

**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 NUNAVUT IRON ORE, INC., BAFFINLAND IRON
MINES CORPORATION, AND 12334992 CANADA INC.**

Applicants

**FACTUM OF THE APPLICANTS/DEBTORS
(returnable June 5, 2026)**

June 4, 2026

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PART I – OVERVIEW

1. On this motion, Baffinland Iron Mines Corporation (“**BIM Corp**”), 12334992 Canada Inc., Baffinland Iron Mines LP (“**BIM LP**”, and together with 12334992 Canada Inc. and BIM Corp, the “**Debtors**”), ask the Court to issue the Second Amended and Restated Initial Order (“**Second ARIO**”),¹ which, among other things:

- (a) extends the stay of proceedings against the Debtors to August 28, 2026;
- (b) authorizes BIM Corp and BIM LP to borrow up to \$475 million² in principal under a debtor-in-possession (“**DIP**”) credit facility (the “**DIP Facility**”) from His Majesty in Right of Canada, as represented by Export Development Canada (the “**DIP Lender**”);
- (c) grants a charge in favour of the DIP Lender up to a maximum amount of \$475 million (the “**DIP Charge**”), to rank behind the Administration Charge and D&O Charge;
- (d) permits the Debtors to pay certain pre-filing amounts with the consent of FTI Consulting Canada Inc. (the “**Monitor**”); and
- (e) grants a sealing order over certain information concerning the DIP financing proposals and the DIP solicitation process (the “**Confidential Records**”).

2. The Debtors operate the Mary River Mine (the “**Mine**”), which is one of the northernmost mining operations in the world on Baffin Island.³ They are the largest private employer in all of Nunavut, employing some 1,200 people, including approximately 300 Inuit employees.⁴ Beyond providing employment, the Debtors’ operations are also enmeshed in local Inuit communities.⁵ The Debtors’ operations have a significant economic impact on communities in Canada’s high arctic, particularly in circumstances where the total population of Baffin Island is approximately 19,000 people.⁶

¹ Second Amended and Restated Initial Order (the “**Second ARIO**”) [Motion Record of the Applicants dated June 4, 2026 (“**MR**”), Tab 3, [p. 176](#)].

² All dollar amounts in this factum are expressed in U.S. dollars unless otherwise stated.

³ Third Van Tonder Affidavit, at paras. 6-7 [MR, Tab 2, [p. 11](#)].

⁴ Third Van Tonder Affidavit, at para. 8 [MR, Tab 2, [p. 11](#)].

⁵ Third Van Tonder Affidavit, at paras. 27-28 [MR, Tab 2, [p. 17](#)].

⁶ Third Van Tonder Affidavit, at para. 7 [MR, Tab 2, [p. 11](#)].

3. These proceedings under the *Companies' Creditors Arrangement Act*⁷ were commenced on May 15, 2026 (the "**CCAA Proceedings**") as a result of the financial distress of the Debtors arising from the convergence of multiple factors.⁸ At the very first attendance in this matter on May 15, the Debtors advised the Court that they needed DIP financing to continue carrying on business.⁹ Following a fair, transparent and competitive solicitation process for DIP financing (the "**DIP Process**") conducted by the Debtors and the Monitor, the Debtors secured three bids for DIP financing from parties with significant and long-standing familiarity with the Debtors.¹⁰

4. The Debtors now appear before the Court to urgently seek the approval of the best of the three bids to emerge from the competitive DIP Process, which is the DIP Facility offered by the DIP Lender. The Monitor supports the approval of the DIP Facility.¹¹

5. As explained below, the Debtors' urgent need for the DIP Facility is driven largely by the Mine's remote location and unique operating context. Without the DIP Facility, the Debtors will exhaust their available cash next week and will be unable to procure adequate goods and services necessary for ordinary course operations before the current shipping window (which runs only from mid-July to mid-October every year due to extreme weather conditions) closes.¹² The Debtors' suppliers understandably want to see that the Debtors have properly stabilized their finances for at least the current shipping window before they will meaningfully engage with the Debtors. Short term solutions will not suffice and will only undermine the

⁷ [Companies' Creditors Arrangement Act, R.S.C. 1985 c. C-36](#) ("**CCAA**").

⁸ Third Van Tonder Affidavit, at para. 14 [MR, Tab 2, [p. 13](#)].

⁹ Notice of Application dated May 14, 2026 ("**NOA**"), at para. 2 [MR, Tab 6, [pp. 278-279](#)].

¹⁰ Third Van Tonder Affidavit, at para. 71 [MR, Tab 2, [p. 31](#)].

¹¹ Second Report of the Monitor, FTI Consulting Canada Inc. dated June 4, 2026 (the "**Second Report**"), at paras. 9 and 88, [pp. E66-E67 and E95](#).

¹² Third Van Tonder Affidavit, at paras. 17-19 [MR, Tab 2, [pp. 14-15](#)].

interests of stakeholders.¹³

6. The DIP Facility is necessary to provide the Debtors with critical financing that allows them to continue to operate in the ordinary course, fund their upcoming critical sealift expenditures and pursue a sale and investment solicitation process (or “**SISP**”) for the benefit of all stakeholders. Without the urgent approval of the DIP Facility, the Debtors may be required to cease or curtail operations, which would have a devastating effect on the Debtors’ creditors, employees, Inuit partners and other stakeholders.¹⁴

7. For these reasons, the Debtors request that the approval of the DIP Facility, together with the requested ancillary relief, be granted today.

8. In seeking this urgent approval, the Debtors recognize that there is opposition from certain stakeholders that did not prevail in the DIP Process. In recognition of potential objections arising from the DIP Process, the Debtors, in consultation with the Monitor, have attempted to balance the pressing need for liquidity and stability with the interests of various stakeholders. To this end, the Debtors specifically sought and obtained bids in the DIP Process from all bidders that effectively allow the winning bid to be approved in full without prejudice to the claims or arguments that may be advanced by objecting stakeholders.¹⁵ In particular, pursuant to the terms of the proposed DIP Facility, the DIP Lender has agreed that the DIP Facility can be replaced in its entirety within four weeks of the granting of the Second ARIO without payment of any exit or other additional fees. During such four-week period, only interest and reasonable out-of-pocket legal expenses of the DIP Lender are payable. The Debtors are also prepared to work collaboratively with stakeholders to set a schedule for the

¹³ Third Van Tonder Affidavit, at para. 20 [MR, Tab 2, [p. 15](#)].

¹⁴ Third Van Tonder Affidavit, at paras. 17-19 [MR, Tab 2, [pp. 14-15](#)].

