



No. S263255  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT  
OF ARCTIC CANADIAN DIAMOND COMPANY LTD., AND BURGUNDY  
DIAMONDS (CANADA) LIMITED

PETITIONERS

### NOTICE OF APPLICATION

**Names of applicants: Arctic Canadian Diamond Company Ltd. ("ACDC"), and Burgundy Diamonds (Canada) Limited ("BDC", and together with ACDC, the "Applicants")**

To: The Service List

TAKE NOTICE that an application will be made by the Applicants to the Honourable Justice P. Walker at the courthouse at 800 Smithe Street, Vancouver on May 11, 2026 at 10:00 a.m. for the orders set out in Part 1 below.

The Applicants estimate that the application will take 1 day.

This matter is not within the jurisdiction of an associate judge. Justice P. Walker is seized of these proceedings.

#### Part 1: ORDERS SOUGHT

1. The Applicants seek:
  - (a) an amended and restated initial order (the "**ARIO**"), substantially in the form attached as **Schedule "A"** hereto, that shall, among other things:
    - (i) approve an interim financing facility in the maximum amount of \$60 million (the "**Interim Financing Facility**") to be made available to ACDC by Canada Enterprise Emergency Funding Corporation ("**CEEFC**") (in such capacity, the "**Interim Lender**") pursuant to an interim financing term sheet between CEEFC, as lender, ACDC, as borrower, and Burgundy Diamond Mines Ltd. ("**Burgundy**") and BDC, as guarantors, dated May 8, 2026 (the "**Interim Financing Term Sheet**");

- (ii) grant a corresponding priority charge in favour of CEEFC, in its capacity as the Interim Lender (the "**Interim Lender's Charge**") to secure ACDC's obligations under the Interim Financing Term Sheet;
  - (iii) increase the amount of the Administration Charge and the D&O Charge (each as defined in the Initial Order of this Court granted May 1, 2026 (the "**Initial Order**")) to the amounts of \$1 million and \$5 million, respectively (and with the priority as set out below);
  - (iv) declare that each of the Administration Charge, the D&O Charge, and the Interim Lender's Charge shall rank in priority to all other security interests, trusts, liens, mortgages, charges, and encumbrances and claims of "**Secured Creditors**" (as defined in the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 (the "**CCAA**")), statutory or otherwise, in favour of any Person, save and except for those claims contemplated by section 11.8(8) of the CCAA;
  - (v) extend the stay of proceedings until July 26, 2026 (the "**Stay Extension**"); and
- (b) a "**SISP Order**", substantially in the form attached as **Schedule "B"** hereto, among other things, approving a sales and investment solicitation process (the "**SISP**") for ACDC's assets, including in particular its interest in the Ekati Mine.

2. The Applicants further seek such other orders as counsel for the Applicants may advise and this Court may deem appropriate in the circumstances.

3. Capitalized terms not otherwise defined in this section shall have the meaning given to them in the SISP or the ARIO, as applicable.

## **Part 2: FACTUAL BASIS**

### ***Introduction***

4. ACDC and BDC are part of the "**Burgundy Group**", a group of entities owned and operated by Burgundy. The business of the Burgundy Group is focused on the mining, production and sale of diamonds. ACDC is the main operating entity within the Burgundy Group. Its core business is its one-hundred percent ownership interest in the Ekati Mine located in the Northwest Territories. The Ekati Mine is Canada's first surface and underground diamond mine and has been in operation since 1998.

5. On May 1, 2026, this Court granted Initial Order pursuant to the CCAA with respect to the Applicants, which, among other things: (a) appointed FTI Consulting Canada Inc. as an officer of this Court to monitor the property, business and financial affairs of the Applicants (in such capacity, the "**Monitor**"); and (b) granted a stay of proceedings until May 11, 2026.

6. Further background on the Applicants' business and their need for protection under the CCAA is set out in Affidavit #1 of Brent Mierau made April 30, 2026 (the "**Mierau Affidavit #1**").

7. As set out in the Mierau Affidavit #1, ACDC's plan while under CCAA protection involves, among other things: (a) obtaining interim financing to fund the Applicants' ongoing restructuring efforts; and (b) seeking court approval of a SISP to market ACDC's assets, including in particular its interest in the Ekati Mine, for sale or solicit an investment in its business. As is also set out in the Mierau Affidavit #1, ACDC intended to seek approval of both the interim financing and a SISP at the comeback hearing.

8. Since being granted protection under the CCAA on May 1, ACDC, in consultation with the Monitor, has been working diligently to advance its restructuring efforts. As contemplated when the Initial Order was granted, ACDC now seeks approval of the Interim Financing Facility and the SISP, among other relief necessary to continue to advance these CCAA proceedings.

***The Proposed Interim Financing Facility***

9. As set out in Mierau Affidavit #1 and Affidavit #2 of Brent Mierau, made May 8, 2026, ACDC requires interim financing in the context of these CCAA proceedings to allow for payment of its financial obligations, including to its employees and trade creditors, and to otherwise take steps towards implementing a restructuring.

10. To address its liquidity needs, ACDC has entered into the Interim Financing Term Sheet with the Interim Lender. The Interim Financing Facility provided for by the Interim Financing Term Sheet will ensure that ACDC will have access to the liquidity required to continue operations while pursuing its restructuring objectives, in accordance with an approved budget.

11. The terms of the Interim Financing Term Sheet include the following:

Borrower:	Arctic Canadian Diamond Company Ltd.
Lender:	Canada Enterprise Emergency Funding Corporation
Guarantors:	Burgundy Diamond Mines Limited and Burgundy Diamonds (Canada) Ltd.
Purpose:	To facilitate these CCAA proceedings, including the SISP, and for the purpose of funding, among other things, reasonable professional fees of ACDC and the Monitor.
Interim Facility:	<p>A super-priority, debtor-in-possession interim facility of up to a maximum principal amount of CDN \$60,000,000.</p> <p>Subject to satisfaction of the applicable conditions precedent, the Interim Financing will be made available in the following tranches:</p> <ul style="list-style-type: none"><li>(a) Tranche 1: the first tranche in an aggregate amount of up to CDN \$10,000,000 shall be available by way of bi-weekly advances commencing on the date of the issuance of the SISP Order; and</li><li>(b) Tranche 2: a second tranche in an aggregate</li></ul>

	<p>amount of up to CDN \$50,000,000 shall be available by way of bi-weekly advances commencing on the date of commencement of Phase 2 of the SISP.</p> <p>The availability of Tranche 2 shall be subject to the Interim Lender being satisfied, in its sole and absolute discretion, with the bids received during Phase 1 of the SISP.</p>
Interest	14.5% per annum (with an increase of 2% on an Event of Default)
Fees:	ACDC shall pay the Interim Lender: (a) an upfront fee of CDN \$150,000, which shall be payable upon the execution and delivery of the Interim Financing Term Sheet to the Interim Lender and approval of the Interim Financing Term Sheet by the Court; and (b) an extension fee of \$750,000, which shall be payable concurrent with the advancement of Tranche 2.
Interim Lender's Charge:	As is described in further detail below, the Interim Financing obligations shall be secured by the Interim Lender's Charge.
Conditions Precedent:	Usual and customary (but material) for an interim facility of this type, including the issuance of the ARIO and the SISP Order.

***The Proposed Interim Lender's Charge***

12. In order to secure ACDC's obligations under the Interim Financing Term Sheet, the Applicants seek approval of a priority Interim Lender's Charge.

