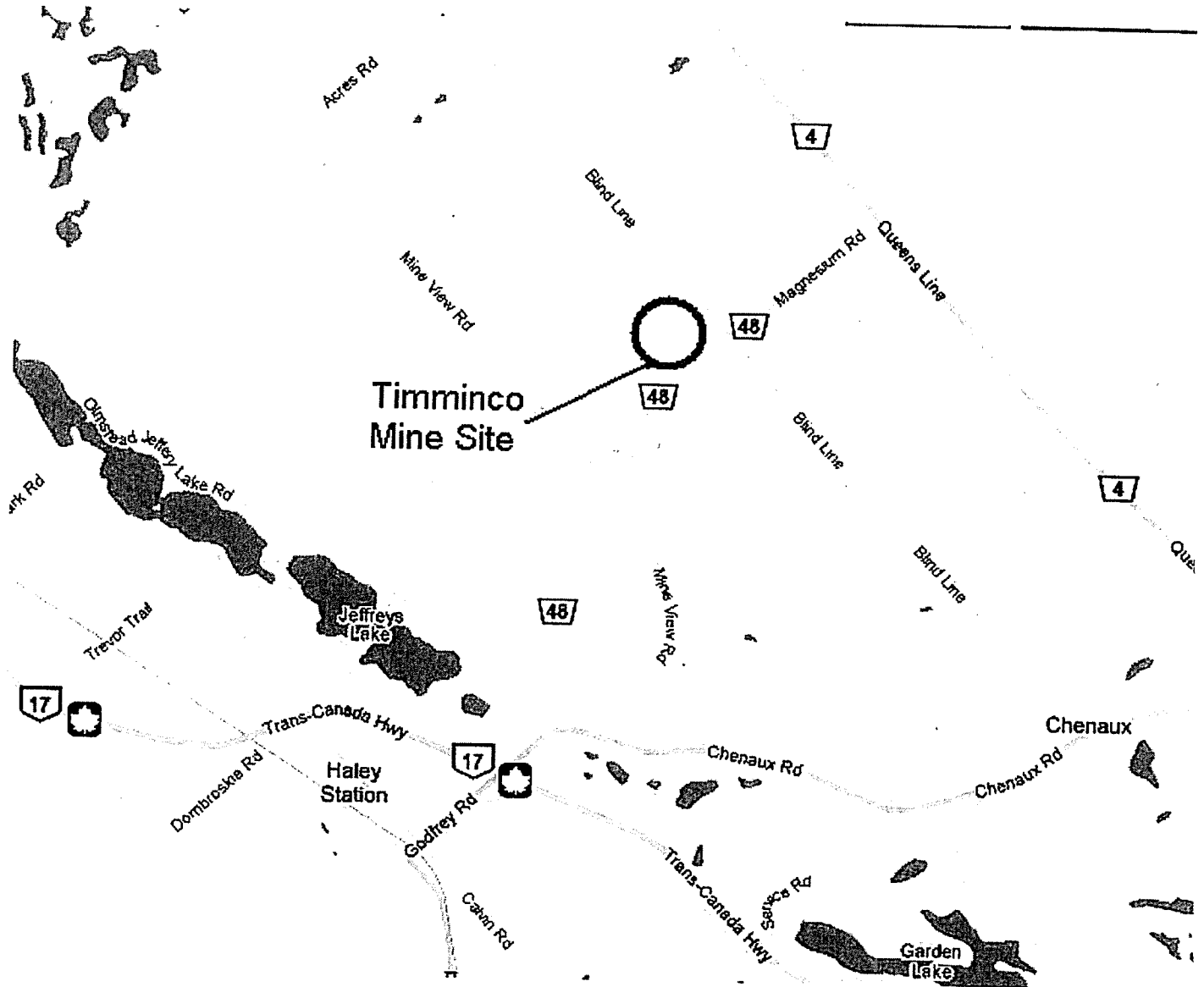
Attachments:
SCHEDULE 1 – PROPERTY DESCRIPTION

SCHEDULE 1 PROPERTY DESCRIPTION

See site plan on next page.

Property Location:

Lots 19 – 22 inclusive, Concessions V and VI, in the Township of Whitewater Region, formerly Township of Ross, County of Renfrew, Ontario.



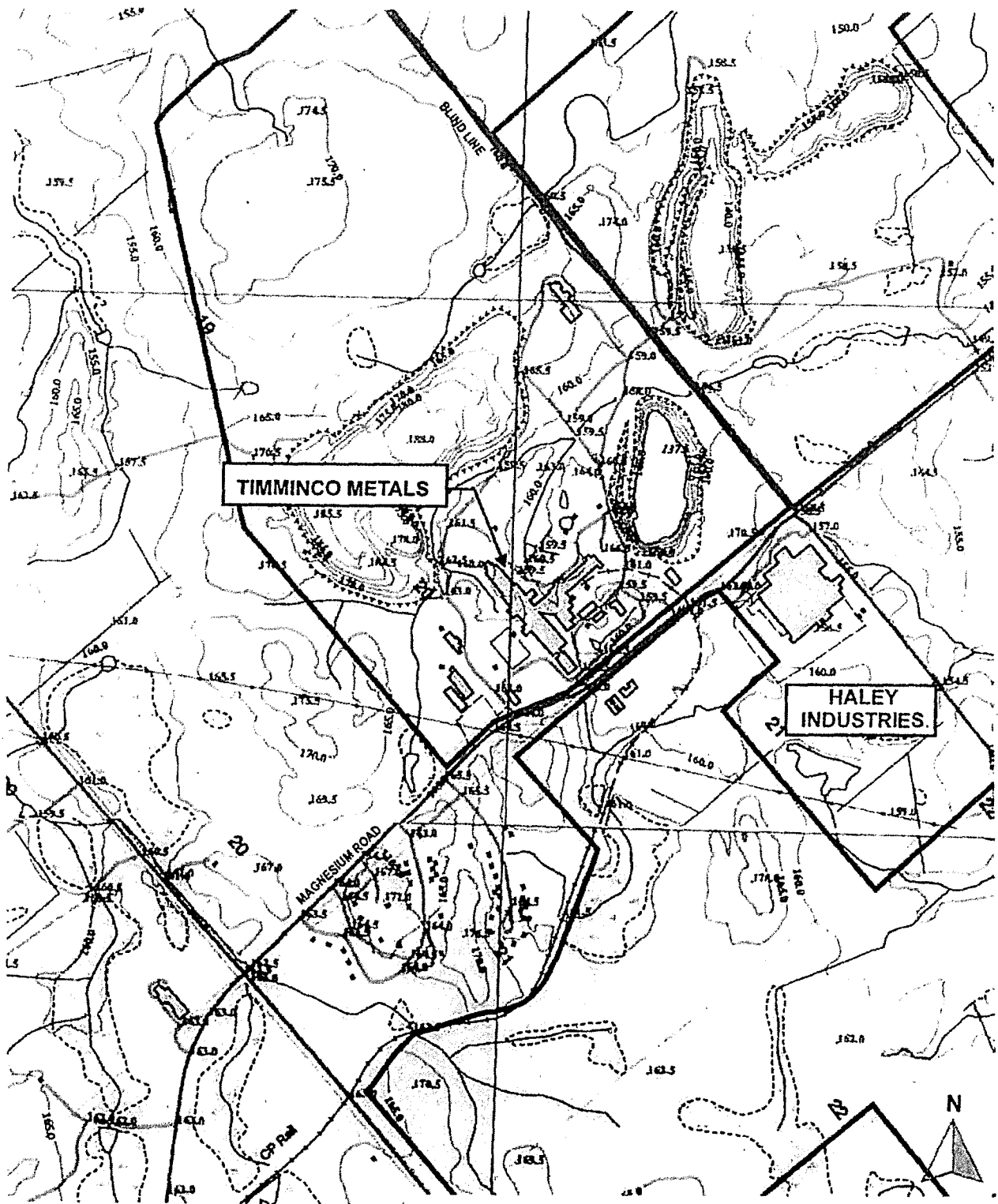


FIGURE: 1

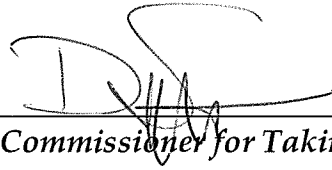
SCALE: 1:10,000

REFERENCE: ONTARIO BASE MAP
MAP 10 18 3600 50450

SITE LOCATION MAP

EXHIBIT "B"

*THIS IS EXHIBIT "B", referred to in the
Affidavit of Sean Dunphy, sworn on
May 7, 2013.*

A handwritten signature in black ink, appearing to be 'DSE', is written over a horizontal line. The signature is stylized and cursive.

Commissioner for Taking Affidavits

This Instrument Prepared By:
BASS, BERRY & SIMS PLC (JAG)
2700 First American Center
Nashville, TN 37238

CONTRACT OF SALE

THIS CONTRACT OF SALE ("Contract") is made and entered into as of the 5th day of September, 1997, by and between SHELTON HARRISON and wife, BRUCENE HARRISON, both individuals (together, "Seller"), having an address for purposes of this Contract of c/o Wolff Ardis, P.C., 6055 Primacy Parkway, Suite 360, Memphis, Tennessee 38119-5776, Attn: Robert A. McLean, Esq., fax: 901-763-3376, and TIMMINCO CORPORATION, a Delaware corporation ("Purchaser"), having an address for purposes of this Contract of c/o Bass, Berry & Sims PLC, 2700 First American Center, Nashville, Tennessee 37238-2700, Attn: J. Andrew Goddard, Esq., fax: 615-742-2724

1. **Property.** Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase, for the price and upon the terms and conditions set forth below, that certain parcel of land described in the form of deed attached hereto as Exhibit A, together with the improvements thereon (the "Property", which term from and after any sale of the portion of the Property by Purchaser to a third party pursuant to Section 8 hereof shall refer only to the remaining portion of the Property owned by Purchaser).

2. **Purchase Price.** The purchase price of the Property is \$335,000 and shall be payable as follows:

a. \$100,000 (the "Initial Payment"), which shall be paid by Purchaser to Seller by cashier's check payable to Seller as described in Section 4 below; and

b. \$235,000 at closing, as provided in Section 4 below.

3. **Escrow.** Seller and Purchaser shall promptly engage Lawyers Title Insurance Company, Memphis, Tennessee (or, if it declines to so serve, another escrow agent acceptable to Seller and purchaser) to serve as escrow agent hereunder (the "Escrow Agent"). Upon the Escrow Agent agreeing to serve hereunder, (i) Seller shall deliver in escrow to the Escrow Agent a good and valid special warranty deed in the form attached hereto as Exhibit A (the "Deed"), fully executed and notarized and ready for recording, which when delivered pursuant to Section 4 hereof shall convey fee simple title to the Property to Purchaser, and (ii) Purchaser shall deliver in escrow to the Escrow Agent the Initial Payment and a release (the "Timminco Release") in the form attached hereto as Exhibit B, fully executed and notarized. Seller shall promptly deliver in escrow to the Escrow Agent a Confirmation in the form attached hereto as Exhibit C (the "Jermakian Confirmation"), fully executed and notarized. No document or check delivered to the Escrow Agent shall be effective unless and until delivered by the Escrow Agent as provided herein.

4. **Initial Payment; Closing.** The Escrow Agent shall deliver the Initial Payment to Seller upon receipt by the Escrow Agent of the Deed and the Jermakian Confirmation pursuant to Section 3 hereof. Subject to Section 13 the closing shall take place by the date ninety (90) days after the date hereof (the "Required Closing Date"), at such specific time and place in Memphis, Tennessee, as is specified by

Purchaser. Time is of the essence with respect to this contract and all obligations of the parties hereunder. At closing, the following shall occur:

a. Purchaser shall deliver to the Escrow Agent the balance (\$235,000) of the cash portion of the purchase price, adjusted by the real estate tax pro-ration to the date of closing, in the form of a cashiers check payable to the Seller;

b. Escrow Agent shall deliver (i) said cashiers check and the Timminco Release to Seller, and (ii) the Deed and the Jermakian Confirmation to Purchaser; and

c. Seller shall deliver possession of the Property to Purchaser.

5. **Costs and Expenses; No Title Insurance; Release.** Costs and expenses of the sale of the Property to Purchaser hereunder, and of any sale to Seller pursuant to Section 7 or 8 hereof, shall be apportioned in the following manner:

a. The purchaser in the transaction shall pay all transfer taxes and recording costs related to the transaction.

b. Real estate taxes shall be pro-rated to the date of closing; and

c. Each party shall pay its own attorneys fees in connection with the transaction.

No title insurance is required to be provided by the seller in any transaction hereunder. In connection with any sale by Purchaser to Seller pursuant to this Contract, Seller shall deliver to purchaser a fully executed and notarized release in the form of Exhibit B hereto, with the parties reversed.

6. **Duties and Fees of Escrow Agent.** In the event any dispute should arise with regard to any item tendered to Escrow Agent, Escrow Agent shall be entitled to deposit the same with a court of competent jurisdiction in Shelby County, Tennessee, and thereafter be relieved of all obligations under this Contract. In performing any of its duties hereunder, Escrow Agent shall not incur any liability to any party for any damage, loss or expense, except for fraudulent breach of trust. Purchaser and Seller shall jointly and severally indemnify and hold Escrow Agent harmless against any and all other losses, claims, damages, liabilities and expenses including without limitation, reasonable attorneys' fees, which may be imposed upon Escrow Agent or incurred by Escrow Agent in connection with performance of its duties hereunder. Purchaser shall pay all fees of the Escrow Agent.

7. **Option to Purchase.** Subject to Section 19 hereof, as additional consideration for the transfer of the Property to Purchaser, Purchaser hereby grants to Seller an option (the "Option to Purchase"), whereby Seller has the right to purchase the Property for a purchase price of Seven Hundred Fifty Thousand and No/100ths Dollars (\$750,000.00); provided, however, that such purchase price shall be reduced by the net purchase price (sales price less sales commissions and closing costs) of any portion of the Property previously sold by Purchaser. The Option to Purchase may not be exercised (i) until Purchaser has received written confirmation from the Tennessee Division of Superfund ("TDSF") that no further action would be required by the Purchaser at the Property, and (ii) within forty-five (45) days after Seller's receipt of any Right of First Refusal Notice (as hereinafter defined). No Equity Participation (as

defined in Section 9 below) shall be owed in connection with any such purchase. Purchaser shall promptly notify Seller of Purchaser's receipt of such confirmation from TDSF. From and after receipt of such confirmation from TDSF, and until this option expires pursuant to Section 19, Purchaser shall permit Seller and/or Seller's agent to visit and inspect the Property with any *bona fide* prospective purchaser by appointment at reasonable times upon reasonable notice to Purchaser.

The Option to Purchase shall expire if Purchaser sells the entire Property pursuant to an offer described in Section 8 below. If said Option to Purchase is exercised (i) the purchase price shall be paid in full at closing, which shall take place within thirty (30) days after the exercise of the option by Seller; and (ii) the deed shall be a special warranty deed in the form attached hereto as Exhibit B, except that (a) Purchaser and Seller shall be reversed, (b) Purchaser may exclude from the warranty in the deed any sales, leases and restrictions entered into in accordance with this Contract, and (c) Purchaser may exclude from the Property description any portion of the Property previously sold by Purchaser to a third party pursuant to Section 8 hereof.

