		Clerk's Stamp:
COURT FILE NUMBER	2601-	
COURT	COURT OF KING'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c. C-36, AS AMENDED AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF TRION BATTERY TECHNOLOGIES INC.	
DOCUMENT	**ORIGINATING APPLICATION**	

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

DLA Piper (Canada) LLP
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File No. 106030.00013

NOTICE TO RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date:	Friday, February 20, 2026
Time:	2:00 p.m.
Where:	Calgary Courts Centre (via Webex) https://albertacourts.webex.com/meet/virtual.courtroom86
Before Whom:	The Honourable Justice L. K. Harris

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The Applicants, TRION BATTERY TECHNOLOGIES INC. ("**Trion**" or the "**Applicant**") respectfully seek an Initial Order under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the "**CCAA**") substantially in the form attached hereto as **Schedule "A"** for, *inter alia*:

   (a) abridging the time for service of this Application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient;

   (b) declaring the Applicant to be a company to which the CCAA applies;

   (c) authorizing the Applicant to remain in possession and control of its current and future assets, undertakings and property (the "**Property**") carry on business in a manner consistent with the preservation of its business and property (the "**Business**");

   (d) authorizing the Applicant to pay reasonable expenses incurred by it in carrying out its Business in the ordinary course;

   (e) staying all proceedings, rights and remedies against or in respect of the Applicant or its Business or Property, except as otherwise set forth in the Initial Order;

   (f) a declaration that the protections and authorization provided by the Initial Order apply to TRION Battery GmbH ("**Trion GmbH**"), TRION Battery Germany GmbH ("**Trion Battery**") and TRION ENERGY SOLUTIONS CORP. ("**TES**" and collectively with Trion GmbH and Battery GmbH, the "**Non-Applicant Stay Parties**");

   (g) appointing FTI Consulting Canada Inc. ("**FTI**"), as the monitor of the Applicant in these proceedings (the "**Monitor**");

   (h) authorizing the Applicant to pay the reasonable fees and disbursements of its counsel, the Monitor and its counsel;

   (i) approving a debtor-in-possession financing facility (the "**Interim Lending Facility**") dated as of February 17, 2026, between Trion, as borrower, the Non-Applicant Stay Parties, as guarantors and Rockford Equity PTY Ltd. ("**Rockford**"), as lender (in such capacity, the "**Interim Lender**"), pursuant to which the Interim Lender has agreed to advance interim financing to the Applicant;

(j) approving certain priority charges, including the Administration Charge, the D&O Charge and the Interim Lender's Charge;

(k) providing for a comeback hearing in respect of the relief granted in the Initial Order on March 2, 2026; and

(l) such further and other relief as counsel may request and this Honourable Court may deem appropriate in the circumstances.

Grounds for making this Application

Background

2. Trion is a corporation incorporated in the Province of British Columbia and extra-provincially registered in Alberta. Trion's head office is in Calgary, Alberta.

3. Trion designs and manufactures proprietary silicon anode materials and advanced Lithium Iron Phosphate ("**LFP**") batteries that combine deep-cycle endurance with high-power performance, offering a safer, more durable, and cost-efficient alternative to lead-acid systems.

4. In June 2022, Trion acquired Trion GmbH (formerly, Liacon GmbH), adding cell-to-pack battery manufacturing capability near Dresden, Germany. The acquired business includes advanced, automated cell production equipment and R&D assets originally procured and fully commissioned by a subsidiary of a Tier 1 German automotive manufacturer.

5. Trion Battery has recently been incorporated as a subsidiary of Trion and it will be responsible for conducting sale of the products produced by Trion GmbH. Trion Battery is currently inactive.

6. Trion also has a U.S.-based silicon division, TES, with a pilot production facility in St. Paul, Minnesota. This is a smaller and earlier-stage business that is developing high-energy-density, long-life silicon anode technology (SX-Silicon) and electrolyte formulations (EX-Electrolyte) that overcome traditional cycle-life limitations of silicon.

Financial Information

7. Trion has financed its operations since 2021 through a series of equity and warrant unit offerings, convertible debentures and bridge loans. The funds raised through these financings

support the operations in Canada, Germany and the United States. Trion provides inter-company loans to Trion GmbH and TES on a no interest basis.

8. Trion is insolvent on a cash flow basis and unable to meet its obligations generally as they come due. For these reasons, Trion is seeking protection under the CCAA, which will allow it to stabilize its business, preserve value and develop a restructuring plan to maximize returns to all stakeholders.

9. To facilitate its restructuring efforts and meet liquidity requirements, the Applicant has reached an agreement with Rockford, an affiliates of Trion's largest group of investors, pursuant to which Rockford will provide the Applicant with an interim financing credit facility in the maximum principal amount of USD$3,100,000.

10. The Applicant is also seeking the following priority charges:

    (a) Administration Charge, in the amount of $350,000, as security for the professional fees and disbursements of the Monitor, counsel for the Monitor and counsel for the Applicant, both before and after the granting of the Initial Order;

    (b) Interim Lender's Charge, in favour of the Interim Lender to secure the Applicant's borrowing under the Interim Lending Facility; and

    (c) D&O Charge, in the amount of $50,000, as security for the Applicant's indemnification obligations of their officers and directors against liabilities they may incur as directors and/or officers of the Applicant after the commencement of these CCAA proceedings except to the extent any obligation was incurred as a result of any director's or officer's gross negligence or willful misconduct (collectively, the "**Charges**").

11. The Charges are necessary and appropriate in the circumstances.

12. The proposed Monitor has consented to its appointment as Monitor of the Applicant.

13. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

14. Affidavit #1 of the Mark Smith sworn February 18, 2026;

15. The Bench Brief of the Applicant;

16. The Consent to Act as Monitor, filed by FTI Consulting Canada Inc.; and

17. Such further or other material or evidence as counsel may advise and this Court may permit.

Applicable Acts and Regulations:

18. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36; and

19. Such further and other Acts and Regulations as counsel may advise and this Court may permit.

Any irregularity complained of or objection relied on:

20. None.

How the application is proposed to be heard or considered:

21. Via Webex before the Honourable Justice L. K. Harris.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE “A”
DRAFT ORDER

	Clerk's Stamp:
COURT FILE NUMBER	2601-
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF	CALGARY
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TRION BATTERY TECHNOLOGIES INC.
DOCUMENT	**CCAA INITIAL ORDER**
CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:	**DLA PIPER (CANADA) LLP** Suite 2700. 10220 – 103 Ave NW Edmonton, AB T5J 0K4 Solicitor: Jerritt Pawlyk / Carole Hunter Phone: 780 429 6835 / 403 698 8782 Fax: 780 670 4329 / 403 697 6600 Email: jerritt.pawlyk@ca.dlapiper.com carole.hunter@ca.dlapiper.com File Number: 106030.00013

DATE ON WHICH ORDER WAS PRONOUNCED:	February 20, 2026
NAME OF JUDGE WHO MADE THIS ORDER:	Justice L. K. Harris
LOCATION OF HEARING:	Edmonton via Webex

UPON the application of TRION BATTERY TECHNOLOGIES INC. (the "**Applicant**"), along with TRION Battery GmbH, TRION Battery Germany GmbH and TRION ENERGY SOLUTIONS CORP. (the "**Non-Applicant Stay Parties**", and collectively with the Applicant, the "**Trion Group**"); **AND UPON** having read the Originating Application, the Affidavit of Mark Smith sworn February 18, 2026 (the "**Smith Affidavit**"); and the Affidavit of Service of ♦ sworn February♦, 2026, filed; **AND UPON** reading the consent of FTI Consulting Canada Inc. ("**FTI**") to act as monitor; **AND UPON**

hearing counsel for the Applicant and other parties present; **AND UPON** reading the Pre-Filing Monitor's Report of FTI dated February ♦, 2026; **IT IS HEREBY ORDERED AND DECLARED THAT**:

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicant is a company to which the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the "**CCAA**") applies.

PLAN OF ARRANGEMENT

3. The Applicant 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 (the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. The Applicant shall:

   (a) remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**");

   (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business, which include the operations of its wholly-owned subsidiary TRION Battery GMbH ("**GmbH**") (the "**Business**") and Property;

   (c) 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 it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

   (d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Mark Smith sworn February 18, 2026 or, with the consent of the Interim Lender and the Monitor (each as defined below) replace it with another substantially similar central cash management system (the "**Cash**

Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. To the extent permitted by law and subject to compliance with the DIP Term Sheet and the Definitive Documents (as these terms are defined below), the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:

   (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of the Business and consistent with existing compensation policies and arrangements; and

   (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant or GmbH in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order.

6. Except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, subject to compliance with the DIP Term Sheet and the Definitive Documents, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

   (a) all expenses and capital expenditures reasonably 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; and

(b) payment for goods or services actually supplied to the Applicant or GmbH following the date of this Order.

7. The Applicant shall 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 that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:

(i) employment insurance,

(ii) Canada Pension Plan, and

(iii) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; 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 realty, municipal business 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 and that are attributable to or in respect of the carrying on of the Business by the Applicant.

8. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may 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 by the Applicant from time to time for the period commencing from and including the date of this Order ("**Rent**"), but shall not pay any rent in arrears.

9. Except as specifically permitted in this Order, the Applicant is 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 Applicant to any of its creditors as of the date of this Order;

   (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and

   (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. The Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Term Sheet (as defined below) and the Definitive Documents**,** have the right to:

   (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding $100,000 in any one transaction or $250,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;

   (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;

   (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, its arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and

   (d) pursue all avenues of refinancing of Trion Group's Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

11. The Applicant shall provide each of the relevant landlords with notice of the Applicant's 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. If the landlord disputes the Applicant's 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, such landlord and the Applicant, or by further order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:

    (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice; and

    (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

13. Until and including March 2, 2026, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (each, a "**Proceeding**") shall be commenced or continued against or in respect of Trion Group or the Monitor, or affecting Trion Group's Business or Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of Trion Group or affecting Trion Group's Business or Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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**"), whether judicial or extra-judicial, statutory or non-statutory against or in respect of Trion Group or the Monitor, or affecting Trion Group's Business or Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

    (a) empower Trion Group to carry on any business that Trion Group is not lawfully entitled to carry on;

    (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;

    (c) prevent the filing of any registration to preserve or perfect a security interest;

    (d) prevent the registration of a claim for lien; or

    (e) exempt Trion Group from compliance with statutory or regulatory provisions relating to health, safety or the environment.

15. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

16. During the Stay Period, no person shall accelerate, suspend, 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 Trion Group, except with the written consent of Trion Group and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. During the Stay Period, all persons having:

    (a) statutory or regulatory mandates for the supply of goods and/or services; or

(b) oral or written agreements or arrangements with Trion Group, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to Trion Group's Business or Property,

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by Trion Group or exercising any other remedy provided under such agreements or arrangements. Trion Group shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by Trion Group in accordance with the payment practices of Trion Group, or such other practices as may be agreed upon by the supplier or service provider and each of Trion Group and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person, other than the Interim Lender where applicable, be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to Trion Group.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of Trion Group with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of Trion Group 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 Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. The Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within

proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. The directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of $50,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 38 and 39 herein.

22. 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 Directors' Charge; and

    (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' 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 20 of this Order.

APPOINTMENT OF MONITOR

23. FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant 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.

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

    (a) monitor the Applicant's receipts and disbursements, Business and dealings with the Property;

    (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 and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;

(c) assist the Applicant, to the extent required by the Applicant, in its dissemination to the Interim Lender and its counsel on a weekly basis of financial and other information as agreed to between the Applicant and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;

(d) advise the Applicant in its preparation of 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 Applicant in its development of the Plan and any amendments to the Plan;

(f) assist the Applicant, to the extent required by the Applicant, 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 Applicant to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicant or to perform its duties arising under this Order;

(h) be at liberty to engage independent legal counsel, consultants 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;

(i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicant and any other Person;

(j) facilitate funding to the Applicant pursuant to and in accordance with the DIP Term Sheet;

(k) pay the reasonable fees and disbursements of the Monitor, counsel to the Monitor, and counsel to the Applicant pursuant to funding made available under and in accordance with the DIP Term Sheet and paragraph 29 of this Order;

(l) approve the terms of any sale and investment solicitation process ("**SISP**") undertaken to be undertaken by the Applicant during these proceedings;

(m) conduct the SISP, in consultation with the Applicant;

(n) communicate with the employees of the Applicant with respect to the Applicant's Business and Property;

(o) approve the termination of any employees, the amendment or termination of any contracts and entering into any new contracts;

(p) approve the engagement of any consultants or other persons proposed by the Applicant to assist in the Business or with the Property; and

(q) perform such other duties as are required by this Order or by this Court from time to time.

25. 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. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, 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, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. 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 federal or provincial environmental legislation.

26. The Monitor shall provide any creditor of the Applicant and the Interim Lender with information provided by the Applicant 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 Applicant 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 Applicant may agree.

27. Nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer of any employee of the Trion Group.

28. In addition to the rights and protections afforded 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 wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. The Monitor, counsel to the Monitor, and counsel to the Applicant shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicant , or by the Monitor pursuant to funding made available under and in accordance with the DIP Term Sheet, as part of the costs of these proceedings. The Applicant, or the Monitor pursuant to funding made available under and in accordane with the DIP Term Sheet, is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Applicant on a weekly basis.

30. The Monitor and its legal counsel shall pass their accounts from time to time.

31. The Monitor, counsel to the Monitor, if any, and the Applicant's counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $350,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 38 and 40 hereof.

INTERIM FINANCING

32. The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Rockford Equity PTY Ltd. (the "**Interim Lender**") in order to finance Trion Group's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed USD$3,100,000 unless permitted by further order of this Court.

33. Such credit facility shall be on the terms and subject to the conditions set forth in the debtor-in-possession financing term sheet between the Applicant and the Interim Lender dated as of February 17, 2026 (the "**DIP Term Sheet**"), filed.

34. The Applicant is 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 DIP Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities, and obligations to the Interim Lender under and pursuant to the DIP 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.

35. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property to secure all obligations under the DIP Term Sheet and the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall not secure any obligation existing before the date this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 38 and 40 hereof.

36. 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 the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon three business days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Term Sheet, the Definitive Documents, and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the Interim Lender to the Applicant against the obligations of the Applicant to the Interim Lender under the Commitment Letter, 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 Applicant and for the appointment of a trustee in bankruptcy of the Applicant; 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 Applicant or the Property.

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

VALIDITY AND PRIORITY OF CHARGES

38. The priorities of the Directors' Charge, the Administration Charge and the Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $350,000);

Second – Interim Lender's Charge; and

Third – Directors' Charge (to the maximum amount of $50,000).

39. The filing, registration or perfection of the Directors' Charge, the Administration Charge or the Interim Lender's Charge (collectively, the "**Charges**") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

40. Each of the Directors' Charge, the Administration Charge, and the Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

41. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the Interim Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the Interim Lender, and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.

42. The Directors' Charge, the Administration Charge, the DIP Term Sheet, the Definitive Documents, and the Interim Lender's Charge 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**") and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:

(a) the pendency of these proceedings and the declarations of insolvency made in this Order;

(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, sublease, offer to lease or other agreement (collectively, an "**Agreement**") that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

(i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the DIP Term Sheet or the Definitive Documents, shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;

(ii) 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 creation of the Charges, the Applicant entering into the DIP Term Sheet, or the execution, delivery or performance of the Definitive Documents; and

(iii) the payments made by the Applicant pursuant to this Order, including the DIP 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.

ALLOCATION

43. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge, the Interim Lender's Charge, and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

44. The Monitor shall (i) without delay, publish in the *Globe and Mail* (National Edition) a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (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 Applicant 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.

45. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL 'cfcanada.fticonsulting.com/trion'.

GENERAL

46. Any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on March, 2 2026 (the "**Comeback Date**"), and any such interested party shall give not less than two (2) business days' notice to the Service List and any other party or parties likely to be affected by the Order sought in advance of the Comeback Date; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 38 and **Error! Reference source not found.** hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

47. Notwithstanding paragrapgh **Error! Reference source not found.** of this Order, each of the Applicant, the Monitor and the Interim Lender may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

48. The Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

49. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

50. 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 Applicant, the Business or the Property.

51. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

52. Each of the Applicant and the Monitor be at liberty and is 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 that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

53. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of King's Bench of Alberta

Clerk's Stamp:

COURT FILE NUMBER	2601 -
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF	CALGARY
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended
	AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TRION BATTERY TECHNOLOGIES INC.
DOCUMENT	**AFFIDAVIT OF MARK SMITH**
CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:	**DLA Piper (Canada) LLP** Suite 2700. 10220 – 103 Ave NW Edmonton, AB T5J 0K4 Solicitor: Jerritt Pawlyk / Carole Hunter Phone: 780 429 6835 / 403 698 8782 Fax: 780 670 4329 / 403 697 6600 Email: jerritt.pawlyk@ca.dlapiper.com carole.hunter@ca.dlapiper.com File No. 106030.00013

AFFIDAVIT

I, Mark Smith, of the City of St. Petersburg, in the State of Florida, SWEAR AND SAY THAT:

1. I am a director and the Chairman of TRION BATTERY TECHNOLOGIES INC. ("**Trion**" or the "**Applicant**"), and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and where so stated, I verily believe them to be true.

2. I make this affidavit in support of the Application by Trion for an initial order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for certain relief including, among other things, the following:

a. a declaration that the CCAA applies to Trion;

b. a declaration that the protections and authorization provided by the Initial Order apply to the Non-Applicant Stay Parties (as hereinafter defined);

c. a stay of proceedings and remedies taken or that might be taken in respect of Trion or the Non-Applicant Stay Parties or any of their property, except as otherwise set out in the Initial Order or otherwise permitted by law;

d. authorizing Trion to carry on business in a manner consistent with the preservation of its property and business and to make certain payments in connection with its business during the CCAA proceedings;

e. appointing FTI Consulting Canada Inc. ("**FTI**") as monitor in these proceedings (in such capacity, the "**Monitor**");

f. approving an interim financing facility pursuant to which Trion will obtain interim financing during the CCAA proceedings; and

g. approving certain priority charges, including an administration charge, an interim lender's charge and a directors' charge.

3. All amounts are in Canadian dollars unless otherwise indicated.

4. I am authorized to make this Affidavit on behalf of Trion and Trion has authorized the filing of the Application. If the Initial Order is granted, this affidavit will also provide background for the comeback hearing on March 2, 2026 (the "**Comeback Hearing**").

BACKGROUND

5. Trion is a corporation incorporated on October 23, 2020 in the Province of British Columbia. On October 28, 2020, Trion completed an extra-provincial registration in Alberta. Trion's head office is located at #280, 1414 8 Ave SW in Calgary, Alberta. Attached hereto and marked as **Exhibit "A"** is a copy of the BC Registry Services search for Trion dated February 2, 2026. Attached hereto and marked as **Exhibit "B"** is a copy of the Alberta Corporate Registry search for Trion dated February 2, 2026.

6. Trion designs and manufactures proprietary silicon anode materials and advanced Lithium Iron Phosphate ("**LFP**") batteries that combine deep-cycle endurance with high-power

performance, offering a safer, more durable, and cost-efficient alternative to lead-acid systems.

7. Trion has three employees at its headquarters in Calgary, Alberta.

LFP Battery Business

8. Unlike traditional high-energy lithium-ion batteries—commonly used in electric vehicles and portable electronics—that store more energy for longer duration usage but require hours to charge and discharge, Trion's LFP batteries are engineered for high-power applications that require high power for short durations, such as heavy vehicle ignition systems, liftgates, marine equipment, data centre backup power, and defence systems. These markets are served primarily by lead-acid batteries today.

9. In June 2022, Trion acquired Liacon GmbH, which was renamed in August 2025 to TRION Battery GmbH ("**Trion GmbH**"), adding cell-to-pack battery manufacturing capability near Dresden, Germany (the "**Dresden Facilities**"). The acquired business includes advanced, automated cell production equipment and R&D assets originally procured and fully commissioned by a subsidiary of a Tier 1 German automotive manufacturer.

10. Trion's current production capacity at the Dresden Facilities, which includes one active production line, is approximately 5,000 batteries per year. I believe that with additional production lines, requiring minor modifications, and the completion of the associated infrastructure, Trion has the ability to produce approximately 95,000 batteries per year at the Dresden Facilities.

11. Trion is primarily targeting its marketing of LFP batteries in Europe with a focus on sales for use in recreational vehicles and marine vessels. Trion commenced the sale of its batteries in December 2025. The continued manufacturing of batteries at the Dresden Facilities is critical to Trion's ongoing business operations.

12. With regards to its LFP battery operations in Germany, Trion GmbH employs 11 people at the Dresden Facilities and Trion's subsidiary, TRION ENERGY SOLUTIONS CORP. ("**TES**") employs two people in the United States. Trion also engages, directly or indirectly, five contractors in Europe and North America to assist with its operations.

13. TRION Battery Germany GmbH ("**Trion Battery**") has recently been incorporated as a subsidiary of Trion and it will be responsible for conducting sale of the products produced by Trion GmbH. Trion Battery is currently inactive.

14. Trion GmbH, TES and Trion Battery are collectively referred to herein as the "**Non-Applicant Stay Parties**."

Silicon Anode Business

15. Trion also has a U.S.-based silicon division with a pilot production facility in St. Paul, Minnesota. This is a smaller and earlier-stage business that is developing high-energy-density, long-life silicon anode technology (SX-Silicon) and electrolyte formulations (EX-Electrolyte) that overcome traditional cycle-life limitations of silicon.

16. Trion employs, through TES, three people in the United States, however, as set out above, two of these employees provide services related to the operations in Germany.

TRION'S INDEBTEDNESS

17. Trion has financed its operations since 2021 through a series of equity and warrant unit offerings and convertible debentures. The funds raised through these financings support the operations in Canada, Germany and the United States. Trion provides inter-company loans to Trion GmbH and TES on a no interest basis.

Series A 8% Financing Units

18. In late 2021 and early 2022, Trion issued Series A 8% Financing Units (the "**Series A Units**") to various investors for gross proceeds of approximately $13.8 million. Each Series A Unit comprised an 8% unsecured convertible debenture with a principal amount of $1,000 (each, a "**Series A Initial Debenture**") and 385 common share purchase warrants (each, a "**Series A Warrant**"). As a result of multiple failures to reach separate Liquidity Events (as defined in and required by the terms of the Series A Initial Debentures), penalty debentures were issued to the Series A Initial Debenture holders in early 2023 and September 2025 (the "**Series A Penalty Debentures**", and together with the Series A Initial Debentures, the "**Series A Debentures**").

19. The principal amount outstanding under the Series A Debentures is $18,589,900. There were 4,596,852 Series A Warrants issued in connection with the financing. The Series A Debentures

matured on December 31, 2025. The Series A Warrants expired for no value on December 31, 2025.

20. I believe that Tribeca Partners Fund 2050 Strategy ("**Tribeca 2050**") holds $1,400,000 plus accrued interest in Series A Debentures.

Series B 8% Financing Unit

21. In September 2024, Trion issued Series B 8% Financing Units to various investors for gross proceeds of approximately $6.43 million. Each Unit comprised an 8% unsecured convertible debenture with a principal amount of $1,000 (each, a "**Series B Initial Debenture**") and 385 common share purchase warrants (each, a "**Series B Warrant**"). As a result of a failure to reach a Liquidity Event (as defined in the Series B Initial Debentures), penalty debentures were issued to the Series B Initial Debenture holders in September 2025 (the "**Series B Penalty Debentures**", and together with the Series B Initial Debentures, the "**Series B Debentures**").

22. The principal amount outstanding under the Series B Debentures is $7,714,800. There were 2,765,390 Series B Warrants issued in connection with the financing. The Series B Debentures matured on December 31, 2025. The Series B Warrants expired for no value on December 31, 2025.

23. I believe that Tribeca 2050, Tribeca Partners Fund Recap Strategy ("**Tribeca Recap**") and Tribeca Special Opportunities Segregated Portfolio ("**Tribeca Special**") are collectively owed $1,634,400 plus accrued interest under the Series B Debentures.

Director Fees Convertible Debentures

24. In February 2025, Trion issued approximately US$948,000 convertible debentures due September 30, 2026 (the "**Directors Debentures**") and 474,000 Common Share Warrants to certain directors and management on account of outstanding fees and compensation owing to such directors and management.

25. To better position Trion for an anticipated initial public offering ("**IPO**") (described in further detail below) and in order to satisfy a condition precedent for further financing by Tribeca, effective August 1, 2025, the Directors Debentures, including accrued interest to date, were replaced with (i) 8% convertible debentures in the amount of a US $753,204 and (ii)

US$246,949 of debentures which were replaced with debentures having essentially the same form as the Directors Debentures (together, the "**Replacement Directors Debentures**").

26. As at August 1, 2025, the principal amount of the Replacement Directors Debentures is US $1,000,163, including the 8% convertible debentures which matured on December 31, 2025 and the remainder maturing on September 30, 2026.

10% Convertible Debentures

27. On November 17, 2022, Trion signed a 10% Unsecured Convertible Debenture Agreement (the "**CD Agreement**") with VCM Global Asset Management Ltd. ("**VCM Global**"). On December 7, 2022, VCM Global advanced an initial amount of US$1,000,000 with a further US$500,000 advanced on 20 January 2023.

28. The principal amount outstanding under the CD Agreement is US$1,500,000. The amounts due under the CD Agreement matured on December 7, 2025.

Bridge Loan

29. On February 10, 2025, Trion received a loan from various investors for gross proceeds of AUD$2.5 million (the "**February Bridge Loan**") to assist Trion with IPO costs and other working capital requirement prior to the intended listing on the Australian Stock Exchange ("**ASX**"). On May 14, 2025, an additional loan of AUD$300,000 was provided to Trion by Tribeca Natural Resources Strategy (the "**May Bridge Loan**", and together with the February Bridge Loan, the "**Bridge Loan**").

30. I believe that the largest investors in the Bridge Loan are Tribeca Natural Resources Strategy, Tribeca Partners Fund – RECAP, Tribeca Partners Fund - GNRU, Tribeca Global Natural Resources Fund (AUT), Tribeca Global Natural Resources Limited (LIC), Tribeca Segregated Portfolio (Cayman) and Tribeca Global Natural Resources Fund (UTAS) (collectively, with Tribeca 2050, Tribeca Recap and Tribeca Special, the "**Tribeca Group**").

31. The principal amount outstanding under the Bridge Loan is AUD$2.8 million and the Bridge Loan was to mature on the listing Trion's common shares on the ASX with a concurrent IPO of at least AUD$5 million. Alternatively, the Bridge Loan will mature on (i) a change of control of Trion; or (ii) if an additional AUD$5,000,000 (US$3.54 million) was raised whether by loan or otherwise.

Subsequent 2025 Financings

32. In June, July, September and October 2025, Trion issued Series C 8% Financing Units (the "**Series C Units**") to various investors, including the Tribeca Group for gross proceeds of approximately $6.36 million. Each Series C Unit comprised an 8% unsecured convertible debenture with a principal amount of C$1,000 (each, a "**Series C Debenture**") and 385 common share purchase warrants (each, a "**Series C Warrant**"). The proceeds from the Series C Debenture financing were used to fund Trion's ongoing operations.

33. The principal amount outstanding under the Series C Debentures is $6.36 million and the Series C Debentures mature on December 31, 2026. The Series C Warrants are exercisable at a price of US$1.00 and expire on December 31, 2026.

34. The largest investors in the Series C Debentures were members of the Tribeca Group who I believe hold Series C Debentures in the aggregate amount of $3,778,000 plus accrued interest.

FINANCIAL POSITION OF TRION

35. Attached hereto and marked as **Exhibit "C"** is a copy of the consolidated financial statements for the years ended March 31, 2024 and March 31, 2025. Attached hereto and marked as **Exhibit "D"** are the draft consolidated financial statements for the nine months ended November 30, 2025. The financial statements for Trion have been prepared on a consolidated basis with its wholly owned subsidiaries Trion GmbH, TES and Trion Battery.

36. As at November 30, 2025, the financial statements indicate that Trion had total assets of approximately US$105.09 million, broken down as follows:

    a. Cash of approximately US$827,900;

    b. Accounts receivable of approximately US$135,000;

    c. Prepaid expenses of approximately $79,700;

    d. Inventory of approximately $1.45 million;

    e. Capital assets of approximately $US91.8 million;

    f. Intangible assets of approximately US$5.7 million; and

    g. Goodwill of approximately $5.1 million.

37. As at November 30, 2025, the financial statements indicate that Trion had total liabilities of approximately US$64.7 million, broken down as follows:

a. Accounts payable and accrued liabilities of approximately US$1.8 million;

b. Derivative financial liabilities of approximately US$12.6 million;

c. Deferred tax liabilities of approximately $13.2 million;

d. Debentures of approximately US$30.5 million;

e. Bridge loans of approximately US$1.9 million;

f. Other current liabilities of approximately US$2.5 million; and

g. Long term liabilities of approximately US$1.9 million.

38. For the nine months ended November 30, 2025, Trion generated revenues of US$466,348 while incurring expenses of approximately US$16.5 million. This resulted in a net operating loss of approximately US$12.7 million.

Secured Creditors

39. Trion has no secured creditors. Attached hereto and marked as **Exhibit "E"** are copies of the Personal Property Registry Searches in Alberta and British Columbia for Trion, which disclose no registrations in either jurisdiction.

Unsecured Creditors

40. In addition to the liabilities listed in paragraph 37, as at February 17 2026, I believe that Trion has 186 unsecured creditors, including trade creditors, to whom it owes an aggregate of US$27.6 million. The majority of the unsecured creditors are the holders of the convertible debentures and bridge loans with the Tribeca Group collectively being owed approximately US$8.1 million and AUD$2.8 million by Trion.

FINANCIAL DIFFICULTIES

41. Trion has experienced recurring operating losses since its inception in 2020.

42. In 2025, Trion attempted to raise US$21.8 million (approximately AUD$32.5 million) through an IPO on the ASX. The funds anticipated to be raised through the IPO were earmarked for

planned recommissioning and minor construction work on the production lines at the Dresden Facilities and for ongoing working capital requirements.

43. An IPO roadshow was launched at the beginning of November 2025 but it was not successful and though Trion explored other avenues to complete an equity raise, none of these efforts proved successful.

44. Following the failure of the IPO and other efforts to raise funds, Trion worked with the holders of the various convertible debentures to extend the maturity dates for repayment. In or about mid-December, 2025, the Tribeca Group advised Trion that it would not invest any further funds in Trion.

URGENT NEED FOR CCAA PROTECTION

45. I believe that the Tribeca Group is owed approximately $8.96 million and six other debenture holders who have not extended the maturity dates for repayment are owed $817,000. Trion does not have sufficient funds to repay the amounts owing to Tribeca Group or the other holders of the convertible debentures and does not have sufficient liquidity to continue to fund the ongoing expenses necessary to develop its products and business.

46. There is approximately USD$215,000 owing to critical suppliers of products needed for Trion GmbH to manufacture batteries at the Dresden Facilities. Without the ability to pay these suppliers, Trion GmbH will be forced to cease production and terminate key personnel which it may not be able to re-hire at a later date. The ability of Trion GmbH to secure products and services is essential for Trion's ongoing operations.

47. As at the date of this affidavit, Trion has approximately $23,000 in its bank account and was unable to pay its payroll obligations which were due on February 15, 2026.

Unable to Meet Ongoing Obligations

48. Trion is insolvent on a cash flow basis and unable to meet its obligations generally as they come due. Trion has prepared, with the assistance of the proposed Monitor, a cash-flow projection for the 13-week period ending May 22, 2026 which shows that an interim financing in the approximate amount of US$850,000 million will be required during the initial ten-day period and approximately US$3.1 million will be required over the initial 13-week period of these proceedings.

Restructuring Support Agreement

49. In order to provide stability for the business and provide a path toward an orderly restructuring and to avoid an immediate cessation of operations, on February 17, 2026, Trion, together with Trion GmbH, TES and Trion Battery (collectively, the "**Guarantors**" and together with Trion, the "**Company**"), entered into a restructuring support agreement with Tribeca Investment Partners Pty Ltd., as investment manager for Tribeca Global Natural Resources Fund, Tribeca Global Natural Resources Segregated Portfolio, Tribeca Special Opportunities Fund SP, Tribeca Global Natural Resources Limited, Tribeca 2050 SPV Trust and Tribeca Partners Funds (collectively, the "**Tribeca Entities**") and Rockford Equity PTY Ltd. ("**Rockford**"), an affiliate of the Tribeca Entities pursuant to which Tribeca agreed to support the implementation of a restructuring process by Trion, subject to certain terms and conditions (the "**RSA**"). Attached hereto and marked as **Exhibit "F"** is a copy of the RSA.

50. The RSA provided that, among other things:

a. Tribeca would support an application by the Applicant for the commencement of proceedings under the CCAA;

b. Rockford would provide debtor-in-possession financing to assist the Company in implementing and undertaking these restructuring proceedings;

c. The Applicant would develop and implement a sale and investment solicitation process and restructuring transaction; and

d. The Tribeca Entities would forbear from enforcing any remedies with respect to the Applicant's defaults under the debentures.

Anticipated Restructuring

51. Should the Initial Order be granted, the Applicant intends to address their insolvency through a number of steps which may include:

a. soliciting interest in an asset purchase or strategic investments in Trion through a sales and investment solicitation process ("**SISP**"); and

b. developing a plan of arrangement for the benefit of creditors,

all under the supervision of the Court and with the assistance of the proposed Monitor. Should the Initial Order be granted, the Applicant intends to seek the approval of the SISP at the Comeback Hearing scheduled for March 2, 2026.

52. Trion requires a stay of proceedings to maintain the status quo and protect and preserve the value of its business for its benefit and the benefit of its creditors and stakeholders while restructuring its affairs and pursuing a value maximizing sales and investment solicitation process.

Relief Requested

53. The Applicant is an entity to which the CCAA applies and has debts in excess of $5,000,000. As set out above, the Applicant is in the midst of a liquidity crisis.

Stay of Proceedings

54. A stay of proceedings is essential to maintaining the status quo in order to preserve the value of the Applicant's business, while providing time for the Applicant to explore, with the assistance of the Monitor, restructuring opportunities that will provide sufficient capital to stabilize the Applicant's operations or an orderly liquidation of certain assets, either of which offers a greater benefit to numerous stakeholders over a bankruptcy or forced liquidation.

55. The Applicant has booked an application for this Honourable Court to seek an amended and restated Initial Order, including a stay extension and approval of the SISP, among other potential relief, on March 2, 2026 for the Comeback Hearing.

Extension of Stay to the Non-Applicant Stay Parties

56. The Applicant is requesting to extend the stay of proceedings in favour of, and provide for an extension of the protections and authorizations in the Initial Order to the Non-Applicant Stay Parties. The Non-Applicant Stay Parties are closely intertwined with the operations of the Applicant, including, among others, being responsible for the manufacturing of the LFP batteries and providing research and development on the silicone anode business.

57. Extending the stay of proceedings to the Non-Applicant Stay Parties will mitigate against the risk of uncoordinated realization and enforcement attempts in different jurisdictions by the various third party creditors, all of which would be counterproductive to the maximization and protection of value for the Applicant's stakeholders.

Administration Charge

58. The Applicant's legal counsel, the Monitor and the Monitor's legal counsel are essential to the Applicant's restructuring. They have each advised that they are prepared to continue to provide

professional services to the Applicant if they are protected by a charge over the assets, property and undertakings of the Applicant in priority to all other charges.

59. An administration charge of $350,000 (the "**Administration Charge**") is proposed to rank first in priority to all other encumbrances, including all other Court-ordered charges and any security interests.

60. The Administration Charge will ensure that the Applicant will retain access to the professionals whose expertise and knowledge is required to pursue a successful restructuring or liquidation under the CCAA. The Applicant believes that the Administration Charge is necessary to ensure their important continued participation in this process, and is fair and reasonable in the circumstances.

DIP Facility and DIP Lender's Charge

61. In order for Trion to continue its operations during these proceedings, it requires additional funding. To address this funding requirement, Trion as borrower and the Guarantors (together, the "**Loan Parties**") entered into an debtor-in-possession financing facility (the "**DIP Facility**") with Rockford Equity PTY Ltd. (the "**DIP Lender**") dated as of February 17, 2026. Attached hereto and marked as **Exhibit "G"** is a copy of the DIP Facility.

62. The DIP Facility provides for a credit facility in the maximum principal amount of USD$3,100,000 with interest at a rate of 13.5% per annum and a commitment fee of 3% of the advanced DIP Facility. Any advances under the Interim Financing Facility are only permitted for the following purposes:

a. to fund operating expenditures, including the working capital and for other general corporate purposes of the Loan Parties;

b. to pay the interest, fees and other amounts owing to the DIP Lender under the DIP Facility;

c. to pay professional fees of the Loan Parties, the Monitor, the Monitor's legal counsel and the DIP Lender in connection with the CCAA Proceedings, whether incurred before or after the Order approving the DIP Facility; and,

d. to pay such other costs, expenses and disbursements of the Loan Parties, as agreed to by the DIP Lender.

63. Any advances under the DIP Facility are conditional upon the granting of a priority charge over the property and assets of the Loan Parties to provide security for the DIP Lender (the "**DIP Lender's Charge**"). The DIP Lender's Charge would rank subordinate only to the Administration Charge.

64. The DIP Lender's Charge shall be limited to a maximum of USD$850,000 during the initial 10 day period and will be increased to USD$3,100,000 at the Comeback Hearing. The increased DIP funding will allow Trion to order additional materials necessary to increase production in its Dresden Facilities during these proceedings.

65. Without the DIP Facility, the Applicant will not have sufficient liquidity to continue operations during the CCAA proceedings.

66. The Applicant has sought and obtained guidance from the Monitor on the proposed amount of the DIP Lender's Charge and I understand that the Monitor supports the approval of the DIP Facility and the DIP Lender's Charge.

Directors' Charge

67. The Applicant is also seeking a charge in favour of the Applicant's directors and officers over the Applicant's assets, property, and undertakings, in priority to all other charges other than the Administration Charge, up to a maximum of $50,000 (the "**Directors' Charge**"), to indemnify the directors in respect of liabilities they may incur as directors or officers of the Applicant in these proceedings. The Monitor has reviewed the calculations for the Directors' Charge and the Applicant is only requesting a charge up to the maximum amount of $50,000 during the initial ten day period.

68. The Applicant's present and former directors and officers are among the potential beneficiaries under liability insurance policies (the "**D&O Insurance**"). However, I understand that the D&O Insurance has various exceptions, exclusions and carve-outs where coverage may not be available to the directors and officers.

69. A successful restructuring requires the continued participation of the Applicant's directors and officers as they have specialized expertise, decades of experience in the business and key relationships with the Applicant's stakeholders. The directors and officers have knowledge that cannot be easily replaced or replicated. The Applicant therefore believe that the Directors' Charge is fair and reasonable in the circumstances.

Priority Ranking of Charges

70. Trion proposes that the charges they seek to be secured against their assets, properties and undertaking rank in priority as follows:

a. first, the Administration Charge;

b. second, the DIP Lender's Charge; and

c. third, the Directors' Charge.

Monitor

71. FTI has consented to act as Monitor in these proceedings. Attached hereto and marked as **Exhibit "H"** is a copy of FTI's consent to act as Monitor.

72. I believe that FTI has acted as a monitor in this and other Canadian jurisdictions and is qualified and competent to act as a monitor in these proceedings. At no time in the past two years, has FTI or any of its partners or managers been any of the Applicant's auditor, accountant or employee.

73. Trion has requested that FTI serve as monitor in these proceedings, to provide court supervision and to generally assist Trion with its restructuring efforts, and FTI has advised Trion that it is willing to act as Monitor, if appointed.

74. As a condition of the DIP Facility, Tribeca requested and Trion agreed to the provision of certain enhanced powers for the Monitor during these proceedings, including:

a. Approval of the payment of any pre-filing expenses;

b. Consent right in respect of the terms of the SISP procedures;

c. Conduct of the SISP, in consultation with Trion;

d. Consent rights in respect of the termination of employees, amendment of contracts and engagement of consultants or other persons in respect of Trion's business; and

e. The ability to speak directly to Trion's employes for the purpose of gathering information.

CONCLUSION AND URGENCY

75. I swear this affidavit in support of the granting of an Initial Order for Trion under the CCAA for the purposes of providing Trion with the opportunity to restructure their affairs or conduct an orderly liquidation of their non-essential assets.

76. Trion requires the relief sought on an urgent basis due to their liquidity challenges and inability to pay creditors.

77. Trion is seeking relief under the CCAA to preserve and stabilize its operations, to prevent enforcement steps from being taken by its creditors, and to preserve the opportunity to restructure their business to offer the greatest benefit to numerous stakeholders.

SWORN BEFORE ME via two-way video conference, the Affiant being located in St. Petersburg, Florida and the Commissioner located in Calgary, Alberta this 18th day of February, 2026

A Commissioner for Oaths in and for the Province of Alberta

MARK SMITH

Clerk's Stamp:

COURT FILE NUMBER	2601 -
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF	CALGARY
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TRION BATTERY TECHNOLOGIES INC.
DOCUMENT	**CERTIFICATE FOR REMOTE COMMISSIONING OF THE AFFIDAVIT OF MARK SMITH**
CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:	**DLA Piper (Canada) LLP** Suite 2700. 10220 – 103 Ave NW Edmonton, AB T5J 0K4 Solicitor: Jerritt Pawlyk / Carole Hunter Phone: 780 429 6835 / 403 698 8782 Fax: 780 670 4329 / 403 697 6600 Email: jerritt.pawlyk@ca.dlapiper.com carole.hunter@ca.dlapiper.com File No. 106030.00013

I, Carole Hunter, a Commissioner of Oaths in and for the Province of Alberta, certify that the requirements outlined in the Court of King's Bench of Alberta, Notice to the Profession and Public "Remote Commissioning of Affidavits for Use in Civil and Family Proceedings During the COVID-19 Pandemic" dated March 15, 2020 (the "Notice"), have been complied with as follows:

1. I met with Mark Smith on February 18, 2026, using video technology.

2. While connected to video technology, I undertook the following steps in accordance with the Notice:

    a. Verified and retained "screenshot" copies of the front and back of Mark Smith's valid government issued photo identification;

b. Verified that both parties had a paper copy of the Affidavit before them during the video conference;

c. Reviewing every page of the Affidavit of Mark Smith, with both parties initialling the lower right corner of each page to verify the pages are identical; and

d. Administered the oath at the end of the review and observed Mark Smith sign his name to the Affidavit.

3. I received the signed Affidavit from Mark Smith electronically, and upon receipt, verified that this copy was identical to the one I initialed during the video conference, and signed the jurat.

4. I believe that remote commissioning is necessary because it is impossible to physically meet with Mark Smith to commission this Affidavit.

SIGNED at the City of Calgary, Alberta, this 18th day of February, 2026.

Signature of Commissioner of Oaths in and for Alberta

Name: Carole Hunter
Title: Barrister and Solicitor, Counsel at DLA Piper (Canada) LLP

THIS IS EXHIBIT "A"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.

A Commissioner for Oaths
in and for the Province of Alberta

BC Registry Services

Mailing Address:
PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3
www.corporateonline.gov.bc.ca

Location:
2nd Floor - 940 Blanshard Street
Victoria BC
1 877 526-1526

BC Company Summary

For

TRION BATTERY TECHNOLOGIES INC.

Date and Time of Search: **February 02, 2026 11:01 AM Pacific Time**

Currency Date: November 24, 2025

ACTIVE

Incorporation Number: BC1271350

Name of Company: TRION BATTERY TECHNOLOGIES INC.

Business Number: 704989938 BC0001

Recognition Date and Time: Incorporated on October 23, 2020 02:03 PM Pacific Time

In Liquidation: No

Last Annual Report Filed: October 23, 2025

Receiver: No

REGISTERED OFFICE INFORMATION

Mailing Address:
SUITE 2700,
1133 MELVILLE STREET
VANCOUVER BC V6E 4E5
CANADA

Delivery Address:
SUITE 2700,
1133 MELVILLE STREET
VANCOUVER BC V6E 4E5
CANADA

RECORDS OFFICE INFORMATION

Mailing Address:
SUITE 2700,
1133 MELVILLE STREET
VANCOUVER BC V6E 4E5
CANADA

Delivery Address:
SUITE 2700,
1133 MELVILLE STREET
VANCOUVER BC V6E 4E5
CANADA

DIRECTOR INFORMATION

Last Name, First Name, Middle Name:
Hemmingsen, Mary

Mailing Address:
5045 BELCARRA BAY ROAD
BELCARRA BC V3H 4N5
CANADA

Delivery Address:
5045 BELCARRA BAY ROAD
BELCARRA BC V3H 4N5
CANADA

Last Name, First Name, Middle Name:
Krause, Larry

Mailing Address:
2496 HIDDEN VALLEY LANE
STILLWATER MN 44082
UNITED STATES

Delivery Address:
2496 HIDDEN VALLEY LANE
STILLWATER MN 44082
UNITED STATES

Last Name, First Name, Middle Name:
Smith, Mark

Mailing Address:
855 CENTRAL AVENUE, SUITE 504
ST. PETERSBURG FL 33701
UNITED STATES

Delivery Address:
855 CENTRAL AVENUE, SUITE 504
ST. PETERSBURG FL 33701
UNITED STATES

Last Name, First Name, Middle Name:
Umansky, Serge

Mailing Address:
158 MONTAGU MANSION
LONDON W1U6LQ
UNITED KINGDOM

Delivery Address:
158 MONTAGU MANSION
LONDON W1U6LQ
UNITED KINGDOM

NO OFFICER INFORMATION FILED AS AT October 23, 2025.

