

**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 May 18, 2012)
(Re Approval of Sales Transactions
and Assignment of Agreements)**

VOLUME I OF II

May 9, 2012

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**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

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(as at May 9, 2012)**

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

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Applicants

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TAB 1

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

Applicants

**NOTICE OF MOTION
(Returnable May 18, 2012)
(Re Approval of Sales Transactions and Assignment of Agreements)**

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 Friday, May 18, 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 4:
 - a) Approving the Agreement of Purchase and Sale (the "**QSI Agreement**") made and entered into as of April 25, 2012, between the Timminco Entities, QSI Partners Ltd. ("**QSI**") and Globe Specialty Metals, Inc. (the "**Guarantor**") for the sale of the QSI Purchased Assets (as defined in the QSI Agreement) and the transactions contemplated thereby (the "**QSI Transaction**");

- b) Vesting all of the QSI Purchased Assets in QSI free and clear of any security, charge or other restriction other than Permitted Encumbrances (as defined in the QSI Agreement);
 - c) Assigning the rights and obligations of the Timminco Entities under the Assignment Agreements (as defined in the Affidavit of Peter A.M. Kalins sworn May 9, 2012, the “**May 9 Affidavit**”);
 - d) Approving the HP2 Severance Transaction (as defined in the May 9 Affidavit); and
 - e) Vesting the Dust Collector (as defined in the May 9 Affidavit) in Québec Silicon General Partner Inc., as general partner of Québec Silicon Limited Partnership, free and clear of any security, charge or other restriction pursuant to and in conjunction with closing of the HP2 Severance Transaction;
2. An Order, substantially in the form attached to the Motion Record at Tab 5:
 - a) Approving the Agreement of Purchase and Sale (the “**F.A. Agreement**”) made and entered into as of April 25, 2012, between the Timminco Entities and Grupo FerroAtlantica, S.A. (“**FerroAtlantica**”) for the sale of the F.A. Purchased Assets (as defined in the May 9 Affidavit) and the transactions contemplated thereby (the “**F.A. Transaction**”); and
 - b) Vesting all of the F.A. Purchased Assets in FerroAtlantica free and clear of any security, charge or other restriction other than Permitted Encumbrances (as defined in the F.A. Agreement); and
3. An Order, substantially in the form attached to the Motion Record at Tab 6:
 - a) Approving the Subsequent DIP Amendment (as defined in the May 9 Affidavit); and
4. Such other and further relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. The facts as set out in the Affidavit of Peter A.M. Kalins sworn May 9, 2012;
2. The provisions of the CCAA, including sections 11.3 and 36, and the inherent and equitable jurisdiction of this Court;
3. 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;
4. Section 100 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and
5. 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 Peter A.M. Kalins sworn May 9, 2012, and the exhibits attached thereto;
2. The Affidavit of Stephen Lebowtiz sworn May 8, 2012;
3. The Seventh Report of the Monitor, to be filed; and
4. Such further and other materials as counsel may advise and this Court may permit.

May 9, 2012

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

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(RETURNABLE MAY 18, 2012)**

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TAB 2

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

**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)

**AFFIDAVIT OF PETER A.M. KALINS
(Sworn May 9, 2012 re Approval of Sales Transactions and
Assignment of Agreements)**

I, PETER A.M. KALINS, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the President, General Counsel and Corporate Secretary of the Applicant Timminco Limited ("**Timminco**") and the President, General Counsel and Corporate Secretary, as well as a director of the Applicant 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 orders, substantially in the form of the draft orders located at Tabs 4, 5 and 6 of the Motion Record:

QSI Transaction

- (a) Approving the Agreement of Purchase and Sale made and entered into as of April 25, 2012, between the Timminco Entities, QSI Partners Ltd. ("**QSI**") and Globe Specialty Metals, Inc. (the

“**Guarantor**”) for the sale of the QSI Purchased Assets (as defined below) (the “**QSI Agreement**”) and the transactions contemplated thereby (the “**QSI Transaction**”);

- (b) Vesting all of the QSI Purchased Assets in QSI (or a permitted assignee pursuant to section 9.11 of the QSI Agreement) free and clear of any security, charge or other restriction other than Permitted Encumbrances (as defined in the QSI Agreement);
- (c) Assigning the rights and obligations of the Timminco Entities under certain agreements to QSI (or a permitted assignee pursuant to section 9.11 of the QSI Agreement);

F.A. Transaction

- (d) Approving the Agreement of Purchase and Sale made and entered into as of April 25, 2012, between the Timminco Entities and Grupo FerroAtlantica, S.A. (“**FerroAtlantica**”) for the sale of the F.A. Purchased Assets (as defined below) (the “**F.A. Agreement**”) and the transactions contemplated thereby (the “**F.A. Transaction**”);
- (e) Vesting all of the F.A. Purchased Assets in FerroAtlantica free and clear of any security, charge or other restriction other than Permitted Encumbrances (as defined in the F.A. Agreement);

Subsequent DIP Amendment

- (f) Approving the Subsequent DIP Amendment (as defined below);

HP2 Severance Transaction

- (g) Approving the HP2 Severance Transaction (as defined below);

- (h) Vesting the Dust Collector (as defined below) in Québec Silicon General Partner Inc., as general partner of Québec Silicon Limited Partnership, free and clear of any security, charge or other restriction pursuant to and in conjunction with closing of the HP Severance Transaction; and
- (i) Such other relief as the Court may deem appropriate.

BACKGROUND

3. The Timminco Entities' primary business, the production and sale of silicon, is carried on principally through BSI, a Québec-based wholly-owned subsidiary of Timminco. BSI purchases silicon metal produced by Québec Silicon Limited Partnership ("**QSLP**") for resale to customers in the chemical (silicones), aluminum, and electronics/solar industries. QSLP is a production partnership between BSI and Dow Corning Corporation ("**DCC**"), described in greater detail at paragraphs 41-62 of this Affidavit. BSI owns approximately 51% of the limited partnership units of QSLP and 51% of the shares of Québec Silicon General Partner Inc. ("**QSGP**"), the general partner of QSLP. QSLP and QSGP may be referred to collectively herein as "**Québec Silicon**". Dow Corning Canada, Inc. ("**DCC Canada**"), an indirect subsidiary of DCC, owns approximately 49% of the limited partnership units of QSLP and DC Global Holdings S.a.r.l., a subsidiary of DCC, owns 49% of the shares of QSGP.

4. 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.

5. Timminco also formerly operated a magnesium business through its unincorporated division, Timminco Metals. The Ontario-based manufacturing operations of Timminco Metals were discontinued in June 2008.

6. As described in greater detail in the affidavit sworn by me on January 2, 2012 (the "**Initial Order Affidavit**"), 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 as a result of, among other things, a low profit margin realized on their silicon metal sales due to a high volume long-term supply contract at below market prices, a decrease in the demand and market price for solar grade silicon, failure to recoup their capital expenditures incurred in connection with development of their solar grade operations, and inability to secure additional funding. The Timminco Entities are also facing significant pension and environmental legacy costs and financial costs related to large outstanding debts.

7. As a result, the Timminco Entities were unable to meet various financial covenants set out in their senior secured credit facility and did not have the liquidity needed to meet their ongoing payment obligations. Without the protection of the CCAA, a shut-down of operations was inevitable, which would be extremely detrimental to the Timminco Entities' stakeholders.

8. 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**"). 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>.

9. Further details regarding the background to this CCAA proceeding are set out in the Initial Order Affidavit and, unless relevant to the present motion, are not repeated herein.

SALES PROCESS

10. On March 9, 2012, this Court granted an order (the “**Bidding Procedures Order**”) authorizing the Timminco Entities to enter into the Agreement of Purchase and Sale (the “**Stalking Horse Agreement**”) with QSI (in such role, the “**Stalking Horse Bidder**”) and the Guarantor, and approving the bidding procedures as attached to the Bidding Procedures Order (the “**Bidding Procedures**”).¹ A copy of the Bidding Procedures is attached hereto as **Exhibit “A”**.

11. The Stalking Horse Agreement was entered into, and the Bidding Procedures were designed, for the purpose of creating a “stalking horse” sales process and auction with a view to maximizing the purchase price that could be obtained for the assets of BSI. Details of the Stalking Horse Agreement were provided in my affidavit sworn March 2, 2012, filed in support of the motion for approval of the Bidding Procedures.

12. The Stalking Horse Agreement contemplated that the Stalking Horse Assets (as defined in the Stalking Horse Agreement) would be sold to the Stalking Horse Bidder for the price of \$20 million (subject to a potential working capital adjustment), unless a superior offer was received for the Stalking Horse Assets.

¹ Capitalized terms used in this section of the affidavit but not otherwise defined are as defined in the Bidding Procedures Order.

13. The Bidding Procedures established a process providing for the solicitation of non-binding expressions of interest, followed by a further due diligence period, and the filing of binding offers. In the event that one or more superior binding offers was received for the Stalking Horse Assets an auction would be held. In addition, the Bidding Procedures allowed the Timminco Entities to consider Portion Bids (a Bid for less than all of the Stalking Horse Assets). A combination of Portion Bids that do not overlap for the Stalking Horse Assets sought to be purchased, and which, when totaled, exceed the Minimum Overbid (an "**Aggregated Bid**") could be any one or more of the Opening Bid, the Successful Bid, and the Back-up Bid.

14. A list of logical potentially interested parties was compiled by the Timminco Entities with the assistance of the Monitor. In addition, the opportunity was advertised in the national edition of the Wall Street Journal on March 8, 10, 13, and 14, 2012, and in two leading industry publications, American Metal Markets and Ryan's Notes. The opportunity was posted on the American Metal Market website for 30 days and was included in Ryan's Notes during the week of March 12, 2012. Parties that contacted the Monitor or the Timminco Entities as a result of the publications were added to the list of potentially interested parties.

15. 75 parties were contacted about the opportunity, excluding the Stalking Horse Bidder. 23 parties executed non-disclosure agreements and were provided access to the Timminco Entities' electronic data room.

16. The deadline for the submission of Phase I Bids under the Bidding Procedures was 10:00 a.m. on March 26, 2012. Twelve Phase I Bids (including four Portion Bids) were received by the Phase I Bid Deadline, all of which were determined by the Timminco Entities, with the assistance of the Monitor, to be Qualified Phase I Bids.

17. All Qualified Phase I Bidders were granted the opportunity to conduct further due diligence, including access to an electronic data room, site tours, meetings with the Timminco Entities' management, and, under the Monitor's supervision, meetings with key stakeholders of the Timminco Entities, including DCC, the Communications, Energy and Paperworkers Union of Canada ("CEP") and Investissement Québec ("IQ"), the secured term lender to the Timminco Entities.

18. The deadline for the submission of Phase II Bids was originally set as 10:00 a.m. on April 16, 2012, but was amended with the consent of the Stalking Horse Bidder to 5:00 p.m. on April 19, 2012, in order to allow all Qualified Phase I Bidders to have further discussions with the key stakeholders. Four Phase II Bids other than the Stalking Horse Bidder were submitted by the Phase II Bid Deadline, three of which were determined by the Timminco Entities, with the assistance of the Monitor, to be Qualified Phase II Bids. Each of the three Qualified Phase II Bidders, including Wacker Chemie AG ("Wacker"), met with DCC prior to the Auction. Two of the three Qualified Phase II Bidders, including Wacker, also met with CEP and IQ. In addition, the Stalking Horse Bidder met with DCC (or its affiliates), CEP and IQ.

19. As a Qualified Phase II Bid other than the Stalking Horse Bid was received by the Phase II Bid Deadline, an auction was conducted to determine the highest and/or best bid. The Aggregated Bid made up of the Qualified Phase II Bids of Wacker and FerroAtlantica was determined to be the Opening Bid. A copy of the Opening Bid was provided to each Qualified Phase II Bidder (including the Stalking Horse Bidder) on April 20, 2012, four days prior to the Auction.

20. The Auction began at 10:00 a.m. on April 24, 2012, at the offices of Stikeman Elliott LLP, counsel to the Timminco Entities, and concluded at 3:00 p.m. on April 25, 2012, following 38 rounds of bidding. One of the Qualified Phase II Bidders submitted one Overbid and thereafter declined to submit a further Bid. During the course of the Auction, representatives of the Timminco Entities and the Monitor, and their respective counsel, met several times with each of the Bidders and discussed issues relating to such Bidder's Bids, including which provisions were viewed favourably or unfavourably by the Timminco Entities. Also, during the course of the Auction and as permitted by the Bidding Procedures, QSI excluded the Solar Assets from its Bid thereby becoming a Portion Bidder.

21. At approximately 9:30 a.m. on the second day of the Auction, Wacker requested an adjournment of the Auction in order to have further discussions with DCC. I am informed by Nigel Meakin of the Monitor and do verily believe that Mr. Meakin contacted counsel to DCC in order to confirm whether DCC was willing and able to participate in such discussions should the adjournment be granted. I am informed by Mr. Meakin and do verily believe that the Monitor was informed that one of the relevant representatives of DCC (and one of the required DCC decision makers) would not be available until approximately 1:30 p.m. that afternoon. The Timminco Entities considered the adjournment request, including the fact that one of the DCC decision makers was not currently available, the fact that all Qualified Phase I Bidders had been granted the opportunity to negotiate with DCC prior to the Auction (and Wacker had engaged in such negotiations), and the fact that DCC had clearly and consistently informed all Qualified Phase II Bidders with whom it had met prior to the Auction that it would oppose any transaction that did not assume all of the Timminco Entities' indemnity obligations under the Framework Agreement (as defined herein), and concluded that it was highly unlikely that further

discussions would result in a decision in a timely manner. The Timminco Entities, after consulting with the Monitor, denied the request for an adjournment.

22. The final Overbid was submitted by QSI. Wacker declined to submit a further Bid. Once the final Overbid was received, the Auction was closed, and the Timminco Entities identified the highest and/or best Overbid (the “**Successful Bid**” and the entity or entities submitting such Successful Bid, the “**Successful Bidder**”) and the next highest and/or best Overbid after the Successful Bid (the “**Back-up Bid**”) and the entity or entities submitting such Back-up Bid (the “**Back-up Bidder**”).

23. In order to determine the Successful Bid and the Back-up Bid, the Timminco Entities, with the assistance of their advisors and in consultation with the Monitor, carefully reviewed and weighed each final Overbid and considered the Bid Assessment Criteria (as defined in the Bidding Procedures), including the amount of the purchase price and any purchase price adjustment, the liabilities to be assumed by the Bidder, the ability of the Bidder to close the transaction and related closing conditions, and the likelihood, extent and impact of any potential delays in closing. In particular, in assessing the Overbids of QSI and Wacker, the Timminco Entities, with the assistance of their advisors and in consultation with the Monitor, considered the following issues, which the Timminco Entities had discussed with Wacker and QSI during the Auction: (a) the inclusion in the Wacker Bid of cross-indemnities with DCC relating to certain pension and benefit liabilities; (b) the inclusion in the Wacker Bid of the ability of Wacker to refuse to close in the event that the provision providing that Wacker shall not be liable for certain employee obligations of BSI, a provision which CEP had previously informed the Timminco Entities and the Court that it intended to oppose, is found to be unenforceable pursuant to applicable law, and the absence of this option in the QSI Bid; (c) the closing condition in the

Wacker Bid that Anti-Trust approvals be granted in numerous jurisdictions around the world; and (d) that DCC had informed all Qualified Phase II Bidders with whom it had met prior to the Auction that it would oppose any transaction that did not fully assume all of the indemnity provisions in the Framework Agreement.

