

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

Applicants

**MOTION RECORD
(Returnable September 27, 2012)
(Re Stay Extension)**

September 18, 2012

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

Lawyers for the Applicants

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Tab 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Applicants

**NOTICE OF MOTION
(Returnable September 27, 2012)
(Re Stay Extension)**

Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. ("**BSI**" and, together with Timminco, the "**Timminco Entities**") will make a motion to a judge presiding over the Commercial List on Thursday, September 27, 2012 at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order, substantially in the form attached to the Motion Record at Tab 3, extending the Stay Period (as defined in paragraph 18 of the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012) until December 7, 2012, approving the reports of FTI Consulting Canada Inc. in its capacity as court-appointed Monitor (the "**Monitor**") dated June 13, 2012 (the "**Eleventh Report**"), August 13, 2012 (the "**Twelfth Report**"), August 27, 2012 (the "**Thirteenth Report**")

and the report to be filed in connection with the within motion (the "**Fourteenth Report**"), and granting such further and other relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

2. The Timminco Entities were granted protection from creditors under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**") pursuant to an Order of this Court dated January 3, 2012;

3. On June 15, 2012, the Court granted an Order (the "**Claims Procedure Order**") approving a procedure for the solicitation, determination and resolution of claims against the Timminco Entities and their Directors and Officers (the "**Claims Procedure**") and the Monitor is in the process of reviewing the claims filed by creditors (the "**Claims**") in accordance with the Claims Procedure;

4. BSI, its secured creditor Investissement Quebec ("**IQ**") and the Monitor entered into an agreement (the "**Reimbursement Agreement**") which contemplated a distribution to IQ while providing that IQ would repay to BSI such portion of the distribution as may be necessary to satisfy a claim ranking in priority to IQ (a "**Priority Claim**"). Three parties have made claims pursuant to the Reimbursement Agreement asserting that they have Priority Claims, which the Timminco Entities, the Monitor and IQ are currently developing a procedure to address;

5. Pursuant to an agreement of purchase and sale between QSI Partners Inc. ("**QSI**"), Timminco and BSI dated April 25, 2012, as amended, QSI purchased assets comprising effectively all of BSI's silicon metal business for a purchase price of approximately \$32 million, subject to a working capital adjustment (the "**Working Capital Adjustment**"). The parties have not been able to resolve their differences regarding the Working Capital Adjustment;

6. The Timminco Entities continue to work diligently towards a sale of their remaining assets, including certain real property assets, in an effort to maximize the proceeds available to their creditors.
7. The Timminco Entities have been working diligently to resolve these and other outstanding issues;
8. An extension of the Stay Period to December 7, 2012 is necessary to give the Timminco Entities sufficient time to complete the claims process contemplated by the Claims Procedure and attempt to resolve other outstanding issues in an expeditious manner for the benefit of their stakeholders;
9. The Timminco Entities have acted and continue to act in good faith and with due diligence;
10. The provisions of the CCAA and the inherent and equitable jurisdiction of this Court;
11. Rules 1.04, 1.05, 2.03, 3.02 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended; and
12. Such further grounds as counsel may advise and this Court may see fit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- 1) the Affidavit of Sean Dunphy sworn September 18, 2012, and the exhibits attached thereto;
- 2) the Eleventh Report of the Monitor;
- 3) the Twelfth Report of the Monitor;

- 4) the Thirteenth Report of the Monitor;
- 5) the Fourteenth Report of the Monitor, to be filed; and
- 6) such further and other materials as counsel may advise and this Court may permit.

September 18, 2012

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

Lawyers for the Applicants

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(RETURNABLE SEPTEMBER 27, 2012)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
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OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

(Applicants)

**AFFIDAVIT OF SEAN DUNPHY
(Sworn September 18, 2012 re Stay Extension)**

I, SEAN DUNPHY, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the President of Russell Hill Advisory Services Inc., the Court-appointed Chief Restructuring Officer ("**CRO**") of Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. ("**BSI**" and, together with Timminco, the "**Timminco Entities**"), and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. This affidavit is sworn in support of a motion brought by the Timminco Entities seeking an Order, substantially in the form of the draft Order included with the Motion Record, extending the Stay Period (as defined below) until December 7, 2012 (the "**Stay Extension**"), among other things.