8. **Right of First Refusal.** Subject to Section 19 hereof, as additional consideration for the transfer of the Property to Purchaser, Purchaser hereby grants to Seller a Right of First Refusal (the "Right of First Refusal"), whereby Purchaser agrees that if Purchaser receives a written, *bona fide* offer to purchase the Property from a third party that Purchaser wishes to accept, Purchaser shall give written notice (a "Right of First Refusal Notice") of such offer to Seller. Such notice shall specify the purchase price, the terms of payment and all other material terms relating to such purchase and sale. Seller shall have ten (10) days after receipt of said offer to purchase the Property upon the terms and conditions contained therein. If Seller fails to purchase the Property within such period of time, Purchaser thereafter shall be free to sell the Property to the prospective purchaser, upon the terms specified in such offer. If Seller purchases the property pursuant to this Section 8, then payment of the purchase price and the form and delivery of the deed shall be as provided in the last sentence of Section 7 above.

9. **Equity Participation.** Subject to Section 19 hereof, as additional consideration for the transfer of the property to Purchaser, Purchaser grants to Seller an equity participation (the "Equity Participation"), whereby Purchaser agrees to pay to Seller twenty-five percent (25%) of the net consideration (sales price or base rent, as applicable, less ordinary and necessary expenses for brokerage commissions, title insurance, surety, and attorney's fees relating to sale), when and as received by Purchaser from any sale or rental of the Property or any portion thereof during the term of this Contract, including a sale to Seller pursuant to the Right of First Refusal in Section 8 hereof but not including a sale to Seller pursuant to the Option to Purchase in Section 7 hereof. Timminco shall be under no obligation to attempt to sell or lease the Property or, except for a sale to Seller as provided herein, to sell or lease the Property.

10. **Notice of Lease.** Purchaser shall give Seller at least ten (10) days prior written notice of any proposed leasing by Purchaser of all or any portion of the Property. Any transfer of the Property by Purchaser to Seller pursuant to Section 7 or 8 hereof shall be subject to any such lease, unless prior to Purchaser's entering into such lease Seller exercises its Option to Purchase pursuant to Section 7.

11. **Restrictive Covenants, Etc.** From and after its purchase of the Property hereunder, Purchaser may impose or consent to any restrictive covenants, land use restrictions, and other restrictions on the Property, all at such time and upon such terms and conditions as it may desire; provided that such

restrictive covenants, land use restrictions and other restrictions do not unreasonably interfere with the use of the Property for industrial purposes, except to the extent required by law.

12. **Sale or Lease** From and after the purchase of the Property by Purchaser, (i) subject to the Right of First Refusal and the Equity Participation payments required hereunder, Purchaser may at any time sell all or any portion of the Property at such time and upon such terms and conditions as it may desire, (ii) subject to the notice requirement pursuant to Section 10 hereof and the Equity Participation payments required hereunder, Purchaser may at any time lease all or any portion of the Property and upon such terms and conditions, as Purchaser may desire, and (iii) notwithstanding the foregoing, Purchaser may not lease all or any portion of the Property to a related person or entity except at market rent (or greater) as demonstrated by a current appraisal by a qualified real estate appraiser in Shelby County, Tennessee. Purchaser shall promptly give Seller written notice of any such sale or lease, which notice shall include a description of the payment terms thereunder.

13. **Conditions of Purchaser's Obligations**. The obligations of Purchaser to complete the transactions contemplated herein, other than its obligations pursuant to Section 3 hereof, are conditioned upon (i) Purchaser obtaining prior to the closing, a written agreement with TDSF, in form and substance satisfactory to Purchaser in its sole discretion, regarding the Purchaser's liabilities with respect to the Property, (the "Superfund Agreement"), and (ii) delivery of the Jermakian Confirmation and the Deed to the Escrow Agent pursuant to Section 3 hereof. If either of these conditions is not timely met, Purchaser may terminate this Contract by written notice to Seller and the Escrow Agent, in which case the Escrow Agent shall return each check and document then held by it hereunder to the party that delivered that check or document to the Escrow Agent.

14. **Notices**. Any notice required to be given hereunder shall be in writing and delivered personally or sent by certified or registered mail, return receipt requested, addressed to the parties at the addresses set forth above, or to such other address as either party may hereafter give the other. Notices sent by mail shall be deemed given three days after mailing.

15. **Brokers**. Seller and Purchaser represent and warrant that neither has dealt with any broker in connection with this transaction. If any claim is made or brought by any broker in connection with this transaction, the party whose agreement gave rise to such claim shall indemnify the other for any damage or expenses sustained in connection therewith including, without limitation, reasonable attorney's fees.

16. **Confidentiality** Prior to the earlier of receipt by Purchaser of the no further action letter from TDSF referred to in Section 7 hereof or termination of this Contract, and except as required by law, Seller agrees that it will not, nor will it direct or permit any attorney or agent acting for Seller to, discuss with or disclose to any person or entity other than Purchaser any aspects of the past, present or expected future condition of the Property, any aspects of the past, present or expected future operations or activities at the Property, or any other matters directly or indirectly relating to the Property.

17. **Default**. If Seller defaults hereunder, including without limitation a default by Seller of its obligations under Section 16 hereof, Purchaser may (i) obtain specific performance, or (ii) terminate this Contract by written notice to Seller and/or recover damages. In the case of a termination because of a default by Seller under Section 16 hereof, Seller shall promptly repay the full Initial Payment to Purchaser. If Purchaser defaults hereunder, Seller may terminate this Contract by written notice to

Purchaser and/or recover damages. In the event either party brings suit to enforce any provision of this Contract or for breach hereof, the prevailing party shall have as an element of its damages its litigation costs, including reasonable attorneys fees, which shall be paid by the losing party.

18. **No Further Encumbrances.** Seller represents and warrants that it has not, and will not prior to the transfer of the Property to Purchaser, sell assign, transfer, convey, mortgage, encumber or otherwise change the title to all or any portion of the Property, or any interest therein, without the prior written consent of Purchaser.

Purchaser reaffirms that the Seller's representations, covenants, and warranties regarding the sale, assignment, transfer, conveyance, mortgage or encumbrance of the Property were critical, material factors inducing Purchaser to execute this Contract. Therefore, Purchaser shall consider any party placing a lien on the Property, or otherwise participating with Seller in the sale, assignment, transfer, conveyance, mortgage or encumbrance of the Property in violation of the Seller's covenants in this contract regarding these matters, as an improper and tortious interference with Purchaser's material contract rights with Seller.

Any lien, transfer, security interest or other conveyance of all or a portion of the Property or any interest therein occurring after the recording of this Contract shall be subject and subordinate in all respect to this Contract and the Deed thereafter recorded pursuant to the provisions hereof.

If any lien, transfer, security interest or other conveyance of all or any portion of the property has occurred or attached after acquisition of the Property by Seller but before transfer of the Property to Purchaser, then Purchaser may by written notice to Seller terminate this Contract and Seller shall promptly repay the full Initial Payment to Purchaser.

19. **Termination.** This Contract, including without limitation Seller's rights under Sections 7, 8 and 9 hereof, shall terminate upon the earliest of (i) termination as provided in any other section of this Contract; (ii) the day after the Required Closing Date if Purchaser has not performed all of its obligations with respect to closing on or prior to the Required Closing Date, (iii) purchase of the Property pursuant to Section 7 or 8 hereof; or (iv) the date Twenty (20) years after the date hereof. The foregoing notwithstanding, Seller's rights under Section 7 (but only Section 7) hereof shall terminate upon the earlier of Contract termination or the date five (5) years after receipt by Purchaser of the confirmation from TDSF referred to in Section 3. In the event of any termination of this Contract, Escrow Agent shall return the Deed and the Jermakian Confirmation to Seller, and the Timminco Release to Purchaser. Except as provided in Sections 17 and 18 hereof, Seller shall retain the Initial Payment upon termination of this Contract.

20. **Offer and Acceptance.** This Contract as executed by the Purchaser shall constitute an offer to the Seller. The Seller shall accept the same, if at all, by delivering a fully executed and notarized original of this Contract to the Purchaser on or before 5:00 p.m. C.D.T., on September 5,

1997. The notice provisions hereof notwithstanding, acceptance of this offer shall be effective only upon the actual receipt by the Purchaser of the fully executed original. This offer, if not timely accepted as aforesaid, shall expire and be of no further force and effect at the time and date set forth in this Section. Except as provided in Sections 17 and 18 hereof, Seller shall retain the Initial Payment upon termination of this Contract.

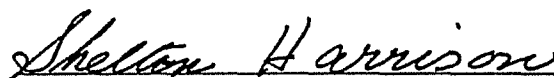
21. **Headings.** The Section headings are inserted for convenience only and are not intended to describe, interpret, define, or limit the scope or content of this Contract or any provision hereof.

22. **Miscellaneous.** All prior understandings and agreements between the parties are deemed merged herein. This Contract may be modified only by an agreement in writing signed by the parties. This Contract shall apply to, bind, and inure to the benefit of the heirs, executors, administrators, successors and permitted assigns of the parties. Neither Seller nor Purchaser may assign this Contract or any right hereunder without the written consent of the other. The effective date of this Contract shall be the day it is last executed by Seller or Purchaser. This Contract shall be governed by Tennessee law.

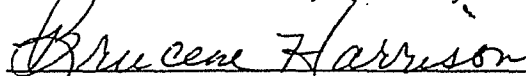
23. **Recording.** This Contract may be recorded in the Register's Office for Shelby County, Tennessee, at the option of either party hereto.

IN WITNESS WHEREOF Seller and Purchaser have executed, or caused to be executed, this Contract as of the day and year set forth above.

SELLER:



SHELTON HARRISON, individually



BRUCENE HARRISON, individually

PURCHASER:

TIMMINCO CORPORATION

By: 

Title: Vice President - Finance

STATE OF TENNESSEE)

COUNTY OF SHELBY)

Personally appeared before me, Alison D Poindexter a Notary Public, SHELTON HARRISON, with whom I am personally acquainted, who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 8th day of September, 1997.

Alison D. Poindexter
Notary Public

My Commission Expires:

My Commission Expires Jan. 28, 1998

STATE OF TENNESSEE)

COUNTY OF SHELBY)

Personally appeared before me, Alison D Poindexter a Notary Public, BRUCENE HARRISON, with whom I am personally acquainted, who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 8th day of September, 1997.

Alison D. Poindexter
Notary Public

My Commission Expires:

My Commission Expires Jan. 28, 1998

PROVINCE OF ONTARIO)

Municipality OF Metropolitan Toronto

Personally appeared before me, ELIZABETH J FORSTER a Notary Public, EDWARD V REESER, with whom I am personally acquainted, who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the VICE-PRESIDENT of TIMMINCO CORPORATION, a corporation, and is authorized by the corporation to execute this instrument on behalf of the corporation.

WITNESS my hand, at office, this 27 day of August, 1997.

Elizabeth J Forster
Notary Public

My Commission Expires:

n/a

EXHIBIT A
Form of Deed

THIS INSTRUMENT PREPARED BY:
BASS, BERRY & SIMS (JAG)
2700 First American Center
Nashville, Tennessee 37238

SPECIAL WARRANTY DEED

Address New owner(s)	Send Tax Bills To	Map-Parcel Number(s)
Timminco Corporation c/o P. O. Box 1160, Station A Toronto, Ontario M5W 1G5 Canada	same	

FOR AND IN CONSIDERATION of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SHELTON HARRISON and wife, BRUCENE HARRISON, both residents of Shelby County, Tennessee ("Grantor") has bargained and sold, and hereby transfers and conveys, to TIMMINCO CORPORATION, a Delaware corporation, ("Grantee"), its successors and assigns, certain real property in Shelby County, Tennessee, described on Exhibit A attached hereto and incorporated herein by this reference thereto.

This is improved property known as 3328 Fite Road, Memphis, Tennessee.

TO HAVE AND TO HOLD said property, together with the appurtenances, hereditaments, estate, title and interest thereto belonging, to Grantee, its successors and assigns, forever.

Grantor covenants and binds itself and its heirs and representatives to warrant specially and defend forever the title to said property to Grantee, its successors and assigns, against the lawful claims of all persons claiming through or under Grantor, but no further or otherwise. Except as provided in the previous sentence, Grantor transfers said property "as is" and makes no representations or warranties in connection therewith.

Whenever used herein, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument or has caused same to be executed as of the 8th day of September, 1997.

Shelton Harrison
SHELTON HARRISON, individually

Brucene Harrison
BRUCENE HARRISON, individually

STATE OF TENNESSEE)

COUNTY OF SHELBY)

Personally appeared before me, Alison D Pindexter a Notary Public, SHELTON HARRISON, with whom I am personally acquainted, who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 8th day of September 1997.

Alison D. Pindexter
Notary Public

My Commission Expires:

My Commission Expires Jan. 28, 1998

STATE OF TENNESSEE)

COUNTY OF SHELBY)

Personally appeared before me, Alison D. Poindexter, a Notary Public, BRUCENE HARRISON, with whom I am personally acquainted, who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 5th day of September 1997.

Alison D. Poindexter

Notary Public

My Commission Expires:

My Commission Expires Jan. 28, 1998

EXHIBIT A
To Specialty Warranty Deed

Real Estate Description

The following described real estate located in the 1st Civil District, County of Shelby, State of Tennessee, to-wit:

Lot 9 of a partition of the lands of B.F. Hawkins, deceased, in the Henry Rembert 100 acres of the William Alston 2000 Acre Grant no. 107 and in Lot 3 of the subdivision of the J. W. Ward Estate, a plat of survey of the partition of the said B.F. Hawkins Estate being of record in Book 948, Page 540 in the Register's Office of Shelby County, Tennessee, said Lot 9 being particularly described as follows:

Beginning at an iron pin in the south line of the right-of-way of the Illinois Central Railroad Company, being the northeast corner of Lot 10 of the partition of the said B.F. Hawkins Estate allotted to Mrs. Permelia Blackshire in deed of partition recorded in Book 948, Page 535 in the Register's Office of said Shelby County; thence south 2 degrees 50 minutes west along the east line of said Lot 10, 2311 feet to an iron pin in the north line of the Woodstock Road, now known as Fite Road, (formerly called Hawkins Avenue); thence eastwardly along the north line of the said Woodstock Road 774.3 feet to the east line of said Lot 9, as shown on said recorded plat of survey; thence north 2 degrees 50 minutes east along the east line of said Lot 9, 3254 feet to the south line of the right-of-way of the said Illinois Central Railroad Company; thence southwestwardly along the south line of said right-of-way to the beginning point;

ALSO:

Lot 10 of the partition of the lands of B.F. Hawkins, deceased, as described in and shown on plat of said partition in deed of record in Book 948, page 535 in the Register's Office of Shelby County, said lot being particularly described as follows:

Beginning at an iron pin in the south line of the right-of-way of the Illinois Central Railroad Company, said point of beginning being the northwest corner of Lot 9 of the partition of the said B.F. Hawkins land allotted to Lou Don Hawkins Payne in said partition deed; thence south 2 degrees 50 minutes west along the west line of said Lot 9, 2311 feet to an iron pin in the north line of Hawkins Avenue, now known as the Fite Road; thence north 87 degrees 30 minutes west along the north line of said Hawkins Avenue, or Fite Road, 1009.7 feet to a point; thence north 86 degrees 45 minutes west continuing along the north line of said Road 886 feet to a stake in the south line of the right-of-way of the said Illinois Central Railroad Company; thence northeastwardly along the south line of said right-of way to the point of beginning;

LESS AND EXCEPT THE FOLLOWING:

Part of Lot 10 of the Subdivision of part of the estate of B. F. and Mannie Hawkins, being more particularly described as follows:

Beginning at a point in the north line of Fite Road where the said north line of Fite Road intersects with the east right-of-way line of Illinois Central Railroad; thence south 82 degrees 47 minutes east along the north line of Fite Road 937.0 feet to a point; thence north 6 degrees 36 minutes east 300.0 feet to a point; thence north 82 degrees 47 minutes west 391.05 feet to a point; thence south 80 degrees 54 minutes west 401.58 feet to a point in the east right-of-way line of Illinois Central Railroad; thence south 47 degrees 16 minutes west along the east right-of-way line of Illinois Central Railroad 244.5 feet to the point of beginning; being the same property described in Warranty Deed of record in Book 3216, Page 153 in the Register's Office of Shelby County, Tennessee.