Corporate Information

Back
New Search

Date and Time of Search: **February 02, 2026 11:01 AM Pacific Time**
Currency Date: **November 24, 2025**
Paper filings received at the Corporate Registry after the currency date may not have been filed.

Active

HELP

Number: **BC1271350**
Name: **TRION BATTERY TECHNOLOGIES INC.**
Type: **BC Company**
Business Number: **704989938BC0001**

You have paid to view any or all electronic documents listed below including the Corporate Summary.
Documents that are available on paper only may be accessed at the Corporate Registry for a fee.
HELP

How long can I view documents after I pay?

Corporate Summary

Click the "View Corporate Summary" button below to see a summary of information about the company, including office addresses and directors.
HELP

View Corporate Summary

Corporate History

HELP

Corporate History	Date and Time Filed (Pacific Time)	Details	View Documents
Notice of Change of Directors	November 18, 2025 1:26 PM	Date of Change: November 13, 2025	Notice of Change of Directors Notice of Articles
BC Annual Report - OCT 23, 2025	November 18, 2025 1:22 PM		BC Annual Report - OCT 23, 2025
Notice of Change of Directors	October 07, 2025 9:58 AM	Date of Change: September 01, 2025	Notice of Change of Directors Notice of Articles
Notice of Change of Directors	October 07, 2025 9:52 AM	Date of Change: August 28, 2025	Notice of Change of Directors Notice of Articles
Notice of Change of Directors	July 09, 2025 3:04 PM	Date of Change: April 01, 2025	Notice of Change of Directors Notice of Articles
Notice of Change of Directors	July 03, 2025 2:10 PM	Date of Change: June 18, 2025	Notice of Change of Directors Notice of Articles
BC Annual Report - OCT 23, 2024	March 03, 2025 9:17 AM		BC Annual Report - OCT 23, 2024
BC Annual Report - OCT 23, 2023	January 05, 2024 2:41 PM		BC Annual Report - OCT 23, 2023
Notice of Change of Directors	January 05, 2024 2:40 PM	Date of Change: June 19, 2023	Notice of Change of Directors Notice of Articles
Notice of Change of Address	August 14, 2023 11:58 AM	Effective Date: August 15, 2023 12:01 AM View Comments	Notice of Change of Address Notice of Articles
BC Annual Report - OCT 23, 2022	July 28, 2023 9:05 AM		BC Annual Report - OCT 23, 2022
Notice of Change of Directors	July 28, 2023 9:01 AM	Date of Change: September 19, 2022	Notice of Change of Directors Notice of Articles
Notice of Change of Directors	December 15, 2022 1:18 PM	Date of Change: August 31, 2022	Notice of Change of Directors Notice of Articles
Notice of Change of Directors	June 27, 2022 8:47 AM	Date of Change: June 21, 2022	Notice of Change of Directors Notice of Articles
Notice of Change of Directors	April 12, 2022 12:55 PM	Date of Change: April 11, 2022	Notice of Change of Directors Notice of Articles

You are currently logged in as:
ps70782

Corporate Search
Corporate Name Index
Corporate Information
Corporate Summary

Corporate Name Index Free
Corporate Information Free
Corporate Details and documents $7

Need to Restore your Company?
Click here to view the information package

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HELP DESK: 1 800 663-6102 (Toll free)

February 02, 2026 11:01 AM

Notice of Alteration	March 29, 2022 11:41 AM		Notice of Alteration Notice of Articles
Notice of Change of Directors	March 02, 2022 7:23 AM	Date of Change: February 03, 2022	Notice of Change of Directors Notice of Articles
BC Annual Report - OCT 23, 2021	January 07, 2022 11:23 AM		BC Annual Report - OCT 23, 2021
Notice of Change of Directors	February 24, 2021 2:20 PM	Date of Change: January 24, 2021	Notice of Change of Directors Notice of Articles
Incorporation Application	October 23, 2020 2:03 PM		Incorporation Application Notice of Articles Certificate

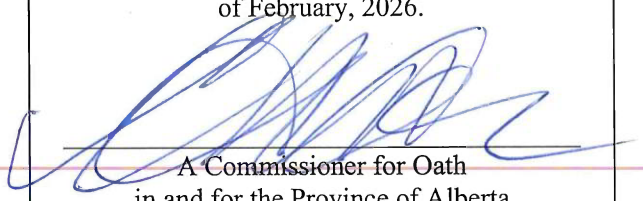
Back

New Search

THIS IS EXHIBIT "B"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.



A Commissioner for Oath
in and for the Province of Alberta

Government of Alberta ■

Corporation/Non-Profit Search

Corporate Registration System

Date of Search: 2026/02/02
Time of Search: 12:03 PM
Search provided by: DLA PIPER (CANADA) LLP (Calgary)
Service Request Number: 46407254
Customer Reference Number: 106030.00012

Corporate Access Number: 2122979053
Business Number:
Legal Entity Name: TRION BATTERY TECHNOLOGIES INC.

Legal Entity Status: Active
Extra-Provincial Type: Other Prov/Territory Corps
Registration Date: 2020/10/28 YYYY/MM/DD
Date Of Formation in Home Jurisdiction: 2020/10/23 YYYY/MM/DD
Home Jurisdiction: BRITISH COLUMBIA
Home Jurisdiction CAN: BC1271350

Head Office Address:
Street: SUITE 2700, 1133 MELVILLE STREET
City: VANCOUVER
Province: BRITISH COLUMBIA
Postal Code: V6E4E5
Email Address: LESLIE@TRIONENERGYSOLUTIONS.COM

Primary Agent for Service:

Last Name	First Name	Middle Name	Firm Name	Street	City	Province	Postal Code	Email
HUDSON	ROY		DLA PIPER (CANADA) LLP	1000, 250 - 2ND STREET SW	CALGARY	ALBERTA	T2P0C1	ROY.HUDSON@DLAPIPER.COM

Other Information:

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2020/10/28	Register Extra-Provincial Profit / Non-Profit Corporation
2021/03/28	Attorney for Service converted to Agent for Service
2023/08/15	Change Address

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.

THIS IS EXHIBIT "C"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.

A Commissioner for Oaths
in and for the Province of Alberta

TRION Battery Technologies Inc.

Consolidated Financial Statements
Years ended March 31, 2025 and 2024
(Expressed in United States Dollars)

Table of Contents

Tel: 403 266 5608
Fax: 403 233 7833
www.bdo.ca

BDO Canada LLP
903 - 8th Avenue SW, Suite 620
Calgary AB T2P 0P7
Canada

Independent Auditor's Report

To the Shareholders of TRION Battery Technologies Inc.

Opinion

We have audited the consolidated financial statements of TRION Battery Technologies Inc. and its subsidiaries (the Group), which comprise the consolidated statement of financial position as at March 31, 2025, and the consolidated statement of loss and comprehensive loss, the consolidated statement of cash flows and consolidated statements of changes in equity for the year then ended, and notes to the financial statements, including material accounting policy information.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the Group as at March 31, 2025, and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards and International Accounting Standards as issued by the International Accounting Standards Board (IASB) and Interpretations (collectively IFRS Accounting Standards).

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Consolidated Financial Statements* section of our report. We are independent of the Group in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Material Uncertainty Related to Going Concern

We draw attention to Note 1 in the consolidated financial statements, which indicates that the Group has recurring net losses to date and as of March 31, 2025, the Group's current liabilities exceeded its total assets by $40,079,825. As stated in Note 1, these events or conditions, along with other matters as set forth in Note 1, indicate that a material uncertainty exists that may cast significant doubt on the Group's ability to continue as a going concern. Our opinion is not modified in respect of this matter

Other Matter

The consolidated financial statements for the year ended March 31, 2024 were audited by another auditor who expressed an unmodified opinion on those financial statements on June 17, 2025.

Responsibilities of Management and Those Charged with Governance for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with IFRS Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is responsible for assessing the Group's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Group or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Group's financial reporting process.

Auditor's Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these consolidated financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Group's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Group's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the consolidated financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Group to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the consolidated financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Plan and perform the group audit to obtain sufficient appropriate audit evidence regarding the financial information of the entities or business units within the Group as a basis for forming an opinion on the group financial statements. We are responsible for the direction, supervision and review of the audit work performed for purposes of the group audit. We remain solely responsible for our audit opinion.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

BDO Canada LLP

Chartered Professional Accountants

Calgary, Alberta
October 15, 2025

TRION BATTERY TECHNOLOGIES INC.
Consolidated statements of financial position
(Expressed in United States Dollars)

As at March 31	2025	2024
Assets		
Current Assets		
Cash	$1,744,727	$440,798
Accounts receivable	105,959	78,193
Prepaid expenses	70,757	61,580
Inventory	69,127	46,822
Total Current Assets	1,990,570	627,393
Capital assets (Note 6)	94,306,761	107,462,330
Intangible assets (Note 7)	6,088,444	5,740,574
Goodwill (Note 8)	4,783,232	35,236,172
Total Assets	$107,169,007	$149,066,469
Liabilities and shareholders' deficit		
Current Liabilities		
Accounts payable and accrued liabilities	$1,706,347	$3,987,379
Interest payable	1,065,820	978,915
Lease liability - current portion (Note 12)	178,490	199,186
Derivative financial liabilities at FVTPL (Note 11)	17,955,372	23,320,441
Debentures at FVTPL (Note 10)	20,041,366	20,739,000
Bridge loan at FVTPL (Note 9)	1,123,000	-
Total Current Liabilities	42,070,395	49,224,921
Lease liability – non-current portion (Note 12)	1,927,401	1,852,651
Deferred tax (Note 13)	15,554,194	20,126,320
Total Liabilities	59,551,990	71,203,892
Shareholders' Equity		
TRION Battery Common stock (Note 14)	127,743,852	124,113,691
TRION Battery Special shares (Note 14)	12,815,623	12,071,803
Contributed surplus	9,943,011	9,321,437
Warrants reserve (Note 14)	1,092,042	-
Accumulated Other Comprehensive Income	3,119,033	3,356,394
Deficit	(107,096,544)	(71,000,748)
Total Shareholders' Equity	47,617,017	77,862,577
Total Liabilities and Shareholders' Equity	$107,169,007	$149,066,469

Nature of operations and going concern (Note 1)
Commitments and Contingencies (Note 12)
Subsequent events (Note 18)

The accompanying notes are an integral part of these consolidated financial statements

TRION BATTERY TECHNOLOGIES INC.
Consolidated statements of income (loss) and comprehensive income (loss)
(Expressed in United States Dollars)

For the years ended March 31	2025	2024
Interest and Other Income	$335,981	$31,067
Operating Costs and Expenses		
Research and development	937,417	1,232,226
	937,417	1,232,226
Professional fees		
Management and consultants	657,175	1,035,031
Legal	103,392	140,818
	760,567	1,175,849
Change in fair value of financial liabilities at FVTPL, debentures at FVTPL and bridge loan at FVTPL (Notes 9, 10, 11 and 16)	(10,825,030)	(43,709,908)
Impairment (Note 8)	30,258,916	-
Share-based compensation (Note 14)	1,731,303	1,117,606
Business development and marketing	62,274	170,052
Travel and entertainment	67,943	66,650
Facilities	191,599	315,321
Depreciation and amortization (Notes 6 and 7)	14,486,306	15,985,767
Other general and administration expenses	1,507,760	1,527,856
Foreign exchange (gain) loss	207,165	(120,038)
	37,688,236	(24,646,694)
Total Operating Costs (Gain)	39,386,220	(22,238,619)
(Loss) Income from Operations	(39,050,239)	22,269,686
Interest expense	1,594,005	1,318,456
Deferred tax recovery (Note 13)	(4,548,448)	(4,969,264)
Net (Loss) Income	(36,095,796)	25,920,494
Other comprehensive loss - cumulative translation adjustment	(237,362)	(1,440,758)
Total Comprehensive (Loss) Income	$(36,333,158)	$24,479,736
Net (loss) income per share basic (Note 14)	$(0.44)	$0.34
Net (loss) income per share diluted (Note 14)	$(0.44)	$0.32

The accompanying notes are an integral part of these consolidated financial statements.

TRION BATTERY TECHNOLOGIES INC.
Consolidated statements of cash flows
(Expressed in United States Dollars)

For the years ended March 31	2025	2024
Cash flows from operating activities		
Net (loss) income	$(36,095,796)	$25,920,494
Non-cash items		
Depreciation and amortization	14,486,306	15,985,767
Share-based compensation	1,731,303	1,117,606
Change in value of financial liabilities at FVTPL, debentures at FVTPL and bridge loan at FVTPL	(10,825,030)	(43,709,908)
Impairment	30,258,916	-
Deferred tax recovery	(4,548,448)	(4,969,264)
Unrealized foreign exchange gain	(142,816)	(199,347)
Changes in non-cash working capital items:		
Accounts receivable	(27,766)	121,807
Prepaid expenses	(9,177)	(24,548)
Inventory	(22,305)	4,324
Accounts payable and accrued liabilities	(2,281,032)	1,411,381
Interest payable	1,220,297	724,893
Lease liability - current portion	(20,696)	14,925
Lease liability - non-current portion	74,750	1,327,373
Net Cash Used in Operating Activities	(6,201,494)	(2,274,497)
Cash flows from investing activities		
Purchase of capital assets	(285,229)	(1,563,402)
Purchase of intangible assets	(1,450,066)	(648,069)
Net Cash Used in Investing Activities	(1,735,295)	(2,211,471)
Cash flows from financing activities:		
Proceeds from issuance of common shares	1,874,277	1,195,947
Proceeds from debentures	5,666,489	-
Proceeds from warrant exercise	403,363	2,793,262
Proceeds from bridge loan	1,588,620	-
Debenture redemptions	(424,519)	-
Proceeds from stock option exercise	-	525,994
Net Cash Provided by Financing Activities	9,108,230	4,515,203
Increase in cash for the period	1,171,441	29,235
Cash, beginning of the period,	440,798	404,473
Effect of exchange rates changes on cash	132,488	7,090
Cash, end of the period	$1,744,727	$440,798
Cash paid for interest	$32,303	$18,204

The accompanying notes are an integral part of these consolidated financial statements

TRION BATTERY TECHNOLOGIES INC.
Consolidated statements of equity
(Expressed in United States Dollars)

	Number of common shares	Amount	Number of special shares	Amount	Contributed surplus	Warrants reserve	Accumulated Other Comprehensive Income	Deficit	Shareholders' equity (Deficiency)
Balance, March 31, 2024	80,383,675	$124,113,691	12,204,348	$12,071,803	$9,321,437	-	$3,356,394	$(71,000,748)	$77,862,577
Whiteridge issue (Note 4)	841,206	622,492	-	-	-	-	-	-	622,492
Issued for cash	1,842,808	1,874,277	-	-	-	-	-	-	1,874,277
Share-based compensation	-	-	-	-	621,574	880,000	-	-	1,501,574
Issued upon warrant exercise	-	-	549,125	743,820	-	-	-	-	743,820
Issued in lieu of debenture interest	888,935	1,133,392	-	-	-	-	-	-	1,133,392
Debenture warrants	-	-	-	-	-	212,042	-	-	212,042
Net loss	-	-	-	-	-	-	-	(36,095,796)	(36,095,796)
Other comprehensive loss	-	-	-	-	-	-	(237,361)	-	(237,361)
Balance, March 31, 2025	83,956,624	$127,743,852	12,753,473	$12,815,623	$9,943,011	$1,092,042	$3,119,033	$(107,096,544)	$47,617,017

	Number of common shares	Amount	Number of special shares	Amount	Contributed surplus	Warrants reserve	Accumulated Other Comprehensive Income	Deficit	Shareholders' equity (Deficiency)
Balance, March 31, 2023	65,503,954	$98,049,619	10,685,278	$8,297,213	$11,349,992	-	$4,797,152	$(96,921,242)	$25,572,734
Whiteridge issue (Note 4)	8,906,382	13,359,573	-	-	-	-	-	-	13,359,573
Issued for cash	812,138	1,195,947	-	-	-	-	-	-	1,195,947
Options exercised for cash	1,613,094	3,672,155	-	-	(3,146,161)	-	-	-	525,994
Share-based compensation	-	-	-	-	1,117,606	-	-	-	1,117,606
Issued upon warrant exercise	3,138,082	2,103,325	1,519,070	3,774,590	-	-	-	-	5,877,915
Debenture warrants	410,025	5,733,072	-	-	-	-	-	-	5,733,072
Net income	-	-	-	-	-	-	-	25,920,494	25,920,494
Other comprehensive loss	-	-	-	-	-	-	(1,440,758)	-	(1,440,758)
Balance, March 31, 2024	80,383,675	$124,113,691	12,204,348	$12,071,803	$9,321,437	-	$3,356,394	$(71,000,748)	$77,862,577

The accompanying notes are an integral part of these consolidated financial statements

1. NATURE OF OPERATIONS, CHANGE IN YEAR END AND GOING CONCERN

TRION Battery Technologies Inc. ("TRION" or the "Company") was incorporated under the Business Corporations Act (British Columbia) on October 23, 2020. The Company is domiciled in Calgary, Alberta, Canada and operates from its offices located at 280, 1414 - 8th Street S.W. Calgary, Alberta. TRION owns 100% of TRION Energy Solutions Corp. ("TES") and Liacon GmbH ("Liacon") a battery manufacturer located in Germany.

Going concern

The Company has experienced recurring operating losses since inception and, as of March 31, 2025, the Company has an accumulated deficit of $107,096,544 (March 31, 2024 $71,000,748). Until the Company generates a level of revenue to support its cost structure, the Company expects to continue to incur substantial operating losses and net cash outflows. As a result, there is significant doubt as to the Company's ability to continue as a going concern. The Company had cash of $1,744,727 as of March 31, 2025, and negative working capital of $40,079,825 (March 31, 2024 $48,597,528). The Company intends to fund ongoing activities by utilizing current cash and by raising additional capital through equity and/or debt financings, joint ventures, industry collaborations, government grants and/or subsidies. There can be no assurance that the Company will be successful in accessing additional capital or that such capital, if available, will be on terms that are acceptable to the Company. If the Company is unable to access sufficient additional capital, the Company may be compelled to reduce the scope of its operations and planned capital expenditures or sell certain assets, including intellectual property assets.

The accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the liabilities in the normal course of business. Even if the Company is able to access additional capital, the Company may never become profitable, or if the Company does attain profitable operations, the Company may not be able to sustain profitability and positive cash flows on a recurring basis. As a result of the matters listed, there is a material uncertainty related to events or conditions which may cast significant doubt on the entity's ability to continue as a going concern and, therefore, that it may be unable to realize its assets and discharge its liabilities in the normal course of business. These financial statements do not reflect the adjustments to the carrying values of assets and liabilities, the reported revenues and expenses, and the statement of financial position classifications used, that would be necessary if the Company were unable to realize its assets and settle its liabilities as a going concern in the normal course of operations. Such adjustments could be material.

2. BASIS OF PRESENTATION

Basis of presentation and statement of compliance

These consolidated financial statements ("financial statements") have been prepared in accordance with International Financial Reporting Standards and International Accounting Standards as issued by the International Accounting Standards Board (IASB) and Interpretations (collectively IFRS Accounting Standards). These policies have been consistently applied to all years presented, unless otherwise stated. These financial statements have been prepared on a historical cost basis, modified where applicable, except for the following: certain financial liabilities are measured at fair value. In addition, these financial statements have been prepared using the accrual basis of accounting except for cash flow information.

These financial statements were authorized for issue by TRION's Board of Directors on October 15, 2025.

Functional and presentation currency

These financial statements are presented in United States dollars, which is the Company's and TES' functional currency. The functional currency of Liacon is the Euro. Certain amounts are referred to in Canadian dollars ("C$"), Australian dollars ("A$") or Euros ("€"). The results and financial position of Liacon are translated into the presentation currency as follows:

i) assets and liabilities for each statement of financial position presented are translated at the closing rate at the reporting date;
ii) income and expenses for each statements of income and comprehensive income are translated at average exchange rates, unless the average is not a reasonable approximation of the exchange rates of the transactions, in which case income and expenses are translated at the exchange rates at the dates of the transactions;
iii) equity is translated at the historical rate applicable for the period in which it was issued; and
iv) all resulting exchange differences are recognized in other comprehensive income.

Goodwill is treated as an asset of the foreign operation and translated at the closing rate at each reporting date.

3. MATERIAL ACCOUNTING POLICIES AND USE OF ESTIMATES AND JUDGMENTS

Basis of consolidation

(i) Subsidiaries

Subsidiaries are entities controlled by the Company. The financial statements of subsidiaries are included in the financial statements from the date that control commences until the date that control ceases. Control exists when the Company has the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities. In assessing control, potential voting rights that currently are exercisable are taken into account.

(ii) Transactions eliminated on consolidation

All intercompany balances and transactions, and any unrealized income and expenses arising from intercompany transactions, are eliminated in preparing the financial statements.

Cash

Cash includes cash on hand, guaranteed investment certificates and other short-term deposits with original maturities of three months or less.

Capital Assets

Capital assets are recorded at cost less accumulated depreciation. Depreciation is provided on the straight-line basis over the estimated useful lives of the assets. Maintenance and repairs are charged to expense as incurred. The cost of major additions and betterments are capitalized. Upon sale or other disposition of a depreciable asset, cost and accumulated depreciation are removed from property and equipment and any gain or loss is reflected as a gain or loss from operations.

The estimated useful lives are:

Asset	Useful Life (Years)
Computer equipment	5
Office furniture	7
Software	3
Research and development equipment	3-7
Manufacturing equipment	10-12

Intangible Assets

Intangible assets consist of costs incurred in developing new battery cells and demonstrator know how that will be used when deploying the manufacturing equipment in battery production. Intangible assets were recognized in the Liacon acquisition and in subsequent activities. Within the first year of operations, it was determined that these assets are available for use and are amortized over 7 years.

Business Combinations and Goodwill

Financial results of acquired companies are included in the financial statements from the closing date of the acquisition. Any excess of purchase price over the fair value of net assets is recognized as goodwill. Subsequent measurement of goodwill is stated at cost less any accumulated impairment charges.

Impairment of goodwill

Management tests goodwill for impairment annually. If the recoverable amount is less than the carrying value, goodwill is written down to its recoverable amount. Any impairment recorded is not reversed even if subsequent events indicate the value has been restored.

Goodwill is tested annually as required for impairment by comparing the carrying value of each cash generating unit ("CGU") containing the goodwill to its recoverable amount. Goodwill is tested for impairment based on the level at which

it is monitored by management, and not at a level higher than an operating segment. The allocation of goodwill to the CGUs or group of CGUs requires the use of judgment.

An impairment loss is recognized for the amount by which the operating segment or CGU's carrying amount exceeds it recoverable amount. The recoverable amounts of the CGUs' assets have been determined based on the higher of fair value less costs of disposal and value-in-use. There is a material degree of uncertainty with respect to the estimates of the recoverable amounts of the CGU, given the necessity of making key economic assumptions about the future. Impairment losses recognized in respect of a CGU are first allocated to the carrying value of goodwill and any excess is allocated to the carrying value of assets in the CGU. Any impairment is recorded in profit and loss in the period in which the impairment is identified. A reversal of an asset impairment loss is allocated to the assets of the CGU on a pro rata basis. In allocating a reversal of an impairment loss, the carrying amount of an asset shall not be increased above the lower of its recoverable amount and the carrying amount that would have been determined had no impairment loss been recognized for the asset in prior period. Impairment losses on goodwill are not subsequently reversed.

Impairment of assets

At the end of each reporting period, the Company assesses whether new events or circumstances have occurred, or whether new information has become available, that indicates that an asset might be impaired. If indications of impairment are present for a specific asset, the Company will estimate the recoverable amount for the asset in question. If the recoverable amount of the asset is less than its carrying value, the asset is written down to its recoverable amount and an impairment loss is recorded in profit or loss. A reversal of the impairment loss, in a subsequent period, can occur if there has been a change in the estimates used to determine the asset's recoverable amount since the last impairment loss was recognized. However, the increased carrying amount of an asset subject to a reversal of an impairment loss shall not exceed the amount of carrying value that would have otherwise occurred if the impairment loss had not occurred.

Research and development costs ("R&D")

Under IAS 38, research expenses are recognized in profit or loss when incurred. Internally generated development expenses are recognized as an intangible asset if, and only if, all six of the following criteria can be demonstrated: (a) the technical feasibility of completing the intangible asset; (b) the Company's intention to complete the intangible asset; (c) the Company's ability to use the intangible asset; (d) how the intangible asset will generate probable future economic benefits; (e) the availability of adequate technical, financial and other resources to complete the development; and (f) the ability to measure reliably the expenditure attributable to the intangible asset during its development.

Financial instruments

(a) Classification

The Company classifies its financial instruments at fair value through profit and loss ("FVTPL"), at fair value through other comprehensive income (loss) ("FVTOCI") or at amortized cost. The Company determines the classification of financial assets at initial recognition. The classification of debt instruments is driven by the Company's business model for managing the financial assets and their contractual cash flow characteristics. Equity instruments that are held for trading are classified as FVTPL. For other equity instruments, on the day of acquisition, the Company can make an irrevocable election (on an instrument-by-instrument basis) to designate them as at FVTOCI. Financial liabilities are measured at amortized cost, unless they are required to be measured at FVTPL (such as instruments held for trading or derivatives) or if the Company has opted to measure them at FVTPL.

(b) Measurement

Financial assets and liabilities at amortized cost

Financial assets and liabilities at amortized cost are initially recognized at fair value plus or minus transaction costs, respectively, and subsequently carried at amortized cost less any impairment.

Financial assets and liabilities at FVTPL

Financial assets and liabilities carried at FVTPL are initially recorded at fair value and transaction costs are expensed in the consolidated statements of income and comprehensive income. Realized and unrealized gains and losses arising

from changes in the fair value of the financial assets and liabilities held at FVTPL are included in the consolidated statements of income and comprehensive income in the period in which they arise.

(c) Impairment of financial assets at amortized cost

The Company recognizes a loss allowance for expected credit losses on financial assets that are measured at amortized cost. At each reporting date, the Company measures the loss allowance for the financial asset at an amount equal to the lifetime expected credit losses if the credit risk on the financial asset has increased significantly since initial recognition. If at the reporting date, the financial asset has not increased significantly since initial recognition, the Company measures the loss allowance for the financial asset at an amount equal to the twelve-month expected credit losses. The Company shall recognize in the consolidated statements of income and comprehensive income, as an impairment gain or loss, the amount of expected credit losses (or reversal) that is required to adjust the loss allowance at the reporting date to the amount that is required to be recognized.

(d) Financial liabilities at FVTPL

The Company examines its financial liabilities at FVTPL for factors which introduce variability. If these instruments do not result in a fixed amount of shares issued for a fixed amount of consideration then they are classified as derivative liabilities.

Warrants that are exercisable based on the future performance of the Company are treated as a derivative financial liability and the fair value movement during the period is recognized in the consolidated statements of income and comprehensive income.

Special warrants issued where the exercise results in the issuance of an incremental warrant instrument are also treated as a derivative financial liability whereby the fair value movement is recognized in the consolidated statements of income and comprehensive income.

Debentures issued that have conversion options that vary based on future common share prices or there is a variability in the number of shares to be issued are treated as a financial liability classified as FVTPL. The conversion option is an embedded derivative, but the Company has elected to measure the entire instrument as a financial liability at FVTPL. The fair value movement during the period is recognized in the consolidated statements of income and comprehensive income. Changes in FVTPL which relate to the Company's own credit risk are recorded through the consolidated statements of income and comprehensive income.

Interest, dividends, losses and gains relating to the financial liabilities are recognized in profit or loss. Distributions to the equity holders are recognized against equity, net of any tax benefit.

Financial liabilities at FVTPL are valued based on significant assumptions such as risk-free interest rates, volatility, foreign exchange rates and the share price used for various valuations. For the debenture unit warrants, the Whiteridge warrant and the special warrants, a Monte Carlo Simulation method was used to value the instruments. To accommodate an early exercise option, the amendments to the debenture unit warrants and the special warrants were valued using a warrant analysis and a Binomial Tree. When the financial liabilities at FVTPL are exercised, or expire, the liability is removed.

All financial liabilities measured at FVTPL are classified as non-current only if the Company has a substantive right to defer settlement for at least twelve months after the reporting period, and this right must exist at the end of the reporting period. In all other circumstances they are classified as current. Changes in credit spread are recorded in other comprehensive income, if material.

Lease Arrangements

As lessee, TRION recognizes a right of use ("ROU") asset and a corresponding lease liability on the consolidated statements of financial position on the date that a leased asset becomes available for use. Interest associated with the lease liability is recognized over the lease period with a corresponding decrease to the underlying lease obligation. ROU assets are depreciated on a straight-line basis over the shorter of the asset's useful life and the lease term. Depreciation on ROU assets is recognized in the statements of income and comprehensive income as Depreciation and amortization. ROU assets and lease liabilities are initially measured on a present value basis. Lease liabilities are measured as the net present value of the lease payments which may include: fixed lease payments, variable lease payments based on an index or a rate, and amounts expected to be payable under residual value guarantees and payments to exercise an extension or termination option, if the Company is reasonably certain to exercise either of

those options. ROU assets are measured at cost, which is composed of the amount of the initial measurement of the lease obligation, less any incentives received, plus any lease payments made at, or before, the commencement date and initial direct costs and asset restoration costs, if any. The rate implicit in the lease is used to determine the present value of the liability and ROU asset arising from a lease, unless this rate is not readily determinable, in which case the Company's incremental borrowing rate is used. Short-term leases and leases of low-value assets are not recognized as ROU assets and lease payments are instead recognized in the statements of income and comprehensive income as incurred. Lease modifications are either treated as a new lease or as a remeasurement of the existing lease depending on whether the modification results in a right to use more underlying assets and an increase in the lease consideration is commensurate with this change.

Income taxes

Current income tax:

Current income tax assets and liabilities for the current period are measured at the amount expected to be recovered from or paid to taxation authorities. The tax rates and tax laws used to compute the amount are those that are enacted or substantively enacted, at the reporting date, in the countries where the Company operates and generates taxable income.

Current income tax relating to items recognized directly in other comprehensive income or equity is recognized in other comprehensive income or equity and not in profit or loss. Management periodically evaluates positions taken in the tax returns with respect to situations in which applicable tax regulations are subject to interpretation and establishes provisions where appropriate.

Deferred tax:

Deferred tax is recognized on temporary differences at the reporting date arising between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes.

The carrying amount of deferred tax assets is reviewed at the end of each reporting period and recognized only to the extent that it is probable that future taxable income will be available to allow all or part of the temporary differences to be utilized.

Deferred tax assets and liabilities are measured at the tax rates that are expected to apply to the year when the asset is realized or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted and are expected to apply by the end of the reporting period. Deferred tax assets and deferred income tax liabilities are offset if a legally enforceable right exists to set off current tax assets against current income tax liabilities and the deferred taxes relate to the same taxable entity and the same taxation authority.

Income per share

Basic income per share is calculated by dividing the income attributable to common shareholders by the weighted average number of common shares outstanding in the period. For all periods presented, the income attributable to common shareholders equals the reported income attributable to the owners of the Company.

Foreign currency

Transactions in foreign currencies are converted to the respective functional currencies of the Company's entities at the exchange rates at the date of the transaction. Monetary assets and liabilities denominated in foreign currencies at the reporting date are retranslated to the functional currency at the exchange rate at that date. Non-monetary assets and liabilities denominated in foreign currencies that are measured at fair value are retranslated to the functional currency at the exchange rate at the date that the fair value was determined. Non-monetary items that are measured in terms of historical cost in a foreign currency are translated using the exchange rate at the date of the transaction. Foreign currency differences arising on retranslation are recognized in profit or loss, except for differences arising on the retranslation of available-for-sale equity instruments, a financial liability designated as a hedge of the net investment in a foreign operation, or qualifying cash flow hedges, which are recognized in other comprehensive loss.

Share-based compensation plan

The Company has a share-based compensation plan enabling officers and directors to purchase common shares at exercise prices equal to the price determined by the directors on the date the option is granted. Stock option awards

are accounted for based on the fair value method of accounting. Under this method, share-based compensation is recorded as an expense over the vesting period of the option, with a corresponding increase in contributed surplus. If the options are subsequently amended or extended the fair value is recalculated. If the fair value increased the difference is recorded as an expense over the vesting period of the option, with a corresponding increase in contributed surplus.

Share-based compensation is based on the estimated fair value of the related stock option at the time of the grant using the Black-Scholes option pricing model. The Black-Scholes option pricing model is based on significant assumptions such as volatility, dividend yield and expected term. A forfeiture rate is estimated on the grant date and is adjusted to reflect the actual number of options that vest. When stock options are exercised, the consideration paid to the Company, along with amounts previously credited to contributed surplus, is credited to share capital.

Changes in accounting policies

IFRS 18 - Presentation and Disclosure in Financial Statements was issued in April 2024 by the IASB and replaces IAS 1 - Presentation of Financial Statements. The Standard introduces a defined structure to the statements of income or loss and comprehensive income or loss and specific disclosure requirements related to the same. The Standard is required to be adopted retrospectively and is effective for fiscal years beginning on or after January 1, 2027, with early adoption permitted.

IFRS 9 - Financial Instruments and IFRS 7 - Financial Instruments: Disclosures were amended in May 2024 to clarify the date of recognition and derecognition of financial assets and liabilities. The amendments are effective for fiscal years beginning on or after January 1, 2026, with early adoption permitted.

The Company is currently assessing the impact of these new accounting standards and amendments. The changes effective for current year had no material impact on the accounting policies.

Critical accounting estimates and significant management judgments

The preparation of financial statements in accordance with IFRS requires the Company to use judgment in applying its accounting policies and make estimates and assumptions about reported amounts at the date of the financial statements and in the future. The Company's management reviews these estimates and underlying assumptions on an ongoing basis, based on experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. Revisions to estimates are adjusted prospectively in the period in which the estimates are revised.

Critical accounting estimates:

- The Company measures the cost of equity-settled transactions by reference to the fair value of the equity instruments at the date at which they are granted. Estimating fair value for share-based payment transactions requires determining the most appropriate valuation model, which is dependent on the terms and conditions of the grant. This estimate also requires determining the most appropriate inputs to the valuation model including the expected life of the share option, volatility and dividend yield and making assumptions about them.
- Financial liabilities at FVTPL are recorded at fair value at each reporting period. The fair value is based upon Monte Carlo simulations, Binomial Tree analysis, the probability method or the Black-Scholes model. These valuation tools require the use of estimates of volatility, share prices, dividends, forfeiture rates and interest rates.
- The deferred income tax calculations and accruals related to deferred tax assets are only recognized where it is probable that they will be realized.
- Management also uses judgement with respect to the consideration of impairment indicators for its capital assets, intangible assets and goodwill. Where impairment indicators are deemed to exist, management must exercise judgment with respect to factors used in the impairment test itself.
- The Company performs an impairment test for goodwill annually for its Liacon assets. Liacon represents the Company's German segment. Germany is intended to be the manufacturing hub for TRION's proprietary battery technology. This test is intended to ensure that the recoverable amount exceeds the carrying amount. The recoverable amount of goodwill is the higher of its:
    - fair value less costs to sell; and
    - value in use.

- The Company uses estimates in determining the recoverable amount of long-lived assets. The determination of the recoverable amount for the purpose of impairment testing requires the use of significant estimates, such as:

- future cash flows;
- terminal growth rates; and
- discount rates.

Fair value less costs to sell is calculated by discounting estimated future cash flows to their present value. The Company estimates the discounted future cash flows for periods of up to five years and a terminal value. The future cash flows are based on estimates and expected future operating results of Liacon after considering current and future economic conditions and a general outlook for the industry. The discount rates consider market rates of return, debt to equity ratios, and certain risk premiums appropriate for the size of the Liacon operations and the risk underlying its forecast. The terminal value is the value attributed to Liacon's operations beyond the projected time period of the cash flows using a perpetuity rate, which considers future growth, as applied to the expected results in the years following the forecast period.

Critical accounting judgements:

- The assessment of the Company's ability to continue as a going concern and whether there are events or conditions that may give rise to significant uncertainty.

- The assessment of when a product is in the development stage and the costs of development may be capitalized. The Company continues to review on a periodic basis the six criteria to determine when the costs of development may be capitalized. The criteria that must be demonstrated are: (a) the technical feasibility of completing the development project; (b) the Company's intention to complete the project; (c) the Company's ability to use the project; (d) the probability that the project will generate future economic benefits (e) the availability of adequate technical, financial and other resources to complete the project; and (f) the ability to measure the development expenditure reliably. To date, no development costs have been capitalized if the six criteria have not been met.

4. WHITERIDGE WARRANTS

On June 28, 2022, the Company acquired all of the outstanding shares of Liacon from Whiteridge. Liacon is a battery manufacturing company operating in Germany. This acquisition was intended to facilitate the Company's efforts to commercialize its proprietary technologies to improve the performance of batteries.

The purchase price was satisfied by (i) the payment by the Company to Whiteridge of €25,000 and (ii) the issuance of the Whiteridge warrant. The Whiteridge warrant is to be converted into common shares of the Company for no additional cost. There are no voting rights associated with the Whiteridge warrant until converted. The Whiteridge warrant is considered to be a derivative financial liability.

On October 7, 2022, Whiteridge elected to convert the Whiteridge warrant, for no additional consideration, into common shares of the Company. The number of the common shares that Whiteridge is entitled to is based on a deemed conversion rate of 42% of:

- all common shares issued;
- all common shares issued pursuant to convertible security instruments outstanding at the date of Whiteridge's election; plus
- any shares issued in connection with up to US$10,000,000 in financing by the Company after the date of the Whiteridge warrant and prior to a liquidity event.

The Company has delivered the shares to Whiteridge in four tranches. On October 31, 2022, the Company issued 29,700,765 shares as the first installment. On July 1, 2023, the Company issued 8,630,798 shares to Whiteridge representing the second installment of shares to be issued. The third tranche of 275,584 shares was delivered December 31, 2023. The fourth tranche totaling 841,206 shares was issued on January 1, 2025. Whiteridge now holds 39,448,353 TRION shares. This amount will be trued up further in the event that TRION successfully completes an initial public offering.

5. SEGMENTED FINANCIAL INFORMATION

TRION's reportable segments are determined based on the nature of the Company's activities and the geographic locations in which the Company operates. They are consistent with the level of information regularly provided to and reviewed by the Company's chief operating decision makers. The Company's only segment is Germany. Germany is

(Expressed in United States Dollars)

intended to be the manufacturing hub for TRION's proprietary battery technology. Corporate includes corporate activities and items not allocated to Germany.

	For the year ended March 31, 2025			For the year ended March 31, 2024		
	Germany	Corporate	Consolidated	Germany	Corporate	Consolidated
Interest and Other Income	$315,221	$20,760	$335,981	$31,067	-	$31,067
Expenses:						
Research and development	-	937,417	937,417	-	1,232,226	1,232,226
Professional fees	-	760,567	760,567	-	1,175,849	1,175,849
Change in fair value of derivative instrument and debenture	-	(10,825,030)	(10,825,030)	-	(43,709,908)	(43,709,908)
Impairment	30,258,916	-	30,258,916	-	-	-
Share-based compensation	-	1,731,303	1,731,303	-	1,117,606	1,117,606
Business development and marketing	-	62,274	62,274	-	170,052	170,052
Travel and entertainment	-	67,943	67,943	-	66,650	66,650
Facilities	62,729	128,870	191,599	113,703	201,618	315,321
Depreciation and amortization	14,379,997	106,309	14,486,306	15,880,992	104,775	15,985,767
Other general and administration expenses	1,186,371	321,389	1,507,760	1,044,599	483,257	1,527,856
Foreign exchange (gain) loss	-	207,165	207,165	-	(120,038)	(120,038)
Total Expenses (Gain)	45,888,013	(6,501,793)	39,386,220	17,039,294	(39,277,913)	(22,238,619)
(Loss) Income from Operations	(45,572,792)	6,522,553	(39,050,239)	(17,008,227)	39,277,913	22,269,686
Interest expense	104,234	1,489,771	1,594,005	47,492	1,270,964	1,318,456
Deferred tax recovery	(4,548,448)	-	(4,548,448)	(4,969,264)	-	(4,969,264)
Net (Loss) Income	(41,128,578)	5,032,782	(36,095,796)	(12,086,455)	38,006,949	25,920,494
Other comprehensive loss	(237,362)	-	(237,362)	(1,440,758)	-	(1,440,758)
Total Comprehensive (Loss) Income	($41,365,940)	5,032,782	$(36,333,158)	($13,527,213)	38,006,949	$24,479,736
Total Assets	$96,311,719	$10,857,288	$107,169,007	$142,400,216	$6,666,253	$149,066,469

6. CAPITAL ASSETS

	Manufacturing Equipment	Research and Development Equipment	Other	Total
Cost				
March 31, 2023	$130,246,346	$803,047	$36,742	$131,086,135
Additions	1,553,453	9,950	-	1,563,403
Disposals	(175,810)	-	-	(175,810)
Exchange difference	(670,323)	24,061	(1,974)	(648,236)
March 31, 2024	$130,953,666	$837,058	$34,768	$131,825,492
Additions	310,071	-	-	310,071
Disposals	(31,381)	-	-	(31,381)
Exchange difference	-	-	-	-
March 31, 2025	$131,232,356	$837,058	$34,768	$132,104,182

(Expressed in United States Dollars)

Accumulated Depreciation				
March 31, 2023	$9,765,830	$286,050	$22,490	$10,074,370
Depreciation	14,437,877	102,864	2,664	14,543,405
Disposals	(173,433)	-	-	(173,433)
Exchange difference	(81,180)	-	-	(81,180)
March 31, 2024	$23,949,094	$388,914	$25,154	$24,363,162
Depreciation	13,283,182	103,311	2,999	13,389,492
Disposals	(6,539)	-	-	(6,539)
Exchange difference	51,306	-	-	51,306
March 31, 2025	$37,277,043	$492,225	$28,153	$37,797,421
Net Book Value				
March 31, 2024	$107,004,572	$448,144	$9,614	$107,462,330
March 31, 2025	$93,955,313	$344,833	$6,615	$94,306,761

Included in the total of "Manufacturing Equipment" are right of use assets of $1,590,482 (March 31, 2024: $1,647,619). The Company recognized depreciation of $215,162 in 2025 (2024: $200,970) on its right of use assets generating accumulated depreciation of $573,449 at March 31, 2025 (March 31, 2024: $359,883).

On each reporting date, the Company assesses whether there are events or changes in circumstances that would more likely than not reduce the fair value of any of its reporting units below their carrying values and, therefore, require the property and equipment assets to be tested for impairment. As of March 31, 2025, management assessed that there were no events or changes in circumstances that would require impairment testing.

7. INTANGIBLE ASSETS

Intangible assets consist of costs incurred in developing new battery cells and demonstrator know-how acquired in the Liacon transaction and subsequent investments. These assets are amortized over 7 years once they are available for use. In the year ended March 31, 2025, amortization amounted to $1,096,815 (March 31, 2024: $1,443,115).

Cost	
March 31, 2023	$7,174,737
Additions	648,069
Exchange difference	(37,792)
March 31, 2024	$7,785,014
Additions	1,450,065
Exchange difference	2,900
March 31, 2025	$9,237,979
Accumulated Amortization	
March 31, 2023	$661,916
Amortization	1,443,115
Exchange difference	(60,591)
March 31, 2024	$2,044,440
Amortization	1,096,815
Exchange difference	8,280
March 31, 2025	$3,149,535

(Expressed in United States Dollars)

Net Book Value	
March 31, 2024	$5,740,574
March 31, 2025	$6,088,444

8. GOODWILL

Goodwill arose on the acquisition of Liacon in 2022. It represents the difference between the consideration paid for Liacon and fair value of the net assets acquired. This determination was based on management's best estimates of the fair value of the assets acquired and liabilities assumed as of the acquisition date.

March 31, 2023	$35,422,765
Exchange difference	(186,593)
March 31, 2024	$35,236,172
Exchange difference	(194,024)
Impairment	(30,258,916)
March 31, 2025	$4,783,232

The Company performs an impairment test for goodwill annually for its Liacon assets. Liacon represents the Company's German segment. Germany is intended to be the manufacturing hub for TRION's proprietary battery technology. This test is intended to ensure that the recoverable amount exceeds the carrying amount. The recoverable amount of goodwill is the higher of its:

- fair value less costs to sell; and
- value in use.

The Company uses estimates in determining the recoverable amount of long-lived assets. The determination of the recoverable amount for the purpose of impairment testing requires the use of significant estimates, such as:

- future cash flows;
- terminal growth rates; and
- discount rates.

Fair value less costs to sell is calculated by discounting estimated future cash flows to their present value. The Company estimates the discounted future cash flows for periods of up to five years and a terminal value. The future cash flows are based on estimates and expected future operating results of Liacon after considering current and future economic conditions and a general outlook for the industry. The discount rates consider market rates of return, debt to equity ratios, and certain risk premiums appropriate for the size of the Liacon operations and the risk underlying its forecast. The terminal value is the value attributed to Liacon's operations beyond the projected time period of the cash flows using a perpetuity rate, which considers future growth, as applied to the expected results in the years following the forecast period.