24. Based on this analysis, the Timminco Entities exercised their business judgement and determined that the Aggregated Bid made up of the Portion Bids submitted by QSI and FerroAtlantica was the Successful Bid and the Aggregated Bid made up of the Portion Bids submitted by Wacker and FerroAtlantica was the Back-up Bid. A copy of the final Wacker Overbid Bid constituting part of the Back-up Bid is attached hereto as **Exhibit "B"**. To my knowledge, neither Wacker nor any other Qualified Phase II Bidder contested the Timminco Entities' determination of the Successful Bid following the Auction.

25. The Bidding Procedures require the Timminco Entities to complete the sale transactions with the Successful Bidder following approval of the Successful Bid by the Court. The Bidding Procedures further require that a hearing to approve the sale to the Successful Bidder shall be conducted by the Court within 28 days of the conclusion of the Auction, May 23, 2012.

THE QSI AGREEMENT

26. All capitalized terms used and not defined in this section of the Affidavit shall have the meanings ascribed to them in the QSI Agreement. A copy of the QSI Agreement is attached hereto as **Exhibit "C"**.

Purchase Price

27. The aggregate purchase price payable by QSI to the Timminco Entities for the QSI Purchased Assets is Cdn\$31,875,000 payable in cash, subject to working

capital adjustments, plus the assumption of the Assumed Obligations, described in greater detail below.

28. The Purchase Price shall be paid and satisfied at Closing through: (a) the crediting and set off of the Deposit against outstanding amounts owing to the DIP Lender under the DIP Facility pursuant to the DIP Amendment and, if applicable, the Subsequent DIP Amendment; (b) the application of all outstanding amounts owing to the DIP Lender under the DIP Facility in excess of the Deposit to the Purchase Price; (c) the balance of the cash portion of the Purchase Price shall be paid by wire transfer to the Monitor on the Closing Date; and (d) the assumption of the Assumed Obligations.

29. The Purchase Price will be increased or decreased, as the case may be, dollar-for-dollar, to the extent BSI Working Capital as of the Closing Date is more or less than Cdn\$4,509,000 and provided that any such adjustment would increase or decrease the Purchase Price by an amount of at least Cdn\$150,000. Based on current information the Timminco Entities do not anticipate any material working capital adjustment on closing.

QSI Purchased Assets

30. QSI has agreed to purchase all of BSI's right, title and interest, in and to, *inter alia*, the following assets comprising substantially all of BSI's silicon metal business (the "**QSI Purchased Assets**"):

- (a) 51,000 units in the capital of QSLP ("**QSLP Units**") registered in the name of BSI together with the Amended and Restated Limited Partnership Agreement dated October 1, 2010, by and between BSI, DCC and QSGP, as amended by the First Amendment thereto dated October 14, 2010 (the "**Limited Partnership Agreement**") which governs the relationship among the partners of QSLP;

- (b) 51 Class A Shares in the capital of QSGP registered in the name of BSI (“**QSLP Shares**” and together with the QSLP Units, the “**QSLP Equity**”) together with the Shareholders Agreement dated October 1, 2010, by and between BSI, Dow Corning Netherlands, B.V. (now known as DC Global Holdings S.a.r.l.) and QSGP (the “**Shareholders Agreement**”, and together with the Limited Partnership Agreement, the “**QSLP Contracts**”) which governs the relationship among the shareholders of QSGP;
- (c) The Output and Supply Agreement dated October 1, 2010, by and between BSI, DCC and QSGP, subject to the assignment of certain rights of DCC to DCC Canda therein dated October 1, 2010, and as amended by Amendment No. 1 dated November 16, 2010, effective as of October 1, 2010, (ii) Amendment No. 2 dated November 1, 2011, effective as of October 1, 2010, and (iii) Amendment No. 3 dated November 1, 2011, effective as of October 20, 2011, regarding the supply of silicon metal by QSLP (the “**Supply Agreement**”);
- (d) Certain contracts with customers of BSI regarding the purchase and sale of silicon metal, including the Wacker Agreement (as defined herein);
- (e) Certain intellectual property and intellectual property licencing agreements relating to BSI’s silicon metal business;
- (f) The Silicon Metals Accounts Receivables;
- (g) All Prepaid Expenses;
- (h) All Inventory - Silicon Metal;

- (i) All Inventory - Packing Supplies; and
- (j) The real property located at 6400 Yvon Trudeau Street in Bécancour, Québec (the "HP2 Property").

Excluded Assets

31. The QSI Agreement provides that any and all properties, rights, assets and undertakings of QSI that do not constitute the QSI Purchased Assets will not be acquired by QSI, including substantially all of the assets used in BSI's solar grade silicon business, which are being acquired by FerroAtlantica.

Assumed and Excluded Obligations

32. The Assumed Obligations consist of:
- (a) The debts, liabilities and obligations under the Contracts for the period from and after the Closing Time; and
 - (b) The amounts, if any, that are required to be paid under section 11.3 of the CCAA to cure any monetary defaults in connection with the assignment of the Contracts to QSI under section 11.3 of the CCAA (other than Post-Filing Costs) and such other reasonable costs required to obtain any Consent and Approval to a maximum aggregate amount of Cdn\$10,000,000. Based on the Timminco Entities' current information, the Timminco Entities do not anticipate that such costs will exceed Cdn\$10 million.
33. Other than the Assumed Obligations and the payment of Transfer Taxes, QSI will not assume and will not be liable or otherwise responsible for any debts, liabilities or other obligations of the Timminco Entities, including:

- (a) All debts, liabilities, obligations or Claims related to any Benefit Plans, Collective Agreements, Employees, Pension Plans, Post-Retirement Liabilities or any Excluded Asset;
- (b) All debts, liabilities, obligations related to any Purchased Asset (including Contracts but excluding Cure Costs) arising out of or related to the period prior to the Closing Time; and
- (c) Any debts, liabilities, obligations or Claims (other than Claims under any QSLP Contracts) by any person, including without limitation QSLP, against the Timminco Entities relating to amounts payable to, or in respect of, BSI's hourly retirees under the Collective Agreements or under the Benefit Plans.

Closing Date

34. The QSI Transaction is anticipated to close five business days following the granting of the Approval and Vesting Order, subject to the satisfaction of certain conditions precedent.

Conditions to Closing

35. The QSI Agreement contains certain conditions to closing for the exclusive benefit of QSI (the "QSI Conditions") which may be waived by QSI in whole or in part without prejudice to its rights of termination in the event of non-fulfillment of any other condition. The QSI conditions require that, among other things:

- (a) The Timminco Entities shall have performed in all material respects their obligations under the QSI Agreement to the extent they must be performed as at the Closing Time;

- (b) The stay of proceedings granted in the Initial Order remains in effect as at the Closing Time (except where the stay is terminated or lifted or amended in a manner that is not prejudicial to QSI and does not adversely affect QSI's rights to the QSI Purchased Assets);
- (c) Each consent, approval, notification or waiver from and filing with, third parties (including any Governmental Authority) as may be required to complete the QSI Transaction, including the consent of DCC to the transfer of the QSLP Equity, the QSLP Contracts, and the Supply Agreement (the "DCC Consent"), and the consent of Wacker to the assignment of the Wacker Agreement, have been obtained as at the Closing Time, or to the extent that such consents have not been obtained, the Court shall have approved the Assignment Order which shall not be stayed, varied or appealed (or, if appealed, such appeal will have been dismissed) as at the Closing Time; and
- (d) The Closing Date Statement of QSLP Working Capital shall have been determined as per the QSI Agreement and the QSLP Working Capital shall not be less than Cdn\$7,500,000. Based on the Timminco Entities' current information, the Timminco Entities expect that this condition will be met.

36. The QSI Agreement contains certain conditions to closing for the exclusive benefit of the Timminco Entities which may be waived by the Timminco Entities in whole or in part without prejudice to their rights of termination in the event of non-fulfillment of any other condition. The conditions to closing require that, among other things, QSI shall have performed in all material respects its obligations under the QSI Agreement to the extent they must be performed as at the Closing Time.

37. In addition, the QSI Agreement contains certain conditions to closing for the mutual benefit of the Timminco Entities and QSI, including:

- (a) The requirement that the Approval and Vesting Order shall have been obtained and not have been stayed, varied, vacated or appealed (or such appeal shall have been dismissed with no further appeal therefrom); and
- (b) No order shall have been issued by a Governmental Authority which restrains or prohibits completion of the QSI Transaction; and
- (c) No motion, action or proceeding shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the QSI Transaction.

ASSIGNMENT OF AGREEMENTS

38. As described above, pursuant to the QSI Agreement the Timminco Entities are obligated to use commercially reasonable efforts to obtain certain consents and approvals. To the extent that those consents or approvals have not been obtained the Timminco Entities are obligated to apply to Court for approval of the Assignment Order. The QSI Agreement defines "Assignment Order" to mean:

an order or orders of the court pursuant to Section 11.3 and other applicable provisions of the CCAA, in form and substance satisfactory to the Purchaser, acting reasonably, (i) authorizing and approving the assignment of any contract for which a Consent and Approval has not been obtained (including the DCC Consent) and preventing any counterparty to the Contract from exercising any right or remedy under the Contract by reason of any defaults arising from the CCAA Proceedings or the insolvency of the Vendors and (ii) where no DCC Consent

has been obtained, the vesting in the Purchaser of all right, title and interest of BSI in and to the QSLP Equity and the QSLP Contracts free and clear of any rights or remedies of DCC arising under any QSLP Contract in connection with (A) the transfer of the QSLP Equity or such QSLP Contract contemplated hereunder, (B) the Vendors' insolvency or CCAA Proceedings, or (C) any pre-Closing breach of contract;

The DCC Consent

39. I am informed by Stephen Lebowitz of QSI and do verily believe that both prior to and since the Auction QSI has engaged in discussions with DCC regarding obtaining the DCC Consent. On May 1, 2012, Mr. Lebowitz informed me that although QSI remained hopeful of reaching a consensual resolution with DCC prior to the motion, it was prudent for the Timminco Entities to proceed on the basis that the DCC Consent will not be forthcoming and prepare to seek the Assignment Order in accordance with the QSI Agreement. As of the time of swearing this affidavit, I understand that the DCC Consent has not been granted.

40. I am informed by Mr. Lebowitz and do verily believe that DCC's refusal thus far to grant the DCC Consent relates to the fact that the QSI Agreement does not provide for the assumption of certain contracts to which BSI and DCC are party. Specifically, I am informed that DCC is insisting that QSI assume the indemnification and other obligations of BSI under the Framework Agreement (as defined below), which is not a QSI Purchased Asset.

41. By way of background, BSI formed Québec Silicon for the purpose of monetizing 49% of its interest in its silicon metal assets. All of BSI's silicon metal assets, excluding the solar grade silicon assets and certain other silicon-related assets were conveyed to Québec Silicon. On the closing of the creation of the joint venture with DCC, BSI retained a 51% equity interest in Québec Silicon: approximately 51% of the limited partnership units in QSLP and approximately

51% of the shares of QSGP, and received net cash proceeds of approximately US\$40 million. DCC acquired 49% of the equity interest in Québec Silicon through its subsidiaries: DCC Canada acquired 49% of the limited partnership units in QSLP and DC Global Holdings S.a.r.l. acquired approximately 49% of the shares of QSGP.

42. On August 10, 2010, BSI, DCC and Timminco entered into the Framework Agreement (the "**Framework Agreement**") which set out certain terms of the formation of the joint venture and outlined the agreements to be entered into by the parties that would govern different aspects of their relationship with respect to the joint venture. Due to the commercially sensitive nature of the information contained in the Framework Agreement, a redacted copy of the Framework Agreement is attached hereto as **Exhibit "D"**.

43. The Framework Agreement outlined the agreements to be entered into between BSI and Québec Silicon regarding the assets and liabilities that were to be transferred to the joint venture from BSI, including the Business Transfer Agreement and the Pension Transfer Agreement (each as defined below). The Framework Agreement also outlined the agreements to be subsequently entered into by BSI, Québec Silicon and DCC (and its affiliates) on closing, to govern different aspects of their future on-going relationships with respect to the joint venture, including the Limited Partnership Agreement, the Shareholders Agreement and the Supply Agreement. The Framework Agreement also outlined the agreements to be subsequently entered into by BSI, Québec Silicon and Timminco on closing, to govern different aspects of their future on-going relationships with respect to the joint venture, including a shared services agreement, a shared expenses agreement and a support agreement.

44. On September 30, 2010, BSI transferred substantially all of its silicon metal production assets (including property, plant, equipment, and certain net working capital items) and related liabilities to Québec Silicon pursuant to the Business Transfer Agreement dated September 30, 2010, between BSI and QSLP (the "**Business Transfer Agreement**"). A copy of the Business Transfer Agreement is attached hereto as **Exhibit "E"**.

45. QSLP established new pension plans, having terms and conditions substantially the same as the BSI pension plans. All of the pension assets and liabilities associated with the employees who transferred from BSI to QSLP were transferred from the relevant BSI pension plans to the relevant QSLP pension plans pursuant to the Pension Transfer Agreement dated September 30, 2010, between BSI and QSLP (the "**Pension Transfer Agreement**"). A copy of the Pension Transfer Agreement is attached hereto as **Exhibit "F"**.

46. Under the Framework Agreement, the Timminco Entities agreed to indemnify DCC, its affiliates and Québec Silicon from and against and in respect of certain losses, damages and liabilities relating to the silicon metal production operations owned and operated by BSI to the extent such liabilities related to pre-closing matters and/or conditions. Such indemnification includes losses, damages and liabilities that may be incurred by QSLP in connection with any pension or benefit plans of BSI employees or retirees who had not transferred to QSLP.

47. In addition, under the Framework Agreement, BSI is obligated to pay QSLP up to a maximum of \$5 million in claims paid for post-retirement benefits of employees who transferred from BSI to QSLP on September 30, 2010 and who retire on or before September 30, 2016. Payments in regard to the post-retirement benefit claims are to be made by BSI to QSLP as they are incurred and DCC acknowledged that the liability of BSI in this regard is unsecured.

48. As well, under the Framework Agreement, certain post-closing purchase price adjustments are payable as additional consideration for the equity interest acquired by DCC Canada in QSLP. Additional consideration is payable by DCC in the event that in the three year period following closing of sale of the equity interests either or both of the following performance improvements are achieved: (a) adjusted direct cost per metric ton of the silicon metal manufactured by QSLP during a 12-month period is lower than a certain adjusted direct cost per metric ton during the pre-closing period; or (b) average annual production by QSLP during a six-month period exceeds 47,000 metric tons of silicon metal (the “**Post-Closing Purchase Price Adjustment**”). The aggregate maximum amount payable by DCC pursuant to these adjustments is US\$10 million.