13. The Interim Lender's Charge will rank subsequent in priority to the Administration Charge. With respect to the D&O Charge, the Interim Lender's Charge will rank subsequent in priority of up to \$2,500,000 of the D&O Charge, and will rank in priority to the remaining \$2,500,000 of the D&O Charge.

***The Proposed Stay Extension***

14. In the days leading up to their application for CCAA protection, and in the 5 business days since this Court granted the Initial Order, the Applicants have worked in good faith and due diligence to advance their restructuring under the CCAA and implement a restructuring strategy to maximize value for stakeholders, including in particular working to obtain the Interim Financing Facility and develop the proposed SISP.

15. The Applicants now seek a Stay Extension until July 26, 2026. The length of the proposed Stay Extension is intended to permit ACDC and the Monitor to continue to advance the Applicants' restructuring efforts, and in particular, to complete Phase 1 of the SISP and review any bids received following the LOI Deadline of July 10, 2026.

***The Proposed SISP***

16. Since being granted protection under the CCAA, ACDC has been working to advance the terms of a SISP for its interest in the Ekati Mine. The proposed SISP has been developed in consultation with the Monitor. Capitalized terms not defined in this section shall have the meanings given to them in the SISP.

17. The SISP is intended to solicit interest in, and opportunities for: (a) an asset purchase transaction; or (b) some other investment, restructuring, recapitalization or other form of reorganization of the business, property or affairs of ACDC, including but not limited to the debt, share, or capital structure of ACDC. The SISP will be implemented by the Monitor, with the assistance of ACDC and in consultation with CEEFC.

18. The SISP is divided into two phases, with the following key timelines:

<b>SISP STEP</b>	<b>TARGET DATES</b>
SISP Order	May 11, 2026
Distribute Teaser Letter	Within 5 days of the issuance of the SISP Order
Access to Electronic Data Room	Commencing May 15, 2026
LOI Deadline	July 10, 2026
Final Bid Deadline	September 25, 2026
Final Agreement Deadline	October 9, 2026
Court Approval	October 23, 2026
Outside Closing Date	November 6, 2026

19. In Phase 1 of the SISP, Potential Bidders will have the opportunity to conduct initial due diligence, including through access to a data room, and will be required to submit a non-binding letter of intent by the LOI Deadline.

20. In Phase 2 of the SISP, Qualified Bidders will be granted access to additional due diligence materials and will be required to submit a final, binding bid by the Final Bid Deadline. The Monitor will review all Qualified Bids, in consultation with the Applicants, and CEEFC, and shall determine, with the consent of CEEFC, the highest or otherwise best bid.

21. There is flexibility in the SISP in that the proposed SISP timelines and criteria may be amended by the Monitor, subject to consultation with and in certain circumstances the consent of CEEFC.

### Part 3: LEGAL BASIS

#### ***The ARIO Should be Granted***

#### The Interim Financing Facility and the Interim Lender's Charge Are Necessary and Appropriate

22. The Supreme Court of Canada has repeatedly confirmed the importance of interim financing, and a corresponding priority charge, to a restructuring under the CCAA. As stated by the Court in *Canada North*:

[142] Interim financing is crucial to the restructuring process. It allows the debtor to continue to operate on a day-to-day basis while a workout solution is being arranged. A plan of compromise would be futile if, in the interim six months, the debtor was forced to close its doors. For this reason, Farley J., in *Royal Oak Mines Inc., Re* observed that interim financing helps “keep the lights . . . on”. Similarly, in *Indalex*, Deschamps J. explained that giving interim lenders super-priority “is a key aspect of the debtor’s ability to attempt a workout”. Without interim financing and the ability to prime (i.e., to give it priority) the interim lender’s loan, the remedial purposes of the CCAA can be frustrated. [citations omitted]

*Canada v. Canada North Group Inc.*, 2021 SCC 30 at para. 142 [***Canada North***]; see also 9354-9186 *Québec inc. v. Callidus Capital Corp.*, 2020 SCC 10 at para. 85.

23. This Court has jurisdiction to approve the Interim Financing Term Sheet and the Interim Lender’s Charge pursuant to section 11.2 of the CCAA, which sets out a list of non-exhaustive factors to be considered by courts in deciding whether to approve interim financing and grant an interim lender’s charge, including:

- (a) the period during which the company is expected to be subject to CCAA proceedings;
- (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 the charge; and
- (g) the views of the Monitor.

24. No one factor set out in section 11.2(4) governs or limits the Court’s consideration. The exercise is necessarily one of balancing the respective interests of the debtors and their stakeholders towards ensuring, if appropriate, that the financing will assist the debtor company

to obtain the “breathing room” said to be needed to hopefully achieve a restructuring acceptable to the creditors and the court.

*Pacific Shores Resort & Spa Ltd. (Re)*, 2011 BCSC 1775 at para. 49.

25. In addition to the statutory factors set out above, courts have determined that several additional factors are relevant to an application under section 11.2. These include whether:

- (a) the Applicants would be forced to stop operating without interim financing and whether bankruptcy would be in the interest of the Applicants’ stakeholders;
- (b) the proposed interim financing will support the Applicants’ restructuring plans, including implementation of a sales process; and
- (c) the proposed facility has been approved by the Applicants’ management.

*North American Tungsten Corp. (Re)*, 2015 BCSC 1376 at paras. 33-35.

26. The Applicants submit that the proposed Interim Financing and corresponding Interim Lender’s Charge are necessary and appropriate for the following reasons, among others:

- (a) the Interim Financing, which is provided by CEEFC, ACDC’s senior secured lender, is the only viable option presently available to fund the Applicants’ restructuring efforts;
- (b) the Interim Financing will enhance the prospects of a successful restructuring of the Applicants’ business in the interest of its stakeholders, including in particular by providing sufficient funding to continue these CCAA proceedings and implement the SISP;
- (c) the Interim Financing is necessary to fund the Applicants’ operations, including critical operations and professional costs, and the maintenance and preservation of the Ekati Mine during these CCAA proceedings, and is therefore critical to maintaining the value of the Ekati Mine and ACDC’s business;
- (d) the Applicants’ management approve of the Interim Financing Term Sheet; and
- (e) the Monitor is supportive of the approval of the Interim Financing Term Sheet.

#### The Stay Extension is Necessary and Appropriate

27. A stay of proceedings is the “central tool” by which this Court maintains the status quo for a debtor, allowing a debtor the necessary time, flexibility and “breathing room” to carry out a supervised restructuring or organized sales process while continuing its ongoing operations.

*1057863 B.C. Ltd. (Re)*, 2022 BCSC 876 at paras. 31, 35 [1057863]; *Canada North* at para. 19.

28. Subsection 11.02 of the CCAA provides this Court with broad discretion to allow a debtor time and space to advance its restructuring efforts, including by extending a stay of proceedings. The baseline considerations and requirements for a stay extension are that a stay is “appropriate” and that debtors have been and are acting in good faith and with due diligence.

CCAA, s. 11.02(2)-(3).

29. The Applicants submit that they are acting in good faith and with due diligence, as set out above, and that the Stay Extension is appropriate and necessary in the circumstances. The length of the proposed Stay Extension is appropriate having regard to, among other factors, the reasonable estimates for completing anticipated steps in the SISP, the Applicants’ financial challenges and liquidity needs, and the costs associated with bringing forward any further stay extension applications pending the advancement of the SISP.

#### Additional Relief sought pursuant to the ARIO

30. Pursuant to the terms of the proposed ARIO the Applicants also seek: (a) an increase in the quantum of the previously granted Administration and D&O Charges; and (b) to elevate the priority of the Administration, D&O, and Interim Financing Charges over the interests of all other secured and other creditors, with such parties having been provided with notice of the comeback hearing.