¹⁵ Third Van Tonder Affidavit, at paras. 23-24 [MR, Tab 2, [pp. 16-17](#)].

timely adjudication of objections to the DIP Facility.¹⁶

9. In all the circumstances, the approval of the DIP Facility and the ancillary relief sought advance the core purpose of the CCAA – to maximize value for all stakeholders. The Debtors respectfully request that the relief they seek be granted.

PART II – FACTS

10. The facts underlying this motion are more fully set out in the Third Van Tonder Affidavit¹⁷ and the Second Report of the Monitor dated June 4, 2026 (the “**Second Report**”).¹⁸ Key facts relevant to the requested relief are summarized below.

A. THE DEBTORS AND THEIR OPERATIONS

11. The Mine is a high-grade iron ore mine located in the Qikiqtani Region of Nunavut on Baffin Island. Employees are flown in and out on three-week rotations.¹⁹

12. The Mine’s sole external connection to the broader world is a port at Milne Inlet (the “**Milne Port**”), approximately 100 kilometres away, linked by a gravel road (the “**Tote Road**”). All ore, materials, supplies, and equipment move between the two sites along the Tote Road. Because Milne Port is located within the Arctic Circle, the surrounding sea is frozen for most of the year. Shipments are only possible during a brief open-water season, generally from mid-July to mid-October (the “**Shipping Season**”).²⁰

¹⁶ Third Van Tonder Affidavit, at para. 24 [MR, Tab 2, [pp. 16-17](#)].

¹⁷ Third Van Tonder Affidavit [MR, Tab 2, [p. 9](#)]. The Debtors further rely on the facts set out in the Affidavit of Celeste Van Tonder sworn May 14, 2026 (the “**Initial Affidavit**”) [MR, Tab 7, [p. 291](#)] and the Affidavit of Celeste Van Tonder sworn May 20, 2026 (the “**Comeback Affidavit**”) [MR, Tab 8, [p. 346](#)].

¹⁸ Second Report, [p. E61](#).

¹⁹ Third Van Tonder Affidavit, paras. 6-8 [MR, Tab 2, [p. 11](#)].

²⁰ Third Van Tonder Affidavit, at paras. 9-10 [MR, Tab 2, [pp. 11-12](#)].

13. To mitigate the seasonality of shipping, the Debtors are parties to offtake agreements with IRH Global Trading Ltd. (“**IRH**”), which purchases all iron ore stockpiled at Milne Port. The Debtors rely on IRH for nearly all of their cash flow. The payments received from IRH under the offtake agreements are insufficient to sustain the Debtors’ business operations.²¹

14. Iron ore production occurs year-round, but current permits cap shipments through Milne Port at 4.2 million tons per annum (“**Mtpa**”). The Mine has the capacity to produce substantially more if an alternate shipping route can be established. The Debtors hold the regulatory approvals necessary to construct an approximately 150-kilometre railway from the Mine to a deep-water port at Steensby Inlet (the “**Steensby Railway**”), which would permit year-round or near year-round shipping. The current and proposed transportation routes are depicted at **Schedule “C”**. Once completed, the Steensby Railway would increase production and shipping capacity to approximately 22 Mtpa and significantly reduce operating costs.²²

B. THE NEED FOR THE DIP FACILITY

15. The Debtors’ need for the DIP Facility is immediate. The Mine is entering the most cash-intensive period of its annual operating cycle, during which the Debtors must make significant expenditures and commitments for sealift materials and equipment, for the purchase and shipment of specialized arctic diesel and jet fuel, for labour costs, and to other vendors.²³ The June Forecasts²⁴ demonstrate that the Debtors lack the liquidity to fund their operations and the near- and long-term expenditures required to keep the Mine operational.

²¹ Third Van Tonder Affidavit, at para. 30 [MR, Tab 2, [p. 18](#)]

²² Third Van Tonder Affidavit, at paras. 11-13 [MR, Tab 2, [pp. 12-13](#)]

²³ Third Van Tonder Affidavit, at para. 18 [MR, Tab 2, [p. 14](#)]

²⁴ The cash flow forecast for the 13-week period ending August 28, 2026 are attached as Appendix “C” to the Monitor’s Second Report (the “**June Forecasts**”). See Second Report, p. [E128](#).

The June Forecasts project a net cash outflow of approximately \$217 million for the period ending August 28, 2026, with approximately \$103 million required in the next four weeks alone. Without DIP financing, the Debtors are projected to have a negative cash balance next week.²⁵

16. The urgency is compounded by the fact that sealift vessel operators have indicated they will not confirm shipments unless a full DIP facility is in place, and many suppliers have demanded upfront cash payments until it is approved.²⁶ In addition, hundreds of employees at the Mine site will be stranded if the Debtors lack funds to secure flights off-site.²⁷ Suppliers have made clear they require evidence of financial stabilization before they will meaningfully engage.²⁸ Short-term solutions will not suffice; committed funding is essential to instill confidence in the Debtors' workforce and supply chain.

17. In the interim, the Debtors have deferred contracts and procurement that would ordinarily be in place at this stage, owing to a reluctance to assume commitments they may be unable to satisfy that go beyond the next four weeks.²⁹ The DIP Facility is needed to enable the Debtors to make commitments critical to continued operations during the narrow Shipping Season, when nearly all materials required for an entire year of operations must be delivered. If the Debtors cannot procure sufficient materials via sealift during this window, the Mine will be forced to curtail or cease operations, employees will be placed on leave, and stakeholder recoveries will be materially and adversely affected.

²⁵ Third Van Tonder Affidavit, at para. 46 [MR, Tab 2, [p. 22](#)]

²⁶ Third Van Tonder Affidavit, at para. 20 [MR, Tab 2, [p. 15](#)]

²⁷ There are approximately 1,088 employees based at the Mine. See Initial Affidavit, at para. 76 [MR, Tab 7, [pp.317-318](#)].