BACKGROUND

3. The Timminco Entities' primary business, the production and sale of silicon, was carried on principally through BSI, a Québec-based wholly-owned subsidiary of Timminco. BSI purchased silicon metal produced by Québec Silicon Limited Partnership ("QSLP") for resale to customers in the chemical (silicones), aluminum, and electronics/solar industries. QSLP was a production partnership between BSI and Dow Corning Corporation, for resale to BSI's customers, of which BSI owns 51%.

4. Due to a number of factors, the Timminco Entities were facing severe liquidity issues and were unable to meet their ongoing payment obligations. As such, the Timminco Entities were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012 (the "**Initial Order**"). FTI Consulting Canada Inc. was appointed as monitor of the Timminco Entities (the "**Monitor**") pursuant to the Initial Order. A copy of the Initial Order is available, together with all other filings in the CCAA proceedings, on the Monitor's website at: <http://cfcanada.fticonsulting.com/timminco>.

STATUS OF CCAA PROCEEDINGS

Claims Process and Interim Distribution of Proceeds¹

5. On June 15, 2012, the Court granted an Order (the "**Claims Procedure Order**") approving a procedure for the solicitation, determination and resolution of claims

¹ Capitalised terms used in this section not otherwise defined shall have the meaning ascribed to them in the August 23, 2012 Affidavit of Sean Dunphy (the "**August 23 Affidavit**"), attached hereto as Exhibit "A".

against the Timminco Entities and their Directors and Officers (the "**Claims Procedure**").

6. The Claims Bar Date was July 23, 2012. Total claims filed against Timminco's Directors and Officers was approximately \$190,000 and total claims filed against BSI's Directors and Officers was approximately \$500,000. Claims filed against Timminco and BSI totalled \$48.5 million and \$235 million, respectively. The Monitor has advised that it is in the process of reviewing the claims filed by creditors (the "**Claims**") so that it can assess whether to accept, revise or reject the amount and classification of such claims in accordance with the Claims Procedure.

Interim Distribution and Priority Claims Process

7. As described in greater detail in the August 23 Affidavit, Investissement Quebec ("**IQ**") is a secured creditor of BSI. As at August 17, 2012, BSI owed IQ approximately \$29 million under the Secured Term Loan, with interest accruing in the amount of approximately \$10,000 per day.

8. In order to stop the continuing accrual of interest while preserving the ability of other creditors of BSI to assert a claim ranking in priority to IQ and to provide for reimbursement should any such claim be established (a "**Priority Claim**"), the Timminco Entities, IQ and the Monitor entered into an agreement (the "**Reimbursement Agreement**") which contemplated a distribution to IQ while providing that IQ would repay to BSI such portion of the distribution as may be

necessary to satisfy a Priority Claim. Approximately \$26 million has been paid to IQ to date, with the remaining funds reserved for certain post-filing payables, court-ordered priority charges and a potential payable under the working capital dispute (described below).

9. Three parties made claims pursuant to the Reimbursement Agreement asserting that they have Priority Claims: Mercer (Canada) Limited, the administration of the Haley Pension Plan (the "**Mercer Claim**"); the BSI Non-Union Employee Pension Committee and BSI Union Employee Pension Committee (the "**Pension Committee Claim**"); and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the "**USW Claim**").

10. I am informed by the Monitor that it has determined that the Mercer Claim and the Pension Committee Claim are Reimbursement Claims and that IQ has informed each claimant that IQ disputes their claim to priority over IQ. The USW Claim is not a Reimbursement Claim as the USW did not file a secured claim in the Claim Procedure, which is a necessary condition of a valid Reimbursement Claim. The Timminco Entities, the Monitor and IQ are currently developing a procedure for the adjudication of these claims, subject to court approval.

Working Capital Determination

11. Pursuant to an agreement of purchase and sale between QSI, Timminco and BSI dated April 25, 2012, as amended by the amending agreement dated June 1, 2012, QSI

purchased BSI's right, title and interest in and to, *inter alia*, assets comprising effectively all of BSI's silicon metal business for a purchase price of approximately \$32 million, subject to a working capital adjustment (the "**Working Capital Adjustment**").

12. On July 12, 2012, QSI delivered a working capital adjustment statement (the "**Draft Statement of BSI Working Capital**") to BSI, which BSI objected by letter dated July 19, 2012. The parties have not been able to resolve their differences regarding the Working Capital Adjustment and expect to bring a motion seeking a declaration of the amount of same in the near future.