THE FOREGOING PROPERTY being the same property transferred to Grantor by deed dated _____, 19 ____; of record in Book _____, page _____, in the Register's Office for Shelby County, Tennessee.

EXHIBIT B

Form of Timminco Release

RELEASE OF ENVIRONMENTAL CLAIMS

This Release is executed by TIMMINCO CORPORATION, a Delaware Corporation, ("Timminco") in favor of SHELTON HARRISON and wife, BRUCENE HARRISON, both residents of Shelby County (together, the "Harrisons"), and is executed pursuant to that Contract of Sale between Timminco and the Harrisons dated as of August _____, 1997 (the "Contract"), and in consideration of the obligations therein contained.

Timminco hereby fully and forever releases and discharges the Harrisons from, and agrees not to sue the Harrisons with respect to, any claim or cause of action with respect to the Property (as defined in the Contract) that is based in whole or in part on or relates to toxic or hazardous wastes, materials or substances at, or released from, the Property or costs of investigation, removal, remediation, or monitoring thereof or oversight costs related thereto, including without limitation any such claims based on the federal CERCLA statute, the Tennessee Hazardous Waste Management Act of 1983, or any other federal, state or local environmental law.

This Release shall be binding upon Timminco, its successors and assigns, and inure to the benefit of the Harrisons, their heirs, successors and assigns.

IN WITNESS WHEREOF, Timminco Corporation has caused this Release to be executed as of _____, 1997, by its duly authorized officer.

TIMMINCO CORPORATION

By: _____
Title: _____

PROVINCE OF ONTARIO)

_____ OF _____)

Personally appeared before me, _____, a Notary Public, _____, with whom I am personally acquainted, who acknowledged that _____ executed the within instrument for the purposes therein contained, and who further acknowledged that _____ is the _____ of TIMMINCO CORPORATION, a corporation, and is authorized by the corporation to execute this instrument on behalf of the corporation.

WITNESS my hand, at office, this _____ day of _____, 1997.

Notary Public

My Commission Expires:

EXHIBIT C

Form of Jermakian Confirmation

CONFIRMATION

Each of the undersigned hereby confirms to TIMMINCO CORPORATION, a Delaware Corporation, that (i) the undersigned understands that the property located at 3328 Fite Road, Memphis, Shelby County, Tennessee (the "Property"), is being sold by Shelton Harrison and wife, Bruce Harrison to Timminco Corporation, a Delaware corporation ("Timminco"); (ii) the undersigned understands that Timminco will rely upon this confirmation in purchasing the Property; (iii) the undersigned has no contractual arrangement or other arrangement or relationship with Timminco, either in connection with the Property, any recycling of steel, slag, other materials located on the property, or otherwise; (iv) the undersigned understands that Timminco may recycle steel and /or slag located on the Property, and confirms that Timminco is not and will not be obligated to employ or contract for the services of the undersigned in connection therewith, nor is otherwise obligated in any way to the undersigned; and (v) the undersigned agrees that it will not, nor will it direct or permit any attorney or agent acting for it to, discuss with or disclose to any person or entity other than Timminco any aspects of the past, present or expected future condition of the Property, any aspects of the past, present or expected future operations or activities at the Property, or any other matters directly or indirectly relating to the Property.

IN WITNESS WHEREOF, David A. Jermakian has executed this Confirmation, and the other undersigns have caused this Confirmation to be executed by their duly authorized officers, all as of _____, 1997.

DAVID A. JERMAKIAN, Individually

DYNAMIC ENVIRONMENTAL ASSOCIATES, INC.

By: _____
Title: _____

ENVIROCONSTRUCTION, INC.

By: _____

STATE OF _____)

Title: _____

COUNTY OF _____)

Personally appeared before me, _____, a Notary Public, DAVID A. JERMAKIAN, with whom I am personally acquainted, who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this _____ day of _____, 1997.

Notary Public

My Commission Expires:

STATE OF _____)

COUNTY OF _____)

Personally appeared before me, _____, a Notary Public, _____, with whom I am personally acquainted, who acknowledged that _____ executed the within instrument for the purposes therein contained, and who further acknowledged that _____ is the _____ of DYNAMIC ENVIRONMENTAL ASSOCIATES, INC., a corporation, and is authorized by the corporation to execute this instrument on behalf of the corporation.

WITNESS my hand, at office, this _____ day of _____, 1997.

Notary Public

My Commission Expires:

STATE OF _____)

COUNTY OF _____)

Personally appeared before me, _____, a Notary Public, _____, with whom I am personally acquainted, who acknowledged that _____ executed the within instrument for the purposes therein contained, and who further acknowledged that _____ is the _____ of ENVIROCONSTRUCTION, INC., a corporation, and is authorized by the corporation to execute this instrument on behalf of the corporation.

WITNESS my hand, at office, this _____ day of _____, 1997.

Notary Public

My Commission Expires:

[0544658.WPD]

EXHIBIT "C"

*THIS IS EXHIBIT "C", referred to in the
Affidavit of Sean Dunphy, sworn on
May 7, 2013.*

A handwritten signature in black ink, appearing to be 'J. Dunphy', written over a horizontal line.

Commissioner for Taking Affidavits

PURCHASE AGREEMENT

This Purchase Agreement (this "Agreement") is made to be effective the 22nd day of April, 2013 (the "Effective Date"), by and between Timminco Properties Inc., a Delaware corporation with offices at c/o Stikeman Elliott LLP, Attention: A. Taylor, Suite 5300, Commerce Court West, Toronto, Ontario, Canada M5L1B9 ("Seller") and Voigt & Schweitzer LLC, a Delaware limited liability company, with offices at 1000 Buckeye Park Road, Columbus, Ohio 43207 ("Buyer").

WITNESSETH:

In consideration of the mutual covenants and agreements set forth hereinafter, Buyer and Seller agree as follows:

1. **SALE AND PURCHASE:** Seller agrees to sell and convey, and Buyer agrees to purchase and pay for, on the terms and conditions set forth hereinafter, the following described property:

Approximately 30 acres (accurate acreage to be determined by the survey described in Section 5) in Millington, Shelby County, Tennessee, the legal description of which will be added upon preparation of the survey and automatically incorporated as Exhibit A and depiction is shown on Exhibit A-1, together with all structures, and other improvements thereon, and all easements, rights and other appurtenances pertaining thereto and all personal property related thereto (collectively, the "Premises").

2. **PURCHASE PRICE:**

(a) The purchase price to be paid by Buyer to Seller for the Premises shall be \$525,000.00 (the "Purchase Price"). The Purchase Price shall be paid in cash or its equivalent at the Closing (as hereinafter defined) to Seller unless such writing by Seller specifies another payee.

(b) Within two (2) business days following the Effective Date, Buyer shall deposit with Broker or the Title Company (as such terms are hereinafter defined) an earnest money deposit of \$20,000.00 (the "Deposit"), which shall be applicable to the Purchase Price at Closing and shall be refundable to Buyer following any permitted termination of this Agreement by Buyer during the Due Diligence Period

(c) Following the expiration of the Due Diligence Period without Buyer's termination of the Agreement in accordance with the terms and conditions hereof, the Deposit shall be nonrefundable to Buyer (absent Seller's default hereunder), and if Buyer thereafter should fail to close the transaction contemplated by this Agreement in accordance with the terms and conditions hereof, then the Deposit promptly shall be disbursed by the Broker or Title Company, as applicable, to Seller without further action by Seller or Buyer. Seller and Buyer acknowledge that the payment of the Deposit to Seller in the event of Buyer's failure to close following the expiration of the Due Diligence Period without Buyer's termination of this Agreement is not intended as a forfeiture or penalty but is intended to constitute liquidated

damages to Seller due to the difficulty and inconvenience of ascertaining and measuring actual damages of Buyer's default and the uncertainty thereof. In such event, following the payment of the Deposit to Seller, this Agreement shall terminate, and neither Seller nor Buyer shall have any obligations to the other party hereunder except those, if any, that expressly survive termination of this Agreement.

3. **POSSESSION**: Seller shall deliver possession of the Premises to Buyer at the Closing.

4. **BUYER'S CONTINGENCIES**: All obligations of Buyer hereunder are contingent upon the following matters (hereinafter collectively called "**Buyer Contingencies**"):

(a) Buyer's confirming to its sole satisfaction that the current zoning classification and related regulations, the applicable building ordinances, and all other governmental regulations affecting the use and development of the Premises will permit the Premises to be used and developed in the manner ultimately intended by Buyer;

(b) Buyer's confirming to its sole satisfaction, after obtaining, at Buyer's expense, such examinations, inspections and tests, including, without limitation, environmental and geological examinations, inspections and tests (including, without limitation, soils tests and reviews to determine the presence of hazardous materials or substances and the condition of existing soil conditions), as may be necessary or desirable to confirm that the physical condition of the Premises is acceptable to Buyer;

(c) Buyer confirming, to its sole satisfaction, that the condition of and title to the Premises, as disclosed by the survey and title insurance commitment described in Sections 5 and 6 hereof, will not interfere with Buyer's intended use of the Premises;

(d) Buyer's confirming to its sole satisfaction that Buyer has or can obtain any and all permits related to Buyer's ultimate intended use and/or development of the Premises;

(e) Buyer obtaining a survey of the Premises, if desired, at Buyer's sole expense;

(f) Buyer's confirming to its sole satisfaction that the Premises are not located within a flood plain, or if part or all of the Premises are located within a flood plain, the Premises have drainage conditions or other remedial conditions acceptable to Buyer for the intended use and development of the Premises;

(g) Buyer's obtaining any and all easements benefiting the Premises, or the cancellation of any and all easements encumbering the Premises, which may be necessary or desirable for Buyer's intended use and development of the Premises;

(h) Buyer's obtaining of any and all curb cuts or other governmental approvals necessary to provide the requisite vehicular and pedestrian ingress and egress to and from the Premises, which may be necessary or desirable for Buyer's intended use and development of the Premises;

(i) Buyer's obtaining a financing commitment upon terms and conditions acceptable to Buyer in Buyer's sole and absolute discretion;

(j) Buyer obtaining approval of this transaction from Buyer's Board of Directors;

(k) Buyer receiving tax incentives from the state and/or local authority for the intended use and/or development of the Premises, including the Payment-in-Lieu-of-Tax (PILOT) program through the Memphis and Shelby County Office of Economic Development, and/or any other incentives from the State of Tennessee; and

(l) Buyer's determining that the Premises are otherwise acceptable to Buyer, in Buyer's sole and absolute discretion.

Except as otherwise set forth herein, Buyer shall have unlimited right to conduct any inspection, examination and test that Buyer may desire to make in order to satisfy Buyer's Contingencies. Buyer agrees, however, that it will indemnify and hold harmless Seller from and against any and all liability and causes of damage to the Premises occurring solely as a result of the conducting of any such inspections, examinations and tests by Buyer (but not any liability arising from the mere discovery or disclosure of existing conditions of the Premises). The foregoing indemnity obligations will survive any termination of this Agreement. Seller agrees that it will make use commercially reasonable efforts, at no out-of-pocket expense to Seller, to facilitate Buyer's access to the Premises for the purpose of conducting inspections, examinations and tests. Notwithstanding the foregoing and except as set forth in Section 10 hereof, Buyer shall not conduct any intrusive investigations without Seller's written consent, not to be unreasonably withheld, conditioned or delayed. Buyer will not disclose the results of reports to third parties except as may be required by applicable law, and then only after giving Seller written notice of the same and affording Seller a reasonable opportunity to review and comment on the same.

Buyer shall complete all of the activities described in paragraphs (a) through (l) above within one hundred twenty (120) days of the Effective Date (the "Due Diligence Period"). On or before the end of the Due Diligence Period, Buyer shall notify Seller in writing that Buyer has satisfied and/or waives all of the Buyer's Contingencies, in which event this Agreement shall continue in full force and effect subject to the other terms and conditions of this Agreement. If Buyer has been unable to satisfy or is not willing to waive some of Buyer's Contingencies, this Agreement shall automatically be terminated as of the end of the Due Diligence Period, and be of no further force or effect, and all parties shall be released from further liability or responsibility hereunder, except any obligations hereunder that expressly survive termination. If Buyer fails to give such notice to Seller, it shall be deemed that Buyer has given written notice that Buyer has been unable to satisfy or is not willing to waive all of Buyer's Contingencies. If, however, Buyer gives Seller written notice that Buyer has satisfied and/or waives all of the Buyer's Contingencies, then the Deposit shall become nonrefundable except as otherwise set forth in Section 2(c) above, and Buyer shall not have any right to terminate the Agreement unless a material adverse change in the condition of the Premises occurs following the expiration of the Due Diligence Period, including, without limitation, any additional matter of record arising after the expiration of the Due Diligence Period pursuant to Section 6, below.

Buyer expressly agrees that it is purchasing the Property "AS-IS, WHERE-IS, WITH ALL FAULTS." At Closing, and except as otherwise set forth herein, Buyer shall have relied solely upon Buyer's judgment regarding the Property without reliance upon any representations or warranties of Seller except as may be expressly set forth herein or in the deed or bill of sale to be delivered by Seller at Closing, and Buyer (i) accepts the Property as it shall be delivered at Closing in its then-present condition, subject, however, to Buyer's right expressly set forth herein to object to any material adverse change in the condition or title thereof after the expiration of the Due Diligence Period, (ii) has had, or will have during the Due Diligence Period, full opportunity to investigate the condition of the Property, and (iii) hereby affirms that the Property is, and at Closing will be, of the condition, function, character, capacity, durability and suitability as desired by Buyer for its purposes. EXCEPT AS PROVIDED HEREIN, SELLER HEREBY DISCLAIMS, AND BUYER WAIVES THE BENEFIT OF, ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE. BUYER HEREBY AFFIRMS THAT SELLER HAS NOT MADE, AND PURCHASER MAY NOT RELY ON, ANY REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE CONDITION, FUNCTION, CHARACTER, CAPACITY, DURABILITY, OR SUITABILITY OF THE PROPERTY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, OR OTHERWISE, EXPRESS OR IMPLIED. The terms and conditions of this paragraph will expressly survive the Closing and will not merge with the deed.

5. **SURVEY**. Buyer may, at Buyer's sole cost and expense, obtain a survey, drawing and legal description of the Premises prepared by a surveyor registered and licensed in the State of Tennessee.

6. **EVIDENCE OF TITLE**: Seller shall provide a commitment for owner's title insurance (the "Title Commitment") during the Due Diligence Period issued by a title company mutually agreeable to both Buyer and Seller (the "Title Company") and showing that Seller has good and sufficient marketable, merchantable, indefeasible and insurable fee simple title to the Premises, free and clear of all liens and encumbrances except: (a) those created or assumed by Buyer, provided, however, that Buyer shall have no right to incur any lien against or otherwise encumber the Premises prior to Closing; (b) those specifically set forth in this Agreement; (c) zoning and building laws, ordinances and regulations; (d) legal streets and highways; (e) easements, conditions and restrictions of record, if any; and (f) real estate taxes that are a lien upon the Premises as of the Closing but are not then due and payable (hereinafter collectively called the "Permitted Encumbrances").

Seller shall request that the Title Company cause the Title Commitment to provide that any policy of title insurance issued to Buyer thereunder shall state affirmatively that all parcels of land, if the Premises are comprised of more than one tax parcel, are contiguous, without gaps or gores; that on the date of Closing, the Premises shall have direct access to physically open a public dedicated highway that abuts the Premises, and any other coverage or endorsements which Buyer may reasonably require. Seller shall use commercially reasonable efforts, at no out-of-pocket expense, to cause the Title Commitment to fully and completely disclose all easements, negative or affirmative, rights-of-way, ingress or egress and any other

appurtenances to the Premises and to provide insurance coverage in respect of all such appurtenant rights. The Title Commitment shall include the results of a special tax search and examination for any financing statements filed of record in the Register's Office of Shelby County, Tennessee which affect the Premises.