31. With respect to the purpose and necessity of the Administration Charge and the D&O Charge, the Applicants rely on their Petition to the Court filed May 1, 2026.

32. Notice of the comeback hearing has been given to the Secured Creditors who are likely to be affected by the increase to and elevation of the Administration Charge and the D&O Charge, and of the creation of the Interim Lender’s Charge.

#### ***The SISP Order Should be Granted***

33. Canadian courts have regularly granted orders approving sale processes in CCAA proceedings, recognizing that such approvals are consistent with the remedial nature of the CCAA, which confers broad powers to approve sales in relation to a CCAA debtor’s business and assets either prior to or in the absence of a plan of arrangement and compromise.

34. In *Walter Energy*, this Court set out the following three factors for determining whether to approve a CCAA sale process, which the Applicants submit are the appropriate factors to consider on this application: (a) the fairness, transparency, and integrity of the proposed process; (b) the commercial efficacy of the proposed process in light of the specific circumstances facing the debtors; and (c) whether the sale process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.

*Walter Energy Canada Holdings, Inc. (Re)*, 2016 BCSC 107 at paras. 20-21 [**Walter Energy**], citing *PCAS Patient Care Automation Services Inc. (Re)*, 2012 ONSC 2840 at paras. 17-19 [**PCAS Patient Care**].

35. While the decision to approve a particular form of sale process is distinct from the approval of a proposed sale, the reasonableness and adequacy of a proposed sale process may also be assessed with reference to the non-exhaustive factors set out in section 36 of the CCAA. These factors include whether the process leading to the proposed sale or disposition was reasonable in the circumstances, whether the monitor approved the process leading to the proposed sale or disposition, and the extent to which creditors were consulted.

*PCAS Patient Care* at para. 17; CCAA, s. 36(3).

36. The SISP, which was developed in consultation with the Monitor, the Applicants' senior secured creditor and the Interim Lender, is a fair and transparent process that will provide ACDC with an opportunity to attempt to maximize value for its assets in the interest of the Applicants' stakeholders.

37. It is ACDC's view, after consultation with the Monitor, that:

- (c) The Monitor, who is familiar with ACDC's assets, is an appropriate party to implement the SISP (with the assistance of ACDC). CEEFC, as senior secured lender and proposed Interim Lender, is supportive of a SISP that will be implemented by the Monitor.
- (d) The SISP will ensure that the opportunity to purchase, or invest in, ACDC and the Ekati Mine is adequately exposed to the market and will allow for the assessment of viability of potential bidders and their ability to close a transaction.
- (e) The timelines set out in the SISP provide a reasonable opportunity for all interested parties to submit competing offers. The timelines for the SISP have been developed in consultation with the Monitor and involved the consideration of several factors, including the amount of liquidity available to fund ACDC's restructuring pursuant to the Interim Financing Term Sheet and the fact that that the pool of potential purchasers with sufficient resources and expertise to acquire and operate the Ekati Mine is relatively limited.
- (f) The processes for evaluating the various milestones under the SISP, such as selecting the winning bidder, are fair and transparent.
- (g) The consultation and consent rights granted to CEEFC are reasonable and appropriate given its status as ACDC's senior secured lender and proposed Interim Lender. These rights strike an appropriate balance between the interests of CEEFC, as an important stakeholder of ACDC, and the need to maintain the integrity of the SISP process.

38. In summary, ACDC is of the view that implementing a SISP at this time is appropriate given the Applicants' current financial position and restructuring objectives.

39. The Applicants respectfully submit that granting the ARIO and the SISP Order is both appropriate and necessary in the circumstances.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Brent Mierau, made April 30, 2026;
2. Affidavit #2 of Brent Mierau, made May 8, 2026;
3. First Report of the Monitor, to be filed; and
4. such further and other materials as counsel for the Applicants may advise.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: May 8, 2026

  
\_\_\_\_\_  
Signature of Claire Hildebrand  
Lawyer for Applicants

To be completed by the court only:

Order made

in the terms requested in paragraphs ..... of Part 1 of this notice of application

with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Signature of  Judge  Associate Judge

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

**Schedule "A" to Notice of Application**

Amended and Restated Initial Order

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT  
OF ARCTIC CANADIAN DIAMOND COMPANY LTD., AND BURGUNDY  
DIAMONDS (CANADA) LIMITED

PETITIONERS

**AMENDED AND RESTATED INITIAL ORDER**

BEFORE THE HONOURABLE JUSTICE P. )  
WALKER ) May 11, 2026  
)

ON THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 11<sup>th</sup> day of May, 2026 (the "**Order Date**"); AND ON HEARING Peter Bychawski, Claire Hildebrand, and Encina Roh, counsel for the Petitioners and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the Second Affidavit of Brent Mierau affirmed May 8, 2026 (the "**Mierau Affidavit #2**") and the First Report of FTI Consulting Canada Inc. ("**FTI**") (in such capacity, the "**Monitor**"), dated May [ ], 2026; AND UPON BEING ADVISED that the secured creditors who are likely to be affected by the Charges referenced herein were given notice; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

**JURISDICTION**

1. Each of the Petitioners is a company to which the CCAA applies.

**PLAN OF ARRANGEMENT**

2. The Petitioners shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

### **POSSESSION OF PROPERTY AND OPERATIONS**

3. Subject to this Order and any further Order of this Court, the Petitioners shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), and continue to carry on their business (the "**Business**") in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Petitioners shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as the Petitioners deem reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

4. The Petitioners shall be entitled, but not required, to pay the following expenses whether incurred prior to, on, or after the Order Date:

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business, consistent with the relevant compensation policies and arrangements existing at the time incurred, or with the consent of the Monitor (collectively "**Wages**");
- (b) the fees and disbursements of any Assistants retained or employed by the Petitioners which are related to the Petitioners' restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Petitioners, whenever and wherever incurred, in respect of:
  - (i) these proceedings or any other similar proceedings in other jurisdictions in which the Petitioners or any subsidiaries or affiliated companies of the Petitioners are domiciled;

- (ii) any litigation in which the Petitioners are named as a party or is otherwise involved, whether commenced before or after the Order Date; and
  - (iii) any related corporate matters;
- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Petitioners prior to the date of this Order by third party suppliers up to a maximum amount of \$1,000,000, if, in the opinion of the Monitor:
- (i) the supplier or service provider is critical to the Business and ongoing operations of the Petitioners and the payment is required to ensure ongoing supply;
  - (ii) making such payment will preserve, protect or enhance the value of the Property or the Business; or
  - (iii) making such payment is required to address any environmental concerns; and
- (d) with the consent of the Monitor, amounts owing by the Petitioners under any impact benefit agreements in place with respect to the Business or the Property.

5. Except as otherwise provided herein, the Petitioners shall be entitled to pay all expenses reasonably incurred by the Petitioners in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$250,000 shall be approved by the Monitor;
- (b) all obligations incurred by the Petitioners after the Order Date, including without limitation, with respect to goods and services actually supplied to the Petitioners following the Order Date (including those under purchase orders outstanding at

the Order Date but excluding any interest on the Petitioners' obligations incurred prior to the Order Date); and

- (c) fees and disbursements of the kind referred to in paragraph 4(b) which may be incurred after the Order Date.

6. The Petitioners are authorized to remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Petitioners in connection with the sale of goods and services by the Petitioners, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.

7. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Petitioners shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Petitioners and the landlord from time to time ("**Rent**"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including Order Date shall also be paid.