²⁸ Third Van Tonder Affidavit, at para. 20 [MR, Tab 2, [p. 15](#)]

²⁹ Third Van Tonder Affidavit, at para. 45 [MR, Tab 2, [p. 22](#)]

18. Approval of the DIP Facility will preserve the going-concern value of the Debtors' business, provide the necessary liquidity to pursue a value-maximizing SISP, and maximize recoveries for all stakeholders. Without it, the Debtors will be unable to continue operations, maintain their assets, or complete any value-maximizing transaction.³⁰

C. THE DIP SOLICITATION PROCESS

19. The DIP Facility is the product of a robust, fair, and transparent solicitation process conducted by the Monitor and the Debtors. Prior to the CCAA filing, FTI, in its capacity as financial advisor to the Debtors, commenced a competitive DIP solicitation process, contacting four prospective lenders. Following the granting of the Initial Order, the Monitor and Debtors launched the formal post-filing DIP Process by distributing a process letter to six parties on or about May 15, 2026.³¹

20. Parties that executed NDAs were promptly provided with confidential materials, including a DIP budget, corporate presentation, 13-week cash flow forecasts, and a draft DIP term sheet.³² After initially setting a bid deadline of May 20, 2026, the Monitor extended the deadline to May 25, 2026 to provide bidders additional time and ensure a more competitive process.³³ Following receipt of initial proposals and extensive engagement, including by proving bespoke issues lists and revised term sheets to each bidder, the Debtors requested best and final proposals by May 30, 2026.³⁴

21. The Debtors ultimately received three final DIP proposals on May 30, 2026: one from EDC (the "**EDC Proposal**"); one from a syndicate led by Oaktree and Hartree together with

³⁰ Third Van Tonder Affidavit, at paras. 21 and 92 [MR, Tab 2, [pp. 15-16 and 38](#)]

³¹ Third Van Tonder Affidavit, at paras. 51-70 [MR, Tab 2, [pp. 25-30](#)]

³² Third Von Tander Affidavit, at para. 58 [MR, Tab 2, [p. 27](#)]

³³ Third Von Tander Affidavit, at paras. 55 and 61 [MR, Tab 2, [pp. 26 and 28](#)]

³⁴ Third Von Tander Affidavit, at para. 65, [MR, Tab 2, [p. 29](#)]

the Ad Hoc Group (the “**Oaktree Proposal**”); and one from IRH (the “**IRH Proposal**”).³⁵ The Monitor advised the Debtors that the IRH Proposal did not provide sufficient certainty in the Debtors’ ability to obtain timely access to funds, particularly given the critical and time-limited shipping window, and the Monitor did not support its selection.³⁶ While both the EDC and Oaktree Proposals were viable, the Operating Committee,³⁷ exercising its business judgment and in consultation with the Monitor and counsel, selected the EDC Proposal as the superior proposal.³⁸ As explained in the Second Report, the Monitor agrees with the Debtors’ assessment that the EDC Proposal is the superior proposal in the circumstances.³⁹

D. THE SUPERIOR PROPOSED DIP FACILITY

22. The primary terms of the DIP Facility (*i.e.*, the EDC Proposal) are summarized in the table found at **Schedule “D”** to this factum.⁴⁰

23. The Debtors assessed the competing Proposals against several key criteria, including: (a) funding risk and flexibility of the loan; (b) the cost of borrowing; (c) the Debtors’ ability to operate in the ordinary course of business and maximize stakeholder value, including through the implementation of a SISF; (d) the ability of the Debtors to perform their obligations under the loan facility; (e) certainty concerning the identity of the lenders and counterparty risk; and (f) the stability provided by the Proposal and whether it would inspire stakeholder confidence.⁴¹

³⁵ Third Von Tander Affidavit, at para. 71 [MR, Tab 2, [pp. 30-31](#)]

³⁶ Third Von Tander Affidavit, at para. 74, [MR, Tab 2, [p. 31](#)]

³⁷ As explained in the Initial Affidavit, the decision-making authority of the Debtors has been delegated to an operating committee whose members are appointed by the ultimate shareholders of the Debtors (the “**Operating Committee**”). See Initial Affidavit at paras. 17 and 27 [MR, Tab 7, [pp. 299](#) and [302](#)].

³⁸ Third Von Tander Affidavit, at paras. 77-93 [MR, Tab 2, [pp. 32-38](#)]

³⁹ Second Report, at para. 49, p. [E80](#).

⁴⁰ Third Van Tonder Affidavit, para. 49 [MR, Tab 2, [p. 23](#)].

⁴¹ Third Von Tander Affidavit, at para. 75 [MR, Tab 2, [pp. 31-32](#)]

24. Measured against these criteria, the EDC Proposal provides a facility with greater flexibility and funding certainty, simpler compliance requirements, and greater stability. It allows management to focus on operating the business and advancing a SISP for the benefit of all stakeholders.⁴² While borrowing costs were relatively neutral between the EDC and Oaktree Proposals, the Debtors assessed that, in the aggregate, their risk of non-compliance was lower under the EDC Proposal.⁴³

25. The EDC Proposal also offers three unique features not present in any other Proposal solicited through the competitive DIP Process:

- (a) **Protection Against Offtake Risk:** The EDC Proposal includes a contingent facility of up to \$75 million that becomes available if IRH fails to pay or if no new offtake arrangement is entered into by September 30, 2026. Given that the offtake agreements—the Debtors’ primary source of operating cash flow—expire in October 2026, the EDC Proposal provides critical protection against offtake risk. The Debtors may either draw down the funds directly or use the undrawn commitment as credit support to attract a new offtaker, ensuring revenue continuity regardless of whether the existing offtake relationship is preserved.⁴⁴

- (b) **Additional Availability:** The EDC Proposal provides a total facility of up to \$475 million (including the contingent facility). This provides a critical cushion against unforeseen increases in commodity prices, fuel costs, and other input expenses that could materially exceed current projections, without requiring the

⁴² Third Von Tander Affidavit, at para. 77 [MR, Tab 2, [pp. 32-33](#)]

⁴³ Third Von Tander Affidavit, at para. 84 [MR, Tab 2, [p. 35](#)]

⁴⁴ Third Von Tander Affidavit, at para. 79 [MR, Tab 2, [p. 33](#)]

Debtors to seek additional financing outside a competitive process on potentially more onerous terms.⁴⁵

- (c) **Government Support:** The identity of the DIP Lender sends a powerful signal of stability. The Government of Canada's willingness to serve as lending partner through EDC signals to Inuit communities, regulators, and potential SISF participants that the Government has confidence in the Debtors' long-term vision for responsible resource development on Baffin Island and in Canada's critical and strategic mineral industries. That vote of confidence cannot be replicated by any private lender.⁴⁶

26. Finally, the EDC Proposal includes a \$110 million bridge facility available for the first four weeks following the date of the Second ARIO. This bridge facility serves two purposes: it provides the Debtors with critically needed funds during the interim period and allows sufficient time for any dispute regarding the EDC Proposal to be adjudicated before the Court. The bridge facility carries no exit fees if it is ultimately refinanced by another party. All of the DIP Proposals received made the extension of the bridge facility conditional upon the approval of the full loan facility. Accordingly, the \$110 million in bridge funding under the DIP Facility is only guaranteed if the Court approves the DIP Facility in its entirety.⁴⁷

PART III – ISSUES

27. The issues on this motion are whether the Court should: (a) extend the Stay up to and including August 28, 2026; (b) approve the DIP Facility; (c) approve the DIP Charge and the priority of charges; (d) seal the Confidential Records; and (e) permit the payment of pre-filing

⁴⁵ Third Von Tander Affidavit, at para. 81, [MR, Tab 2, [p. 34](#)]

⁴⁶ Third Von Tander Affidavit, at para. 85 [MR, Tab 2, [p. 36](#)]

⁴⁷ Third Von Tander Affidavit, at paras. 50(e) and 89-91 [MR, Tab 2, [pp. 24 and 37](#)]

amounts to certain suppliers with the approval of the Monitor.