In the event there are matters of record which Buyer finds objectionable, Buyer shall provide written notice of such objection to Seller during the Due Diligence Period. Not earlier than ten (10) nor later than five (5) days prior to the Closing, Buyer will obtain an endorsement to the Title Commitment (the "Date Down") and deliver a copy thereof to Seller. Upon Seller's receipt of a title objection letter during the Due Diligence Period or in the event the Date Down of the Title Commitment prior to Closing shows any exception to title not previously set forth in the Title Commitment and regarding which Buyer delivers to Seller a title objection letter no later than five (5) business days following Buyer's receipt of the Date Down, Seller shall give Buyer written notice within five (5) business days after receipt of any such title objection regarding Seller's election, if at all, to take any action with respect to any such objections, but Seller shall have no obligation to take any such action. If Seller does not give Buyer written notice within five (5) business days after receipt of any such title objection, it shall be deemed that Seller has given written notice that Seller is unwilling to take any such action. If Seller is unable or unwilling to remedy, remove or obtain title insurance against any such exception, Buyer shall have the option of either terminating this Agreement by written notice to Seller within five (5) business days thereafter, in which event Buyer shall be released from further liability and responsibility hereunder, or taking title to the Premises subject to said title exception(s). If Buyer does not give written notice of termination to Seller within such five (5) business days, it shall be deemed that Buyer has elected to take title to the Premises subject to said title exception(s), which shall be Permitted Encumbrances for all purposes hereunder.

Seller shall pay the customary cost of the Title Commitment (including any requisite commitment fees, search fees and attorney's certification fees), and Buyer shall pay for the premiums and any and all other costs of an Owner's Policy of Title Insurance in the amount of the Purchase Price to be issued to Buyer pursuant to the Title Commitment. Buyer also shall pay the cost of any additional endorsements to such Owner's Policy and the cost of any mortgagee's policy which Buyer's lender may require. In the event Buyer fails to deliver to Seller a title objection letter during the Due Diligence Period, Buyer shall be deemed to have waived its right to do so, provided, however, Buyer retains its rights provided in this Section for additional matters of record which arise after the expiration of the Due Diligence Period (which are not caused by or consented to by Buyer).

7. **DEED**: At the Closing, Seller shall convey to Buyer good, merchantable, marketable and indefeasible title in fee simple to the Premises by transferable and recordable special warranty deed, free and clear of all liens and encumbrances arising by, through or under Seller except the Permitted Encumbrances. Prior to the Closing, Seller shall obtain all necessary approvals for the legal description of the Premises set forth in said deed. In accordance with Tennessee Code Annotated Section 67-4-409(a)(6), Buyer shall pay all real property transfer, conveyance or recording fees charged in connection with the transaction contemplated by this Agreement.

8. **OTHER CLOSING DOCUMENTS:** In addition to the above-described deed, Seller shall execute (where necessary) and deliver to Buyer at the Closing the following documents and instruments in a form reasonably satisfactory to counsel for Buyer:

(a) A bill of sale, with special warranty of title against all persons claiming by, through or under Seller, but without any other representations or warranties, for the conveyance and transfer of the personal property, if any, to Buyer in its as-is, where-is, with all faults condition;

(b) Copies of all books and records in Seller's possession or control which relate to the operation and maintenance of the Premises;

(c) An affidavit from Seller reaffirming that as of the Closing, all representations and warranties made by Seller to Buyer in this Agreement in Section 14 hereof continue to be true and correct in all material respects;

(d) An IRS Form 1099-B report of proceeds from a real estate transaction, a nonforeign person certificate [Section 1445, IRC, FIRPTA], if required, and any other document which is customarily executed and delivered by a seller at a real estate closing in Shelby County, Tennessee, which may be reasonably requested by Buyer, the title company or Buyer's counsel;

(e) An affidavit from Seller in such form and content as may be reasonably necessary to enable the title company to delete the standard exceptions listed in the Title Commitment from the owner's and, if applicable, mortgagee's title policy; and

(f) Such evidence of partnership authority as Buyer or the title insurance company issuing the Title Commitment reasonably may deem necessary to evidence the authority of Seller to enter into this Agreement and to consummate the transactions contemplated hereby.

9. **PRORATIONS AND PAYMENTS:** As of the date of the Closing, Seller shall pay or credit on the Purchase Price all delinquent taxes attributable to the Premises together with penalties and interest thereon, and all special assessments, including agricultural recoupments that are a lien thereon on the date of the Closing. Taxes and other assessments not yet due and payable shall be prorated through the date of Closing. The proration of any undetermined taxes shall be based on a 365-day year and on the most recently available information on tax rate and valuation.

10. **ENVIRONMENTAL SITE ASSESSMENT:**

(a) During the Due Diligence Period, Buyer, at Buyer's expense, may cause to be conducted an Environmental Audit (as defined in subsection (b) below) of the Premises, such Environmental Audit shall be of such scope, duration and detail as Buyer, in its sole discretion, shall determine. Buyer will not disclose the results of the Environmental Audit to third parties except as may be required by applicable law, and then only after giving Seller written notice of the same and affording Seller a reasonable opportunity to review and comment on the same.

(b) "Environmental Audit" includes without limitation, Phase I Site Assessment and Phase II Site Assessment, investigations into Seller's and previous owners' environmental practices, past and present, tests of soils (including soil borings, surface waters, ground waters, air and particulate matter on the Premises and on real property near the Premises, interviews with past and present employees of owners, and residents or property owners of real property near the Premises, and reviews of all documents related to Seller's and the previous owner's environmental practices, whether in the possession of Seller, governmental bodies, or third parties; and

(c) Buyer may, at its sole discretion, terminate this Agreement at any time prior to the end of the Due Diligence Period if Buyer determines, based upon any portion of the Environmental Audit, or information obtained from other sources concerning environmental or geotechnical conditions, that the environmental or geotechnical conditions of the Premises are unacceptable to Buyer in its sole discretion, such termination shall be final and binding upon all parties to this Agreement and terminate any rights and obligations created by this Agreement except those obligations hereunder that expressly survive termination, including, without limitation, Buyer's indemnity obligations under Section 4 hereof.

11. Reserved.

12. **DAMAGE OR DESTRUCTION OF THE PREMISES:** Risk of loss to the Premises from fire or other casualty shall be borne by Seller until the Closing.

13. **EMINENT DOMAIN:** If prior to the Closing any part of the Premises is taken or threatened to be taken by any governmental authority under the power of eminent domain, Seller shall promptly send written notice thereof to Buyer and Buyer shall have the option of terminating this Agreement by giving written notice of that termination to Seller prior to the Closing. If Buyer elects to proceed with this transaction, the Purchase Price shall be reduced by the total of any awards or other proceeds received by Seller at or prior to the Closing with respect to any such taking, and at the Closing Seller shall assign to Buyer all rights of Seller in and to any awards or other proceeds payable thereafter by reason of any taking relating to the Premises. Otherwise, the risk of any condemnation or taking of any part of the Premises under the power of eminent domain shall be on Seller until the Closing.

14. **SELLER'S WARRANTIES AND REPRESENTATIONS:** Seller covenants and agrees that the warranties and representations made in this Agreement shall remain true and correct in all material respects as of the Closing, that Seller will reaffirm the same at the time of the Closing by virtue of the affidavit required by Section 8(c) hereof and they shall survive the Closing for a period of ninety (90) days. Notwithstanding anything herein to the contrary, Seller's representations and warranties set forth in this Agreement shall be limited to Seller's knowledge. As used herein, Seller's "knowledge" shall mean the actual knowledge of Sean Dunphy, court-appointed restructuring officer of the sole shareholder of the sole shareholder of Seller, without inquiry or investigation.

(a) Neither Seller nor any agent, employee or representative of Seller, has received any notice relating to the Premises, either orally or in writing, from any municipal, county, state or any other governmental agency or body, of any zoning, fire, health,

environmental violation, or violation of any laws, ordinances, statutes or regulations relating to pollution or environmental standards except as may be provided to Buyer during the Due Diligence Period;

(b) The execution, delivery and performance of this Agreement, and the consummation of the transaction contemplated hereby, will not result in any breach of, or constitute any default under, or result in the imposition of any lien or encumbrance against the Premises as a result of Seller's organizational documents or any permit, license, order or decree or under any agreement or other instrument to which Seller is a party or by which Seller or the Premises, is or might be bound;

(c) All taxes payable with respect to the operation, ownership or control of the Premises and which relate to any period prior to the date of Closing, shall have been paid by Seller, and Seller shall be responsible for the timely filing of all returns or other documents required by any taxing authority claiming jurisdiction with respect to any such taxes;

(d) Seller shall not, without the prior written consent of Buyer, alter the natural topography or vegetation currently existing on, in or about the Premises, including, but not limited to the cutting, burning or removal of any trees, removing any minerals or topsoil, dumping of any soil, fill or other matter, grading, excavating, or altering the natural flow of any water courses located on the Premises;

(e) Seller is wholly owned by a Delaware corporation that is wholly owned by a Canadian corporation and, accordingly, may constitute a "Foreign Person" as that term is defined in the Foreign Investment in Real Property Tax Act, 26 U.S.C. §1445; Seller acknowledges that Seller's net proceeds of the Purchase Price may be subject to certain withholding requirements at Closing under applicable law;

(f) All labor and work performed and materials and fuel delivered or furnished to the Premises for the improvement thereof requested by Seller within the ninety (90) day period immediately preceding the Effective Date (or date of Closing, as the case may be) have been or will be paid for, and no unpaid improvements which might ripen into and form the basis of a mechanics' lien have been or will be made to the Premises within said ninety (90) day period;

(g) Seller has not been notified within the two (2) year period immediately preceding the Effective Date of this Agreement (or date of Closing, as the case may be) of any condemnation proceedings against the Premises or of any contemplated improvements to the Premises by public or governmental authority, the cost of which is to be assessed as special taxes against the Premises in the future, provided, however, that a portion of Seller's Premises, which may or may not be adjacent to the Premises, was conveyed to Shelby County, Tennessee in 2012 for the Fite Road Improvement Project - SR-3 (US-51) to Woodstock Road - State Project No. 79946-2455-54;

(h) There are no rights of possession, use or otherwise outstanding in third persons by reason of unrecorded leases, land contracts, sales contracts, options or other comparable instruments;

(i) Seller has good, marketable and indefeasible fee simple title to the Premises and has no knowledge of any off-record or undisclosed legal or equitable interest in any part of the Premises owned by any other person other than the ROFR Holder as more particularly described in Section 26, below;

(j) No actions or proceedings involving the individuals comprising Seller which will or might affect title to the Premises or any part thereof, or cause a lien or encumbrance to attach thereto, or otherwise affect this Agreement or Seller's ability to perform the same in any way, are pending in any court or administrative agency, and to Seller's knowledge no such actions or proceedings are threatened;

(k) Seller is duly organized, validly existing and in good standing under the laws of the state of its organization. Seller has full authority to enter into this Agreement and consummate the transactions contemplated hereby and the persons executing this Agreement have the requisite authority to bind the Seller;

(l) There are no obligations in connection with the Premises or any so-called "recapture agreement" involving refund for sewer extension, oversizing utility lines, lighting or like expense or charge for work or services done upon or relating to the Premises which will bind Buyer or the Premises from and after the Closing and in no event shall Buyer be required to pay to Seller any monies in order to connect to or tap into any water or sewer system serving the Premises and Seller shall grant any and all consents, without cost to Buyer, for any such connection or tap; and

(m) Seller (i) is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, group, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Seller shall provide to Buyer, upon request, identifying information and other information reasonably requested by Buyer in its efforts to comply with such laws, orders, rules or regulations.

15. **BUYER'S WARRANTIES AND REPRESENTATIONS.** In order to induce Seller to enter into this Agreement and to complete the Closing, and in addition to other representations and warranties of Buyer stated herein, Buyer represents and warrants to and with Seller as follows:

(a) Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with all legal power and authority to undertake, observe and perform all of Buyer's agreements and obligations hereunder;

(b) Buyer's entry into this Agreement and the observance and performance of each of Buyer's agreements and obligations hereunder have been duly authorized by all necessary action of Buyer; and

(c) This Agreement constitutes the valid and binding obligation of Buyer, enforceable in accordance with its terms.

16. Reserved.

17. **CLOSING**: This transaction shall be closed (the "Closing") within thirty (30) days following expiration of the Due Diligence Period. The Closing shall take place at such time during regular business hours and at such place, or by such method, as may be reasonably acceptable to Buyer and Seller.

18. **COMMISSION**: Buyer hereby warrants and represents to Seller that no broker or agent other than Edward Saig of NAI Saig Company ("Broker"), whose commission shall be eight percent (8%) of the Purchase Price and shall be paid by Buyer, is or will be owed any fee or commission in connection with this transaction as a result of any act or omission of Buyer. Seller hereby warrants and represents to Buyer that no broker or agent is or will be owed any fee or commission in connection with this transaction as a result of any act or omission of Seller. Buyer and Seller further agree to indemnify and hold each other harmless from and against any and all liability, causes of action, claims, demands, costs and expenses (including reasonable attorneys' fees) arising from or accruing in connection with any fee or commission sought, claimed or recovered by any broker or agent, as a result of the act or omission of the indemnifying party.

19. **NOTICES**: Any notice required or intended to be given to Buyer under this Agreement shall be in writing and shall be deemed to be duly given if delivered personally or if deposited in the United States mail, marked certified or registered, return receipt requested, with postage prepaid, when the return receipt is signed or refused, and addressed to Buyer as follows: Voigt & Schweitzer LLC, 1000 Buckeye Park Road, Columbus, Ohio 43207, Attention: Brian Miller, or to such other address as Buyer may designate from time to time in a written notice to Seller, with a copy to Daniel J. Minor, Esq., Vorys, Sater, Seymour and Pease LLP, 52 East Gay Street, Columbus, Ohio 43215.

Any notice required or intended to be given to Seller under this Agreement shall be in writing and shall be deemed to be duly given if delivered personally or if deposited in the United States mail, marked certified or registered, return receipt requested, with postage prepaid, when the return receipt is signed or refused, and addressed to Seller, Timminco Properties Inc. c/o Stikeman Elliott LLP, Attention: A. Taylor, Suite 5300, Commerce Court West, Toronto, Ontario, Canada M5L1B9, with a copy to Bass, Berry & Sims PLC, Attention: B. Taylor Gray, 100 Peabody Place, Suite 900, Memphis, Tennessee 38103-3672.

20. **ASSIGNMENT**: Buyer shall have the right to assign this Agreement to an entity affiliated with or controlled by Buyer. Except for the foregoing right of Buyer to assign this Agreement, neither Buyer nor Seller may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. No such assignment, with or without such consent, shall relieve the assignor from its continuing obligations and liabilities hereunder.

21. **ENTIRE AGREEMENT; AUTHORITY:** This Agreement constitutes the entire agreement between the parties and supersedes all prior or contemporaneous discussions, representations or agreements relating to the subject matter. No amendments, modifications or additions to this Agreement shall be made or be binding on any party unless made in writing and signed by each party. Seller and Buyer represent and warrant they have authority to execute this Agreement and complete the transactions described in this Agreement.

22. **GOVERNING LAW, SEPARABILITY OF PROVISIONS:** This Agreement shall be construed in accordance with the laws of the State of Tennessee. If any part of this Agreement is held to be invalid or unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect.