8. Except as specifically permitted herein, the Petitioners are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Petitioners to any of their creditors as of the Order Date except as authorized by this Order;
- (b) to make no payments in respect of any financing leases which create security interests;
- (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of the Property, nor become guarantors or sureties, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business, and then only to their customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Petitioners to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

## **RESTRUCTURING**

9. Subject to such requirements as are imposed by the CCAA, the Petitioners shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of their Business or operations and commence marketing efforts in respect of any of their redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$2,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing for their Business or Property, in whole or part;

all of the foregoing to permit the Petitioners to proceed with an orderly restructuring of the Business (the "**Restructuring**").

10. The Petitioners shall provide each of the relevant landlords with notice of the Petitioners' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Petitioners' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who claim a security interest in the fixtures, such landlord and the Petitioners, or by further Order of this Court upon application by the Petitioners, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If the Petitioners disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Petitioners' claim to the fixtures in dispute.

11. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Petitioners and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Petitioners, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Petitioners of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

12. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act or any equivalent enactments of the Northwest Territories, as applicable (the "**Relevant Enactment**"), the Petitioners, in the course of these proceedings, are permitted to, and hereby shall, disclose

personal information of identifiable individuals in their possession or control to stakeholders, their advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Petitioners binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Petitioners or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioners.

#### **STAY OF PROCEEDINGS, RIGHTS AND REMEDIES**

13. Until and including July 26, 2026 or such later date as this Court may order (the "**Stay Period**"), no action, suit or proceeding in any court or tribunal (each, a "**Proceeding**") against or in respect of the Petitioners or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Petitioners and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Petitioners or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

14. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Petitioners or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Petitioners and the Monitor or leave of this Court.

15. Nothing in this Order, including paragraphs 13 and 14, shall: (i) empower the Petitioners to carry on any business which the Petitioners are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Petitioners.

#### **STAY IN RESPECT OF THE NON-APPLICANT STAY PARTY**

16. During the Stay Period, no Person shall (a) commence any Proceeding or enforcement process, (b) terminate, repudiate, make any demand, accelerate, alter, amend, declare in default, exercise any options, rights or remedies, or (c) discontinue, fail to honour, alter, interfere with or cease to perform any obligation, pursuant to or in respect of any agreement, lease, sublease, license or permit with respect to Burgundy Diamond Mines Ltd. (the “**Non-Applicant Stay Party**”) as a party, borrower, principal obligor, indemnitor, or guarantor, by reason of:

- (a) any of the Petitioners being insolvent or having made an application to this Court under the CCAA or the granting of this Order;
- (b) any failure of the Petitioners to meet their financial obligations;
- (c) any of the Petitioners being party to these proceedings or taking any steps related thereto;
- (d) the Non-Applicant Stay Party being insolvent or having become subject to insolvency proceedings;
- (e) the stay granted pursuant to this paragraph 16; and
- (f) any default or cross-default arising from the matters set out in foregoing subparagraphs (a) to (e),

except with the written consent of the Petitioners and the Monitor, or with leave of this Court.

### **NO INTERFERENCE WITH RIGHTS**

17. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Petitioners, except with the written consent of the Petitioners and the Monitor or leave of this Court.

### **CONTINUATION OF SERVICES**

18. During the Stay Period, all Persons having oral or written agreements with the Petitioners or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Petitioners, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Petitioners, and that the Petitioners shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Petitioners in accordance with normal payment practices of the Petitioners or such other practices as may be agreed upon by the supplier or service provider and the Petitioners and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

19. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person, other than the Interim Lender where applicable, be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Petitioners on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Petitioners with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Petitioners whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Petitioners, if one is filed, is sanctioned by this Court or is refused by the creditors of the Petitioners or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Petitioners that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

## DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE

21. The Petitioners shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Petitioners after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. The directors and officers of the Petitioners shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of \$5,000,000, as security for the indemnity provided in paragraph 21 of this Order. The D&O Charge shall have the priority set out in paragraphs 39 and 41 herein.

23. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Petitioners' directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

## APPOINTMENT OF MONITOR

24. FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Petitioners with the powers and obligations set out in the CCAA or set forth herein, and that the Petitioners and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Petitioners pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Petitioners' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Petitioners, to the extent required by the Petitioners, in their dissemination, to the Interim Lender (as hereinafter defined) and its counsel on a weekly basis of financial and other information as agreed to between the Petitioners and the Interim Lender which may be used in these proceedings including reporting on a basis to be agreed with the Interim Lender;
- (d) advise the Petitioners in their preparation of the Petitioners' cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the Interim Lender;
- (e) advise the Petitioners in their development of the Plan and any amendments to the Plan;
- (f) assist the Petitioners, to the extent required by the Petitioners, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Petitioners, to the extent that is necessary to adequately assess the Petitioners' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

26. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

27. Nothing herein contained shall require or allow the Monitor 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 *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder, or any equivalent enactments of the Northwest Territories (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order,

be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

28. The Monitor shall provide any creditor of the Petitioners with information provided by the Petitioners in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Petitioners is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Petitioners may agree.

29. In addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded to the Monitor by the CCAA or any applicable legislation.

#### **ADMINISTRATION CHARGE**

30. The Monitor, counsel to the Monitor, and counsel to the Petitioners shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioners as part of the cost of these proceedings. The Petitioners are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Petitioners on a periodic basis and, in addition, the Petitioners are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Petitioners, retainers in the amounts of \$50,000, \$50,000, and \$100,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

31. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

32. The Monitor, counsel to the Monitor, and counsel to the Petitioners shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property,

which charge shall not exceed an aggregate amount of \$1,000,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order which are related to the Petitioners' restructuring. The Administration Charge shall have the priority set out in paragraphs 39 and 41 hereof.

### **INTERIM FINANCING**

33. The Petitioners are hereby authorized and empowered to obtain and borrow under a credit facility from Canada Enterprise Emergency Funding Corporation (the "**Interim Lender**") in order to finance the continuation of the Business and preservation of the Property, provided that borrowings under such credit facility shall not exceed \$60,000,000 unless permitted by further Order of this Court.

34. Such credit facility shall be on the terms and subject to the conditions set forth in the Interim Financing Term Sheet between the Petitioners and the Interim Lender dated as of May 8, 2026 (the "**Interim Financing Term Sheet**"), a copy of which is attached to the Mierau Affidavit #2.

35. The Petitioners are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Interim Financing Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Petitioners are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Interim Financing Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

36. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property. The Interim Lender's Charge shall not secure an obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 39 and 41 hereof.

37. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under any of the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon five (5) business days notice to the Petitioners and the Monitor, may exercise any and all of its rights and remedies against the Petitioners or the Property under or pursuant to the Interim Financing Term Sheet, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to the Petitioners and set off and/or consolidate any amounts owing by the Interim Lender to the Petitioners against the obligations of the Petitioners to the Interim Lender under the Interim Financing Term Sheet, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Petitioners and for the appointment of a trustee in bankruptcy of the Petitioners; and
- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Petitioners or the Property.

38. The Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Petitioners under the CCAA, or any proposal filed by the Petitioners under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

39. The priorities of the Administration Charge, the D&O Charge, and the Interim Lender's Charge (collectively, the "**Charges**") as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1,000,000);

Second – D&O Charge (to the maximum amount of \$2,500,000);

Third – the Interim Lender's Charge; and

Fourth – D&O Charge (to the maximum amount of \$2,500,000).

40. Any security documentation evidencing, or the filing, registration or perfection of, the Charges shall not be required, and that the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

41. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person, save and except for those claims contemplated by section 11.8(8) of the CCAA.