49. The Framework Agreement is a separate agreement from the Limited Partnership Agreement, the Shareholders Agreement, and the Supply Agreement, and not integrated into any of these agreements. All of the parties’ obligations under the Framework Agreement and the Business Transfer Agreement have been satisfied except for the indemnification obligations referred to in paragraph 46, the reimbursement obligations referred to in paragraph 47, and the Post-Closing Purchase Price Adjustment.

50. The Stalking Horse Agreement initially contemplated the assignment of the QSLP Contracts as well as the Framework Agreement, the Business Transfer Agreement, the Pension Transfer Agreement, and the Intellectual Property Assignment Agreement dated September 30, 2010 between BSI and QSLP. However, in accordance with section 2.1 of the Stalking Horse Agreement, QSI notified the Timminco Entities of its intention to exclude all of the contracts to which DCC is a party from the list of QSI Purchased Assets other than the Limited Partnership Agreement and the Shareholders Agreement.

The Limited Partnership Agreement

51. On October 1, 2010, upon the closing of the transactions contemplated by the Framework Agreement, BSI, DCC Canada, QSGP, QSLP and/or Timminco entered into, among other things, the Limited Partnership Agreement. A copy of the Limited Partnership Agreement is attached hereto as **Exhibit "G"**.

52. The Limited Partnership Agreement regulates the business, affairs, governance and management of Québec Silicon and governs the relationship between DCC and BSI with respect thereto. Among other things, the Limited Partnership Agreement:

- (a) provides how profits and losses are to be allocated between DCC Canada and BSI based on their respective equity interests in QSLP;
- (b) sets forth the obligations of BSI and DCC Canada to make capital contributions to QSLP in certain circumstances; and
- (c) provides guidelines and procedures for conduct of meetings and voting of partners.

53. Article 10 of the Limited Partnership Agreement prohibits BSI and DCC Canada from effecting any transfer, sale or assignment of QSLP units until October 1, 2015, without the prior written permission of the non-transferring party and provides that any purported transfer by a partner other than in accordance with the Limited Partnership Agreement shall be null and void.

54. The Limited Partnership Agreement also provides for certain put and call rights in favour of DCC Canada in respect of BSI's equity interest in QSLP upon the occurrence of certain events such as a change in control, an act of insolvency or other defaults by BSI. In addition, if BSI becomes a Defaulting Special Partner (as defined in the Limited Partnership Agreement) as a result of, among other

things, application for an order under the CCAA or becoming insolvent as defined under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, the Limited Partnership Agreement provides, among other things, that:

- (a) BSI shall lose the right to vote its Partnership Interest and to attend meetings of the Partners (as these terms are defined in the Limited Partnership Agreement); and
- (b) DCC shall have the right to purchase, at its option, the Partnership Interest of BSI for a purchase price equal to the fair market value of such Partnership Interest.

55. The Initial Order stayed the exercise of these and all other rights, remedies, modifications of existing rights and events deemed to occur under the terms of the Limited Partnership Agreement upon or as a result of (a) an Act of Insolvency (as defined in the Limited Partnership Agreement) occurring with respect to BSI, (b) any default or non-performance by the Timminco Entities, (c) the making or filing of these proceedings, or (d) any allegation, admission or evidence in the CCAA proceedings.

The Shareholders Agreement

56. On October 1, 2010, QSGP, BSI and DC Global Holdings S.a.r.l., a subsidiary of DCC, entered into the Shareholders Agreement. A copy of the Shareholders Agreement is attached hereto as **Exhibit "H"**.

57. The Shareholders Agreement describes the business and affairs of QSGP and provides for the governance and the composition and decision-making of the board of directors of QSGP (as the general partner of QSLP).

58. Section 6 of the Shareholders Agreement prohibits the shareholders from effecting any transfer, sale or assignment of QSGP shares until October 1, 2015 without the prior written permission of the non-transferring party and provides that any purported transfer by a shareholder other than in accordance with the Shareholders Agreement shall be null and void.

59. If BSI becomes a Defaulting Special Partner (as defined in the Shareholders Agreement) (a) BSI shall cease to be entitled to nominate directors to the board of directors of QSGP, (b) each director designated by BSI then in place shall be deemed to have resigned from office, and (c) BSI shall not exercise the voting rights attached to its shares and its shares will be disregarded for the purposes of any vote. Operation of these provisions of the Shareholders Agreement were stayed by the terms of the Initial Order.

The Supply Agreement

60. On October 1, 2010, BSI, DCC and QSLP entered into the Supply Agreement. Due to the commercially sensitive nature of the information contained in the Supply Agreement, a redacted copy of the Supply Agreement is attached hereto as **Exhibit "I"**.

61. Under the terms of the Supply Agreement, QSLP must produce silicon metal according to the specifications of DCC Canada and BSI, and DCC Canada and BSI are entitled to a supply allocation of QSLP's silicon metal production that is proportionate to its equity interest in QSLP, subject to certain adjustments.

62. The Supply Agreement also sets out the pricing, payment, shipment, storage and delivery terms with respect to the silicon metal produced by QSLP. DCC Canada and BSI purchase silicon metal from QSLP at a price based on the actual full cost of production, plus a fixed margin.

The Wacker Agreement

63. Substantially all of the silicon metal that BSI purchases from Québec Silicon is sold to Wacker, a long standing customer. In May 2011, BSI executed a new long-term silicon metal supply contract with Wacker which, among other things, replaced the previous contractual relationship, provided for amended pricing and additional silicon metal volumes and extended the supply commitments through to the end of 2015 (as amended, the “**Wacker Agreement**”). A redacted copy of the Wacker Agreement will be provided separately.

64. The Wacker Agreement is a Purchased Asset under the QSI Agreement. I am informed by Doug Fastuca, the Chief Executive Officer of Timminco, and do verily believe that since the closing of the Auction, Mr. Fastuca has engaged in discussions with Wacker in an attempt to obtain the consent of Wacker to the assignment of the Wacker Agreement to QSI. On May 4, 2012, at the request of Wacker, I sent a draft form of consent to Wacker for their review. As of the time of swearing this affidavit, I understand that Wacker and QSI were in negotiations with respect to the terms and conditions by which Wacker would provide its consent to the assignment of the Wacker Agreement to QSI. If Wacker’s consent is not obtained, the Timminco Entities will be seeking the assignment of the Wacker Agreement pursuant to the Assignment Order.

The Assignment Order Should Be Granted

65. The QSI Agreement provides that it is a condition precedent to Closing that the Court issue the Approval and Vesting Order approving the QSI Agreement, authorizing the QSI Transaction, and vesting in QSI all the right, title and interest of the Timminco Entities in and to the Purchased Assets, including the QSLP Equity and the related QSLP Contracts free and clear of any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge,

encumbrance, mortgage, adverse claim or right of a third party or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract, or otherwise) capable of becoming any of the foregoing (including any conditional sale or title retention agreement, or any capital or financing lease), other than Permitted Encumbrances, in form and substance acceptable to QSI, acting reasonably.

66. Further, the QSI Agreement provides that each Consent and Approval shall have been obtained or the Court shall have approved the Assignment Order in form and substance satisfactory to QSI, acting reasonably, (a) authorizing and approving the assignment of any Contract for which a Consent and Approval has not been obtained and preventing any counterparty to the Contract from exercising any right or remedy under the Contract by reason of any defaults arising from the CCAA Proceedings or the insolvency of the Timminco Entities, and (b) where no DCC Consent has been obtained, the vesting in QSI of all right, title and interest of BSI in and to the QSLP Equity and the QSLP Contracts free and clear of any rights or remedies of DCC arising under either QSLP Contract in connection with (i) the transfer of the QSLP Equity or such contracts, (ii) the Timminco Entities' insolvency or CCAA Proceedings, or (iii) any pre-Closing breach of contract.

67. The QSLP Contracts, the Supply Agreement and the Wacker Agreement are integral and necessary components of BSI's current silicon metal business, and their assignment is a fundamental term of the QSI Agreement.

THE SUBSEQUENT DIP AMENDMENT

68. The QSI Agreement provides that, if QSI is the Successful Bidder, an amendment (the "**Subsequent DIP Amendment**") will be entered into between QSI and the Timminco Entities which provides for an increase in the DIP Facility by an amount of Cdn\$2,500,000 ("**Tranche B**"). Tranche B will be available after

June 8, 2012, provided that the QSI Transaction is not delayed due to the failure of the Timminco Entities to fulfill the QSI Conditions or the Mutual Conditions or any breach of the representations and warranties contained in the QSI Agreement.

69. Under the Subsequent DIP Amendment, the maturity date of the DIP Facility has been extended to July 4, 2012. As well, Tranche B is repayable to QSI on or before the Closing Date or within two Business Days of the termination of the QSI Agreement for any reason.

70. The Subsequent DIP Amendment will provide the Timminco Entities with additional flexibility to close the QSI Transaction should closing be delayed past June 8, 2012. A copy of the Subsequent DIP Amendment is attached hereto as **Exhibit "J"**.

THE F.A. AGREEMENT

71. All capitalized terms used and not defined in this section of the Affidavit shall have the meaning ascribed to them in the F.A. Agreement. A copy of the F.A. Agreement is attached hereto as **Exhibit "K"**.

Purchase Price

72. The aggregate purchase price (the "**F.A. Purchase Price**") payable by FerroAtlantica to the Timminco Entities for the F.A. Purchased Assets is Cdn\$2,650,000 payable in cash, plus the assumption of the Assumed Obligations, described in greater detail below.

73. I am informed by Nigel Meakin and do verily believe that upon submission of its Phase II Bid and following its acceptance as a Portion Bid forming part of the Successful Bid, FerroAtlantica paid an aggregate amount of Cdn\$397,502 (the "**Deposit**") to the Monitor in trust. The balance of the F.A.

Purchase Price shall be payable by wire transfer on the Closing Date (as defined below) and by the assumption of the Assumed Obligations.

F.A. Purchased Assets

74. FerroAtlantica has agreed to purchase all of BSI's right, title and interest, in and to all of the tangible and intangible assets, properties, rights and Claims, wherever located, used intended for use or arising in connection with BSI's currently inactive solar grade silicon production business, but only to the extent set out in Schedule "A" to the F.A. Agreement (the "**F.A. Purchased Assets**"). The F.A. Purchased Assets include, *inter alia*:

- (a) The BSI-owned property located at 5500 Yvon-Trudeau Street in Bécancour, Québec, which is one of the properties where BSI's inactive solar grade silicon business is located (the "**HP1 Property**");
- (b) Certain solar intellectual property relating to the F.A. Purchased Assets, including patents held by BSI relating to the production of solar grade silicon;
- (c) The solar inventory; and
- (d) The machinery, equipment, structures and accessories relating to the F.A. Purchased Assets and the solar grade silicon division of BSI located on the HP1 Property or the HP2 Property (defined below).

Excluded Assets

75. The F.A. Agreement provides that certain assets will not be acquired by FerroAtlantica (the "**F.A. Excluded Assets**"). The F.A. Excluded Assets include, among other things:

- (a) All contracts and other written agreements to which either or both of the Timminco Entities are parties;
- (b) All accounts receivable owing to BSI in respect of its Timminco Solar division, all tax refunds and credits and all Litigation Claims;
- (c) The HP2 Property; and
- (d) Any equipment owned by AMG Conversion Ltd. located at the ingoting facility on the HP1 Property or at the HP2 Property.

Assumed and Excluded Obligations

76. The Assumed Obligations consist of:

- (a) All Transfer Taxes pertaining to FerroAtlantica's acquisition of the Solar Assets and any registration of any conveyances required to transfer the F.A. Purchased Assets to FerroAtlantica; and
- (b) All debts, liabilities and obligations for realty taxes in respect of the F.A. Purchased Assets attributable from and after the Closing Date.

77. Other than the Assumed Obligations, FerroAtlantica will not assume and will not be liable or otherwise responsible for the obligations of the Timminco Entities (the "**Excluded Obligations**"), including but not limited to:

- (a) Any and all debts, obligations or Claims related to any Benefit Plans, Collective Agreements, Employees, Pension Plans, Post-Retirement Liabilities or under the Pension Transfer Agreement; and

- (b) Any and all debts, obligations or Claims related to any F.A. Excluded Asset or QSLP Liabilities;
- (c) All debts, liabilities and obligations related to any Purchased Asset arising out of or related to the period prior to the Closing Time; and
- (d) Any debts, liabilities, obligations or Claims by any person, including without limitation QSLP, against the Timminco Entities relating to amounts payable to, or in respect of, BSI's hourly retirees under the Collective Agreements or under the Benefit Plans.

Closing Date

78. The F.A. Transaction is anticipated to close five business days following the granting of the Approval and Vesting Order, subject to the satisfaction of certain conditions precedent.

Conditions to Closing

79. The F.A. Agreement contains certain conditions to closing for the exclusive benefit of FerroAtlantica which may be waived by FerroAtlantica in whole or in part without prejudice to its rights of termination in the event of non-fulfillment of any other condition. The conditions require that, among other things:

- (a) The Timminco Entities shall have performed in all material respects their obligations under the F.A. Agreement to the extent they must be performed as at the Closing Time;

- (b) The stay of proceedings granted in the Initial Order remains in effect as at the Closing Time (except where the stay is terminated or lifted or amended in a manner that is not prejudicial to FerroAtlantica and does not adversely affect FerroAtlantica's rights to the F.A. Purchased Assets);
- (c) Approval by the Québec environmental regulatory authority of the assignment of certain environmental authorizations relating to the HP1 Property;
- (d) FerroAtlantica and the Timminco Entities shall have entered into and delivered an executed copy of the HP2 Property Access Agreement; and
- (e) FerroAtlantica shall be satisfied, acting reasonably, that necessary steps have been taken to ensure that the HP1 Property is supplied with certain Utilities after the Closing Time on terms substantially equivalent to those in effect at the date of the F.A. Agreement.

80. The F.A. Agreement contains certain conditions to closing for the exclusive benefit of the Timminco Entities which may be waived by the Timminco Entities in whole or in part without prejudice to their rights of termination in the event of non-fulfillment of any other condition. The conditions to closing require that, among other things, FerroAtlantica shall have performed in all material respects its obligations under the F.A. Agreement to the extent they must be performed as at the Closing Time.

81. In addition, the F.A. Agreement contains certain conditions to closing for the mutual benefit of FerroAtlantica and the Timminco Entities that are required to be satisfied or mutually waived prior to the Closing Date including, among others, the following:

- (a) The Approval and Vesting Order shall have been obtained and shall not have been stated, varied, vacated or appealed (or such appeal shall have been dismissed with no further appeal therefrom or the applicable periods shall have expired); and
- (b) No order shall have been issued by, and no motion, action or proceeding shall be pending by or before, a Governmental Authority which restrains or prohibits or seeks to restrain or prohibit completion of the F.A. Transaction.

