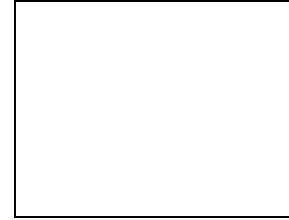


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CALGARY

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TRION BATTERY TECHNOLOGIES INC.

DOCUMENT

Bench Brief of the Applicant re: Approval and Vesting Order and CCAA Termination Order

Application – May 6, 2026 at 2:00 p.m.

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PART I -- OVERVIEW

1. This brief is submitted on behalf of TRION BATTERY TECHNOLOGIES INC. ("**Trion**" or the "**Applicant**") in support of its application on May 6, 2026.
2. The Applicant seeks an Order(s), among other things:
 - (a) Approving the transaction contemplated by the equity and asset purchase agreement between the Applicant and Rockford Equity PTY Ltd. (the "**Purchaser**") dated as of April 29, 2026 (the "**Sale Agreement**");
 - (b) Vesting the Purchased Assets (as defined in the Sale Agreement) in the Purchaser, free and clear of all encumbrances;
 - (c) Approving the activities of the Monitor;
 - (d) Approving the fees and disbursements of the Monitor and its legal counsel;
 - (e) Terminating the proceedings commenced by the Applicant under the *Companies' Creditors Arrangement Act*¹;
 - (f) Approving the releases in favour of the Monitor and its legal counsel; and
 - (g) Extending the stay of proceedings.

PART II – FACTS

3. The full background of the Applicant's business and financial circumstances was set out in the Affidavit of Mark Smith sworn February 18, 2026 (the "**Smith Affidavit**") submitted in support of the application seeking the Initial Order, and will not be repeated here. The facts material to this application are set out in the Third Affidavit of Mark Smith sworn May 3, 2026 (the "**Third Smith Affidavit**") and the Second Report of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as monitor of the Applicant (the "**Monitor**") dated May 4, 2026 (the "**Second Report**"), filed in support of this application.

¹ *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the "**CCAA**").

4. Capitalized terms used but not otherwise defined herein have the same meaning as set out in the Smith Affidavit, the Third Smith Affidavit, the Second Report or the SISP Approval Order granted by this Honourable Court on March 2, 2026 (the “**SISP Approval Order**”).

PART III -- ISSUES

5. The application raises the issues of whether this Honourable Court should approve:
- (a) the Sale Agreement and the vesting of the Purchased Assets in the Purchaser;
 - (b) the activities of the Monitor in these CCAA proceedings;
 - (c) the fees and disbursements of the Monitor and its legal counsel;
 - (d) the termination of the CCAA proceedings of the Applicant;
 - (e) the releases in favour of the Monitor and its legal counsel; and
 - (f) the extension of the stay of proceedings.

PART IV -- LAW AND ARGUMENT

A. Approval of the Sale Agreement

Factors under Section 36 of the Companies' Creditors Arrangement Act

6. The Court is authorized to approve a sale under section 36(3) of the CCAA, which takes into consideration, the following factors:²
- (a) Whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
 - (b) Whether the monitor approved the process leading to the proposed sale or disposition;
 - (c) Whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under bankruptcy;
 - (d) The extent to which the creditors were consulted;
 - (e) The effects of the proposed sale or disposition on the creditors and other interested parties; and

² CCAA, section [36\(3\)](#).

- (f) Whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.
7. In *Canwest*, Justice Pepall held that the criteria enumerated in section 36(3) of the CCAA largely overlapped with the traditional common law criteria established in *Royal Bank v Soundair Corp.* for approval of a sale of assets in an insolvency scenario and remain relevant when considering the statutory test:
- (a) whether sufficient effort has been made to obtain the best price and that the debtor has not acted improvidently;
 - (b) the interests of all parties;
 - (c) the efficacy and integrity of the process by which offers have been obtained; and
 - (d) whether there has been unfairness in the working out of the process.³
8. More generally, in analyzing whether a transaction should be approved, a court is to consider the transaction as a whole and decide whether or not the sale is appropriate, fair, and reasonable.⁴
9. The Applicants submit that the factors set out in section 36(3) of the CCAA and the *Soundair* principles have been satisfied in this case.
- (i) **The process leading up to execution of the Sale Agreement was reasonable in the circumstances. The Applicant and the Monitor undertook significant efforts to obtain the best price.**
10. It is well established that it is important to protect the integrity and the credibility of a CCAA sale process by following the procedures approved by the Court.⁵ However, a CCAA sales process is only required to be reasonable, not perfect.⁶
11. The Court-approved SISF was conducted over an 8-week period⁷. The Monitor consulted with its affiliate, FTI Capital Advisors – Canada ULC (“**FTI Capital**”), to assist in soliciting interest from third parties⁸.