PART IV – LAW & ARGUMENT

A. THE STAY SHOULD BE EXTENDED TO AUGUST 28, 2026

28. The current Stay expires on June 5, 2026. Section 11.02(2) of the CCAA permits the Court to extend the Stay for “any period it considers necessary”,⁴⁸ provided that circumstances exist that make the order appropriate, and the Debtors have acted, and are acting, in good faith and with due diligence.⁴⁹ Both elements are satisfied here.

29. The Stay extension is necessary and appropriate to provide the Debtors with breathing room to: (a) continue stabilizing operations during the critical Shipping Season; (b) continue engaging with stakeholders, including the local Inuit associations; and (c) develop and launch a SISF in a structured and orderly manner while operating the business in the ordinary course.⁵⁰

30. A Stay extension of at least nine weeks from the date of the Second ARIO is also a condition precedent to financing under the DIP Facility. Notably, a Stay extension of at least this length was a condition precedent to funding under every Proposal received in the DIP Process. Without the Stay extension, the Debtors will be unable to draw down the DIP Facility.

31. As detailed in the June Forecast, the Debtors are expected to have sufficient liquidity to continue operations during the extended Stay, provided the DIP Facility is approved.

32. The Debtors have acted in good faith and with due diligence throughout these CCAA

⁴⁸ CCAA, s. [11.02\(2\)](#).

⁴⁹ CCAA, s. [11.02\(3\)](#).

⁵⁰ Third Van Tonder Affidavit, paras. 103-104 [MR, Tab 2, [p. 40](#)].

Proceedings.⁵¹ Since the last appearance on May 25, 2026, they have completed the DIP Process, procured a new fuel supply arrangement, and continued to engage extensively with their stakeholders.⁵²

33. Finally, it is important to note that the Monitor supports the requested Stay extension and believes it would not materially prejudice the Debtors' creditors.⁵³

B. THE DIP FACILITY SHOULD BE APPROVED

34. This Court is specifically authorized to approve the DIP Facility and the DIP Charge under section 11.2 of the CCAA. In determining whether such financing should be approved, subsection 11.2(4) sets out factors that the Court may consider:⁵⁴

- (a) the period during which the Debtors are expected to be subject to the CCAA Proceedings;
- (b) how the Debtors' business and financial affairs are to be managed during the CCAA Proceedings;
- (c) whether Debtors' management has the confidence of its major creditors;
- (d) whether the loan would enhance the prospects of achieving a viable compromise or arrangement being made in respect of the Debtors;
- (e) the nature and value of the Debtors' property;

⁵¹ Third Van Tonder Affidavit, at para. 102 [MR, Tab 2, [p. 40](#)]; Second Report, at paras. 9(g) and 94, [pp. E67 and E96](#).

⁵² Third Van Tonder Affidavit, at paras. 25-41 [MR, Tab 2, [pp. 17-20](#)].

⁵³ Second Report, at paras. 9(g) and 93, [pp. E67 and E96](#).

⁵⁴ *Re Tacora Resources Inc.*, 2023 ONSC 6126, at paras. [104-105](#). See also *Re Great Basin Gold Ltd.*, [2012 BCSC 1459](#), at paras. [13-14](#) ("**Great Basin**"). .

- (f) whether any creditor would be materially prejudiced as a result of the DIP Charge; and
- (g) the Monitor's report, if any.⁵⁵

35. The factors should not be mechanically applied and not every factor will be significant in every case.⁵⁶ The list of factors is also not exhaustive.⁵⁷

36. Courts have recognized that these non-exhaustive factors apply not only in the context of whether a particular DIP facility should be approved, but also in deciding who the DIP lender should be and on what terms the DIP facility should be provided.⁵⁸ The Debtors' selection of the EDC Proposal based on their business judgment is not determinative, but it is an important factor that should be weighed by the Court.⁵⁹

37. The factors under subsection 11.2(4) and those identified in the case law strongly support approval of the DIP Facility and the granting of the DIP Charge.

(i) *The DIP Facility Matches the Anticipated Length of the CCAA Proceedings*

38. The terms of the DIP Facility, including its size and maturity date, are reasonably and appropriately tailored to the anticipated duration of the CCAA Proceedings. As explained in the Third Van Tonder Affidavit and in the Second Report, the Debtors, in consultation with the Monitor, intend to pursue a SISF within 60 days of the Second ARIO. The intention is that the closing of a transaction (or transactions) would occur within 18 months of the issuance of

⁵⁵ CCAA, s. [11.2\(4\)](#).

⁵⁶ *9354-9186 Québec inc. v. Callidus Capital Corp.*, [2020 SCC 10](#), at paras. [90](#) and [97](#) ("*Callidus*").

⁵⁷ *Canwest Publishing Inc.*, [2010 ONSC 222](#), at [para. 42](#).

⁵⁸ *Great Basin*, at para. [14](#).

⁵⁹ *Crystallex (Re)*, [2012 ONCA 404](#), at [para. 85](#) ("*Crystallex*").

the Initial Order.⁶⁰ The maturity of the DIP Facility and the DIP Charge are both tied to this anticipated duration of the proposed SISF.⁶¹

39. Moreover, each of the participants in the DIP Process recognized the anticipated duration of the CCAA Proceedings. Each of the bids that the Debtors and the Monitor solicited included relatively comparable maturities that would allow the Debtors to carry on their business in the ordinary course during the anticipated length of the CCAA Proceedings.⁶² For all of these reasons, this factor favours the granting of the DIP Facility.