82. Finally, the F.A. Agreement provides that the Timminco Entities shall seek approval of the F.A. Transaction at the same time they seek approval of the QSI Transaction.

83. The F.A. Agreement is not contingent on FerroAtlantica's ability to obtain financing or on further due diligence or on the closing of the QSI Transaction.

HP2 SEVERANCE TRANSACTION

84. As described in greater detail in my Initial Order Affidavit, BSI carried on a portion of its solar grade silicon production business at the HP2 Property. The HP2 Property was originally part of a larger parcel of land that was transferred to QSLP (the "QSLP Facility") upon formation of the joint venture with DCC. Pending legal severance of the HP2 Property from the QSLP Facility, a nominee arrangement was set up effective from September 30, 2010, whereby QSGP holds registered title to HP2 Property as nominee for the beneficial owner, BSI.

85. Since the sale to QSLP of the QSLP Facility, which surrounds the HP2 Property, access to the HP2 Property is only available through real property owned by QSLP.

86. In addition, dust collector no. 21 located on the HP2 Property and the related duct connecting the furnaces located at the QSLP Facility to the dust collector (collectively, the duct and dust collector are the “**Dust Collector**”) are owned by BSI and located on the HP2 Property, but are an important part of QSLP operations.

87. It has been contemplated that the following transactions (collectively, the “**HP2 Severance Transaction**”) would occur:

- (a) As soon as possible following the formation of the joint venture with DCC: (i) QSGP, as nominee for QSLP and BSI, would establish access rights and other servitudes against and in favour of the HP2 Property and the QSLP Facility, in order to address operation, maintenance, cost sharing, access and other related matters between the QSLP Facility and the HP2 Property, including servitudes for illegal views, optical fibres, internet, telephone lines and systems, parking, access to Yvon-Trudeau Street, passage, locker room, security, shared equipment, water, sewer, natural gas, electricity, fire safety systems and equipment, spur lines, shipping and receiving doors and/or compressed air pursuant to a deed of servitude (the “**Deed of Servitude**”) to be registered against both the HP2 Property and the QSLP Facility; and (ii) registered title to the HP2 Property would be conveyed to BSI and the nominee arrangement relating to the HP2 Property terminated; and
- (b) Since the reconfiguration of the Dust Collector to serve the QSLP operations at the QSLP Facility in July 2011, BSI and QSLP would enter into formal arrangements whereby QSLP would acquire a leasehold or ownership interest in the Dust Collector.

88. The HP2 Severance Transaction is the final step required to complete the reorganization of BSI's business which began on September 30, 2010 with the transfer of its silicon metals production business to QSLP and the separation as of certain silicon metals assets and its solar grade silicon operations as a stand-alone business. The HP2 Severance Transaction is but one aspect of the larger transaction involving the formation of the Québec Silicon joint venture, which pre-dated the CCAA proceedings.

89. The execution by QSLP of documents effecting the HP2 Severance Transaction requires the consent of a special majority of the board of directors of QSGP namely, a majority of the board and at least one of the two DCC representatives on the board (the "DCC Representatives") and one of the three BSI representatives on the board, pursuant to the terms of the Shareholders Agreement. It is my understanding that the terms of Deed of Servitude referred to in above paragraph 87 are, in substance, satisfactory to the DCC Representatives. To my knowledge, the only substantial outstanding issue with respect to the HP2 Severance Transaction relates to the value of the HP2 Property to be used for the calculation of transfer duties arising in connection with the transfer of registered title of HP2 Property from QSGP, as nominee, to BSI.

90. If the terms of the HP2 Severance Transaction are settled between BSI and QSLP, it is contemplated that the HP2 Severance Transaction will be completed immediately prior to the Closing of the QSI Transaction.

APPROVAL OF TRANSACTIONS

91. As described above, the sale process undertaken by the Timminco Entities for the sale of their assets which culminated in the purchase agreements being entered into was a Court-approved process, which was conducted under the supervision of the Court-appointed Monitor.

92. In the Timminco Entities' judgement, the purchase prices contemplated to be paid pursuant to the purchase agreements represent the highest prices realizable through the sales process. The purchase agreements together constitute a premium of approximately Cdn\$14.5 million for the Stalking Horse Assets over the Stalking Horse Purchase Price and represent the best possible transactions in the circumstances for the benefit of the Timminco Entities and their stakeholders.

93. It is my understanding that IQ is supportive of the transactions. Further, it is my understanding that the Monitor is supportive of the transactions and will be providing the Court with a report in that regard.

94. I am informed by Kathryn Esaw of Stikeman Elliott LLP, counsel to the Timminco Entities, and do verily believe that the Timminco Entities and each of QSI and FerroAtlantica are not related persons within the meaning of the CCAA.

95. In accordance with section 36(7) of the CCAA, the Timminco Entities can and will make the payments (or satisfactory arrangements therefor) that would have been required under sections 6(5)(a) or 6(6)(a) of the CCAA².

96. The Timminco Entities intend to continue making the payments required under sections 6(5)(a) and 6(6)(a) of the CCAA in the ordinary course.

97. As described above, the HP2 Severance Transaction is the final step in a corporate reorganization and formation of the joint venture, QSLP, and is,

² Section 36(7) of the CCAA states that, "The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(4)(a) and (5)(a) if the court had sanctioned the compromise or arrangement.". As there is no section 6(4)(a) in the CCAA, it appears that the current s. 36(7) of the CCAA contains a typographical error and the intended reference is to sections 6(5)(a) and 6(6)(a) of the CCAA. A copy of these sections is attached hereto as **Exhibit "L"**.

therefore, in the ordinary course of business of BSI not subject to the requirements of section 36 of the CCAA.

NO IMPROPER PURPOSE

98. This affidavit is sworn in support of the Timminco Entities' motion seeking the relief outlined in paragraph 2 of this affidavit and for no improper purpose.

SWORN BEFORE ME at the City of Toronto, Province of Ontario, on May 9, 2012.

Yusuf Yannick Katirai
Commissioner for Taking Affidavits

Peter A.M. Kalins

Peter A.M. Kalins

Yusuf Yannick Katirai, a
Commissioner etc., Province of Ontario,
while a student-at-law.
Expires April 12, 2013.

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

Proceeding commenced at Toronto

AFFIDAVIT OF PETER A.M. KALINS
(SWORN MAY 9, 2012)

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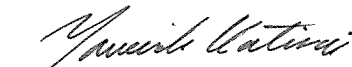
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Lawyers for the Applicants

TAB A

This is Exhibit "A"
to the affidavit of Peter Kalins,
sworn before me on the 9th day
of May, 2012



Commissioner for Taking Affidavits

Yusuf Yannick **Katral**, a
Commissioner etc., Province of Ontario,
while a student-at-law.
Expires April 12, 2013.

Schedule "A"

Bidding Procedures

On January 3, 2012, Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. ("**BSI**", and together with Timminco, the "**Debtors**") commenced proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") pursuant to an order granted by the Court on January 3, 2012 (as amended, the "**Initial Order**").

On March 2, 2012, the Debtors served a motion returnable on March 9, 2012 (the "**Bidding Procedures Motion**") with the Court seeking, among other things, approval of (a) the Debtors' entry into a certain agreement of purchase and sale for certain assets of the Debtors (the "**Stalking Horse Assets**") between the Debtors, QSI Partners Ltd. (the "**Stalking Horse Bidder**") and Globe Specialty Metals, Inc. dated March 1, 2012 (the "**Stalking Horse Agreement**") so as to set a minimum floor price in respect of the Debtors' sales process; (b) certain protections granted to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement; and (c) certain bidding procedures for the solicitation of offers or proposals (each a "**Bid**") for the acquisition of the Debtors' property, assets and undertakings, including a 51% interest in a joint venture with Dow Corning Canada, Inc. operated through Quebec Silicon Limited Partnership (collectively, the "**Assets**"), or some portion thereof.

On March 9, 2012, the Court entered an order (the "**Bidding Procedures Order**") granting the relief requested in the Bidding Procedures Motion including approval of these Bidding Procedures. Accordingly, the following procedures (the "**Bidding Procedures**") shall govern the proposed sale of all or substantially all of the Stalking Horse Assets pursuant to one or more Bids. These Bidding Procedures shall govern the Debtors' sales process relating to the solicitation by the Debtors of one or more Bids for the Assets, including the Stalking Horse Assets, that are superior to that contemplated by the Stalking Horse Agreement.

All denominations are in Canadian Dollars.

1. Assets for Sale

The Debtors are soliciting superior offers for all or a portion of the Stalking Horse Assets.

2. Bidding Deadlines

All Phase I Bids (as defined below) must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received by each of the Notice Parties (as defined below) no later than 10:00 a.m. (Eastern time) on March 26, 2012 (the "**Phase I Bid Deadline**"). All Phase II Bids (as defined below) must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received no later than 10:00 a.m. (Eastern time) on April 16, 2012 (the "**Phase II Bid Deadline**"). Written copies of the

Bids shall be delivered by the applicable deadline to: (a) the Debtors, 150 King Street West, 2401, Toronto, Ontario, M5H 1J9, Attn: Peter Kalins, President, General Counsel and Corporate Secretary, PKalins@timminco.com; (b) counsel to the Debtors, Stikeman Elliott LLP, 199 Bay Street, 5300 Commerce Course West, Toronto, Ontario, M5L 1B9, Attn: Daphne MacKenzie, dmackenzie@stikeman.com; (c) the Court-appointed monitor of the Debtors, FTI Consulting Canada Inc. (the "Monitor"), TD Waterhouse Tower, 79 Wellington Street, Suite 2100, Toronto, Ontario M5K 1G8 Attn.: Nigel Meakin, nigel.meakin@fticonsulting.com; and (d) counsel to the Monitor, Blake, Cassels & Graydon LLP, 199 Bay Street, Suite 2800, Toronto, Ontario M5L 1A9, Attn.: Linc Rogers, linc.rogers@blakes.com (collectively, the "Notice Parties"). A Bid received after the Phase I Bid Deadline shall not constitute a Phase I Bid and a Phase II Bid received after the Phase II Bid Deadline shall not constitute a Qualified Bid (as defined below). A Bid shall be delivered to all Notice Parties at the same time. Interested bidders requesting information about the qualification process, including a copy of the Stalking Horse Agreement, and information in connection with their due diligence, should contact the Monitor, FTI Consulting Canada Inc., Attention: Nigel Meakin, Senior Managing Director, TD Waterhouse Tower, 79 Wellington Street, Suite 2100, Toronto, Ontario, M5K 1G8, (416) 649-8065.

3. Participant Requirements

To participate in the process detailed by these Bidding Procedures and to otherwise be considered for any purpose hereunder, an interested party must submit an initial Bid (a "Phase I Bid") and each bidder submitting a Phase I Bid (a "Phase I Bidder") must be determined by the Debtors, with the assistance of their advisors and in consultation with the Monitor, to have satisfactorily provided the Debtors and the Monitor with each of the following on or before the Phase I Bid Deadline (collectively, the "Participant Requirements"):

- (a) Identification of Phase I Bidder. Identification of the Phase I Bidder and any Principals (defined below), and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) Non-Binding Expression of Interest. An executed non-binding indication of interest satisfactory to the Debtors that must reasonably identify the contemplated transaction, including the assets proposed to be acquired, the proposed purchase price, and any contingencies, and conditions precedent to closing;
- (c) Corporate Authority. Written evidence of the Phase I Bidder's chief executive officer or other appropriate senior executive's approval of the Phase I Bid; provided, however, that, if the Phase I Bidder is an entity specially formed for the purpose of effectuating the contemplated transaction (an "Acquisition Entity"), then the Phase I Bidder must furnish written evidence reasonably acceptable to the Debtors of the approval of the Phase I Bid by the equity holder(s) of such Phase I Bidder and any guarantor of the Bid (the "Principals");

- (d) Confidentiality Agreement. If not already executed, an executed confidentiality and standstill agreement (the "Confidentiality Agreement") in form and substance acceptable to the Debtors and their counsel, and in any event a confidentiality and standstill agreement on substantially the same terms as the confidentiality and standstill agreement executed by the Stalking Horse Bidder; and
- (e) Proof of Financial Ability to Perform. Written evidence upon which the Debtors may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
- (i) the Phase I Bidder's or, in the case of an Acquisition Entity, the Principals', current financial statements (audited if they exist);
 - (ii) contact names and numbers for verification of financing sources;
 - (iii) evidence of the Phase I Bidder's or Principals' internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and
 - (iv) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors demonstrating that such Phase I Bidder has the ability to close the contemplated transaction;

provided, however, that the Debtors shall determine, in their reasonable discretion, in consultation with their advisors, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Phase I Bidder's financial qualifications.

4. Designation as Qualified Bidder

A "Qualified Phase I Bidder" is a Phase I Bidder that delivers the documents described in paragraphs (a) through (e) in Section 3 above, and that the Debtors, with the assistance of their advisors and in consultation with the Monitor, determine is reasonably likely to submit a binding bona fide offer that would result in greater value being received for the Stalking Horse Assets for the benefit of the Debtors' creditors than under the Stalking Horse Agreement and would be able to consummate a sale if selected as a Successful Bidder (as defined below).

A party who does not wish to purchase all or substantially all of the Stalking Horse Assets (a "Portion Bidder") may submit a Bid (a "Portion Bid") in respect of a smaller subset of such assets and shall constitute a Qualified Phase I Bidder if such Portion Bid satisfies the requirements in paragraphs (a) through (e) in Section 3 above.

Upon receipt from a Phase I Bidder of the information required under paragraphs (a) through (e) in Section 3 above the Debtors shall notify the Phase I Bidder with respect to whether it is a Qualified Phase I Bidder as soon as practicable after the Phase I Bid Deadline.

For greater certainty, the Stalking Horse Bidder is and is deemed to be a Qualified Phase I Bidder and a Qualified Phase II Bidder (as defined below) for all purposes of these Bidding Procedures.

5. Access to Due Diligence Materials

Only parties that execute the Confidentiality Agreement are eligible to receive due-diligence access or additional non-public information. If the Debtors determine that a Phase I Bidder who has satisfied the Participant Requirements does not constitute a Qualified Phase I Bidder, then such Phase I Bidder's right to receive due-diligence access or additional non-public information shall terminate. The Debtors will designate an employee or other representative to coordinate all reasonable requests for additional information and due-diligence access from such Qualified Phase I Bidders. The Debtors shall not be obligated to furnish any due diligence information after the Phase II Bid Deadline. The Debtors are not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Assets.

6. Due Diligence From Bidders

Each Qualified Phase I Bidder and each Qualified Phase II Bidder (each, a "Bidder") shall comply with all reasonable requests for additional information by the Debtors or the Monitor regarding such Bidder and its contemplated transaction. Failure by a Bidder to comply with requests for additional information will be a basis for the Debtors to determine that the Bidder is not a Qualified Phase I Bidder or Qualified Phase II Bidder, as applicable.