42. Except as otherwise expressly provided herein, or as may be approved by this Court, the Petitioners shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Petitioners obtain the prior written consent of the Monitor and the beneficiaries of the Charges.

43. The Charges, the Interim Financing Term Sheet, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Petitioners; and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Interim Financing Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Petitioners of any Agreement to which they are a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Petitioners entering into the Interim Financing Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Petitioners pursuant to this Order, the Interim Financing Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

44. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Petitioners' interest in such real property leases.

#### **SERVICE AND NOTICE**

45. The Monitor shall (i) without delay, publish in *The Northern Miner* a notice containing the information prescribed under the CCAA, (ii) within five days after the Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Petitioners of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

46. The Petitioners and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission (including by e-mail) to the Petitioners' creditors or other interested parties at their respective addresses as last shown on the records of the Petitioners and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

47. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or

electronic transmission a request to be added to a service list (the “**Service List**”) to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: <https://cfcanada.fticonsulting.com/ACDC/> (the “**Website**”).

48. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on its Website.

49. Notwithstanding paragraphs 46 and 48 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.

## **GENERAL**

50. The Petitioners or the Monitor may from time to time apply to this Court for directions in the discharge of their powers and duties hereunder.

51. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Petitioners, the Business or the Property.

52. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

53. Each of the Petitioners and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located,

for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Petitioners to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.

54. The Petitioners may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Petitioners determine that such a filing is appropriate.

55. The Petitioners are hereby at liberty to apply for such further interim or interlocutory relief as they deem advisable within the time limited for Persons to file and serve Responses to the Petition.

56. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

57. Any interested party (other than the Petitioners and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

58. Endorsement of this Order by counsel appearing on this application, other than counsel for the Petitioners, is hereby dispensed with.

59. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of Peter Bychawski  
Lawyer to the Petitioners

BY THE COURT

\_\_\_\_\_  
REGISTRAR

**Schedule "A"**

**List of Counsel**

<b>COUNSEL</b>	<b>PARTY</b>

**Schedule "B" to Notice of Application**

SISP Order



losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the SISP or the conduct thereof, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP (as determined by this Court).

4. Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c.63, any regulations promulgated under the authority of either Act, or any equivalent enactments of the Northwest Territories, the Monitor and ACDC may disclose personal information of identifiable individuals to Potential Bidders and their advisors in connection with the SISP, but only to the extent desirable or required to carry out the SISP. Each Potential Bidder (and their respective advisors) to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction in respect of ACDC and the Property, and if it does not complete such a transaction, shall return all such information to the Monitor, or in the alternative destroy all such information. The Successful Bidder shall be entitled to continue to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the Monitor and ACDC, and shall return all other personal information to the Monitor, or ensure that all other personal information is destroyed.

5. Endorsement of this Order by counsel appearing on this application other than counsel for the Applicants is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of Peter Bychawski  
Lawyer for the Applicants

BY THE COURT.

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Registrar

**Schedule "A"**

List of Counsel

Counsel Name	Party Represented

## Schedule "B" to SISP Order

### ARCTIC CANADIAN DIAMOND COMPANY LTD.

### CCAA SALES AND INVESTMENT SOLICITATION PROCESS

#### INTRODUCTION

1. Arctic Canadian Diamond Company Ltd. ("**ACDC**" or the "**Company**") obtained protection under the Companies' Creditors Arrangement Act (the "**CCAA**") pursuant to an Order (the "**Initial Order**") issued by the Supreme Court of British Columbia (the "**Court**") on May 1, 2026. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor of the Company (the "**Monitor**"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Initial Order.
2. On May 11, 2026, the Court issued an Order (the "**SISP Order**") which, among other things, approved this Sales and Investment Solicitation Process (the "**SISP**") with respect to the Company and all the assets, undertakings and properties of the Company (collectively, the "**Property**"), including without limitation the interests of the Company in the Ekati Mine located in the Northwest Territories. The objective of the SISP is to maximize the recovery to the stakeholders of the Company.
3. This SISP describes the way the Monitor, with the assistance of the Company, and in consultation with Canada Enterprise Emergency Funding Corporation ("**CEEFC**") (as the senior secured lender and the interim lender to the Company), will advance this SISP and how interested parties may gain access to due diligence materials concerning the Company and the Property, how bids involving the Property or Company, or any part or parts thereof, will be submitted and dealt with, and how required Court approval will be sought in respect of any transaction or transactions involving the Property or Company.

#### SUPERVISION AND CONDUCT OF THE SISP

4. The Monitor, with the assistance of the Company and in consultation with CEEFC, will oversee the conduct of the SISP.
5. The Monitor may engage such other consultants, agents or experts and such other persons from time to time as may be reasonably necessary to assist the Monitor in carrying out this SISP.
6. This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Monitor, the Company and any Potential Bidder, or Qualified Bidder (each as defined below) or any other party, other than as specifically set forth in a definitive agreement that may be signed with the Company. Further, the Company reserves the right not to enter into such definitive agreement.
7. Without limiting the preceding paragraph, the Monitor and the Company shall not have any liability whatsoever to any person or party, including without limitation any bidder, Potential Bidder, Qualified Bidder, the Successful Bidder (as defined below), or any other creditor or other stakeholder of the Company, for any act or omission related to the process contemplated by this SISP, except to the extent such act or omission is the result of such party's gross negligence or willful misconduct.

8. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction involving the Property or the Company.
9. The Monitor and the Company and any of their agents, estates, advisors, and professionals are not responsible for, and will have no liability with respect to, any information provided to or obtained by any Potential Bidder in connection with the Company or its Property.
10. In consultation with the Company and CEEFC, and subject to the terms of the DIP Term Sheet dated May 8, 2026 as between ACDC, as borrower, CEEFC, as lender, and Burgundy Diamond Mines Limited, as guarantor (the "**DIP Term Sheet**"), and the consent and consultation rights of CEEFC set out herein, the Monitor shall have the right to modify the terms of this SISP, including the requirements, criteria and timelines set out herein if, in the Monitor's reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP. Notwithstanding the foregoing, the Monitor shall not modify the LOI Deadline or the Outside Closing Date without the prior written consent of CEEFC.

#### **CONFIDENTIALITY AND ACCESS TO INFORMATION**

11. Subject to paragraph 12 herein, participants and prospective participants under this SISP process, and all other persons, shall not be entitled to receive any information that is not made generally available to all participants, including the details of any confidential discussions or correspondence between the Monitor, the Company, and such participants, except to the extent that the Monitor seeks to combine portion bids into a single bid. For greater certainty, the Monitor reserves the right to keep all information relating to this SISP process confidential from all persons if, in the view of the Monitor, such confidentiality is required to protect the integrity of this SISP process.
12. Notwithstanding the foregoing paragraph, the Monitor shall be entitled to share with—and where the Company is required pursuant to the DIP Term Sheet, shall share with—CEEFC all information received by the Monitor and the Company with respect to the SISP, which information shall be kept confidential by CEEFC. In addition, should the Monitor determine, in its reasonable business judgment, that to do so would advance the objectives of the SISP, the Monitor shall also be entitled to share all information received by the Monitor and the Company with respect to the SISP with the Government of the Northwest Territories (the "**GNWT**"), to the extent and on terms determined by the Monitor, which information shall be kept confidential by the GNWT.
13. All discussions regarding this SISP process shall be directed through the Monitor. Under no circumstances should any participants and prospective participants be in contact with one another in respect of this SISP process without the prior written consent of the Monitor.
14. The Monitor, the Company and CEEFC, and, to the extent applicable, GNWT shall keep confidential all information concerning Potential Bidders, LOIs, Qualified Bidders, Final Bids, Qualified Final Bids, Winning Bid, Successful Bidder, the Backup Bidder, and the Final Agreement (each as defined below), except for: (i) disclosure on a confidential

basis to their advisors; (ii) CEEFC's disclosure on a confidential basis to Canada Development Investment Corporation and to His Majesty in Right of Canada, any Crown corporation, and any department, Minister, office or agency of a provincial government or the Government of Canada, including the Auditor General, and as otherwise permitted by the DIP Term Sheet; and (iii) disclosure as the Monitor may deem appropriate and consent to in advance and in writing to further the SISP or in furtherance of a transaction.