23. **HEADINGS AND PRONOUNS:** The headings to the sections hereof have been inserted for convenience of reference only and shall in no way modify or restrict any provision hereof or be used to construe any of such provisions. Any pronoun used herein shall include all other numbers and genders, as the context or the number and gender or its antecedent may require.

24. **NO MERGER:** Only those warranties, representations, obligations, covenants or agreements contained herein, if any, that expressly provide for their survival for any period following the Closing shall survive the Closing and shall not be merged with any instruments delivered by Seller to Buyer at the Closing.

25. **PERSONS BOUND:** This Agreement shall inure to the benefit of and bind the parties hereto and their respective heirs, personal representatives, successors and assigns.

26. **NONBINDING PENDING RIGHT OF FIRST REFUSAL.** Seller hereby discloses and Buyer hereby acknowledges that the Premises is subject to a right of first refusal in favor of Seller's predecessor in title, Shelton and Brucene Harrison (collectively, the "ROFR Holder"), that is exercisable by the ROFR Holder within ten (10) days following written notice from Seller of a written, bona fide offer that Seller wishes to accept. Following the full execution and delivery of this Agreement, Seller will give the ROFR Holder written notice of this Agreement, along with a copy hereof, and notwithstanding anything herein to the contrary, this Agreement shall not be binding upon Seller unless and until the ROFR Holder declines to exercise its rights in connection herewith within ten (10) days following such notice from Seller or the expiration of such period without action by the ROFR Holder. During such period, this Agreement shall constitute a binding offer of Buyer, which may not be withdrawn.

27. **CONFIDENTIALITY:** Buyer and Seller and their respective counsel agree that the terms, conditions and provisions of this Agreement are strictly confidential and mutually agree that they shall not disclose the terms, conditions and provisions of this Agreement to persons, individuals or entities who are not parties to this Agreement except for counsel, tax preparers and accountants, the ROFR Holder, or as may be required by law.

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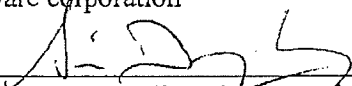
IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be executed by their duly authorized officers to be effective on the date set forth above.

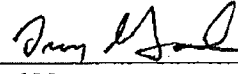
SELLER:

BUYER:

TIMMINCO PROPERTIES INC.,
a Delaware corporation

VOIGT & SCHWEITZER LLC,
a Delaware limited liability company

By: 

By: 

Printed Name: Sean Dunphy President of

Printed Name: TRACY GAERKE

Title: Authorized Signatory Russell Hill Advisory
Services Inc.

Title: CFO

EXHIBIT A

Legal Description

[to be attached when available]

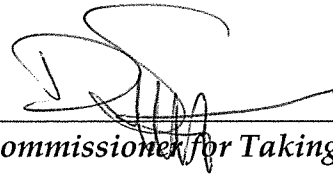
EXHIBIT A-1

Depiction of the Premises



EXHIBIT "D"

*THIS IS EXHIBIT "D", referred to in the
Affidavit of Sean Dunphy, sworn on
May 7, 2013.*



Commissioner for Taking Affidavits

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "TIMMINCO HOLDINGS CORPORATION", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF APRIL, A.D. 2013, AT 1:56 O'CLOCK P.M.

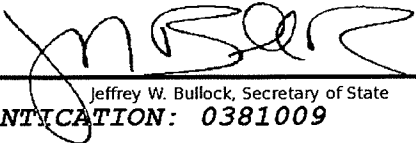
A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

2821394 8100

130460010



You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0381009

DATE: 04-24-13

CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
TIMMINCO HOLDINGS CORPORATION

pursuant to section 242 of the
General Corporation Law of the
State of Delaware

TIMMINCO HOLDINGS CORPORATION, a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify as follows:

FIRST: That ARTICLE SIXTH of the Certificate of Incorporation of the Corporation is hereby amended by the addition of the following as a new sub-Article D. thereto, as follows:

D. Russell Hill Advisory Services Inc., as the Chief Restructuring Officer of the Corporation's sole stockholder pursuant to the Order attached as Exhibit B to this Certificate, by and through its authorized officers, including, without limitation, its President, Sean Dunphy, shall have all power, right and authority to authorize, and to perform such actions as may be necessary or advisable in connection with, the sale or other disposition of the assets of the Corporation and of any subsidiaries of the Corporation, the satisfaction or other resolution of any liabilities of the Corporation and of any subsidiaries of the Corporation, and the dissolution, liquidation, and winding up of the Corporation and of any subsidiaries of the Corporation, including, without limitation, the authorization of any amendments to the Certificates of Incorporation or other organizational documents of any subsidiaries of the Corporation to provide for the signatory authority of an authorized person, which may include, without limitation, Russell Hill Advisory Services Inc. and/or any authorized officers thereof, including, without limitation, its President, Sean Dunphy.

SECOND: That the amendment was presented directly to the sole stockholder for approval in the absence of a duly elected Board of Directors, which resigned following the restructuring of the sole stockholder.

THIRD: That thereafter the written consent of the sole stockholder of the common stock of the Corporation, which is the only class of stock of the Corporation entitled to vote on such amendment, was obtained for said amendment to the Certificate of Incorporation of the

Corporation in accordance with Section 228 of the General Corporation Law of the State of Delaware, and that said resolution has not been modified or rescinded, and a copy of said resolution is attached as Exhibit A to this Certificate.

FOURTH: That said amendment was duly adopted substantially in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, TIMMINCO HOLDINGS CORPORATION has caused this Certificate to be executed by its duly authorized signatory as of the 19th day of April, 2013.

TIMMINCO HOLDINGS CORPORATION

By:

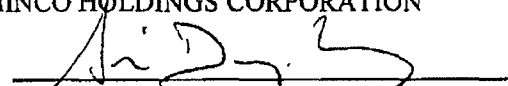

Sean Dunphy, President of
Russell Hill Advisory Services Inc.,
Chief Restructuring Officer of its
sole stockholder, Timminco Limited
per attached Exhibit B

EXHIBIT A

[see attached]

11785879.1

RESOLUTIONS OF THE SOLE STOCKHOLDER

OF

TIMMINCO HOLDINGS CORPORATION

A Delaware Corporation
(the "Corporation")

The undersigned, being the sole stockholder of this Corporation, by its signature below, hereby consents to and authorizes the following actions without a meeting of the stockholder:

Amendment of Certificate of Incorporation

RESOLVED that the Certificate of Incorporation of the Corporation be amended to provide for Russell Hill Advisory Services Inc., by and through its authorized officers, including, without limitation, its President, Sean Dunphy, to have all power, right and authority to authorize, and to perform such actions as may be necessary or advisable in connection with, the sale or other disposition of the assets of the Corporation and of any subsidiaries of the Corporation, the satisfaction or other resolution of any liabilities of the Corporation and of any subsidiaries of the Corporation, and the dissolution, liquidation, and winding up of the Corporation and of any subsidiaries of the Corporation, including, without limitation, the authorization of any amendments to the Certificates of Incorporation or other organizational documents of any subsidiaries of the Corporation to provide for the signatory authority of an authorized person, which may include, without limitation, Russell Hill Advisory Services Inc. and/or any authorized officers thereof, including, without limitation, its President, Sean Dunphy.

Ratification of Actions of Authorized Persons

RESOLVED that any and all actions of Russell Hill Advisory Services Inc. and/or any authorized officers thereof, including, without limitation, its President, Sean Dunphy, taken in accordance with the foregoing resolutions are hereby ratified, adopted and in all respects approved.

Each of the foregoing resolutions are consented to by the sole stockholder of the Corporation pursuant to Section 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the undersigned has executed these Resolutions of the Sole Stockholder as of this 19th day of April, 2013.

TIMMINCO LIMITED

By: _____

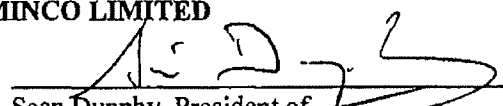

Sean Dunphy, President of
Russell Hill Advisory Services Inc.,
Chief Restructuring Officer

EXHIBIT B

[see attached]

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)
JUSTICE NEWBOULD) FRIDAY, THE 17TH DAY
DAY OF AUGUST, 2012

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENTS 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.

(the "Applicants")



ORDER
(CRO Appointment)

THIS MOTION, made by Timminco Limited and Bécancour Silicon Inc. (collectively, the "Timminco Entities") for, *inter alia*, (i) an order appointing Russell Hill Advisory Services Inc. ("Russell Hill") as Chief Restructuring Officer ("CRO") over the Timminco Entities and approving of the CRO Agreement (defined below) between the Timminco Entities and Russell Hill Advisory Services Inc., was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Peter A.M. Kalins sworn August 13, 2012 and the Twelfth Report of FTI Consulting Canada Inc. in its capacity as the monitor of the Timminco Entities (the "Monitor"), and on hearing the submissions of counsel to the Timminco Entities, the Monitor, the Ministry of Environment, Investissement

Quebec, no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, filed:

Service

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

Approval of the Monitor's Activities

2. **THIS COURT ORDERS** that the Tenth Report of the Monitor dated June 1, 2012 and the activities of the Monitor set out therein are hereby approved.

Appointment of CRO

3. **THIS COURT ORDERS** that Russell Hill is hereby appointed CRO over the Timminco Entities, an officer of this Court, and shall have the powers and obligations set out in the engagement letter dated July 24, 2012 in the form attached to the ~~Confidential Supplement to the~~ Twelfth Report of the Monitor (the "CRO Agreement"), including, without limitation:

- (a) the power to take steps for the preservation and protection of the remaining assets of the Timminco Entities (the "Property");

- (b) the power to plan and oversee the orderly wind-down and disposition of the Property;
- (c) the power to negotiate and enter into agreements on behalf of the Timminco Entities with respect to the sale of the Property;
- (d) the power to direct the Timminco Entities to apply to Court for any vesting order or orders which may be necessary or appropriate in order to convey the Property to a purchaser or purchasers thereof;
- (e) the power to take any steps required to be taken by the Timminco Entities under any Order of the Court, including without limitation, the Claims Procedure Order dated June 15, 2012;
- (f) the power to apply to Court for an order authorizing and directing the Timminco Entities to distribute any sales proceeds received by the Timminco Entities with respect to the Property or otherwise;
- (g) the power to engage in such other related activities as may appear necessary or desirable;
- (h) the power to provide information to the Monitor regarding the business and affairs of the Timminco Entities;
- (i) the power to take any steps, enter into any agreements or incur any obligations as the CRO deems necessary or incidental to the exercise of

the aforesaid powers, with such agreements and obligations to be those of the Timminco Entities and not of the CRO personally;

- (j) the power to apply to the Court for an order authorizing and directing the Timminco Entities to make a voluntary assignment in bankruptcy;
- (k) the power to apply to Court for an order and authorizing and directing the Timminco Entities to abandon any of the Property;
- (l) the power to exercise such shareholder rights as may be available to the Timminco Entities, including without limitation to appoint any director or officer of any subsidiary of the Timminco Entities;
- (m) in consultation with Stikeman Elliott LLP, the power to direct the Timminco Entities to commence any proceeding and seek any order, or respond to any motion or application brought by any other person, in these CCAA proceedings or otherwise; and
- (n) the power to apply to Court to seek, advice and direction with respect to any of the CRO's powers or duties as set out in the CRO Agreement.

4. **THIS COURT ORDERS** that the CRO Agreement is approved and the Timminco Entities are authorized to perform all of their obligations pursuant to the CRO Agreement.

5. **THIS COURT ORDERS** that the CRO shall not take possession of the Property (as defined in the CRO Agreement) and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the business or the Property, or any part thereof. Without limiting the foregoing, the CRO shall not, as a result of this Order or anything done pursuant to its duties and powers pursuant to this Order, be deemed to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Civil Code of Québec*, the *Québec Environment Quality Act*, the *Ontario Mining Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation").

6. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the CRO as an officer of this Court, neither the CRO, nor any officer, director, employee, or agent of the CRO, including without limitation, Sean

Dunphy, shall be deemed to be a director or trustee of any of the Timminco Entities.

7. **THIS COURT ORDERS** that [✓]neither the CRO, nor any officer, director, ^{→, notwithstanding paragraph 5 hereof, ✓} employee, or agent of the CRO, shall incur any liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any liability or obligation incurred as a result of gross negligence or wilful misconduct on its or their part; provided that any liability of the CRO hereunder shall in no event exceed the quantum of the fees paid to the CRO. 20 J.
8. **THIS COURT ORDERS** that the CCAA Entities shall indemnify and hold harmless the CRO and any officers, directors, employees or agents of the CRO who may assist the CRO with the exercise of its powers and obligations under this Order (collectively with the CRO, the "CRO Indemnified Parties") with respect to any liability or obligation that the CRO Indemnified Parties may incur as a result of the appointment of the CRO or the fulfilling of the CRO's duties in carrying out the provisions of this Order, including any claims or liabilities subject to indemnification pursuant to the CRO Agreement, except to the extent that the obligation or liability was incurred as a result of the CRO Indemnified Parties' gross negligence or wilful misconduct. The CRO Indemnified Parties shall be treated as unaffected and the foregoing indemnity shall be treated as unaffected and may not be compromised in any

plan of arrangement or compromise filed by the Timminco Entities under the CCAA, or any proposal filed by the CCAA Entities under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA").

9. **THIS COURT ORDERS** that the fees and expenses payable to Russell Hill pursuant to the CRO Agreement, including by way of indemnification, are entitled to the benefit of the Administration Charge, as defined in this Court's Initial Order dated January 2, 2012 (the "Initial Order").

10. **THIS COURT ORDERS** that [✓]no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the CRO Indemnified Parties, and all rights and remedies of any Person against or in respect of the CRO Indemnified Parties are hereby stayed and suspended, except with the written consent of the CRO or with leave of this Court on notice to the CRO and the Monitor. Notice of any such motion seeking leave of this Court shall be served upon the CRO and the Monitor at least seven (7) days prior to the return date of any such motion for leave.

25.1.
the ✓
CCAA,

11. **THIS COURT ORDERS** that the Timminco Entities' indemnity in favour of the CRO Indemnified Parties shall survive any termination, replacement or discharge of the CRO.

Miscellaneous

12. **THIS COURT ORDERS** that notwithstanding the resignation of the directors and officers of the Timminco Entities (the "D&O") and subject to the restrictions in paragraph 28 of the Initial Order, the Timminco Entities are authorized and directed to pay the reasonable legal fees of counsel for the D&O in respect of claims made against the D&O pursuant to the claims process authorized under the Claims Procedure Order dated June 15, 2012 or otherwise, in accordance with the indemnity obligations of the Timminco Entities contained in paragraph 26 of the Initial Order which are secured by the charge granted in paragraph 27 of the Initial Order, without prejudice to the rights of any D&O to seek further directions from this Honourable Court, on notice to the Monitor and the CRO, regarding the obligation of the Timminco Entities to compensate the D&O for reasonable legal fees relating to any pre-filing claims made against them to the extent that the D&O do not have coverage under any director and officer insurance policy or to the extent that such coverage is insufficient to pay amounts indemnified by the Timminco Entities.

13. **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, 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.

14. **THIS COURT ORDERS** that, except as specifically provided for herein, nothing in this Order shall vary or amend any order or endorsement previously granted in these proceedings.