(ii) *The Business and Financial Affairs of the Debtors Are and Will be Appropriately Managed*

40. The Monitor is of the view that the Debtors are acting in good faith and with due diligence and has expressed no concern regarding the ability or willingness of management of the Debtors to appropriately guide the Debtors through the CCAA Proceedings with a view to maximizing value for all stakeholders.⁶³ The fact that the Monitor agrees with the Debtors that the DIP Facility is superior on balance to the other bids that were received is strong contemporaneous evidence that management is exhibiting both the ability and willingness to appropriately guide the Debtors through the CCAA Proceedings.

41. Moreover, the Monitor proposes to strengthen governance during these CCAA Proceedings with the appointment of a Chief Restructuring Officer.⁶⁴

42. For all of these reasons, this factor supports the granting of the DIP Facility and DIP Charge.

⁶⁰ Second Report, at paras. 69-70, p. [E90](#);

⁶¹ Third Van Tonder Affidavit, Exhibit "H", s. 21 [MR, Tab 2E, pp. [153-154](#)].

⁶² Third Van Tonder Affidavit, Confidential Exhibit "G" [MR, Tab 2G, p. [143](#)]

⁶³ Second Report, at para 9(g) and 94, pp. [E67](#) and [E96](#).

⁶⁴ Second Report, at para 9(e), p. [E67](#)

(iii) Management of the Debtors Has the Confidence of Major Creditors

43. As indicated above, multiple secured creditors offered to provide significant amounts of DIP financing to the Debtors under the stewardship of the current management team. None of the Proposals was conditional on even a single change in management. This is a compelling indicator that management of the Debtors have the requisite confidence of major creditors to operate the business while the DIP Facility and DIP Charge are in place. Moreover, as the Monitor recognizes, the Debtors' current management team play a critical role and have extensive experience in managing the Debtors' complex and strategic relationships with various stakeholder groups. The current management team is therefore important to the successful go-forward business of the Debtors.⁶⁵ For all of these reasons, this factor supports the granting of the DIP Facility and DIP Charge.

(iv) The DIP Facility will Enhance the Prospects of a Viable SISP

44. As discussed above, the Debtors do not generate sufficient cash flow from operations to fund their business, including the procurement and shipment of critical goods and supplies during the Shipping Season. If these materials cannot be shipped in time, the Mine will be forced to curtail or cease operations entirely, materially and adversely impacting stakeholder recoveries. Without the DIP Facility, the Debtors' assets will deteriorate in value before any SISP can be implemented.

45. The DIP Facility is essential to conducting a viable SISP. The funding provided by the DIP Facility will allow the Debtors to maintain operations as a going concern throughout the SISP, thereby preserving the value of their assets and maximizing the prospect of a successful sale or reorganization. The SISP cannot proceed without Court approval of the

⁶⁵ Second Report, at para 73, p. [E91](#).

DIP Facility and the DIP Charge because such approval is a condition precedent to the availability of funds under the DIP Facility.

46. The Monitor supports the Debtors' selection of the DIP Facility and has confirmed its view that the DIP Facility will be sufficient to fund the Debtors' ordinary course operations through the anticipated SISP.⁶⁶

(v) *The Nature and Value of the Debtors' Property Supports Approval of the DIP Facility*

47. As the Debtors advised when they initiated these CCAA Proceedings, the financial issues with the business are not the result of a lack of asset value. Rather, the financial challenges of the Debtors arise from a series of converging factors, including high debt-servicing and operating costs and constrained shipping limits for the iron ore. That is why the Debtors were unable to meet their obligations as they generally became due notwithstanding the fact that the Debtors' total assets exceed the Debtors' total liabilities by approximately \$1.2 billion.⁶⁷

48. This suggests that a SISP, funded by the DIP Facility, could generate significant proceeds and substantial recoveries for creditors. As such, the DIP Facility and the SISP facilitated thereunder is likely to unlock significant value from the Debtors' assets for the benefit of their stakeholders. In this way, the nature and value of the Debtors' property supports the approval of the DIP Facility and the DIP Charge.

(vi) *No Creditor Would be Materially Prejudiced as a Result of the DIP Charge*

⁶⁶ Second Report, para. 70, p. [E90](#).

⁶⁷ Initial Affidavit, paras. 86-88 [MR, Tab 7, [pp. 320-321](#)].

49. The DIP Facility is conditional on the DIP Charge, which would prime certain secured creditors like those participating in the syndicate that advanced the Oaktree Proposal. However, priming is unavoidable regardless of which Proposal is approved. Both the EDC and Oaktree Proposals are funded by secured creditors and both result in the priming of other secured creditors. The EDC Proposal primes Oaktree, Hartree, and other secured creditors; the Oaktree Proposal would similarly prime EDC and others. Any prejudice arising from priming is therefore inherent in any DIP arrangement that would enable the Debtors to continue operations and maximize value for all stakeholders

50. The Debtors have total secured debt of approximately \$777 million, owing primarily to: (a) holders of the 2026 Notes; (b) Oaktree and Hartree under a secured credit facility; and (c) EDC under a term loan facility.⁶⁸ Against this, the Debtors' total consolidated assets were nearly \$2.7 billion as at December 31, 2025.⁶⁹ Even if the entire DIP Facility were fully drawn, the Debtors' assets would remain sufficient to cover all secured liabilities, including amounts outstanding under the DIP Facility.

51. The Debtors have attempted to balance their pressing need for liquidity and stability provided through the DIP Facility with the interests of their various stakeholders. The overall benefit to stakeholders far outweighs any prejudice caused by priming, particularly where there is a real possibility that the SISF facilitated by the DIP Facility will unlock significant value and provide meaningful recoveries to all stakeholders.

52. The Monitor has confirmed that any prejudice from priming is far outweighed by the Debtors' critical need for stable funding to continue ordinary course operations, procure

⁶⁸ Initial Affidavit, at para. 89 [MR, Tab 7 [p. 321](#)].

⁶⁹ Initial Affidavit, at para. 86 [MR, Tab 7, [p.320](#)].

supplies necessary to operate the Mine, and undertake the SISP. The Monitor further notes that committed funding through the DIP Facility is vital to instilling confidence among the Debtors' workforce and suppliers in the Debtors' ability to achieve their restructuring goals.⁷⁰

53. In any event, this Court has the power and discretion to approve the DIP Facility and DIP Charge to achieve the important statutory objective under the CCAA of enabling the "preservation and realization of the value of the debtor's assets".⁷¹ Judges have recognized that without the ability to approve interim financing that "primes" secured lenders, the remedial purposes of the CCAA can be frustrated.⁷² That is precisely the case here. As courts have recognized, secured creditors *do not* have an effective veto over relief sought under the CCAA.⁷³

(vii) *DIP Financing Has Been Granted Over Objections of Secured Creditors*

54. This Court and courts of coordinate jurisdiction across Canada routinely approve DIP financing against the wishes of secured creditors.

