

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) WEDNESDAY, THE 19<sup>TH</sup>  
JUSTICE MORAWETZ ) DAY OF JUNE, 2013

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

**Applicants**

**APPROVAL AND VESTING ORDER  
(Re Approval of the TCL Agreement and Vesting of the Purchased Assets)**

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

ON READING the Affidavit of Sean Dunphy sworn June 13, 2013, and the Twenty First Report of FTI Consulting Canada Inc. in its capacity as the court appointed monitor of the Timminco Entities (the "Monitor") dated June 17, 2013 and on hearing the submissions of counsel for the Timminco Entities, the Monitor and the Purchaser, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Kathryn Esaw sworn June 13, 2013, filed:

**APPROVAL OF THE TCL TRANSACTION**

*the Ministry of Northern Development & Mines, the Timminco Directors & Officers, the BSI Union & Non-Union Employee Pension Committees, & Mercer Canada*

1. **THIS COURT ORDERS AND DECLARES** that the agreement of purchase and sale dated June 13, 2013 (the "TCL Agreement") between Timminco and the Purchaser, providing for the transfer of the assets listed in Schedule "A" hereto (the "Purchased Assets") to the Purchaser, and the TCL Transaction, are hereby approved. The Timminco Entities and the Monitor are authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the TCL Transaction and for the conveyance of the Purchased Assets to the Purchaser.

**VESTING OF THE PURCHASED ASSETS**

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

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

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

4. **THIS COURT ORDERS THAT**, notwithstanding paragraphs 2 and 3 of this Order, upon the closing of the TCL Transaction, the Monitor is hereby authorized and directed to transfer \$40,000 of the proceeds of the sale of the Purchased Assets as an increase in the Financial Assurance for the real property which is described in the Director's Order to Carry Out Rehabilitation (Order Number 2103002), issued by the Director of Mine Rehabilitation (the "**Director**"), to such person and account as the Director for the Ministry of Northern Development and Mines in the Province of Ontario (the "**MNDM**") shall direct in writing, in accordance with the letter agreement dated June 14, 2013 between Timminco and the MNDM, substantially in the form of Schedule "D" to the TCL Agreement.

5. **THIS COURT ORDERS** that, notwithstanding:
- (a) the pendency of these proceedings;
  - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Timminco and any bankruptcy order issued pursuant to any such applications; and
  - (c) any assignment in bankruptcy made in respect of Timminco;

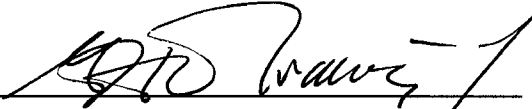
the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Timminco and shall not be void or voidable by creditors of Timminco, nor shall it constitute nor be deemed to be a ~~settlement~~, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **THIS COURT ORDERS AND DECLARES** that the TCL Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).


#### **GENERAL**

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist Timminco, the Monitor, the CRO, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor and to the CRO, as an officer of this Court, as may


be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.



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ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:



JUN 19 2013

**Schedule A - Form of Monitor's Certificate**

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

**ONTARIO  
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**MONITOR'S CERTIFICATE**

**RECITALS**

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

B. Pursuant to an Order of the Court dated June 19, 2013, the Court approved the sale agreement (the "**TCL Agreement**") providing for the transfer of the Purchased Assets, and vesting the Purchased Assets in TCL Asset Group Inc. (the "**Purchaser**"), which vesting is to be effective upon the delivery by the Monitor to the Purchaser of a certificate certifying that the Monitor has (a) received \$105,000 from the Purchaser and (b) received written confirmation in form and substance satisfactory to the Monitor from the Parties that the conditions precedent contained in the Purchase

Agreement have been satisfied or waived by the applicable Parties (the “Closing Certificates”).