ENTERED AT / DÉPOSÉ À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

AUG 17 2012

RECEIVED


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

Proceeding commenced at Toronto

ORDER
(CRO Appointment)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E

Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V

Tel: (416) 869-5230

Erica Tait LSUC#: 5596O

Tel: (416) 869-6805

Fax: (416) 947-0866

Lawyers for the Applicants

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "TIMMINCO PROPERTIES INC.", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF APRIL, A.D. 2013, AT 1:58 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

0447405 8100

130460027



You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0376518

DATE: 04-22-13

CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
TIMMINCO PROPERTIES INC.

pursuant to section 242 of the
General Corporation Law of the
State of Delaware

TIMMINCO PROPERTIES INC., a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify as follows:

FIRST: That a new Article THIRTEENTH is hereby added to the Certificate of Incorporation of the Corporation immediately following Article TWELFTH, as follows:

THIRTEENTH. Russell Hill Advisory Services Inc., by and through its authorized officers, including, without limitation, its President, Sean Dunphy, shall have all power, right and authority to authorize, and to perform such actions as may be necessary or advisable in connection with, the sale or other disposition of the assets of the Corporation, including, without limitation, real estate, the satisfaction or other resolution of any liabilities of the Corporation, and the dissolution, liquidation, and winding up of the Corporation, including, without limitation, the distribution of assets, including, without limitation, the distribution of proceeds from the sale of the assets of the Corporation.

SECOND: That the amendment was presented directly to the sole stockholder for approval in the absence of a duly elected Board of Directors, which resigned following the restructuring of the sole stockholder of the sole stockholder.

THIRD: That thereafter the written consent of the sole stockholder of the common stock of the Corporation, which is the only class of stock of the Corporation entitled to vote on such amendment, was obtained for said amendment to the Certificate of Incorporation of the Corporation in accordance with Section 228 of the General Corporation Law of the State of Delaware, and that said written consent has not been modified or rescinded, and a copy of said written consent is attached as Exhibit A to this Certificate.

FOURTH: That said amendment was duly adopted substantially in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, TIMMINCO PROPERTIES INC. has caused this Certificate to be executed by its duly authorized signatory as of the 19th day of April, 2013.

TIMMINCO PROPERTIES INC.

By: Russell Hill Advisory Services Inc.,
Authorized Party of its sole stockholder,
Timminco Holdings Corporation

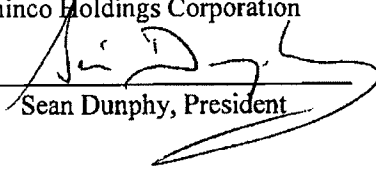
By: 
Sean Dunphy, President

EXHIBIT A

[see attached]

11785945.1

RESOLUTIONS OF THE SOLE STOCKHOLDER

OF

TIMMINCO PROPERTIES INC.

A Delaware Corporation

(the "Corporation")

The undersigned, being the sole stockholder of this Corporation, by its signature below, hereby consents to and authorizes the following actions without a meeting of the stockholder:

Amendment of Certificate of Incorporation

RESOLVED that the Certificate of Incorporation of the Corporation be amended to provide for Russell Hill Advisory Services Inc., by and through its authorized officers, including, without limitation, its President, Sean Dunphy, to have all power, right and authority to authorize, and to perform such actions as may be necessary or advisable in connection with, the sale or other disposition of the assets of the Corporation, including, without limitation, real estate, the satisfaction or other resolution of any liabilities of the Corporation, and the dissolution, liquidation, and winding up of the Corporation, including, without limitation, the distribution of assets, including, without limitation, the distribution of proceeds from the sale of other assets of the Corporation.

Ratification of Actions of Authorized Persons

RESOLVED that any and all actions of Russell Hill Advisory Services Inc. and/or any authorized officers thereof, including, without limitation, its President, Sean Dunphy, taken in accordance with the foregoing resolutions are hereby ratified, adopted and in all respects approved.

Each of the foregoing resolutions are consented to by the sole stockholder of the Corporation pursuant to Section 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the undersigned has executed these Resolutions of the Sole Stockholder as of this 19th day of April, 2013.

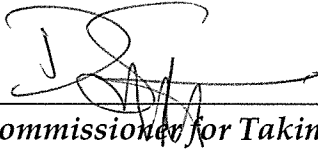
TIMMINCO HOLDINGS CORPORATION

By: Russell Hill Advisory Services Inc.,
Authorized Party

By: 
Sean Dunphy, President

EXHIBIT "E"

*THIS IS EXHIBIT "E", referred to in the
Affidavit of Sean Dunphy, sworn on
May 7, 2013.*

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke extending to the right.

Commissioner for Taking Affidavits

Agreement of Purchase and Sale Commercial

Form 500
for use in the Province of Ontario

This Agreement of Purchase and Sale dated this 30th day of January 2013

BUYER: Ehrlich Samuel Properties Inc. agrees to purchase from
(full legal names of all Buyers)

SELLER: TIMMINCO LIMITED; the following
(full legal names of all Sellers)

REAL PROPERTY:

Address: 90 TYCOS DR., North York, Ontario

fronting on the North side of Tycos DR

in the City of North York

and having a frontage of 200 feet more or less by a depth of 340 more or less

and legally described as: LT 23 PL 4069 NORTH YORK; ET 24 PL 4069 NORTH YORK; S/T & T/W

TB562569; S/T NY119687; TORONTO (N YORK), CITY OF TORONTO (the "property").
(legal description of land, including easements not described elsewhere)

PURCHASE PRICE: Dollars (CDN\$) 250,000.00

Two Hundred Fifty Thousand Dollars

DEPOSIT: Buyer submits within 48 hours of acceptance
(Herewith/Upon Acceptance/as otherwise described in this Agreement)

Twenty-Five Thousand Dollars (CDN\$) 25,000.00

by negotiable cheque payable to Cushman & Wakefield Ltd. "Deposit Holder"
to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion.
For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the
Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that,
unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's
non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A, B, & C, & D: attached hereto form(s) part of this Agreement.

1. **IRREVOCABILITY:** This Offer shall be irrevocable by Seller until 5 a.m./p.m. on
(Seller/Buyer)
the 8th day of February 2013, after which time, if not accepted, this
Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. **COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the See Schedule A day
of 20. Upon completion, vacant possession of the property shall be given to the
Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



3. **NOTICES:** The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.: 416-359-2613 (For delivery of Documents to Seller) FAX No.: 416 947 9820 (For delivery of Documents to Buyer)
 Email Address: elliot.medoff@ca.cushmanwake.com (For delivery of Documents to Seller) Email Address: tom@tanurb.com (For delivery of Documents to Buyer)

4. **CHATELS INCLUDED:**
 To Be completed by Seller:

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

5. **FIXTURES EXCLUDED:**
 To be completed by Seller:

6. **RENTAL ITEMS:** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:
 Hot Water Tank if Rental

7. **HST:** If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be in addition to the Purchase Price. The Seller will not collect HST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Excise Tax Act ("ETA"), together with a copy of the Buyer's ETA registration, a warranty that the Buyer shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Seller in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing, that the transaction is not subject to HST. Any HST on chattels, if applicable, is not included in the purchase price.

8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the See Schedule A, day of _____, 20____, (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion; to satisfy himself that there are no outstanding work orders or deficiency notices affecting the property, that its present use (Commercial) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.



INITIALS OF BUYER(S):  INITIALS OF SELLER(S): 

9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.

10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with; or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.

11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.


12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and; where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

 13. ~~INSPECTION: Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller.~~ 

14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.

15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O.1990.
17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
20. **PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.
21. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Large Value Transfer System.
22. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O.1990 unless Seller's spouse has executed the consent hereinafter provided.
23. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
24. **LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.
25. **CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
26. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
27. **TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



28. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:
 Tom Ehrlich, Ehrlich Samuel Properties Inc.
 (Buyer/Authorized Signing Officer) DATE FEB 4/2013

(Witness) _____
 (Witness) _____

I, the Undersigned Seller, agree to the above Offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer.

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:
Truman Co. Limited
 (Seller/Authorized Signing Officer) DATE February 7, 2013

(Witness) _____
 (Witness) _____

SPOUSAL CONSENT: The Undersigned Spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Buyer that he/she will execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

(Witness) _____ (Spouse) _____ DATE _____

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at _____ a.m./p.m. this _____ day

of _____, 20____. _____ (Signature of Seller or Buyer)

INFORMATION ON BROKERAGE(S)

Listing Brokerage: <u>Cushman and Wakefield LTD.</u>	Tel. No. _____
Co-op/Buyer Brokerage _____	Tel. No. _____

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

DATE _____
 (Seller)
 DATE _____
 (Seller)
 Address for Service _____
 Tel. No. _____
 Seller's Lawyer _____
 Address _____
 Tel. No. _____ FAX No. _____

DATE _____
 (Buyer)
 DATE _____
 (Buyer)
 Address for Service _____
 Tel. No. _____
 Buyer's Lawyer _____
 Address _____
 Tel. No. _____ FAX No. _____

FOR OFFICE USE ONLY		COMMISSION TRUST AGREEMENT	
To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale: In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.			
DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale.		Acknowledged by:	
_____		_____	
(Authorized to bind the Listing Brokerage)		(Authorized to bind the Co-operating Brokerage)	

Schedule A
Agreement of Purchase and Sale – Commercial

Form 500
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER, Ehrlich Samuel Properties Inc. and

SELLER, TIMMINCO LIMITED;

for the purchase and sale of 90 TYCOS DR, North York, Ontario North York

dated the 30th day of January, 2013

Buyer agrees to pay the balance as follows:

Intentionally Left Blank

This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



AND: Ehrlich Samuel Properties Inc. (the "Purchaser")

Re: 90 Tycos Drive, North York

1. BALANCE OF PURCHASE PRICE

- (a) Purchaser agrees to pay to the Vendor's Agent upon waiver of its conditions stated in Section 2 of this Schedule "A" (Purchaser's Conditions), a further sum of Twenty Five Thousand Dollars (\$25,000.00) by certified cheque as a further deposit (the "Second Deposit" and together with any other deposit provided for in this Agreement, the "Deposit") to be held in trust by such Agent pending completion or other termination of this Agreement and to be credited towards the Purchase Price on completion.
- (b) The Purchaser agrees to pay the balance of the Purchase Price subject to the usual adjustments in cash or by certified cheque to the Vendor on closing.
- (c) Purchaser and Vendor hereby direct the Real Estate Agent holding the Deposit in this transaction to place same into an interest bearing account or term deposit, with any accrued interest on the Deposit to be paid to the Purchaser as soon as possible after closing or other termination of this Agreement.

2. PURCHASER'S CONDITIONS

Following mutual acceptance of this Agreement of Purchase and Sale, this Agreement shall be conditional for forty five (45) days (the "Condition Date") upon the Purchaser, at his own expense completing a full inspection of the Property (physical and environmental) and finding same satisfactory in its sole and unfettered discretion on all issues related to the Property including but not limited to (a) reviewing all tenancy, financial and operating statements and finding same satisfactory; (b) reviewing all service and maintenance contracts to be assumed on Closing and finding same satisfactory; and, (c) satisfying itself with any other matter it deems fit regarding the purchase of the Property in its sole and unfettered discretion. Unless the Purchaser gives notice in writing to the Vendor on or prior to 5:00 PM (Toronto time) on the Condition Date that this condition has been fulfilled, the Purchaser shall be deemed to have not satisfied itself with said condition and this Agreement shall become null and void and the Deposit shall be returned to the Purchaser in full without interest or deduction except as provided for herein. In the event the Purchaser notifies the Vendor of its satisfaction with the condition and waives its condition in writing within the time period herein, this agreement shall become firm and binding. This condition is included for the sole benefit of the Purchaser and may be waived by the Purchaser at his option by notice in writing to the Vendor. Prior to the Condition Date, the Purchaser shall provide the Vendor with notice of any Contracts (as defined herein) which it will not assume on Closing.

The Purchaser shall be responsible for all damages and injuries caused to the Property by reason of the Purchaser's physical or environmental inspection of the Property and shall repair such damages and injuries forthwith upon demand and the

Re: 90 Tycos Drive, North York

Vendor shall be entitled to set-off against the Deposit any amounts required to repair any such damage or injuries not so repaired.

3. **MODIFICATION OF TENANCY AGREEMENTS**

Following mutual acceptance of this Agreement of Purchase and Sale, the Vendor shall not enter into any new tenancy agreements and/or modify the terms of any tenancy without the prior written consent of the Purchaser (not to be unreasonably withheld or delayed). If a new tenancy agreement is entered into with the approval of the Purchaser then the Purchaser shall be responsible for all direct and indirect costs associated with such tenancy, such indirect costs including commissions, tenant improvements and inducements as well as any capital costs associated with facilitating that tenancy.

4. **VENDOR'S DELIVERIES**

The Vendor shall execute and promptly deliver to the Purchaser any and all consents and authorizations which the Purchaser requests which will enable the Purchaser to conduct such searches and inquiries with regard to the Property as the Purchaser may deem necessary but the Purchaser shall not request any inspections by governmental authorities. The parties acknowledge that, to the extent within its possession and control, the Vendor will make the following available to the Purchaser within 3 days from the Acceptance Date:

- AD*
- 1 January 2007*
- 211 3721 Ontario Inc.*
- (a) a true copy of each of the lease dated between the Vendor and (the "Lease"), and access to all Tenant correspondence files;
 - (b) to the extent they are in the possession of the Vendor, a copy of surveys of the Property and copies of all available plans, drawings and specifications of the Property and mechanical, electrical and other systems used therein;
 - (c) copies of gas, hydro and water bills for the Property for the last 12 months;
 - (d) copies of all Property contracts including all warranties and guarantees for the construction and the operation of the Property (the "Contracts");
 - (e) copies of any pending municipal or provincial work orders, if any;
 - (f) current list of any security deposit and/or prepaid rent held by the Vendor;
 - (g) any letters of credit which the Vendor has posted or caused to be posted with a municipal authority or utility with respect to the Property;
 - (h) a list of all outstanding costs with respect to the Lease (including without limitation real estate or leasing commissions, tenant inducements, rent-free periods, rent-abatement periods, lease takeovers and tenant improvements);
 - (i) a copy of all permits, consents, licences, certificates, approvals, authorizations, registrations or any item with similar effect issued or granted
-

Re: 90.Tycos Drive, North York

- by any governmental authority respecting environmental matters concerning the Property in the possession of the Vendor or its manager;
- (j) copies of all agreements, with, and permits and licences from governmental authorities or owners of adjoining lands relating to the development or operation of the Property and the construction of any buildings on the Property;
 - (k) operating statements and expenses for the prior 12 months for the Property;
 - (l) copies of any current realty tax assessment notices and tax bills relating to the Property for the previous 3 fiscal years and details of any outstanding tax appeals or reassessments;
 - (m) a list of all committed or current capital expenditures;
 - (n) a list of all outstanding monetary and material non-monetary defaults or outstanding disputes under the Lease and Contracts of which the Vendor is aware and all outstanding arbitration or mediation proceedings affecting the Property;
 - (o) copies of any written notice received from the tenant under the Lease indicating an intention to vacate its premises prior to the scheduled expiry date under its Lease or to exercise or not exercise an option to terminate or renew its Lease or to exercise or not exercise a right of first refusal/ or option to purchase;
 - (p) a list of any outstanding litigation affecting the Property to which the Vendor is a party, is aware of or in respect of which it has received written notice;
 - (q) copies of maintenance reports and logs relating to the Property, including elevators, escalators and other preventative maintenance programs;
 - (r) environmental, soils, mechanical, electrical, structural and other building condition reports and any fire and life safety reports in respect of the Property;
 - (s) copies of any building permits relating to any current construction or renovations conducted by the Vendor at the Property;
 - (t) a summary of insurance coverage in place, claims history and invoices in respect of the Property for the current and preceding three years; and
 - (u) any Technical Standards and Safety Authority inspection reports and orders in respect of the elevators and HVAC systems at the Property;

5. COURT APPROVAL CONDITION

This Agreement shall be conditional upon the Vendor obtaining on or prior to Closing a court order approving the terms of this Agreement (the "Approval"

Re: 90 Tycos Drive, North York

Order"). If the Vendor (a) does not provide the Purchaser with evidence that it has applied for such Approval Order within ten (10) days of the Purchaser's waiver of its conditions as set out in Section 2 of this Schedule A (the "Purchaser's Waiver Date"); or (b) is unable to obtain the Approval Order within fourteen (14) days of the Purchaser's Waiver Date (provided that if the Approval Order is appealed, this period shall be extended for the period of time required for such appeal to be finally determined), this Agreement shall terminate and the Deposit shall be returned to Purchaser without deduction, except as set out herein, and the Vendor shall compensate the Purchaser for its actual documented expenses incurred in respect of due diligence of the Property to a maximum amount of forty thousand dollars (\$40,000.00).