55. For example, in *Re Tacora Resources Inc.*, a recent contested DIP financing case, this Court approved the DIP facility offered by an offtaker over the objections of a group of the most significant secured creditors of the debtor.⁷⁴ This Court did so notwithstanding the secured creditor group had offered a competing DIP facility with some superior terms to the approved DIP facility.

56. Similarly, in *QM GP Inc. v. High Point Environmental Services Inc.*, this Court

⁷⁰ Second Report, at para. 80, [p. E93](#).

⁷¹ *Callidus*, at para. [85](#).

⁷² *Canada v. Canada North Group Inc.*, [2021 SCC 30](#), at para. [142](#), citing *Sun Indalex Finance, LLC v. United Steelworkers*, [2013 SCC 6](#), at para. [58](#).

⁷³ *Re Hunters Trailer & Marine Ltd.*, [2001 ABQB 546](#), para. [27](#).

⁷⁴ *Re Tacora Resources Inc.*, [2023 ONSC 6126](#), at para. [6](#).

approved a DIP loan and charge over the objections of the secured creditor, the Bank of Nova Scotia. The Court held that the DIP lender required super-priority as a condition of making the urgently needed advance, and that the terms were “reasonable and within market parameters” according to the Monitor.⁷⁵

57. Moreover, in *Re 1057863 B.C. Ltd.*, the British Columbia Supreme Court approved a DIP facility over the objections of the secured creditor, the Province of Nova Scotia. The Court held that the DIP facility was appropriate even though it provided for the payment of pre-filing obligations because the interests of the debtor’s stakeholders generally outweighed the interests of the secured creditor. The Court also held that the debtor would be forced into liquidation if the DIP facility were not approved, which would result in marginal recoveries for creditors.⁷⁶

58. All of these concerns and principles are engaged in these CCAA Proceedings as well. For similar reasons, the Debtors submit that the Court can and should approve the DIP Facility and DIP Charge.

(viii) The Monitor Supports the DIP Facility and the DIP Charge

59. As explained in the Second Report, the Monitor: (i) agrees with the assessment that the DIP Facility is the superior Proposal available in the circumstances; and (ii) supports the approval of the DIP Facility and DIP Charge.⁷⁷

(ix) Other Factors

60. Courts have recognized that when approving a DIP facility, the Court “must determine

⁷⁵ *QM GP Inc. v. High Point Environmental Services Inc.*, [2025 ONSC 4492](#), at paras. [50-51](#).

⁷⁶ *Re 1057863 B.C. Ltd.*, 2020 BCSC 1359, at paras. [26](#), [49](#), [56-59](#), and [64-65](#).

⁷⁷ Second Report, at paras. 9 and 88, [pp. E66-E67 and E95](#).

which proposal is most appropriate and most importantly, which will best serve the interests of the stakeholders of the [Debtors] as a whole by enhancing the prospects of a successful restructuring”.⁷⁸ In addition, in *Great Basin*, the Court noted that “the financial terms of each proposal, [and] factors such as timing, prejudice, risk and uncertainty play a central role in assessing each proposal”.⁷⁹

61. The EDC Proposal enhances the prospects of a successful restructuring or SISP in the following ways, having regard to the *Great Basin* factors:

- (a) *Flexibility and Funding Certainty*: of the available viable options, the EDC Proposal provides a loan facility that gives the most flexibility to the Debtors and the most certainty that the Debtors’ liquidity needs will be met over the course of these CCAA Proceedings, including an additional \$75 million in funding to mitigate risks associated with offtake arrangements.⁸⁰
- (b) *Ability to Operate the Business and Maximize Value for Stakeholders*: the EDC Proposal imposes less onerous representations, covenants, and events of default. It allows the Debtors to focus their institutional knowledge and expertise on operating the business and conducting the SISP to maximize stakeholder value, rather than diverting resources to seek lender waivers or risk being in default.⁸¹ The Monitor has assessed that the EDC Proposal will likely be sufficient to fund the Debtors through the entire anticipated SISP.⁸²
- (c) *Identity of the Lender*: the EDC Proposal provides the Debtors with certainty

⁷⁸ *Great Basin*, at para. [15](#).

⁷⁹ *Great Basin*, at para. [10](#).

⁸⁰ Third Van Tonder Affidavit, paras. 78-82 [MR, Tab 2, pp, [33-34](#)].

⁸¹ Third Van Tonder Affidavit, paras. 83-84 [MR, Tab 2, p. [35](#)].

⁸² Second Report, para. 70, p. [E90](#).

as to the identity and creditworthiness of their counterparty. EDC is an existing secured creditor of the Debtors that is familiar with the Debtors' business and operations. It is also a crown corporation established under the *Export Development Act* whose obligations are backstopped by the Government of Canada, its sole shareholder.⁸³

- (d) *Stability and Stakeholder Confidence*: the selection of the EDC Proposal sends a positive message to stakeholders of the Debtors, including Inuit communities. It is a significant vote of confidence that the Government of Canada is willing to invest meaningfully in the Debtors' business through EDC. The Debtors believe that the direct alignment of the Government of Canada's interests with those of the Debtors in these CCAA Proceedings will pay dividends and best ensure that a successful SISP can take place.⁸⁴ Moreover, the Monitor agrees that the Debtors need the stability provided by the DIP Facility.⁸⁵
- (e) *Bridge Facility*: all of the proposals received in the DIP Process made the extension of the bridge facility of \$110 million conditional upon the approval of the full loan facility. Under the DIP Facility, the bridge funding of \$110 million is only guaranteed if the Court approves the full DIP Facility.⁸⁶
- (f) *Cost of Borrowing*: the EDC Proposal is cost competitive with the other Proposals and is less subject to unknown variables such as professional fees.⁸⁷

⁸³ Third Van Tonder Affidavit, para. 85 [MR, Tab 2, [p. 36](#)]

⁸⁴ Third Van Tonder Affidavit, paras. 86-87 [MR, Tab 2, [p. 36](#)].

⁸⁵ Second Report para. 87(g), [p. E95](#).