³ CCAA, s. 36(3); *Re Canwest Publishing Inc./Publications Canwest Inc.*, 2010 ONSC 2870 at para. 13 *Royal Bank v Soundair Corp.* (1991), 83 D.L.R. (4th) 76 (ONCA) at para. 16; *Nelson Education Limited (Re)*, 2015 ONSC 5557 (CanLII) at paras. 37-38.

⁴ *Quest University (Re)*, 2020 BCSC 1883 at para. 177 [Quest]; citing *Veris Gold Corp., Re*, 2015 BCSC 1204 at para. 23; *White Birch Paper Holding Co., Re*, 2010 QCCS 4915 at paras. 48-49.

⁵ *Arrangement relatif à Blackrock Metals Inc.*, 2022 QCCS 2828 at para. 60; *Boutiques San Francisco Inc., Re*, 2004 CanLII 480 (QCCS) at para. 20.

⁶ *Sanjel Corporation (Re)*, 2016 ABQB 257 at para. 80; *Bloom Lake (Re)*, 2015 QCCS 1920 at para. 39.

⁷ Second Report at para. 16.

⁸ Second Report at para. 12.

12. The Monitor made diligent efforts to secure the best outcome and value possible through contact with over 200 Interested Parties, extending various bid deadlines to accommodate continued diligence, and discussions with all parties who signed NDAs.⁹
13. In an effort to obtain the best possible price in the circumstances and encourage participants to submit bids, the Monitor, in consultation with the Applicant and the DIP Lender, and at the request of certain interested parties, determined that the Phase 1 Bid Deadline should be extended by one week. Accordingly, the Monitor extended the deadline to submit binding bids from April 20, 2026, to April 24, 2026 (the “**Revised Phase 2 Qualified Bid Deadline**”).¹⁰
14. Prior to the Revised Phase 2 Qualified Bid Deadline, the Monitor received a request from the Phase 2 Qualified Bidder for additional time to complete diligence and finalize its Phase 2 Qualified Bid. As a result, and in an attempt to encourage participation in the SISP (and with the consent of the Applicant and the DIP Lender), the Monitor again extended the Phase 2 Qualified Bid Deadline, to April 27, 2026 (the “**Further Revised Phase 2 Qualified Bid Deadline**”).¹¹
15. On the Further Revised Phase 2 Qualified Bid Deadline, only one Phase 2 Qualified Bid was received by the Monitor, which was from the DIP Lender.
16. The Monitor did not receive any feedback from the Phase 2 Qualified Bidder that had requested that the Phase 2 Qualified Bid be further extended, nor did the Monitor did receive any diligence questions, or observe any activity in the VDR by that Phase 2 Qualified Bidder.
17. The Monitor reviewed the Phase 2 Qualified Bid submitted by the DIP Lender and considered, among other things, that:
 - (a) no other Phase 2 Qualified Bids were received by the Further Revised Phase 2 Qualified Bid Deadline;
 - (b) the Monitor had no evidence of progress by the Phase 2 Qualified Bidder since the submission of their Phase 1 Qualified Bid; and
 - (c) the Applicant had no means of funding operations past the Outside Date as the DIP Facility matures on this date.¹²

⁹ Second Report at paras. 13, 14, 20 and 31.

¹⁰ Second Report at paras. 20 and 23.

¹¹ Second Report at para. 25.

¹² Second Report at para. 28.

18. Upon consideration of the above factors, the Monitor selected the Sale Agreement provided by the Purchaser as the Successful Bid.¹³
19. In *Quest*, Justice Fitzpatrick rejected a request to extend a bid deadline by a bidder who had included a financing condition its bid.¹⁴ In rejecting the request, Justice Fitzpatrick found that the party was given a reasonable opportunity to participate in the SISP and that it had been aware of the opportunity, even before it officially began. Even though the proposed alternative transaction by the unsuccessful bidder was potentially more beneficial to creditors, Justice Fitzpatrick decided that in the overall circumstances, there was “no reason to delay, if not risk, the ‘bird in hand’ transaction that arose through a reasonable sales process, in the hope that a more uncertain transaction may be finalized.”¹⁵
20. In these circumstances, there is no also no reason to delay, if not risk, the Transaction contemplated by the Sale Agreement, which arose through a fair and reasonable Court-approved SISP (with extended timelines at the requests of interested parties), in the hopes that there may be a potential transaction with another party. Time is of the essence. The Applicant has no means of funding operations past the Outside Date.