15. To the extent that any Potential Bidders wish to engage, discuss, or communicate with any party with an existing contractual relationship with the Company in relation to this SISP or the business or assets of the Company, such Potential Bidders may only do so after advising the Monitor and the Company and obtaining the Monitor's prior written consent. In considering any specific request, the Monitor shall impose such restrictions, if any, or participation by the Monitor, as the Monitor deems appropriate.

### TIMELINE

16. The following table sets out the target dates under the SISP:

PHASE	TARGET DATES
SISP Order	May 11, 2026
Distribute Teaser Letter	Within 5 days of the issuance of the SISP Order
Access to Electronic Data Room	Commencing May 15, 2026
LOI Deadline	July 10, 2026
Final Bid Deadline	September 25, 2026
Final Agreement Deadline	October 9, 2026
Court Approval	October 23, 2026
Outside Closing Date	November 6, 2026

### PHASE 1 OF THE SISP PROCESS

#### A. Initial Solicitation of Interest

17. The Monitor, with the assistance of the Company, will prepare a list of potential bidders (the "**Known Potential Bidders**") who may have an interest in a transaction involving the Property or the Company. Such list will include parties who, in the Monitor's reasonable judgment, may be interested in acquiring all or substantially all of the Company's Property, pursuant to either: (a) an asset purchase transaction (an "**Asset Bid**"); or (b) some other investment, restructuring, recapitalization or other form of

reorganization of the business, property or affairs of the Company, including but not limited to the debt, share, or capital structure of the Company (a "**Restructuring Bid**").

18. The Monitor, with the assistance of the Company, will prepare an initial marketing or offering summary (a "**Teaser Letter**") within 5 days of the issuance of the SISP Order and distribute it to the Known Potential Bidders together with any additional marketing materials the Monitor considers appropriate, and the Company will prepare a draft form of confidentiality agreement, in a form satisfactory to the Monitor (the "**Confidentiality Agreement**").
19. The Monitor, with the assistance of the Company, shall cause a notice regarding the SISP, the Teaser Letter, and any other relevant information regarding the SISP process that the Monitor, in consultation with the Company, considers appropriate, to be published on the Monitor's website and in publications as may be considered appropriate by the Monitor.
20. Any Known Potential Bidder or other person wishing to submit an Asset Bid and/or a Restructuring Bid who: (a) executes a Confidentiality Agreement in form and substance satisfactory to the Monitor; (b) in the judgment of the Monitor, in consultation with the Company and CEEFC, appears to have a bona fide interest in submitting an Asset Bid and/or Restructuring Bid; and (c) in the judgment of the Monitor, in consultation with the Company and CEEFC, appears to have the financial capabilities and the technical, managerial, and operational expertise and capabilities to make a viable Asset Bid or Restructuring Bid, shall be deemed to be a potential bidder (each such person so deemed, a "**Potential Bidder**").

#### **B. Initial Due Diligence**

21. The Monitor, in consultation with and with the assistance of the Company, may prepare such marketing or other materials in addition to the Teaser Letter as they deem appropriate describing the opportunity to make an Asset Bid or a Restructuring Bid for distribution to Known Potential Bidders and/or Potential Bidders.
22. The Monitor, in consultation with and with the assistance of the Company, shall provide Potential Bidders with access to an electronic data room that will contain information in the possession or control of the Monitor and the Company that in the Monitor's reasonable business judgment will allow Potential Bidders to evaluate their interest in submitting an Asset Bid or a Restructuring Bid.
23. For greater certainty, Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and the Company in connection with their participation in the SISP and any transaction they may enter into with the Company.

#### **C. Qualified LOI Process**

24. Any Potential Bidder who wishes to submit an Asset Bid or a Restructuring Bid must deliver a written, non-binding letter of intent in respect of the Property or the Company (each, an "**LOI**") to the Monitor in the manner and at the address specified in **Schedule "A"** hereto so as to be received by the Monitor not later than 5:00 p.m. (Pacific Time)

on **July 10, 2026** (the “**LOI Deadline**”). An LOI shall be a qualified LOI (each, a “**Qualified LOI**”), provided that it contains:

- (a) an acknowledgment of receipt of a copy of this SISP, the SISP Order, and agreement to accept and be bound by the provisions contained therein;
- (b) a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder, and full disclosure of the direct and indirect owners of the Potential Bidder and their principals;
- (c) an indication of whether the Potential Bidder wishes to tender: (i) an Asset Bid; (ii) a Restructuring Bid; or (iii) both;
- (d) a specific indication of the anticipated sources of capital for such Potential Bidder and information regarding the Potential Bidder’s financial, managerial, operational, technical, and other capabilities to consummate an Asset Bid or a Restructuring Bid, as applicable, and such additional information as may be requested by the Monitor;
- (e) in the case of an Asset Bid, it identifies:
  - (i) the indicative purchase price in Canadian dollars and anticipated cash proceeds at closing;
  - (ii) a description of any material obligations and liabilities to be assumed;
  - (iii) any of the Property expected to be excluded, and/or any additional assets desired to be included in the transaction;
  - (iv) the structure and financing of the transaction including, but not limited to, the sources of financing to fund the acquisition, preliminary evidence of the availability of such financing or such other form of financial disclosure and credit-quality support or enhancement that will allow the Monitor, in consultation with the Company and CEEFC, to make a reasonable business or professional judgment as to the Potential Bidder’s financial or other capabilities to consummate the transaction and to perform all obligations to be assumed in such transaction and the steps necessary and associated timing to obtain financing and any related contingencies, as applicable;
  - (v) any anticipated corporate, shareholder, internal or regulatory approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - (vi) any conditions to closing that the Potential Bidder may wish to impose; and
  - (vii) any other terms or conditions of the Asset Bid that the Potential Bidder believes are material to the transaction;

- (f) in the case of a Restructuring Bid, it identifies:
- (i) an outline of the type of transaction or structure of the bid including with respect to any proposed restructuring, recapitalization, or other form of reorganization of the business, property, or affairs of the Company, including but not limited to the debt, share, or capital structure of the Company, as applicable;
  - (ii) the aggregate amount of the equity and debt investment, including any material obligations and liabilities to be assumed by the Potential Bidder, to be made in the Company, if applicable;
  - (iii) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interest or dividend rates, amortization, voting rights, or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);
  - (iv) the consideration to be allocated to the stakeholders including claims of any secured or unsecured creditors of the Company;
  - (v) the financing of the transaction including, but not limited to, the sources of financing to fund the acquisition, preliminary evidence of the availability of such financing or such other form of financial disclosure and credit-quality support or enhancement that will allow the Monitor, in consultation with the Company and CEEFC, to make a reasonable business or professional judgment as to the Potential Bidder's financial or other capabilities to consummate the transaction and to perform all obligations to be assumed in such transaction and the steps necessary and associated timing to obtain financing and any related contingencies, as applicable;
  - (vi) any anticipated corporate, shareholder, internal or regulatory approvals required to close the transaction, the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - (vii) any conditions to closing that the Potential Bidder may wish to impose; and
  - (viii) any other terms or conditions of the Restructuring Bid that the Potential Bidder believes are material to the transaction; and
- (g) such other information reasonably requested by the Monitor, in consultation with the Company.
25. The Monitor and the Company shall retain full discretion and authority to discuss any LOIs received, and their terms, with the applicable Potential Bidders.
26. Following the LOI Deadline, the Monitor, in consultation with the Company and CEEFC, will assess the Qualified LOIs. If it is determined by the Monitor, in consultation with the