⁸⁶ Third Van Tonder Affidavit, para. 90 [MR, Tab 2, [p. 37](#)]

⁸⁷ Third Van Tonder Affidavit, para. 88 [MR, Tab 2, [p. 37](#)]

C. THE DIP CHARGE SHOULD BE GRANTED

62. To grant the DIP Charge, the Court must be satisfied that, pursuant to subsection 11.2(1) of the CCAA: (a) notice has been given to secured creditors who are likely to be affected; (b) the amount of the DIP is appropriate; and (c) the DIP charge must not secure an obligation that existed before the order was made.⁸⁸ All three of these requirements are satisfied.

63. *First*, notice of this motion has been given to the secured creditors who are likely to be affected by the DIP Charge.⁸⁹ *Second*, the amount of the DIP Facility and DIP Charge is appropriate in the circumstances, having regard to Debtors cash flow requirements as shown the June Forecast.⁹⁰ *Third*, the proposed DIP Charge secures only new money advanced to the Debtors under the DIP Facility after the date of the Second ARIO. It expressly does not secure any pre-filing obligations of the Debtors.⁹¹

D. THE COURT SHOULD GRANT A SEALING ORDER OVER THE CONFIDENTIAL EXHIBITS

64. The Debtors seek a sealing order over the Confidential Records, which consist of: (i) the DIP Budget and a Corporate Presentation containing material non-public information of the Debtors;⁹² and (ii) copies of each of the three Proposals received on May 30, 2026.⁹³

65. This Court has jurisdiction to seal the Confidential Records under the *Courts of Justice Act*.⁹⁴ Under the test established in *Sherman Estate*, the Debtors must establish on a balance of probabilities that: (a) court openness poses a serious risk to an important public interest;

⁸⁸ CCAA, s. [11.2\(1\)](#).

⁸⁹ See, e.g., NOA, para. 2 [MR, Tab 6, [pp. 278-279](#)].

⁹⁰ Second Report, p. [E128](#).

⁹¹ Second ARIO, at para. 38 [MR, Tab 3, [pp. 194-195](#)].

⁹² Third Van Tonder Affidavit, Confidential Exhibit “D” [MR, Tab 2D, [p. 85](#)].

⁹³ Third Van Tonder Affidavit, Confidential Exhibit “G” [MR, Tab 2G, [p. 143](#)].

⁹⁴ *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. [137\(2\)](#).

(b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and (c) the benefits of the order outweigh its negative effects.⁹⁵

66. The Supreme Court has recognized that commercial interests, including the preservation of confidential information or the avoidance of a breach of confidentiality are an “important public interest” for purposes of this test.⁹⁶ This Court has similarly granted sealing orders over confidential or commercially sensitive documents in the insolvency context, including summaries of interim financing proposals.⁹⁷ All three *Sherman Estate* factors are satisfied here.

67. *First*, the Confidential Records contain confidential and commercially sensitive information, including the terms and pricing of the Proposals received during the DIP Process. Disclosure of this information would reveal commercially sensitive information regarding the terms on which lenders were prepared to extend financing to the Debtors. The public release of the competitively sensitive information in the Confidential Records could negatively impact the Debtors’ ability to solicit alternative DIP financing in the event the DIP Facility is not approved or otherwise not funded.

68. The public release of the information in the Confidential Records would also be prejudicial to the SISP, as it would reveal financial analysis of market participants that would otherwise not be known to bidders participating in a SISP. The disclosure of this confidential and sensitive financial information to potential lenders and other interested parties in a SISP

⁹⁵ *Sherman Estate v Donovan*, [2021 SCC 25](#) at paras. [38](#) and [43](#) (“*Sherman Estate*”).

⁹⁶ *Sierra Club of Canada v Canada (Minister of Finance)*, [2002 SCC 41](#), at [para. 55](#); *Sherman Estate*, [paras. 41-43](#).

⁹⁷ See, for example, *In the Matter of Harte Gold Corp.* (CV-21-00673304-00CL), [Initial Order of Pattillo J.](#) and [Endorsement of Pattillo J.](#) (December 7, 2021); see also *Ontario Securities Commission v Bridging Finance Inc.*, [2022 ONSC 1857](#) at [paras. 49-54](#); *Re Just Energy Corp.*, [2021 ONSC 1793](#) at paras. [123-124](#).

would distort any future competitive process, to the detriment of the Debtors and their stakeholders.

69. *Second*, redaction of problematic content is not a viable alternative as there is no meaningful way to redact the Confidential Records while still providing useful information to the Court or stakeholders. As a result, the only way to protect the commercially sensitive information contained in the Confidential Records is to seal it from the public record. Full versions of the Confidential Records have been provided to the Court to ensure appropriate oversight while protecting the information from public disclosure.

70. *Third*, as a matter of proportionality, the benefits of the sealing order outweigh its negative effects. The sealing order will protect commercially sensitive information, preserve the integrity of any future financing or solicitation process, and avoid potential prejudice to the Debtors and their stakeholders. In contrast, the negative effects are minimal. The sealing order is limited in scope as it applies only to the Confidential Records, and not to the DIP Facility or ultimate DIP Agreement itself, which will remain in the public record. Stakeholders and the Court will continue to have access to all material information necessary to assess the fairness and reasonableness of the DIP Facility. The Debtors are not aware of any stakeholder who opposes the sealing order or who would be prejudiced by it. Moreover, the Monitor supports the sealing order.⁹⁸ The benefits of the proposed sealing order outweigh its negative effects.

71. In sum, all three requirements of the *Sherman Estate* test are met. A sealing order over the Confidential Records is appropriate in the circumstances.

E. THE DEBTORS SHOULD BE AUTHORIZED TO PAY CERTAIN PRE-FILING

⁹⁸ Second Report, at para 98, [p. E97](#).

AMOUNTS TO CERTAIN CRITICAL SUPPLIERS WITH THE APPROVAL OF THE MONITOR

72. The proposed Second ARIO includes a provision that entitles, but does not require, the Debtors to pay, with the consent of the Monitor, amounts owing for goods or services supplied to the Debtors prior to the date of the Initial Order if such payment is necessary or desirable to avoid disruption to the operations of the Debtors' business during these proceedings.