For this analysis, the Company assumed a weighted average cost of capital of 14.2% and a terminal growth rate of 0%. The terminal multiple was assumed to 7.1 based on management's estimate of the long-term compound annual EBITDA growth rate, consistent with the assumptions that a market participant would make. Forecast EBITDA margins are based on expectations of future outcomes, adjusted for anticipated future growth. These valuations are categorized in level 3 of the fair value hierarchy. The resulting discounted cash flow showed that the carrying amount exceeds the recoverable amount by $30.3 million. The challenges associated with the ongoing start-up delays, and the resulting impact on cash flows, was the primary reason for the shortfall. The share price used for valuation purposes was considered to ensure the business enterprise value justifies the outstanding goodwill value (March 31, 2025: $0.45 vs. March 31, 2024: $1.50). As a result, a $30.3 million impairment was recorded in goodwill.

9. BRIDGE LOAN AT FVTPL

On February 10, 2025, the Company received a series of short-term, unsecured bridge loans totaling $1.6 million (A$2.5 million). The loans bear interest of 12% and shall mature on the completion of an initial public offering ("IPO") of no less than A$5 million. Completion of an IPO shall be deemed to have occurred when the proceeds of the IPO are received and can be used by the Company. The bridge loans included a prepayment option. The prepayment option was assessed to not be closely related which resulted in this being a hybrid instrument. Consequently, the Company elected

(Expressed in United States Dollars)

to measure it at FVTPL. As part of the loan agreements, the Company also issued 2.5 million warrants to the lenders. Each warrant will entitle the holder to purchase one common share at an exercise price of A$1.10 per share within two years following an IPO. The assumptions used to fair value the bridge loan warrants are consistent with the assumptions disclosed in Note 11.

The fair value of the bridge loans at FVTPL have been estimated using s discounted cash flow method using the following assumptions:

	For the year ended March 31, 2025
Principal amount	A$2.5 million
Risk-free interest rate (AUD)	3.8%
Expected life	8 - 9 months
Coupon	12%
Discount rate (AUD)	77.9%
FX rate	$0.629
Probability of a liquidity event within 1 year	95%

10. DEBENTURES AT FVTPL

TRION issued its first round of financing units in 2022. Aggregate proceeds were approximately C$13.8 million. Each financing unit comprised an 8% unsecured convertible debenture with a principal amount of C$1,000 and 385 common share purchase warrants. During the fiscal year ended 31 March 2023, TRION and the existing financing unit holders agreed to amend the term of the financing units. Per an amending agreement, TRION issued penalty debentures in the principal amount of approximately C$2.8 million. In March 2024, the debentures were amended further to provide the Company with the option to pay the outstanding interest on the debentures in common shares. The rate was fixed at C$1.7425 per share. The maturity date of the debentures was also extended to September 30, 2024. An additional 96.25 warrants were issued for each C$1,000 worth of 8% convertible debenture as compensation for the amendment (0.25 additional warrants per original warrant issued).

On September 16, 2024, the Company completed a non-brokered private placement of 6,429 8% unsecured convertible debentures units. Each financing unit comprised an 8% unsecured convertible debenture with a principal amount of C$1,000 and 385 common share purchase warrants. Gross proceeds were $4.8 million (C$6.4 million). The subscription price for the debenture units was C$1,000. The offering was subject to the holders of all current outstanding 8% debentures agreeing to extend the maturity to December 31, 2025. This would match the maturity date of the new debentures being issued. The existing 8% debentures holders did approve the extension. As a result, the maturities of all outstanding 8% debentures were extended to December 31, 2025, prior to closing the offering. The debentures are convertible at the conversion price of C$1.30 at maturity (at the option of the holder) or at a 25% discount to the Liquidity Event Price on occurrence of the Liquidity Event (automatic conversion). A total of 2,765,390 warrants were issued to the debenture holders. Each warrant will entitle the holder to purchase one common share at an exercise price of $1.50 per share on or before 31 December 2025.

The Company also has $1.5 million of 10% convertible debentures issued on January 19, 2023. The debentures will be converted into shares when the Company successfully completes an IPO that results in a minimum of $5 million being raised. The price of the shares received when the debenture is converted will be $2.50 with a 10% discount if more than $6 million has been received prior to the conversion. The 10% convertible debentures have a maturity date of the earlier of a liquidity event or December 7, 2025, however, the holder can convert to shares at any time at their discretion.

On February 28, 2025, the Company elected to shift its outstanding liability of director fees to a convertible debenture. The debenture would pay interest of 12% per annum through until June 30, 2025, 18% through September 30, 2025, and thereafter at a rate of 24% compounding monthly until maturity. The debentures mature on September 30, 2026. Debentures totaling $947,655 were issued to the six directors as a result of this decision. The debentures are convertible at a conversion price of $0.70 upon seven days' prior written notice to the Company. A total 473,833 warrants were issued to the directors. Each warrant will entitle the holder to purchase one common share at an exercise price of $0.70 per share on or before 2 years after the liquidity event.

The convertible feature of the three debentures at FVTPL is included in the amount reported on the consolidated statements of financial position. All existing convertible debentures at FVTPL were revalued as of March 31, 2025. The

(Expressed in United States Dollars)

revaluation took into consideration updated assumptions, most specifically share prices, risk-free rates and volatility. The debenture at FVTPL valuations are presented below:

	2025	2024
8% Convertible Debentures (Series A) - value at beginning of period	$18,992,000	$28,806,000
Redemptions	(424,519)	-
Decrease in the fair value based on revaluation	(6,247,481)	(9,814,000)
Total value of the 8% Convertible Debentures (Series A)	$12,320,000	$18,992,000

	2025	2024
8% Convertible Debentures (Series B) - value at beginning of period	-	-
8% Convertible Debentures (Series B) - value when originally issued	4,573,000	-
Increase in the fair value based on revaluation	657,000	-
Total value of the 8% Convertible Debentures (Series B)	$5,230,000	-

	2025	2024
10% Convertible Debentures - value at beginning of period	1,747,000	1,596,000
Increase (Decrease) in the fair value based on revaluation	(83,000)	151,000
Total value of the 10% Convertible Debentures	$1,664,000	$1,747,000

	2025	2024
Director Fee Debentures - value at beginning of period	-	-
Director Fee Debentures - value when originally issued	809,011	-
Increase in the fair value based on revaluation	18,355	-
Total value of the Director Fee Debentures	$827,366	-
Total value of the debentures at FVTPL	$20,041,366	$20,739,000

The fair value of the debentures at FVTPL have been estimated using Monte Carlo or Binomial Tree simulations based on the following assumptions:

	For the year ended March 31, 2024
Share price	$1.50
Dividend yield	-
Expected volatility	80%
Risk-free interest rate	4.3% - 4.7%
Expected life	6 - 21 months
Expected Dividend	Nil
Forfeiture	Nil
Probability of a liquidity event within 1 year	80%

	For the year ended March 31, 2025
Share price	$0.45
Dividend yield	-
Expected volatility	80% - 95%
Risk-free interest rate	3.8% - 4.2%
Expected life	9 - 21 months
Expected Dividend	Nil
Forfeiture	Nil

Probability of a liquidity event within 1 year	95%

The expected volatility is based on the discounted historical volatility of the Company's peer group for the remaining term of the derivative financial instruments.

The warrants issued with the debenture units are accounted as financial liabilities at FVTPL and are fully described in Note 11.

11. DERIVATIVE FINANCIAL LIABILITIES AT FVTPL

The Company recalculates the fair value of its derivative financial liabilities at FVTPL at each reporting date. This exercise requires reassessment of the varying assumptions underlying the value of each instrument, including share prices, risk-free rates and volatility. The outcomes are presented and discussed in more detail below:

	Balance March 31, 2023	Original Valuation	Converted to Special Shares	Change in value of financial instrument	Converted to common shares	Balance March 31, 2024
Warrants included in Debenture Units issued	$9,215,553	-	-	$(2,201,696)	$(5,703,631)	$1,310,226
Extension warrants included in Debenture Units issued	-	650,945	-	-	-	650,945
Debenture unit warrants issued as finders fees	670,796	-	-	(670,796)	-	-
Warrants issued to special shareholders	8,442,299	-	(3,114,094)	(3,623,747)	-	1,704,458
Financing warrants	-	61,546	-	(1,734)	-	59,812
Whiteridge warrant	61,216,000	-	-	(28,261,427)	(13,359,573)	19,595,000
	$79,544,648	$712,491	$(3,114,094)	$(34,759,400)	$(19,063,204)	$23,320,441

	Balance March 31, 2024	Original Valuation	Converted to Special Shares	Change in value of financial instrument	Converted to common shares	Balance March 31, 2025
Warrants included in Debenture Units issued	$1,310,226	-	-	(1,267,234)	-	$42,992
Extension warrants included in Debenture Units issued	650,945	-	-	(624,142)	-	26,803
Extension warrants second tranche	-	72,576	-	(45,837)	-	26,739
2024 8% debenture warrants	-	141,000	-	(80,162)	-	60,838
Warrants issued to special shareholders	1,704,458	-	(340,458)	(1,364,000)	-	-
Financing warrants	59,812	-	-	(59,812)	-	-
Bridge loan warrants	-	547,000	-	(22,000)	-	525,000
Whiteridge warrant	19,595,000	-	-	(1,699,508)	(622,492)	17,273,000
	$23,320,441	$760,576	$(340,458)	$(5,162,695)	$(622,492)	$17,955,372

Warrants included in the 8% debenture units

Each 8% debenture unit includes a warrant of the Company to purchase 385 common shares of the Company for $1.50 per share. A total of 2,047,228 of these warrants remain outstanding. They have a maturity date of December 31, 2025. The value of these warrants was calculated using the Monte Carlo Simulation approach. It resulted in the fair value decreasing $1,267,234 in 2025.

(Expressed in United States Dollars)

As part of the 8% unsecured convertible debentures issued on September 16, 2024, the Company also granted 2,765,390 warrants to the debenture holders. These warrants have an exercise price of $1.50 and expire on December 31, 2025. The value of these warrants was calculated using the Monte Carlo Simulation approach. It resulted in a liability of $60,838 being recognized at March 31, 2025.

Extension warrants included in the 8% debenture units

The Company has two tranches of extension warrants associated with the 8% debentures. A first tranche of 1,276,363 warrants was issued in 2024. They have an exercise price of $2.00 per share and expire on December 31, 2025. They are valued at $26,803 at March 31, 2025. A second round of extension warrants was issued in 2025. The 1,273,261 warrants have an exercise price of $1.50 per share. They also expire on December 31, 2025. The value of these warrants was calculated using the Monte Carlo Simulation approach. It resulted in a liability of $26,739 being recognized at March 31, 2025.

Special warrants

During the year, 549,125 special warrants were exercised for proceeds of $403,363. The remaining 2,200,000 warrants expired unexercised on April 11, 2024.

Bridge loan warrants

On January 31, 2025, as part of the bridge loan agreements, the Company issued 2,500,000 warrants to the lenders that entitle them to purchase one common share of the Company at an exercise price of A$1.10. The warrants mature two years after the IPO. These warrants were valued at $525,000 at March 31, 2025.

Whiteridge warrant

The Whiteridge warrant was issued as consideration for the Liacon purchase (see Note 4). It was valued at $135,400,000 as of the acquisition date, June 28, 2022. On October 31, 2022, the Company issued 29,700,765 shares to Whiteridge representing the first installment of shares to be issued as a result of the Liacon purchase. The value of the Whiteridge warrant was also reduced during the nine-month period ended March 31, 2023, due the expiry of certain convertible instruments. The second and third tranches were issued to Whiteridge on July 1, 2023, and December 31, 2023, respectively. The fourth tranche of shares was issued to Whiteridge on January 1, 2025. Any additional shares owing will be trued up upon the successful completion of an IPO, on a fully diluted basis. The remaining Whiteridge warrant was revalued at $17,273,000 at March 31, 2025. This led to the recognition of a loss of $1,699,508 for the year ended March 31, 2025.

The fair value of the financial liabilities at FVTPL have been estimated using Monte Carlo or Binomial Tree simulations based on the following assumptions:

	For the year ended March 31, 2024
Share price	$1.50
Dividend yield	-
Expected volatility	80%
Risk-free interest rate	4.42% - 5.49%
Expected life	1 - 21 months
Expected Dividend	Nil
Forfeiture	Nil
Probability of a liquidity event within 1 year	80%

	For the year ended March 31, 2025
Share price	$0.45
Dividend yield	-
Expected volatility	80% - 95%
Risk-free interest rate	3.8% - 4.9%
Expected life	9 - 42 months
Expected Dividend	Nil
Forfeiture	Nil
Probability of a liquidity event within 1 year	95%

(Expressed in United States Dollars)

The expected volatility is based on the discounted historical volatility of the Company's peer group for the remaining term of the derivative financial instruments.

12. COMMITMENTS AND CONTINGENCIES

The Company leases the Liacon manufacturing facility and few ancillary structures. The Liacon manufacturing facility is under lease until July 31, 2032. The lease contract calls for a monthly payment of €14,962 through July 31, 2027, and €28,040 per month thereafter, until expiration.

Lease liabilities	Year ended March 31, 2025	Year ended March 31, 2024
Balance at beginning of period	$2,051,837	$709,539
Liabilities incurred	183,835	1,458,524
Liabilities settled	(217,831)	(203,193)
Interest expense	88,050	86,967
Balance at end of period	**2,105,891**	**2,051,837**
Current portion of lease liabilities	178,490	199,186
Long-term portion of lease liabilities	1,927,401	1,852,651
Total lease liabilities	$2,105,891	$2,051,837

13. INCOME TAXES

The recovery of income taxes differs from the amount computed by applying the combined statutory United States, Canadian and German federal and provincial tax rates to losses before income taxes as follows:

	Year ended March 31, 2025	Year ended March 31, 2024
Net comprehensive loss before taxes	$(40,755,984)	$(20,951,231)
Statutory income tax rate	23%	17.55%
Expected recovery	(9,373,876)	(3,676,073)
Add (deduct):		
Non-deductible changes in value of debentures at FVTPL	(3,639,041)	(7,994,662)
Non-deductible goodwill impairment	8,933,642	-
Non-deductible share-based compensation	(484,680)	257,049
Current year research and development credits	-	74,849
Change in deferred tax benefits deemed not probable to be recovered	15,507	6,884,095
Deferred income tax recovery	$(4,548,448)	$(4,454,742)

The following is a summary of the Company's deferred tax assets and liabilities as at March 31, 2025, and March 31, 2024:

Deferred income tax assets (liabilities)	Year ended March 31, 2025	Year ended March 31, 2024
Non-capital loss	$16,565,966	$15,518,190
Property and equipment	(23,554,129)	(27,738,529)
Debentures at FVTPL	4,503	1,360,624
Research credits	133,827	238,386
Unrecognized deferred tax assets	(8,558,157)	(9,486,452)
Cumulative translation adjustment	(146,204)	(18,539)
Total	$(15,554,194)	$(20,126,320)

(Expressed in United States Dollars)

The Company has total net operating losses as at March 31, 2025 of approximately US$17.8 million (March 31, 2024: $22.6 million) in the United States. These losses will carryforward indefinitely but will be subject to an 80% limitation on utilization. The Company also has losses of $7.3 million (March 31, 2024: $6.4 million) in Canada which are set to expire in 2044. Loss carryforwards in Germany are $34.7 million (March 31, 2024: $33.1 million). The German losses do not expire.

As a result of the merger transaction, the Company will file a consolidated US tax return. The deferred tax asset related to the losses generated by TRION in the United States ($7.3 million) are not recognized as they are subject to the dual consolidated rules whereby, they will not be available for use by TRION in the future. The remaining deferred tax asset generated in the United States is not recognized as it is not deemed to be realizable as at March 31, 2025. However, it will be reassessed at each period end. The deferred tax asset generated in Canada is not recognized as it is not deemed to be realizable as at March 31, 2025. It will also be reassessed at each period end.

The following table summarizes the movement in the recognized and unrecognized deferred tax assets and liabilities during the year:

	March 31, 2024	Change in temporary difference	March 31, 2025
Non-capital loss	$15,518,190	$1,047,776	$16,565,966
Property and equipment	(27,738,529)	4,184,400	(23,554,129)
Debentures at FVTPL	1,360,624	(1,356,121)	4,503
Research credits	238,386	(104,559)	133,827
Unrecognized deferred tax assets	(9,486,452)	928,295	(8,558,157)
Cumulative translation adjustment	(18,539)	(127,665)	(146,204)
	$(20,126,320)	$4,572,126	$(15,554,194)

	March 31, 2023	Change in temporary difference	March 31, 2024
Non-capital loss	$13,465,160	$2,053,030	$15,518,190
Property and equipment	(30,319,755)	2,581,226	(27,738,529)
Debentures at FVTPL	6,087,414	(4,726,790)	1,360,624
Research credits	163,537	74,849	238,386
Share issue costs	360,134	(360,134)	-
Share-based compensation	2,748,442	(2,748,442)	-
Unrecognized deferred tax assets	(16,984,054)	7,497,602	(9,486,452)
Cumulative translation adjustment	(101,940)	83,401	(18,539)
	$(24,581,062)	$4,454,742	$(20,126,320)

14. SHARE CAPITAL

Authorized Share Capital

The Company's authorized share capital consists of (i) an unlimited number of common shares, (ii) an unlimited number of preferred shares, issuable in series; and (iii) an unlimited number of special shares.

Common Shares

During the year ended March 31, 2025, the Company issued 841,206 common shares to Whiteridge representing the fourth installment of shares to be issued as a result of the Liacon acquisition (March 31, 2024: 8,906,382 shares) (See Note 4). A further 1,842,808 common shares were issued for cash consideration of $1,874,277. The Company also issued 888,935 shares in satisfaction of unpaid interest on the 8% debentures. All equity transactions are detailed below:

(Expressed in United States Dollars)

	Common Shares	
Issued	**Number**	**Amount**
Balance March 31, 2023	65,503,954	$98,049,619
Issued as partial consideration for the Liacon acquisition (see Note 4)	8,906,382	13,359,573
Issued upon stock option exercise	1,613,094	3,672,155
Issued on debenture warrant exercise	410,025	5,733,072
Issued for cash	812,138	1,195,947
Issued on warrant exercise	3,138,082	2,103,325
Balance March 31, 2024	80,383,675	$124,113,691
Issued as partial consideration for the Liacon acquisition (see Note 4)	841,206	622,492
Issued for cash	1,842,808	1,874,277
Issued in lieu of interest on debentures	888,935	1,133,392
Balance March 31, 2025	83,956,624	$127,743,852

During the year ended March 31, 2025, the share price used for valuation purposes was $0.45 (March 31, 2024: $1.50).

Special Shares

During 2022, as a result of a re-organization, the Company issued 10,535,278 special shares in exchange for a similar number of warrants that were outstanding. The warrants had been accounted for as a derivative financial instrument and upon the issuance of special shares the $7,924,437 value ascribed to them was reported as equity. The special shares do not have any preferential terms or rights that are not available to the common shareholders.

	Special Shares	
Issued	**Number**	**Amount**
Balance March 31, 2023	10,685,278	$8,297,213
Issued in exchange for warrants	1,519,070	3,774,590
Balance March 31, 2024	12,204,348	$12,071,803
Issued in exchange for warrants	549,125	743,820
Balance March 31, 2025	12,753,473	$12,815,623

Options

Adoption of 2022 Equity Incentive Plan

In 2022 the Board of Directors adopted and approved the TRION Battery Technologies Equity Incentive Plan (the "Plan"). The purpose of the Plan is to attract and retain the best available personnel, to provide additional incentives to employees, directors, and consultants, and to promote the success of the Company's business. Vesting schedules and option grants are determined by the Board of Directors.

During the year ended March 31, 2025, the Company granted 2,646,778 stock options in accordance with the Plan. The first grant was for 950,000 options. These options vest one third on the grant date, one third on the first anniversary of the grant and one third on the second anniversary of the grant. They have an exercise price of $1.00 and expire 3 years after a liquidity event. Forfeitures were assumed to be 29%.

On September 19, 2025, the Company issued two tranches of options. The first tranche was for 250,000 options at an exercise price $2.50. The options vest immediately and expire 12 months after a liquidity event. The second tranche of 150,000 options were issued at an exercise price of C$1.40. They also vest immediately and expire 12 months after a liquidity event. Forfeitures for both tranches were assumed to be zero. These options replaced 400,000 existing options which were forfeited.

(Expressed in United States Dollars)

On September 30, 2024, the Company issued an additional 1,296,778 options. These options also had an exercise price of $1.00. They vested immediately and expire 3 years after a liquidity event. Forfeitures were assumed to be 22%.

The fair value of the stock options is expensed in the consolidated statements of income and comprehensive income over the respective vesting term with an offsetting increase to contributed surplus. The Company recognized share-based compensation of $1,731,303 during the year (March 31, 2024: $1,117,606), however $880,000 of the total was related to incentive warrants issued to a financial advisor and outside of the Company's Equity Incentive Plan.

Options Outstanding	Number Outstanding	Weighted Average exercise Price
Outstanding, March 31, 2023	4,625,000	$1.17
Granted	1,020,000	0.91
Exercised	(1,875,000)	0.72
Forfeited	(1,630,000)	1.10
Outstanding, March 31, 2024	2,140,000	$1.46
Granted	2,646,778	1.14
Forfeited	(400,000)	0.0001
Outstanding, March 31, 2025	4,386,778	$1.42

The details of the options outstanding at March 31, 2025 are as follows:

Options Outstanding	Exercise Price	Options Exercisable	Years to expiry
400,000	$1.00	400,000	0.50
620,000	$1.50	206,667	3.61
400,000	$2.50	400,000	2.47
70,000	$2.50	70,000	2.81
250,000	$2.50	250,000	0.53
950,000	$1.00	316,667	3.50
150,000	C$1.40	150,000	1.50
250,000	$2.50	250,000	1.50
1,296,778	$1.00	1,296,778	3.50
4,386,778	$1.42	3,340,112	2.79

The fair value of the stock options issued has been estimated at the date of grant using the Black-Scholes option pricing model based on the following assumptions:

	Year ended March 31, 2024
Dividend yield	-
Expected volatility	80%
Risk-free interest rate	4.46%
Expected Life	5 years
Forfeitures	20%

	Year ended March 31, 2025
Dividend yield	-
Expected volatility	80% - 95%
Risk-free interest rate	2.9% - 4.2%
Expected Life	18 - 42 months
Forfeitures	0% - 29%

(Expressed in United States Dollars)

Warrants

Certain transactions also gave rise to warrants being considered equity under the fixed for fixed criteria in IAS 32. The fair value, calculated at the grant date, was added to warrants reserve. They are not subsequently revalued.

Financing warrants

During 2025 the Company issued 158,835 financing warrants. The warrants have an exercise price of $2.00. Two tranches were issued. A first tranche of 44,750 warrants expire on April 30, 2027. The fair value was determined to be $4,028. A second tranche of 114,085 warrants expire on August 12, 2027. The fair value of the second tranche was $9,583.

Director warrants

As part of the February 2025 decision to issue a convertible debenture in satisfaction of outstanding director fees, the Company also issued 473,833 warrants to the directors. The warrants have an exercise price of $0.70. They mature upon an IPO of not less than A$15 million. These warrants were valued at $138,619 at March 31, 2025.

Incentive warrants

Lastly, in February 2025, the Company issued 2,000,000 incentive warrants in satisfaction of investment advisory services. Their exercise price is $0.01. They expire 4 years after an IPO of not less than A$15 million. Half of the warrants vest 1 year after an IPO. The other half vest 2 years after an IPO. The warrants were valued at $880,000 at March 31, 2025. They offsetting expense was recorded in share-based compensation.

Information concerning the activity of the warrants is as follows:

Special Share Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	2,749,125	C$1.20	4,268,195	C$1.20
Exercised	(549,125)	C$1.20	(1,519,070)	C$1.20
Expired	(2,200,000)	-	-	-
Outstanding, end of year	-	-	2,749,125	C$1.20
Exercisable, end of year	-	-	2,749,125	C$1.20

Series A Debenture Unit Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	2,047,228	$1.50	5,266,030	$1.50
Exercised	-	-	(3,218,802)	$1.50
Outstanding, end of year	2,047,228	$1.50	2,047,228	$1.50
Exercisable, end of year	2,047,228	$1.50	2,047,228	$1.50

(Expressed in United States Dollars)

Series A Extension Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	1,276,363	$1.50	-	-
Granted	1,273,261	$1.50	1,276,363	$2.00
Outstanding, end of year	2,549,624	$1.50	1,276,363	$2.00
Exercisable, end of year	2,549,624	$1.50	1,276,363	$2.00

Series B Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	-	-	-	-
Granted	2,765,390	$1.50	-	-
Outstanding, end of year	2,765,390	$1.50	-	-
Exercisable, end of year	2,765,390	$1.50	-	-

Bridge Loan Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	-	-	-	-
Granted	2,500,000	A$1.10	-	-
Outstanding, end of year	2,500,000	A$1.10	-	-
Exercisable, end of year	2,500,000	A$1.10	-	-

Incentive Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	-	-	-	-
Granted	2,000,000	$0.01	-	-
Outstanding, end of year	2,000,000	$0.01	-	-
Exercisable, end of year	2,000,000	$0.01	-	-

Director Fee Debenture Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	-	-	-	-
Granted	473,833	$0.70	-	-
Outstanding, end of year	473,833	$0.70	-	-
Exercisable, end of year	473,833	$0.70	-	-

(Expressed in United States Dollars)

Financing Warrants:

	Year ended March 31, 2025		Year ended March 31, 2024	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Outstanding, beginning of year	86,684	$2.00	840,425	$0.85
Granted	158,835	2.00	86,684	2.00
Exercised	-	-	(618,203)	0.69
Expired	-	-	(222,222)	0.63
Outstanding, end of year	245,519	$2.00	86,684	$2.00
Exercisable, end of year	245,519	$2.00	86,684	$2.00

Earnings per Share

TRION calculates basic income or loss per share based on the net income or loss attributable to shareholders using the weighted average number of shares outstanding during the period. Diluted income per share amounts reflect the potential dilution that could occur if options, warrants or convertible debentures were converted to common shares. The treasury stock method is used to determine the dilutive effect of these securities whereby the proceeds on exercise or conversion are assumed to be used to purchase common shares at the average market price during the year. The net income or loss attributable to shareholders is also updated to reflect interest savings on interest bearing securities.

For the year ended March 31, 2025, all share awards were excluded from the calculation of diluted loss per share as their effect was anti-dilutive given the Company recorded a loss.

	For the year ended March 31, 2025			For the year ended March 31, 2024		
	Net loss	Weighted average common shares	Net loss per share	Net income	Weighted average common shares	Net income per share
Net (loss) income - basic	$(36,095,796)	82,244,049	$(0.44)	$25,920,494	76,745,763	$0.34
Dilutive effect of options, warrants and debentures	-	-	-	667,021	7,001,942	(0.02)
Net (loss) income - diluted	$(36,095,796)	82,244,049	$(0.44)	$26,587,515	83,747,705	$0.32

15. RELATED PARTY TRANSACTIONS

For fiscal 2025 and 2024, the Company was a party to the following related party transactions:

	2025	2024
Research and development fees paid to companies controlled by officers and a director	$285,000	$639,723

On February 28, 2025, the Company elected to shift its outstanding liability of director fees to a convertible debenture. The debenture would pay interest of 12% per annum through until June 30, 2025, 18% through September 30, 2025, and thereafter at a rate of 24% compounding monthly until maturity. The debentures mature on September 30, 2026. Debentures totaling $947,655 were issued to the six directors as a result of this decision (note 10).

Transactions with related parties are incurred in the normal course of business and are measured at the exchange amount, which is the amount of consideration established and approved by the related parties.

(Expressed in United States Dollars)

16. FINANCIAL INSTRUMENT RISK MANAGEMENT

Fair value

As at March 31, 2025 and 2024, the Company's financial instruments consist of cash, accounts receivable, accounts payable and accrued liabilities and financial liabilities at FVTPL.

Financial instruments measured at fair value are classified into one of three levels in the fair value hierarchy according to the relative reliability of the inputs used to estimate the fair values. The three levels of the fair value hierarchy are:

- Level 1 - Unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2 - Inputs other than quoted prices that are observable for the asset or liability either directly or indirectly; and
- Level 3 - Inputs that are not based on observable market data.

The carrying value of the Company's financial assets and liabilities as at March 31, 2025 and March 31, 2024, approximate their fair value. The bridge loan at FVTPL (Note 9), debentures at FVTPL (Note 10) and derivative financial liabilities at FVTPL (Note 11) are all considered Level 3 financial instruments. All were valued or revalued using a price of $0.45 based on recent market transactions as at March 31, 2025.

For the year ended March 31, 2025, the Company recorded a gain of $10,825,030 related to the change in fair value of the bridge loan at FVTPL, derivative financial liabilities at FVTPL and debentures at FVTPL, (year ended March 31, 2024: $43,709,908 gain). This gain consisted of:

Change fair value of bridge loan at FVTPL (Note 9)	$ (59,379)
Change in fair value of financial liabilities at FVTPL (Note 11)	5,144,263
Change in fair value of debentures at FVTPL (Note 10)	5,740,146
	$10,825,030

The Company's financial instrument valuations are very dependent on share price and risk-free interest rate assumptions. The table below shows the impact if the Company were to increase or decrease the risk-free rate assumption by 100 basis points and separately, what the impact would be of a $0.25 increase or decrease in share price assumptions:

Financial Instrument	+1% Risk Free Rate	Base	-1% Risk Free Rate
8% Convertible Debentures (Series A)	$12,260.000	$12,320,000	$12,380,000
8% Convertible Debentures (Series B)	$5,204,000	$5,230,000	$5,256,000
10% Convertible Debentures	$1,656,000	$1,664,000	$1,672,000
Director Fee Debentures	$823,632	$827,366	$831,119
Bridge Loan	$1,118,000	$1,123,000	$1,129,000

Financial Instrument	Revalued at $0.20	Base	Revalued at $0.70
8% Convertible Debentures (Series A)	$12,005,000	$12,320,000	$13,140,000
8% Convertible Debentures (Series B)	$5,154,000	$5,230,000	$5,517,000
10% Convertible Debentures	$1,663,000	$1,664,000	$1,667,000
Director Fee Debentures	$747,393	$827,366	$1,018,664
Bridge Loan	$1,123,000	$1,123,000	$1,123,000

Credit risk

Credit risk is the risk of loss associated with a counterparty's inability to fulfill its payment obligations. The financial instrument that potentially subjects the Company to concentrations of credit risk consists principally of cash. To minimize the credit risk, the Company places its cash with high quality financial institutions.

Liquidity risk

Liquidity risk is the risk that the Company will not be able to meet its financial obligations as they fall due. The Company manages liquidity risk through the management of its capital structure, as outlined below.

(Expressed in United States Dollars)

Historically, the Company's primary source of funding has been the issuance of equity securities or debentures for cash. To date, the Company has not generated any revenue or income and currently, the Company's ability to settle its liabilities is dependent on financing secured from the private placements and convertible debenture issuances. The Company's access to financing is always uncertain. There can be no assurance of continued access to significant debt or equity funding which may impact the Company's ability to achieve its business objectives. Please refer to Note 1 for additional context regarding going concern.

The following tables detail the undiscounted cash flows and contractual maturities of the Company's financial liabilities at March 31, 2025, and March 31, 2024:

		Undiscounted			
As at March 31, 2025	**Discounted Cash Flows**	**1 Year**	**2-3 Years**	**3-5 Years**	**>6 Years**
Accounts payable and accrued liabilities	$1,706,347	$1,906,725	$-	$-	$-
Interest Payable	1,065,820	1,065,820	-	-	-
Lease liability – current portion	178,490	264,451	-	-	-
Debentures at FVTPL	17,689,042	18,625,927	-	-	-
Bridge loan at FVTPL	1,123,000	1,123,000	-	-	-
Lease liability – noncurrent portion	1,927,401	-	566,812	735,329	849,107
Total Financial Liabilities	$23,690,100	$22,985,923	$566,812	$735,329	$849,107

		Undiscounted			
As at March 31, 2024	**Discounted Cash Flows**	**1 Year**	**2-3 Years**	**3-5 Years**	**>6 Years**
Accounts payable and accrued liabilities	$3,987,379	$3,987,379	$-	$-	$-
Interest Payable	978,915	978,915	-	-	-
Lease liability – current portion	199,186	203,193	-	-	-
Debentures at FVTPL	12,592,601	13,259,557	-	-	-
Lease liability – noncurrent portion	1,852,651	-	406,385	868,123	1,216,394
Total Financial Liabilities	$19,610,732	$18,429,044	$406,385	$868,123	$1,216,394

Foreign exchange risk

Foreign currency risk is the risk that the fair values of future cash flows of a financial instrument will fluctuate because they are denominated in currencies that differ from the respective functional currency. The Company transacts its business in US$, C$, A$ and Euros and therefore is exposed to currency risk. The Company had no foreign exchange rate contracts in place as at March 31, 2025 or 2024. A 1% change in the C$ would result in a $1.9 million increase or decrease in comprehensive income. A similar change in the Euro and A$ would only result in a nominal increase or decrease in comprehensive income.

Interest rate risk

Interest rate risk is the risk that the fair value of future cash flows of a financial instrument will fluctuate because of changes in market interest rates. At March 31, 2025 and 2024, the Company has not issued any liabilities that are subject to interest rate risk. Its only interest-bearing securities are the 8% financing units, its 10% convertible debentures, its director fee debentures and the bridge loan. The interest rates for these instruments are all fixed. Consequently, the Company's only exposure to interest rate fluctuations is in the rates paid on its cash balances.

Capital Management

In the management of capital, the Company includes components of shareholders' equity. The Company aims to manage its capital resources to ensure financial strength and to maximize its financial flexibility by maintaining strong liquidity and by utilizing alternative sources of capital including equity, debt and bank loans or lines of credit to fund continued growth. The Company sets the amount of capital in proportion to risk and based on the availability of funding sources.

(Expressed in United States Dollars)

The Company manages the capital structure and adjusts it in light of changes in economic conditions and the risk characteristics of the underlying assets. To maintain or adjust the capital structure, the Company may issue new shares, dispose of assets, or adjust the amount of cash.

17. KEY MANAGEMENT COMPENSATION

Key management includes directors and officers involved with the daily operations of the Company. The compensation paid or payable to key management for services is shown below:

	2025	2024
Salary, consulting and other fees	$925,457	$896,197
Share-based compensation	806,553	135,747
	$1,732,010	$1,031,944

Salaries and benefits for the Company overall are as follows:

	2025	2024
Salaries & benefits	$2,380,465	$1,984,871
Share-based compensation	851,303	1,117,606
	$3,231,768	$3,102,477

18. SUBSEQUENT EVENTS

On May 14, 2025, the Company entered into a series of short-term, unsecured bridge loans totaling $0.2 million (A$0.3 million). The loans bear interest of 12% and shall mature on the completion of an IPO of no less than A$5 million. Completion of an IPO shall be deemed to have occurred when the proceeds of the IPO are received and can be used by the Company. As part of the loan agreements, the Company also issued 0.3 million warrants to the lenders. Each warrant will entitle the holder to purchase one common share at an exercise price of A$1.10 per share within two years following an IPO.

On June 25, 2025 and July 24, 2025, the Company completed two separate, non-brokered private placements of 1,000 8% unsecured convertible debenture units. Gross proceeds were A$1 million (C$889,000) each, total A$2 million (C$1.8 million). Both offerings were under similar terms. The subscription price for the debenture units was C$1,000. The debentures are convertible at the conversion price of $1.00 at maturity or at a 25% discount to the Liquidity Event Price on occurrence of the Liquidity Event (automatic conversion). Each offering of convertible debentures granted the holders 684,530 warrants. Each warrant will entitle the holder to purchase one common share at an exercise price of US$1.00 per share on or before December 31, 2026.

On August 1, 2025, the Company amended the directors' fees convertible debentures to pay interest of 8% annual instead of paying interest of 12% per annum through until June 30, 2025, 18% through September 30, 2025, and thereafter at a rate of 24% compounding monthly until maturity. The debenture conversion terms were also amended to be convertible at the conversion price of C$1.30 at maturity (at the option of the holder) or at a 25% discount to the Liquidity Event Price on occurrence of the Liquidity Event (automatic conversion).

On September 2, 2025, the Company completed non-brokered private placements of 2,584 8% unsecured convertible debenture units. Gross proceeds totaled C$2.6 million. The offerings were under similar terms as the offerings in June and July 2025. The subscription price for the debenture units was C$1,000. The debentures are convertible at the conversion price of $1.00 at maturity or at a 25% discount to the Liquidity Event Price on occurrence of the Liquidity Event (automatic conversion). The convertible debentures granted the holders 994,963 warrants. Each warrant will entitle the holder to purchase one common share at an exercise price of US$1.00 per share on or before December 31, 2027.

On September 30, 2025, TRION issued penalty debentures in the principal amount of approximately C$2.6 million per an amending agreement of Series A and C$1.3 million the original agreement of Series B convertible debentures. The debentures are convertible at the conversion price of $1.00 at maturity or at a 25% discount to the Liquidity Event Price on occurrence of the Liquidity Event (automatic conversion). The penalty debentures granted the holders 1,273,261 penalty warrants for Series A and 553,078 penalty warrants for Series B. Each warrant will entitle the holder to purchase one common share at an exercise price of US$1.50 per share on or before December 31, 2026.

THIS IS EXHIBIT "D"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.

A Commissioner for Oaths
in and for the Province of Alberta

TRION BATTERY TECHNOLOGIES INC.

Consolidated Statements of Loss and Comprehensive Loss

(Expressed in United States Dollars)

For the one month and eleven month periods ended November 30, 2025	MTD	YTD	Adjusted for rounding MTD	Adjusted for rounding MTD	Adjusted for rounding YTD	Adjusted for rounding YTD
Interest and other income	$ 56,720	$ 466,348				
Operating costs and expenses						
Sponsored research	-	-				
Research and development	61,654	763,308				
	61,654	763,308				
Professional fees						
Management and consultants	109,852	846,672				
Legal	1,035	383,201				
	110,887	1,229,873				
Change in value of derivative value instrument	-	850,318				
Impairment		-				
Share-based compensation	304,372	389,042				
Business development and marketing	12,686	62,937				
Travel and entertainment	8,586	78,618				
Facilities	14,788	121,611				
Amortization	1,328,635	10,659,224				
General and administration expenses	281,494	1,818,957				
Foreign exchange gain (loss)	(12,519)	(920,851)				
	1,938,042	13,059,856				
Total operating costs and (gain) expenses	2,110,583	15,053,037				
Loss from operations	(2,053,863)	(14,586,689)				
Finance costs	213,891	1,513,509				
Deferred Taxes (Recovery)	(432,833)	(3,384,014)				
Net loss	(1,834,921)	(12,716,184)				
Other comprehensive (loss) income:						
Unrealized foreign exchange (loss) gain on translation	78,227	5,379,723				
Total comprehensive loss for the period	$ (1,756,694)	$ (7,336,461)				
Net loss per share attributable to equity holders of the Company						
Basic	$ (0.02)	$ (0.15)				
Diluted	$ (0.02)	$ (0.15)				
Weighted average number of common shares						
Basic	83,956,624	83,956,624				
Diluted	83,956,624	83,956,624				

TRION BATTERY TECHNOLOGIES INC.

Consolidated Statements of Financial Position
(Expressed in United States Dollars)

	November 30, 2025	March 31, 2025
Assets		
Current assets:		
Cash	$ 827,963	$ 1,744,727
Accounts Receivable	135,224	105,959
Prepaid expenses	79,698	70,757
Inventory	1,451,987	69,127
Total current assets	2,494,872	1,990,570
Non-current assets:		
Capital assets, net	91,777,611	94,306,761
Intangible assets, net	5,703,829	6,088,444
Goodwill	5,115,384	4,783,232
Total assets	$ 105,091,696	$ 107,169,007
Liabilities and shareholders' deficit		
Current liabilities:		
Accounts payable and accrued liabilities	$ 1,868,068	$ 1,706,347
Interest Payable	2,362,406	1,065,820
Lease liability - current portion	197,784	178,490
Derivative financial instruments	12,658,368	17,955,372
Debentures	30,498,449	20,041,366
Bridge loan	1,971,000	1,123,000
Total current liabilities	49,556,075	42,070,395
Lease liability - non current portion	1,929,021	1,927,401
Deferred Tax	13,241,374	15,554,194
Total Liabilities	64,726,470	59,551,990
Shareholders' Deficiency		
Trion Battery Common stock	127,743,852	127,743,852
Trion Battery Special shares	12,815,623	12,815,623
Contributed surplus	10,027,681	9,943,011
Warrants Reserve	1,092,042	1,092,042
Accumulated other comprehensive income (loss)	8,498,756	3,119,033
Deficit	(119,812,728)	(107,096,544)
Total shareholders' deficiency	40,365,226	47,617,017
Total liabilities and shareholders' deficit	$ 105,091,696	$ 107,169,007

THIS IS EXHIBIT "E"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.

A Commissioner for Oaths
in and for the Province of Alberta

BRITISH COLUMBIA

PERSONAL PROPERTY REGISTRY SEARCH RESULT

BC Registries and Online Services

Business Debtor - "TRION BATTERY TECHNOLOGIES INC."

Search Date and Time: February 2, 2026 at 11:05:17 am Pacific time
Account Name: DLA PIPER (CANADA) LLP
Folio Number: 106030-00012

NIL RESULT

0 Matches in 0 Registrations in Report | Exact Matches: 0 (*) | Total Search Report Pages: 0

The search returned a NIL result. 0 registrations were found.

No registered liens or encumbrances have been found on file that match EXACTLY to the search criteria listed above and no similar matches to the criteria have been found.

Government of Alberta

Personal Property Registry
Search Results Report

Search ID #: Z19674399

Transmitting Party

DLA PIPER (CANADA) LLP

1000 Livingston Place, 250 2 Street SW
CALGARY, AB T2P 0C1

Party Code: 50100726
Phone #: 403 698 8750
Reference #: 106030.00012

Search ID #: Z19674399 **Date of Search:** 2026-Feb-02 **Time of Search:** 12:05:10

Business Debtor Search For:

TRION BATTERY TECHNOLOGIES

No Result(s) Found

NOTE:

A complete Search may result in a Report of Exact and Inexact Matches.
Be sure to read the reports carefully.

Result Complete

REGISTRAR OF PERSONAL PROPERTY

THIS IS EXHIBIT "F"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.

A Commissioner for Oaths
in and for the Province of Alberta

SUPPORT AGREEMENT

WHEREAS, this support agreement (this "**Support Agreement**"), dated as of February 17, 2026, is made by and among (a) TRION BATTERY TECHNOLOGIES INC. ("**Trion**"); (b) TRION ENERGY SOLUTIONS CORP., TRION Battery GmbH, and TRION Battery Germany GmbH (the "**Guarantors**" and together with Trion, the "**Company**"); (c) Tribeca Investment Partners Pty Ltd as investment manager for Tribeca Global Natural Resources Fund, Tribeca Global Natural Resources Segregated Portfolio, Tribeca Special Opportunities Fund SP, Tribeca Global Natural Resources Limited, Tribeca 2050 SPV Trust and Tribeca Partners Fund, (collectively, the "**Tribeca Entities**"); and (d) Rockford Equity PTY Ltd., an affiliate of the Tribeca Entities (the "**DIP Lender**" and together with the Tribeca Entities, "**Tribeca**"). The Company, the Tribeca Entities and the DIP Lender are referred to herein collectively as the "**Parties**" and individually as a "**Party**".

AND WHEREAS, the Parties have engaged in good faith, arm's length negotiations and have agreed to support and implement, in accordance with and subject to the terms and conditions hereof, a comprehensive restructuring process in respect of the Company as set forth in this Support Agreement (the "**Restructuring Process**").

AND WHEREAS, capitalized terms used but not otherwise defined in this Support Agreement have the meanings given to them in Schedule A.

AND WHEREAS, the Parties desire to express to each other their mutual support and commitment in respect of the matters described in this Support Agreement, in accordance with and subject to the terms and conditions hereof.

AND NOW THEREFORE, in consideration for the covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

Section 1 RESTRUCTURING PROCESS

The Restructuring Process and the related actions, steps, transactions, proceedings, terms and conditions as agreed among the Parties are set forth in this Support Agreement and the Term Sheet attached hereto in Schedule B, which Term Sheet is incorporated herein and forms part of this Support Agreement in all respects. Unless otherwise stated herein, all amounts referred to herein are in United States Dollars.