7. Bidding Procedures

The Debtors, with the assistance of their advisors and in consultation with the Monitor, shall: (a) determine whether a Phase I Bidder is a Qualified Phase I Bidder; (b) coordinate the efforts of Bidders in conducting their due-diligence investigations, as permitted by the provisions herein; (c) receive offers from Qualified Phase I Bidders and Qualified Phase II Bidders, as applicable; and (d) negotiate offers made in accordance with these Bidding Procedures to purchase Assets. Subject to these Bidding Procedures and the Bidding Procedures Order, the Debtors, after consultation with the Monitor, shall have the right to adopt such other rules for these Bidding Procedures (including rules that may depart from those set forth herein), that in their reasonable business judgement will better promote the goals of these Bidding Procedures; provided that the adoption of any rule that materially deviates from these Bidding Procedures shall require the prior consent of the Stalking Horse Bidder or an order of the Court.

8. Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid (as defined below). To participate in the Auction (as defined below) a Qualified Phase I Bidder (including a Portion Bidder) must submit a Bid (a "Phase II Bid") that is determined by the Debtors, with the assistance of their advisors and in consultation with the Monitor, to satisfy each of the following conditions (a "Qualified Phase II Bid", and any party making such a Qualified Phase II Bid, a "Qualified Phase II Bidder"):

- (a) Written Submission of Modified APA and Commitment to Close. Qualified Phase I Bidders (other than the Stalking Horse Bidder) must submit a Phase II Bid by the Phase II Bid Deadline in the form of an executed mark-up of the Stalking Horse Agreement (each a "Modified APA") reflecting such Qualified Phase I Bidder's proposed changes to the Stalking Horse Agreement (together with a blackline of the Modified APA against the Stalking Horse Agreement), and a written and binding commitment to close on the terms and conditions set forth therein.
- (b) Irrevocable. A Phase II Bid must be irrevocable until (i) June 20, 2012; or (ii) in the event the Phase II Bid is determined to be the Back-up Bid, July 20, 2012;
- (c) Contingencies. A Phase II Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies associated with a Phase II Bid may not, in aggregate, be more burdensome than those set forth in the Stalking Horse Agreement;
- (d) Financing Sources. A Phase II Bid must contain written evidence of a commitment for financing or other evidence of the ability to consummate the sale satisfactory to the Debtors with appropriate contact information for such financing sources;
- (e) No Fees payable to Qualified Phase II Bidder. A Phase II Bid may not request or entitle the Qualified Phase II Bidder, other than the Stalking Horse Bidder, to any break-up fee, expense reimbursement or similar type of payment;
- (f) Good-Faith Deposit. Each Phase II Bid must be accompanied by a cash deposit (the "Good Faith Deposit") equal to fifteen (15) percent of the total purchase price contemplated under the Modified APA that shall be paid to the Monitor, to be held by the Monitor in trust in accordance with these Bidding Procedures; and
- (g) Minimum Overbid. The aggregate consideration in a Phase II Bid must have a cash purchase price of at least the amount of the cash purchase price payable to the Debtors under the Stalking Horse Agreement of \$20,000,000, plus the Expense Reimbursement of \$500,000, plus \$250,000 for a total minimum consideration of \$20,750,000 (the "Minimum Overbid"); provided that any Portion Bidder shall not be subject to the Minimum Overbid;

provided further that any "Aggregated Bid" (as defined below) shall be subject to the Minimum Overbid.

9. Auction

Only if a Qualified Phase II Bid (other than the Stalking Horse Bid) is received by the Phase II Bid Deadline shall the Debtors conduct an auction (the "Auction") to determine the highest and/or best Bid with respect to the Stalking Horse Assets. As soon as practicable prior to the start of the Auction, the Debtors shall distribute a copy of the Opening Bid (as defined below) to all Qualified Phase II Bidders. The Auction shall commence on April 24, 2012, at 10:00 a.m. (Eastern Time) at the offices of Stikeman Elliott LLP, 199 Bay Street, 5300 Commerce Course West, Toronto, Ontario, M5L 1B9.

If no such Qualified Phase II Bid is received by the Phase II Bid Deadline, then the Auction shall not take place, the Stalking Horse Bidder shall be declared the Successful Bidder (as defined below), the Debtors shall seek approval of, and authority to consummate, the Stalking Horse Agreement and the transactions provided for therein at the Sale Hearing (as defined below) and the Monitor shall post notice of such facts on its website established in connection with the CCAA Proceedings.

If a Qualified Phase II Bid is received in accordance with these Bidding Procedures, the Auction shall be conducted according to the following procedures:

- (a) Participation At The Auction. Only a Qualified Phase II Bidder that has submitted a Qualified Phase II Bid is eligible to participate at the Auction; provided that the Debtors may allow any or all Portion Bidders that are Qualified Phase II Bidders to participate in the Auction. For greater certainty, the Stalking Horse Bidder is a Qualified Phase II Bidder and eligible to participate at this Auction. Only the authorized representatives (including counsel and other advisors) of each of the Qualified Phase II Bidders, the Debtors and the Monitor shall be permitted to attend at the Auction. Subject to Section 9(c)(v), during the Auction, the bidding shall begin with the highest Qualified Phase II Bid (the "Opening Bid") and each subsequent round of bidding shall continue in minimum increments of at least the Minimum Overbid Increment (as defined below). For greater certainty, a combination of Portion Bids that do not overlap for the Stalking Horse Assets sought to be purchased, and which, when totaled, exceed the Minimum Overbid (an "Aggregated Bid") may be determined to be the Opening Bid.
- (b) Debtors Shall Conduct The Auction. The Debtors and their professionals, in consultation with the Monitor, shall direct and preside over the Auction. At the start of the Auction, the Debtors shall provide the terms of the Opening Bid to all participating Qualified Phase II Bidders at the Auction and a blackline of such Opening Bid to the Stalking Horse Agreement. The determination of which Qualified Phase II Bid constitutes the Opening Bid shall take into account any factors the Debtors, with the assistance of their advisors and in consultation with the Monitor, reasonably deem relevant to the value of the Qualified Phase II Bid to the Debtors, including, among other

things, the following: (i) the amount and nature of the consideration; (ii) the proposed assumption of any liabilities, if any; (iii) the ability of the Qualified Phase II Bidder to close the proposed transaction; (iv) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (v) any purchase-price adjustments; (vi) the impact of the contemplated transaction on any actual or potential litigation; (vii) the net economic effect of any changes from the Stalking Horse Agreement, if any, contemplated by the contemplated transaction documents (the "Contemplated Transaction Documents"), (viii) the net after-tax consideration to be received by the Debtors; and (ix) such other considerations as the Debtors deem relevant in their reasonable business judgement (collectively, the "Bid Assessment Criteria"). All Bids made after the Opening Bid shall be Overbids (as defined below), and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Phase II Bidders that are participating in the Auction. The Debtors shall maintain a transcript of the Opening Bid and all Overbids made and announced at the Auction, including the Successful Bid and the Back-up Bid (as defined below).

- (c) Terms of Overbids. An "Overbid" is any Bid made at the Auction subsequent to the Debtors' announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Phase II Bidder must comply with the following conditions:

- (i) Minimum Overbid Increment

Any Overbid shall be made in increments of at least \$250,000 or such lower amount (such lower amount not to be less than \$100,000) as the Debtors may determine in order to facilitate the Auction (the "Minimum Overbid Increment"). When considering whether the Minimum Overbid Increment has been satisfied, the Debtors shall compare the Bids (including Aggregated Bids) only as they relate to the Stalking Horse Assets. The amount of the cash purchase price consideration of any Overbid shall not be less than the cash purchase price consideration of the Opening Bid; provided, that, without duplication, application of any amounts advanced to the Debtors under the DIP Facility between the Debtors and the Stalking Horse Bidder shall be considered as cash purchase price consideration in connection with any Overbid by the Stalking Horse Bidder.

- (ii) Remaining terms are the same as for Qualified Phase II Bids

Except as modified herein, an Overbid must comply with the conditions for a Qualified Phase II Bid set forth above, provided, however, that the Phase II Bid Deadline shall not apply.

Any Overbid made by a Qualified Phase II Bidder must provide that it remains irrevocable and binding on the Qualified Phase II Bidder

until (A) in the event such Qualified Phase II Bid is declared the Successful Bid, June 20, 2012; and (B) in the event such Qualified Phase II Bid is declared the Back-up Bid, July 20, 2012.

The Debtors shall credit the amount of the Expense Reimbursement to each and every Overbid submitted by the Stalking Horse Bidder at the Auction, meaning that if the Stalking Horse Bidder's subsequent Overbid is the then highest and/or best Overbid at the Auction, any subsequent Overbid must exceed the Stalking Horse Bidder's Overbid by the amount of the Expense Reimbursement and Minimum Overbid Increment.

To the extent not previously provided (which shall be determined by the Debtors), a Qualified Phase II Bidder submitting an Overbid must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors) demonstrating such Qualified Phase II Bidder's ability to close the transaction proposed by such Overbid.

(iii) Announcing Overbids

At the end of each round of bidding, the Debtors shall announce the identity of the Qualified Bidder and the material terms of the then highest and/or best Overbid, including the assets proposed to be acquired and the obligations proposed to be assumed, the basis for calculating the total consideration offered in such Overbid, and the resulting benefit to the Debtors' based on, among other things, the Bid Assessment Criteria. For greater certainty, an Aggregated Bid may be determined to be the highest and/or best Overbid.

(iv) Consideration of Overbids

The Debtors reserve the right, in their reasonable business judgement, to make one or more adjournments in the Auction to, among other things: (A) facilitate discussions between the Debtors and individual Qualified Phase II Bidders; (B) allow individual Qualified Phase II Bidders to consider how they wish to proceed; (C) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (D) give Qualified Phase II Bidders the opportunity to provide the Debtors and the Monitor with such additional evidence as they may require, in their reasonable business judgement, that the Qualified Phase II Bidder has obtained all required internal corporate approvals, has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount.

(v) Portion Bids

Notwithstanding the forgoing, each Portion Bidder entitled to participate in the Auction shall be entitled to submit an Overbid (in a minimum increment to be determined by the Debtors) with respect to the Assets it is bidding on without being required to submit an Overbid with respect to all Assets subject to the Stalking Horse Agreement or the applicable Opening Bid; provided that any Aggregated Bid that is an Overbid shall be subject to these Auction procedures as any other Overbid, including that such Aggregated Bid that is an Overbid shall be subject to the Minimum Overbid Increment described in section 9(c)(i). As part of any Overbid, the Stalking Horse Bidder shall be entitled to make a Portion Bid.

For greater certainty, to the extent any Portion Bid or an Aggregated Bid is the Successful Bid (including through the deeming of the Back-up Bid as the Successful Bid), including any Portion Bid or Aggregated Bid where the Stalking Horse Bidder is also a Portion Bidder, the Stalking Horse Bidder shall not be obliged to complete the transactions under the Stalking Horse Agreement or purchase any subset of assets or assume any subset of liabilities which are not covered by such Portion Bid or Aggregated Bid.

(vi) Failure to Bid

If at the end of any round of bidding a Qualified Phase II Bidder (other than a Portion Bidder, or the Qualified Phase II Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Qualified Phase II Bidder shall not be entitled to continue to participate in the next round of the Auction.

- (d) Additional Procedures. The Debtors may, with the assistance of their advisors and in consultation with the Monitor, adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction and that are not inconsistent with any of the provisions of these Bidding Procedures or the Bidding Procedures Order; provided that the adoption of any rule that materially deviates from the Auction procedures set forth herein shall require the prior written consent of the Stalking Horse Bidder or an Order of the Court; and provided further that no such rules may change the requirement that all Overbids shall be made and received in one room, within a defined period, on an open basis, and all other Qualified Phase II Bidders (that have not failed to make an Overbid in a prior round of bidding) shall be entitled to be present for all bidding with the understanding that the true identity of each Qualified Phase II Bidder - i.e., Principals submitting the Bid - shall be fully disclosed to all other Qualified Phase II Bidders and that all material terms of the then highest and/or best Overbid at the end of each

round of bidding will be fully disclosed to all other Qualified Phase II Bidders.

- (e) Closing the Auction. Upon conclusion of the bidding, the Auction shall be closed, and the Debtors shall, with the assistance of their advisors and in consultation with the Monitor, (i) immediately review the final Overbid of each Qualified Phase II Bidder on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the proposed sale, and (ii) identify the highest and/or best Overbid or Opening Bid (the "Successful Bid" and the entity or entities submitting such Successful Bid, the "Successful Bidder"), and the next highest and/or best Overbid, Opening Bid, or Stalking Horse Agreement after the Successful Bid (the "Back-up Bid" and the entity or entities submitting such Back-up Bid, the "Back-Up Bidder"), and advise the Qualified Phase II Bidders of such determination. One or more Portion Bid(s) can form part of a Successful Bid and Back-up Bid so long as such Portion Bid(s) do not overlap in respect of the Assets sought to be purchased and in such case, such Portion Bidder(s) shall be included in the definition of Successful Bidder or Back-up Bidder, as applicable.
- (f) Consent to Jurisdiction as Condition to Bid. All Qualified Phase II Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to the Auction, and the construction and enforcement of the Bidder's Contemplated Transaction Documents, as applicable.
- (g) Expense Reimbursement. In the event that the Stalking Horse Bidder is not the Successful Bidder (or in the event the Stalking Horse Bidder is the Back-up Bidder but does not become the Successful Bidder in accordance with section 13 hereof), the Stalking Horse Agreement shall be terminated pursuant to the Stalking Horse Agreement, and the Expense Reimbursement (in the amount of \$500,000) shall be immediately paid to the Stalking Horse Bidder from the proceeds received upon closing of the Successful Bid or the Back-up Bid. The obligation to pay the Expense Reimbursement under the Stalking Horse Agreement shall be absolute and unconditional and shall not be subject to any defense, claim, counterclaim, offset, recoupment or reduction of any kind whatsoever. Section 7.2 of the Stalking Horse Agreement and the rights and obligations created thereunder shall survive termination of the Stalking Horse Agreement.

10. Acceptance of Successful Bid

The Debtors shall complete the sale transaction or transactions with the Successful Bidder following approval of the Successful Bid by the Court. The Debtors will be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by the Court. The Debtors will be deemed to have accepted a Back-up Bid only when it has been approved by the Court and has been deemed to be a Successful Bid.

11. "As Is, Where Is"

The sale of Assets pursuant to these Bidding Procedures shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Debtors, their agents or estates except to the extent set forth in the Stalking Horse Agreement or the purchase agreement of another Successful Bidder. The Stalking Horse Bidder and each Qualified Phase II Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or (a) as to the Stalking Horse Bidder, the terms of the sale of the Assets shall be set forth in the Stalking Horse Agreement, or (b) as to another Successful Bidder, the terms of the sale of the Assets shall be set forth in the applicable purchase agreement

12. Free Of Any And All Encumbrances

Except as otherwise provided in the Stalking Horse Agreement or another Successful Bidder's purchase agreement, all of the Debtors' right, title, and interest in and to the Assets subject thereto shall be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests thereon and there against (collectively, and other than any permitted encumbrances under the Stalking Horse Agreement or another Successful Bidder's purchase agreement, the "Encumbrances") in accordance with a vesting order of the Court, with such Encumbrances to attach to the net proceeds of the sale of the Assets.