Company and CEEFC, that a Potential Bidder that has submitted a Qualified LOI: (a) has a bona fide interest in consummating an Asset Bid or a Restructuring Bid, as applicable; and (b) has the financial, managerial, operational, technical, and other capabilities to consummate an Asset Bid or a Restructuring Bid, as applicable, then such Potential Bidder will be deemed a **"Qualified Bidder"**, provided that the Monitor may, in its reasonable business judgment, following consultation with the Company and CEEFC, limit the number of Qualified Bidders (and thereby eliminate some or all Potential Bidders who have submitted Qualified LOIs from this SISP) taking into account the factors identified in paragraph 36 of this SISP.

27. The Monitor, in consultation with the Company and CEEFC, may waive compliance with any one or more of the requirements specified above (other than the consultation rights of CEEFC in paragraph 26) and deem non-compliant Potential Bidders to be Qualified Bidders.

## **PHASE 2 OF THE SISP PROCESS**

### **A. Due Diligence**

28. The Monitor, in consultation with and with the assistance of the Company, will, in the Monitor's reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder such access to additional due diligence materials and information relating to the Property and the Company as the Monitor deems appropriate. Due diligence access may include management presentations, on-site inspections, engagement with certain key stakeholders, and other matters which a Qualified Bidder may reasonably request and as to which the Monitor, in its reasonable business judgment and after consulting with the Company, may agree. For avoidance of doubt, and without limiting the terms of applicable Confidentiality Agreements, selected due diligence materials may be withheld from certain Qualified Bidders if the Monitor, in consultation with the Company, determines such information to represent proprietary or sensitive competitive information.
29. All Qualified Bidders will be provided with a form of draft asset purchase agreement (the **"Draft APA"**) that will serve as the basis for the submission of a Final Bid that is an Asset Bid.

### **B. Final Bid Process**

30. Any Qualified Bidder may submit an Asset Bid or a Restructuring Bid (each, a **"Final Bid"**) to the Monitor at the address specified in **Schedule "A"** hereto on or before 5:00 p.m. (Pacific Time) on **September 25, 2026** (the **"Final Bid Deadline"**).
31. A Final Bid submitted as an Asset Bid shall be a **"Qualified Asset Bid"** if:
- (a) it includes a duly authorized and executed purchase and sale agreement specifying all consideration payable, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules thereto, together with a blackline to the Draft APA provided to all Qualified Bidders;

- (b) it includes a letter stating that the Asset Bid is irrevocable until the earlier of: (i) the approval by the Court; and (ii) thirty-five (35) days following the Final Bid Deadline, provided, however, that if such Asset Bid is selected as a Winning Bid or a Backup Bid, it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
- (c) it does not include any request or entitlement to any break fee, expense reimbursement or similar type of payment;
- (d) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence of ability to consummate the proposed transaction that will allow the Monitor, in consultation with the Company and CEEFC, to make a determination as to the Qualified Bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Qualified Asset Bid;
- (e) it includes an acknowledgement and representation that the bidder: (i) has had an opportunity to conduct any and all required due diligence prior to making its Asset Bid; (ii) has relied solely on its own independent review, investigation and inspection of any documents, the assets to be acquired and the liabilities to be assumed; (iii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied, except as expressly stated in the purchase and sale agreement; and (iv) unless prior written consent of the Monitor has been obtained, has not coordinated its Final Bid or any aspect of its participation in this SISP with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Company, has kept and will continue to keep its Final Bid confidential, and has not entered into any agreement or arrangement with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Company which has affected or may, directly or indirectly, affect the bidder's Final Bid or the Final Bid of any other bidder and/or the SISP process generally;
- (f) it fully discloses the identity of each person that is bidding or otherwise that will be sponsoring or participating in the Asset Bid, including the identification of the bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
- (g) it provides for closing of the proposed transaction by no later than **November 6, 2026** (the "**Outside Closing Date**");
- (h) it is accompanied by a non-refundable deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Monitor), in an amount equal to five percent (5%) of the total value of all cash and non-cash consideration to be paid in respect of the Asset Bid, to be held and dealt with in accordance with this SISP;
- (i) it contains other information reasonably requested by the Monitor; and
- (j) it is received by no later than the applicable Final Bid Deadline.

32. A Final Bid submitted as a Restructuring Bid shall be a “**Qualified Restructuring Bid**” if:
- (a) it includes definitive documentation, duly authorized, and executed by the Qualified Bidder, setting out the terms and conditions of the proposed transaction, including the aggregate amount of the proposed equity and debt investment, assumption of debt, if any, and details regarding the proposed equity and debt structure of the Company following completion of the proposed transaction;
  - (b) it includes a letter stating that the Restructuring Bid is irrevocable until the earlier of: (i) the approval by the Court; and (ii) thirty-five (35) days following the applicable Final Bid Deadline, provided, however, that if such Restructuring Bid is selected as a Winning Bid or a Backup Bid, it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
  - (c) it does not include any request or entitlement to any break fee, expense reimbursement or similar type of payment;
  - (d) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence of ability to consummate the proposed transaction that will allow the Monitor, in consultation with the Company and CEEFC, to make a determination as to the Qualified Bidder’s (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Restructuring Bid;
  - (e) it includes an acknowledgement and representation that the bidder: (i) has had an opportunity to conduct any and all required due diligence prior to making its Restructuring Bid; (ii) has relied solely on its own independent review, investigation and inspection of any documents, the assets to be acquired and the liabilities to be assumed; (iii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied, except as expressly stated in the definitive documentation; and (iv) unless prior written consent of the Monitor has been obtained, has not coordinated its Final Bid or any aspect of its participation in this SISP with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Company, has kept and will continue to keep its Final Bid confidential, and has not entered into any agreement or arrangement with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Company which has affected or may, directly or indirectly, affect the bidder’s Final Bid or the Final Bid of any other bidder and/or the SISP process generally.
  - (f) it fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the Restructuring Bid, including the identification of the Qualified Bidder’s direct and indirect owners and their principals, and the complete terms of any such participation;
  - (g) it provides for closing of the proposed transaction by no later than the Outside Closing Date (being **November 6, 2026**);

- (h) it is accompanied by a non-refundable Deposit in the form of a wire transfer (payable to a trust account specified by the Monitor) in an amount equal to five percent (5%) of the total value of all cash and non-cash consideration to be paid or provided pursuant to the Restructuring Bid, to be held and dealt with in accordance with this SISP;
  - (i) it contains other information reasonably requested by the Monitor; and
  - (j) it is received by no later than the applicable Final Bid Deadline.
33. All Qualified Asset Bids and Qualified Restructuring Bids shall constitute “**Qualified Final Bids**”.
34. The Monitor, in consultation with the Company and CEEFC, may waive compliance with any one or more of the requirements specified above and deem non-compliant Final Bids to be Qualified Final Bids.