Section 2 REPRESENTATIONS AND WARRANTIES OF TRIBECA

Tribeca hereby represents and warrants to the Company (and acknowledges that the Company is relying upon such representations and warranties) that as of the date hereof:

(a) it is the beneficial holder of, or exercises control and direction and has voting and investment discretion over, unsecured convertible debentures issued by the Company in the aggregate principal amount of approximately A$2,300,000 and C$6,340,000 (the "**Debentures**", and, together with all obligations owing in respect of the Debentures, including accrued and unpaid interest and any other amount that Tribeca is entitled to claim in respect of the Debentures, the "**Debt**");

(b) it has the authority and full power to vote (or direct the voting of), consent, approve changes to, and transfer all of its Debt;

(c) it: (i) is a sophisticated party with sufficient knowledge and experience in financial and business matters to evaluate properly the terms and conditions of this Support Agreement and the merits and risks of securities to be acquired by it pursuant to an Approved Restructuring Transaction and is able to bear any economic risks with such investment; (ii) has conducted its own analysis and made its own decision to enter into this Support Agreement; (iii) has obtained such independent advice in this regard as it deemed appropriate; and (iv) has not relied in such analysis or decision on any person other than itself and/or its own independent advisors;

(d) this Support Agreement has been duly authorized, executed and delivered by it, and, assuming the due authorization, execution and delivery by the other Parties, this Support Agreement constitutes the legal, valid and binding obligation of Tribeca, enforceable in accordance with its terms, subject to: (i) Laws of general application and bankruptcy, insolvency and other similar Laws affecting creditors' rights generally and general principles of equity; and (ii) federal, provincial, and related Laws in Canada;

(e) it is duly organized and validly existing under the Laws of the jurisdiction of its organization and has all approvals necessary to execute and deliver this Support Agreement and to perform its obligations hereunder;

(f) the execution and delivery of this Support Agreement by it and the completion by it of the transactions contemplated herein do not and will not, to the best of its knowledge, violate or conflict with any judgment, order, notice, decree, statute, Law, ordinance, rule or regulation applicable to Tribeca or any of the Debentures or result (with or without notice and/or the passage of time) in any violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under, its certificate of incorporation, articles, bylaws or other organizational documents;

(g) except as contemplated by this Support Agreement, it has not deposited any of its Debt into a voting trust, or granted (or permitted to be granted) any proxies or powers of attorney or attorney in fact, or entered into a voting agreement, understanding or arrangement, with respect to the voting of its Debt that would reasonably be expected to adversely affect its ability to perform its obligations under this Support Agreement, including the obligations in Section 5; and

(h) to the best of its knowledge, there is no proceeding, claim or investigation pending before any Governmental Entity, or threatened against Tribeca or any of its properties, that, individually or in the aggregate, would reasonably be expected to have a material adverse effect on Tribeca's ability to execute and deliver this Support Agreement and to perform its obligations hereunder.

Section 3 COMPANY'S REPRESENTATIONS AND WARRANTIES

The Company hereby represents and warrants to Tribeca (and the Company acknowledges that Tribeca is relying upon such representations and warranties) that as of the date hereof:

(a) this Support Agreement has been duly authorized, executed and delivered by it, and, assuming the due authorization, execution and delivery by all other Parties, this Support Agreement constitutes a legal, valid and binding obligation of it, enforceable in accordance with its terms, subject to: (i) Laws of general application and bankruptcy, insolvency and other similar Laws affecting creditors' rights generally and general principles of equity; and (ii) federal, provincial, and related Laws in Canada;

(b) it is duly organized and validly existing under the laws of its jurisdiction of incorporation and has all necessary corporate power and authority to execute and deliver this Support Agreement resulting from its acceptance hereof, to perform its obligations hereunder and to implement the Restructuring Process;

(c) the execution and delivery of this Support Agreement by it and the completion by it of the transactions contemplated herein do not and will not, to the best of its knowledge, violate or conflict with any judgment, order, notice, decree, statute, Law, ordinance, rule or regulation applicable to the Company or any of its properties or assets or result (with or without notice or the passage of time) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, notice of articles, articles, bylaws or other organizational documents, as applicable;

(d) there is no proceeding, claim or investigation pending before any Governmental Entity, or threatened against it or any of its properties that, individually or in the aggregate, would reasonably be expected to have a material adverse effect on its ability to execute and deliver this Support Agreement, to perform its obligations hereunder and to implement the Restructuring Process;

(e) the Company is conducting its business in compliance with all applicable Laws in all respects (except to the extent immaterial, individually or in the aggregate, to the Company's business) and has not received any notice to the effect that, or has otherwise been advised that, it is not in compliance with such Laws;

(f) the Company has obtained all material permits, licenses and other authorizations which are required under all environmental and Canadian federal and provincial Laws and it is in compliance in all respects (except to the extent immaterial, individually or in the aggregate, to the Company's business) with the terms and conditions of such permits, licenses and authorizations; and

Section 4 DEFINITIVE DOCUMENTS

The Definitive Documents that have not been finalized by the Parties as of the date of this Support Agreement remain subject to negotiation and finalization and shall contain terms, conditions, representations and warranties and covenants consistent in all material respects with this Support Agreement and the Restructuring Process described herein. All Definitive Documents shall be in form and substance consistent with the terms of this Support Agreement or otherwise acceptable to Tribeca and the Company, each acting reasonably.

Section 5 TRIBECA'S COVENANTS

Subject to the terms of this Support Agreement, and in consideration of the matters set forth in Section 6 below, during the Support Effective Period, Tribeca hereby acknowledges, covenants and agrees:

(a) to consent to and support the implementation of the Restructuring Process;

(b) not to directly or indirectly: (i) object to, delay, impede or take any other action to interfere with the Restructuring Process or an Approved Restructuring Transaction, including but not limited to seeking dismissal, transfer of venue, or appointment of a trustee or receiver; or (ii) take any action, or omit to take any action, that is inconsistent with its obligations under this Support Agreement or that could reasonably be expected

to delay, challenge, or frustrate the approval or implementation of the Restructuring Process or an Approved Restructuring Transaction;

(c) to deliver any consents, ratifications, approvals or other documents required to release liens or other encumbrances against the assets and property of the Company being sold pursuant to an Approved Restructuring Transaction;

(d) to negotiate and act in good faith consistent with this Support Agreement;

(e) to enter into any Definitive Documents as may be necessary or desirable to enable the Company to effectuate an Approved Restructuring Transaction;

(f) to support the applications filed by the Company in the CCAA Proceedings with respect to the Initial Order and the ARIO;

(g) to support the applications filed by the Company in the CCAA Proceedings with respect to any Transaction Approval Order, provided that the terms of such Transaction Approval Order are consistent with the terms of this Support Agreement or otherwise in form and substance acceptable to Tribeca, acting reasonably;

(h) to the extent any legal, regulatory or structural impediment arises that would prevent, hinder or delay the implementation of the Restructuring Process, negotiate in good faith appropriate additional or alternative provisions, structures, or arrangements to address and attempt in good faith to resolve any such impediment (it being understood that all Parties' rights are reserved in connection therewith);

(i) not to take any action or exercise any rights, in its capacity as a holder of Interests or Claims, that would be inconsistent with its obligations under this Support Agreement or that would impede or frustrate the implementation of the Restructuring Process;

(j) that the DIP Lender shall provide DIP Financing in accordance with the debtor-in-possession financing agreement to be entered into between the Company and the DIP Lender (the "**DIP Agreement**"). The DIP Agreement shall contain the key terms appended as Schedule B to this Support Agreement;

(k) not to accelerate or enforce or take any action or initiate any proceeding to accelerate or enforce the payment or repayment of any of the Debentures or other Claims or Interests and not to support any other Person in taking any of the foregoing enforcement actions; and

(l) to forbear from exercising remedies with respect to any defaults or Events of Default (as defined in the Debentures) under the Debentures and related documents.

Section 6 COMPANY'S COVENANTS

Subject to the terms of this Support Agreement, and in consideration of the matters set forth in Section 5 above, during the Support Effective Period, the Company hereby acknowledges, covenants and agrees:

(a) to pursue the approval, implementation and completion of the Restructuring Process, and to take all other actions reasonably necessary to implement the Restructuring Process, in accordance with this Support Agreement (including the Schedules hereto) and not to take any action or inaction that is inconsistent with the terms of this Support

Agreement or the Restructuring Process or that is intended to or is likely to interfere with or frustrate, challenge or delay the implementation of the Restructuring Process;

(b) to seek approval of the Initial Order and the ARIO;

(c) to develop the SISP Procedures in consultation with Tribeca and the Monitor, with Tribeca and the Monitor having ultimate consent rights over the terms of the SISP Procedures, acting reasonably;

(d) to use commercially reasonable efforts to implement each Approved Restructuring Transaction;

(e) to comply and operate in accordance with the DIP Agreement to be entered into between the Company and Tribeca. The DIP Agreement shall contain the key terms appended as Schedule B to this Term Sheet;

(f) not to seek or obtain approval of any DIP Financing or other financing that is secured by a lien, security interest or other encumbrance on any assets, properties or undertakings of the Company that ranks in priority to, or *pari passu* with, any interest of Tribeca on such assets, properties or undertakings of the Company;

(g) to negotiate and act in good faith consistent with this Support Agreement;

(h) upon agreement to the terms of any Approved Restructuring Transaction, to enter into any Definitive Documents as may be necessary or desirable to enable the Company to effectuate such Approved Restructuring Transaction;

(i) to provide to Tribeca, draft copies of all applications, pleadings, orders or other Definitive Documents that the Company intends to serve or file in the CCAA Proceedings at least three (3) Business Days prior to the date on which the Company serves or files such documents, or as soon as reasonably possible thereafter. The Company shall consider in good faith all comments on such documents provided by Tribeca. For greater certainty, the Initial Order, the ARIO, and any order approving an Approved Restructuring Transaction shall only be submitted to the Court if such orders are in form and substance acceptable to Tribeca, acting reasonably;

(j) to promptly notify Tribeca of any material claims threatened or brought against it which would reasonably be expected to impede or delay the implementation of the Restructuring Process;

(k) to use commercially reasonable efforts to obtain any necessary federal, provincial and local regulatory approvals, re-issuances or transfers of licenses, permits or authorizations that are necessary for the performance of its obligations pursuant to, and the implementation of the Restructuring Process and all Approved Restructuring Transactions;

(l) to the extent any legal, regulatory or structural impediment arises that would prevent, hinder or delay the implementation of the Restructuring Process: (i) negotiate in good faith appropriate additional or alternative provisions, structures, or arrangements to address and attempt in good faith to resolve any such impediment (it being understood that all Parties' rights are reserved in connection therewith); and (ii) promptly and diligently consider in good faith pursuing commercially reasonable alternatives in a good faith attempt to resolve any such impediment that may be asserted by any federal

or provincial regulatory authority, so as to enable the parties to implement the Restructuring Process as soon as reasonably practicable, and the Company shall consider in good faith commercially reasonable alternatives for purposes of attempting to resolve any such impediment following reasonable cooperation and coordination between the Company and Tribeca;

(m) to maintain the good standing and legal existence of the Company under the Laws of the jurisdiction in which it is incorporated, organized or formed, except where the failure to maintain such good standing and legal existence is not material;

(n) except as otherwise contemplated by this Support Agreement, the Initial Order, the ARIO, the CCAA Proceedings, any Transaction Approval Order, or any other order of the Court, to conduct their businesses and operations in the ordinary course of business consistent with past practices in all material respects;

(o) not to: (i) seek discovery in connection with, prepare or commence any proceeding that disputes or challenges the amount, validity, allowance, character, enforceability or priority of the Debentures; or (ii) support any Person in connection with any of the acts described in clause (i) of this Section 6(o);

(p) not to enter into, adopt or establish any new compensation or benefit plans or arrangements with respect to the Company's employees (including employment agreements and any retention, success or other bonus plans), or amend any existing compensation or benefit plans or arrangements with respect to the Company's employees (including employment agreements), or grant (including pursuant to a key employee retention or incentive plan or other similar arrangement) any additional or any increase in the wages, salary, bonus, commissions, retirement benefits, pension, severance or other compensation or benefits of any director or executive management team member, whether in one transaction or a series of related transactions, in the case of each of the foregoing, outside of the ordinary course of business consistent with past practices, except as otherwise ordered by the Court, including pursuant to any key employee retention plan that may be agreed to between the Parties;

(q) other than in accordance with this Support Agreement (including in furtherance of any Approved Restructuring Transaction, or dissolution contemplated herein), or otherwise consented to by Tribeca, acting reasonably, not to amend or change any of its formation or organizational documents in any material respect;

(r) to provide a weekly status update regarding the status of the CCAA Proceedings and keep Tribeca apprised on a timely basis of all material developments with respect to the business and affairs of the Company;

(s) to deliver periodic reporting packages and other information reasonably requested by Tribeca and/or the Monitor;

(t) not make any payment to any director or officer of the Company (except salary, fees, wages, and reimbursable expenses contemplated by the DIP Budget), without the prior written consent of Tribeca. For greater certainty, any amounts owing to any director accrued but unpaid as of the date of the Initial Order shall be treated in the same manner as other unsecured creditors of the Company;

(u) not to enter into, seek Court approval of, or consummate any Restructuring Transaction other than an Approved Restructuring Transaction;

(v) to comply in all respects with the Initial Order and the ARIO;

(w) not to seek any amendment or modification to the Initial Order or the ARIO unless such amendment or modification is acceptable to Tribeca, acting reasonably;

(x) except as otherwise expressly provided in this Support Agreement, or in the ordinary course of business consistent with past practice, not to (i) make any loans, advances or capital contributions to, or investments in, any other Person, (ii) authorize, create, issue, sell or grant any additional Interests, or reclassify, recapitalize, redeem, purchase, acquire, declare any distribution on or make any distribution on any Interests, except pursuant to existing obligations as of the date hereof, (iii) incur any indebtedness for borrowed money or grant any liens or encumbrances, or (iv) enter into any definitive agreement with respect to any of the foregoing;

(y) not to enter into, amend or modify any Definitive Documents other than in a manner that is consistent with this Support Agreement or otherwise acceptable to Tribeca, acting reasonably; and

(z) to pay the reasonable and documented fees and expenses of Tribeca's legal advisors, in respect of this agreement and the CCAA Proceeding as and when due and payable.

Section 7 NEGOTIATION OF DOCUMENTS

(1) The Parties shall reasonably cooperate with each other and shall reasonably coordinate their activities (to the extent practicable) in respect of (a) the timely satisfaction of conditions with respect to the implementation of the Restructuring Process, and (b) the pursuit, support and implementation of the Restructuring Process. Furthermore, subject to the terms hereof, each of the Parties shall take such actions as may be reasonably necessary or prudent to carry out the purposes and the intent of this Support Agreement.

(2) Each Party hereby covenants and agrees (a) to cooperate and negotiate in good faith, consistent with this Support Agreement, the Definitive Documents and all ancillary documents relating thereto, or any orders of the Court, and (b) to the extent it is a party thereto, to execute, deliver and perform its obligations under such documents; provided that nothing herein shall limit any Party's rights under Section 4 hereof.

Section 8 CONDITIONS TO RESTRUCTURING TRANSACTIONS

(1) The completion of any Restructuring Transaction shall be subject to the satisfaction of the following conditions, each of which is for the mutual benefit of the Company, on the one hand, and Tribeca, on the other hand, and may be waived in whole or in part jointly by the Company, with the consent of the Monitor and Tribeca (provided that such conditions shall not be enforceable by the Company or Tribeca, as the case may be, if any failure to satisfy such conditions results from an action, error or omission by or within the control of the Party seeking enforcement):

(a) the Initial Order and the ARIO shall each have been approved by the Court and shall not have been amended or modified without the consent of Tribeca, acting reasonably;

(b) all Definitive Documents applicable to such Restructuring Transaction shall be in form and substance consistent with this Support Agreement and the Restructuring Process or otherwise be acceptable to Tribeca, acting reasonably;

(c) the Court shall have granted a Transaction Approval Order in respect of such Restructuring Transaction in form and substance consistent with this Support Agreement or otherwise acceptable to Tribeca, acting reasonably, and such Transaction Approval Order shall not have been amended, modified, vacated or stayed;

(d) the conditions precedent in the Definitive Documents applicable to such Restructuring Transaction shall have been satisfied or waived in accordance with the terms of the applicable Definitive Documents; and

(e) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Entity that restrains, impedes or prohibits the Restructuring Transaction or any material part thereof.

(2) The obligations of Tribeca to support and consent to any Restructuring Transaction are subject to the satisfaction of the following additional conditions, each of which is for the benefit of Tribeca and may be waived, in whole or in part, by Tribeca:

(a) this Support Agreement shall not have been terminated and neither the Company nor Tribeca shall have delivered a termination notice in accordance with the terms of the Support Agreement;

(b) each Restructuring Transaction shall constitute an Approved Restructuring Transaction; and

(c) all reasonable and documented invoiced fees and expenses of Tribeca's advisors shall have been paid or contemplated to be paid at the closing of an Approved Restructuring Transaction; provided that Tribeca's advisors shall have provided the Company with invoices for all such fees and expenses at least three (3) Business Days prior to the anticipated closing of such Approved Restructuring Transaction.

Section 9 TERMINATION

(1) This Support Agreement may be terminated by Tribeca, by providing written notice to the Company, delivered in accordance with Section 12 hereof, upon the occurrence of any of the following:

(a) A material breach by the Company of this Support Agreement or takes any action materially inconsistent with this Support Agreement or fails to comply with, or defaults in the performance or observance of, any material term, condition, covenant or agreement set forth in this Support Agreement that, if capable of being cured, is not cured within seven (7) calendar days after receipt by the Company of written notice of such failure or default;

(b) any representation, warranty or acknowledgement of the Company made in this Support Agreement shall prove untrue in any material respect as of the date when made and such breach remains uncured seven (7) calendar days following the Company's receipt of written notice;

(c) the Court does not grant either the Initial Order or the ARIO or the CCAA Proceedings are dismissed, terminated, or stayed;

(d) other than the CCAA Proceedings, the Company, whether voluntarily or involuntarily, commences or becomes subject to a receivership liquidation, bankruptcy, or other proceeding under any Bankruptcy Laws (including the appointment of an interim receiver, receiver and manager or administrator of the Company);

(e) the issuance by any Governmental Entity, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment or order enjoining the consummation of or rendering illegal a material portion of the Restructuring Process, and such ruling, judgment or order has not been reversed or vacated within fifteen (15) Business Days;

(f) an Event of Default (as defined in the DIP Agreement) has occurred and is continuing; or

(g) other than in accordance with this Support Agreement, the Company files an application or pleading seeking approval of, or the Court approves: (i) any DIP Financing that is secured by a lien, security interest or other encumbrance on any assets, properties or undertakings of the Company that ranks in priority to, or *pari passu* with the Debentures; or (ii) any order approving a Restructuring Transaction other than a Transaction Approval Order in respect of an Approved Restructuring Transaction.

(2) This Support Agreement may be terminated by the Company by providing written notice to Tribeca, delivered in accordance with Section 12 hereof, following the occurrence of any of the following events:

(a) the Court does not grant either the Initial Order or the ARIO;

(b) the material breach by Tribeca of any of the representations, warranties, covenants or other obligations of Tribeca set forth in this Support Agreement, and such breach has not been cured (if curable) within seven (7) calendar days of written notice from the Company;

(c) the issuance by any Governmental Entity, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment or order enjoining the consummation of or rendering illegal a material portion of the Restructuring Process, and such ruling, judgment or order has not been reversed or vacated within five (5) Business Days;

(d) the DIP Facility is not paid to the Company as and when due; or

(e) the DIP Facility is repaid

(3) This Support Agreement may be terminated at any time by mutual written consent of the Company and Tribeca, with the consent of the Monitor.

(4) This Support Agreement shall terminate automatically on the earliest of: (a) the CCAA Termination Date; and (b) the date on which the Company completes one or more Approved Restructuring Transactions in respect of all or substantially all of the business and assets of the Company.

(5) Subject to Section 9(6), this Support Agreement, upon its termination, shall be of no further force and effect and each Party hereto shall be automatically and simultaneously released from its commitments, undertakings, and agreements under or related to this Support Agreement. Without limiting the generality of the foregoing, in the event this Support

Agreement is terminated: (a) Tribeca shall have no obligation to support the Restructuring Process or any Restructuring Transaction in respect of the Company; and (b) to the extent that the CCAA Proceedings remain ongoing, this Support Agreement shall not limit any rights of Tribeca or the Company to seek such relief from the Court as Tribeca or the Company, as applicable, may determine in its discretion, including, without limitation, to seek an order or orders commencing receivership, liquidation, bankruptcy or other proceedings in respect of all or certain of the Company and its assets, properties and undertakings or to enforce its rights and remedies against all of certain of the Company and its assets, properties and undertakings pursuant to the Debentures and related documents, or at Law.

(6) Notwithstanding the termination of this Support Agreement pursuant to this Section 9, the agreements and obligations of the Parties in Section 10 and Section 12 shall survive such termination and shall continue in full force and effect for the benefit of the Parties in accordance with the terms hereof.

(7) If the Restructuring Process or any Restructuring Transaction is not implemented, nothing herein shall be construed as a waiver by any Party of any or all such Party's rights and the Parties expressly reserve any and all of their respective rights.

Section 10 FURTHER ASSURANCES

Subject to Section 4 hereof, each Party shall take all such actions as are commercially reasonable, deliver to the other Parties such further information and documents and execute and deliver to the other Parties such further instruments and agreements as another Party shall reasonably request to implement the Restructuring Process provided for in this Support Agreement, to accomplish the purpose of this Support Agreement or to assure to the other Parties of the benefits of this Support Agreement, in all such cases at the Company's expense.

Section 11 MISCELLANEOUS

(1) Notwithstanding anything herein to the contrary except with respect to Tribeca's obligations set forth in Section 5(i), this Support Agreement applies only to Tribeca's Debt and to Tribeca solely with respect to its legal and/or beneficial ownership of, or its investment and voting discretion over, its Debentures and Debt, and not, for greater certainty, to any securities, loans or obligations that may be held by any client of Tribeca whose funds or accounts are managed by Tribeca where those funds or accounts are not otherwise subject to this Support Agreement and, without limiting the generality of the foregoing, shall not apply to:

(a) any securities, loans or other obligations that may be held, acquired or sold by, or any activities, services or businesses conducted or provided by, any group or business unit or Affiliate of Tribeca: (i) that has not been involved in and is not acting at the direction of or with knowledge of the Company's affairs provided by any person involved in the discussions relating to the Restructuring Process; or (ii) is on the other side of an information firewall with respect to the officers, partners and employees of Tribeca who have been working on the Restructuring Process and is not acting at the direction of or with knowledge of the Company's affairs provided by any officers, partners and employees of Tribeca who have been working on the Restructuring Process;

(b) any securities, loans or other obligations that may be beneficially owned by clients of Tribeca, including accounts or funds managed by Tribeca; or

(c) any securities, loans or other obligations that may be beneficially owned by clients of Tribeca that are not managed or administered by Tribeca.

(2) Subject to Section 11(1), nothing in this Support Agreement is intended to preclude Tribeca from engaging in any securities transactions, subject to the agreements set forth herein with respect to Tribeca's Debentures and Debt and compliance with applicable securities Laws.

(3) The headings in this Support Agreement are for reference only and shall not affect the meaning or interpretation of this Support Agreement.

(4) Unless the context otherwise requires, words importing the singular shall include the plural and vice versa and words importing any gender shall include all genders.

(5) This Support Agreement (including the Term Sheet and the other schedules attached to this Support Agreement and any agreements contemplated thereunder) constitutes the entire agreement and supersede all prior agreements and understandings, both oral and written, among the Parties with respect to the subject matter hereof.

(6) This Support Agreement may be modified, amended or supplemented as to any matter in writing (which may include e-mail) as agreed by the Company and Tribeca.

(7) Any Person signing this Support Agreement in a representative capacity: (a) represents and warrants that he/she is authorized to sign this Support Agreement on behalf of the Party he/she represents and that his/her signature upon this Support Agreement will bind the represented Party to the terms hereof, and (b) acknowledges that the other Parties hereto have relied upon such representation and warranty.

(8) Any provision of this Support Agreement may be waived if, and only if, such waiver is in writing (which may include e-mail) by the Party against whom the waiver is to be effective.

(9) The Company shall be entitled to rely on written confirmation from Stikeman Elliott LLP (which may include e-mail) that Tribeca has agreed, waived, consented to or approved a particular matter pursuant to this Support Agreement. Tribeca shall be entitled to rely on written confirmation from DLA Piper (Canada) LLP (which may include e-mail) that the Company has agreed, waived, consented to or approved a particular matter pursuant to this Support Agreement.

(10) Any date, time or period referred to in this Support Agreement shall be of the essence except to the extent to which the Company and Tribeca agree in writing (including e-mail) to vary any date, time or period, in which event the varied date, time or period shall be of the essence.

(11) This Support Agreement shall be governed by, construed and interpreted in accordance with the Laws of the Province of Alberta and the federal Laws of Canada applicable therein (excluding any conflict of laws, rule or principle which might refer such construction to the Laws of another jurisdiction) and all actions or proceedings arising out of or relating to this Support Agreement shall be heard and determined exclusively by the Court.

(12) It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Support Agreement and each non-breaching Party shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy of any such breach, including an order by a court of competent jurisdiction requiring any Party to comply promptly with any of such obligations.

(13) Unless expressly stated otherwise herein: (a) this Support Agreement is intended to solely bind and inure to the benefit of the Parties and their respective successors, permitted assigns,

heirs, executors, administrators and representatives; and (b) no other person or entity shall be a third-party beneficiary hereof.

(14) No Party may assign, delegate or otherwise transfer any of its rights, interests or obligations under this Support Agreement without the prior written consent of the other Parties hereto.

(15) All notices, requests, consents and other communications hereunder to any Party shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by internationally-recognized overnight courier or e-mail. All notices or deliveries required or permitted hereunder shall be deemed effectively given: (a) upon personal delivery to the Party to be notified; (b) when sent by e-mail; (c) two (2) Business Days after deposit with an internationally recognized overnight courier, specifying delivery within the next two (2) Business Days, with written verification of receipt; or (d) upon receipt of delivery in accordance with instructions given by the Party receiving the delivery. Any Party may change the address to which notice should be given to such Party by providing written notice to the other Parties hereto of such change. The address and e-mail for each of the Parties shall be as follows:

(a) If to the Company, at:

Suite 280, 1414 8th Stret SW
Calgary, AB T2R 1J6

Attention: Mark Smith/ Serge Umansky
E-mail: smith@trionbattery.com/ serg.u@gmail.com

With a copy (which shall not be deemed notice) to:

DLA Piper (Canada) LLP
Suite 2700, Stantec Tower
10220 – 103rd Ave NW
Edmonton, AB T5J 0K4

Attention: Jerritt Pawlyk / Carole Hunter
E-mail: jerritt.pawlyk@ca.dlapiper.com / carole.hunter@ca.dlapiper.com.com

(b) If to Tribeca, at:

Level 23, 1 O'Connell Street
Sydney, NSW 2000

Attention: Raymond Gonzalez / Matthew Carr
Email: Raymond.gonzalez@tribecaip.com / matthew.carr@titanminerals.com.au

With a copy (which shall not be deemed notice) to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1B9

Attention: Maria Konyukhova / Philip Yang
E-mail: mkonyukhova@stikeman.com / pyang@stikeman.com

(16) If any term, provision, covenant or restriction of this Support Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions, including terms, covenants and restrictions, of this Support Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the Parties shall negotiate in good faith to modify this Support Agreement to preserve each Party's anticipated benefits under this Support Agreement.

(17) Except as explicitly provided for herein, and notwithstanding any termination of this Support Agreement, nothing herein is intended to, or does, in any manner waive, limit, impair or restrict the ability of any Party to protect and preserve its rights, remedies and interests, and each Party fully reserves any and all of its rights. Nothing herein shall be deemed an admission of any kind.

(18) This Support Agreement may be executed (including by electronic means) in any number of counterparts, each of which (including any electronic transmission of an executed signature page), is deemed to be an original, and such counterparts together constitute one and the same agreement.

(19) The Company acknowledges, agrees and expressly stipulates that: (a) the giving of notice of default or termination and/or the exercise of termination rights under this Support Agreement by Tribeca shall not be a violation of any stay of proceedings under the CCAA or any other Bankruptcy Laws; (b) Tribeca shall not be required to seek or obtain approval of the Court, or relief from any stay of proceedings in respect of the Company in the CCAA Proceedings, or otherwise, to exercise their termination rights pursuant to this Support Agreement; and (c) the Company waives, to the fullest extent permitted by Law, the applicability of any stay of proceedings solely as it relates to the exercise of the termination rights of Tribeca under this Support Agreement.

Section 12 EFFECTIVENESS

This Support Agreement will become effective and binding as to the Company and Tribeca, on the Support Effective Date.

Section 13 RELATIONSHIPS AMONG THE PARTIES

Notwithstanding anything contained in this Support Agreement to the contrary, (a) Tribeca shall not have any responsibility by virtue of this Support Agreement for any trading by any other Person, (b) no prior history, pattern or practice of sharing confidences among or between any of the Parties shall in any way affect or negate this Support Agreement, and (c) Tribeca shall not have any fiduciary duty, any duty of trust or confidence in any form or other duties or responsibilities in any kind or form to the Company or any of the Company's other creditors or stakeholders, including as a result of this Support Agreement or the transactions contemplated herein or in any exhibit hereto.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Support Agreement to be duly executed and delivered by its proper and duly authorized officer as of the date first written above.

TRION BATTERY TECHNOLOGIES INC.

By: _____

Name: Mark R. Smith

Title: Chairman

I have authority to bind the corporation

TRION ENERGY SOLUTIONS CORP.

By: Signed by: Timothy Mayne
112DB008AABF49A...

Name: Timothy Mayne

Title: CEO

I have authority to bind the corporation

TRION BATTERY GMBH

By: Signed by: Timothy Mayne
112DB008AABF49A...

Name: Timothy Mayne

Title: CEO

I have authority to bind the corporation

TRION BATTERY GERMANY GMBH

By: Signed by: Timothy Mayne
112DB008AABF49A...

Name: Timothy Mayne

Title: CEO

I have authority to bind the corporation

TRIBECA INVESTMENT PARTNERS PTY LTD. as investment manager for **TRIBECA GLOBAL NATURAL RESOURCES FUND, TRIBECA GLOBAL NATURAL RESOURCES SEGREGATED PORTFOLIO, TRIBECA SPECIAL OPPORTUNITIES FUND SP, TRIBECA GLOBAL NATURAL RESOURCES LIMITED, TRIBECA 2050 SPV TRUST, TRIBECA PARTNERS FUND**

DocuSigned by:

By: _____
4BD9BCFFE16242E...

Name: Adam Lavis

Title: Chief Executive Officer

I have authority to bind the corporation

ROCKFORD EQUITY PTY LTD.

Signed by:

By: Matthew Carr
57CA5185E0164E2...

Name: Matthew Carr

Title: Director

I have authority to bind the corporation

Schedule A
Definitions

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by," and "under common control with") as used with respect to any Person, shall mean the possession, directly or indirectly, of the right or power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement, or otherwise.

"**Approved Restructuring Transaction**" means a Restructuring Transaction that is: (a) consistent and in accordance with the applicable Restructuring Process set forth in the Term Sheet; (b) unless otherwise consented to by Tribeca, acting reasonably, provides for cash consideration that exceeds amounts owing by the Company to Tribeca under the DIP Facility and the Debentures; and (c) is effected pursuant to and in accordance with Definitive Documents in form and substance consistent with the Support Agreement and the applicable Restructuring Process, or such other Restructuring Transaction as may otherwise be acceptable to Tribeca.

"**ARIO**" means an amended and restated Initial Order of the Court to be entered in the CCAA Proceedings by no later than March 2, 2026, which contains the key terms appended as Schedule C to this Term Sheet, or in such other form as may be reasonably acceptable to Tribeca.

"**Bankruptcy Laws**" shall mean, the CCAA, the *Bankruptcy and Insolvency Act* (Canada), and all other liquidation, bankruptcy, assignment for the benefit of creditors, receivership, insolvency, reorganization, arrangement (including corporate plan of arrangement) or similar laws of Canada or any other foreign jurisdiction, and any province, state, territory, municipality or other political subdivision of Canada, or any foreign jurisdiction.

"**Business Day**" means each day, other than a Saturday or Sunday or a statutory or civic holiday, on which banks are open for business in Calgary, Alberta.

"**CCAA**" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

"**CCAA Proceedings**" means proceedings under the CCAA, overseen by the Court, in respect of the Company.

"**CCAA Termination Date**" means the date on which the CCAA Proceedings are dismissed, converted, terminated or otherwise cease to be in effect.

"**Claim**" means right or claim of any Person, including any: (a) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (b) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

"**Court**" means the Court of King's Bench of Alberta.

"**Definitive Documents**" means, collectively, all definitive documents executed, delivered, filed or entered by or at the request of the Company in connection with the Restructuring Process, including, without limitation: (a) the Initial Order, the ARIO, each Transaction Approval Order and any other order sought by the Company, or granted by the Court in the CCAA Proceedings; (b) all applications, pleadings or other documents filed by the Company in the CCAA Proceedings; (c) any SISP

Procedures; and (d) any asset purchase agreement, equity purchase agreement, subscription agreement, transaction agreement, plan of compromise or arrangement, plan of reorganization, or other agreement or documentation entered into or proposed by the Company with respect to any Restructuring Transaction, and in each case, any amendments, modifications, and supplements thereto.

"DIP Financing" means any interim financing, debtor-in-possession financing or other financing sought or approved in the CCAA Proceedings (including, without limitation, pursuant to section 11.2 of the CCAA).

"**Governmental Entity**" means any government, regulatory authority, governmental department, agency, commission, stock exchange, bureau, official, minister, court, board, tribunal or dispute settlement panel or other Law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, municipality or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, policy, regulatory, listing or taxing authority or power.

"**Initial Order**" means an initial order of the Court to be entered in the CCAA Proceedings by no later than February 20, 2026, which contains the key terms appended as Schedule C to this Term Sheet, or in such other form as may be reasonably acceptable to Tribeca.

"**Interest**" means any equity interest in the Company, including all ordinary shares, units, common stock, preferred stock, membership interest, partnership interest, profits interest or other instrument, evidencing any fixed or contingent ownership interest, whether or not transferable, including any option, warrant, or other right, contractual or otherwise, to acquire any such interest.

"**Law**" or "**Laws**" means any law, statute, order, decree, consent decree, judgment, rule, regulation, ordinance or other pronouncement having the effect of law whether in Canada or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity.

"**Material Sale**" means the sale, transfer, conveyance or other disposition of any assets of the Company outside of the ordinary course of business with fair market value in excess of $50,000, including any related transactions or series of transactions in respect of assets that collectively have a fair market value in excess of $50,000.

"**Monitor**" means FTI Consulting Canada Inc., in its capacity as monitor of the Company.

"**Person**" means an individual, a corporation, a partnership, a limited or unlimited liability company, a trust, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a Governmental Entity or any agency, instrumentality or political subdivision of a Governmental Entity, or any other entity or body, whether acting in an individual, fiduciary or other capacity.

"**Restructuring Transaction**" means any Material Sale, liquidation, investment, financing, restructuring, recapitalization, plan of compromise or arrangement, plan of reorganization, or restructuring involving the Company or its assets, properties or undertakings.

"**SISP Procedures**" means any sale, marketing, solicitation, bidding or auction procedures for the sale of or investment in the business, assets and/or equity of the, which SISP Procedures shall be in form and substance acceptable to Tribeca.

"**Support Effective Date**" means the date on which counterpart signature pages to this Support Agreement shall have been executed and delivered by each of the Company and Tribeca.

"**Support Effective Period**" means the period beginning on the Support Effective Date through the date this Support Agreement is terminated in accordance with its terms.

"**Transaction Approval Order**" means an order of the Court to be entered in the CCAA Proceedings approving an Approved Restructuring Transaction, consistent with this Support Agreement or otherwise in form and substance acceptable to the Company and Tribeca, each acting reasonably, including with respect to the use and distribution of the proceeds of the Approved Restructuring Transaction.

Schedule B
Summary of Key Terms in Proposed DIP Agreement

This is a high-level summary of the key terms of the DIP Agreement to be entered into between the Trion, as borrower, the Guarantors and the DIP Lender. For certainty, the final DIP Agreement shall include additional customary DIP Financing terms and covenants.

Length: For up to 13 weeks as needed in accordance with a 13-week period detailed cash flow forecast that has been approved by the Monitor and Tribeca (the "**DIP Budget**").

DIP Facility: A non-revolving facility with an aggregate maximum amount of $3.1 million and funding on an as needed basis in accordance with the DIP Budget.

DIP Budget: The Company may, in consultation with the Monitor, propose amendments to the DIP Budget to Tribeca. If Tribeca, in its sole discretion, approves such amendments, the DIP Budget, as amended by such amendments, shall be deemed to be the effective DIP Budget.

Advances: Funding under the DIP Facility shall be made in a number of advances to be determined in accordance with the DIP Budget. At present, the DIP Facility shall be available in several advances (individually, an "**Advance**" and collectively, the "**Advances**") as follows:

1. Upon issuance of the Initial Order, $850,000 (the "**First Advance**"), shall be advanced to the Borrower by no later than February 21, 2026 to finance working capital requirements and professional fees and expenses for the 10-day period immediately following the date of the Initial Order; and

2. Following the issuance of the ARIO, after the issuance of the ARIO, interim advances shall be made to the Borrower under this Term Sheet (each such advance being referred to herein as a "**Subsequent Advance**" and collectively, the "**Subsequent Advances**") and the first Subsequent Advance (the "**Second Advance**") in accordance with the DIP Budget.

In addition to the above-noted Advances, subject to a revised DIP Budget which shall be in form and substance acceptable to the Lender, acting reasonably, and further good-faith negotiations and discussions between the parties, further advances may be available.

Interest: 13.5% per annum, accrued and compounded on a daily basis.

Commitment Fee: 3.0% of the amount advanced under the DIP Facility.

Maturity Date: Unless otherwise agreed to by the Lender and the Borrower in writing, or extended by the Lender, in its sole discretion, the term of the DIP Facility shall expire, and the Borrower shall repay all obligations owing to the Lender under this Term Sheet, on the earliest of: (a) closing of an Approved Restructuring Transaction in respect of all or substantially all of the assets, properties, and undertakings of the Company; (b) May 15, 2026, or (c) an Event of Default (as defined in the DIP Agreement), subject to a cure period of three (3) business days, beginning on the date of the occurrence of such Event of Default.

Variance Testing: 15% variance on weekly cash flow or $100,000 cumulative floor variance, subject to standard DIP covenants to be agreed upon between the parties, acting reasonably (the "**Permitted Variance**").

Expenses: Tribeca's reasonable professional fee expenses in respect of the DIP Facility shall be paid from the DIP Facility.

Company Covenants:

- Comply with the DIP Budget, subjected to the Permitted Variance.

- Provide a weekly status update regarding the status of the CCAA Proceedings and keep Tribeca apprised on a timely basis of all material developments with respect to the business and affairs of the Company.

- Deliver periodic reporting packages and other information reasonably requested by Tribeca and/or the Monitor.

- Provide to Tribeca, draft copies of all applications, motions, pleadings, orders or other Definitive Documents that the Company intend to serve or file in the CCAA Proceedings or the Recognition Proceedings at least three (3) Business Days prior to the date on which the Company serves or files such documents, or as soon as reasonably possible thereafter. The Company shall consider in good faith all comments on such documents provided by Tribeca. For greater certainty, the Initial Order, the ARIO, and any Transaction Approval Order shall only be submitted to the Court if such orders are in form and substance acceptable to Tribeca, acting reasonably.

- Develop the SISP Procedures in consultation with Tribeca and the Monitor, with Tribeca and the Monitor having ultimate consent rights over the terms of the SISP Procedures, acting reasonably. Among others, it is expected that any sale of or plan to restructure the Company that does not pay out the DIP Facility and the Debentures in full will be subject to the consent of Tribeca.

- not make any payment to any director or officer of the Company (except salary, fees, wages, and reimbursable expenses contemplated by the DIP Budget), without the prior written consent of Tribeca. For greater certainty, any amounts owing to any director accrued but unpaid as of the date of the Initial Order shall be treated in the same manner as other unsecured creditors of the Company.

- All Orders granted in the CCAA Proceedings, including the Initial Order and ARIO shall be in form and substance reasonably acceptable to Tribeca.

Schedule C
Key Terms of the Initial Order and ARIO

In addition to the customary relief sought by CCAA applicants, the Initial Order and the Amended and Restated Initial Order shall include the following key terms.

Initial Order

- The DIP Agreement shall be approved and the Company shall be permitted to draw up to the maximum principal amount available under the DIP Agreement within the 10-day period following the date of the Initial Order

- FTI Consulting Canada Inc. shall be appointed as the Monitor of the Company with the following enhanced powers in addition to the Monitor's powers that are typically granted at the outset of CCAA Proceedings:

    - Pre-filing expenses to be paid in accordance with the DIP Budget or with prior written consent of the DIP Lender and the Monitor
    - Consent rights on terms of the SISP Procedures
    - Authority to conduct the SISP, in consultation with the Company
    - Consent rights over termination of employees or amendments of contracts
    - Consent rights over engaging any consultants or other persons
    - Ability to speak directly to all employees, for information purposes only

ARIO

- The DIP Agreement shall be approved and the Company shall be permitted to draw up to the maximum principal amount available under the DIP Agreement, in accordance with the DIP Budget

- FTI Consulting Canada Inc. shall be appointed as the Monitor of the Company with the same powers that it was granted in the Initial Order

THIS IS EXHIBIT "G"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.

A Commissioner for Oaths
in and for the Province of Alberta

Execution Version

February 17, 2026

Trion Battery Technologies Inc.
Suite 280, 1414 8th Street NW
Calgary, AB T2R 1J6

Attention: Mark Smith – Chairman (smith@trionbattery.com)

Re: Debtor-in-Possession Financing Term Sheet (the "Term Sheet")

A. TRION BATTERY TECHNOLOGIES INC. ("**Trion**") intends to make an application to the Court of King's Bench of Alberta (the "**Court**") for an initial order (the "**Initial Order**"), among other things, commencing proceedings under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended (the "**CCAA Proceedings**"), imposing a stay of proceedings in favour of Trion (the "**Initial Stay**"), appointing FTI Consulting Canada Inc. as Monitor of Trion (in such capacity, the "**Monitor**"), approving this Term Sheet and granting the DIP Lender's Charge (as defined herein) to secure the initial authorized advance of $850,000;

B. In the event that the Initial Order is granted, and prior to the expiry of the Initial Stay, the Borrower will seek an Amended and Restated Initial Order (as may be further amended and restated from time to time in accordance with this Term Sheet and the Support Agreement entered into between Trion, TRION ENERGY SOLUTIONS CORP., TRION Battery GmbH, and TRION Battery Germany GmbH, and Tribeca Investment Partners Pty Ltd as investment manager for Tribeca Global Natural Resources Fund, Tribeca Global Natural Resources Segregated Portfolio, Tribeca Special Opportunities Fund SP, Tribeca Global Natural Resources Limited, Tribeca 2050 SPV Trust and Tribeca Partners Fund, (collectively, the "**Tribeca Entities**"), and Rockford Equity PTY Ltd., an affiliate of the Tribeca Entities (the "**Lender**") dated as of February 17, 2026) (the "**ARIO**") within the CCAA Proceedings, seeking, in addition to the relief set out in the Initial Order, among other things: (i) an extension of the Initial Stay to May 1, 2026; and (ii) authorization for the Loan Parties to draw on the maximum amount available under the DIP Facility (as defined herein) in the amount of $3.1 million, with a corresponding increase to the quantum of DIP Lender's Charge to secure all obligations of the Loan Parties to the Lender under the DIP Facility;

C. Trion requires funding to satisfy the cashflow requirements of the CCAA Proceedings, and other short-term liquidity requirements;

D. The Lender has agreed to advance a debtor-in-possession loan in the aggregate principal amount of $3.1 million, subject to and in accordance with the terms and conditions of this Term Sheet.

NOW THEREFORE in consideration of the foregoing and the mutual covenants and agreements set forth below, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

SUMMARY OF TERMS FOR DIP FACILITY

1	**Borrower**:	Trion Battery Technologies Inc. (the "**Borrower**").
2	**Guarantors**:	TRION ENERGY SOLUTIONS CORP., TRION Battery GmbH, and TRION Battery Germany GmbH (collectively, the "**Guarantors**").

3 **Loan Parties**: The Borrower and the Guarantors (collectively, the "**Loan Parties**" and "**Loan Party**" means each of them).

4 **Lender**: Rockford Equity PTY Ltd.

5 **DIP Facility**: Non-revolving facility in the maximum aggregate principal amount of $3.1 million and funding on an as needed basis (the "**DIP Facility**") in accordance with the DIP Budget (as defined below).

6 **Purpose**: The DIP Facility shall be available to fund: (i) working capital needs of the Loan Parties (which for greater certainty will not include expenses and needs of the Silicon business units); (ii) professional fees and expenses incurred by the Loan Parties and the Monitor in respect of the CCAA Proceedings, in each case in accordance with the DIP Budget (as defined herein); (iii) the Recoverable Expenses (as defined herein); and (iv) such other costs and expenses of the Loan Parties as may be agreed to by the Lender, in writing.

The amount and purpose of the DIP Facility may be amended by the Loan Parties and the Lender in writing. The Loan Parties may not use the proceeds of the DIP Facility to pay any pre-filing obligations of the Loan Parties except in accordance with the DIP Budget or with the prior written consent of the Lender and the Monitor.

7 **DIP Budget**: Attached as Exhibit "A" to this Term Sheet is a 13-week period detailed cash flow forecast that has been approved by the Monitor and the Lender (the "**DIP Budget**"). The Borrower may, in consultation with the Monitor, propose amendments to the DIP Budget to the Lender. If the Lender, in its sole discretion, approves such amendments, the DIP Budget, as amended by such amendments, shall be deemed to be the effective DIP Budget.