Asset Sales and Other Initiatives

13. The Timminco Entities continue to assess their options in respect of their remaining assets, including certain real property assets, in an effort to maximise the proceeds available to their creditors.

14. The Timminco Entities continue to undertake other steps for the benefit of the estate and their creditors. A brief review of other activities undertaken or underway since the appointment of the CRO includes the following:

- a. Initiated discussions with United States counsel regarding potential means of recovering value from real property in Memphis owned by indirect subsidiary;
- b. Held discussions with United States counsel regarding means of continuing certain fraudulent transfer litigation in United States while minimizing financial risk to estate;

- c. Initiated sales process for Maple Leafs season tickets with discussions with broker and with former purchaser of portion of tickets; and
- d. Commenced review of on-going compliance costs and impact on sales prospects regarding Haley property.

The Timminco Entities' Cash Flows

15. In its Eleventh Report, the Monitor provided a cash flow forecast which indicated that the Timminco Entities had sufficient funding from the proceeds of sale available for the extension of the Stay Period to September 30, 2012.

16. I am informed by the Monitor that it will be filing a report which will opine that the Timminco Entities have sufficient funds available through to December 7, 2012.

REQUEST FOR EXTENSION OF THE STAY PERIOD

17. The Initial Order granted a stay of proceedings up to and including February 2, 2012, which was extended to April 30, 2012 and again to June 20, 2012 by Orders dated January 27 and April 27, 2012 respectively (the "Stay Period"). Most recently, the Stay Period was extended to September 30, 2012 by an Order dated June 14, 2012.

18. As described above, the Timminco Entities have been working diligently to assess all Claims filed pursuant to the Claims Procedure. An extension of the Stay Period to December 7, 2012 is necessary to give the Timminco Entities and the Monitor sufficient time to, among other things, review the Claims and the Priority Claims filed

and assess whether the classification and amount of same should be accepted, revised or rejected as previously described at paragraphs 5-9 of this affidavit.

19. Further, the extension of the Stay Period will allow the Timminco Entities sufficient time to attempt to reach a resolution in relation to the working capital determination as described in greater detail at paragraphs 10 and 11 of this affidavit and address various other outstanding matters within the Timminco Entities' CCAA proceedings.

20. It is my belief that the Timminco Entities have acted and continue to act in good faith and with due diligence. The Stay Extension is appropriate in order to allow the Timminco Entities to complete the claims process contemplated by the Claims Procedure and to resolve outstanding issues in an expeditious manner that works for all parties involved.

21. I do not believe that any creditor will suffer any material prejudice if the Stay Period is extended as requested.

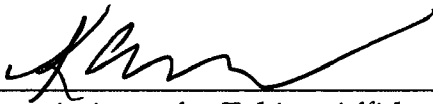
22. I am informed by the Monitor that it supports the Timminco Entities' request to extend the Stay Period.

23. The stability provided by the stay of proceedings is critical to the Timminco Entities in order to be able to continue assessing claims for the benefit of their creditors and continue to wind down its business in an orderly manner.

PURPOSE OF THIS AFFIDAVIT

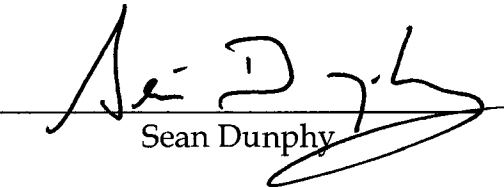
24. This affidavit is sworn in support of the Timminco Entities' motion for the relief described in paragraph 2 hereof and for no improper purpose.

SWORN BEFORE ME at the City of Toronto, Province of Ontario, on September 18, 2012.



Commissioner for Taking Affidavits

K. Egan



Sean Dunphy

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

Court File No. CV12-9539-00C1

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(SWORN SEPTEMBER 18, 2012)**

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Tel: (416) 869-5236

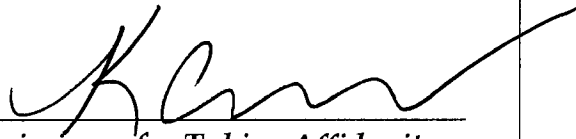
Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-5230
Fax: (416) 947-0866

Lawyers for the Applicants

Tab A

THIS IS EXHIBIT "A", referred to in the Affidavit of Sean Dunphy, sworn on September 18, 2012.