6. ASSIGNMENT

Following payment of the Second Deposit, the Purchaser shall have the right to assign this Agreement to a corporation to be formed or a related corporation, on or before Closing on written notice to the Vendor and upon the assignee agreeing in writing directly with the Vendor to be bound by the terms of this Agreement as if an original signatory hereto.

7. ADJUSTMENTS

- (a) The Purchase Price will be adjusted as of the Closing Date (with the Closing Date being allocated to the Purchaser) for all items of income and expense and other items that are adjusted in accordance with usual commercial practice for adjustment between a vendor and purchaser with respect to the purchase and sale of a comparable property in Toronto, the Vendor being responsible for all expenses and entitled to all income related to the Property in respect of the period prior to the Closing Date and the Purchaser being responsible for all expenses and entitled to all income related to the Property in respect of the period from and including the Closing Date, in each case except as otherwise provided herein.
 - (b) The adjustments shall include all operating costs, realty taxes, water rates and assessments, current rents, prepaid rents and interest thereon (if any), security deposits and interest thereon (if any), current expense and utility deposits. The Vendor shall arrange for all meters measuring the supply of utilities payable by the Vendor to be read on the day prior to the Closing Date. Fire and other insurance shall not be transferred or adjusted. The rents and operating costs for the Closing Date shall be for the Purchaser's account.
 - (c) If the final cost or amount of an item which is to be adjusted cannot be determined at Closing, then an initial adjustment shall be made at Closing, such amount to be estimated by the parties hereto acting reasonably as of the Closing Date on the basis of the best evidence available at the Closing as to what the final cost or amount of such item will be. In each case when such cost or amount is determined, the Vendor or Purchaser, as the case may be, shall, prior to sixty (60) days following the Closing, provide a complete statement thereof to the other and within thirty (30) days thereafter the
-

Re: 90 Tyco's Drive, North York

parties hereto shall make a final adjustment. In the absence of an agreement by the parties hereto, the final cost or amount of an item shall be determined by auditors appointed jointly by the Vendor and the Purchaser with the cost of such auditor's determination being shared equally.

8. TRANSACTION TAXES

- (a) The Purchaser shall be liable for and shall pay (or in the alternative, deliver certificates in lieu thereof) either to the Vendor at Closing or directly to the governmental authority, as required, all land transfer taxes, federal and provincial sales taxes and other taxes, duties or other like charges properly payable upon and in connection with the conveyance and transfer of the Property by the Vendor to the Purchaser (collectively the "Transfer Taxes").
- (b) The Purchaser acknowledges that the within transaction is taxable under Part IX of the Excise Tax Act (Canada) (the "ETA") and covenants to either (i) pay all harmonized sales taxes including any tax that may replace it or modify it prior to Closing (HST) imposed under the ETA on Closing, or (ii) in the event the Purchaser intends to rely upon the HST exception contained in section 221(2) of the ETA to execute and deliver a declaration certificate and undertaking in the form required by the Vendor, acting reasonably (the "HST Certificate") which shall also include the HST registration number of the Purchaser.
- (c) The Purchaser hereby agrees to indemnify and save harmless the Vendor from all costs, expenses or damages incurred or suffered by the Vendor as a result of the failure by the Purchaser to pay any and all Transfer Taxes whether arising from an assessment or otherwise and in this regard shall deliver an indemnity with respect to same on Closing.
- (d) The Purchaser shall each indemnify and save the Vendor harmless from any liability of the Vendor under the ETA arising because of a breach of the obligations of the Purchaser, set out in this section or arising under the ETA, together with all losses, costs and expenses resulting from such breach.

9. AS IS, WHERE IS SALE

Except for warranties and covenants contained within this Agreement, the Vendor makes no warranties, express or implied, in respect of the condition of the Property. The Purchaser acknowledges the Property is being conveyed on an "as is, where is" basis, such that the Purchaser shall be responsible for satisfying itself in respect of the current condition of the Property, environmental or otherwise.

10. BUSINESS DAY

For the purposes of this Agreement, Business Day shall be defined as a day upon which the Land Registry Office for which the Property is registered in is open.

11. COMPLETION DATE

Re: 90 Tycos Drive, North York

The Completion Date (the "Closing") shall be the later of: (i) twenty-one (21) days following the Purchaser's Waiver Date; and (ii) seven (7) days following the satisfaction of the condition stated in Section 5 of this Schedule "A". In the event either day is not a Business Day, the date shall be set to the next Business Day.

(a) Conveyances

Subject to the provisions of Section 11(b) of this Schedule "A", the Vendor shall cause a Transfer/Deed of Land in standard Ontario form conveying good and marketable title to the Property to be delivered to the Purchaser on the Closing Date free and clear of all restrictions, financing, charges, liens, encroachments and encumbrances save and except for those accepted by the Purchaser, including but not limited to those encumbrances listed on Schedule "D".

(b) Title

The Purchaser shall examine the title to the Property at its own expense and will not call for the production of any title deeds or abstracts of title, proof or evidence of title, or to have furnished any copies thereof other than those in the possession or control of the Vendor. The Purchaser is to be allowed until the Condition Date to examine such title at its own expense and to satisfy itself that the Property may be insured against the risk of fire and extended perils. If within such time the Purchaser furnishes the Vendor with any valid objection to any of such matters which the Vendor is unwilling or unable to remedy or satisfy at or before the Closing Date and which the Purchaser will not waive, this agreement shall, notwithstanding any negotiations or discussions, be terminated and the Deposit, without deduction and together with earned interest, shall be returned to the Purchaser save as provided herein. Save to as any objection so raised, any matter going to the root of title or any matter arising after the date of the Purchaser's investigations, the Purchaser shall be deemed to have accepted the Vendor's title to the property.

12. NOTICES/ADDRESS FOR SERVICE

All notices required under this agreement shall be addressed as follows:

c/o Cushman & Wakefield Ltd.
33 Yonge Street, Suite 1000
Toronto, Ontario
M5E 1S9

Fax: 416-359-2613

Tel: 416-862-0611

Attn: Elliot Medoff

Re: 90 Tycos Drive, North York

13. DISCREPANCY

In the event of any discrepancy or inconsistency between the pre-printed portions of the Agreement of Purchase and Sale and this Schedule "A", the terms and conditions of this Schedule "A" shall prevail.

14. LEGAL ADVICE

The Purchaser and Vendor hereby acknowledge being advised by Cushman & Wakefield Ltd. (the Agent), prior to signing this Agreement, to seek legal advice on the terms and conditions of this Agreement. Purchaser and Vendor agree to hold the Agent harmless from any claim resulting from their failure to seek said advice.

SCHEDULE "B"

The Vendor represents warrants and covenants (and acknowledges that Purchaser is relying upon such representations, warranties and covenants in connection with the purchase by the Purchaser of the Property) that:

1. INCORPORATION

The Vendor is duly incorporated and subsisting under the laws of Ontario (if it is a corporation) and is a resident of Canada for purposes of the *Income Tax Act* (Canada) with all powers, licenses, permits and rights which it requires to carry on its business.

2. AUTHORITY

The Vendor has good right and full power and authority to execute and deliver this agreement and all other documents and things to be executed, delivered and done by it and to incur and carry out all obligations provided for herein. The performance of the Vendor's obligations hereunder is not in conflict with, and does not constitute a default under, any terms, provisions or conditions of its charter, articles or by-laws.

3. EXPROPRIATION

The Vendor has received no notice of any proceedings in effect or pending with respect to expropriation of any part of the Property.

4. REPRESENTATIONS ARE CONDITIONS

The Vendor acknowledges and agrees that the representations, warranties and covenants herein shall be deemed to be material conditions of this agreement for the exclusive benefit of the Purchaser and are to be fulfilled and/or performed by the Vendor or waived by the Purchaser at or prior to the Closing Date.

Vendor Initial: _____



Purchaser Initial: _____

SCHEDULE "C"

5. CLOSING DELIVERIES OF VENDOR

On the Closing Date, the Vendor shall execute and/or deliver to the Purchaser, to the extent not previously delivered :

- (a) the Transfer/Deed of Land for the Property;
 - (b) all title documents and surveys relating to the Property in the Vendor's possession or control;
 - (c) a Bill of Sale relating to the Chattels;
 - (d) an assignment and assumption agreement in respect of the Lease (the "Lease Assignment");
 - (e) the original Lease, which shall be at the Property;
 - (f) a certificate of the Vendor setting out that the Vendor is not a non-resident of Canada within the meaning and intended purpose of Section 116 of the *Income Tax Act* (Canada);
 - (g) an assignment and assumption agreement of all permits, licenses, outstanding guarantees, warranties and indemnities and Contracts relative to the Property as the Purchaser determines, at its option, to acquire to the extent that they are assignable (the "Contract Assignment");
 - (h) a statement of adjustments which shall be delivered to the Purchaser no later than five Business days prior to the Closing Date;
 - (i) an undertaking by the Vendor to re-adjust the adjustments in accordance with Section 7 of Schedule "A";
 - (j) a certificate of the seller certifying that the representations and warranties of the Vendor contained in Schedule "B" are true and accurate in all material respects as of the Closing Date; and
 - (k) such further documents relating to the completion of this transaction herein contemplated as the Purchaser reasonably requires or as may be required by law or this agreement.
2. The Vendor shall use commercially reasonable efforts to obtain and deliver on or prior to Closing a tenant estoppel from the tenant under the Lease confirming details of tenancy and the terms of the tenancy.

6. CLOSING DELIVERIES OF THE PURCHASER

On the Closing Date, the Purchaser shall execute and/or deliver to the Vendor:

- (a) the Lease Assignment;
- (b) the Contract Assignment;
- (c) an undertaking to re-adjust the adjustments in accordance with Section 7 of Schedule "A";

Vendor Initial: *AB*

Purchaser Initial: _____

SCHEDULE "D"

PERMITTED ENCUMBRANCES

General

1. Encumbrances, charges or prior claims for taxes (which term includes charges, rates and assessments) or utilities (including charges, levies or imposts for sewers, electricity, power, gas, water and other services and utilities) not yet due and owing or, if due and owing, that are adjusted for pursuant to Section 7 of Schedule "A", or the validity of which is being contested in good faith, and encumbrances or charges for the excess of the amount of any past due taxes or utilities charges for which a final assessment or account has not been received over the amount of such taxes or utilities charges as estimated and paid by the Vendor.
2. Inchoate or statutory encumbrances in respect of construction, renovations or current operations, in respect of which the Vendor has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts and of the *Construction Lien Act* (Ontario) and (i) for which no claim has been registered against the Land and of which no notice in writing has been given to the Vendor pursuant to the *Construction Lien Act* (Ontario) or otherwise, or (ii) that relate to obligations not yet due.
3. Statutory liens and levies and other rights conferred upon, reserved to or vested in the Crown, the public or any municipality or governmental or other public authority by any statutory provision including rights of expropriation, access or user.
4. Subsisting reservations, limitations, provisos, conditions or exceptions contained in any grant of the Land or any portion thereof or interest therein from the Crown, including reservations of under-surface rights to mines and minerals of any kind including rights to enter, prospect and remove the same.
5. Unregistered liens, charges, adverse claims, security interests or other encumbrances of any nature claimed or held by any governmental entity.
6. The right reserved to or vested in any governmental entity by any statutory provision or by the terms of any lease, licence, franchise, grant or permit of the person, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof.
7. Restrictions, by-laws, regulations, ordinances and similar instruments affecting the use of land or the nature of any structures which may be erected on the Land, including zoning, land-use and building by-laws and ordinances.
8. Minor encroachments or illegal views by the Property over neighbouring land and/or permitted under agreements with neighbouring landowners and minor encroachments or illegal views over the Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners that in either case do not materially impair the use, operation or marketability of the Property.
9. Any minor title defects, irregularities, encroachments, easements, rights-of-way, rights to use, servitudes or similar interests revealed by any plan, technical description or survey or certificate of location of the Land disclosed to or obtained by the Purchaser or which would be revealed by an up-to-date survey or certificate of location of the Land.

Vendor Initial: _____

Purchaser Initial: _____

BETWEEN: TIMMINCO LIMITED;
As Vendor

AND: Ehrlich Samuel Properties Inc.
As Purchaser

Re: 90 Tycos Drive, North York

10. The Purchase Agreement, and other agreements relating thereto approved or agreed to by the Purchaser or entered into pursuant to the Purchase Agreement, and any interests thereunder.
11. Any rights in favour of or accruing to holders of under-surface rights which could be ascertained by a review of registered title or other public records, or which do not materially impair the use, operation or marketability of the Property.
12. Agreements with any municipal, provincial or federal government or authorities or any public utility or private supplier of services or utilities including subdivision agreements, site plan control agreements, development agreements, servicing agreements, utility agreements, engineering agreements, grading agreements or landscaping agreements in each case provided same are disclosed by registered title or are disclosed to the Purchaser by the Vendor at least five (5) days prior to the Condition Date.
13. Unregistered agreements, authorizations, consents, postponements, subordinations, licences or instruments entered into provided that they have been complied with or if not complied with, that any non-compliance does not materially impair the use, operation or marketability of the Property in each case provided same are disclosed by registered title or are disclosed to the Purchaser by the Vendor at least five (5) days prior to the Condition Date.
14. Easements, rights-of-way, servitudes, rights to use, restrictions, restrictive covenants, and similar rights in real property or immovables or any interest therein which do not materially impair the use, operation or marketability of the Property or, in the case of easements, rights-of-way, servitudes or rights to use, in respect of which satisfactory arrangements for relocation have been made so that the same will not materially impair the use, operation or marketability of the Property in each case provided same are disclosed by registered title or are disclosed to the Purchaser by the Vendor at least five (5) days prior to the Condition Date.
15. Minor easements, rights-of-way, licences or agreements for the supply of utilities or telephone services to the Property or adjacent land and/or for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services, sidewalks, public ways, gas, steam or water mains, electric light and power, telephone and other telecommunication conduits, poles, wires and cables in each case provided same are disclosed by registered title or are disclosed to the Purchaser by the Vendor at least five (5) days prior to the Condition Date.
16. Minor title defects or irregularities that do not materially impair the use, operation or marketability of the Property.
17. Restrictive covenants, private deed restrictions, and other similar land use control agreements that are registered on title to the Land that do not materially impair the use, operation or marketability of the Property.
18. Statutory exceptions, reservations or qualifications to title including the liabilities, rights and interests described in Section 44(1) of the *Land Titles Act* (Ontario) and any

Vendor Initial: 

Purchaser Initial: _____

BETWEEN: TIMMINCO LIMITED;
As Vendor

AND: Ehrlich Samuel Properties Inc.
As Purchaser

Re: 90 Tycos Drive, North York

rights reserved to or vested in any person by any statutory provision including rights of expropriation.