73. The Court has jurisdiction to grant this relief pursuant to the Court's general jurisdiction under s. 11 of the CCAA to make orders that it considers appropriate in the circumstances.⁹⁹ For clarity, the Debtors are not seeking an order compelling suppliers to supply the Debtors. Nor are the Debtors requesting a suppliers' charge under the CCAA.¹⁰⁰

74. This Court has often granted orders under s. 11 of the CCAA to allow debtors to pay pre-filing amounts to certain suppliers with the consent of the monitor.¹⁰¹ In doing so, Courts have considered many factors, including whether: (a) the goods and services concerned are integral to the business; (b) the debtor's need for the uninterrupted supply of the goods or services; (c) the monitor's support and willingness to work with the debtor to ensure that payments to suppliers in respect of pre-filing liabilities are appropriate; and (d) the effect on the debtor's ongoing operations and ability to restructure if they were unable to make pre-filing payments to their suppliers.¹⁰²

75. The Debtors submit that these criteria are satisfied. If the Debtors are unable to pay

⁹⁹ CCAA, [s.11](#).

¹⁰⁰ On the distinction with [s.11.4](#) (critical suppliers and related charge), which is not applicable in this case, see *Canwest Global Communications Corp. (Re)*, [2009 CanLII 55114](#) (ON SC), at [para. 43](#).

¹⁰¹ See *Springer Aerospace Holdings Limited*, [2022 ONSC 6581](#) ("**Springer**"), at [paras. 25-27](#); *McEwan Enterprises Inc.*, [2021 ONSC 6453](#), at [paras. 32-33](#).

¹⁰² *Springer*, at [para. 25](#).

these pre-filing amounts, there may be serious prejudice to the Debtors' ability to carry on business.¹⁰³ To be sure, the Debtors intend to pay pre-filing amounts only where necessary, and subject to the approval of the Monitor, who will review the necessity and appropriateness of each payment.¹⁰⁴

76. In these circumstances, the Court should grant this requested relief.

PART V – ORDER SOUGHT

77. The Debtors request that this Court grant the Second ARIO substantially in the form of order provided at Tab 3 of the Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4th day of June, 2026.



**Davies Ward Phillips & Vineberg
LLP**

*Lawyers for the Applicants and
Baffinland Iron Mines LP*

¹⁰³ Third Van Tonder Affidavit, paras. 109-111 [MR, Tab 2, [p. 41](#)].

¹⁰⁴ Third Van Tonder Affidavit, para. 111 [MR, Tab 2, [p. 41](#)].

**SCHEDULE A
LIST OF AUTHORITIES**

Caselaw

1. *Canwest Global Communications Corp. (Re)*, [2009 CanLII 55114](#) (ON SC)
2. *Canwest Publishing Inc.*, [2010 ONSC 222](#)
3. *Crystallex (Re)*, [2012 ONCA 404](#)
4. *In the Matter of Harte Gold Corp.* (CV-21-00673304-00CL), [Initial Order](#) and [Endorsement](#) of Pattillo J. issued December 7, 2021 (Monitor's Website)
5. *Ontario Securities Commission v Bridging Finance Inc*, [2022 ONSC 1857](#)
6. *Re Just Energy Corp*, [2021 ONSC 1793](#)
7. *Sierra Club of Canada v Canada (Minister of Finance)*, [2002 SCC 41](#)
8. *Sherman Estate v Donovan*, [2021 SCC 25](#)

Legislation

1. *Companies' Creditors Arrangement Act*, [R.S.C. 1985, c. C-36](#)
2. *Courts of Justice Act*, [R.S.O. 1990, c. C.43](#)

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date June 4, 2026



Signature

**SCHEDULE B
TEXT OF RELEVANT STATUTES**

1. Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

General power of court

11 Despite anything in the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Relief reasonably necessary

11.001 An order made under section 11 at the same time as an order made under subsection 11.02(1) or during the period referred to in an order made under that subsection with respect to an initial application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period.

[...]

Stays, etc. — other than initial application

11.02(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

11.02(3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Restriction

11.02(4) Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

[...]

Interim Financing

11.2(1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the company's property is subject to a security or charge — in an amount that the court considers appropriate — in favour of a person specified in the order who agrees to lend to the company an amount approved by the court as being required by the company, having regard to its cash-flow statement. The security or charge may not secure an obligation that exists before the order is made.

Priority — secured creditors

11.2(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Priority — other orders

11.2(3) The court may order that the security or charge rank in priority over any security or charge arising from a previous order made under subsection (1) only with the consent of the person in whose favour the previous order was made.

Factors to be considered

11.2(4) In deciding whether to make an order, the court is to consider, among other things,

(a) the period during which the company is expected to be subject to proceedings under this Act;

(b) how the company's business and financial affairs are to be managed during the proceedings;

(c) whether the company's management has the confidence of its major creditors;

(d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;

(e) the nature and value of the company's property;

(f) whether any creditor would be materially prejudiced as a result of the security or charge; and

(g) the monitor's report referred to in paragraph 23(1)(b), if any.

2. Courts of Justice Act, R.S.O. 1990, c. C.43

Sealing documents

137(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

SCHEDULE "C"

MAP OF THE MINE, MILNE INLET AND PROPOSED STEENSBY RAILWAY



SCHEDULE "D"

SUMMARY OF KEY TERMS OF EDC PROPOSAL

Summary of Key Terms of EDC Proposal	
DIP Lender	His Majesty in Right of Canada, as represented by EDC
Maximum DIP Facility Amount	\$400M revolving facility, upsized to \$475M if an offtake agreement is not in place for 2026/2027
Interest and Fees	Citibank prime rate + 4.75% per annum (currently approximately 11.5% in aggregate) Upfront fee of 2% of the total Facility Amount Commitment Fee of 1.5% payable on the average Unused Commitment, which does not include the additional \$75M of availability unless or to the extent the DIP Facility is upsized
Security/ Charge	DIP Facility and Obligor indemnification obligations to be included in the DIP Charge which will have priority over all encumbrances other than the Administration Charge, the D&O Charge and cash collateral posted as security for letters of credit
Permitted Variance	Variances of not more than 10% from the aggregate net cash flow covered by the then current Approved Cash Flow on a cumulative basis
Maturity	1 year after the Second ARIIO, with a six-month extension if a Restructuring Transaction has been approved by the court in exchange for a fee of 1% of the Facility Amount
Other Material Provisions	Option to use up to \$75M of the upsized availability to provide credit support to a potential offtaker if necessary to maintain or replace offtake arrangements. \$110M bridge available for the first 4 weeks following the date of the Second ARIIO. Only interest and out of pocket legal expenses of the DIP Lenders are payable in connection with the Bridge Advance if it is refinanced within 4 weeks

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 NUNAVUT IRON ORE, INC., BAFFINLAND IRON MINES CORPORATION, AND 12334992 CANADA INC.

Applicants

Court File No. CL-26-00000219-0000

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

PROCEEDING COMMENCED AT
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