### C. Selection of Winning Bid

35. In reviewing the Qualified Final Bids and before determining a Winning Bid or Backup Bid, the Monitor and the Company shall retain full discretion and authority to discuss the bids received, and their terms, with the applicable Qualified Bidders.
36. The Monitor shall review all Qualified Final Bids, in consultation with the Company and CEEFC, to determine the highest or otherwise best Asset Bid or Restructuring Bid. Evaluation criteria will include, but are not limited to, matters such as: (a) the purchase price or net value being provided by such bid; (b) the conditionality of any bid; (c) the firm, irrevocable commitment for any required financing; (d) the timeline to closing of any bid; (e) the identity, circumstances and ability of the proponents of the Qualified Final Bids to successfully complete the transaction; (f) the costs associated with the bid and its consummation; (g) the terms of the proposed transaction documents; and (h) the overall transaction certainty of any bid.
37. The Monitor shall, in consultation with the Company and subject to the consent of CEEFC, identify the highest or otherwise best Qualified Final Bid received for the Property, or part or parts thereof, as applicable (each, a “**Winning Bid**”) and the next highest or otherwise best Qualified Final Bid received for the Property, or part or parts thereof, as applicable (each, a “**Backup Bid**”). A person or persons who make a Winning Bid shall be a “**Successful Bidder**” and a person or persons who make a Backup Bid shall be a “**Backup Bidder**”.
38. As part of the assessment of Qualified Final Bids, the Monitor, in consultation with the Company and CEEFC, shall have the discretion to determine the process and timing to be followed in selecting the highest and best bid including, but not limited to, whether proceeding to negotiate with any Qualified Bidder to improve the terms of their Qualified Final Bid or to undertake a further process to assess any Qualified Final Bids (such as a sealed bid, auction, or other process, to be conducted in accordance with procedures determined by the Monitor).

39. The Monitor shall notify a Successful Bidder, if any, a Backup Bidder, if any, and any other bidders of their respective status as soon as reasonably practicable in the circumstances.
40. The Monitor will notify a Backup Bidder, if any, that their bid is a successful Backup Bid and the Backup Bid shall remain open and capable of acceptance by the Monitor until the earlier of: (a) the consummation of the transaction contemplated by a Winning Bid; and (b) the date that is 30 days after the applicable Final Agreement Deadline (as defined below) (the "**Backup Bid Release Date**"). For greater certainty, the Monitor shall be entitled to continue to hold the Deposit in respect of a Backup Bid until the Backup Bid Release Date.
41. Following selection of a Successful Bidder, if any, the Company may, but shall have no obligation to, enter into an agreement or agreements with a Successful Bidder (a "**Final Agreement**"). Any Final Agreement entered into with a Successful Bidder shall be executed on or before **October 9, 2026** (the "**Final Agreement Deadline**").
42. The Company, in consultation with the Monitor and CEEFC, has the right not to accept any Qualified Final Bid. The Company, in consultation with the Monitor and CEEFC, further has the right to deal with one or more Qualified Bidders to the exclusion of other persons, to accept a Qualified Final Bid or Qualified Final Bids for some or all of the Property, to accept multiple Qualified Final Bids and enter into multiple Final Agreements.

#### **"AS IS, WHERE IS" BASIS**

43. Any transaction involving the Property or the Company will be subject only to such representations, warranties, covenants, or indemnities as are expressly included in a Final Agreement, but will otherwise be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Monitor or the Company, or any of their agents, estates, advisors, professionals or otherwise, and in the event of a sale, all of the right, title and interest of the Company in and to the Property to be acquired will be, subject to the Court granting approval and any other required orders in the form contemplated by the relevant transaction, sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests therein and thereon, except those assumed pursuant to a Final Agreement.

#### **COURT APPROVAL**

44. If the Company enters into a Final Agreement in respect of a Winning Bid, a Backup Bid, or any other bid, the Company shall apply for an order from the Court approving the transaction contemplated by that bid and any necessary or appropriately related relief required to consummate the transaction contemplated by that bid. Court approval shall be a condition precedent to the consummation of any transaction or transactions contemplated by a Final Agreement. The Company may also: (a) concurrently obtain relief approving the transaction contemplated by a Backup Bid and any necessary related relief required to consummate the transaction contemplated by a Backup Bid; and (b) if deemed necessary or advisable, seek approval of or other relief in respect of the Winning Bid and/or Backup Bid from the courts or governmental bodies in other relevant jurisdictions.

#### **DEPOSITS**

45. All Deposits paid pursuant to this SISP shall be held in trust by the Monitor in a non-interest-bearing account. The Monitor shall hold Deposits paid by each Winning Bidder and Backup Bidder in accordance with the terms of the Final Agreement with the Successful Bidder and the Backup Bidder, or as may be ordered by the Court.
46. If a Deposit is paid pursuant to this SISP, and the Monitor elects not to proceed to negotiate and settle the terms and conditions of a definitive agreement with the person that paid such Deposit, the Monitor shall return the Deposit to that person.
47. If: (a) a Qualified Bidder breaches any of its obligations under its Qualified Final Bid, any Final Agreement or the terms of this SISP (including the Confidentiality Agreement); or (b) a Qualified Bidder breaches its obligations under the terms of this SISP (including the Confidentiality Agreement) or under the terms of its Qualified Final Bid if required by the Monitor to complete such transaction contemplated by its Qualified Final Bid, then, in each case, such Qualified Bidder's Deposit will be forfeited as liquidated damages and not as a penalty.

#### **TERMINATION OF THE SISP**

48. The Monitor, in consultation with the Company and CEEFC, may terminate the SISP if the Monitor determines that it is not in the best interest of the Company and its stakeholders to continue with this SISP process, including based on the nature or value of one or more bids received from Potential Bidders or Qualified Bidders on or before the LOI Deadline or the Final Bid Deadline, as applicable.

#### **MISCELLANEOUS**

49. Unless otherwise indicated herein, any event that occurs on a day that is not a business day shall be deemed to occur on the next business day.
50. Each Qualified Bidder, upon being declared as such under the SISP, shall be deemed to have irrevocably and unconditionally attorned and submitted to the jurisdiction of the Court in respect of any action, proceeding or dispute in relation to the conduct or any aspect of the SISP.
51. At any time during the SISP process, the Monitor or the Company may apply to the Court for advice and directions with respect to the discharge of its obligations and duties herein.

## **SCHEDULE "A" TO SISP**

### **Address for Deliveries**

Any delivery made to the Monitor pursuant to this SISP shall be made to:

FTI Consulting Canada Inc.  
701 W Georgia St #1450,  
Vancouver, British Columbia V7Y 1B6

Attention: Tom Powell / Longmai Yan

Email: [tom.powell@fticonsulting.com](mailto:tom.powell@fticonsulting.com) / [longmai.yan@fticonsulting.com](mailto:longmai.yan@fticonsulting.com)

Deliveries pursuant to this SISP by email shall be deemed to be received when sent. In all other instances, deliveries made pursuant to this SISP shall be deemed to be received when delivered to the address as identified above.

No. S263255  
Vancouver Registry

**IN THE SUPREME COURT OF  
BRITISH COLUMBIA**

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

**AND**

**IN THE MATTER OF THE PLAN OF COMPROMISE  
OR ARRANGEMENT OF ARCTIC CANADIAN  
DIAMOND COMPANY LTD., AND BURGUNDY  
DIAMONDS (CANADA) LIMITED**

**PETITIONERS**

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**ORDER**

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Peter Bychawski  
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