(ii) The Monitor approved of the process leading up to the Sale Agreement

21. The Monitor opined that the terms and conduct of the SISP were fair and reasonable in the circumstances and the SISP was conducted in accordance with the Bidding Procedures approved by the Court pursuant to the SISP Approval Order.¹⁶ The SISP was transparent and impartial, and the Monitor remained in close communication with the Applicant throughout the SISP, communicating at a minimum weekly.¹⁷
22. The Monitor is of the view that the proposed Transaction represents the best outcome for stakeholders and is superior to a wind-down and/or liquidation of the Applicant. As noted above, the Monitor made diligent efforts to secure the best outcome and value possible in the circumstances.¹⁸

¹³ Second Report at para. 29.

¹⁴ *Quest* at [para. 83](#).

¹⁵ *Quest* at [paras. 86-88](#).

¹⁶ Second Report at para. 30.

¹⁷ Second Report at para. 33.

¹⁸ Second Report at para. 37(c).

(iii) The Transaction represents the best possible outcome in the circumstances

23. The Transaction will achieve a going concern outcome for the Applicant. In particular, the Transaction will preserve production for approximately 4 potential customers who have spent time testing the Applicant's batteries, and result in continued employment for more than 12 employees.¹⁹
24. The Transaction also provides incremental going concern benefits to the majority of the Applicant's stakeholders, including counterparties to the retained/assumed contracts and retained/assumed leases under the Transaction, customers and vendors and other stakeholders who will have the opportunity to continue to transact with the restructured Applicant in the future.²⁰
25. The Monitor does not expect that further extensions of the SISP would produce a superior executable transaction.²¹

(iv) Creditors have been adequately consulted

26. The DIP Lender and Tribeca were consulted during the development of the SISP and throughout the SISP, in particular with respect to the above-noted extensions to the SISP deadlines.²²
27. The Monitor has also considered the interests of all stakeholders, including secured and unsecured creditors and stakeholders.²³

B. Approval of the Activities of the Monitor

28. In *Target Canada Co. (Re)*²⁴, the Court suggested that a request to approve a court-appointed officer's report is "not unusual" and that there are "good policy and practical reasons for the court to approve a Monitor's activities and providing a level of protection for Monitors during the CCAA process."
29. The Monitor has carried out its activities in a manner consistent with the provisions of the CCAA and in compliance with the Initial Order, the ARIO and the SISP Approval Order granted by this Court in the course of the CCAA proceedings.

¹⁹ Second Report at para. 37(b).

²⁰ Second Report at para. 37(d).

²¹ Second Report at para. 40(e).

²² Second Report at paras. 13, 20 and 21.

²³ Second Report at para. 37.

²⁴ *Target Canada Co. (Re)*, 2015 ONSC 7574 at paras. 2 and 22.

30. In this case, the Monitor's activities as described in the Pre-Filing Report dated February 19, 2026, the First Report dated February 27, 2026 and the Second Report (collectively, the "**Reports**") should be approved.

C. Approval of the Fees and Disbursements of the Monitor and its Legal Counsel

31. Paragraph 30 of the ARIO requires that the Monitor and its legal counsel pass their accounts from time to time.
32. The Applicant is seeking the approval of (i) the Monitor's fees and disbursements and those of its counsel that have been incurred and (ii) the Monitor's fees and disbursements and those of its counsel that will be incurred in performance of the duties of the Monitor up to the termination of the CCAA proceedings. In approving the fees and disbursements, the Court must consider whether those fees were "fair and reasonable in all circumstances" and ensure that the court officer is fairly compensated while safeguarding the efficiency and integrity of the CCAA process.²⁵
33. The Applicant submits that this Court should approve the fees and disbursements of the Monitor and those of its counsel, including future fees and disbursements for the following reasons:²⁶
- (a) *The Fees are Fair and Reasonable* – The Court must consider the "overriding principle of reasonableness" with the predominant consideration in such assessment being the overall value contributed by the monitor and its counsel.
 - (b) *Time Spent* – The Monitor and its legal counsel have performed the work necessary to advance these proceedings in an efficient and time-effective manner.
 - (c) *Monitor's Knowledge, Experience and Skill* – The Monitor and its legal counsel both has extensive knowledge, experience and skill in restructuring mandates.
 - (d) *Diligence and Thoroughness Displayed* – The matters outlined in the Reports demonstrate the diligence and thoroughness displayed by the Monitor and its legal counsel during the course of these CCAA proceedings.
 - (e) *Responsibilities Assumed* – The Monitor, with the assistance of FTI Capital and its counsel, carried out the activities outlined in its Reports.