13. Sale Hearing

A hearing to approve the sale of Assets to the Successful Bidder shall be conducted by the Court within 28 days of the conclusion of the Auction at 330 University Avenue, Toronto, Ontario (the "Sale Hearing"). Following the approval of the sale to the Successful Bidder at the Sale Hearing, if such Successful Bidder fails to consummate the sale in accordance with the terms and conditions of the purchase agreement of the Successful Bidder, the Debtors shall be authorized, but not required, to deem the Back-up Bid, as disclosed at the Sale Hearing, the Successful Bid and the Debtors shall be authorized, but not required, to consummate the sale with the Back-up Bidder and upon so doing the Back-up Bidder shall be deemed to be the Successful Bidder, subject to approval by the Court, which approval may be sought by the Debtors on a conditional basis at the Sale Hearing, at the Debtors' discretion.

14. Return of Good Faith Deposit

Good Faith Deposits of all Qualified Phase II Bidders shall be held in an interest-bearing account. Good Faith Deposits of all Qualified Phase II Bidders, other than the Successful Bidder and the Back-Up Bidder shall be returned to such Qualified Phase II Bidders two (2) business days after the selection of the Successful Bidder and Back-Up Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Good Faith Deposit of the Back-Up Bidder shall be held in an interest-bearing account until two (2) business days after the closing of the transactions contemplated by the Successful Bid, and thereafter returned to the Back-Up Bidder. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Debtors shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-Up Bidder, the Good Faith Deposit of the Back-Up Bidder shall be applied to the purchase price of the transactions contemplated by the purchase agreement of the Back-Up Bidder at closing.

15. Modifications and Reservations

These Bidding Procedures may be modified or amended only upon the express written consent of the Debtors, after consultation with the Monitor, and, if such modification or amendment materially deviates from these Bidding Procedures, with the written consent of the Stalking Horse Bidder, or by order of the Court.

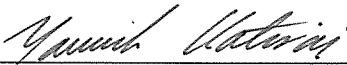
The Debtors may, after consultation with the Monitor, reject at any time before entry of an order of the Court approving a Successful Bid, any Bid (except the Stalking Horse Agreement, other than in accordance with its terms) that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the CCAA, these Bidding Procedures, or the terms and conditions of sale, or (c) contrary to the best interests of the Debtors, their estates and creditors thereof.

16. Investment Bid

Notwithstanding any other provision of these Bidding Procedures, if a Qualified Phase II Bidder submits an investment bid involving a restructuring, recapitalization or other form of reorganization of the business and affairs of the Debtors, or either one of them, as a going concern or a plan of compromise and arrangement concerning the Debtors, or either one of them, which the Debtors, after consultation with the Monitor, consider would result in a greater value being received for the benefit of the Debtors' creditors than the Qualified Phase II Bids, then the Debtors may consider such investment bid a Qualified Phase II Bid and allow such Qualified Phase II Bidder to participate in the Auction, notwithstanding that such investment bid does not otherwise comply with the terms of Section 8 of these Bidding Procedures. In such case, the Debtors, with the assistance of their advisors and in consultation with the Monitor, may adopt appropriate rules to facilitate such Qualified Phase II Bidder's participation in the Auction.

TAB B

This is Exhibit "B"
to the affidavit of Peter Kalins,
sworn before me on the 9th day
of May, 2012



Commissioner for Taking Affidavits

Yusuf Yannick Katirai, a
Commissioner etc., Province of Ontario,
while a student-at-law.
Expires April 12, 2013.

AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (this "**Agreement**") is made and entered into as of this 24th day of April, 2012, between BECANCOUR SILICON INC., a corporation subject to the *Business Corporations Act* (Québec) ("**BSI**"), TIMMINCO LIMITED, a corporation incorporated under the *Canada Business Corporations Act* ("**Timminco**" and together with BSI, the "**Vendors**"), and WACKER CHEMIE AG, a corporation incorporated under the laws of Germany (the "**Purchaser**" and/or the "**Guarantor**")

RECITALS:

- (A) Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 3, 2012 (as amended and as may be further amended or restated from time to time, the "**Initial Order**"), the Vendors are subject to proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");
- (B) Pursuant to a further order of the Court dated March 9, 2012 (as amended or restated from time to time, the "**Bidding Procedures Order**"), the Court, *inter alia*, approved certain bidding procedures, attached as Schedule "A" thereto, for the solicitation of offers or proposals for the acquisition of the Vendors' property, assets and undertaking, or some portion thereof (the "**Bidding Procedures**");
- (C) The Vendors desire to sell certain of their assets and the Purchaser has agreed, subject to the selection of this Agreement as the Successful Bid or Back-Up Bid in accordance with the Bidding Procedures, to purchase certain assets of the Vendors, subject to the terms and conditions set forth in this Agreement and in accordance with section 36 and other provisions of the CCAA and the Bidding Procedures Order.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Vendors, the Purchaser and the Guarantor agree as follows:

SECTION 1 INTERPRETATION

1.2 Definitions

In this Agreement:

- (a) "**Affiliate**" has the meaning ascribed to that term under National Instrument 45-106 - Prospectus and Registration Exemptions of the Canadian Securities Administrators;
- (b) "**Agreement**" has the meaning set out in the recitals hereto;
- (c) "**Antitrust Clearances**" means any approvals or clearances required to be obtained from a Governmental Authority in the jurisdictions in which the

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Purchaser, following consultation with the Vendors, has determined, acting reasonably, that a filing is required under any applicable antitrust, competition or similar Applicable Law in order to consummate the transactions contemplated by this Agreement and/or the expiry, termination or waiver of any waiting periods in the jurisdictions in which the Purchaser, following consultation with the Vendors, has determined, acting reasonably, that a filing is required under any applicable antitrust, competition or similar Applicable Law required in order to consummate the transactions contemplated by this Agreement;

- (d) **“Applicable Law”** means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event;
- (e) **“Approval and Vesting Order”** means an order by the Court approving this Agreement, authorizing the Transaction and vesting in the Purchaser all the right, title and interest of the Vendors in and to the Purchased Assets free and clear of all Encumbrances, other than Permitted Encumbrances, in form and substance acceptable to the Parties, acting reasonably;
- (f) **“Assignment and Assumption Agreement”** means an agreement to be entered into between the Purchaser and the Vendors to be effective as of the Closing Time wherein the Vendors shall assign the Contracts to the Purchaser and the Purchaser shall thereafter assume the Assumed Obligations;
- (g) **“Assignment Order”** means an order or orders of the Court pursuant to Section 11.3 and other applicable provisions of the CCAA, in form and substance satisfactory to the Purchaser, acting reasonably, (i) authorizing and approving the assignment of any Contract for which a Consent and Approval has not been obtained (including the DCC Consent) and preventing any counterparty to the Contract from exercising any right or remedy under the Contract by reason of any defaults arising from the CCAA Proceedings or the insolvency of the Vendors and (ii) where no DCC Consent has been obtained, the vesting in the Purchaser of all right, title and interest of BSI in and to the QSLP Equity and the QSLP Contracts free and clear of any rights or remedies of DCC arising under any QSLP Contract in connection with (A) the transfer of the QSLP Equity or such QSLP Contract contemplated hereunder, (B) the Vendors’ insolvency or CCAA Proceedings, or (C) any pre-Closing breach of contract;
- (h) **“Assumed Obligations”** has the meaning set out in Section 2.4(a);

- (i) "Auction" has the meaning set out in the Bidding Procedures;
- (j) "Back-Up Bid" has the meaning set out in the Bidding Procedures;
- (k) "Benefit Plans" means all oral or written plans, arrangements, agreements, programs, policies, practices or undertakings of each Vendor with respect to some or all of the Employees and which provide for or relate to:
 - (i) bonus, profit sharing or deferred profit sharing, performance compensation, deferred or incentive compensation, supplemental retirement arrangements, share compensation, share purchase or share option, share appreciation rights, phantom stock, vacation or vacation pay, sick pay, employee loans, or any other compensation in addition to salary; or
 - (ii) insured or self-insured benefits for or relating to income continuation or other benefits during absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident, death or survivor's benefits, supplementary employment insurance, day care, tuition or professional commitments or expenses and perquisites or similar employment benefits;
- (l) "Bidding Procedures" has the meaning set out in the recitals hereto;
- (m) "Bidding Procedures Order" has the meaning set out in the recitals hereto;
- (n) "Books and Records" means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including tax and accounting books and records, used or intended for use by, and in the possession of, either Vendor, in connection with the ownership, or operation of the Purchased Assets, including the Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, credit records, records relating to suppliers and other data, in each case, relating to the Purchased Assets;
- (o) "BSI Leased Real Property" means the leased real property referred to under the heading "Leased Property" in Schedule "B", which for greater certainty shall not include any personal property located therein;
- (p) "BSI Owned Property" means the real property referred to under the heading "Owned Property" in Schedule "B", which for greater certainty shall not include any personal property located therein;

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- (q) "BSI Working Capital" means the Silicon Metals Accounts Receivable, inventory and prepaid expenses of BSI set out in Schedule "L";
- (r) "Business Day" means a day on which banks are open for business in Toronto, Montreal and New York but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario, or the Province of Québec or the State of New York;
- (s) "Business Transfer Agreement" means the Business Transfer Agreement dated September 30, 2010 among BSI and QSLP, by its general partner, QSGP;
- (t) "C\$" and "\$" means the lawful currency of Canada;
- (u) "CCAA" has the meaning set out in the recitals hereto;
- (v) "CCAA Proceedings" has the meaning set out in the recitals hereto;
- (w) "Claims" means any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person;
- (x) "Closing" means the successful completion of the Transaction;
- (y) "Closing Cash Payment" has the meaning set out in Section 3.3;
- (z) "Closing Cash Purchase Price" has the meaning set out in Section 3.3;
- (aa) "Closing Date" means the later of (i) two (2) Business Days following the twenty-second (22nd) day after the date on which the Approval and Vesting Order is granted, (ii) two (2) Business Days following the satisfaction or waiver of all conditions to Closing other than the payment of the Closing Cash Payment which shall be paid on the Closing Date, or (iii) such other date as agreed to in writing by the Parties;
- (bb) "Closing Date Draft Statement of QSLP Working Capital" has the meaning set out in Section 3.10(a);
- (cc) "Closing Date Statement of QSLP Working Capital" has the meaning set out in Sections 3.10(d) and 3.10(e);
- (dd) "Closing Time" means 2:00 p.m. (Toronto time) on the Closing Date;
- (ee) "Collective Agreements" means all collective bargaining or similar agreements with any type of Employee representative applying or relating to any Employee of either of the Vendors, including the Convention Collective de Travail (the "BSI Collective Agreement") between BSI, QSLP

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and La Section Locale 184 du Syndicat Canadien des Communications, de l'Énergie et du Papier dated February 28, 2011 relating to BSI's hourly employees;

- (ff) **"Competition Act"** means the *Competition Act* (Canada) as amended, and includes the regulations promulgated thereunder;
- (gg) **"Consents and Approvals"** means the consents, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) as may be required to complete the Transaction (including without limitation the Antitrust Clearances), in form and substance (including without limitation the quantum of the Consent Costs) satisfactory to the Purchaser, acting reasonably, as set forth in Schedule "K", and which are effective as of the Closing Time;
- (hh) **"Consent Cost"** has the meaning set out in Section 1.2(kk), for greater certainty and without limitation, Consent Costs do not include any amounts owing to or incurred by the Monitor or its or the Vendors' advisors;
- (ii) **"Contracts"** means all of the contracts and other written agreements to which the Vendors or either one of them are parties constituting part of the Purchased Assets;
- (jj) **"Court"** has the meaning set forth in the recitals hereto;
- (kk) **"Cure Costs"** means collectively, (i) the amounts, if any, that are required to be paid under section 11.3 of the CCAA to cure any monetary defaults in connection with the assignment of the Contracts to the Purchaser under section 11.3 of the CCAA; and (ii) such other reasonable costs required to obtain any Consent and Approval (such reasonable costs required to obtain any Consent and Approval, the **"Consent Cost"**);
- (ll) **"DCC"** means any one or more of Dow Corning Canada, Inc., DC Global Holdings S.à.r.l. (formerly Dow Corning Netherlands, B.V.), Dow Corning Corporation or their Affiliates as applicable;
- (mm) **"DCC Consent"** means the consent to the transfer to the Purchaser (or its permitted assigns in accordance with Section 8.11) hereunder of the QSLP Equity and of all of the Contracts to which DCC is a party, and waiver by DCC of any and all rights it has or will become entitled to under any QSLP Contract due to (i) the transfer of the QSLP Equity hereunder, or (ii) the Vendors' insolvency or CCAA Proceedings, or (iii) any pre-Closing breach of contract, such consent and waiver to be in form and substance satisfactory to the Purchaser, acting reasonably;
- (nn) **"Deposit"** has the meaning set forth in Section 3.4;

- (oo) "DIP Facility" means the super-priority credit facility provided to the Vendors by QSI Partners Ltd. pursuant to the DIP Agreement dated January 18, 2012 between the Vendors and QSI Partners Ltd., as amended from time to time;
- (pp) "Disclosure Letter" means the disclosure letter executed by the Vendors and delivered to the Stalking Horse Bidder prior to the execution of the Stalking Horse Agreement (as defined in the Bidding Procedures Order);
- (qq) "Draft Statement of BSI Working Capital" has the meaning set forth in Section 3.7(a);
- (rr) "Employee" means an individual who is, or previously was, employed or retained by either Vendor, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long term disability leave;
- (ss) "Encumbrances" means any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, adverse claim or right of a third party or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease);
- (tt) "Estimated BSI Working Capital Statement" means the forecasted working capital balances set forth in Schedule "L";
- (uu) "Excise Tax Act" means the *Excise Tax Act* (Canada), as amended;
- (vv) "Excluded Assets" means any and all properties, rights, assets and undertakings of the Vendors that do not constitute the Purchased Assets;
- (ww) "Excluded Equipment" means any equipment or machinery and any parts and components thereof, that are Excluded Assets;
- (xx) "Framework Agreement" means the Framework Agreement dated as of August 10, 2010 entered into by and among DCC, Timminco and BSI as amended by (i) a letter agreement dated March 31, 2011; and (ii) Amendment No. 1 dated November 1, 2011;
- (yy) "Governmental Authority" means any domestic or foreign government, whether federal, provincial, state, territorial, municipal or supra-national; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation;