A handwritten signature in black ink, appearing to be 'K. C.', written over a horizontal line. The signature is cursive and extends to the right of the line.

Commissioner for Taking Affidavits

**ONTARIO
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(Applicants)

**AFFIDAVIT OF SEAN DUNPHY
(Sworn August 23, 2012 re Interim Distribution to IQ)**

I, SEAN DUNPHY, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the President of Russell Hill Advisory Services Inc. ("**Russell Hill**"), the Court-appointed Chief Restructuring Officer ("**CRO**") of Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. ("**BSI**" and, together with Timminco, the "**Timminco Entities**" or the "**Applicants**"), and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. This affidavit is sworn in support of a motion brought by the Timminco Entities seeking an order (the "**Interim Distribution Order**") substantially in the form of the draft Order included in the Motion Record at Tab 3 authorizing and directing the Monitor to distribute cash (the "**Interim Distribution**") from the proceeds of the Sale Transactions (defined and described below) to Investissement Québec ("**IQ**"), a secured creditor of BSI, subject to certain reserves to be established

by the Monitor and provisions of provisions of the Reimbursement Agreement (as such terms are defined below).

BACKGROUND

3. The Applicants' primary business, the production and sale of silicon, was carried on principally through BSI, a Québec-based wholly-owned subsidiary of Timminco. BSI purchased silicon metal produced by Québec Silicon Limited Partnership ("Québec Silicon") for resale to customers in the chemical (silicones), aluminum, and electronics/solar industries. Québec Silicon was a production partnership between BSI and Dow Corning Corporation, for resale to BSI's customers, of which BSI owned 51%. BSI also produced solar grade silicon for customers in the solar photovoltaic industry through its unincorporated division, Timminco Solar. Timminco Solar ceased active production of its solar grade silicon in January 2010. Timminco also formerly operated a magnesium business. The Ontario-based manufacturing operations of Timminco Metals were discontinued in June 2008.

4. As described in greater detail in the affidavit sworn by Peter A.M. Kalins on January 2, 2012, in support of the Timminco Entities' application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), the Timminco Entities were facing severe liquidity issues and were unable to meet their ongoing payment obligations as they came due.

5. The Timminco Entities were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012, as amended (the “**Initial Order**”). FTI Consulting Canada Inc. was appointed monitor of the Timminco Entities (the “**Monitor**”) pursuant to the Initial Order. A copy of the Initial Order is available, together with all other filings in the CCAA proceedings, on the Monitor’s website at: <http://cfcanada.fticonsulting.com/timminco>.

STATUS OF PROCEEDINGS

Sale Transactions

6. Substantially all of BSI’s operating assets have been sold pursuant to sales transactions with Grupo FerroAtlantica, S.A. (the “**Ferro Transaction**”) and with QSI Partners Ltd. (the “**QSI Transaction**” and together with the Ferro Transaction, the “**Sale Transactions**”). The Ferro Transaction was approved by the Court on May 22, 2012 and closed on June 14, 2012 and the QSI Transaction was approved by the Court on June 1, 2012 and closed on June 13, 2012. The net proceeds of the Sale Transactions total approximately \$30 million and are currently being held by the Monitor. No assets of Timminco were included in the Sale Transactions.

Claims Procedure

7. On June 15, 2012, the Court granted an Order (the “**Claims Procedure Order**”) approving a procedure for the solicitation, determination and resolution of

claims against the Timminco Entities and the Timminco Entities' Directors and Officers (the "**Claims Procedure**"). A copy of the Claims Procedure Order is attached hereto as **Exhibit "A"**.

8. The Claims Bar Date was July 23, 2012. Total claims filed against Timminco's Directors and Officers was approximately \$190,000 and total claims filed against BSI's Directors and Officers was approximately \$500,000. Claims filed against Timminco and BSI totalled \$48.5 million and \$235 million, respectively. The Monitor has advised that it is in the process of reviewing the claims filed.

Appointment of CRO

9. By Order of the Honourable Mr. Justice Newbould dated August 17, 2012, Russell Hill was appointed as CRO of the Timminco Entities.