²⁵ *Nortel Network Corp. et al. (Re)*, 2017 ONSC 673 at para. 13.

²⁶ *Ibid* at para. 14.

- (f) *Results Achieved* – The efforts of the Monitor and its legal counsel, including their contribution to the implementation and execution of the SISP, were essential for advancing these CCAA proceedings.
 - (g) *Cost of Comparable Services* – The Monitor and its legal counsel billed amounts at each of their firm’s standard hourly rates which are comparable to the rates charged by other professional firms for the provision of similar services regarding commercial restructuring matters.
34. The Applicant submits that the factors noted above support the Applicant’s request for the approval of the fees and disbursements of the Monitor and those of its counsel, including future fees and disbursements to the completion of these proceedings.

D. Termination of the CCAA Proceedings

35. The Applicant requests the termination of the CCAA proceedings upon the Monitor filing a certificate confirming that all matters in respect of such proceedings have been completed.
36. Section 11 of the CCAA provides the Court with broad discretion to “make any order that it considers appropriate in the circumstances.”²⁷ This discretion must be exercised to further the CCAA’s remedial objectives having regard to whether: (i) the order sought is appropriate in the circumstances; (ii) the debtor company is acting in good faith; and (iii) the debtor company is acting with due diligence.²⁸
37. In furtherance of the remedial objectives of the CCAA, this Honourable Court has routinely granted orders similar to the CCAA Termination Order sought by the Applicant. These orders have also provided for a variety of additional relief to assist in the period prior to and following the termination of the CCAA proceedings.²⁹
38. In light of the foregoing, the Applicant submits that it is appropriate for this Court to terminate the CCAA Proceedings in the manner contemplated by the proposed CCAA Termination Order for the following reasons:

²⁷ CCAA, section 11.

²⁸ [9354-9186 Quebec Inc v Callidus Capital Corp](#), 2020 SCC 10 at para. 49.

²⁹ 2669337 Alberta Ltd., [CCAA Termination Order](#) (August 11, 2025), Court of King’s Bench File No. 2401-02680; *Dominion Residual Asset Trust*, [CCAA Termination Order](#) (February 4, 2022), Court of Queen’s Bench File No. 2001-05630; 2324159 Alberta Inc., [CCAA Termination Order](#) (December 1, 2021), Court of Queen’s Bench File No. 2001-05482.

- (a) since the granting of the Initial Order, the Applicant has acted in good faith and with due diligence;
- (b) following the closing of the transactions contemplated by the Sale Agreement, the Applicant will have no ongoing business operations;³⁰
- (c) all matters relating to the CCAA proceedings will have been completed by the CCAA Termination Time; and
- (d) the Monitor supports the termination of the CCAA proceedings on the terms set out in the proposed CCAA Termination Order.³¹

E. Approval of Releases

39. The Applicant is seeking a discharge for FTI from its role as Monitor and a release in favour of the Monitor, FTI Capital and the Monitor's legal counsel related to their activities in these proceedings. The Court has previously granted Orders which provide for releases in favour of a Monitor and its counsel upon its discharge and such a release is consistent with the releases granted when discharging a Monitor.³²
40. In considering whether to approve release in favour third parties, the Court will consider the following factors, with no single factor being determinative and not all factors being necessary for a release to be granted:
- (a) Whether the parties to be released from the claims were necessary and essential to the restructuring of the debtor;
 - (b) Whether the claims to be released are rationally connected to the purpose of the plan and necessary for it;
 - (c) Whether the plan could succeed with the releases;
 - (d) Whether the parties being released contributed to the plan; and
 - (e) Whether the release benefited the debtors as the creditors generally.³³
41. The Applicant submits that the releases being sought are consistent with those that have been previously approved by this Honourable Court and are appropriate in the circumstances for the following reasons:

³⁰ Second Report at para. 60.