**THE MONITOR CERTIFIES** the following:

- 1. The Monitor has received from the Purchaser the sum of \$105,000;
- 2. The Monitor has received the Closing Certificates and the transactions under the TCL Agreement have been completed to the satisfaction of the Monitor;
- 3. This Certificate was delivered by the Monitor to the Timminco Entities at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

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

Per: \_\_\_\_\_

Name:

Title:

## Schedule "B"

### Purchased Assets

#### 1. Administration Building:

- (1) Design Jet 230 Plotter
- (1) Xerox 2510 Blue Print Copier
- Miscellaneous furniture and cabinets

#### 2. Auxiliary Metals Building:

- 40 hp Gardner-Denver Air Compressor and Air Dryer System
- (1) Customized CNC Milling Machine for Machining Magnesium Slabs
- (1) DoAll Vertical Bandsaw c/w Hydraulically Operated Feed Table
- (4) Portable Jibs
- Cubes of electrical starters and disconnects

#### 3. General Purpose Building:

- Baird Spectromet II Scanner Spectrum
- (4) 30 ft. rows of 6 ft. high metal shelving units c/w miscellaneous fasteners and equipment parts
- Miscellaneous furniture and cabinets
- (400) Single lockers (school type) – 6 ft. high c/w interior storage shelf

#### 4. Extrusion Building:

- (1) Loewy 2400 Ton Horizontal Press c/w Heating Coils, Hydraulic Pump and Press Controls and Loewy Triplex Pump c/w 500 hp GE Motor and Farrel Gear Box
- (1) 75 ft Run-Out/Transfer Table c/w Hydraulic Puller Unit and (2) Chop Saws
- (1) Gasmac Die Heating Oven
- (1) 500 Ton Vertical Press c/w Billet Furnace, Cooling System and Press Controls
- (1) Hydraulically Operated Stretcher Unit
- (1) Parts Preheat Oven
- (1) 50 hp Gardner-Denver Air Compressor System
- (1) Chevrolet Pick Up Truck (2000)
- Rack of electrical disconnects

#### 5. Casthouse Building:

- (1) Evapco Cooling Tower – Model #AT8-318BS
- (1) BAC Cooling Tower – Model #FXV-644-HSX
- (1) Witt Air/Water Heat Exchanger – Model #FDS-1021
- (2) Chemical Storage Tanks
- (2) ABB Pump/Heat Exchanger Packaged Stand Systems – 25 hp Pumps
- (1) ABB Pump/Heat Exchanger Packaged Stand System – 50 hp Pumps
- (1) 75 hp Atlas Copco Air Compressor and Xebec Air Dryer System
- (2) FRP Sand Filter Units
- (1) Oil Separation System
- (1) Wet Scrubber System
- (2) ABB Molten Metal Tilting Furnaces
- (2) Casting Table Assemblies



- (1) Refractory Lined Launder System (used to transfer Molten Magnesium)
- (1) Parts Indexing Table (used for Magnesium Logs)
- (3) Gasmac Preheat Ovens
- (1) Preheat Chamber for Pumps
- (1) Diesel Fired Back-Up Generator
- (2) Outdoor Transformers
- (1) Indoor 13.8 KV Switchgear
- (2) ABB Power Supply Cabinet Units c/w sub floor Conductors
- (2) ABB Furnace Main Control Cabinets (up in control room)
- Items in warehouse storage:
  - (1) Temprite Make-Up Water Unit
  - (10) assorted electric motors
  - (2) Oil Pumping/Circulation Units
  - 30 ft. row of 12 ft. heavy racked storage c/w miscellaneous equipment parts

**6. Main Electrical Substation 'A':**

- (1) ABB – 8 MVA Transformer – 115,000 HV Delta – 13,800 / 7970 LV Y – 3 Phase – 60 Hz – Type ONAN – Gross Weight = 25,400 kgs (the “**Transformer**”)

The above list includes all wires and cables associated with the above assets other than wires and cables related to the transmission of power to the pumping and treating station in Quarry 1 of the Property.

**Schedule "C"**

**Encumbrances**

None

**Schedule "D"**

Permitted Encumbrances

None

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**ONTARIO  
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(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER  
(Re Approval of the TCL Agreement  
and Vesting of the Purchased Assets)**

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