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- (zz) "Guaranteed Obligations" has the meaning set forth in Section 7.1(a);
- (aaa) "HP2 Severance Transaction Documents" means, collectively, (i) a deed of servitude by which QSGP shall establish by destination of proprietor, mutual and reciprocal real servitudes against and in favour of the property located at 6400 Yvon-Trudeau, Bécancour, Quebec (the "HP2 Property") and the property located at 6500 Yvon-Trudeau, Bécancour, Quebec (the "Facility"), in order to address operational, maintenance, cost sharing, access and other related matters between the Facility and the HP2 Property, including servitudes for illegal views, optical fibres, internet, telephone lines and systems, parking, access to Yvon-Trudeau Street, passage, locker room, security, shared equipment, water, sewer, natural gas, electricity, fire safety systems and equipment, spur lines, shipping and receiving doors and/or compressed air; (ii) a deed of sale for a nominal amount of \$1 between BSI as vendor to QSGP, acting as general partner of QSLP, as purchaser, of dust collector No. 21 located on the HP2 Property and the related duct connecting Furnaces No. 2 located on the Facility; (iii) a deed of sale under which QSGP, the registered owner of the HP2 Property, shall transfer legal title to the HP2 Property to BSI, its current beneficial owner; and (iv) following the registration in the land register of the deeds referred to in above paragraphs (i) and (iii), a termination agreement of the nominee agreement concerning the HP2 Property entered into on September 30, 2010 between BSI, as owner, and QSGP, as nominee; in each case, in substantially the form provided by BSI to the Stalking Horse Bidder under cover of letter dated March 1, 2012 or such other form agreed between the Vendors and the Purchaser, acting reasonably;
- (bbb) "IFRS" means the International Financial Reporting Standards, namely the standards, interpretations and the framework for the preparation and presentation of financial statements (in the absence of a standard or an interpretation) adopted by the International Accounting Standards Board(IASB), consistently applied;
- (ccc) "Income Tax Act" means the *Income Tax Act* (Canada), as amended;
- (ddd) "Initial Order" has the meaning set out in the recitals hereto;
- (eee) "Intellectual Property" means, any interest in any and all intellectual and industrial property of any kind in any jurisdiction throughout the world, including: (i) all software, computer programs, layouts, interfaces, templates, applications and tools, and code of all types, including object and source code, and including ephemeral aspects, "look and feel", graphic design and user interface design ("Software"); (ii) all information and data, databases, database layouts and data structures (whether or not subject to copyright protection) ("Databases"); (iii) all literary, graphical, pictorial, artistic, audio-visual and other works, including webpages and

webpage designs, templates, scripts, and similar material, and all compilations of any of the foregoing (collectively, together with Software and Databases, “Works”); (iv) all trade-marks, trade names, service marks, trade dress, logos and other marks and associated goodwill (“Marks”); (v) all domain names, patents, inventions, discoveries, arts, systems, methods, processes, machines, manufactures, developments and improvements (“Inventions”); (vi) all industrial designs; all formulae, confidential information, proprietary information, trade secrets and know how (“Know-How”); and (vii) any other works or other subject-matter that is subject to intellectual or industrial property protection under the laws of any jurisdiction throughout the world; in all cases of the foregoing whether or not registrable, registered or the subject of applications for registration, including Intellectual Property Rights;

- (fff) “**Intellectual Property Rights**” means: (i) any and all statutory, common law or other intellectual and industrial property rights and interests of any kind or nature in and to Intellectual Property, including all copyrights and other rights in and to Works, moral rights and benefits in all waivers of moral rights, patents, patent rights and other rights in and to Inventions, rights to Marks, rights and benefits in and to domain name registrations, industrial design and design patent rights, trade secret rights and other rights in and to Know-How, (ii) all registrations, pending applications for registration, and rights to file applications, and rights of priority, renewal, extensions, divisionals, continuations (in whole or in part) or other derivative applications and registrations, for any of the foregoing; (iii) all licenses or other contractual rights in and to any of the foregoing (including third party software licenses) and all licenses granted in respect of any of the foregoing Intellectual Property, rights and interests; (iv) all future income and proceeds from any of the foregoing Intellectual Property, rights, interests or licenses; and (v) all rights of enforcement and to obtain remedies, including to damages and profits, by reason of past, present or future infringement of any of the foregoing Intellectual Property, rights, interests or licenses;
- (ggg) “**Interim Financing**” means interim financing to be provided by the Purchaser to the Vendors on a secured basis, which security shall be subject only to the Administration Charge (as defined in the Initial Order), the D&O Charge (as defined in the Initial Order), the KERP Charge (as defined in the Order granted in the CCAA Proceedings on January 16, 2012, as amended or restated from time to time) and the DIP Lenders’ Charge (as defined in the Order granted in the CCAA Proceedings on February 8, 2012, as amended or restated from time to time), and, to the extent applicable, on terms and conditions substantially equal to the terms and conditions of the DIP Facility; if Interim Financing is required, the Purchaser shall execute Interim Financing documentation in form and substance satisfactory to the Vendors, the Purchaser and the Monitor, acting reasonably, all as further detailed under Section 3.11 hereunder;

- (hhh) "Investment Canada Act" means *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.), as amended;
- (iii) "Litigation Claims" means, collectively, (i) any and all rights of actions or claims whatsoever of either Vendor against third parties arising by reason of any facts or circumstances that occurred or existed before the Closing but excluding any such rights of actions or claims of either Vendor against counterparties to any Contract, and (ii) all amounts owing or received in respect of any such rights of actions or claims;
- (jjj) "Material Adverse Change" means any one or more changes, effects, events or occurrences that, individually or in the aggregate:
- (a) is, or would reasonably be expected to be, material and adverse to the business, properties, assets, liabilities (contingent or otherwise), condition (financial or otherwise), capitalization, operations or results of operations of QSLP and the Purchased Assets, taken as a whole; or
 - (b) prevents or materially delays or would reasonably be expected to prevent or materially delay the Vendors from consummating the Transaction;
- other than, in the case of clause (a) or (b), any change, effect, event or occurrence (i) in or relating to the CCAA Proceedings, (ii) in or relating to general political, economic or financial conditions in Canada, or (iii) in or relating to the industry involving the mining, processing and sale of silicon, in general, and which in the case of paragraph (i), (ii) and (iii) does not have a materially disproportionate effect on QSLP and the Purchased Assets, taken as a whole;
- (kkk) "Monitor" means FTI Consulting Canada Inc. in its capacity as Monitor of the Vendors in the CCAA Proceedings;
- (lll) "Monitor's Certificate" means the certificate to be filed with the Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Monitor has received the Closing Cash Purchase Price;
- (mmm) "Ordinary Course of Business" means the ordinary course of business of the Vendors with respect to the Purchased Assets consistent with the conduct of such business on the date hereof and consistent with the Orders of the Court in the CCAA Proceedings;
- (nnn) "Output and Supply Agreement" means the output and supply agreement among QSLP, BSI and DCC dated October 1, 2010, as amended;

- (ooo) "Parties" means, collectively, the Purchaser, the Guarantor and each of the Vendors, and "Party" means any one of them;
- (ppp) "Pension Plans" means any registered or unregistered pension plans of or sponsored by the Vendors, including the following: (i) the Retirement Pension Plan for the Hourly Employees of Timminco Metals, a Division of Timminco, at the Haley Plant (Ontario Registration Number 0589648), (ii) the Régime de Rentes pour les Employés Non Syndiqués de Silicium Bécancour Inc. (Québec Registration Number 26042), (iii) the Régime de Rentes pour les Employés Syndiqués de Silicium Bécancour Inc. (Québec Registration Number 32063) and (iv) the Pension Plan for the Timminco Salaried Employees (Ontario Registration Number 1039312);
- (qqq) "Permitted Encumbrances" means only those Encumbrances related to the Purchased Assets listed on Schedule "E" hereto, which the Purchaser, in connection with the Approval and Vesting Order, shall be entitled to seek to further limit or narrow; provided that, any refusal by the Court to grant the Approval and Vesting Order in respect of any such further limited or narrowed list of Permitted Encumbrances shall not constitute a failure to satisfy the condition in Section 5.3(b) hereof so long as the Court grants the Approval and Vesting Order in respect of the Permitted Encumbrances listed on Schedule "E" hereto;
- (rrr) "Person" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, governmental authority or other entity however designated or constituted;
- (sss) "Post-Filing Costs" means any amounts owing or incurred and not paid under the Contracts arising from and after the commencement of the CCAA Proceedings to but excluding the Closing Date;
- (ttt) "Post-Retirement Liabilities" mean: (i) with respect to Employees whose employment is or was governed by a Collective Agreement (including retirees), all liabilities and obligations for the post-retirement benefits provided under the Collective Agreements or under Benefit Plans; and (ii) with respect to non-unionized Employees (including retirees), all liabilities and obligations for the post-retirement benefits provided under the Benefit Plans, as applicable;
- (uuu) "Purchase Price" has the meaning set out in Section 3.1;
- (vvv) "Purchased Assets" means, collectively and subject to Section 2.1, (i) the Purchased Silicon Metal Assets, (ii) the BSI Owned Property, and (iii) the BSI Leased Real Property;

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- (www) "Purchased Silicon Metal Assets" means all of BSI's right, title and interest, in and to those assets and rights set forth in Schedule "A" including the following: the QSLP Equity, the QSLP Contracts, the Silicon Metal Contracts and the ancillary assets and other property set forth in Schedule "A";
- (xxx) "QSGP" means Québec Silicon General Partner Inc., a corporation formed under the laws of Québec, and its successors and assigns;
- (yyy) "QSLP" means Québec Silicon Limited Partnership, a limited partnership formed under the laws of Québec, and its successors and assigns;
- (zzz) "QSLP Contracts" means the Contracts relating to the formation, transfer of assets into, and governance of, QSLP set forth in Schedule "F"; provided that the Framework Agreement and the Business Transfer Agreement shall only be included in the term "QSLP Contracts" if DCC provides written confirmation to the Purchaser, on or before the Closing Date, that neither the Purchaser nor the Guarantor are or shall be held liable under or in connection with Section 9.1 of the Framework Agreement. For the avoidance of doubt, the Purchaser shall assume all obligations arising under the QSLP Contracts on or after the Closing Date, but with respect to the obligations under Section 6.7(f) of the Framework Agreement if and to the extent that the Framework Agreement shall be included in the term QSLP Contracts in accordance with the terms of this Agreement, 75% of such obligations under Section 6.7(f) of the Framework Agreement;
- (aaaa) "QSLP Current Assets" means, at any date, all current assets of QSLP, determined on a consolidated basis as of such date in accordance with IFRS (including, for greater certainty, cash, cash equivalents and all other current assets set forth in Schedule "M"), plus the aggregate amount of capital expenditures or other expenditures made from the date of this Agreement to such date on account of loss or damage to assets of QSLP or interruption of business of QSLP but only to the extent such amounts are recoverable under insurance policies of QSLP but not yet received by QSLP, and provided however that any such add back of any such capital expenditures or other expenditures will (i) be subject to providing the Purchaser with evidence satisfactory to it, acting reasonably, that such loss or damage is insured and such amounts will be recovered under such insurance policies and (ii) will not be included if the insurance proceeds are otherwise included as a current asset under IFRS. For greater certainty, the parties agree that the total of QSLP Current Assets as of end of January 2012 amounted to C\$ 34.649 million as reflected on Schedule "M";
- (bbbb) "QSLP Current Liabilities" means, at any time, all current liabilities of QSLP, determined on a consolidated basis as of such time in accordance with IFRS (including, for greater certainty, all financial debt (including but

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not limited to any line of credit from the shareholders of QSLP) and all current liabilities set forth in Schedule "M"). For greater certainty, the parties agree that the total of QSLP Current Liabilities as of end of January 2012 amounted to C\$28.373 million as reflected on Schedule "M";

- (cccc) "QSLP Equity" means, collectively, 51,000 units in the capital of QSLP and 51 Class A Shares in the capital of QSGP, in each case, registered in the name of BSI;
- (dddd) "QSLP Mineral Rights" means the Mining Lease BM674 issued by the Ministry of Natural Resources and Wildlife to BSI (then called Électro-métallurgie S.K.W. Canada ltée) on January 13, 1976, as renewed, extended and amended;
- (eeee) "QSLP Real Property" means the real property municipally known as 6500 Yvon-Trudeau Street, Bécancour, Québec, known and designated as being lot number 4 702 498 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2);
- (ffff) "QSLP Working Capital" means as at any date the amount of the QSLP Current Assets minus the QSLP Current Liabilities in each case as of such date;
- (gggg) "Representative" means, in respect of a Party, each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates;
- (hhhh) "Sales Tax" means all taxes, interest, penalties and fines imposed under Part IX of the *Excise Tax Act* and *An Act Respecting the Québec Sales Tax* (Québec) and the regulations made thereunder and "Sales Tax Legislation" means all such acts and regulations;
- (iiii) "Sample QSLP Working Capital Statement" means the sample QSLP working capital statement set forth in Schedule "M";
- (jjjj) "Shortfall" means 5,440 metric tons of silicon metal to be sold by QSLP to DCC on a monthly basis from January 1, 2011 to December 31, 2012, in order to replace that certain amount of silicon metal that was part of the QSLP production allocation that DCC was entitled to receive but was instead sold to by QSLP to BSI pursuant to Section 2.2(b) of the Output and Supply Agreement;
- (kkkk) "Silicon Metal Accounts Receivable" means all accounts receivable (net of doubtful accounts) owing to BSI in respect of the silicon metals business of BSI except for (i) any tax refunds or credits or (ii) any Litigation Claims;

- (llll) "Silicon Metal Contracts" means the Contracts relating solely to the Purchased Silicon Metal Assets set forth in Schedule "G";
- (mmmm) "Specific Conveyances" means all conveyances, deeds of transfer, share transfers, bills of sale, assignments and transfers that are reasonably required to transfer the Purchased Assets to the Purchaser in customary form consistent with Section 2.2;
- (nnnn) "Stalking Horse Bidder" has the meaning set forth in the Bidding Procedures Order;
- (oooo) "Statement of BSI Working Capital" has the meaning set forth in Section 3.7(d) or 3.7(e), as applicable;
- (pppp) "Successful Bid" has the meaning set out in the Bidding Procedures;
- (qqqq) "Successful Bidder" has the meaning set out in the Bidding Procedures;
- (rrrr) "Termination Date" means July 1, 2012 or, in the event the Agreement is the Back-Up Bid, 60 days from the date the Purchaser receives written notice that the Purchaser is the Successful Bidder in accordance with Section 3.4 hereof;
- (ssss) "Transaction" means the transaction of purchase and sale contemplated by this Agreement;
- (tttt) "Transfer Taxes" means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including Sales Tax but excluding any taxes imposed or payable under the Income Tax Act and any other applicable income tax legislation;
- (uuuu) "Vendors" has the meaning set out in the recitals hereto; and
- (vvvv) "Wacker Contract" means the Long-Term Supply Agreement dated June 1, 2011, and effective January 1, 2011 between BSI and the Guarantor, as amended from time to time.

1.3 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression

"Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement.

