

service list, although duly served as appears from the affidavit of service of Kathryn Esaw sworn December 6, 2013, filed:

PAYMENTS TO MONITOR

1. **THIS COURT ORDERS** that the Timminco Entities are authorized and directed to (a) transfer, direct and pay over to the Monitor forthwith and in any event by no later than 4:00 pm EST on December 16, 2013, all monies currently held in accounts in the name of and/or controlled by the Timminco Entities; and (b) transfer, direct and pay over to the Monitor forthwith all monies received by the Timminco Entities after the date hereof (all such monies, together with any monies received on behalf of the Timminco Entities, the "Funds"), which Funds shall continue to be Property (as defined at paragraph 4 of the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012, the "Initial Order") of the Timminco Entities.

2. **THIS COURT ORDERS** that all Persons (as defined at paragraph 19 the Initial Order) in possession or control of Property, including for greater certainty any monies, belonging to or owed to the Timminco Entities shall forthwith advise the Monitor of such and shall grant immediate and continued access to the Property to the Monitor, and shall forthwith deliver all such Property to the Monitor upon the Monitor's request, other than documents or information which cannot be disclosed or provided to the Monitor due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

3. **THIS COURT ORDERS** that the Administration Charge, the Directors' Charge and the DIP Lenders Charge (as defined in the Initial Order) shall continue to apply to the Property of the Timminco Entities, including the Funds in accordance with their priority as established by the Initial Order.

ADDITIONAL POWERS OF THE MONITOR

4. **THIS COURT ORDERS** the Monitor of the Timminco Entities shall continue to be authorized and directed, and is authorized, but not required, in the name of and on behalf of the Timminco Entities, if appropriate, to :

- (a) complete the Claims Procedure established by the Claims Procedure Order of Mr. Justice Morawetz dated June 15, 2013 (the “**Claims Procedure Order**”) and settle, resolve and/or adjudicate the remaining disputed Claims and any other outstanding items in the Claims Procedure in accordance with the Claims Procedure Order, without consulting with the Timminco Entities; and
- (b) take such further steps and seek such amendments to the Claims Procedure Order or additional orders as the Monitor considers necessary or appropriate in order to fully determine, resolve or deal with any Claims or D&O claims (as both are defined in the Claims Procedure Order).

5. **THIS COURT ORDERS** that the Monitor is authorized, but not required, in the name of and on behalf of the Timminco Entities, to

- (a) seek the directions of this Honourable Court in respect of the validity and quantum, if any, of the D&O Claims and whether such claims are secured by the D&O Charge (as defined at paragraph 27 of the Initial Order);
- (b) take such steps as may be necessary or appropriate to seek and obtain recovery of the proceeds of sale of the Memphis Property (as described in the Dunphy Affidavit) and matters ancillary thereto;
- (c) file any and all tax returns of the Timminco Entities with any governmental tax authority that the Monitor considers necessary or desirable;

- (d) claim any and all rebates, refunds or other amounts of tax (including sales taxes, capital taxes and income taxes) paid by or payable to the Timminco Entities;
- (e) engage, deal, communicate, negotiate, agree and settle with any and all governmental authorities on behalf of the Timminco Entities and all such government authorities shall treat the Monitor as the authorized representative of the Timminco Entities. Any rebates, refunds or other amounts received by the Monitor on account of taxes paid by or payable to the Timminco Entities shall form part of the Funds;
- (f) to seek the directions of this Honourable Court in respect of the distribution of the Funds and/or any Property to creditors or to deal with and/or abandon any Property and any matters related thereto;
- (g) to seek directions from this Honourable Court in respect of the filing of any plan of arrangement or compromise or the termination of these proceedings commenced by the Timminco Entities under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") pursuant to the Initial Order (the "CCAA Proceedings"), the discharge of the Monitor and all incidental and ancillary matters thereto; and

to perform such other functions as this Court may order from time to time (collectively, with paragraph 4 of this Order, the "**Monitor's Increased Powers**").

6. **THIS COURT ORDERS** that the Monitor's Increased Powers shall be in addition to the powers of the Monitor set out in any previous order of the Court (the "**Monitor's Existing Powers**")

7. **THIS COURT ORDERS** that the Monitor is prohibited from causing the Timminco Entities to make a voluntary assignment in bankruptcy without further Order of this Court.

8. **THIS COURT ORDERS** that, in addition to its prescribed rights in the CCAA, the Monitor's Existing Powers, the Monitor's Increased Powers and all other authority granted to the Monitor in all Orders granted in these CCAA Proceedings, the Monitor is empowered and authorized to take such additional actions and execute such documents, in the name of and on behalf of the Timminco Entities, as the Monitor considers necessary or desirable in order to respond to matters resulting from (a) the pending decision of Justice Mongeon in the Superior Court of Quebec (Commercial Division) pursuant to the Priority Claim Adjudication Protocol approved by the Order of the Honourable Mr. Justice Morawetz dated October 18, 2012 and any motions for leave to appeal or appeals relating thereto; and (b) the pending decision of Justice Morawetz in the Ontario Superior Court of Justice (Commercial Division) relating to a motion to lift the stay of proceedings brought by the plaintiff St. Clair Pennyfeather in the action with the Court File No. CV-09-378701-00CP; and (c) any motions for leave to appeal or appeals relating thereto.

9. **THIS COURT ORDERS** that in exercising the Monitor's Increased Powers, the Monitor shall not take possession of any real property belonging to the Timminco Entities.

10. **THIS COURT ORDERS** that, except as required by the CCAA or as provided for in any Orders issued by the Court in respect of the CCAA Proceedings, the Monitor shall not be authorized or directed to act in any other manner, and shall have no responsibility for any other duties or functions whatsoever other than by further Order of this Court.

11. **THIS COURT ORDERS** that the Monitor shall be at liberty to engage such persons as the Monitor deems necessary or advisable respecting the exercise of the Monitor's Existing Powers and the Monitor's Increased Powers.

12. **THIS COURT ORDERS** that, in addition to its prescribed rights under the CCAA, the powers granted by the Initial Order, this Order and all other orders granted in these proceedings, the Monitor is empowered and authorized to take such additional actions and execute such additional documents, in the name of and on behalf of the Timminco Entities, that may be incidental or ancillary to its prescribed rights and the powers granted to it, in order to facilitate the orderly completion of these proceedings and the winding up of the Timminco Entities' estates.

13. **THIS COURT ORDERS** that the Monitor shall continue to hold the Funds, and the Monitor is authorized and directed:

- (a) to pay the reasonable fees and disbursements of the Monitor, counsel to the Monitor and counsel to the Timminco Entities, in the name of and on behalf of the Timminco Entities;
- (b) to pay all post-filing liabilities properly incurred by the Timminco Entities in the ordinary course of business which have not been previously paid, in the name of and on behalf of the Timminco Entities;
- (c) to pay all costs associated with any actions taken by the Monitor pursuant to paragraph 11 of this Order; and
- (d) to return to Court in order to seek such further authority or directions as the Monitor considers appropriate with respect to the use or distribution of the Funds.

14. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor

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 BÉCANOUR SILICON INC.

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

Proceeding commenced at Toronto

**ORDER
(Re Expanded Monitor Powers)**

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