19. Any possessory title rights, easements, servitudes or interests that may have been obtained by abutting owners including the rights of any person entitled to any portion of the Land through length of adverse possession or prescription.
20. Any claim to the Land or any part of them by way of aboriginal title.
21. With respect to instruments registered via Teraview Electronic Registration System ("TER System"), any error or omission in the receipt, transmission or recording of such instrument, or of any of the particulars contained in such instruments, subsequent to creation and electronic delivery of same to Teranet Land Information Services Inc. via the TER System.
22. On first registration, those additional matters constituting statutory exceptions or reservations pursuant to Subsection 44 (1) of the *Land Titles Act* (Ontario) (save and except Subsection 44 (1) paragraph 11 (Planning Act), paragraph 14 (Dower Rights), Provincial succession duties and escheats or forfeiture to the Crown); the rights of any person who, but for the *Land Titles Act* (Ontario), would be entitled to the land or any part of it through length of possession, prescription, misdescription or boundaries settled by convention; and any lease to which Subsection 70 (2) of the *Registry Act* (Ontario) applies.

Specific

23. All matters affecting title disclosed in the Vendor's Deliveries.
24. Instrument No. AT2010088, being notice of the Lease.
25. Instrument No. NY119687.
26. Instrument No. 64BA277.
27. Instrument No. 64R12132.
28. Instrument No. TB703663.
29. Instrument No. TB776552.

Vendor Initial: MS

Purchaser Initial: _____

EXHIBIT "F"

*THIS IS EXHIBIT "F", referred to in the
Affidavit of Sean Dunphy, sworn on
May 7, 2013.*

A handwritten signature in black ink, appearing to be 'J. Dunphy', written over a horizontal line.

Commissioner for Taking Affidavits

April 25, 2013

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 (as subsequently extended by orders of the Court on January 30, 2013 and March 5, 2013). It appears that the necessity for the continuation of the engagement of the CRO remains at the present time.

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

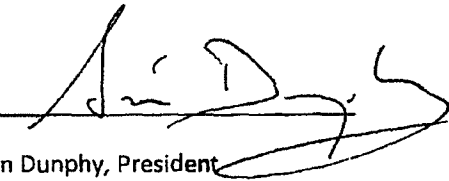
1. Term – shall be extended from May 15 until July 15, 2013 (i.e. 2 months) or such other later date as the Monitor may approve in writing;
2. Fees – the work fee shall be \$25,000 per month commencing May 15, 2013. If the term is extended beyond July 15, 2013 with the written approval of the Monitor, the work fee shall be at such fraction of the monthly work fee as the Monitor and RHAS shall agree in advance prior to the commencement of the month until the engagement is terminated.

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


I believe that the foregoing reflects our discussion. If you are in agreement with the extension on these terms, kindly sign in the place indicated below and return a copy of the letter to me in due course.

Yours very truly,

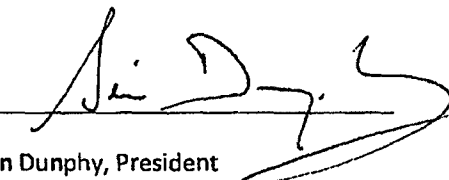
Russell Hill Advisory Services Inc.

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 for Timminco Limited and Bécancour Silicon Inc. by their
Chief Restructuring Officer, Russell Hill Advisory Services Inc.**

Per 
Sean Dunphy, President

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 MAY 7, 2013)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-5230
Fax: (416) 947-0866

Lawyers for the Applicants

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(RETURNABLE MAY 14, 2013)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236
Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) TUESDAY, THE 14TH
)
JUSTICE MORAWETZ) DAY OF MAY, 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 July 15, 2013, Extension of the CRO Agreement
and Approval of the CRO's Actions re the Memphis 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 July 15, 2013, extending the term of the CRO Agreement (as defined below) pursuant to the terms of the Third CRO Extension Agreement (as defined below), and approving the actions of the CRP (as defined below) in respect of the Memphis Agreement (as defined below) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sean Dunphy sworn May 7, 2013 (the "**May 7 Affidavit**"), and the Twentieth Report of FTI Consulting Canada Inc. in its capacity as the court appointed monitor of the Timminco Entities (the "**Monitor**") dated ●, 2013 (the "**● Report**"), 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 [Maria Konyukhova] sworn May ●, 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 July 15, 2013.

EXTENSION OF CRO AGREEMENT

3. **THIS COURT ORDERS** that the extension of the appointment of the Chief Restructuring Officer of the Timminco Entities (the "CRO") on the terms set forth in the CRO Extension Agreement dated April 25, 2013 (the "Third CRO Extension Agreement") is hereby approved.

APPROVAL OF THE CRO'S ACTIONS RELATING TO THE MEMPHIS AGREEMENT

4. **THIS COURT ORDERS AND DECLARES** that the CRO's actions with respect to the Memphis Property (as defined and described in the Dunphy Affidavit), including, without limitation, the execution of the following documents is hereby approved, *nunc pro tunc* :

- (a) the Certificate of Amendment to the Certificate of Incorporation of Timminco Holdings Corporation executed as of April 19, 2013;

- (b) the Certificate of Amendment to the Certificate of Incorporation of Timminco Holdings Corporation executed as of April 19, 2013;
- (c) the Resolution of the Sole Stockholder of Timminco Holdings Corporation executed as of April 19, 2013;
- (d) the Resolution of the Sole Stockholder of Timminco Holdings Corporation executed as of April 19, 2013; and
- (e) the purchase agreement dated April 22, 2013 between Voight & Schweitzer LLC, as purchaser, and Timminco Properties Inc., as vendor, (the "Memphis Agreement").

GENERAL

5. **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, 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 July 15, 2013)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-5230
Fax: (416) 947-0866

Lawyers for the Applicants

TAB 4

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) TUESDAY, THE 14TH
)
JUSTICE MORAWETZ) DAY OF MAY, 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 Approval of the Tycos Agreement
and Vesting of the Tycos Property)**

THIS MOTION, made by Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. (together with Timminco, the "**Timminco Entities**"), for an order approving the Tycos Agreement (as defined below) providing for the transfer of the Tycos Property (as defined below), and vesting the Tycos Property in Ehrlich Samuel Properties Inc. (the "**Purchaser**"), and authorizing and directing the Timminco Entities and the Monitor (as defined below) to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Tycos Transaction (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Sean Dunphy sworn May 7, 2013 (the "**May 7 Affidavit**"), and the Twentieth Report of FTI Consulting Canada Inc. in its capacity as the court appointed monitor of the Timminco Entities (the "**Monitor**") dated May

●, 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 [Maria Konyukhova] sworn ●, 2013, filed:

APPROVAL OF THE TYCOS TRANSFER

1. **THIS COURT ORDERS AND DECLARES** that the agreement of purchase and sale (the "**Tycos Agreement**") between Timminco and the Purchaser providing for the transfer of the property listed in Schedule "B" hereto (the "**Tycos Property**") is hereby approved. The Timminco Entities and the Monitor are authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transaction contemplated by the Tycos Agreement (the "**Tycos Transaction**") and for the conveyance of the rights, title and interest in and to the Tycos Property pursuant to the Tycos Agreement.

VESTING OF THE TYCOS PROPERTY

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Monitor's Certificate**"), all of Timminco's right, title and interest in and to the real property located at 90 Tycos Drive in Toronto, Ontario (the "**Tycos Property**") shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Court, including by the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012, the Order (Re Special Payments, KERPs and Super-Priority of Administration

Charge and D&O Charge) of the Honourable Mr. Justice Morawetz dated January 16, 2012, and the DIP Order of the Honourable Mr. Justice Morawetz dated February 8, 2012; and (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (c) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "**Encumbrances**" which term shall not include the permitted encumbrances listed at Schedule "D" to this Order, being the "**Permitted Encumbrances**").

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Registry Division of [Toronto] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "B" hereto in fee simple, and is hereby directed to delete and expunge from title to the Tycos Property all of the Claims but for the Permitted Encumbrances.

4. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Timminco and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Timminco;

the vesting of the Tycos Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Timminco and shall not be void or voidable by creditors of Timminco, nor shall it constitute nor

be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Tycos Property shall stand in the place and stead of the Tycos Property, and that from and after the closing of the Tycos Transaction all Claims and Encumbrances shall attach to the net proceeds from the sale of the Tycos Property with the same priority as they had with respect to the Tycos Property immediately prior to the sale, as if the Tycos Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

GENERAL

6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor, 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.

Schedule "A"

Schedule A – Form of Monitor’s Certificate

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

Applicants

MONITOR’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated January 3, 2012, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. (together with Timminco, the "**Timminco Entities**"); and

B. Pursuant to an Order of the Court dated May 14, 2013, the Court approved the sale agreement (the "**Tycos Agreement**") providing for the transfer of the Tycos Property, and vesting the Tycos Property in Ehrlich Samuel Properties Inc. (the "**Purchaser**"), which vesting is to be effective upon the delivery by the Monitor to the Purchaser of a certificate certifying that the Monitor has (a) received \$250,000 from the Purchaser and (b) received written confirmation in form and substance satisfactory to the Monitor from the Parties that the conditions precedent contained

in the Settlement Agreement have been satisfied or waived by the applicable Parties (the "Closing Certificates").

THE MONITOR CERTIFIES the following:

1. The Monitor has received from the Purchaser the sum of \$250,000;
2. The Monitor has received the Closing Certificates;
3. This Certificate was delivered by the Monitor to the Timminco Entities at _____ [TIME] on _____ [DATE].

**FTI Consulting Canada Inc., in its capacity
as the Court-appointed Monitor of the
Timminco Entities and not in its personal
capacity**

Per: _____

Name:

Title:

Schedule "B"

Real Property Description

The property located at the municipal address 90 Tycos Drive, North York, Ontario, legally described as

Pin 10339-0132(LT) being LT 23 PL 4069 North York; LT 24 PL 4069 North York; S/T & T/W TB562569; S/T NY 119687; Toronto (N York), City of Toronto

Schedule "C"

Encumbrances

None

Schedule "D"

Permitted Encumbrances

General

1. Encumbrances, charges or prior claims for taxes (which term includes charges, rates and assessments) or utilities (including charges, levies or imposts for sewers, electricity, power, gas, water and other services and utilities) not yet due and owing or, if due and owing, that are adjusted for pursuant to Section 7 of Schedule "A" of the Tycos Agreement, or the validity of which is being contested in good faith, and encumbrances or charges for the excess of the amount of any past due taxes or utilities charges for which a final assessment or account has not been received over the amount of such taxes or utilities charges as estimated and paid by Timminco.
2. Inchoate or statutory encumbrances in respect of construction, renovations or current operations, in respect of which Timminco has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts and of the *Construction Lien Act* (Ontario) and (i) for which no claim has been registered against the Tycos Property and of which no notice in writing has been given to Timminco pursuant to the *Construction Lien Act* (Ontario) or otherwise, or (ii) that relate to obligations not yet due.
3. Statutory liens and levies and other rights conferred upon, reserved to or vested in the Crown, the public or any municipality or governmental or other public authority by any statutory provision including rights of expropriation, access or user.
4. Subsisting reservations, limitations, provisos, conditions or exceptions contained in any grant of the Tycos Property or any portion thereof or interest therein from the Crown, including reservations of under-surface rights to mines and minerals of any kind including rights to enter, prospect and remove the same.
5. Unregistered liens, charges, adverse claims, security interests or other encumbrances of any nature claimed or held by any governmental entity.
6. The right reserved to or vested in any governmental entity by any statutory provision or by the terms of any lease, licence, franchise, grant or permit of the person, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof.

7. Restrictions, by-laws, regulations, ordinances and similar instruments affecting the use of land or the nature of any structures which may be erected on the Tycos Property, including zoning, land-use and building by-laws and ordinances.
8. Minor encroachments or illegal views by the Tycos Property over neighbouring land and/or permitted under agreements with neighbouring landowners and minor encroachments or illegal views over the Tycos Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners that in either case do not materially impair the use, operation or marketability of the Tycos Property.
9. Any minor title defects, irregularities, encroachments, easements, rights-of-way, rights to use, servitudes or similar interests revealed by any plan, technical description or survey or certificate of location of the Tycos Property disclosed to or obtained by the Purchaser or which would be revealed by an up-to-date survey or certificate of location of the Land.
10. The Tycos Agreement, and other agreements relating thereto approved or agreed to by the Purchaser or entered into pursuant to the Tycos Agreement, and any interests thereunder.
11. Any rights in favour of or accruing to holders of under-surface rights which could be ascertained by a review of registered title or other public records, or which do not materially impair the use, operation or marketability of the Tycos Property.
12. Agreements with any municipal, provincial or federal government or authorities or any public utility or private supplier of services or utilities including subdivision agreements, site plan control agreements, development agreements, servicing agreements, utility agreements, engineering agreements, grading agreements or landscaping agreements in each case provided same are disclosed by registered title or were disclosed to the Purchaser by Timminco at least five (5) days prior to the Condition Date in the Tycos Agreement.
13. Unregistered agreements, authorizations, consents, postponements, subordinations, licences or instruments entered into provided that they have been complied with or if not complied with, that any non-compliance does not materially impair the use, operation or marketability of the Property in each case provided same are disclosed by registered title or are disclosed to the Purchaser by the Vendor at least five (5) days prior to the Condition Date.

14. Easements, rights-of-way, servitudes, rights to use, restrictions, restrictive covenants, and similar rights in real property or immovables or any interest therein which do not materially impair the use, operation or marketability of the Tycos Property or, in the case of easements, rights-of-way, servitudes or rights to use, in respect of which satisfactory arrangements for relocation have been made so that the same will not materially impair the use, operation or marketability of the Tycos Property in each case provided same are disclosed by registered title or were disclosed to the Purchaser by Timminco at least five (5) days prior to the Condition Date in the Tycos Agreement.
15. Minor easements, rights-of-way, licences or agreements for the supply of utilities or telephone services to the Tycos Property or adjacent land and/or for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services, sidewalks, public ways, gas, steam or water mains, electric light and power, telephone and other telecommunication conduits, poles, wires and cables in each case provided same are disclosed by registered title or were disclosed to the Purchaser by Timminco at least five (5) days prior to the Condition Date in the Tycos Agreement.
16. Minor title defects or irregularities that do not materially impair the use, operation or marketability of the Tycos Property.
17. Restrictive covenants, private deed restrictions, and other similar land use control agreements that are registered on title to the Tycos Property that do not materially impair the use, operation or marketability of the Tycos Property.
18. Statutory exceptions, reservations or qualifications to title including the liabilities, rights and interests described in Section 44(1) of the *Land Titles Act* (Ontario) and any rights reserved to or vested in any person by any statutory provision including rights of expropriation.
19. Any possessory title rights, easements, servitudes or interests that may have been obtained by abutting owners including the rights of any person entitled to any portion of the Tycos Property through length of adverse possession or prescription.
20. Any claim to the Tycos Property or any part of them by way of aboriginal title.
21. With respect to instruments registered via Teraview Electronic Registration System ("TER System"), any error or omission in the receipt, transmission or recording of such instrument, or of any of the particulars contained in such instruments, subsequent to creation and electronic delivery of same to Teranet Land Information Services Inc. via the TER System.

22. On first registration, those additional matters constituting statutory exceptions or reservations pursuant to Subsection 44 (1) of the *Land Titles Act* (Ontario) (save and except Subsection 44 (1) paragraph 11 (Planning Act), paragraph 14 (Dower Rights), Provincial succession duties and escheats or forfeiture to the Crown); the rights of any person who, but for the *Land Titles Act* (Ontario), would be entitled to the land or any part of it through length of possession, prescription, misdescription or boundaries settled by convention; and any lease to which Subsection 70 (2) of the *Registry Act* (Ontario) applies.

Specific

23. All matters affecting title disclosed in the Vendor's Deliveries in the Tycos Agreement.
24. Instrument No. AT2010088, being notice of the Lease.
25. Instrument No. NY119687.
26. Instrument No. 64BA277.
27. Instrument No. 64R12132.
28. Instrument No. TB703663.
29. Instrument No. TB776552.

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 Approval of the Tycos Agreement
and Vesting of the Tycos Property)**

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Lawyers for the Applicants

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**MOTION RECORD
(RETURNABLE MAY 7, 2013)**

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