INTERIM DISTRIBUTION TO IQ

The Secured Term Loan

10. Pursuant to a term loan agreement dated July 10, 2009 (the "**Term Loan Agreement**"), BSI received a secured term loan from IQ (the "**Secured Term Loan**"). A copy of the Term Loan Agreement is attached hereto as **Exhibit "B"**.

11. The Secured Term Loan is guaranteed by Timminco and a secured by a charge upon all of BSI's assets (the "**Collateral**"). A copy of the hypothec granted by BSI is attached hereto as **Exhibit "C"**.

12. As described in the Fourth Report of the Monitor, dated March 7, 2012 (the "Fourth Report"), the Monitor's counsel conducted a review of the security granted to IQ and found that, subject to certain standard qualifications and assumptions, IQ's security is valid, legal and enforceable. A copy of Fourth Report (without appendices) is attached hereto as Exhibit "D".

13. As at August 17, 2012, the amount outstanding under the Secured Term Loan totalled approximately \$29 million. The Secured Term Loan earns interest at a variable rate of Canada prime plus 9%, which is currently approximately 12% per annum. As such, BSI is incurring interest in the amount of approximately \$10,000 per day while the sale proceeds are earning very little in the current interest rate environment. In my view, the best interests of BSI would be served by halting that expense as soon as possible.

Reserve Fund

14. Payment of the amounts owing under the Secured Term Loan will be subject to maintaining appropriate reserves for the Super-Priority Charges (defined below) and other potential post-filing payables, in an amount to be determined prior to the hearing of this motion and disclosed in the Monitor's Report to be prepared and filed in connection with this motion.

15. By Order of the Honourable Mr. Justice Morawetz dated January 16, 2012, the Court granted the following charges ranking ahead in priority to all other security

interests, trusts, liens, charges and encumbrances, statutory or otherwise in favour of any person, notwithstanding the order of perfection or attachment:

- (a) a super-priority charge to secure the fees and disbursements incurred in connection with services rendered to the Timminco Entities both before and after the commencement of the CCAA proceedings by counsel to the Timminco Entities, the Monitor and the Monitor's counsel (the "**Administration Charge**");
- (b) a charge in favour of the recipients (the "**KERP Recipients**") of a key employee retention program (the "**KERP Charge**"); and
- (c) a charge in favour of the directors and officers of the Timminco Entities (the "**D&O Charge**").

16. By Order of the Honourable Mr. Justice Morawetz dated February 8, 2012 the Court granted an Order approving a DIP financing agreement (the "**DIP Agreement**"), and granting a super-priority charge in favour of QSI Partners Ltd., as lender (the "**DIP Lender**") under the DIP Agreement (the "**DIP Charge**" and, together with the Administration Charge, the KERP Charge and the D&O Charge, the "**Super-Priority Charges**"). The current ranking of the Super-Priority Charges is as follows:

- (a) First - the Administration Charge (in the maximum amount of \$1,000,000);
- (b) Second - the KERP Charge (in the maximum amount of \$269,000);

(c) Third - the DIP Charge; and

(d) Fourth - the D&O Charge (in the maximum amount of \$400,000).

17. The KERP Recipients have been paid under the KERP and no amounts remain owing to the beneficiaries of the KERP Charge. The DIP Lender has also been paid under the DIP Agreement and no amounts remain owing to the DIP Lender.

18. The beneficiaries of the Administration Charge and the D&O Charge may still be owed certain amounts pending the completion of the CCAA proceedings. Additionally, there may be certain post-filing payables coming due prior to the winding up of the CCAA proceedings. As such, the Timminco Entities are seeking to have certain amounts, to be determined prior to the hearing of the motion, set aside as a reserve to satisfy the Super-Priority Charges and any post-filing payables.

Claw Back Procedure¹

19. In order to stop the accrual of interest on the Secured Term Loan, the CRO approached IQ in order to negotiate a mechanism to permit an interim distribution to IQ as soon as possible while preserving the ability for other creditors of BSI to assert a claim ranking in priority to IQ and, if such claim and priority is Finally Determined (any such claim being a "Priority Claim"), provide for the reimbursement of the necessary proceeds.

¹ Capitalized terms used in this section but not otherwise defined shall have the meaning attributed to them in the Reimbursement Agreement (defined and described below).