8 **Advances**: Subject to the funding conditions set out in Section 12 of this Term Sheet, the DIP Facility shall be available in several advances (individually, an "**Advance**" and collectively, the "**Advances**") as follows:

(a) upon the issuance of the Initial Order, $850,000 (the "**First Advance**"), shall be advanced to the Borrower by no later than February 21, 2026 to finance working capital requirements and professional fees and expenses for the 10-day period immediately following the date of the Initial Order; and

(b) after the issuance of the ARIO, interim advances shall be made to the Borrower under this Term Sheet (each such advance being referred to herein as a "**Subsequent Advance**" and collectively, the "**Subsequent Advances**") and the first Subsequent Advance (the "**Second Advance**") in accordance with the DIP Budget.

In addition to the above-noted Advances, subject to a revised DIP Budget which shall be in form and substance acceptable to the Lender, acting reasonably, and further good-faith negotiations and discussions between the Lender and the Loan Parties, further advances may be available. Nothing in this Term Sheet creates a legally binding obligation on the Lender to advance any amount under the DIP Facility at any time unless the Loan Parties are in compliance with the provisions of this Term Sheet.

9 **Interest**: The outstanding principal amount of all Advances shall bear interest at a rate per annum equal to 13.5%. The Borrower shall pay interest on the Advances by

adding such accrued interest to the principal amount of the Advances on the last business day of each calendar month. Amounts representing the interest payable hereunder that are added to the principal amount of the Advances shall thereafter constitute principal and bear interest in accordance with this Section 9.

Interest on each Advance shall accrue daily from and after the date of advance of such Advance to the Borrower to, but excluding, the date of repayment, as well as before and after maturity, demand and default and before and after judgment, and shall be calculated and compounded on a daily basis on the principal amount of such Advance and any overdue interest remaining unpaid from time to time and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as the case may be.

For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or fee to be paid under this Agreement is to be calculated on the basis of a period that is less than a calendar year, the yearly rate of interest to which the rate used in such calculation is equivalent to the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained.

10 **Recoverable Expenses**: The Loan Parties shall pay the reasonable professional fees incurred by the Lender in connection with the preparation, registration and ongoing administration of this Term Sheet, the DIP Facility, the Initial Order, the ARIO, the DIP Lender's Charge (as defined below) and with the enforcement of the Lender's rights and remedies hereunder and thereunder, at law or in equity, including, without limitation all reasonable legal fees and disbursements incurred by the Lender (collectively, the "**Recoverable Expenses**"). If the Lender pays any expenses for which the Lender is entitled to reimbursement from the Loan Parties following the date of the Initial Order, such expenses shall be added to the DIP Facility. All such fees and expenses shall be secured by the DIP Lender's Charge whether or not any funds under the DIP Facility are advanced.

11 **Fees**: The Borrower shall pay to the Lender a commitment fee (the "**Commitment Fee**") as compensation for making the DIP Facility available in an amount equal to 3.0% of the amount advanced under the DIP Facility. The Commitment Fee shall be fully earned and payable upon any Advance made to the Borrower. The Commitment Fee, once earned and payable, shall be non-refundable under all circumstances and shall be paid by adding the amount of such fee to the principal amount owing under the DIP Facility.

12 **Security**: All debts, liabilities and obligations of the Borrower to the Lender under or in connection with the DIP Facility (including, without limitation, Fees and Recoverable Expenses), this Term Sheet, any other agreements, instruments, or other documents in respect of the DIP Facility contemplated in this Term Sheet or required by the Lender (the "**DIP Documents**"), and the guarantee to be provided by the Guarantors in form and substance satisfactory to the Lender (the "**Guarantee**") executed in connection therewith shall be secured by a Court-ordered priority charge (the "**DIP Lender's Charge**") granted to the Lender in and to all present and future properties, assets, and undertakings of the Loan Parties, real and personal, tangible and intangible, whether now owned or hereafter acquired, and the proceeds thereof (the "**Property**"), subject only to an administration charge in the maximum aggregate amount of $350,000 under the Initial Order for the payment of the fees and expenses of the Monitor, counsel to the Borrower and counsel to the Monitor (the "**Administration Charge**").

13 **Maturity Date**: Unless otherwise agreed to by the Lender and the Borrower in writing, or extended by the Lender, in its sole discretion, the term of the DIP Facility shall expire, and the Borrower shall repay all obligations owing to the Lender under this Term Sheet, on the earliest of (the "**Maturity Date**"):

(a) the closing of a transaction in respect of all or substantially all of the assets, properties, and undertakings of the Borrower, which transaction shall be repay the Lender in full in cash or otherwise be acceptable to the Lender;

(b) May 15, 2026; and

(c) the occurrence of an Event of Default (as defined herein), subject to a cure period of three (3) business days, beginning on the date of the occurrence of such Event of Default.

14 **Repayment**: The aggregate principal amount owing under the DIP Facility plus all Recoverable Expenses, shall become immediately due and payable on the Maturity Date. The DIP Facility may be prepaid at any time, without penalty, (provided all accrued and unpaid Recoverable Expenses are paid). If the Borrower chooses to prepay any amount owing under the DIP Facility, any such payment shall be applied: (i) first, to the Recoverable Expenses; (ii) second, to any accrued and unpaid interest under the DIP Facility; and (iii) to any principal amount outstanding under the DIP Facility.

15 **Conditions Precedent:** The availability of the First Advance shall be subject to and conditional upon the following, which may be waived by the Lender in writing:

(a) this Term Sheet, the other DIP Documents, as applicable, and the Guarantee shall have been executed and delivered by the parties hereto and shall be in full force and effect, unamended;

(b) the Court shall have issued the Initial Order by no later than February 20, 2026, in a form satisfactory to the Lender, including:

(i) approving this Term Sheet, the Guarantee and the DIP Facility;

(ii) granting the DIP Lender's Charge in favour of the Lender;

(c) no appeal, motion for leave to appeal, motion to amend, vary or stay the Initial Order shall have been made or threatened in a manner adverse to the Lender, as determined by the Lender in its sole discretion; and

(d) there is no existing Event of Default.

The availability of the Second Advance and any Subsequent Advances under the DIP Facility shall be subject to and conditional upon the following, which may be waived by the Lender in writing:

(a) this Term Sheet, the other DIP Documents, as applicable, and the Guarantee shall remain in full force and effect, unamended, except as approved by the Lender;

(b) the Court shall have issued the ARIO, in a form substantively satisfactory to the Lender, including:

(i) approving this Term Sheet, the Guarantee and the DIP Facility;

(ii) increasing the DIP Lender's Charge to the full amount of the DIP Facility;

(c) no appeal, motion for leave to appeal, motion to amend, vary or stay the ARIO shall have been made or threatened in a manner adverse to the Lender, as determined by the Lender in its sole discretion;

(d) there is no existing Event of Default; and

(e) the Lender shall have received such additional information and documents as it may reasonably require.

16 **Covenants:** The Loan Parties covenant and agree with the Lender, so long as any amounts are outstanding by the Borrower to the Lender hereunder, to:

(a) conduct all activities in the ordinary course and in material compliance with the DIP Budget subject only to: (i) a variance of not more than 15% for disbursements relative to the weekly net disbursements line items in the DIP Budget; or (ii) a cumulative variance of more than $100,000 with respect to disbursements relative to the weekly net disbursements line items in the DIP Budget, which, for greater certainty, will exclude fees, expenses or disbursements of the legal, financial and other advisors of the Lender (the "**Permitted Variance**");

(b) provide a weekly status update regarding the status of the CCAA Proceedings and keep the Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Loan Parties;

(c) deliver periodic reporting packages and other information reasonably requested by the Lender and/or the Monitor;

(d) develop a sale and investment solicitation process ("**SISP**") in consultation with the Monitor and the Lender, with the Monitor and the Lender having ultimate consent rights over the terms of the SISP, acting reasonably, with the understanding that any sale of or plan to restructure the Borrower that does not pay out the DIP Facility, the unsecured convertible debentures issued by the Borrower to the Tribeca Entities in the aggregate principal amount of approximately A$2,300,000 and C$6,340,000 (the "**Debentures**"), including accrued and unpaid interest, the indebtedness of the Tribeca Entities pursuant to the loan agreement dated February 10, 2025 in the aggregate principal amount of A$2,000,000 (the "**Bridge Loan**") and any other amount that the Tribeca Entities are entitled to claim in respect of the Debentures and the Bridge Loan in full, will be subject to the consent of the Lender;

(e) promptly on the receipt by the Borrower of same, give the Lender a copy of any notice of motion or application to vary, supplement, revoke, terminate or discharge the Initial Order, the ARIO, or any subsequent orders granted in the CCAA Proceedings, including, without limitation, any application to the Court for the granting of new or additional security that will or may have priority over the DIP Lender's Charge, or otherwise for the variation of the priority of the DIP Lender's Charge;

(f) provide the Lender with drafts of all applications, motions, pleadings, orders or other Definitive Documents that the Company intends to serve or file in the CCAA Proceedings at least three (3) Business Days prior to the date on which the Company serves or files such documents, or as soon as reasonably possible thereafter, consider all comments from the Lender on such documents in good faith, and to only submit the Initial Order,

the ARIO and any order approving an Approved Restructuring Transaction if such orders are in form and substance acceptable to the Lender;

(g) use the Advances under the DIP Facility for the purposes for which they are being provided, as set out in Section 6 of this Term Sheet, or such other purposes that may be agreed to by the Lender in writing;

(h) provide the Lender with prompt written notice of any event which constitutes, or which, with notice, lapse of time, or both, would constitute an Event of Default, a breach of any covenant, or other term or condition of this Term Sheet, or of any document executed in connection with this Term Sheet;

(i) pay all taxes and other claims which, under law, may rank in priority to or *pari passu* with the DIP Lender's Charge due and payable from and after the commencement of the CCAA Proceedings, as and when such amounts are due;

(j) not make any payment to any director or officer of the Company (except salary, fees, wages, and reimbursable expenses not contemplated by the DIP Budget), without the prior written consent of Tribeca. For greater certainty, any amounts owing to any director accrued but unpaid as of the date of the Initial Order shall be treated in the same manner as other unsecured creditors of the Company;

(k) keep the Loan Parties' assets fully insured against such perils and in such manner as would be customarily insured by companies owning similar assets;

(l) not, without the prior written consent of the Lender, incur any borrowings or other secured indebtedness, obligations or liabilities, other than the DIP Facility, or create or grant any security (other than the Administration Charge, the DIP Lender's Charge, or a charge as security for the indemnity provided to the directors and officers of the Borrower against obligations and liabilities they may incur after the commencement of the CCAA Proceedings) over any of the Property, whether ranking in priority to or subordinate to the DIP Lender's Charge;

(m) not sell, transfer, assign, convey or lease any Property unless agreed to by the Lender; and

(n) provide notice to the Lender of any material communication received by the Loan Parties, including any notice of default or termination of any material contract, license or permit.

17 **Milestones**: The Borrower shall achieve the following milestones (each a "**Milestone**"):

(a) the Court shall have issued the Initial Order by no later than February 20, 2026, which among other things, approves the DIP Facility and grants the powers and authorizations to the Monitor pursuant to Section 16 of this Term Sheet;

(b) by no later than March 2, 2026, the Court shall have issued the ARIO and an order approving the SISP; and

(c) by no later than May 1, 2026, the Borrower shall make best efforts to bring an application seeking transaction approval order(s) in the form of a vesting order, reverse vesting order, and/or a plan of arrangement, as applicable, approving: (i) one or more sales or partial sales of all, substantially all, or certain portions of the Borrower's business; and/or (ii) an investment in, restructuring, recapitalization, refinancing, or other form of reorganization of the Borrower or its business; and (iii) authorizing the distribution of the proceeds of sale to the Borrower's creditors.

Notwithstanding the above, any Milestone may be extended or waived with the prior written consent of the Lender and the Monitor or may be extended to the extent necessary to accommodate the Court's calendar.

18 **Events of Default**: The DIP Facility shall be subject to the following events of default (each, an "**Event of Default**"):

(a) the failure of the Loan Parties to pay any amount due hereunder when due and payable;

(b) the Loan Parties do not operate in accordance with the DIP Budget (subject to the Permitted Variance);

(c) any covenant, condition precedent, payment obligation, or other term or condition of this Term Sheet is not complied with or fulfilled to the satisfaction of the Lender;

(d) the Initial Order and the ARIO are not granted by the Court, in form and substance satisfactory to the Lender on or before February 20, 2026, and March 2, 2026, respectively;

(e) the seeking or support by the Loan Parties of any Court order (in the CCAA Proceedings or otherwise) which is adverse to the interests of the Lender, in its capacity as Lender, in its sole discretion;

(f) the issuance of any Court order lifting or terminating (in whole or in part) the stay of proceedings in the CCAA Proceedings, or discontinuing, dismissing or otherwise terminating the CCAA Proceeding prior to the Maturity Date or successful emergence from the CCAA Proceedings;

(g) the issuance of any Court order staying, reversing, vacating or modifying the terms of the Initial Order, the ARIO, the DIP Facility or the DIP Lender's Charge, in each case without the Lender's consent if not promptly appealed by the Borrower;

(h) the issuance of any Court order (in the CCAA Proceedings or otherwise) which is adverse or potentially adverse to the interests of the Lender, in its capacity as Lender, in its reasonable discretion if not promptly appealed by the Loan Parties;

(i) the service or filing of a notice of appeal, application for leave to appeal, or an appeal in respect of the Initial Order or the ARIO, in each case if the notice of appeal, application for leave to appeal or appeal is not being actively defended by the Loan Parties or if the appeal is actually granted;

(j) the occurrence of an event that will, in the opinion of the Lender, acting reasonably, materially impair the Borrower's financial condition, operations or ability to perform under this Term Sheet or any order of the Court;

(k) failure by the Loan Parties to comply with the Initial Order, the ARIO, or any other order granted in the CCAA Proceedings;

(l) the occurrence of any material adverse change in: (i) the business, operations, or financial condition of the Loan Parties other than the

insolvency and the proceedings contemplated by this Term Sheet; (ii) the Property; (iii) the DIP Lender's Charge, including its relative priority; (iv) the ability of the Loan Parties to perform their obligations to the Lender; (v) the Lender's ability to enforce any of its rights or remedies against the Property or for the obligations of the Loan Parties to be satisfied from the realization thereof;

(m) Any Loan Party becomes bankrupt or subject to a proceeding under the *Bankruptcy and Insolvency Act* (Canada), or a receiver, interim receiver, receiver and manager, liquidator or trustee in bankruptcy is appointed in respect of any Loan Party, or any Property;

(n) the filing of any plan of reorganization, arrangement or liquidation to which the Lender does not consent, such consent not to be unreasonable withheld; and

(o) the commencement of any claim, action, proceeding, application, motion, defense or other contested matter, the purpose of which is to seek, or the result of which would be, to obtain any order, judgment, determination, declaration or similar relief: (i) invalidating, setting aside, avoiding, or subordinating the obligations of the Borrower under the DIP Facility, the DIP Lender's Charge or its priority; (ii) for monetary, injunctive or other relief against the Lender or the Property; or (iii) preventing, hindering or otherwise delaying the exercise by the Lender of any of its rights and remedies hereunder, pursuant to the Initial Order, the ARIO or under applicable law, or the enforcement or realization by the Lender against any of its collateral, unless actively defended by the Loan Parties.

19 **Remedies and Enforcement** Following the occurrence of an Event of Default, and the expiration of the cure period prescribed in Section 12, upon written notice to the Loan Parties and the Monitor, the Lender shall have the right, subject to the Lender obtaining an Order from the Court lifting the stay under the CCAA Proceedings, to:

(a) enforce the DIP Lender's Charge and realize on the Property and any other collateral securing the DIP Facility;

(b) exercise the rights and powers of a secured lender and mortgagee pursuant to applicable laws; and

(c) exercise all such other rights and remedies available to the Lender under this Term Sheet, the Initial Order, the ARIO, any other order of the Court or applicable law.

No failure or delay on the part of the Lender in exercising any of its rights and remedies shall be deemed to be a waiver of any kind.

20 **Further Assurances**: The Borrower will, at its own expense and promptly on demand by the Lender at any time, do such acts and things and execute and deliver such documents as the Lender may reasonably request to give effect to any other provisions set out hereunder.

21 **Assignment**: The Loan Parties shall not assign this Term Sheet, any of the provisions set out herein or the Guarantee without the prior written consent of the Lender. The Lender may assign or sell its rights or obligations with respect to this Term Sheet to any person with the consent of the Monitor.

22 **Governing Law**: The DIP Facility and the provisions set out herein shall be governed and construed in all respects in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

23 **Currency**: Unless otherwise stated, all amounts referred to herein are in United States dollars.

24 **Acceptance**: The Loan Parties may accept this Term Sheet by returning a countersigned copy of this Term Sheet to the Lender (by electronic transmission or personal delivery).

[*Signature Page Follows*]

Dated this 17th day of February, 2026.

ROCKFORD EQUITY PTY LTD.

By: Signed by: Matthew Carr 57CA5185E0164E2...

Name: Matthew Carr

Title: Director

I have authority to bind the corporation

ACCEPTANCE

TO THE LENDER:

For good and valuable consideration received, the Loan Parties accept and agree to comply with the provisions of the Term Sheet set out above.

Dated this 17th day of February, 2026.

TRION BATTERY TECHNOLOGIES INC.

By: _____

Name: Mark R. Smith

Title: Chairman

I have authority to bind the corporation

TRION ENERGY SOLUTIONS CORP.

By: Signed by: Timothy Mayne 112DB008AA8F49A...

Name: Timothy Mayne

Title: CEO

I have authority to bind the corporation

TRION BATTERY GMBH

By: Signed by: Timothy Mayne 112DB008AA8F49A...

Name: Timothy Mayne

Title: CEO

I have authority to bind the corporation

TRION BATTERY GERMANY GMBH

By: Signed by: Timothy Mayne 112DB008AA8F49A...

Name: Timothy Mayne

Title: CEO

I have authority to bind the corporation

EXHIBIT "A"

DIP Budget

[Attached]

Trion Battery Technologies Inc.

Consolidated Cash Flow Projections

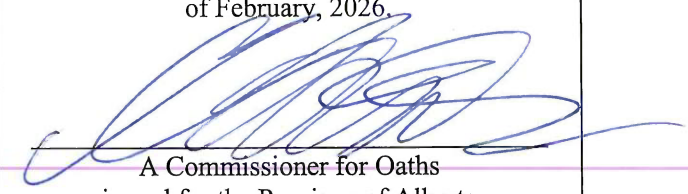
Figures in USD $

Forecast Week Ending	Feb 27	Mar 6	Mar 13	Mar 20	Mar 27	Apr 3	Apr 10	Apr 17	Apr 24	May 1	May 8	May 15	May 22	Total
Forecast Week	1	2	3	4	5	6	7	8	9	10	11	12	13	CCAA
	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	CCAA	
Receipts														
Module Sales	-	-	-	-	-	5,729	5,729	5,729	5,729	4,583	4,583	4,583	4,583	41,250
VAT Refunds	-	-	-	10,000	-	-	-	10,000	-	-	-	10,000	-	30,000
Total Receipts	**-**	**-**	**-**	**10,000**	**-**	**5,729**	**5,729**	**15,729**	**5,729**	**4,583**	**4,583**	**14,583**	**4,583**	**71,250**
Operating Disbursements														
Material Purchases	(208,511)	-	-	-	(160,512)	-	-	-	(160,512)	-	-	-	-	(529,535)
Accrued Purchases	-	-	(284,832)	-	-	-	-	-	-	-	-	-	-	(284,832)
Salaries and Wages	(68,381)	-	(68,381)	-	(74,926)	-	(74,926)	-	(80,641)	-	(80,641)	-	(80,641)	(528,538)
Additional Production Labour	-	(5,000)	-	(5,000)	-	(10,000)	-	(10,000)	-	(15,000)	-	(15,000)	-	(60,000)
Production Overheads	-	(4,935)	(4,935)	(4,935)	(4,935)	(4,935)	(4,935)	(4,935)	(4,935)	(8,073)	(8,073)	(8,073)	(8,073)	(71,771)
Overhead Costs	(27,021)	(118,703)	(11,188)	(66,188)	(27,021)	(183,703)	(11,188)	(6,188)	(27,021)	(153,703)	(11,188)	(6,188)	(11,188)	(660,483)
Maintenance and Repairs	-	-	(50,000)	-	(50,000)	-	-	-	-	-	-	-	-	(100,000)
Total Operating Disbursements	**(303,913)**	**(128,638)**	**(419,336)**	**(76,122)**	**(317,393)**	**(198,638)**	**(91,049)**	**(21,122)**	**(273,108)**	**(176,776)**	**(99,901)**	**(29,260)**	**(99,901)**	**(2,235,159)**
Net Cash from Operations	**(303,913)**	**(128,638)**	**(419,336)**	**(66,122)**	**(317,393)**	**(192,909)**	**(85,319)**	**(5,393)**	**(267,379)**	**(172,193)**	**(95,318)**	**(14,677)**	**(95,318)**	**(2,163,909)**
Professional Fees	(52,778)	(52,778)	(52,778)	(52,778)	(52,778)	(52,778)	(52,778)	(52,778)	(52,778)	(33,778)	(33,778)	(33,778)	(33,778)	(610,111)
Contingency	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(325,000)
Net Cash Flow	**(381,691)**	**(206,416)**	**(497,114)**	**(143,900)**	**(395,171)**	**(270,687)**	**(163,097)**	**(83,171)**	**(345,157)**	**(230,970)**	**(154,096)**	**(73,455)**	**(154,096)**	**(3,099,020)**
Cash														
Beginning Balance	**23,077**	**491,386**	**284,971**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**23,077**
Net Cash Flow	(381,691)	(206,416)	(497,114)	(143,900)	(395,171)	(270,687)	(163,097)	(83,171)	(345,157)	(230,970)	(154,096)	(73,455)	(154,096)	(3,099,020)
DIP Advances (Repayments)	850,000	-	262,143	143,900	395,171	270,687	163,097	83,171	345,157	230,970	154,096	73,455	154,096	3,125,943
Ending Balance	**491,386**	**284,971**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**	**50,000**

THIS IS EXHIBIT "H"
referred to in the Affidavit of

MARK SMITH

Sworn before me this 18th day
of February, 2026.



A Commissioner for Oaths
in and for the Province of Alberta

COURT FILE NUMBER	2601-

Clerk's Stamp:

COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c. C-36, AS AMENDED AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF TRION BATTERY TECHNOLOGIES INC.
DOCUMENT	**CONSENT TO ACT AS MONITOR**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**DLA Piper (Canada) LLP** Suite 2700, 10220 – 103 Ave NW Edmonton, AB T5J 0K4 Solicitor: Jerritt Pawlyk / Carole Hunter Phone: 780 429 6835 / 403 698 8782 Fax: 780 670 4329 / 403 697 6600 Email: jerritt.pawlyk@ca.dlapiper.com carole.hunter@ca.dlapiper.com File No. 106030.00013

FTI CONSULTING CANADA INC., does hereby consent to its appointment as monitor in the *Companies' Creditors Arrangement Act* proceedings of Trion Battery Technologies Inc.

DATED at Toronto, Ontario this 17TH day of February, 2026.

FTI CONSULTING CANADA INC.

Per: _____

Jeffrey Rosenberg
Senior Managing Director

	Clerk's Stamp:
COURT FILE NUMBER	2601-
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF	CALGARY
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended
	IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TRION BATTERY TECHNOLOGIES INC.
DOCUMENT	**Bench Brief of the Applicant**
	Initial CCAA Application
	Application – February 20, 2026 at 2:00 p.m.

CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:

DLA Piper (Canada) LLP
Suite 2700. 10220 – 103 Ave NW
Edmonton, AB T5J 0K4

Solicitor: Jerritt Pawlyk / Carole Hunter
Phone: 780 429 6835 / 403 698 8782
Fax: 780 670 4329 / 403 697 6600
Email: jerritt.pawlyk@ca.dlapiper.com
carole.hunter@ca.dlapiper.com

File No. 106030.00013

INDEX

PART I -- OVERVIEW[1]

1. This brief is submitted on behalf of TRION BATTERY TECHNOLOGIES INC. ("**Trion**" or the "**Applicant**") for relief under the *Companies' Creditors Arrangement Act*.[2]

2. The Applicant seeks (i) a declaration that the CCAA applies to the Applicant; (ii) an initial stay of proceedings; (iii) the appointment of FTI Consulting Canada Inc. ("**FTI**") as the monitor in these proceedings (the "**Monitor**"); (iv) approval of an DIP Facility and DIP Lender's charge; and (v) approval of an administration charge and directors' charge.

PART II -- FACTS

Background

3. Trion is a corporation incorporated on October 23, 2020 in the Province of British Columbia. On October 28, 2020, Trion completed an extra-provincial registration in Alberta. Trion's head office is located at #280, 1414 8 Ave SW in Calgary, Alberta.[3]

4. Trion designs and manufactures proprietary silicon anode materials and advanced Lithium Iron Phosphate ("**LFP**") batteries that combine deep-cycle endurance with high-power performance, offering a safer, more durable, and cost-efficient alternative to lead-acid systems.[4]

5. Trion's LFP batteries are engineered for high-power applications that require high power for short durations, such as heavy vehicle ignition systems, liftgates, marine equipment, data centre backup power, and defence systems. These markets are served primarily by lead-acid batteries today.[5]

6. In June 2022, Trion acquired Liacon GmbH, which was renamed in August 2025 to TRION Battery GmbH ("**Trion GmbH**"), adding cell-to-pack battery manufacturing capability near Dresden, Germany. Trion's current production capacity at the Dresden facilities is approximately 5,000 batteries per year, with the ability to produce approximately 95,000 batteries per year with additional production lines and minor modifications.[6] Trion has also

[1] Capitalized terms used but not otherwise defined herein have the same meaning set out in the Affidavit of Mark Smith sworn February 18th, 2026 (the "**Smith Affidavit**").
[2] RSC 1985, c C-36, as amended ["**CCAA"**].
[3] Smith Affidavit at para 5.
[4] Smith Affidavit at para 6.
[5] Smith Affidavit at para 8.
[6] Smith Affidavit at paras 9-10.

recently incorporated TRION Battery Germany GmbH ("**Trion Battery**") as a subsidiary of Trion GmbH, which will be responsible for conducting sales of the products produced by Trion GmbH. Trion Battery is currently inactive.[7]

7. Trion also has a U.S.-based silicon division with a pilot production facility in St. Paul, Minnesota, developing high-energy-density, long-life silicon anode technology and electrolyte formulations.[8]

8. Trion has three employees at its headquarters in Calgary, Alberta, 11 employees at its manufacturing facility in Germany, and three employees in the United States through its subsidiary, TRION ENERGY SOLUTIONS CORP. ("**TES**"). Trion also engages five contractors in Europe and North America.[9]

9. Trion commenced the sale of its batteries in December 2025, primarily targeting the European recreational vehicle and marine vessel markets.[10]

Trion's Indebtedness

10. Trion has financed its operations since 2021 through a series of equity and warrant unit offerings and convertible debentures. Trion has no secured creditors.[11]

11. In late 2021 and early 2022, Trion issued Series A 8% Financing Units for gross proceeds of approximately $13.8 million. As a result of multiple failures to reach separate Liquidity Events, penalty debentures were issued. The principal outstanding under the Series A Debentures is $18,589,900. The maturity date was December 31, 2025.[12]

12. In September 2024, Trion issued Series B 8% Financing Units for gross proceeds of approximately $6.43 million. The principal outstanding under the Series B Debentures is $7,714,800. The maturity date was December 31, 2025.[13]

13. Trion also has outstanding obligations under: (a) director and management fees convertible debentures in the amount of approximately US$1,000,163; (b) a 10% unsecured convertible debenture with VCM Global Asset Management Ltd. in the principal amount of US$1,500,000;

[7] Smith Affidavit at para 13.
[8] Smith Affidavit at para 15.
[9] Smith Affidavit at paras 7, 12 and 16.
[10] Smith Affidavit at para 11.
[11] Smith Affidavit at paras 17 and 39.
[12] Smith Affidavit at paras 18 to 19.
[13] Smith Affidavit at paras 21 to 22.

and (c) a Bridge Loan from various investors with a principal amount outstanding of AUD$2.8 million.[14]

14. In June through October 2025, Trion issued Series C 8% Financing Units for gross proceeds of approximately $6.36 million, maturing December 31, 2026.[15]

15. The Tribeca Group is the largest creditor constituency, being collectively owed approximately US$8.1 million under the convertible debentures and AUD$2.8 million under the Bridge Loan.[16]

Financial Position and Insolvency

16. As at November 30, 2025, Trion had total assets of approximately US$105.09 million and total liabilities of approximately US$64.7 million.[17]

17. For the nine months ended November 30, 2025, Trion generated revenues of US$466,348 while incurring expenses of approximately US$16.5 million, resulting in a net operating loss of approximately US$12.7 million. Trion has experienced recurring operating losses since its inception in 2020.[18]

18. In 2025, Trion attempted to raise US$21.8 million (approximately AUD$32.5 million) through an initial public offering ("**IPO**") on the Australian Stock Exchange. The IPO roadshow was launched at the beginning of November 2025 but was not successful, and though Trion explored other avenues to complete the equity raise, none of these efforts proved successful.[19]

19. Following the failure of the IPO and other efforts to raise funds, Trion worked with the holders of the various convertible debentures to extend the maturity dates for repayment. In or about mid-December 2025, the Tribeca Group advised Trion that it would not invest any further funds in Trion.[20]

20. Trion is insolvent on a cash flow basis and unable to meet its obligations generally as they come due. Trion does not have sufficient funds to repay the amounts owing to the Tribeca

[14] Smith Affidavit at paras 24 to 31.
[15] Smith Affidavit at paras 32 to 33.
[16] Smith Affidavit at paras 20, 23, 30, 34 and 40.
[17] Smith Affidavit at paras 36 to 37.
[18] Smith Affidavit at paras 38 and 41.
[19] Smith Affidavit at paras 42 to 43.
[20] Smith Affidavit at para 44.

Group or the other holders of the convertible debentures and does not have sufficient liquidity to continue to fund the ongoing expenses necessary to develop its products and business.[21]

21. On February 17, 2026, Trion, together with Trion GmbH, TES and Trion Battery (collectively, the "**Guarantors**") entered into a restructuring support agreement (the "**RSA**") with Tribeca Investment Partners Pty Ltd., as investment manager for Tribeca Global Natural Resources Fund, Tribeca Global Natural Resources Segregated Portfolio, Tribeca Special Opportunities Fund SP, Tribeca Global Natural Resources Limited, Tribeca 2050 SPV Trust and Tribeca Partners Funds (collectively, the "**Tribeca Entities**") and Rockford Equity PTY Ltd. ("**Rockford**"), an affiliate of the Tribeca Entities. Pursuant to the RSA, the Tribeca Entities agreed to, among other things: (a) support an application by Trion for the commencement of proceedings under the CCAA; (b) forbear from enforcing any remedies with respect to Trion's defaults under the debentures; and (c) support the development and implementation of a sale and investment solicitation process. Rockford agreed to provide debtor-in-possession financing to assist Trion in undertaking these restructuring proceedings.[22]

Restructuring and Relief Sought

22. For these reasons, Trion is seeking protection under the CCAA, which will allow it to stabilize its business, preserve value and pursue a restructuring that may include soliciting interest in an asset purchase or strategic investments in Trion through a sales and investment solicitation process, and developing a plan of arrangement for the benefit of creditors, all under the supervision of the Court and with the assistance of the proposed Monitor.

23. To facilitate its restructuring efforts and meet near-term liquidity requirements, Trion and the Guarantors (collectively, the "**Loan Parties**") have entered into a debtor-in-possession financing facility with Rockford Equity PTY Ltd. (the "**DIP Lender**") dated as of February 17, 2026, in the maximum principal amount of USD$3,100,000, with interest at a rate of 13.5% per annum and a commitment fee of 3% of the advanced DIP Facility (the "**DIP Facility**").[23]

24. Trion is also seeking the following priority charges:

[21] Smith Affidavit at paras 45 to 47.
[22] Smith Affidavit at paras 49 to 50.
[23] Smith Affidavit at paras 61 to 62.

(a) Administration Charge, in the amount of $350,000, as security for the professional fees and disbursements of the Monitor, counsel for the Monitor and counsel for the Applicant, both before and after the granting of the Initial Order;

(b) DIP Lender's Charge, in favour of the DIP Lender, to secure Trion's borrowing under the DIP Facility;

(c) Directors' Charge, in the amount of $50,000, as security for Trion's indemnification obligations of its officers and directors against liabilities they may incur as directors and/or officers of Trion after the commencement of these CCAA proceedings except to the extent any obligation was incurred as a result of any director's or officer's gross negligence or willful misconduct; and

(collectively, the "**Charges**").

PART III -- ISSUES

25. The issues in respect of the relief being sought in the Initial Order are whether:

(a) the Applicant is entitled to protection under the CCAA;

(b) the stay of proceedings should be granted;

(c) FTI should be appointed as Monitor;

(d) the DIP Facility should be approved and the DIP Lender's Charge should be granted; and

(e) the Administration Charge and the Directors' Charge, including the proposed priorities of such Charges, should be granted and approved.

PART IV -- LAW AND ARGUMENT

A. This Court Should Grant Protection to the Applicant Under the CCAA

(i) The Applicant is a "Debtor Company" to which the CCAA Applies

26. The CCAA applies to a "debtor company" or "affiliated debtor companies" whose liabilities exceed $5 million.[24] Among other things, a "debtor company" is a "company" that is "bankrupt

[24] CCAA, s 3.

or insolvent", or that has committed an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act.*[25]

27. The CCAA defines "company" as, *inter alia*, "[a]ny company, corporation or legal person incorporated by or under an Act of Parliament or of the legislature of a province and any incorporated company having assets or doing business in Canada, wherever incorporated …"[26] The Applicant is a corporation existing under the laws of the Province of British Columbia, extra-provincially registered in Alberta, and therefore meets the definition of "company."

28. The CCAA does not define "insolvent;" however, it is well accepted that this term is understood by reference to "insolvent person" under the BIA.[27] The definition of "insolvent person" in the BIA is:

> a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and
>
> (a) who is for any reason unable to meet his obligations as they generally become due,
>
> (b) who has ceased paying his current obligations in the ordinary course of business as they generally become due,
>
> (c) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.[28]

29. Each of the factors for "insolvent person" under the BIA are disjunctive.[29] A company may also satisfy the insolvency requirement under the CCAA where there is a reasonably foreseeable expectation of a looming liquidity condition or crisis which will result in the applicant running out of money to meet its obligations as they generally become due.[30]

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[25] *Ibid*, s 2(1).
[26] *Ibid.*
[27] *Laurentian University of Sudbury*, 2021 ONSC 659 ["***Laurentian***"] at para 30; *Nordstrom Canada Retail Inc.*, 2023 ONSC 1422 ["***Nordstrom***"] at para 26.
[28] *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, s. 2 ["**BIA**"].
[29] *McEwan Enterprises Inc.,* 2021 ONSC 6453 at para 26; *Laurentian*, *supra* note 25 at para 31.
[30] *Stelco Inc., Re*, 2004 CarswellOnt 1211 (S.C.) ["***Stelco***"] at paras 26 and 40; *Laurentian*, *supra* note 25 at para 32.

30. The Applicant satisfies part (a) of the definition of "insolvent person." Trion is unable to meet its obligations generally as they become due. The Series A and Series B Debentures matured on December 31, 2025 and remain unpaid. The Tribeca Group has refused to extend the maturity dates. Trion has experienced recurring operating losses since inception and its failed IPO eliminated its primary avenue for raising the capital necessary to repay its creditors.[31]

31. The Applicant has significant financial obligations that exceed the $5 million threshold for protection under the CCAA. The outstanding principal on the convertible debentures alone is well in excess of $5 million.[32]

32. Accordingly, the Applicant is a debtor company to which the CCAA applies and is therefore eligible for creditor protection.

(ii) Jurisdiction to Grant the Relief Sought

33. Subsection 9(1) of the CCAA establishes that an application under the CCAA may be made to the court that has jurisdiction in the province where the debtor company has its "head office or chief place of business."[33] The Applicant's head office is located in Calgary, Alberta.[34]

(iii) The Relief Sought is Reasonably Limited to What is Necessary

34. While this Court has broad discretion under section 11 of the CCAA to make any order it considers appropriate in the circumstances, the relief granted on an initial application is limited to relief that is reasonably necessary for the continued operations of the debtor company during the initial stay period. The stay may be extended on subsequent applications.[35]

35. The initial 10-day stay period is intended to preserve the status quo and allow operations to be stabilized for negotiations to occur. Expanded relief, on proper notice to affected parties, may be requested at the full comeback hearing.[36]

36. The Applicant seeks relief that is reasonably necessary and critical for the Applicant to adequately address its current situation. The Applicant has worked with its advisors and the proposed Monitor to limit the relief being sought to what is reasonably necessary to stabilize

[31] Smith Affidavit at paras 19, 22, 41 to 44.
[32] Smith Affidavit at paras 19, 22, 26, 28 and 33.
[33] CCAA, s. 9(1).
[34] Smith Affidavit at para 5.
[35] CCAA, ss. 11.02(1) and 11.001.
[36] In *Re Hudson's Bay Company*, 2025 ONSC 1530 at para 36.

the business, continue operations and protect the value of its property during the initial stay period.

37. The Applicant intends to seek additional relief, as necessary, at the comeback hearing scheduled for March 2, 2026.

B. The Applicant Requires a Stay of Proceedings

(i) The Requested Stay is Necessary for the Applicant

38. Integral to the CCAA is the "broad and flexible authority" it provides courts to grant an initial stay of proceedings against a debtor company, halting creditors' ability to commence or carry on claims against it for a preliminary period of ten days.[37] A stay of proceedings serves as the "primary tool" enabling the CCAA to fulfill its restructuring objective.[38] The direct effect of the stay is a status quo period which protects debtors from creditor action while the restructuring process progresses.

39. The Supreme Court of Canada has described the judicial discretion under the CCAA – which plays a key role in CCAA proceedings – as the "true engine" driving the statutory scheme of the CCAA.[39]

40. The Applicant requires a stay of proceedings to maintain the status quo and preserve the value of its business. Without a stay of proceedings, there is a risk that the holders of the matured convertible debentures may attempt to enforce their rights, potentially jeopardizing the Applicant's survival and the prospect of maximizing value for stakeholders.[40] A stay of proceedings gives the Applicant the breathing space needed to develop and manage a restructuring process while continuing business operations.[41]

(ii) The Stay should be Extended to the Foreign Subsidiaries

41. The Court has the discretion to grant an extension of the stay to the Non-Applicant Stay Parties pursuant to section 11 and 11.02(1) of the CCAA, which allow the Court to grant "any order that it consider appropriate in the circumstances"[42] and to make a stay order "on any terms

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[37] CCAA, s. 11.02(1); *Wiebe v Weinrich Contracting Ltd.*, 2020 ABCA 396 at para 27.
[38] *Montreal (City) v. Deloitte Restructuring Inc.* ["***Montreal***"], 2021 SCC 53 at para 46.
[39] *Ibid,* at para 48.
[40] Smith Affidavit at paras 45 and 52.
[41] *Century Services Inc v Attorney General (Canada)*, 2010 SCC 60 ["***Century Services***"] at para 14; *Target Canada Co (Re)*, 2015 ONSC 303 at para 8.
[42] CCAA, s. 11.

that it may impose."[43] In considering whether to extend a stay of proceedings to non-applicant parties, courts have considered factors including whether (i) the non-applicants parties had guaranteed the debtor's secured loans; (ii) the non-applicant parties were deeply integrated into the business operations of the debtor; and (iii) the claims against the non-applicant parties were derivative of the primary liability of the debtor.[44]

42. Trion GmbH, TES, and Trion Battery (collectively, the "**Foreign Subsidiaries**") are wholly-owned foreign subsidiaries of Trion and are integral to its business and restructuring. Trion GmbH operates Trion's cell-to-pack battery manufacturing facility near Dresden, Germany, which represents the core of Trion's current production capacity. TES operates Trion's silicon anode development division in St. Paul, Minnesota. Any proceedings commenced against the Foreign Subsidiaries would necessarily involve Trion's key personnel, consume Trion's limited resources, and directly undermine the restructuring process, all to the detriment of Trion's stakeholders.

43. Extending the stay to the Foreign Subsidiaries prevents uncoordinated enforcement attempts against Trion's core operating assets in multiple foreign jurisdictions. Failing to extend the stay to the Foreign Subsidiaries would be counterproductive to the Applicant's goal of stabilizing its business and maximizing value for stakeholders, including through the SISP contemplated by the RSA.

C. FTI Should be Appointed as Monitor

44. Upon granting an initial CCAA order, the court shall appoint a person to monitor the business and financial affairs of a debtor company. The monitor must be a trustee within the meaning of subsection 2(1) of the BIA and must not be subject to any of the restrictions set out in s. 11.7(2).[45]

45. The Applicant seeks to appoint FTI as Monitor in these CCAA proceedings. FTI is a trustee within the meaning of s. 2(1) of the BIA and is not subject to any restrictions that would prevent it from being appointed monitor pursuant to s. 11.7(2) of the CCAA. FTI has significant experience acting as a court-appointed monitor in this and other Canadian jurisdictions and has consented to act as the monitor in these CCAA proceedings.[46]

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[43] CCAA, s. 11.02(1).
[44] *BZAM Ltd. Plan of Arrangement*, 2024 ONSC 1645 at para 42.
[45] CCAA, s. 11.7; BIA, s. 2(1).
[46] Smith Affidavit at paras 71 to 73.

46. As a condition of the DIP Facility, the Tribeca Entities requested and Trion agreed to the provision of certain enhanced powers for the Monitor during these proceedings, including: (a) approval of the payment of any pre-filing expenses; (b) consent rights in respect of the terms of the SISP procedures; (c) conduct of the SISP, in consultation with Trion; (d) consent rights in respect of the termination of employees, amendment of contracts and engagement of consultants or other persons in respect of Trion's business; and (e) the ability to speak directly to Trion's employees for the purpose of gathering information.[47]

D. DIP Facility and DIP Lender's Charge

47. The Applicant seeks approval of the DIP Facility and the DIP Lender's Charge, which would rank ahead of all other charges and security interests except the Administration Charge.

(i) The Proposed Interim Financing Satisfies s. 11.2(1) and (4) of the CCAA

48. Section 11.2(1) of the CCAA gives the Court the statutory authority and discretion to grant an interim financing charge.[48] Section 11.2(4) of the CCAA set out the following factors to be considered in deciding whether to grant an interim financing charge:

> **11.2(4) Factors to be considered** - In deciding whether to make an order, the court is to consider, among other things,
>
> (a) the period during which the company is expected to be subject to proceedings under this Act;
>
> (b) how the company's business and financial affairs are to be managed during the proceedings;
>
> (c) whether the company's management has the confidence of its major creditors;
>
> (d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
>
> (e) the nature and value of the company's property;

[47] Smith Affidavit at para 74.
[48] CCAA, s. 11.2.

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

(g) the monitor's report referred to in paragraph 23(1)(b), if any.[49]

49. The Applicant respectfully submits that this Court should approve the DIP Facility and DIP Lender's Charge, both of which are essential to provide the Applicant with the financing it requires to continue to operate its business. The following factors support the approval of the DIP Facility and the granting of the DIP Lender's Charge:

(a) the necessity of the DIP Facility is demonstrated and supported by the Applicant's 13-week cash flow projections;[50]

(b) in the absence of the DIP Facility, the Applicant will not be able to continue to carry on its business or make a viable compromise or arrangement for the benefit of its stakeholders;

(c) the availability of the DIP Facility is contingent on this Honourable Court granting an Order approving of such facility and the DIP Lender's Charge to secure advances made thereunder;

(d) Trion has no secured creditors and accordingly no creditor will be materially prejudiced by the DIP Facility or the DIP Lender's Charge;[51]

(e) the proposed Monitor supports the DIP Facility and the DIP Lender's Charge.[52]

50. Accordingly, the Applicant respectfully submits that this Honourable Court exercise its discretion to approve the DIP Facility and grant the DIP Lender's Charge.

(ii) The Proposed Interim Financing Satisfies s. 11.2(5) of the CCAA

51. Pursuant to section 11.2(5) of the CCAA, interim financing on an initial application is to be limited to what is "reasonably necessary" to meet the debtor's needs. Courts have approved interim financing where it provides stability to the debtor's business, ensures liquidity and ensures the day-to-day operations of the debtor's business.[53]

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[49] CCAA, s. 11.2(4).
[50] Smith Affidavit at para 48.
[51] Smith Affidavit at para 39.
[52] Smith Affidavit at para 66.
[53] CCAA, s. 11.2(5); *Re Mobilicity Group*, 2013 ONSC 6167 at para 30.