³¹ Section Report at para. 65.

³² *Supra* note 29.

³³ *Lydian International Limited (Re)*, 2020 ONSC 4006 at para. 54; *Harte Gold Corp (Re)*, 2022 ONSC 653 at para. 80.

- (a) *The Released Claims are rationally connected to the Restructuring* – The releases bring certainty and finality to any potential claims against the Monitor, FTI Capital and its legal counsel; a purpose which is necessary for the restructuring process.³⁴
- (b) *The Released Parties Contributed to the Restructuring* – The efforts of the Monitor, FTI Capital and its legal counsel were necessary and instrumental to the implementation and conduct of the SISP and the execution of the Sale Agreement.³⁵
- (c) *The Releases are Fair and Reasonable* – The releases are sufficiently narrow and do not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of each released party.³⁶
- (d) *Creditors Knowledge of the Releases* – All creditors on the service list were served with the materials relating to this application. The Applicant is not aware of any opposition to the releases sought.

F. Extension of the Stay of Proceedings

- 42. The current stay of proceedings expires on May 15, 2026. To facilitate the closing of the transactions related to the Sale Agreement, the Applicant is seeking an extension of the stay to the earlier of the CCAA Termination Time and May 22, 2026.
- 43. As set out in sections 11.02(2) and 11.02(3) of the CCAA, the court may granted an extension of the stay of proceedings where the court is satisfied that circumstances exist that make the order appropriate and where the debtor has acted and is acting, in good faith and with due diligence.³⁷
- 44. The proposed stay of proceedings is appropriate in the circumstances as it will allow the Applicant, with the assistance of the Monitor, to close the transactions contemplated by the Sale Agreement and complete any remaining tasks related thereto.³⁸

³⁴ Second Report at para. 57.

³⁵ Second Report at para. 55.

³⁶ Second Report at para. 56.

³⁷ CCAA, s. [11.02\(2\)](#) and [\(3\)](#).

³⁸ Second Report at para. 60.

45. The Wind-Up Reserve to be provided to the Monitor in accordance with the terms of the Sale Agreement will provide sufficient liquidity to fund the Applicant's remaining obligations and costs during the extension of the stay of proceedings.³⁹
46. The Applicant has been acting in good faith and with due diligence and no creditor will be materially prejudiced by the extension of the stay of proceedings.⁴⁰ As such, the Applicant submits that it is appropriate in the circumstances to extend the stay of proceedings as set out in the proposed CCAA Termination Order.

PART V -- RELIEF SOUGHT

47. The Applicant respectfully requests that this Honourable Court grant the relief sought in the Application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 5th DAY of MAY, 2026



DLA Piper (Canada) LLP
Carole Hunter
Counsel for the Applicant

³⁹ Second Report at para. 63.

⁴⁰ Second Report at para. 64.

PART VI -- TABLE OF AUTHORITIES

1. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended.
2. *Re Canwest Publishing Inc./Publications Canwest Inc.*, 2010 ONSC 2870.
3. *Royal Bank v Soundair Corp.* (1991), 83 D.L.R. (4th) 76 (ONCA).
4. *Nelson Education Limited (Re)*, 2015 ONSC 5557 (CanLII).
5. *Quest University (Re)*, 2020 BCSC 1883.
6. *Veris Gold Corp., Re*, 2015 BCSC 1204.
7. *White Birch Paper Holding Co., Re*, 2010 QCCS 4915.
8. *Arrangement relatif à Blackrock Metals Inc.*, 2022 QCCS 2828.
9. *Boutiques San Francisco Inc., Re*, 2004 CanLII 480 (QCCS).
10. *Sanjel Corporation (Re)*, 2016 ABQB 257.
11. *Bloom Lake (Re)*, 2015 QCCS 1920.
12. *Target Canada Co. (Re)*, 2015 ONSC 7574.
13. *Nortel Network Corp. et al. (Re)*, 2017 ONSC 673.
14. *9354-9186 Quebec Inc v Callidus Capital Corp*, 2020 SCC 10.
15. *Lydian International Limited (Re)*, 2020 ONSC 4006.
16. *Harte Gold Corp (Re)*, 2022 ONSC 653.