20. Prior to the hearing of this motion BSI, IQ and the Monitor expect to enter into an agreement (the "**Reimbursement Agreement**"), substantially in the form attached hereto as **Exhibit "E"**, which sets out a procedure whereby IQ will repay to BSI by payment to the Monitor such portion of the Interim Distribution as may be necessary to satisfy a Priority Claim (the "**Claw Back Procedure**").

21. The Claw Back Procedure provides that any party wishing to assert priority over the Collateral must, within seven days of the issuance of the Interim Distribution Order, file a preliminary form setting out the amount and nature of its claim for priority over IQ. IQ, the CRO and the Monitor will review any such claims and determine whether these claims should be placed on Schedule A to the Reimbursement Agreement (a "**Reimbursement Claim**"). Should the parties not be able to agree whether a particular claim is a Reimbursement Claim, IQ, the CRO or the Monitor shall seek directions from the Court.

22. Once a Reimbursement Claim has been established, the claimant (a "**Priority Claimant**") will have two months from the date of the Interim Distribution Order to submit materials asserting its priority over the Collateral.

23. Once the Priority Claimant's materials have been submitted, IQ, the CRO and the Monitor will, in accordance with the provisions of the Reimbursement Agreement, determine whether such claim has priority over the Collateral (a "**Priority Claim**"). The Reimbursement Agreement contemplates generally following the process laid out at paragraphs 20-27 of the Claims Procedure Order.

IQ, acting reasonably, will participate in any process taking place under the Claims Procedure Order which could affect IQ's priority status in respect of the Collateral.


24. Upon determination that a Reimbursement Claim is a Priority Claim, IQ will reimburse to BSI through the Monitor such portion of the Interim Distribution as may be necessary to satisfy the Priority Claim within seven business days of the determination that such claim is a Priority Claim.

25. I am informed by counsel to the Monitor and IQ that this motion for the Interim Distribution is supported by the Monitor and IQ.


PURPOSE OF AFFIDAVIT

26. This Affidavit is sworn in support of the Timminco Entities' motion for the relief described in paragraph 2 above and for no improper purpose.

SWORN BEFORE ME at the City of Toronto, Province of Ontario on August 23 2012.



Commissioner for Taking Affidavits
Kathryn Esaw



Sean Dunphy

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

Court File No. CV12-9539-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

Proceeding commenced at Toronto

**AFFIDAVIT OF SEAN DUNPHY
(SWORN AUGUST 23, 2012)**

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Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

Lawyers for the Applicants

Tab 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY, THE 27TH
)
JUSTICE CUMMING) DAY OF SEPTEMBER, 2012
)

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

**ORDER
(Re Stay Extension to December 7, 2012)**

THIS MOTION, made by Timminco Limited and Bécancour Silicon Inc. (together, the "**Timminco Entities**"), for an order, *inter alia*, (a) extending the Stay Period (as defined below) until December 7, 2012; and (b) approving the Tenth, Eleventh, Twelfth, Thirteenth and Fourteenth Report (as defined below and together, the "**Monitor's Reports**") of FTI Consulting Canada Inc. in its capacity as the Court-appointed Monitor of the Timminco Entities (the "**Monitor**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sean Dunphy sworn September 18, 2012 and the Monitor's Reports, and on hearing the submissions of counsel for the Timminco Entities, FTI Consulting Canada Inc., Investissement Québec, QSI Partners Ltd., Mercer Canada, the Administrator of the Haley Pension Plan, BSI Non-Union Employee Pension Committee, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union,

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 September 18, 2012, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 18 of the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012) is hereby extended until and including December 7, 2012.

APPROVAL OF MONITOR'S REPORTS

3. **THIS COURT ORDERS** that the report of the Monitor dated June 13, 2012 (the "**Eleventh Report**"), the report of the Monitor dated August 13, 2012 (the "**Twelfth Report**"), the report of the Monitor dated August 27, 2012 (the "**Thirteenth Report**"), and the report of the Monitor to be filed in connection with this motion (the "**Fourteenth Report**"), and the activities of the Monitor described therein are hereby approved.

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.

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

Proceeding commenced at Toronto

**ORDER
(Re Stay Extension to December 7, 2012)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-5230
Fax: (416) 947-0866

Lawyers for the Applicants

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

Proceeding commenced at Toronto

**MOTION RECORD
(RETURNABLE SEPTEMBER 27, 2012)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

Lawyers for the Applicants