52. Without the proposed DIP Facility, the Applicant will be unable to continue its business operations in the ordinary course. The DIP Facility is required to pay ordinary course operating expenses. The amount of the DIP Facility and the quantum of the DIP Lender's Charge are limited to what is necessary for the continued operations of the Applicant from now until the comeback hearing, scheduled for March 2, 2026.[54] Pursuant to the DIP Facility, the DIP Lender's Charge will be limited to USD$850,000 during the initial 10-day period, with the full amount of USD$3,100,000 to be sought at the Comeback Hearing.[55]

E. The Court-Ordered Charges

(i) Administration Charge

53. The Applicant seeks a charge in the amount of $350,000 (the "**Administration Charge**") to secure the professional fees and disbursements of the proposed Monitor, the proposed Monitor's counsel and the Applicant's counsel, incurred prior to, on or subsequent to the date of the Initial Order, incurred at their standard rates and charges.

54. Section 11.52 of the CCAA expressly provides the Court with the power to grant the Administration Charge. The non-exhaustive list of factors to be considered when granting an administration charge include:

(a) the size and complexity of the businesses being restructured;

(b) the proposed role of the beneficiaries of the charge;

(c) whether there is an unwarranted duplication of roles;

(d) whether the quantum of the proposed charge appears to be fair and reasonable;

(e) the position of the secured creditors likely to be affected by the charge; and

(f) the position of the Monitor.[56]

55. The Applicant submits that, on the whole, the above criteria supports granting an Administration Charge, given that:

[54] Smith Affidavit at para 62.
[55] Smith Affidavit at para 64.
[56] CCAA, s. 11.52; *Canwest Publishing Inc.*, 2010 ONSC 222 at para 54.

(a) the Applicant's operations span multiple jurisdictions, including Canada, Germany, and the United States, and the Administration Charge is fair and reasonable in light of the complexity of the proposed restructuring;

(b) the amount of the Administration Charge was reached in consultation with the proposed Monitor;

(c) the Administration Charge is not sought for the benefit of any professionals with duplicate roles;

(d) Trion has no secured creditors that would be prejudiced by the Administration Charge;[57]

(e) the proposed Monitor supports the Administration Charge.[58]

56. For the foregoing reasons, the Administration Charge is appropriate and reasonably necessary in the circumstances. Therefore, it ought to be granted as set forth in the proposed Initial Order.

(ii) Directors' Charge

57. The Applicant seeks the directors' and officers' charge in the amount of $50,000 (the "**Directors' Charge**") to secure the indemnity of its directors and officers for liabilities they may incur during the CCAA proceedings.

58. Section 11.51 of the CCAA provides the Court with the discretionary authority to grant the Directors' Charge. Courts have recognized that a directors' charge is integral to the functioning of successful CCAA restructuring proceedings by serving a dual purpose:

> The purpose of a section 11.51 charge is twofold: (1) to keep the directors and officers in place during the restructuring to avoid a potential destabilization of the business; and (2) to enable the CCAA applicants to benefit from experienced board of directors and experienced senior management. Courts have accepted that, without certain protections, officers and directors will often discontinue their service in CCAA restructurings.[59]

[57] Smith Affidavit at para 39.
[58] Smith Affidavit at para 58.
[59] *Northstar Aerospace, Inc. (Re)*, 2013 ONSC 1780 at para 29.

59. The Applicant submits it is appropriate for this Court to exercise its jurisdiction and grant the Directors' Charge:

(a) the directors and officers have been actively involved in the Applicant's restructuring efforts and will continue to play an important role in these CCAA proceedings;

(b) the Applicant requires the active and committed involvement of its directors and officers in order to continue business operations in the ordinary course;[60]

(c) the Directors' Charge will only apply to the extent that the directors' and officers' insurance is insufficient or ineffective;[61]

(d) the Directors' Charge would only cover obligations and liabilities that the directors and officers incur after the commencement of the CCAA proceedings and does not cover wilful negligence or gross misconduct;

(e) the amount of the Directors' Charge is reasonable and limited to potential exposure during the initial 10-day period;[62]

(f) the proposed Monitor is supportive of the Directors' Charge.

60. For the foregoing reasons, the Directors' Charge is appropriate and reasonably necessary in the circumstances. Therefore, it ought to be granted as set forth in the proposed Initial Order.

(iii) Priority Ranking of the Charges

61. The Applicant proposes that the Charges shall rank in priority as follows:

(a) *first*, the Administration Charge;

(b) *second,* the DIP Lender's Charge; and

(c) *third*, the Directors' Charge.[63]

62. The proposed priority ranking is consistent with the priority of charges commonly approved in CCAA proceedings and ensures that the professional advisors essential to the restructuring

[60] Smith Affidavit at para 69.
[61] Smith Affidavit at para 68.
[62] Smith Affidavit at para 67.
[63] Smith Affidavit at para 70.

process are adequately secured. As Trion has no secured creditors, the Charges will not subordinate or prejudice any existing security interests.[64]

PART V -- RELIEF SOUGHT

63. The Applicant, therefore, requests that this Honourable Court grant the Initial Order, substantially in the form of the draft Initial Order filed in these proceedings.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 18th DAY of FEBRUARY, 2026

DLA Piper (Canada) LLP
Jerritt Pawlyk
Counsel for the Applicant

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

[64] Smith Affidavit at para 39.

PART VI -- TABLE OF AUTHORITIES

CASES

1. ***Laurentian University of Sudbury***, 2021 ONSC 659
2. ***Nordstrom Canada Retail Inc.,*** 2023 ONSC 1422
3. ***McEwan Enterprises Inc***., 2021 ONSC 6453
4. ***Stelco Inc., Re***, 2004 CarswellOnt 1211 (S.C.)
5. ***In Re Hudson's Bay Company***, 2025 ONSC 1530
6. ***Wiebe v Weinrich Contracting Ltd***., 2020 ABCA 396
7. ***Montreal (City) v. Deloitte Restructuring Inc.,*** 2021 SCC 53
8. ***Century Services Inc v Attorney General (Canada),*** 2010 SCC 60
9. ***Target Canada Co (Re),*** 2015 ONSC 303
10. ***BZAM Ltd. Plan of Arrangement***, 2024 ONSC 1645
11. ***Re Mobilicity Group***, 2013 ONSC 6167
12. ***Canwest Publishing Inc***., 2010 ONSC 222
13. ***Northstar Aerospace, Inc. (Re),*** 2013 ONSC 1780

LEGISLATION

14. ***Companies' Creditors Arrangement Act,*** RSC 1985, c C-36
15. ***Bankruptcy and Insolvency Act,*** RSC 1985, c B-3

TAB 1

2021 ONSC 659
Ontario Superior Court of Justice

Laurentian University of Sudbury

2021 CarswellOnt 1224, 2021 ONSC 659, 328 A.C.W.S. (3d) 668, 87 C.B.R. (6th) 278

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LAURENTIAN UNIVERSITY OF SUDBURY

G.B. Morawetz C.J. Ont. S.C.J.

Heard: February 1, 2021
Judgment: February 1, 2021
Docket: CV-21-656040-00CL

Counsel: D.J. Miller, Mitch W. Grossell, Andrew Hanrahan, Derek Harland, Natasha MacParland, Michael Kennedy, for Applicant
Ashley John Taylor, Elizabeth Pillon, for Monitor
Peter J. Osborne, for Board of Governors
Pamela L.J. Huff, Aryo Shalviri, for Royal Bank of Canada
Stuart Brotman, Dylan Chochla, for Toronto Dominion Bank
Martin R. Kaplan, Vern W. DaRe, for Firm Capital Mortgage Fund Inc., DIP Lender
George Benchetrit, for Bank of Montreal

Subject: Civil Practice and Procedure; Insolvency; Public

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — General principles — Qualifying company

Applicant, publicly funded university and registered charity, faced liquidity crisis and applied for interim relief pursuant to initial order under Companies' Creditors Arrangement Act (CCAA) in order to restructure — Applicant was "debtor company" to which CCAA applied — "Debtor company" is defined, inter alia, as "company" that is "insolvent" or has committed act of bankruptcy within meaning of Bankruptcy and Insolvency Act (BIA) — Section 2(1) of CCAA defines "company" to include, among other things, company incorporated by or under CCAA of legislature of province — Applicant was incorporated under An Act to Incorporate Laurentian University of Sudbury, and therefore was "company" for purposes of CCAA — Further, as not-for-profit, non-share capital corporation, applicant fell under Ontario Corporations Act — Applicant's status as not-for-profit, non-share capital corporation did not impact applicability of CCAA — CCAA does not define "insolvent", but court commonly references definition of "insolvent person" under BIA in assessing whether applicant is debtor company in context of CCAA — Applicant was plainly insolvent and faced severe liquidity crisis Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, s 2, "insolvent person"; Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, s 2(1) "company".

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Grant of stay — Miscellaneous

Applicant university faced liquidity crisis and applied for protection of Companies' Creditors Arrangement Act so that it could restructure — Applicant applied for interim relief pursuant to initial order under Act — Application granted — Applicant was plainly insolvent — Stay in favour of directors and officers was critical to retain key officers with knowledge that would assist applicant in restructuring — Limited stay granted in respect of students' association (non-applicant stay party), for whom applicant had guaranteed credit facility — Where business operations of group of entities are inextricably intertwined, courts have found it necessary and appropriate to extend stay in respect of non-applicant parties — If counterparties were to exercise

(b) Operationally, the structure of the academic programming offered by LU and the distribution of enrollment among the programs offered is flawed and must be addressed; and

(c) With its current cost structure, it costs more for LU and the Federated Universities to educate each student than the average for all Ontario universities by approximately $2,000 per student, per year.

23 LU submits that the financial challenges that LU faces are significant and, absent fundamental change, LU's short-term and long-term financial and operational sustainability are at risk.

Objective of CCAA Filing

24 As part of its restructuring strategy, LU intends to implement long-term financial stability initiatives including, among other things:

(a) A review of the breadth of academic programs offered at LU and their enrollment levels;

(b) A re-evaluation of the Federated Universities model;

(c) Negotiations with LU's unions regarding what LU must look like in the future and ensuring that a restructured LU can be aligned with collective agreements that will facilitate its future sustainability;

(d) Identification of opportunities for future revenue generation;

(e) Refinement of the student experience at LU to continue providing a top-notch education; and

(f) Consideration of options for addressing current and long-term indebtedness.

Law and Analysis

25 The CCAA applies to a "debtor company" whose liabilities exceed $5 million. A "debtor company" is defined, *inter alia*, as a "company" that is "insolvent" or that has committed an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act*. [3]

26 The CCAA defines "company" to include, among other things, a company incorporated by or under an Act of the legislature of a province. [4]

27 The Applicant is incorporated under an act of the legislature of the Province of Ontario, the LU Act, and therefore is a "company" for the purposes of the CCAA. [5] Further, as a not-for-profit, non-share capital corporation, the Applicant falls under the *Corporations Act* (Ontario). [6]

28 There have been several CCAA proceedings commenced in respect of not-for-profit corporations, such as *Canadian Red Cross Society* [7] and *The Land Conservancy of British Columbia*. [8]

29 I am satisfied that the Applicant's status as a not-for-profit, non-share capital corporation does not impact the applicability of the CCAA to the Applicant.

Insolvency

30 The insolvency of a debtor is assessed at the time of the filing of the CCAA application. While the CCAA does not define "insolvent", the definition of "insolvent person" under the BIA is commonly referenced by the Court in assessing whether an applicant is a debtor company in the context of the CCAA. [9] The BIA defines "insolvent person" as follows: [10]

> "insolvent person" means a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and
>
> (i) who is for any reason unable to meet his obligations as they generally become due,
>
> (ii) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or
>
> (iii) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.

31 The tests for "insolvent person" under the BIA are disjunctive. A company satisfying either (i), (ii) or (iii) of the test is considered insolvent for the purposes of the CCAA. [11]

32 In addition to the foregoing tests, in *Stelco*, Farley J. held that a financially troubled corporation is insolvent if it is reasonably expected to run out of liquidity within a reasonable proximity of time as compared with the time reasonably required to implement a restructuring. [12]

33 Based on the evidence set out in the Haché Affidavit and as summarized in the Report of Ernst & Young Inc., the Proposed Monitor, I find that the Applicant is plainly insolvent and faces a severe liquidity crisis.

34 I also find that the Applicant is a "debtor company" to which the CCAA applies.

Stay of Proceedings

35 Pursuant to section 11.02(1) of the CCAA, a Court may grant an order staying all proceedings in respect of a debtor company for a period of not more than ten days, provided that the Court is satisfied that circumstances exist to make the order appropriate.

36 The Applicant submits that it is just and appropriate to grant a stay of proceedings. The Applicant submits that it requires a stay of proceedings in order to provide it with the breathing room necessary to financially and operationally restructure itself in order to emerge as a sustainable and long-term financially viable university to continue providing quality post-secondary education in Northern Ontario.

37 The Proposed Initial Order provides for a stay of proceedings in favour of the Applicant's current and future directors and officers who may subsequently be appointed. The Applicant submits that the stay in favour of the current and future directors and officers is critical to retain the involvement of the Board and key officers who have knowledge that will assist the Applicant in negotiating with stakeholders and implementing a restructuring plan. I accept this submission.

38 The Applicant also seeks a limited stay in respect of the Laurentian University Students General Association (the "Non-Applicant Stay Party" or "the SGA"). The stay in respect of the Non-Applicant Stay Party is limited to preventing any person from: (i) commencing proceedings against the Non-Applicant Stay Party, (ii) terminating, repudiating, making any demand or otherwise altering any contractual relationships with the Non-Applicant Stay Party or enforcing any rights or remedies, or (iii) discontinuing or ceasing to perform any obligations under any contractual agreements with the Non-Applicant Stay Party, resulting from the commencement of this CCAA proceeding by the Applicant, the stay of proceedings granted to the Applicant and any default or cross-default arising due to the foregoing.

39 CCAA courts have, on numerous occasions, extended the initial stay of proceedings to non-applicants. [13] The Court's authority to grant such an order is derived from its broad jurisdiction under ss. 11 and 11.02(1) of the CCAA to make an initial order on "any terms that [the Court] may impose." It is well-established that it is appropriate for the Court to extend the protection of the stay of proceedings to third party entities where such parties are integrally and closely interrelated to the

TAB 2

2023 ONSC 1422
Ontario Superior Court of Justice

Nordstrom Canada Retail, Inc.

2023 CarswellOnt 3609, 2023 ONSC 1422, 2023 A.C.W.S. 870, 6 C.B.R. (7th) 114

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORDSTROM CANADA RETAIL INC., NORDSTROM CANADA HOLDINGS INC., LLC AND NORDSTROM CANADA HOLDINGS II, LLC

G.B. Morawetz C.J. Ont. S.C.J.

Heard: March 2, 2023
Judgment: March 3, 2023
Docket: CV-23-00695619-00CL

Counsel: Jeremy Dacks, Tracy Sandler, Martino Calvaruso, Marleigh Dick, for Applicants
Susan Ursel, Karen Ensslen, for Proposed Employee Representative Counsel
Brendan O'Neill, Brad Wiffen, for Proposed Monitor
George Benchetrit, for Directors and Officers of the Nordstrom Canada Entities
Aubrey Kauffman, for Nordstrom, Inc. (U.S.)

Subject: Civil Practice and Procedure; Insolvency

Headnote

Bankruptcy and insolvency --- Practice and procedure in courts — Stay of proceedings

Applicants including corporation and related companies sought relief under Companies' Creditors Arrangement Act — Corporation sought stay of proceedings to preserve applicants' business and stakeholder value — Corporation claimed that they were insolvent, and needed assistance of Act procedure to wind down in orderly fashion — Proposed monitor supported relief, sought by corporation — Corporation applied for above-noted relief, as well as appointment of monitor — Application granted — Applicants were affiliated debtor companies — Applicants were insolvent, and would not be able to satisfy their obligations without intervention — Court had jurisdiction over proceedings, as chief place of business was Ontario — Extension of stay, would prevent multiplicity of proceedings.

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Miscellaneous

Applicants including corporation and related companies sought relief under Companies' Creditors Arrangement Act — Corporation sought stay of proceedings to preserve applicants' business and stakeholder value — Corporation claimed that they were insolvent, and needed assistance of Act procedure to wind down in orderly fashion — Proposed monitor supported relief, sought by corporation — Corporation applied for above-noted relief, as well as appointment of monitor — Application granted — Administration and directors' charge as sought by corporation, were granted — Requested amount for administrative charge was reasonable, and was tailored to needs of corporation within stay period — Directors' charge was necessary, given potential liabilities and director's continued service — Increased amount of charge to $13.25 M from $10.75 M was reasonable in circumstances.

APPLICATION by corporation for relief including stay of proceedings in bankruptcy matter.

relation to this indebtedness. The corresponding security interest granted by Nordstrom Canada was also released. Nordstrom Canada does not have any commitments under and has not granted any security in relation to the remaining debt agreements of Nordstrom US.

22 Ms. Heckel states that since 2014, Nordstrom US has provided the Nordstrom Canada Entities with approximately USD $950 million. Taking into account the distributions of USD $175.6 million made by Nordstrom Canada to Nordstrom US, Nordstrom US has provided net funding to Nordstrom Canada of USD $775 million.

23 Nordstrom US, with the support of its advisors, has decided in its business judgment that it is in the best interests of Nordstrom US to discontinue its support of the Canadian operations. The Applicants contend that due to its operational and financial dependence on Nordstrom US, Nordstrom Canada cannot continue operations without the full support of Nordstrom US, including a licence to use Nordstrom US's IP.

24 The Nordstrom Canada Entities believe that these CCAA proceedings are the only practical means of ensuring a fair and orderly wind-down. Additionally, Nordstrom US has indicated that it is only willing to continue providing the Shared Services and to permit use of the IP if the wind-down is supervised by this Court under the CCAA.

Requested Relief

25 Having reviewed the record and hearing submissions, I am satisfied that the Applicants are all affiliated debtor companies with total claims against them in excess of $5 million. I am also satisfied that Nordstrom Canada and the other Applicants are each a "company" for the purposes of s. 2 of the CCAA because they do business in or have assets in Canada.

26 I accept that without the ongoing support of Nordstrom US, the realizable value of the Nordstrom Canada Entities' assets will be insufficient to satisfy all of their obligations to their creditors. I am satisfied that the Applicants in these proceedings are either currently insolvent under the definition of "insolvent person" in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 ("BIA") or the expanded concept of insolvency adopted by this Court in *Stelco Inc., Re*, 2004 CanLII 24933 (Ont. Sup. Ct.).

27 I am also satisfied that this Court has jurisdiction over the proceedings. The chief place of business of the Nordstrom Canada Entities is Ontario: 8 of the 13 Nordstrom Canada retail stores are located in Ontario, while approximately 1,450 out of Nordstrom Canada's 2,500 full and part-time employees work in Ontario. Further, during fiscal year 2022, store sales in Ontario totalled $220 million, compared to $148 million in British Columbia and $77 million in Alberta .

28 There are a number of examples of CCAA proceedings that have been commenced for the purpose of winding down a business. Recent examples include Target Canada Co. (Re), 2015 ONSC 303, *Bed Bath & Beyond Canada Limited (Re)* 2023 ONSC 1014, and *Bed Bath & Beyond Canada Limited (Re)*, 2023 ONSC 1230 (Ont. S.C.J.) .

29 Section 11.02(1) of the CCAA permits the Court to grant an initial stay of up to 10 days on an application for an initial order, provided such a stay is appropriate and the applicants have acted with due diligence and in good faith. Under section 11.001, other relief granted pursuant to this Court's powers under section 11 of the CCAA at the same time as an order under s. 11.02(1) must be limited "to relief that is reasonably necessary for the continued operation of the debtor company in the ordinary course of business during that period." In my view, the relief requested in this first-day application meets these criteria.

30 Where the operations of partnerships are integral and closely related to the operations of the applicants, it is well-established that the CCAA Court has the jurisdiction to extend the protection of the stay of proceedings to those partnerships in order to ensure that the purposes of the CCAA can be achieved. (See: Target Canada Co. (Re), 2015 ONSC 303 at paras. 42 and 43; *4519922 Canada Inc. (Re)*, 2015 ONSC 124 at para. 37; *Just Energy Corp. (Re)*, 2021 ONSC 1793 at para. 116; *Bed Bath & Beyond Canada Limited (Re)*, 2023 ONSC 1014, at para. 28).

31 The Applicants submit that it is appropriate to extend the Stay to Canada Leasing LP. As the lessor of Nordstrom Canada's retail premises, its business and operations are fully intertwined with those of the Nordstrom Canadian Entities, and any proceedings commenced against Canada Leasing LP would necessarily involve key personnel of the Applicants, who

TAB 3

2021 ONSC 6453
Ontario Superior Court of Justice

McEwan Enterprises Inc.

2021 CarswellOnt 13630, 2021 ONSC 6453, 336 A.C.W.S. (3d) 618, 93 C.B.R. (6th) 80

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MCEWAN ENTERPRISES INC.

G.B. Morawetz C.J. Ont. S.C.J.

Heard: September 28, 2021
Judgment: October 1, 2021
Docket: CV-21-00669445-00CL

Counsel: Robert J. Chadwick, Caroline Descours, Trish Barrett, for Applicant
Sean Zweig, Joshua Foster, for Monitor
Virginie Gauthier, for The Cadillac Fairview Corporation Limited

Subject: Insolvency

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Arrangements — Approval by court — Miscellaneous

Applicant restaurant and catering business experiencing financial difficulties brought application for orders under Companies' Creditors Arrangement Act to ensure ongoing operation of business during restructuring — Application granted — Applicant was "debtor company" under Act as its liabilities exceeded monetary threshold required and it met traditional test for insolvency as well as expanded test based on looming liquidity condition — Applicant intended to honour all its obligations to its customers, employees, suppliers and service providers during restructuring, and it was appropriate to also approve payment of its pre-filing obligations — Court proceedings were open to public and there were no extenuating circumstances that warranted altering notice provisions proscribed under Act — Extending stay of proceedings to co-owner/chef personally and to subsidiary company operating part of business was appropriate as enforcement actions against them would be detrimental to restructuring efforts and to applicant's many stakeholders — Administration and directors' charges were warranted to secure fees and disbursements incurred by monitor and counsel and to indemnify directors and officers for liabilities incurred during restructuring.

APPLICATION by restaurant and catering business for orders under *Companies' Creditors Arrangement Act*.

***G.B. Morawetz C.J. Ont. S.C.J.*:**

1 The initial hearing of this matter took place on September 28, 2021. At the conclusion of the hearing, I granted an Initial Order with reasons to follow. These are the reasons.

A. OVERVIEW

2 McEwan Enterprises Inc. ("MEI") is a full-service restaurant, catering, gourmet grocery and events company (the "Business") based in the Greater Toronto Area (the "GTA"). MEI was founded in 1987 by Mark McEwan, who leads the development, preparation and delivery of the culinary aspects of the Business.

3 Capitalized terms used but not defined herein have the meanings given to such terms in the Affidavit of Dennis Mark McEwan sworn September 27, 2021 (the "McEwan Affidavit").

(the "BIA"), which defines an "insolvent person" as a person (i) who is not bankrupt; and (ii) who resides, carries on business or has property in Canada; (iii) whose liabilities to creditors provable as claims under the BIA amount to one thousand dollars; and (iv) who is "insolvent" under one of the following tests: (a) is for any reason unable to meet his obligations as they generally become due; (b) has ceased paying his current obligations in the ordinary course of business as they generally become due; or (c) the aggregate of his property is not, at a fair valuation, sufficient, or if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due. (See: *Stelco Inc., Re*200448 C.B.R. (4th) 299 (Ont. S.C.J. [Commercial List]) at paras. *21-22* (Ont. Sup. Ct. J. [Commercial List]), leave to appeal to C.A. refused, [2004] O.J. No. 1903 (Ont. C.A.) , leave to appeal to S.C.C. refused, [2004] S.C.C.A. No. 336 (S.C.C.) [*Stelco*,];).

26 The test for "insolvent person" under the BIA is disjunctive. A company satisfying any one of the above criteria is considered insolvent for the purposes of the CCAA.

27 A company is also insolvent for the purposes of the CCAA if, at the time of filing, there is a reasonably foreseeable expectation that there is a looming liquidity condition or crisis that would result in MEI being unable to pay its debts as they generally become due if a stay or proceedings and ancillary protection are not granted by the court. (see: *Stelco*, *supra* at para. *40*).

28 Having reviewed the McEwan Affidavit and hearing submissions, I am satisfied that MEI meets both the traditional test for insolvency under the BIA and the expanded test for insolvency based on a looming liquidity condition.

29 As at August 31, 2021, MEI has aggregate liabilities exceeding $10 million. Thus, total claims against MEI exceed the $5 million threshold amount under the CCAA.

30 Accordingly, I am satisfied MEI is a "debtor company" to which the CCAA applies.

31 Subject to the terms of the Initial Order, MEI intends to honour all of its obligations in respect of its employees, suppliers and service providers in the ordinary course, as well in respect of its customer gift cards and the Customer Program. Pursuant to the proposed Transaction, any and all outstanding amounts owing in respect of MEI's employee, trade or customer obligations will be assumed by the Purchaser upon implementation of the Transaction.

32 I am also satisfied that the Court has the jurisdiction to permit payment of pre-filing obligations in a CCAA proceeding, including where such payments are critical to the ongoing operations of a debtor company or the maintenance of its customer, supplier and employee relationships. (See: *Canwest Global Communications Corp., Re*200959 C.B.R. (5th) 72 (Ont. S.C.J. [Commercial List]) (Ont. Sup. Ct. J. [Commercial List]) at paras. *41, 43*; *Cinram International Inc.Re*, 2012 ONSC 3767 (Ont. S.C.J. [Commercial List]) at para. *37* and Sch. C at paras. 66-71; and *Performance Sports Group Ltd., Re*, 2016 ONSC 6800 at para. *24* [*Performance Sports*]).

33 In arriving at this conclusion, I have taken into account a number of factors in authorizing the payment of pay pre-filing obligations, including: (a) whether the goods and services were integral to the business of the applicant; (b) the applicant's need for the uninterrupted supply of the goods and services; (c) whether the applicant had sufficient inventory of the goods on hand to meet its needs; (d) the effect on the applicant's operations and ability to restructure if it could not make pre-filing payments; and (e) the fact that no payments would be made without the consent of the Monitor. (See: *Cinram*, *supra* at para. *37* and Sch. C at paras. 66-71; *Performance Sports*, *supra* at para. *25*; and *JTI-Macdonald Corp., Re*, 2019 ONSC 1625 at para. *24* [*JTI-Macdonald*]).

34 Pursuant to the proposed Initial Order, it is proposed that the Monitor not be required to comply with the notification requirements of Section 23(1)(a) of the CCAA to: (a) publish a newspaper notice in respect of the CCAA proceedings; (b) send a notice to known creditors; or (c) make publicly available a list showing the names, addresses and estimated claim amounts of those creditors.

TAB 4

2004 CarswellOnt 1211
Ontario Superior Court of Justice [Commercial List]

Stelco Inc., Re

2004 CarswellOnt 1211, [2004] O.J. No. 1257, [2004] O.T.C. 284, 129 A.C.W.S. (3d) 1065, 48 C.B.R. (4th) 299

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

IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO STELCO INC. AND THE OTHER APPLICANTS LISTED IN SCHEDULE "A"

APPLICATION UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Farley J.

Heard: March 5, 2004
Judgment: March 22, 2004
Docket: 04-CL-5306

Counsel: Michael E. Barrack, James D. Gage, Geoff R. Hall for Applicants
David Jacobs, Michael McCreary for Locals, 1005, 5328, 8782 of the United Steel Workers of America
Ken Rosenberg, Lily Harmer, Rob Centa for United Steelworkers of America
Bob Thornton, Kyla Mahar for Ernst & Young Inc., Monitor of the Applicants
Kevin J. Zych for Informal Committee of Stelco Bondholders
David R. Byers for CIT
Kevin McElcheran for GE
Murray Gold, Andrew Hatnay for Retired Salaried Beneficiaries
Lewis Gottheil for CAW Canada and its Local 523
Virginie Gauthier for Fleet
H. Whiteley for CIBC
Gail Rubenstein for FSCO
Kenneth D. Kraft for EDS Canada Inc.

Subject: Insolvency

Headnote

Bankruptcy and insolvency --- Proposal — Companies' Creditors Arrangement Act — Application of Act

Steel company S Inc. applied for protection under Companies' Creditors Arrangement Act ("CCAA") on January 29, 2004 — Union locals moved to rescind initial order and dismiss initial application of S Inc. and its subsidiaries on ground S Inc. was not "debtor company" as defined in s. 2 of CCAA because S Inc. was not insolvent — Motion dismissed — Given time and steps involved in reorganization, condition of insolvency perforce required expanded meaning under CCAA — Union affiant stated that S Inc. will run out of funding by November 2004 — Given that November was ten months away from date of filing, S Inc. had liquidity problem — S Inc. realistically cannot expect any increase in its credit line with its lenders or access to further outside funding — S Inc. had negative equity of $647 million — On balance of probabilities, S Inc. was insolvent and therefore was "debtor company" as at date of filing and entitled to apply for CCAA protection.

MOTION by union that steel company was not "debtor company" as defined in *Companies' Creditors Arrangement Act*.

> (c) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.

23 Stelco acknowledges that it does not meet the test of (b); however, it does assert that it meets the test of both (a) and (c). In addition, however, Stelco also indicates that since the CCAA does not have a reference over to the BIA in relation to the (a) definition of "debtor company" as being a company that is "(a) bankrupt or insolvent", then this term of "insolvent" should be given the meaning that the overall context of the CCAA requires. See the modern rule of statutory interpretation which directs the court to take a contextual and purposive approach to the language of the provision at issue as illustrated by *Bell ExpressVu Ltd. Partnership v. Rex*, [2002] 2 S.C.R. 559 (S.C.C.) at p. 580:

> Today there is only one principle or approach, namely the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

24 I note in particular that the (b), (c) and (d) aspects of the definition of "debtor company" all refer to other statutes, including the BIA; (a) does not. S. 12 of the CCAA defines "claims" with reference over to the BIA (and otherwise refers to the BIA and the *Winding-Up and Restructuring Act*). It seems to me that there is merit in considering that the test for insolvency under the CCAA may differ somewhat from that under the BIA, so as to meet the special circumstances of the CCAA and those corporations which would apply under it. In that respect, I am mindful of the above discussion regarding the time that is usually and necessarily (in the circumstances) taken in a CCAA reorganization restructuring which is engaged in coming up with a plan of compromise and arrangement. The BIA definition would appear to have been historically focussed on the question of bankruptcy - and not reorganization of a corporation under a proposal since before 1992, secured creditors could not be forced to compromise their claims, so that in practice there were no reorganizations under the former *Bankruptcy Act* unless all secured creditors voluntarily agreed to have their secured claims compromised. The BIA definition then was essentially useful for being a pre-condition to the "end" situation of a bankruptcy petition or voluntary receiving order where the upshot would be a realization on the bankrupt's assets (not likely involving the business carried on - and certainly not by the bankrupt). Insolvency under the BIA is also important as to the Paulian action events (eg., fraudulent preferences, settlements) as to the conduct of the debtor *prior* to the bankruptcy; similarly as to the question of provincial preference legislation. Reorganization under a plan or proposal, on the contrary, is with a general objective of the applicant continuing to exist, albeit that the CCAA may also be used to have an orderly disposition of the assets and undertaking in whole or in part.

25 It seems to me that given the time and steps involved in a reorganization, and the condition of insolvency perforce requires an expanded meaning under the CCAA. Query whether the definition under the BIA is now sufficient in that light for the allowance of sufficient time to carry through with a realistically viable proposal within the maximum of six months allowed under the BIA? I think it sufficient to note that there would not be much sense in providing for a rehabilitation program of restructuring/reorganization under either statute if the entry test was that the applicant could not apply until a rather late stage of its financial difficulties with the rather automatic result that in situations of complexity of any material degree, the applicant would not have the financial resources sufficient to carry through to hopefully a successful end. This would indeed be contrary to the renewed emphasis of Parliament on "rescues" as exhibited by the 1992 and 1997 amendments to the CCAA and the BIA.

26 Allow me now to examine whether Stelco has been successful in meeting the onus of demonstrating with credible evidence on a common sense basis that it is insolvent within the meaning required by the CCAA in regard to the interpretation of "debtor company" in the context and within the purpose of that legislation. To a similar effect, see *PWA Corp. v. Gemini Group Automated Distribution Systems Inc.* (1993), 103 D.L.R. (4th) 609 (Ont. C.A.), leave to appeal to S.C.C. dismissed [(1993), 49 C.P.R. (3d) ix (S.C.C.)] wherein it was determined that the trial judge was correct in holding that a party was not insolvent and that the statutory definition of insolvency pursuant to the BIA definition was irrelevant to determine that issue, since the agreement in question effectively provided its own definition by implication. It seems to me that the CCAA test of insolvency advocated by Stelco and which I have determined is a proper interpretation is that the BIA definition of (a), (b) or (c) of insolvent person is acceptable with the caveat that as to (a), a financially troubled corporation is insolvent if it is reasonably expected to run out of liquidity within reasonable proximity of time as compared with the time reasonably required to implement

a restructuring. That is, there should be a reasonable cushion, which cushion may be adjusted and indeed become in effect an encroachment depending upon reasonable access to DIP between financing. In the present case, Stelco accepts the view of the Union's affiant, Michael Mackey of Deloitte and Touche that it will otherwise run out of funding by November 2004.

27 On that basis, allow me to determine whether Stelco is insolvent on the basis of (i) what I would refer to as the CCAA test as described immediately above, (ii) BIA test (a) or (iii) BIA test (c). In doing so, I will have to take into account the fact that Stephen, albeit a very experienced and skilled person in the field of restructurings under the CCAA, unfortunately did not appreciate that the material which was given to him in Exhibit E to his affidavit was modified by the caveats in the source material that in effect indicated that based on appraisals, the fair value of the real assets acquired was in excess of the purchase price for two of the U.S. comparators. Therefore the evidence as to these comparators is significantly weakened. In addition at Q. 175-177 in his cross examination, Stephen acknowledged that it was reasonable to assume that a purchaser would "take over some liabilities, some pension liabilities and OPEB liabilities, for workers who remain with the plant." The extent of that assumption was not explored; however, I do note that there was acknowledgement on the part of the Union that such an assumption would also have a reciprocal negative effect on the purchase price.

28 The BIA tests are disjunctive so that anyone meeting any of these tests is determined to be insolvent: see *Optical Recording Laboratories Inc., Re* (1990), 75 D.L.R. (4th) 747 (Ont. C.A.) at p. 756; *Viteway Natural Foods Ltd., Re* (1986), 63 C.B.R. (N.S.) 157 (B.C. S.C.) at p. 161. Thus, if I determine that Stelco is insolvent on *any one* of these tests, then it would be a "debtor company" entitled to apply for protection under the CCAA.

29 In my view, the Union's position that Stelco is not insolvent under BIA (a) because it has not entirely used up its cash and cash facilities (including its credit line), that is, it is not yet as of January 29, 2004 run out of liquidity conflates inappropriately the (a) test with the (b) test. The Union's view would render the (a) test necessarily as being redundant. See *R. v. Proulx*, [2000] 1 S.C.R. 61 (S.C.C.) at p. 85 for the principle that no legislative provision ought to be interpreted in a manner which would "render it mere surplusage." Indeed the plain meaning of the phrase "unable to meet his obligations as they generally become due" requires a construction of test (a) which permits the court to take a purposive assessment of a debtor's ability to meet his future obligations. See *King Petroleum Ltd., Re* (1978), 29 C.B.R. (N.S.) 76 (Ont. S.C.) where Steele J. stated at p. 80:

> With respect to cl. (a), it was argued that at the time the disputed payments were made the company was able to meet its obligations as they generally became due because no major debts were in fact due at that time. This was premised on the fact that the moneys owed to Imperial Oil were not due until 10 days after the receipt of the statements and that the statements had not then been received. I am of the opinion that this is not a proper interpretation of cl. (a). *Clause (a) speaks in the present and future tenses and not in the past*. I am of the opinion that the company was an "insolvent person" within the meaning of cl. (a) because by the very payment-out of the money in question it placed itself in a position that it was unable to meet its obligations as they would generally become due. In other words, it had placed itself in a position that it would not be able to pay the obligations that it knew it had incurred and which it knew would become due in the immediate future. [Emphasis added.]

30 *King Petroleum Ltd.* was a case involving the question in a bankruptcy scenario of whether there was a fraudulent preference during a period when the corporation was insolvent. Under those circumstances, the "immediate future" does not have the same expansive meaning that one would attribute to a time period in a restructuring forward looking situation.

31 Stephen at paragraphs 40-49 addressed the restructuring question in general and its applicability to the Stelco situation. At paragraph 41, he outlined the significant stages as follows:

> The process of restructuring under the CCAA entails a number of different stages, the most significant of which are as follows:
>
> (a) identification of the debtor's stakeholders and their interests;
>
> (b) arranging for a process of meaningful communication;

(c) dealing with immediate relationship issues arising from a CCAA filing;

(d) sharing information about the issues giving rise to the debtor's need to restructure;

(e) developing restructuring alternatives; and

(f) building a consensus around a plan of restructuring.

32 I note that January 29, 2004 is just 9-10 months away from November 2004. I accept as correct his conclusion based on his experience (and this is in accord with my own objective experience in large and complicated CCAA proceedings) that Stelco would have the liquidity problem within the time horizon indicated. In that regard, I also think it fair to observe that Stelco realistically cannot expect any increase in its credit line with its lenders or access further outside funding. To bridge the gap it must rely upon the stay to give it the uplift as to prefiling liabilities (which the Union misinterpreted as a general turnaround in its cash position without taking into account this uplift). As well, the Union was of the view that recent price increases would relieve Stelco's liquidity problems; however, the answers to undertaking in this respect indicated:

> With respect to the Business Plan, the average spot market sales price per ton was $514, and the average contract business sales price per ton was $599. The Forecast reflects an average spot market sales price per ton of $575, and average contract business sales price per ton of $611. The average spot price used in the forecast considers further announced price increases, recognizing, among other things, the timing and the extent such increases are expected to become effective. The benefit of the increase in sales prices from the Business Plan is essentially offset by the substantial increase in production costs, and in particular in raw material costs, primarily scrap and coke, as well as higher working capital levels and a higher loan balance outstanding on the CIT credit facility as of January 2004.

I accept that this is generally a cancel out or wash in all material respects.

33 I note that $145 million of cash resources had been used from January 1, 2003 to the date of filing. Use of the credit facility of $350 million had increased from $241 million on November 30, 2003 to $293 million on the date of filing. There must be a reasonable reserve of liquidity to take into account day to day, week to week or month to month variances and also provide for unforeseen circumstances such as the breakdown of a piece of vital equipment which would significantly affect production until remedied. Trade credit had been contracting as a result of appreciation by suppliers of Stelco's financial difficulties. The DIP financing of $75 million is only available if Stelco is under CCAA protection. I also note that a shut down as a result of running out of liquidity would be complicated in the case of Stelco and that even if conditions turned around more than reasonably expected, start-up costs would be heavy and quite importantly, there would be a significant erosion of the customer base (reference should be had to the Slater Hamilton plant in this regard). One does not liquidate assets which one would not sell in the ordinary course of business to thereby artificially salvage some liquidity for the purpose of the test: see *Pacific Mobile Corp., Re* (1979), 32 C.B.R. (N.S.) 209 (C.S. Que.) at p. 220. As a rough test, I note that Stelco (albeit on a consolidated basis with all subsidiaries) running significantly behind plan in 2003 from its budget of a profit of $80 million now to a projected loss of $192 million and cash has gone from a positive $209 million to a negative $114 million.

34 Locker made the observation at paragraph 8 of his affidavit that:

> 8. Stelco has performed poorly for the past few years primarily due to an inadequate business strategy, poor utilization of assets, inefficient operations and generally weak management leadership and decision-making. This point is best supported by the fact that Stelco's local competitor, Dofasco, has generated outstanding results in the same period.

Table 1 to his affidavit would demonstrate that Dofasco has had superior profitability and cashflow performance than its "neighbour" Stelco. He went on to observe at paragraphs 36-37:

> 36. Stelco can achieve significant cost reductions through means other than cutting wages, pensions and benefits for employees and retirees. Stelco could bring its cost levels down to those of restructured U.S. mills, with the potential for lowering them below those of many U.S. mills.

> 37. Stelco could achieve substantial savings through productivity improvements within the mechanisms of the current collective agreements. More importantly, a major portion of this cost reduction could be achieved through constructive negotiations with the USWA in an out-of-court restructuring that does not require intervention of the courts through the vehicle of CCAA protection.

I accept his constructive comments that there is room for cost reductions and that there are substantial savings to be achieved through productivity improvements. However, I do not see anything detrimental to these discussions and negotiations by having them conducted within the umbrella of a CCAA proceeding. See my comments above regarding the CCAA in practice.

35 But I would observe and I am mystified by Locker's observations at paragraph 12 (quoted above), that Stelco should have borrowed to fund pension obligations to avoid its current financial crisis. This presumes that the borrowed funds would not constitute an obligation to be paid back as to principal and interest, but rather that it would assume the character of a cost-free "gift".

36 I note that Mackey, without the "laundry list" he indicates at paragraph 17 of his second affidavit, is unable to determine at paragraph 19 (for himself) whether Stelco was insolvent. Mackey was unable to avail himself of all available information in light of the Union's refusal to enter into a confidentiality agreement. He does not closely adhere to the BIA tests as they are defined. In the face of positive evidence about an applicant's financial position by an experienced person with expertise, it is not sufficient to displace this evidence by filing evidence which goes no further than raising questions: see *Anvil Range Mining Corp.*, *supra* at p. 162.

37 The Union referred me to one of my decisions *Standard Trustco Ltd. (Trustee of) v. Standard Trust Co.* (1993), 13 O.R. (3d) 7 (Ont. Gen. Div.) where I stated as to the MacGirr affidavit:

> The Trustee's cause of action is premised on MacGirr's opinion that STC was insolvent as at August 3, 1990 and therefore the STC common shares and promissory note received by Trustco in return for the Injection had no value at the time the Injection was made. Further, MacGirr ascribed no value to the opportunity which the Injection gave to Trustco to restore STC and salvage its thought to be existing $74 million investment. In stating his opinion MacGirr defined solvency as:
>
> > (a) the ability to meet liabilities as they fall due; and
> >
> > (b) that assets exceed liabilities.
>
> On cross-examination MacGirr testified that in his opinion on either test STC was insolvent as at August 3, 1990 since as to (a) STC was experiencing then a negative cash flow and as to (b) the STC financial statements incorrectly reflected values. As far as (a) is concerned, I would comment that while I concur with MacGirr that at some time in the long run a company that is experiencing a negative cash flow will eventually not be able to meet liabilities as they fall due but that is not the test (which is a "present exercise"). On that current basis STC was meeting its liabilities on a timely basis.

38 As will be seen from that expanded quote, MacGirr gave his own definitions of insolvency which are not the same as the s. 2 BIA tests (a), (b) and (c) but only a very loose paraphrase of (a) and (c) and an omission of (b). Nor was I referred to the *King Petroleum Ltd.* or *Proulx* cases *supra*. Further, it is obvious from the context that "*sometime in the long run . . . eventually*" is not a finite time in the foreseeable future.

39 I have not given any benefit to the $313 - $363 million of improvements referred to in the affidavit of William Vaughan at paragraph 115 as those appear to be capital expenditures which will have to be accommodated within a plan of arrangement or after emergence.

40 It seems to me that if the BIA (a) test is restrictively dealt with (as per my question to Union counsel as to how far in the future should one look on a prospective basis being answered "24 hours") then Stelco would not be insolvent under that test. However, I am of the view that that would be unduly restrictive and a proper contextual and purposive interpretation to be given when it is being used for a restructuring purpose even under BIA would be to see whether there is a reasonably

foreseeable (at the time of filing) expectation that there is a looming liquidity condition or crisis which will result in the applicant running out of "cash" to pay its debts as they generally become due in the future without the benefit of the say and ancillary protection and procedure by court authorization pursuant to an order. I think this is the more appropriate interpretation of BIA (a) test in the context of a reorganization or "rescue" as opposed to a threshold to bankruptcy consideration or a fraudulent preferences proceeding. On that basis, I would find Stelco insolvent from the date of filing. Even if one were not to give the latter interpretation to the BIA (a) test, clearly for the above reasons and analysis, if one looks at the meaning of "insolvent" within the context of a CCAA reorganization or rescue solely, then of necessity, the time horizon must be such that the liquidity crisis would occur in the sense of running out of "cash" but for the grant of the CCAA order. On that basis Stelco is certainly insolvent given its limited cash resources unused, its need for a cushion, its rate of cash burn recently experienced and anticipated.

41 What about the BIA (c) test which may be roughly referred to as an assets compared with obligations test. See *New Quebec Raglan Mines Ltd. v. Blok-Andersen*, [1993] O.J. No. 727 (Ont. Gen. Div. [Commercial List]) as to fair value and fair market valuation. The Union observed that there was no intention by Stelco to wind itself up or proceed with a sale of some or all of its assets and undertaking and therefore some of the liabilities which Stelco and Stephen took into account would not crystallize. However, as I discussed at the time of the hearing, the (c) test is what one might reasonably call or describe as an "artificial" or notional/hypothetical test. It presumes certain things which are in fact not necessarily contemplated to take place or to be involved. In that respect, I appreciate that it may be difficult to get one's mind around that concept and down the right avenue of that (c) test. See my views at trial in *Olympia & York Developments Ltd. (Trustee of) v. Olympia & York Realty Corp.*, [2001] O.J. No. 3394 (Ont. S.C.J. [Commercial List]) at paragraphs 13, 21 and 33; affirmed [2003] O.J. No. 5242 (Ont. C.A.). At paragraph 33, I observed in closing:

> 33 . . . They (and their expert witnesses) all had to contend with dealing with rambling and complicated facts and, in Section 100 BIA, a section which is difficult to administer when fmv [fair market value] in a notational or hypothetical market involves ignoring what would often be regarded as self evidence truths but at the same time appreciating that this notational or hypothetical market requires that the objects being sold have to have realistic true to life attributes recognized.

42 The Court of Appeal stated at paragraphs 24-25 as follows:

> 24. Nor are the appellants correct to argue that the trial judge also assumed an imprudent vendor in arriving at his conclusion about the fair market value of the OYSF note would have to know that in order to realize value from the note any purchaser would immediately put OYSF and thus OYDL itself into bankruptcy to pre-empt a subsequent triggering event in favour of EIB. While this was so, and the trial judge clearly understood it, the error in this submission is that it seeks to inject into the analysis factors subjected to the circumstances of OYDL as vendor and not intrinsic to the value of the OYSF note. The calculation of fair market value does not permit this but rather must assume an unconstrained vendor.
>
> 25. The Applicants further argue that the trial judge eroded in determining the fair market value of the OYSF note by reference to a transaction which was entirely speculative because it was never considered by OYDL nor would have it been since it would have resulted in OYDL's own bankruptcy. I disagree. The transaction hypothesized by the trial judge was one between a notational, willing, prudent and informed vendor and purchaser based on factors relevant to the OYSF note itself rather than the particular circumstances of OYDL as the seller of the note. This is an entirely appropriate way to determine the fair market value of the OYSF note.

43 Test (c) deems a person to be insolvent if "the aggregate of [its] property is not, at a fair valuation, sufficient, or of disposed at a fairly conducted sale under legal process would not be sufficient to enable payment of all [its] obligations, due and accruing due." The origins of this legislative test appear to be the decision of Spragge V-C in *Davidson v. Douglas* (1868), 15 Gr. 347 (Ont. Ch.) at p. 351 where he stated with respect to the solvency or insolvency of a debtor, the proper course is:

> to see and examine whether all his property, real and personal, be sufficient if presently realized for the payment of his debts, and in this view we must estimate his land, as well as his chattel property, not at what his neighbours or others may

TAB 5

2025 ONSC 1530
Ontario Superior Court of Justice [Commercial List]

In Re Hudson's Bay Company

2025 CarswellOnt 3001, 2025 ONSC 1530, 19 C.B.R. (7th) 381, 2025 A.C.W.S. 1270

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI, HBC CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2 INC., HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY HOLDINGS ULC, HBC CENTERPOINT GP INC., HBC YSS 1 LP INC., HBC YSS 2 LP INC., HBC HOLDINGS GP INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC. (Applicants)

Peter J. Osborne J.

Heard: March 7, 2025
Judgment: March 10, 2025
Docket: CV-25-00738613-00CL

Counsel: Ashley Taylor, Maria Konyukhova, Philip Yang, Brittney Ketwaroo, for Applicants
Sean Zweig, Preet Gill, for Proposed Monitor, Alvarez & Marsal Canada Inc.
Linc Rogers, Caitlin McIntyre, for Proposed DIP Lender, Restore Capital LLC
Evan Cobb, for Bank of America
David Rosenblatt, for Pathlight Capital LP

Subject: Civil Practice and Procedure; Insolvency; Property

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Grant and length of stay

Applicants, group of companies operating as Hudson's Bay, (collectively HB), brought application for initial order under s. 11.02(2) of Companies' Creditors Arrangement Act providing for ten-day stay of proceedings, extension of stay to certain non-applicant parties, appointment of monitor, approval of DIP financing, approval of administration, directors' and DIP lenders' charges, and other relief necessary to preserve business and stakeholder value — Application granted — Given that HB's head office, 41 of its more than 90 stores, and 51.6 percent of its employees were located in Ontario, and that its pension plan was registered with Financial Services Regulatory Authority in Ontario, court had jurisdiction to grant relief sought — There was no question HB, notwithstanding significant efforts, was facing urgent and immediate liquidity crisis and unable to meet financial obligations as they became due — It had approximately $3 million cash on hand, and owed $315 million in trade payables and $422 million in pre-filing secured debt as well as $724.4 million in mortgage obligations — It had not paid rent on several leased stores or amounts owed to number of trade creditors — There was no question it was insolvent and in critical need of immediate financing to continue operating in normal course — Ten-day stay of proceedings, preventing individual creditors from seeking to enforce rights on haphazard basis, without regard to survival of HB or maximization of value, was required to provide breathing space necessary to develop orderly restructuring process — It was appropriate to extend stay to certain non-applicant parties, including partnerships or real estate subsidiaries close to and integral to HB's operations and co-tenants with rights triggered by bankruptcy of anchor tenant — It was appropriate to grant authority to maintain cash management system and pay certain pre-filing amounts to critical suppliers — Appointment of proposed monitor would lend stability and assurance to stakeholders — Given urgent and immediate liquidity crisis, DIP facility and charge of $16 million were reasonably necessary to meet needs of HB during initial interim period — Administration charge of $2.3 million, to secure professional fees and

28 A "debtor company" means, *inter alia*, a company that is insolvent: *CCAA*, ss. 2 and 3(1). The *CCAA* defines a "debtor company" as, among other things, any company that is insolvent or has committed an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* ("*BIA*").

29 The term "insolvent" is not defined in the *CCAA* and therefore a determination of whether a company is insolvent requires consideration of the definition of "insolvent person" in the *BIA*, as:

> a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and
>
> a) who is for any reason unable to meet his obligations as they generally become due,
>
> b) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or
>
> c) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.

30 Each of the above factors is disjunctive.

31 Courts have also considered the expanded concept of insolvency adopted in *Stelco Inc., Re*, 2004 CarswellOnt 1211 at para. 26 ("*Stelco*"), in which this court held that a debtor is insolvent where there is a looming liquidity crisis such that it is reasonably foreseeable that the debtor will run out of cash unless its business is restructured. This approach to the insolvency criteria has been applied in other cases, including *Target Canada Co. (Re),*2015 ONSC 303 ("*Target*") at para. 26; *Just Energy Corp. (Re),*2021 ONSC 1793 ("*Just Energy*") at paras. 48 to 51; and *Nordstrom* at para. 26.

32 I am satisfied that the Applicants here are insolvent in that they are unable to meet their obligations as they generally become due. As of January 1, 2025, the Applicants had approximately $3 million in cash on hand. They owed approximately $315 million in trade payables and $422 million in pre-filing secured debt in addition to $724.4 million in mortgage obligations, for approximate total Secured Debt Obligations of $1.1294 billion.

33 Hudson's Bay today is facing an imminent liquidity crisis. It has not paid rent at several of its leased stores and a number of its trade creditors have not been paid. The failure to pay rent will imminently trigger an escalating chain of events leading to defaults under other leases, where Hudson's Bay has failed to pay rent and cross defaults on its secured obligations. As reflected in the Cash Flow Forecast prepared by Hudson's Bay and reviewed by the Proposed Monitor, the Companies have a critical need for immediate financing to continue operating in the ordinary course.

34 Accordingly, I am satisfied that the Applicants are corporations that collectively owe over $5 million in outstanding liabilities. They have delivered the documents and financial statements required under s. 10(2) of the *CCAA*.

Stay of Proceedings

35 Section 11.02(1) of the *CCAA* provides that the Court may order a stay of proceedings on an initial *CCAA* application for a period of not more than 10 days. Section 11.001 of the *CCAA* provides that relief granted on an initial *CCAA* application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that initial 10-day period.

36 In *Lydian*, the Chief Justice observed that the Initial Stay Period preserves the status quo and allows for operations to be stabilized and negotiations to occur, followed by requests for expanded relief on proper notice to affected parties at the full comeback hearing.

TAB 6

2020 ABCA 396
Alberta Court of Appeal

Wiebe v. Weinrich Contracting Ltd.

2020 CarswellAlta 2082, 2020 ABCA 396, [2021] A.W.L.D. 713, 17 Alta. L.R. (7th) 11, 327 A.C.W.S. (3d) 489

Roy Wiebe and Parkland Aerospace Corp (Appellants / Defendants) and Weinrich Contracting Ltd (Respondent / Plaintiff) and Parkland Airport Development Corporation, Deloitte Restructuring Inc, and 2155734 Alberta Ltd (Not Parties to the Appeal)

Peter Martin, Ritu Khullar, Dawn Pentelechuk JJ.A.

Heard: October 6, 2020
Judgment: November 9, 2020
Docket: Edmonton Appeal 1903-0139-AC

Counsel: R.B. Hajduk, for Appellants
K.P. Chapotelle, R.L. Graham, for Respondents

Subject: Civil Practice and Procedure; Insolvency

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Miscellaneous

Plaintiff was retained to construct runway at airport — Plaintiff brought action against defendants based on misrepresentation — Action was also brought against plaintiff and others — Airport successfully applied for protection under Companies' Creditors Arrangement Act and stay of proceedings was granted — Tolling order was granted suspending and tolling limitation periods to commence actions in relation to certain transactions at issue, which arguably affected plaintiff's claim — Action against plaintiff was discontinued — Vesting order regarding assets of airport was granted — Defendants appealed — Appeal allowed — It was impossible to discern whether plaintiff's action was contemplated at initial hearing, and whether tolling order was broad enough to capture plaintiff's actions — Impossible to discern whether supervising judge intended to merely clarify initial stay and/or tolling order, believing they already encompassed plaintiff's entire action, or whether intention was to retroactively expand terms of those orders to preserve entirety of plaintiff's action — Defendants did not receive sufficient notice that supervising judge might grant order preserving plaintiff's action against them and were unable to effectively respond to that issue — Issue should have been adjudicated on notice to affected parties, and with benefit of full argument.

APPEAL by defendants from vesting order.

***Per curiam*:**

1 This appeal explores the tension between the principles of procedural fairness and the broad jurisdiction afforded a supervising judge in a reorganization under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (*CCAA*).

2 The appellants challenge provisions of a vesting and sale order granted by the supervising judge that arguably result in the retroactive expansion of either (or both) of (1) an order staying Weinrich Contracting Ltd's action against the *CCAA* debtor Parkland Airport Development Corp. and (2) an order tolling the limitation periods applicable to the commencement of certain creditors' actions against Parkland Airport Development Corp.

3 For the reasons that follow, we find that the impugned provisions were granted in circumstances that denied procedural fairness to the appellants and appellate intervention is warranted.

at para 15 [*Century Services*]. Farley J in *Lehndorff General Partner Ltd., Re* (1993), 17 C.B.R. (3d) 24, 1993 CarswellOnt 183 (Ont. Gen. Div. [Commercial List]) at para 5, expressed a similar view:

> It seems to me that the purpose of the statute is to enable insolvent companies to carry on business in the ordinary course or otherwise deal with their assets so as to enable plan of compromise or arrangement to be prepared, filed and considered by their creditors and the court. In the interim, a judge has great discretion under the CCAA to make order so as to effectively maintain the status quo in respect of an insolvent company while it attempts to gain the approval of its creditors for the proposed compromise or arrangement which will be to the benefit of both the company and its creditors.

27 In furtherance of these remedial objectives, the *CCAA* provides "broad and flexible authority" permitting a court to make a wide range of orders necessary to support a company's reorganization. All insolvency proceedings in Canada are based on the single proceeding model, described by Professor Wood in *Bankruptcy and Insolvency Law*, 2nd ed (Toronto: Irwin Law, 2009):

> They all provide a collective proceeding that supersedes the usual civil process available to creditors to enforce their claims. The creditors' remedies are collectivized in order to prevent the free-for-all that would otherwise prevail if creditors were permitted to exercise their remedies. In the absence of a collective process, each creditor is armed with the knowledge that if they do not strike hard and swift to seize the debtor's assets, they will be beat out by other creditors. [pp. 2-3]

28 To achieve this, the *CCAA* expressly provided, as at the relevant time, that a court may issue and extend a stay of proceedings against the debtor company while a compromise is sought:

> **11.02(1)** A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 30 days,
>
> (a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;
>
> (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
>
> (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

29 Stays of proceedings against the debtor company are common and are included in the initial commercial template order in *CCAA* proceedings in Alberta. [1]

30 The *CCAA* has been described as "skeletal in nature"; that is, legislation not "contain[ing] a comprehensive code that lays out all that is permitted or barred": *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.*, 2008 ONCA 587, 92 O.R. (3d) 513 (Ont. C.A.), at para 44, *per* Blair JA). Thus, decisions of the court are frequently based on discretionary grants of jurisdiction grounded in the broad language of s 11 of the *CCAA*:

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

31 This broad and flexible authority means a high degree of deference is afforded to a supervising judge making a discretionary decision in the *CCAA* context. An appellate court may intervene if there was an error in principle or the discretion was exercised unreasonably: *9354-9186 Québec inc. v. Callidus Capital Corp.*, 2020 SCC 10 (S.C.C.) at para 53 [*Callidus*]. It may also intervene if there was a breach of procedural fairness, if the breach had a negative impact on affected parties' rights: *Indalex Ltd., Re*, 2013 SCC 6, [2013] 1 S.C.R. 271 (S.C.C.) at paras 73-74 (*per* Deschamps J) and paras 275-276 (*per* LeBel J, dissenting, but not on whether the duty of procedural fairness applies to *CCAA* proceedings).

TAB 7

2021 SCC 53, 2021 CSC 53
Supreme Court of Canada

Montréal (Ville) c. Restructuration Deloitte Inc.

2021 CarswellQue 18528, 2021 CarswellQue 18529, 2021 CSC 53, 2021 SCC 53, [2021] 3 S.C.R. 736, [2021] 3 R.C.S. 736, 340 A.C.W.S. (3d) 7, 463 D.L.R. (4th) 657, 94 C.B.R. (6th) 1

Ville de Montréal (Appellant) and Deloitte Restructuring Inc. (Respondent) and Alaris Royalty Corp., Integrated Private Debt Fund V LP, Thornhill Investments Inc., Ville de Laval and Union des municipalités du Québec (Interveners)

Wagner C.J.C., Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin JJ.

Heard: May 20, 2021
Judgment: December 10, 2021
Docket: 39186

Proceedings: affirming *Arrangement relatif à Consultants SM inc.* (2020), EYB 2020-349836, 2020 QCCA 438, 2020 CarswellQue 1987, Healy J.C.A., Rochette J.C.A., Ruel J.C.A. (C.A. Que.); varying *Arrangement relatif à Consultants SM inc., Re* (2019), 2019 CarswellQue 5032, 2019 QCCS 2316, EYB 2019-312681, Corriveau J.C.S. (C.S. Que.)

Counsel: Raphaël Lescop, Eleni Yiannakis, for the appellant
Guy P. Martel, Danny Duy Vu, for the respondent
Alain Tardif, for the interveners the Alaris Royalty Corp. and the Integrated Private Debt Fund V LP
Luc Béliveau, for the intervener Thornhill Investments Inc.
Elizabeth Ferland, for the intervener Ville de Laval
Marc Duchesne, for the intervener Union des municipalités du Québec

Subject: Corporate and Commercial; Insolvency; Public; Municipal

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Proceedings subject to stay — Set-off

Consulting engineering firm performed variety of contracts for municipality — Link was later uncovered between firm and parties involved in collusion schemes — Firm sought protection under Companies' Creditors Arrangement Act — Following initial order, firm continued to perform work for municipality — However, municipality refused to pay for that work — Municipality invoked its right to effect compensation between its debt to firm for work done after initial order and two claims against firm that, according to municipality, arose before order and resulted from fraud on firm's part — Monitor brought motion for declaratory judgment stating that compensation could not be effected — Supervising judge granted monitor's motion, holding that pre-post compensation was not possible — Municipality appealed — Majority reached same conclusion as supervising judge that pre-post compensation could not be effected in this case — Municipality appealed to Supreme Court of Canada — Appeal dismissed — Words of stay order were broad enough to prohibit pre-post compensation with respect to both claims — In any event, it would not be appropriate to allow municipality to effect compensation or withhold payments owed to firm — Therefore, supervising judge's decision was confirmed.

Faillite et insolvabilité --- Loi sur les arrangements avec les créanciers des compagnies — Demande initiale — Procédures assujetties à la suspension — Compensation

Firme de génie-conseil a exécuté divers contrats pour une municipalité — On a plus tard découvert l'existence d'un lien entre la firme et des parties ayant participé à des stratagèmes de collusion — Firme s'est placée sous la protection de la Loi sur les arrangements avec les créanciers des compagnies — À la suite de l'ordonnance initiale, la firme a continué à effectuer des travaux pour la municipalité — Toutefois, la municipalité a refusé de payer ces travaux — Municipalité a invoqué son

public body concerned for the contract concerned" (s. 11 para. 3). As well, the court "must add a lump sum equal to 20% of any amount granted for injury, to cover expenses incurred for the purposes of th[e] Act" (s. 14).

41 In other words, these provisions are designed to make it easier to prove causation and injury when such a proceeding is brought, but it should be noted that they are of no effect if a court finds that the evidence of fraud is insufficient; as well, and most importantly, they in no way make it easier to prove such a fault. Section 10 of Bill 26 is therefore of no assistance to the City, which in any event has not sought to show, on any basis other than the mere existence of the VRP agreement, that SM Group took part in fraud in connection with a contract the City awarded to it. The schemes created by Bill 26 suggest that a court will recognize the existence of fraud only under the Chapter III scheme. Moreover, it appears that the reference to s. 10 in s. 3 merely serves to specify the natural persons to whom the VRP applies, namely directors and officers of enterprises.

42 Lastly, it should be mentioned that it can easily be imagined that an enterprise that entered into a potentially contentious public contract with a public body would make the strategic choice to participate in the VRP out of fear of bad publicity or to avoid exposing itself to the exceptional scheme of Chapter III of Bill 26, the result of which, if the proceeding were decided in the public body's favour, would likely be significant additional financial liability for the enterprise on top of the legal fees it would have to pay.

43 In sum, neither the content of the VRP agreement nor its legal framework supports a presumption that SM Group admitted to having committed a fraudulent act; nor does the VRP agreement constitute a serious, precise and concordant presumption of fact (art. 2849 of the *Civil Code of Québec*). It follows that the City has not shown that the VRP claim falls within s. 19(2)(d) of the *CCAA*.

(2) Compensation Between Debts Arising Before and After an Initial Order (Pre-post Compensation)

44 The bankruptcy of large companies often resulted in "the entire disruption of the corporation, loss of goodwill, and sale of assets on a discounted basis" (J. P. Sarra, *Rescue! The Companies' Creditors Arrangement Act* (2nd ed. 2013), at pp. 22-23; see also *Century Services* , at para. 16). Parliament, wishing to protect the survivability of such companies, which are essential to economic prosperity and to a high rate of employment, therefore set up a restructuring process in the *CCAA* that was designed to prevent them from being dismantled and having their assets liquidated at a discount (*Century Services* , at paras. 17-18 and 70; *Callidus*, at paras. 41-42).

45 Initially, restructuring under the *CCAA* was done through a plan of arrangement or compromise negotiated between the debtor company and its creditors that averted the company's bankruptcy by allowing it to adjust its debts and reorganize its business (S. E. Edwards, "Reorganizations Under the Companies' Creditors Arrangement Act" (1947), 25 *Can. Bar Rev.* 587, at pp. 588-90 and 592). Later, liquidation under the *CCAA* emerged as a practice. Liquidation can also serve as a tool for restructuring a struggling business "by allowing the business to survive, albeit under a different corporate form or ownership" (*Callidus*, at para. 45; see also Sarra, at p. 169; K. P. McElcheran, *Commercial Insolvency in Canada* (4th ed. 2019), at p. 311).

46 The primary tool that allows the *CCAA* to achieve its restructuring objective is a stay of proceedings and of creditors' rights (Sarra, at pp. 17 and 52; McElcheran, at p. 5). The direct effect of a stay is that it creates a status quo period that stabilizes the debtor company's situation by shielding it from its creditors while the restructuring process is under way (*Century Services* , at para. 60; see also *Kitco*, at para. 43). Without such a period, there would be a free-for-all in which individual creditors would fight it out to enforce their rights without regard for the company's survival or the maximization of its liquidation value (*Century Services* , at para. 22).

47 During the status quo period, the debtor company can therefore continue operating without fear of being driven into bankruptcy by its creditors. This temporary respite creates an environment conducive to fair negotiations between the various stakeholders and gives the debtor the necessary time to prepare a plan of compromise or arrangement ensuring its survival, or to take steps to maximize the value of the business it operates with a view to its liquidation under the *CCAA* (*Meridian*

Development Inc. v. Toronto Dominion Bank (1984), 32 Alta. L.R. (2d) 150 (Alta. Q.B.) , at para. 15; *Kitco*, at para. 43; *Callidus*, at paras. 40 and 46).

48 The fundamental feature of the *CCAA* is a grant to the courts that apply it of a broad discretion to make any orders needed to ensure that restructuring is successful and that the *CCAA*'s objectives are achieved (*Century Services* , at para. 19). The true "engine" driving the statutory scheme (*Callidus*, at para. 48, citing *Stelco Inc., Re* (2005), 253 D.L.R. (4th) 109 (Ont. C.A.), at para. 36), this judicial discretion also plays a prominent part in stays of proceedings.

49 In principle, a court may deny a stay application. Such applications are rarely denied, however, to the point where the terms "initial order" and "stay order" have, in practice, become interchangeable (Sarra, at p. 51). Stays are in fact requested and granted systematically, other than in certain exceptional cases (p. 51).

50 A stay is a temporary measure, however; once it has been lifted, creditors regain their ability to fully exercise their rights and remedies (*Quinsam Coal Corp., Re*, 2000 BCCA 386, 20 C.B.R. (4th) 145 (B.C. C.A. [In Chambers]), at paras. 9 and 14). On an initial application in respect of a debtor company, a court may include in its initial order a first stay period of no more than 10 days (s. 11.02(1) of the *CCAA*). After that, the court may renew the stay for any period it considers necessary (s. 11.02(2) of the *CCAA*). When a stay is renewed, or at any other time in the course of the proceedings, an interested creditor may, in accordance with the procedure set out in the initial order, apply to the court to lift a stay affecting any of its rights or remedies (Sarra, at pp. 58-60 and 88; see also *Muscletech Research & Development Inc., Re* (2006), 19 C.B.R. (5th) 54 (Ont. S.C.J. [Commercial List]), at para. 5; *Conporec inc., Re*, 2008 QCCA 2222, [2008] R.J.Q. 2590 (C.A. Que.) , at paras. 7-8 and 14-15).

51 While it is true that the *BIA* and the *CCAA* form part of an integrated body of insolvency law, there are nonetheless some fundamental differences between the two schemes (*Century Services* , at para. 78). Unlike the *BIA*, the *CCAA* gives courts a broad discretion to decide whether a stay is appropriate, to determine how long it should last and to adjust its scope depending on what is needed to restructure the debtor company and to achieve the objectives of the *CCAA*. In this regard, the *CCAA* has been described as a "skeletal" statute that does not contain "a comprehensive code that lays out all that is permitted or barred" (*Century Services* , at para. 57, quoting *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.*, 2008 ONCA 587, 92 O.R. (3d) 513 (Ont. C.A.), at para. 44).

52 To fully understand the rights and restrictions applicable in a given case, it is therefore not enough to read the legislation; it is also important to consider the court's exercise of its discretion, which is reflected in all of the many orders made throughout the proceedings.

53 The question raised by this appeal is therefore whether a court's discretion allows it to stay a right to pre-post compensation, or set-off, invoked by a creditor under the civil law or the common law and, by extension, to authorize pre-post compensation in appropriate cases.

(a) Power to Grant and Lift a Stay of the Right to Pre-post Compensation

54 In our view, the broad discretion conferred on a court by ss. 11 and 11.02 of the *CCAA* allows it to stay rights held by creditors if the exercise of those rights could jeopardize the restructuring process. This includes a creditor's right to effect pre-post compensation.

55 Under s. 11.02 of the *CCAA*, a court may stay any action, suit or other proceeding that might be brought against the debtor company. Despite the language of s. 11.02, which at first glance limits the power to order a stay to judicial proceedings, the courts have taken a large and liberal approach in interpreting the scope of the rights and remedies that can be included in a stay order (see *Meridian* , at para. 26; *Quintette Coal Ltd. v. Nippon Steel Corp.* (1990), 51 B.C.L.R. (2d) 105 (B.C. C.A.) , at pp. 113-14; *Smoky River Coal Ltd., Re*, 1999 ABCA 179, 71 Alta. L.R. (3d) 1 (Alta. C.A.), at paras. 31-33; McElcheran, at pp. 135 and 245-46; R. J. Wood, *Bankruptcy and Insolvency Law* (2nd ed. 2015), at p. 363). For example, in *Quintette Coal* , the British Columbia Court of Appeal concluded that a creditor's right to pre-post set-off can be stayed just like any other enforcement measure with a high disruptive potential (see also *Associated Investors of Canada Ltd. (Manager of) v. Principal Savings & Trust Co. (Liquidator of)* (1993), 13 Alta. L.R. (3d) 115 (Alta. C.A.) , at paras. 23-24; *North American Tungsten*

TAB 8

2010 SCC 60, 2010 CSC 60
Supreme Court of Canada

Ted Leroy Trucking [Century Services] Ltd., Re

2010 CarswellBC 3420, 2010 CarswellBC 3419, 2010 CSC 60, 2010 SCC 60, [2010] 3 S.C.R. 379, [2010] G.S.T.C. 186, [2010] S.C.J. No. 60, [2011] 2 W.W.R. 383, [2011] B.C.W.L.D. 533, [2011] B.C.W.L.D. 534, 12 B.C.L.R. (5th) 1, 196 A.C.W.S. (3d) 27, 2011 D.T.C. 5006 (Eng.), 2011 G.T.C. 2006 (Eng.), 296 B.C.A.C. 1, 326 D.L.R. (4th) 577, 409 N.R. 201, 503 W.A.C. 1, 72 C.B.R. (5th) 170, J.E. 2011-5

Century Services Inc. (Appellant) and Attorney General of Canada on behalf of Her Majesty The Queen in Right of Canada (Respondent)

Deschamps J., McLachlin C.J.C., Binnie, LeBel, Fish, Abella, Charron, Rothstein, Cromwell JJ.

Heard: May 11, 2010
Judgment: December 16, 2010
Docket: 33239

Proceedings: reversing *Ted Leroy Trucking Ltd., Re* (2009), 2009 CarswellBC 1195, 2009 G.T.C. 2020 (Eng.), 2009 BCCA 205, 270 B.C.A.C. 167, 454 W.A.C. 167, [2009] 12 W.W.R. 684, 98 B.C.L.R. (4th) 242, [2009] G.S.T.C. 79 (B.C. C.A.); reversing *Ted Leroy Trucking Ltd., Re* (2008), 2008 CarswellBC 2895, 2008 BCSC 1805, [2008] G.S.T.C. 221, 2009 G.T.C. 2011 (Eng.) (B.C. S.C. [In Chambers])

Counsel: Mary I.A. Buttery, Owen J. James, Matthew J.G. Curtis for Appellant
Gordon Bourgard, David Jacyk, Michael J. Lema for Respondent

Subject: Estates and Trusts; Goods and Services Tax (GST); Tax — Miscellaneous; Insolvency

Headnote

Tax --- Goods and Services Tax — Collection and remittance — GST held in trust

Debtor owed Crown under Excise Tax Act (ETA) for unremitted GST — Debtor sought relief under Companies' Creditors Arrangement Act (CCAA) — Under order of BC Supreme Court, amount of GST debt was placed in trust account and remaining proceeds of sale of assets paid to major secured creditor — Debtor's application for partial lifting of stay of proceedings to assign itself into bankruptcy was granted, while Crown's application for payment of tax debt was dismissed — Crown's appeal to BC Court of Appeal was allowed — Creditor appealed to Supreme Court of Canada — Appeal allowed — Analysis of ETA and CCAA yielded conclusion that CCAA provides that statutory deemed trusts do not apply, and that Parliament did not intend to restore Crown's deemed trust priority in GST claims under CCAA when it amended ETA in 2000 — Parliament had moved away from asserting priority for Crown claims under both CCAA and Bankruptcy and Insolvency Act (BIA), and neither statute provided for preferred treatment of GST claims — Giving Crown priority over GST claims during CCAA proceedings but not in bankruptcy would reduce use of more flexible and responsive CCAA regime — Parliament likely inadvertently succumbed to drafting anomaly — Section 222(3) of ETA could not be seen as having impliedly repealed s. 18.3 of CCAA by its subsequent passage, given recent amendments to CCAA — Court had discretion under CCAA to construct bridge to liquidation under BIA, and partially lift stay of proceedings to allow entry into liquidation — No "gap" should exist when moving from CCAA to BIA — Court order segregating funds did not have certainty that Crown rather than creditor would be beneficiary sufficient to support express trust — Amount held in respect of GST debt was not subject to deemed trust, priority or express trust in favour of Crown — Excise Tax Act, R.S.C. 1985, c. E-15, ss. 222(1), (1.1).

Tax --- General principles — Priority of tax claims in bankruptcy proceedings

Debtor owed Crown under Excise Tax Act (ETA) for unremitted GST — Debtor sought relief under Companies' Creditors Arrangement Act (CCAA) — Under order of BC Supreme Court, amount of GST debt was placed in trust account and remaining proceeds of sale of assets paid to major secured creditor — Debtor's application for partial lifting of stay of proceedings to

(1) Did s. 222(3) of the *ETA* displace s. 18.3(1) of the *CCAA* and give priority to the Crown's *ETA* deemed trust during *CCAA* proceedings as held in *Ottawa Senators*?

(2) Did the court exceed its *CCAA* authority by lifting the stay to allow the debtor to make an assignment in bankruptcy?

(3) Did the court's order of April 29, 2008 requiring segregation of the Crown's GST claim in the Monitor's trust account create an express trust in favour of the Crown in respect of those funds?

3. Analysis

10 The first issue concerns Crown priorities in the context of insolvency. As will be seen, the *ETA* provides for a deemed trust in favour of the Crown in respect of GST owed by a debtor "[d]espite ... any other enactment of Canada (except the *Bankruptcy and Insolvency Act*)" (s. 222(3)), while the *CCAA* stated at the relevant time that "notwithstanding any provision in federal or provincial legislation that has the effect of deeming property to be held in trust for Her Majesty, property of a debtor company shall not be [so] regarded" (s. 18.3(1)). It is difficult to imagine two statutory provisions more apparently in conflict. However, as is often the case, the apparent conflict can be resolved through interpretation.

11 In order to properly interpret the provisions, it is necessary to examine the history of the *CCAA*, its function amidst the body of insolvency legislation enacted by Parliament, and the principles that have been recognized in the jurisprudence. It will be seen that Crown priorities in the insolvency context have been significantly pared down. The resolution of the second issue is also rooted in the context of the *CCAA*, but its purpose and the manner in which it has been interpreted in the case law are also key. After examining the first two issues in this case, I will address Tysoe J.A.'s conclusion that an express trust in favour of the Crown was created by the court's order of April 29, 2008.

3.1 Purpose and Scope of Insolvency Law

12 Insolvency is the factual situation that arises when a debtor is unable to pay creditors (see generally, R. J. Wood, *Bankruptcy and Insolvency Law* (2009), at p. 16). Certain legal proceedings become available upon insolvency, which typically allow a debtor to obtain a court order staying its creditors' enforcement actions and attempt to obtain a binding compromise with creditors to adjust the payment conditions to something more realistic. Alternatively, the debtor's assets may be liquidated and debts paid from the proceeds according to statutory priority rules. The former is usually referred to as reorganization or restructuring while the latter is termed liquidation.

13 Canadian commercial insolvency law is not codified in one exhaustive statute. Instead, Parliament has enacted multiple insolvency statutes, the main one being the *BIA*. The *BIA* offers a self-contained legal regime providing for both reorganization and liquidation. Although bankruptcy legislation has a long history, the *BIA* itself is a fairly recent statute — it was enacted in 1992. It is characterized by a rules-based approach to proceedings. The *BIA* is available to insolvent debtors owing $1000 or more, regardless of whether they are natural or legal persons. It contains mechanisms for debtors to make proposals to their creditors for the adjustment of debts. If a proposal fails, the *BIA* contains a bridge to bankruptcy whereby the debtor's assets are liquidated and the proceeds paid to creditors in accordance with the statutory scheme of distribution.

14 Access to the *CCAA* is more restrictive. A debtor must be a company with liabilities in excess of $5 million. Unlike the *BIA*, the *CCAA* contains no provisions for liquidation of a debtor's assets if reorganization fails. There are three ways of exiting *CCAA* proceedings. The best outcome is achieved when the stay of proceedings provides the debtor with some breathing space during which solvency is restored and the *CCAA* process terminates without reorganization being needed. The second most desirable outcome occurs when the debtor's compromise or arrangement is accepted by its creditors and the reorganized company emerges from the *CCAA* proceedings as a going concern. Lastly, if the compromise or arrangement fails, either the company or its creditors usually seek to have the debtor's assets liquidated under the applicable provisions of the *BIA* or to place the debtor into receivership. As discussed in greater detail below, the key difference between the reorganization regimes under the *BIA* and the *CCAA* is that the latter offers a more flexible mechanism with greater judicial discretion, making it more responsive to complex reorganizations.

TAB 9

2015 ONSC 303
Ontario Superior Court of Justice

Target Canada Co., Re

2015 CarswellOnt 620, 2015 ONSC 303, [2015] O.J. No. 247, 22 C.B.R. (6th) 323, 248 A.C.W.S. (3d) 753

In the Matter of the Companies' Creditors Arrangement Act, R.S.C., 1985, c. C-36, as Amended

In the Matter of a Plan of Compromise or Arrangement of Target Canada Co., Target Canada Health Co., Target Canada Mobile GP Co., Target Canada Pharmacy (BC) Corp., Target Canada Pharmacy (Ontario) Corp., Target Canada Pharmacy Corp., Target Canada Pharmacy (SK) Corp., and Target Canada Property LLC.

Morawetz R.S.J.

Heard: January 15, 2015
Judgment: January 16, 2015
Docket: CV-15-10832-00CL

Counsel: Tracy Sandler, Jeremy Dacks for Applicants, Target Canada Co., Target Canada Health Co., Target Canada Mobile GP Co., Target Canada Pharmacy (BC) Corp., Target Canada Pharmacy (Ontario) Corp., Target Canada Pharmacy Corp., Target Canada Pharmacy (SK) Corp., and Target Canada Property LLC
Jay Swartz for Target Corporation
Alan Mark, Melaney Wagner, Jesse Mighton for Proposed Monitor, Alvarez and Marsal Canada ULC ("Alvarez")
Terry O'Sullivan for Honourable J. Ground, Trustee of the Proposed Employee Trust
Susan Philpott for Proposed Employee Representative Counsel, for Employees of the Applicants

Subject: Insolvency; Property

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Proceedings subject to stay — Miscellaneous

Applicant group of companies were involved in Canadian operations of U.S. retailer T Co. — Canadian operations suffered significant loss in every quarter — T Co. decided to stop funding Canadian operations — Applicants sought to wind down Canadian operations and applied for relief under Companies' Creditors Arrangement Act (CCAA) — Application granted — Initial order granted — Stay of proceedings granted — Stay extended to certain limited partnerships, which were related to or carried on operations integral to applicants' business — Stay of proceedings extended to rights of third party tenants against landlords that arose out of insolvency — Stay extended to T Co. and its U.S. subsidiaries in relation to claims derivative of claims against Canadian operations.

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Miscellaneous

Applicant group of companies were involved in Canadian operations of U.S. retailer T Co. — Canadian operations suffered significant loss in every quarter — T Co. decided to stop funding Canadian operations — Applicants sought to wind down Canadian operations and applied for relief under Companies' Creditors Arrangement Act (CCAA) — Application granted — Initial order granted — Stay of proceedings granted — It was appropriate to grant broad relief to ensure status quo was maintained — Applicants were all insolvent — Although there was no prospect restructured "going concern" solution would result, use of CCAA protection was appropriate in circumstances — Creation of employee trust to cover payments to employees was approved — Key employee retention program (KERP) and charge as security for KERP payments were approved — Appointment of Employee Representative Counsel was approved — DIP Lenders' Charge and DIP Facility were approved — Administration charge and Directors' and Officers' charge approved.

APPLICATION for relief under *Companies' Creditors Arrangement Act*.

8 The Applicants are of the view that these factors are entirely consistent with the well-established purpose of a CCAA stay: to give a debtor the "breathing room" required to restructure with a view to maximizing recoveries, whether the restructuring takes place as a going concern or as an orderly liquidation or wind-down.

9 TCC is an indirect, wholly-owned subsidiary of Target Corporation and is the operating company through which the Canadian retail operations are carried out. TCC is a Nova Scotia unlimited liability company. It is directly owned by Nicollet Enterprise 1 S. à r.l. ("NE1"), an entity organized under the laws of Luxembourg. Target Corporation (which is incorporated under the laws of the State of Minnesota) owns NE1 through several other entities.

10 TCC operates from a corporate headquarters in Mississauga, Ontario. As of January 12, 2015, TCC employed approximately 17,600 people, almost all of whom work in Canada. TCC's employees are not represented by a union, and there is no registered pension plan for employees.

11 The other Target Canada Entities are all either: (i) direct or indirect subsidiaries of TCC with responsibilities for specific aspects of the Canadian retail operation; or (ii) affiliates of TCC that have been involved in the financing of certain leasehold improvements.

12 A typical TCC store has a footprint in the range of 80,000 to 125,000 total retail square feet and is located in a shopping mall or large strip mall. TCC is usually the anchor tenant. Each TCC store typically contains an in-store Target brand pharmacy, Target Mobile kiosk and a Starbucks café. Each store typically employs approximately 100 - 150 people, described as "Team Members" and "Team Leaders", with a total of approximately 16,700 employed at the "store level" of TCC's retail operations.

13 TCC owns three distribution centres (two in Ontario and one in Alberta) to support its retail operations. These centres are operated by a third party service provider. TCC also leases a variety of warehouse and office spaces.

14 In every quarter since TCC opened its first store, TCC has faced lower than expected sales and greater than expected losses. As reported in Target Corporation's Consolidated Financial Statements, the Canadian segment of the Target business has suffered a significant loss in every quarter since TCC opened stores in Canada.

15 TCC is completely operationally funded by its ultimate parent, Target Corporation, and related entities. It is projected that TCC's cumulative pre-tax losses from the date of its entry into the Canadian market to the end of the 2014 fiscal year (ending January 31, 2015) will be more than $2.5 billion. In his affidavit, Mr. Mark Wong, General Counsel and Secretary of TCC, states that this is more than triple the loss originally expected for this period. Further, if TCC's operations are not wound down, it is projected that they would remain unprofitable for at least 5 years and would require significant and continued funding from Target Corporation during that period.

16 TCC attributes its failure to achieve expected profitability to a number of principal factors, including: issues of scale; supply chain difficulties; pricing and product mix issues; and the absence of a Canadian online retail presence.

17 Following a detailed review of TCC's operations, the Board of Directors of Target Corporation decided that it is in the best interests of the business of Target Corporation and its subsidiaries to discontinue Canadian operations.

18 Based on the stand-alone financial statements prepared for TCC as of November 1, 2014 (which consolidated financial results of TCC and its subsidiaries), TCC had total assets of approximately $5.408 billion and total liabilities of approximately $5.118 billion. Mr. Wong states that this does not reflect a significant impairment charge that will likely be incurred at fiscal year end due to TCC's financial situation.

19 Mr. Wong states that TCC's operational funding is provided by Target Corporation. As of November 1, 2014, NE1 (TCC's direct parent) had provided equity capital to TCC in the amount of approximately $2.5 billon. As a result of continuing and significant losses in TCC's operations, NE1 has been required to make an additional equity investment of $62 million since November 1, 2014.

TAB 10

2024 ONSC 1645
Ontario Superior Court of Justice [Commercial List]

BZAM Ltd. Plan of Arrangement

2024 CarswellOnt 3802, 2024 ONSC 1645, 2024 A.C.W.S. 923

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP.

BZAM Ltd. et al. (Applicants)

Peter J. Osborne J.

Heard: February 28, 2024
Judgment: February 28, 2024
Docket: CV-24-00715773-00CL

Counsel: Sean Zweig, Mike Shakra, Andrew Froh, Jamie Ernst, for Applicants
Harvey Chaiton, for Stone Pine Capital
Joseph Bellissimo, Natalie Levine, for Cortland Credit Lending Corporation
Philip Yang, Maria Konyukhova, Jeff Rosenberg, Kamran Hamidi, for FTI as Proposed Monitor

Subject: Civil Practice and Procedure; Insolvency

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Grant and length of stay

Terms including appointment of monitor, charges, debtor in possession financing, and treatment of cannabis licenses.

APPLICATION by debtor for initial order in insolvency proceedings.

***Peter J. Osborne J.*:**

ENDORSEMENT

1 This is an Application for relief under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the "CCAA") by BZAM Ltd. ("BZAM"), BZAM Holdings Inc., BZAM Management Inc., BZAM Cannabis Corp., Folium Life Science Inc., 102172093 Saskatchewan Ltd., The Green Organic Dutchman Ltd. ("TGOD"), Medican Organic Inc., High Road Holding Corp., and Final Bell Corp. (collectively, the "Applicants" or the "Companies").

2 Following the hearing, I granted the initial order with reasons to follow. These are those reasons.

3 In particular, the Applicants seek:

a. a declaration that they are companies to which the CCAA applies;

b. the appointment of FTI Consulting Canada Inc. ("FTI") as Monitor;

37 In *Nordstrom Canada Retail, Inc.*, this Court found that the company's "chief place of business" was Ontario despite the fact that Nordstrom Canada Retail was incorporated and had significant business operations in British Columbia. In determining whether the court had jurisdiction over the proceedings, this Court considered multiple factors, including the location of the company's assets, employees and sales.

38 The Court found that there was sufficient evidence establishing Ontario as the proper jurisdiction based on the following: 8 of the 13 Nordstrom Canada retail stores are located in Ontario, while approximately 1,450 out of Nordstrom Canada's 2,500 full and part-time employees work in Ontario. Further, during fiscal year 2022, store sales in Ontario totalled $220 million, compared to $148 million in British Columbia and $77 million in Alberta.

39 The same analysis can be applied here. Approximately 58% of the employees of the Applicants are situated in Ontario. While the Applicants have two cannabis facilities in each of Ontario and British Columbia, the largest facility of the Company is in Hamilton, Ontario. The Company maintains corporate offices in both Ontario and British Columbia and a majority of the BZAM directors reside in Ontario. In addition, the principal place of business of the senior secured lender, Cortland, is Ontario.

Stay of Proceedings

40 Section 11.02(1) of the CCAA provides that the Court may order a stay of proceedings on an initial CCAA application for a period of not more than 10 days. Section 11.001 of the CCAA provides that relief granted on an initial CCAA application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that initial 10-day period.

41 A stay of proceedings is clearly necessary here if any form of restructuring process is to be successful. The relief sought today is limited to what is reasonably necessary.

Non-Applicant Stay Parties

42 I am also satisfied that the stay should apply to the Non-Applicant Stay Parties. The court has authority to extend the stay to non-parties pursuant to ss. 11 and 11.02(1) of the CCAA, which permits the court to make an initial order on any terms imposed. In determining whether a stay should be extended to non-parties, courts have considered numerous factors, including whether the subsidiaries of applicants had guaranteed secured loans of the applicants, whether the non-applicants were deeply integrated into the business operations of the applicants, and whether the claims against the non-applicants were derivative of the primary liability of the applicants: See *MPX International Corporation* 2022 ONSC 4348 ("*MPX*") at para. 52, *Lydian International Limited, (Re),*2019 ONSC 7473 at para. 39; *Sino-Forest Corporation (Re)*, 2012 ONSC 2063 at paras. 5, 18, and 31; at paras. 28-29; and *Target Canada Co.,*2015 ONSC 303 ("*Target*") at paras. 49-50.

43 All of the Non-Applicant Stay Parties here are highly integrated into the business as wholly-owned subsidiaries (direct or indirect) of BZAM, or in the case of 943 Québec, as a soon to be acquired company. None carry on active business. The three entities other than 943 Québec also have tax attributes which could be beneficial to the objective of maximizing value for stakeholders.

44 I am satisfied that the stay should be extended to these parties to prevent uncoordinated realization and enforcement attempts from being made in different jurisdictions, all of which would be counterproductive to the maximization and protection of value for stakeholders of the Applicants.

45 Moreover, the Applicants advise that they intend to seek approval of a SISP in this proceeding which will include the Non-Applicant Stay Parties with the result that the stay should apply to them to give comfort to potential bidders that enforcement actions against those parties will be stayed while a sales process is being conducted.

TAB 11

2013 ONSC 6167
Ontario Superior Court of Justice [Commercial List]

8440522 Canada Inc., Re

2013 CarswellOnt 13921, 2013 ONSC 6167, 233 A.C.W.S. (3d) 286, 8 C.B.R. (6th) 86

In Matter of the Companies' Creditors Arrangement Act, 1985, c.C-36 as Amended

In the Matter of a Plan of Compromise or Arrangement of 8440522 Canada Inc., Data & Audio-Visual Enterprises Wireless Inc., and Data & Audio-Visual Enterprises Holdings Incorporation

Newbould J.

Heard: September 30, 2013
Judgment: October 4, 2013
Docket: 13-CV-16274-OOCL

Counsel: Robert Frank, Virginie Gauthier, Evan Cobb for Applicants
David C. Moore for Catalyst Capital Group Inc.
John Porter, Leanne M. Williams for Ernst & Young Inc, the proposed Monitor
Robert J. Chadwick for proposed DIP lender and the ad hoc Committee of Noteholders
Kevin P. McElcheran, James D. Gage for Quadrangle, a shareholder and, for subordinated note holders

Subject: Insolvency

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Miscellaneous

Applicants consisted of operating company and holding company who carried on business as Canadian wireless telecommunications carrier — Applicants raised in excess of $400 million in debt financing to fund capital expenditures and operations since 2008 — Indebtedness consisted of second lien notes, senior unsecured debentures and convertible unsecured notes — Cash interest payment under indebtedness was payment of over $9 million on first lien notes which became due on September 30, 2013, date of Initial Order — Applicants continued to engage with potential acquirers — In two weeks preceding application applicants developed transaction structure for proposed transaction with prospective purchaser, which was currently being considered by Industry Canada — Applicants applied for protection under Companies' Creditors Arrangement Act (CCAA) — Application granted — Initial Order signed — It was clear applicants were insolvent and that without protection of CCAA, shutdown of operations would be inevitable as applicants would cease to be able to pay trade creditors in ordinary course and would cease to be able to make interest payments on outstanding debt securities — As part of Initial Order, court approved debtor-in-possession financing and appointment of chief restructuring officer.

APPLICATION for protection under *Companies' Creditors Arrangements Act*.

***Newbould J.*:**

1 On September 30, the applicants ("Mobilicity Group") applied for protection under the CCAA. At the conclusion of the hearing I ordered that the application should be granted for reasons to follow, and an Initial Order was signed. These are my reasons.

from Catalyst to propose DIP financing that will rank equally as the DIP lending proposed by the applicants but provide more money and on better terms than that provided for in the proposal before the court.

30 Mr. Moore relies on the statement of Blair. J. (as he then was) in *Royal Oak Mines Inc., Re* (1999), 6 C.B.R. (4th) 314 (Ont. Gen. Div. [Commercial List]) that extraordinary relief such as DIP financing with super priority status should be kept in the Initial Order to what is reasonably necessary to meet the debtor's urgent needs during the sorting out period. Each case, of course, depends on its particular facts. Unlike *Royal Oak Mines Inc.*, the proposed DIP financing does not give the DIP lender super priority of the kind in *Royal Oak Mines Inc.*. It will rank behind the first lien notes held by Mr. Moore's client. The issue is whether approval of DIP financing is necessary at this time.

31 As to that question, I accept the position of Mobilicity that it is important that now that the CCAA proceedings have commenced, approving a DIP facility will provide some assurance of stability to the market place, including the customers of Mobilicity and its suppliers and dealers. If no DIP financing were approved, there is a serious risk that customers of Mobilicity, who do not have long term contracts, will go elsewhere. That would negatively affect the cash flow of Mobilicity and the assumption that advances under the DIP loan would not be required until November.

32 Should this DIP facility be approved with its proposed security? In my view it should. On the record before me, the facility was approved by the board of directors of the Mobilicity Group with the benefit of expert advice after a process undertaken to obtain bids for the loan. I recognize that board approval is a factor that may be taken into account but it is not determinative. See *Crystallex International Corp., Re* (2012), 91 C.B.R. (5th) 207 (Ont. C.A.) at para. 85.

33 The factors in s.11.2 (4) of the CCAA must be considered. I will deal with each of them.

(a) The period during which the company is expected to be subject to the CCAA proceedings.

34 Mobilicity hopes to be able to enter into a transaction with a proposed purchaser within a relatively short period of time. The applicants submit that it is reasonable to estimate that the proceedings could last to February, 2014 and that subject to its conditions, the DIP facility can provide funding until that time.

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

35 The Mobilicity Group retained Mr. Aziz in April, 2013 as its CRO, and he will continue in that capacity. He is a person of known ability. The business will continue to be run on a day to day basis by management who are looking for stability to enable it to keep its customer base.

(c) Whether the company's management has the confidence of its major creditors.

36 Catalyst, as the holder of approximately 34% of the first lien notes, says it has no confidence in Mr. Aziz or the way that it alleges the Mobilicity Group has ignored the different interests of Mobilicity and its holding company. That is the subject of its claim for oppression. However, the balance of first lien note holders, all of the Bridge Note holders, approximately 92% of the unsecured debenture holders and all of the holders of the pari passu notes support the company's management and the approval of the DIP facility. That is, holders of $444 million of the Mobilicity Group's debt, or 88% of that debt, support management and the DIP facility.

(d) Whether the loan would enhance the prospects of a viable compromise or arrangement.

37 The Mobilicity Group's preferred course is to achieve a going concern transaction that will be of benefit to all stakeholders, including the first lien note holders. The DIP facility permits some stability and breathing room to enable this to happen.

TAB 12

2010 ONSC 222
Ontario Superior Court of Justice [Commercial List]

Canwest Publishing Inc. / Publications Canwest Inc., Re

2010 CarswellOnt 212, 2010 ONSC 222, [2010] O.J. No. 188, 184 A.C.W.S. (3d) 684, 63 C.B.R. (5th) 115

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C-36, AS AMENDED AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS INC. AND CANWEST (CANADA) INC.

Pepall J.

Judgment: January 18, 2010
Docket: CV-10-8533-00CL

Counsel: Lyndon Barnes, Alex Cobb, Duncan Ault for Applicant, LP Entities
Mario Forte for Special Committee of the Board of Directors
Andrew Kent, Hilary Clarke for Administrative Agent of the Senior Secured Lenders' Syndicate
Peter Griffin for Management Directors
Robin B. Schwill, Natalie Renner for Ad Hoc Committee of 9.25% Senior Subordinated Noteholders
David Byers, Maria Konyukhova for Proposed Monitor, FTI Consulting Canada Inc.

Subject: Insolvency; Corporate and Commercial

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Miscellaneous

CMI, entity of C Corp., obtained protection from creditors in Companies' Creditors Arrangement Act ("CCAA") proceedings in October 2009 — CPI, newspaper entities related to C, sought similar protection — CPI brought application for order pursuant to CCAA and for stay of proceedings and other benefits of order to be extended to CPI — Application granted — CPI was clearly insolvent — Community served by CPI was huge — Granting of order premised on anticipated going concern sale of newspaper business, which would serve interests of CPI and stakeholders and also community at large — Order requested would provide stability and enable CPI to pursue restructuring and preserve enterprise value for stakeholders — Without benefit of stay, CPI would have been required to pay approximately $1.45 billion and would have been unable to continue operating business.

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Arrangements — Approval by creditors

CMI, entity of C Corp., obtained protection from creditors in Companies' Creditors Arrangement Act ("CCAA") proceedings in October 2009 — CPI, newspaper entities related to C, sought similar protection — CPI brought application for order pursuant to CCAA and for stay of proceedings and other benefits of order to be extended to CPI — Application granted — CPI was clearly insolvent — Community served by CPI was huge — Granting of order premised on anticipated going concern sale of newspaper business, which would serve interests of CPI and stakeholders and also community at large — Order requested would provide stability and enable CPI to pursue restructuring and preserve enterprise value for stakeholders — Without benefit of stay, CPI would have been required to pay approximately $1.45 billion and would have been unable to continue operating business — In circumstances, it was appropriate to allow CPI to file and present plan only to secured creditors.

APPLICATION by entity of company already protected under Companies' Creditors Arrangement Act for similar protection.

and specific statutory encumbrances as provided for in the proposed order. [13] The LP Entities also request a $10 million charge in favour of the Financial Advisor, RBC Dominion Securities Inc. The Financial Advisor is providing investment banking services to the LP Entities and is essential to the solicitation process. This charge would rank in third place, subsequent to the administration charge and the DIP charge.

53 In the past, an administration charge was granted pursuant to the inherent jurisdiction of the court. Section 11.52 of the amended CCAA now provides statutory jurisdiction to grant an administration charge. Section 11.52 states:

> On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of the debtor company is subject to a security or charge - in an amount that the court considers appropriate - in respect of the fees and expenses of
>
> (a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;
>
> (b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and
>
> (c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.
>
> (2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

54 I am satisfied that the issue of notice has been appropriately addressed by the LP Entities. As to whether the amounts are appropriate and whether the charges should extend to the proposed beneficiaries, the section does not contain any specific criteria for a court to consider in its assessment. It seems to me that factors that might be considered would include:

> (a) the size and complexity of the businesses being restructured;
>
> (b) the proposed role of the beneficiaries of the charge;
>
> (c) whether there is an unwarranted duplication of roles;
>
> (d) whether the quantum of the proposed charge appears to be fair and reasonable;
>
> (e) the position of the secured creditors likely to be affected by the charge; and
>
> (f) the position of the Monitor.

This is not an exhaustive list and no doubt other relevant factors will be developed in the jurisprudence.

55 There is no question that the restructuring of the LP Entities is large and highly complex and it is reasonable to expect extensive involvement by professional advisors. Each of the professionals whose fees are to be secured has played a critical role in the LP Entities restructuring activities to date and each will continue to be integral to the solicitation and restructuring process. Furthermore, there is no unwarranted duplication of roles. As to quantum of both proposed charges, I accept the Applicants' submissions that the business of the LP Entities and the tasks associated with their restructuring are of a magnitude and complexity that justify the amounts. I also take some comfort from the fact that the administrative agent for the LP Secured Lenders has agreed to them. In addition, the Monitor supports the charges requested. The quantum of the administration charge appears to be fair and reasonable. As to the quantum of the charge in favour of the Financial Advisor, it is more unusual as it involves an incentive payment but I note that the Monitor conducted its own due diligence and, as mentioned, is supportive of the request. The quantum reflects an appropriate incentive to secure a desirable alternative offer. Based on all of these factors, I concluded that the two charges should be approved.

TAB 13

2013 ONSC 1780
Ontario Superior Court of Justice [Commercial List]

Northstar Aerospace Inc., Re

2013 CarswellOnt 4056, 2013 ONSC 1780, 227 A.C.W.S. (3d) 929

In the Matter of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C 36, as Amended

In the Matter of a Plan of Compromise or Arrangement of Northstar Aerospace, Inc., Northstar Aerospace (Canada) Inc., 2007775 Ontario Inc. and 3024308 Nova Scotia Company Applicants

Morawetz J.

Judgment: April 9, 2013
Docket: CV-12-9761-00CL

Counsel: C.J. Hill, J. Szumski for Court-Appointed Monitor, Ernst & Young Inc.
J. Wall for Her Majesty the Queen in Right of Ontario, as Represented by the Ministry of the Environment
P. Guy, K. Montpetit for Former Directors and Officers Group
Steven Weisz for Fifth Third Bank

Subject: Insolvency

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Miscellaneous

Applicant companies obtained protection from their creditors under Companies' Creditors Arrangement Act (CCAA) — Court-appointed monitor of applicants brought motion for approval of adjudication process — Monitor also sought final determination as to whether two claims were valid claims for which former directors and officers of applicants ("D&Os") were indemnified pursuant to indemnity contained in initial order — If they were so indemnified, D&Os may have been entitled to benefit of certain funds held in reserve by monitor (D&O charge reserve) to satisfy such claims — Two claims in issue were described in proofs of claim filed by provincial Crown as represented by Ministry of Environment (MOE) and by other party on behalf of certain of D&Os — Motion granted; adjudication process approved; D&Os were not entitled to benefit of D&O charge reserve; D&O charge reserve was to be paid to pre-filing agent — To determine that proofs of claim were claims for which D&Os were entitled to be indemnified under Director's Indemnity would wrongly and inequitably affect priority of claims as between Ministry and bank — It would lead to inconsistent results if MOE could, in CCAA proceedings, improve its unsecured position against bank by issuing Director's Order after commencement of CCAA proceedings, based on environmental condition which occurred long before CCAA proceedings — This would result in Ministry achieving indirectly in these CCAA proceedings that which it could not achieve directly — In CCAA proceedings, Ministry claim was unsecured claim and did not entitle Ministry to obtain remedy sought.

MOTION by court-appointed monitor of applicant companies for approval of adjudication process and for final determination with respect to validity of claims and indemnity.

***Morawetz J.*:**

Motion Overview

1 This is a motion brought by Ernst & Young Inc., in its capacity as court-appointed Monitor (the "Monitor") of Northstar Aerospace, Inc. ("Northstar Inc."), Northstar Aerospace (Canada) Inc., 2007775 Ontario Inc. and 3024308 Nova Scotia Company (collectively, the "Applicants"), for approval of an adjudication process and for a final determination with respect to whether two claims submitted in the claims procedure (the "Claims Procedure") authorized by order of August 2, 2012

Analysis and Conclusion

27 I conclude, for the following reasons, that (a) the adjudication process should be approved; (b) the MOE Post-Filing D&O Claims are not claims for which the D&Os are indemnified under paragraph 23 of the Initial Order; (c) the WeirFoulds Post-Filing D&O Claims are not claims for which the D&Os are indemnified under paragraph 23 of the Initial Order; and (d) the D&O Charge Reserve should be paid over to the Pre-Filing Agent.

28 The Directors' Charge, as contemplated by section 11.51 of the CCAA, is appropriate in the current circumstances (notwithstanding it being a discretionary and extraordinary provision, as outlined above) because it is directly tailored to the purposes of creating a charge, and its impact is limited.

29 The purpose of a section 11.51 charge is twofold: (1) to keep the directors and officers in place during the restructuring to avoid a potential destabilization of the business; and (2) to enable the CCAA applicants to benefit from experienced board of directors and experienced senior management. Courts have accepted that, without certain protections, officers and directors will often discontinue their service in CCAA restructurings. See *Canwest Global Communications Corp., Re* (2009), 59 C.B.R. (5th) 72 (Ont. S.C.J. [Commercial List]) and *Canwest Publishing Inc./Publications Canwest Inc., Re*, 2010 ONSC 222 (Ont. S.C.J. [Commercial List]).

30 In this case, the Applicants' basis for seeking the Directors' Charge is set out in the affidavit of Mr. Yuen, sworn June 13, 2012, which was filed in support of the Initial Order application. He described the purpose of the Directors' Charge as:

> To ensure the ongoing stability of the CCAA Entities' business during the CCAA period, the CCAA Entities require the continued participation of the CRO and the CCAA Entities' officers and executives who manage the business and commercial activities of the CCAA Entities.

31 The Yuen affidavit goes on to identify the specific obligations and liabilities for which the Directors' Charge was requested, including liability for unpaid wages, pension amounts, vacation pay, statutory employee deductions and HST. At paragraph 143 of his affidavit, Mr. Yuen states:

> I am advised by Daniel Murdoch of Stikeman Elliott LLP, counsel to the CCAA Entities, and do verily believe, that in certain circumstances directors can be held liable for certain obligations of a company owing to employees and government entities. As at May 18, 2012, the CCAA Entities were potentially liable for some or all of unpaid wages, pension amounts, vacation pay, statutory employee deductions, and HST (Harmonized Sales Tax) of approximately CDN $1.65 million ...

32 The Monitor's counsel submits that the quantum of the Directors' Charge was tailored to the Applicants' existing liability for such amounts.

33 The scope of a section 11.51 charge is limited in several ways:

> (a) section 11.51 does not authorize the creation of a charge in favour of any party other than a director or officer (or chief restructuring officer) of the companies under CCAA protection;
>
> (b) section 11.51 does not authorize the creation of a charge for purposes other than to indemnify the directors and officers against obligations and liabilities that they may incur as a director or officer of the company after the commencement of its CCAA Proceedings; and
>
> (c) section 11.51(4) requires the court to exclude from the section 11.51 charge the obligations and liabilities of directors and officers incurred through their own gross negligence or wilful misconduct.

34 In my view, it would be inappropriate to determine that the Proofs of Claim are claims for which the D&Os are entitled to be indemnified under the Directors' Indemnity, as doing so would wrongly and inequitably affect the priority of claims as between the MOE and the Fifth Third Bank.

TAB 14

R.S.C. 1985, c. C-36, s. 2

s 2.

Currency

2.
2(1)Definitions
In this Act,

"aircraft objects" [Repealed 2012, c. 31, s. 419.]

"bargaining agent" means any trade union that has entered into a collective agreement on behalf of the employees of a company; *("agent négociateur")*

"bond" includes a debenture, debenture stock or other evidences of indebtedness; *("obligation")*

"cash-flow statement", in respect of a company, means the statement referred to in paragraph 10(2)(a) indicating the company's projected cash flow; *("état de l'évolution de l'encaisse")*

"claim" means any indebtedness, liability or obligation of any kind that would be a claim provable within the meaning of section 2 of the *Bankruptcy and Insolvency Act*; *("réclamation")*

"collective agreement", in relation to a debtor company, means a collective agreement within the meaning of the jurisdiction governing collective bargaining between the debtor company and a bargaining agent; *("convention collective")*

"company" means any company, corporation or legal person incorporated by or under an Act of Parliament or of the legislature of a province, any incorporated company having assets or doing business in Canada, wherever incorporated, and any income trust, but does not include banks, authorized foreign banks within the meaning of section 2 of the *Bank Act*, telegraph companies, insurance companies and companies to which the *Trust and Loan Companies Act* applies; *("compagnie")*

Proposed Amendment — 2(1) "company"

"company" means any company, corporation or legal person incorporated by or under an Act of Parliament or of the legislature of a province, any incorporated company having assets or doing business in Canada, wherever incorporated, and any income trust, but does not include banks, authorized foreign banks within the meaning of section 2 of the *Bank Act*, telegraph companies, insurance companies, companies to which the *Trust and Loan Companies Act* applies and prescribed public post-secondary educational institutions; *("compagnie")*

2024, c. 15, s. 274 [To come into force June 20, 2026.]

"court" means

(a) in Nova Scotia, British Columbia and Prince Edward Island, the Supreme Court,

(a.1) in Ontario, the Superior Court of Justice,

(b) in Quebec, the Superior Court,

(c) in New Brunswick, Manitoba, Saskatchewan and Alberta, the Court of Queen's Bench, and

(c.1) in Newfoundland and Labrador, the Trial Division of the Supreme Court, and

(d) in Yukon and the Northwest Territories, the Supreme Court, and in Nunavut, the Nunavut Court of Justice;

("tribunal")

"debtor company" means any company that

(a) is bankrupt or insolvent,

(b) has committed an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* or is deemed insolvent within the meaning of the *Winding-up and Restructuring Act*, whether or not proceedings in respect of thecompany have been taken under either of those Acts,

(c) has made an authorized assignment or against which a bankruptcy order has been made under the *Bankruptcy and Insolvency Act*, or

(d) is in the course of being wound up under the *Winding-up and Restructuring Act* because the company is insolvent;

("compagnie débitrice")

"director" means, in the case of a company other than an income trust, a person occupying the position of director by whatever name called and, in the case of an income trust, a person occupying the position of trustee by whatever named called; *("administrateur")*

"eligible financial contract" means an agreement of a prescribed kind; *("contrat financier admissible")*

"equity claim" means a claim that is in respect of an equity interest, including a claim for, among others,

(a) a dividend or similar payment,

(b) a return of capital,

(c) a redemption or retraction obligation,

(d) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or, in Quebec, the annulment, of a purchase or sale of an equity interest, or

(e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d);

("réclamation relative à des capitaux propres")

"equity interest" means

(a) in the case of a company other than an income trust, a share in the company — or a warrant or option or another right to acquire a share in the company — other than one that is derived from a convertible debt, and

(b) in the case of an income trust, a unit in the income trust — or a warrant or option or another right to acquire a unit in the income trust — other than one that is derived from a convertible debt;

("intérêt relatif à des capitaux propres")

"financial collateral" means any of the following that is subject to an interest, or in the Province of Quebec a right, that secures payment or performance of an obligation in respect of an eligible financial contract or that is subject to a title transfer credit support agreement:

(a) cash or cash equivalents, including negotiable instruments and demand deposits,

(b) securities, a securities account, a securities entitlement or a right to acquire securities, or

(c) a futures agreement or a futures account;

("garantie financière")

"income trust" means a trust that has assets in Canada if

(a) its units are listed on a prescribed stock exchange on the day on which proceedings commence under this Act, or

(b) the majority of its units are held by a trust whose units are listed on a prescribed stock exchange on the day on which proceedings commence under this Act;

("fiducie de revenu")

"initial application" means the first application made under this Act in respect of a company; *("demande initiale")*

"monitor", in respect of a company, means the person appointed under section 11.7 to monitor the business and financial affairs of the company; *("contrôleur")*

"net termination value" means the net amount obtained after netting or setting off or compensating the mutual obligations between the parties to an eligible financial contract in accordance with its provisions; *("valeurs nettes dues à la date de résiliation")*

"prescribed" means prescribed by regulation; *("Version anglaise seulement")*

"secured creditor" means a holder of a mortgage, hypothec, pledge, charge, lien or privilege on or against, or any assignment, cession or transfer of, all or any property of a debtor company as security for indebtedness of the debtor company, or a holder of any bond of a debtor company secured by a mortgage, hypothec, pledge, charge, lien or privilege on or against, or any assignment, cession or transfer of, or a trust in respect of, all or any property of the debtor company, whether the holder or beneficiary is resident or domiciled within or outside Canada, and a trustee under any trust deed or other instrument securing any of those bonds shall be deemed to be a secured creditor for all purposes of this Act except for the purpose of voting at a creditors' meeting in respect of any of those bonds; *("créancier garanti")*

"shareholder" includes a member of a company — and, in the case of an income trust, a holder of a unit in an income trust — to which this Act applies; *("actionnaire")*

"Superintendent of Bankruptcy" means the Superintendent of Bankruptcy appointed under subsection 5(1) of the *Bankruptcy and Insolvency Act*; *("surintendant des faillites")*

"Superintendent of Financial Institutions" means the Superintendent of Financial Institutions appointed under subsection 5(1) of the *Office of the Superintendent of Financial Institutions Act*; *("surintendant des institutions financières")*

"title transfer credit support agreement" means an agreement under which a debtor company has provided title to property for the purpose of securing the payment or performance of an obligation of the debtor company in respect of an eligible financial contract; *("accord de transfert de titres pour obtention de crédit")*

"unsecured creditor" means any creditor of a company who is not a secured creditor, whether resident or domiciled within or outside Canada, and a trustee for the holders of any unsecured bonds issue under a trust deed or other instrument running in favour of the trustee shall be deemed to be an unsecured creditor for all purposes of this Act except for the purpose of voting at a creditors' meeting in respect of any of those bonds. *("creancier chirographaire")*

2(2)Meaning of "related" and "dealing at arm's length"
For the purpose of this Act, section 4 of the *Bankruptcy and Insolvency Act* applies for the purpose of determining whether a person is related to or dealing at arm's length with a debtor company.

Amendment History
R.S.C. 1985, c. 27 (2nd Supp.), s. 10 (Sched., item 3); 1990, c. 17, s. 4; 1992, c. 27, s. 90(1)(f); 1993, c. 28, s. 78 (Sched. III, item 20) [Repealed 1999, c. 3, s. 12 (Sched., item 4).]; 1993, c. 34, s. 52; 1996, c. 6, s. 167(1)(d); 1997, c. 12, s. 120; 1998, c. 30, s. 14(c); 1999, c. 3, s. 22; 1999, c. 28, s. 154; 2001, c. 9, s. 575; 2002, c. 7, s. 133; 2004, c. 25, s. 193; 2005, c. 3, s. 15; 2005, c. 47, s. 124 [Amended 2007, c. 36, s. 105.]; 2007, c. 29, s. 104; 2007, c. 36, ss. 61(1), (2), (4); 2012, c. 31, s. 419; 2015, c. 3, s. 37; 2018, c. 10, s. 89

Judicial Consideration (2)

Currency
Federal English Statutes reflect amendments current to December 3, 2025
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R.S.C. 1985, c. C-36, s. 3

s 3.

Currency

3.

3(1)Application

This Act applies in respect of a debtor company or affiliated debtor companies if the total of claims against the debtor company or affiliated debtor companies, determined in accordance with section 20, is more than $5,000,000 or any other amount that is prescribed.

3(2)Affiliated companies

For the purposes of this Act,

(a) companies are affiliated companies if one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person; and

(b) two companies affiliated with the same company at the same time are deemed to be affiliated with each other.

3(3)Company controlled

For the purposes of this Act, a company is controlled by a person or by two or more companies if

(a) securities of the company to which are attached more than fifty per cent of the votes that may be cast to elect directors of the company are held, other than by way of security only, by or for the benefit of that person or by or for the benefit of those companies; and

(b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the company.

3(4)Subsidiary

For the purposes of this Act, a company is a subsidiary of another company if

(a) it is controlled by

(i) that other company,

(ii) that other company and one ore more companies each of which is controlled by that other company, or

(iii) two or more companies each of which is controlled by that other company; or

(b) it is a subsidiary of a company that is a subsidiary of that other company.

Amendment History

1997, c. 12, s. 121; 2005, c. 47, s. 125

Judicial Consideration (1)

Currency

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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 9

s 9.

Currency

9.

9(1)Jurisdiction of court to receive applications

Any application under this Act may be made to the court that has jurisdiction in the province within which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated.

9(2)Single judge may exercise powers, subject to appeal

The powers conferred by this Act on a court may, subject to appeal as provided for in this Act, be exercised by a single judge thereof, and those powers may be exercised in chambers during term or in vacation.

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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 11

s 11. General power of court

Currency

11.General power of court

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

Amendment History

1992, c. 27, s. 90; 1996, c. 6, s. 167(1)(d); 1997, c. 12, s. 124; 2005, c. 47, s. 128

Judicial Consideration (6)

Currency

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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 11.001

s 11.001 Relief reasonably necessary

Currency

11.001 Relief reasonably necessary

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

Amendment History

2019, c. 29, s. 136

Currency

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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 11.02

s 11.02

Currency

11.02

11.02(1)Stays, etc. — initial application

A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;

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

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

11.02(2)Stays, etc. — other than initial application

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

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

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

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

11.02(3)Burden of proof on application

The court shall not make the order unless

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

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

11.02(4)Restriction

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

Amendment History

2005, c. 47, s. 128; 2019, c. 29, s. 137

Judicial Consideration (1)

Currency
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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 11.03

s 11.03

Currency

11.03

11.03(1)Stays — directors

An order made under section 11.02 may provide that no person may commence or continue any action against a director of the company on any claim against directors that arose before the commencement of proceedings under this Act and that relates to obligations of the company if directors are under any law liable in their capacity as directors for the payment of those obligations, until a compromise or an arrangement in respect of the company, if one is filed, is sanctioned by the court or is refused by the creditors or the court.

11.03(2)Exception

Subsection (1) does not apply in respect of an action against a director on a guarantee given by the director relating to the company's obligations or an action seeking injunctive relief against a director in relation to the company.

11.03(3)Persons deemed to be directors

If all of the directors have resigned or have been removed by the shareholders without replacement, any person who manages or supervises the management of the business and affairs of the company is deemed to be a director for the purposes of this section.

Amendment History

2005, c. 47, s. 128

Currency

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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 11.2

s 11.2

Currency

11.2

11.2(1)Interim financing

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

11.2(2)Priority — secured creditors

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

11.2(3)Priority — other orders

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

11.2(4)Factors to be considered

In deciding whether to make an order, the court is to consider, among other things,

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

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

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

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

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

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

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

11.2(5)Additional factor — initial application

When an application is made under subsection (1) at the same time as an initial application referred to in subsection 11.02(1) or during the period referred to in an order made under that subsection, no order shall be made under subsection (1) unless the court is also satisfied that the terms of the loan are limited to what is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period.

Amendment History

1997, c. 12, s. 124; 2005, c. 47, s. 128; 2007, c. 36, s. 65; 2019, c. 29, s. 138

Judicial Consideration (9)

Currency
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R.S.C. 1985, c. C-36, s. 11.51

s 11.51

Currency

11.51

11.51(1)Security or charge relating to director's indemnification

On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of the company is subject to a security or charge — in an amount that the court considers appropriate — in favour of any director or officer of the company to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer of the company after the commencement of proceedings under this Act.

11.51(2)Priority

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

11.51(3)Restriction — indemnification insurance

The court may not make the order if in its opinion the company could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

11.51(4)Negligence, misconduct or fault

The court shall make an order declaring that the security or charge does not apply in respect of a specific obligation or liability incurred by a director or officer if in its opinion the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct or, in Quebec, the director's or officer's gross or intentional fault.

Amendment History

2005, c. 47, s. 128; 2007, c. 36, s. 66

Judicial Consideration (6)

Currency

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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 11.52

s 11.52

Currency

11.52

11.52(1)Court may order security or charge to cover certain costs

On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

(a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;

(b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

11.52(2)Priority

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

Amendment History

2005, c. 47, s. 128; 2007, c. 36, s. 66

Judicial Consideration (6)

Currency

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Canada Federal Statutes
Companies' Creditors Arrangement Act
Part II — Jurisdiction of Courts (ss. 9-18.5)

R.S.C. 1985, c. C-36, s. 11.7

s 11.7

Currency

11.7

11.7(1)Court to appoint monitor

When an order is made on the initial application in respect of a debtor company, the court shall at the same time appoint a person to monitor the business and financial affairs of the company. The person so appointed must be a trustee, within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act*.

11.7(2)Restrictions on who may be monitor

Except with the permission of the court and on any conditions that the court may impose, no trustee may be appointed as monitor in relation to a company

(a) if the trustee is or, at any time during the two preceding years, was

(i) a director, an officer or an employee of the company,

(ii) related to the company or to any director or officer of the company, or

(iii) the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel, of the company; or

(b) if the trustee is

(i) the trustee under a trust indenture issued by the company or any person related to the company, or the holder of a power of attorney under an act constituting a hypothec within the meaning of the *Civil Code of Quebec* that is granted by the company or any person related to the company, or

(ii) related to the trustee, or the holder of a power of attorney, referred to in subparagraph (i).

11.7(3)Court may replace monitor

On application by a creditor of the company, the court may, if it considers it appropriate in the circumstances, replace the monitor by appointing another trustee, within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act*, to monitor the business and financial affairs of the company.

11.7(4) [Repealed 2005, c. 47, s. 129.]

11.7(5) [Repealed 2005, c. 47, s. 129.]

Amendment History

1997, c. 12, s. 124; 2005, c. 47, s. 129

Judicial Consideration (1)

Currency
Federal English Statutes reflect amendments current to December 3, 2025
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End of Document

TAB 15

Canada Federal Statutes
Bankruptcy and Insolvency Act
Interpretation

R.S.C. 1985, c. B-3, s. 2

s 2. Definitions

Currency

2.Definitions
In this Act

"affidavit" includes statutory declaration and solemn affirmation; *("affidavit")*

"aircraft objects" [Repealed 2012, c. 31, s. 414.]

"application", with respect to a bankruptcy application filed in a court in the Province of Quebec, means a motion; *(Version anglaise seulement)*

"assignment" means an assignment filed with the official receiver; *("cession")*

"bank" means

(a) every bank and every authorized foreign bank within the meaning of section 2 of the *Bank Act*,

(b) every other member of the Canadian Payments Association established by the *Canadian Payments Act*, and

(c) every local cooperative credit society, as defined in subsection 2(1) of the Act referred to in paragraph (b), that is a member of a central cooperative credit society, as defined in that subsection, that is a member of that Association;

("banque")

"bankrupt" means a person who has made an assignment or against whom a bankruptcy order has been made or the legal status of that person; *("failli")*

"bankruptcy" means the state of being bankrupt or the fact of becoming bankrupt; *("faillite")*

"bargaining agent" means any trade union that has entered into a collective agreement on behalf of the employees of a person; *("agent négociateur")*

"child" [Repealed 2000, c. 12, s. 8(1).]

"claim provable in bankruptcy,""provable claim" or **"claim provable"** includes any claim or liability provable in proceedings under this Act by a creditor; *("réclamation prouvable en matière de faillite"* ou *"réclamation prouvable")*

"collective agreement", in relation to an insolvent person, means a collective agreement within the meaning of the jurisdiction governing collective bargaining between the insolvent person and a bargaining agent; *("convention collective")*

"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year; *("conjoint de fait")*

"common-law partnership" means the relationship between two persons who are common-law partners of each other; *("union de fait")*

"corporation" means a company or legal person that is incorporated by or under an Act of Parliament or of the legislature of a province, an incorporated company, wherever incorporated, that is authorized to carry on business in Canada or has an office or property in Canada or an income trust, but does not include banks, authorized foreign banks within the meaning of section 2 of the *Bank Act*, insurance companies, trust companies or loan companies; *("personne morale")*

Proposed Amendment — 2 "corporation"

"corporation" means a company or legal person that is incorporated by or under an Act of Parliament or of the legislature of a province, an incorporated company, wherever incorporated, that is authorized to carry on business in Canada or has an office or property in Canada or an income trust, but does not include banks, authorized foreign banks within the meaning of section 2 of the *Bank Act*, insurance companies, trust companies, loan companies or prescribed public post-secondary educational institutions; *("personne morale")*

2024, c. 15, s. 273 [To come into force June 20, 2026.]

"court", except in paragraphs 178(1)(a) and (a.1) and sections 204.1 to 204.3, means a court referred to in subsection 183(1) or (1.1) or a judge of that court, and includes a registrar when exercising the powers of the court conferred on a registrar under this Act; *("tribunal")*

"creditor" means a person having a claim provable as a claim under this Act; *("créancier")*

"current assets" means cash, cash equivalents — including negotiable instruments and demand deposits — inventory or accounts receivable, or the proceeds from any dealing with those assets; *("actif à court terme")*

"date of the bankruptcy", in respect of a person, means the date of

(a) the granting of a bankruptcy order against the person,

(b) the filing of an assignment in respect of the person, or

(c) the event that causes an assignment by the person to be deemed;

("date de la faillite")

"date of the initial bankruptcy event", in respect of a person, means the earliest of the day on which any one of the following is made, filed or commenced, as the case may be:

(a) an assignment by or in respect of the person,

(b) a proposal by or in respect of the person,

(c) a notice of intention by the person,

(d) the first application for a bankruptcy order against the person, in any case

(i) referred to in paragraph 50.4(8)(a) or 57(a) or subsection 61(2), or

(ii) in which a notice of intention to make a proposal has been filed under section 50.4 or a proposal has been filed under section 62 in respect of the person and the person files an assignment before the court has approved the proposal,

(e) the application in respect of which a bankruptcy order is made, in the case of an application other than one referred to in paragraph (d); or

(f) proceedings under the *Companies' Creditors Arrangement Act*;

("ouverture de la faillite")

"debtor" includes an insolvent person and any person who, at the time an act of bankruptcy was committed by him, resided or carried on business in Canada and, where the context requires, includes a bankrupt; *("débiteur")*

"director" in respect of a corporation other than an income trust, means a person occupying the position of director by whatever name called and, in the case of an income trust, a person occupying the position of trustee by whatever name called; *("administrateur")*

"eligible financial contract" means an agreement of a prescribed kind; *("contrat financier admissible")*

"equity claim" means a claim that is in respect of an equity interest, including a claim for, among others,

(a) a dividend or similar payment,

(b) a return of capital,

(c) a redemption or retraction obligation,

(d) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or, in Quebec, the annulment, of a purchase or sale of an equity interest, or

(e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d);

("réclamation relative à des capitaux propres")

"equity interest" means

(a) in the case of a corporation other than an income trust, a share in the corporation — or a warrant or option or another right to acquire a share in the corporation — other than one that is derived from a convertible debt, and

(b) in the case of an income trust, a unit in the income trust — or a warrant or option or another right to acquire a unit in the income trust — other than one that is derived from a convertible debt;

("intérêt relatif à des capitaux propres")

"executing officer" includes a sheriff, a bailiff and any officer charged with the execution of a writ or other process under this Act or any other Act or proceeding with respect to any property of a debtor; *("huissier-exécutant")*

"financial collateral" means any of the following that is subject to an interest, or in the Province of Quebec a right, that secures payment or performance of an obligation in respect of an eligible financial contract or that is subject to a title transfer credit support agreement:

(a) cash or cash equivalents, including negotiable instruments and demand deposits,

(b) securities, a securities account, a securities entitlement or a right to acquire securities, or

(c) a futures agreement or a futures account;

("garantie financière")

"General Rules" means the General Rules referred to in section 209; *("Règles générales")*

"income trust" means a trust that has assets in Canada if

(a) its units are listed on a prescribed stock exchange on the date of the initial bankruptcy event, or

(b) the majority of its units are held by a trust whose units are listed on a prescribed stock exchange on the date of the initial bankruptcy event;

("fiducie de revenu")

"insolvent person" means a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and

(a) who is for any reason unable to meet his obligations as they generally become due,

(b) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or

(c) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due;

("personne insolvable")

"legal counsel" means any person qualified, in accordance with the laws of a province, to give legal advice; *("conseiller juridique")*

"locality of a debtor" means the principal place

(a) where the debtor has carried on business during the year immediately preceding the date of the initial bankruptcy event,

(b) where the debtor has resided during the year immediately preceding the date of the initial bankruptcy event, or

(c) in cases not coming within paragraph (a) or (b), where the greater portion of the property of the debtor is situated;

("localité")

"Minister" means the Minister of Industry; *("ministre")*

"net termination value" means the net amount obtained after netting or setting off or compensating the mutual obligations between the parties to an eligible financial contract in accordance with its provisions; *("valeurs nettes dues à la date de résiliation")*

"official receiver" means an officer appointed under subsection 12(2); *("séquestre officiel")*

"person" includes a partnership, an unincorporated association, a corporation, a cooperative society or a cooperative organization, the successors of a partnership, of an association, of a corporation, of a society or of an organization and the heirs, executors, liquidators of the succession, administrators or other legal representatives of a person; *("personne")*

"prescribed"

(a) in the case of the form of a document that is by this Act to be prescribed and the information to be given therein, means prescribed by directive issued by the Superintendent under paragraph 5(4)(e), and

(b) in any other case, means prescribed by the General Rules;

("prescrit")

"property" means any type of property, whether situated in Canada or elsewhere, and includes money, goods, things in action, land and every description of property, whether real or personal, legal or equitable, as well as obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, in, arising out of or incident to property; *("bien")*

"proposal" means

(a) in any provision of Division I of Part III, a proposal made under that Division, and

(b) in any other provision, a proposal made under Division I of Part III or a consumer proposal made under Division II of Part III

and includes a proposal or consumer proposal, as the case may be, for a composition, for an extension of time or for a scheme or arrangement; *("proposition concordataire"* ou *"proposition")*

"public utility" includes a person or body who supplies fuel, water or electricity, or supplies telecommunications, garbage collection, pollution control or postal services; *("entreprise de service public")*

"resolution" or **"ordinary resolution"** means a resolution carried in the manner provided by section 115; *("résolution"* ou *"résolution ordinaire")*

"secured creditor" means a person holding a mortgage, hypothec, pledge, charge or lien on or against the property of the debtor or any part of that property as security for a debt due or accruing due to the person from the debtor, or a person whose claim is based on, or secured by, a negotiable instrument held as collateral security and on which the debtor is only indirectly or secondarily liable, and includes

(a) a person who has a right of retention or a prior claim constituting a real right, within the meaning of the *Civil Code of Québec* or any other statute of the Province of Quebec, on or against the property of the debtor or any part of that property, or

(b) any of

(i) the vendor of any property sold to the debtor under a conditional or instalment sale,

(ii) the purchaser of any property from the debtor subject to a right of redemption, or

(iii) the trustee of a trust constituted by the debtor to secure the performance of an obligation,

if the exercise of the person's rights is subject to the provisions of Book Six of the *Civil Code of Québec* entitled *Prior Claims and Hypothecs* that deal with the exercise of hypothecary rights;

("créancier garanti")

Editor's Note: S.C. 2001, c. 4, s. 25 replaced the definition of "secured creditor". S.C. 2001, c. 4, s. 177(1) provides as follows:

(1) The definition of "secured creditor" in subsection 2(1) of the Bankruptcy and Insolvency Act*, as enacted by section 25 of this Act [i.e. 2001, c. 4], applies only to bankruptcies or proposals in respect of which proceedings are commenced after the coming into force of that section, but nothing in this subsection shall be construed as changing the status of any person*

who was a secured creditor in respect of a bankruptcy or a proposal in respect of which proceedings were commenced before the coming into force of that section.

Immediately before the replacement, the definition of ***"secured creditor"*** *read as follows:*

"secured creditor" means a person holding a mortgage, hypothec, pledge, charge, lien or privilege on or against the property of the debtor or any part thereof as security for a debt due or accruing due to him from the debtor, or a person whose claim is based on, or secured by, a negotiable instrument held as collateral security and on which the debtor is only indirectly or secondarily liable.

"settlement" [Repealed 2005, c. 47, s. 2(1).]

"shareholder" includes a member of a corporation — and, in the case of an income trust, a holder of a unit in an income trust — to which this Act applies; *("actionnaire")*

"sheriff" [Repealed 2004, c. 25, s. 7(3).]

"special resolution" means a resolution decided by a majority in number and three-fourths in value of the creditors with proven claims present, personally or by proxy, at a meeting of creditors and voting on the resolution; *("résolution spéciale")*

"Superintendent" means the Superintendent of Bankruptcy appointed under subsection 5(1); *("surintendant")*

"Superintendent of Financial Institutions" means the Superintendent of Financial Institutions appointed under subsection 5(1) of the *Office of the Superintendent of Financial Institutions Act*; *("surintendant des institutions financières")*

"time of the bankruptcy", in respect of a person, means the time of

(a) the granting of a bankruptcy order against the person,

(b) the filing of an assignment by or in respect of the person, or

(c) the event that causes an assignment by the person to be deemed;

("moment de la faillite")

"title transfer credit support agreement" means an agreement under which an insolvent person or a bankrupt has provided title to property for the purpose of securing the payment or performance of an obligation of the insolvent person or bankrupt in respect of an eligible financial contract; *("accord de transfert de titres pour obtention de crédit")*

"transfer at undervalue" means a disposition of property or provision of services for which no consideration is received by the debtor or for which the consideration received by the debtor is conspicuously less than the fair market value of the consideration given by the debtor; *("opération sous-évaluée")*

"trustee" or **"licensed trustee"** means a person who is licensed or appointed under this Act. *("syndic"* ou *"syndic autorisé")*

R.S.C. 1985, c. 31 (1st Supp.), s. 69; 1992, c. 27, s. 3; 1995, c. 1, s. 62(1)(a); 1997, c. 12, s. 1; 1999, c. 28, s. 146; 1999, c. 31, s. 17; 2000, c. 12, s. 8; 2001, c. 4, s. 25; 2001, c. 9, s. 572; 2004, c. 25, s. 7(1), (3)-(8), (10); 2005, c. 3, s. 11; 2005, c. 47, s. 2(1), (3)-(5); 2007, c. 29, s. 91; 2007, c. 36, s. 1; 2012, c. 31, s. 414; 2018, c. 10, s. 82

Note:

S.C. 2000, c. 12, s. 8, amended s. 2(1) by repealing the definition of "child", and adding definitions of "common law partner" and "common law partnership". Pursuant to S.C. 2000, c. 12, s. 21, the amendments apply only to bankruptcies, proposals and receiverships commenced after the coming into force of S.C. 2000, c. 12, s. 21 on July 31, 2000. Prior to its repeal, the definition of "child" read as follows:

"child" includes a child born out of marriage;

Judicial Consideration (7)

Currency
Federal English Statutes reflect amendments current to December 3, 2025
Federal English Regulations Current to Gazette Vol. 159:18 (August 27, 2025)

End of Document

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February 18, 2026

FILE NUMBER: 106030.00013

VIA EMAIL (COMMERCIALCOORDINATOR.QBEDMONTON@ALBERTACOURTS.CA)

Court of King's Bench of Alberta
Commercial List - Edmonton Law Courts
1A Sir Winston Churchill Square
Edmonton, AB T5J 0R2

Attention: Corbyn Burik

Dear Sir:

Re: In the Matter of the *Companies' Creditors Arrangement* Act, R.S.C. 1985 c. C-36 as amended
And in the Matter of TRION Battery Technologies
Court of King's Bench Action No. TBD
Application via Webex on February 20, 2026, at 2:00 pm, before the Honourable Justice Harris (the "Application")

Further to the above matter, please find attached the following documents:

1. Originating Application, together with proposed Order attached as "Schedule A", *to be filed*;

2. Affidavit of Mark Smith, sworn February 18, 2026, *to be filed*;

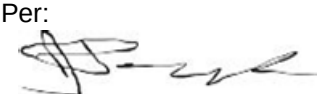
3. Bench Brief dated February 18, 2026, *to be filed*; and

4. Consent to Act as Monitor, *to be filed*.

We would be grateful if you could provide these materials to the Honourable Justice Harris at your earliest opportunity. Filed copies will be provided once we are in receipt of same.

If you have any questions or concerns, please do not hesitate to contact me, and I thank you for your assistance in this matter.

Sincerely,
DLA Piper (Canada) LLP
Per:



Jerritt R. Pawlyk
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