1.4 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

1.5 Schedules

The following Schedules are incorporated in and form part of this Agreement:

Schedule "A"	-	Purchased Silicon Metal Assets
Schedule "B"	-	Real Property
Schedule "C"	-	Intentionally Deleted
Schedule "D"	-	Intentionally Deleted
Schedule "E"	-	Permitted Encumbrances
Schedule "F"	-	QSLP Contracts
Schedule "G"	-	Silicon Metal Contracts
Schedule "H"	-	Intentionally Deleted
Schedule "I"	--	Monthly Reimbursement
Schedule "J"	-	Intentionally Deleted
Schedule "K"	-	Consents and Approvals
Schedule "L"	-	Estimated BSI Working Capital Statement
Schedule "M"	-	Sample QSLP Working Capital Statement
Schedule "N"	-	Access Agreement Term Sheet

SECTION 2 SALE AND PURCHASE AND ASSIGNMENT

2.1 Sale and Purchase of Assets

Subject to the terms and conditions hereof, at the Closing Time, the Vendors hereby agree to sell, assign and transfer to the Purchaser and the Purchaser hereby agrees to purchase from the Vendors, all of the Vendors' right, title and interest in and to the Purchased Assets free and clear of all Encumbrances other than Permitted Encumbrances. The Vendors may, in their sole discretion, by notice to the Purchaser on or prior to the date of the Auction, elect to exclude either the BSI Owned Property or the BSI Leased Real Property or both from the Purchased Assets, in which case reference herein to "Purchased Assets" shall be deemed not to include the BSI Owned Property and/or the BSI Leased Real Property, as the case may be.

2.2 Assignment of Purchased Assets

Subject to the conditions and terms hereof, at the Closing Time, the Vendors shall assign to the Purchaser all of the Vendors' rights, benefits and interests in and to the

Contracts and the Purchaser shall assume the obligations and liabilities of the Vendors under the Contracts at the Closing Time (including Cure Costs but excluding Post-Filing Costs). Notwithstanding the foregoing, this Agreement and any document delivered under this Agreement shall not constitute an assignment or an attempted assignment of any Purchased Asset contemplated to be assigned to the Purchaser under this Agreement that is not assignable without the Consent and Approval of a third party unless (i) such Consent and Approval has been obtained or (ii) the assignment has been ordered by the Court.

Prior to the application for the Approval and Vesting Order, the Vendors shall use their commercially reasonable efforts to obtain any Consent and Approval necessary for the assignment of any Contract to the Purchaser, including the DCC Consent. The Purchaser shall provide its reasonable cooperation to assist the Vendors in obtaining any such Consents and Approvals.

To the extent any Consent and Approval, including the DCC Consent, necessary for the assignment of any Contract to the Purchaser is not obtained prior to the application for the Approval and Vesting Order, the Vendors shall bring an application to the Court for approval of the Assignment Order.

2.3 "As is, Where is"

The Purchaser acknowledges that the Vendors are selling the Purchased Assets on an "as is, where is" basis as they shall exist at the Closing Time. Except as otherwise provided in Section 4.2(c) and 4.2(d), the Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendors do not guarantee title to the Purchased Assets. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendors to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario), as amended, the Civil Code of Québec or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Purchased Assets contained in the Schedules is for purpose of identification only. Except as otherwise provided in Section 4.2, no representation, warranty or condition has or will be given by the Vendors concerning completeness or accuracy of such descriptions.

2.4 Assumed Obligations

- (a) The Purchaser shall assume and perform, discharge and pay when due the debts, liabilities and obligations under the Contracts (to the extent assigned or transferred to the Purchaser on Closing) incurred as of the Closing Time but which are not due and payable as of the Closing Time and all Cure Costs (other than Post-Filing Costs) of the Vendors (the "Assumed Obligations") after the Closing. Notwithstanding anything to the contrary contained herein, in no event shall the Purchaser's obligations to pay Cure Costs hereunder exceed a maximum aggregate amount of C\$10,000,000. For the avoidance of doubt, if and to the extent the Framework Agreement shall be included in the QSLP Contracts, the Purchaser shall fully assume

the obligations of BSI set out under section 6.7 (f) thereof, and the maximum aggregate amount of C\$10,000,000 as set out in this section 2.4 shall not apply to such obligations.

- (b) The Purchaser assumes and undertakes to indemnify DCC and/or QSLP, without set-off or counterclaim, for 75% of the aggregate amount which they collectively are held liable under (a) the Régime de Rentes pour les Employés Syndiqués de Silicium Bécancour Inc. (Québec Registration Number 32063) (the "BSI Union Pension Plan") and (b) the Benefit Plans relating to BSI hourly retirees under the BSI Collective Agreement (the "BSI Union Benefit Plans"), subject to the following conditions:
- (i) DCC provides the DCC Consent;
 - (ii) DCC provides written confirmation to the Purchaser, on or before the Closing Date, that neither the Purchaser nor the Guarantor are or shall be held liable under or in connection with Section 9.1 of the Framework Agreement;
 - (iii) DCC indemnifies QSLP and the Purchaser, without set-off or counterclaim, for the remaining 25% of such amounts if QSLP or the Purchaser are held liable in respect of the BSI Union Pension Plan or the BSI Union Benefit Plans; and
 - (iv) the Purchaser hereby waives any rights of subrogation acquired by it by reason of payment of any indemnification obligations to DCC or QSLP under this Section 2.4(b) or section 6.7(f) of the Framework Agreement.

2.5 Excluded Obligations

Other than the Assumed Obligations, and all the obligations to be assumed pursuant to Sections 3.6 and 6.5, the Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any debts, liabilities or other obligations of the Vendors (to any Person, including without limitation QSLP), including, without limiting the generality of the foregoing:

- (a) all debts, liabilities, obligations or Claims related to any Benefit Plans, Collective Agreements, Employees, Pension Plans, Post-Retirement Liabilities or any Excluded Asset;
- (b) all debts, liabilities and obligations related to any Purchased Asset (including Contracts but excluding Cure Costs) arising out of or related to the period prior to the Closing Time;
- (c) all obligations and liabilities owing by either Vendor to the other Vendor or any Affiliate thereof (for greater certainty other than Cure Costs excluding Post-Filing Costs);

- (d) all debts, liabilities and obligations for or related to any obligation for any taxes that are not expressly assumed by the Purchaser pursuant to Sections 2.4 and 3.6;
- (e) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes);
- (f) all debts, liabilities and obligations of the Vendors arising under this Agreement; and
- (g) any debts, liabilities, obligations or Claims (other than Claims under any QSLP Contracts) by any person, including without limitation QSLP, against the Vendors relating to amounts payable to, or in respect of, BSI's hourly retirees under the Collective Agreements or under the Benefit Plans.

2.6 Termination of Wacker Contract

Subject to the terms and conditions hereof, effective as of the Closing Time the following shall be and are hereby deemed to have occurred without the necessity of any further act or formality:

- (a) the Wacker Contract shall be terminated;
- (b) BSI, for and on behalf of itself and its subsidiary, affiliated, and associated corporations and entities and all of their respective successors and assigns (collectively, the "BSI Releasers"), shall forever release and discharge the Guarantor and its subsidiary, affiliated, and associated corporations and entities and all of their respective officers, directors, servants, agents, employees, successors and assigns (collectively, the "Guarantor Releasees") from any and all Claims, whether known or unknown, which the BSI Releasers now have, ever had or may hereafter have against the Guarantor Releasees by reason of any cause, matter or thing whatsoever existing at the date hereof in connection with the Wacker Contract; and
- (c) the Guarantor, for and on behalf of itself and its subsidiary, affiliated, and associated corporations and entities and all of their respective successors and assigns (collectively, the "Guarantor Releasers"), shall forever release and discharge BSI and its subsidiary, affiliated, and associated corporations and entities and all of their respective officers, directors, servants, agents, employees, successors and assigns (collectively, the "BSI Releasees") from any and all Claims, whether known or unknown, which the Guarantor Releasers now have, ever had or may hereafter have against the BSI Releasees by reason of any cause, matter or thing whatsoever existing at the date hereof in connection with the Wacker Contract.

2.7 Framework Agreement

On or before the granting of the Approval and Vesting Order and the Assignment Order, either (i) the Purchaser shall receive written confirmation from DCC in form and substance acceptable to the Purchaser that neither the Purchaser nor the Guarantor is or shall be held liable under or in connection with Section 9.1 of the Framework Agreement or (ii) the Framework Agreement and the Business Transfer Agreement shall be deemed hereby to be excluded from the Purchased Assets (including without limitation the Purchased Silicon Metal Assets, and the QSLP Contracts), without any adjustment to the Purchase Price.

SECTION 3 PURCHASE PRICE AND INTERIM FINANCING

3.1 Purchase Price

The aggregate purchase price (the "Purchase Price") payable by the Purchaser to the Vendors for the Purchased Assets is: (i) the sum of C\$32,125,000 payable in cash plus (ii) the assumption by the Purchaser of the Assumed Obligations, subject to the adjustment, if any, in accordance with Section 3.8.

3.2 Adjustment to Purchase Price

Notwithstanding the foregoing, in the event the Vendors have made the election referred to in Section 2.1 to exclude either the BSI Owned Property or the BSI Leased Real Property or both from the Purchased Assets, the Purchase Price shall be reduced as follows:

- (a) by C\$1,000,000 if only the BSI Owned Property is excluded from the Purchased Assets;
- (b) by C\$25,000 if only the BSI Leased Real Property is excluded from the Purchased Assets; or
- (c) by C\$1,025,000 if both the BSI Owned Property and the BSI Leased Real Property are excluded from the Purchased Assets.

3.3 Satisfaction of Purchase Price

Provided that all conditions of Closing have been satisfied or waived in accordance with Section 5, the Purchase Price shall be paid and satisfied on Closing as follows:

- (a) the crediting of the Deposit and any amounts owing pursuant to any Interim Financing against the cash portion of the Purchase Price;
- (b) the balance of the cash portion of the Purchase Price (the "Closing Cash Payment" and together with the Deposit, the "Closing Cash Purchase Price") shall be paid on the Closing Date by wire transfer in immediately

available funds payable to the Monitor pending further Order of the Court; and

- (c) the assumption by the Purchaser of the Assumed Obligations.

Any adjustment required to be made to the Purchase Price in accordance with Section 3.8 shall be satisfied by the payment of the appropriate amount by the Party owing such payment to the other Party entitled thereto in the manner and at the time contemplated therein.

3.4 Deposit

Effective upon the execution of this Agreement by all of the Parties, the Purchaser shall provide to the Monitor, for and on behalf of the Vendors, a deposit (the "Deposit") of 15% of the Closing Cash Purchase Price (excluding any adjustment contemplated under Section 3.2 or Section 3.8) by way of wire transfer of immediately available funds to the account designated by the Monitor. If the Closing takes place, the Deposit shall be credited against the Purchase Price. The Monitor shall return the Deposit to the Purchaser by no later than two (2) Business Days following the occurrence of the earliest of any of the following (and the Vendors shall acknowledge the same in writing to the Purchaser):

- (a) if this Agreement is not the Successful Bid or the Back-Up Bid (as determined at the closing of the Auction pursuant to section 9(e) of the Bidding Procedures);
- (b) if this Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid of another purchaser is closed; or
- (c) if the Transaction is not completed by the Termination Date and either the Vendors or the Purchaser have terminated the Transaction thereafter for any other reason other than solely as a result of the failure of the Purchaser to perform any of its obligations hereunder.

If the Successful Bid does not close and this Agreement is the Back-Up Bid, the Vendors shall immediately provide written notice to the Purchaser of this fact pursuant to the Bidding Procedures. Upon receipt by the Purchaser of such notice, the Purchaser shall be required to close the Transaction on the same terms set out herein or in the Purchaser's revised bid, as applicable, by no later than the Termination Date and the Deposit shall be credited as provided in Section 3.3.

3.5 Allocation of Purchase Price

The Purchase Price is allocated among the Purchased Assets as follows and subject to any exclusions contemplated by Section 2.1: (i) the amount of C\$1,000,000 as purchase price for the BSI Owned Property; (ii) the amount of C\$25,000 for the BSI Leased Real Property; and (iii) the balance of the Purchase Price for the remaining Purchased Assets. The Vendors and the Purchaser agree that the allocation of the Purchase Price for tax purposes among each of the classes of Purchased Assets of each of the Vendors shall be determined

and agreed upon on a date no later than five (5) Business Days before the Closing Date. Each of the Vendors and the Purchaser shall report the sale and purchase of the Purchased Assets for all tax purposes in a manner consistent with such allocation, and will complete all tax returns, designations and elections in a manner consistent with such allocation and otherwise follow such allocation for all tax purposes on and subsequent to the Closing Date and may not take any position inconsistent with such allocation.

3.6 Transfer and Other Taxes

The Parties agree that:

- (a) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all applicable Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets or the registration of any Specific Conveyance necessitated hereby (including for greater certainty all debts, liabilities and obligations of the Vendors for Transfer Taxes payable in connection with the Transactions);
- (b) the Purchaser shall indemnify the Vendors for any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) for which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes;
- (c) if applicable, they shall jointly elect that no Sales Tax be payable pursuant to the Sales Tax Legislation with respect to the purchase and sale of the Purchased Assets under this Agreement and the Purchaser will file an election pursuant to section 167 of the Excise Tax Act and s. 75 of *An Act Respecting the Québec Sales Tax* (Québec), prepared by the Purchaser and made jointly by the Purchaser and each Vendor, in compliance with the requirements of the Sales Tax Legislation; and
- (d) the Purchaser shall perform, discharge and pay when due all debts, liabilities and obligations for realty taxes in respect of the Purchased Assets attributable to the period from and after the Closing Date.

3.7 Preparation of BSI Working Capital Statement

- (a) Within 20 Business Days following the Closing Date (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing), the Purchaser will prepare and deliver to the Vendors and the Monitor a draft statement of BSI Working Capital (the "Draft Statement of BSI Working Capital") prepared as of the Closing Date. The Draft Statement of BSI Working Capital will be prepared in accordance with IFRS consistent with the Estimated BSI Working Capital Statement referred to in Schedule "L", provided that it is consistent with IFRS.
- (b) The Vendors will have 10 Business Days to review the Draft Statement of BSI Working Capital following receipt of it and the Vendors must notify

the Purchaser in writing if they have any objections to the Draft Statement of BSI Working Capital within such 10 Business Day period. The notice of objection must contain a statement of the basis of the Vendors' objections.

- (c) If the Vendors send a notice of objection of the Draft Statement of BSI Working Capital in accordance with Section 3.7(b), the Parties will work expeditiously and in good faith in an attempt to resolve such objections following the date of notification by the Vendors to the Purchaser of such objections. Failing resolution of any objection to the Draft Statement of BSI Working Capital raised by the Vendors, within 90 days following the date of notification by the Vendors to the Purchaser of such objections, the Vendors or the Purchaser may bring a motion before the Court for a determination of such objections with respect to the Draft Statement of BSI Working Capital.
- (d) If the Vendors do not notify the Purchaser of any objection in accordance with Section 3.7(b), the Parties are deemed to have accepted and approved the Draft Statement of BSI Working Capital and such Draft Statement of BSI Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of BSI Working Capital will become the "Statement of BSI Working Capital" on the next Business Day following the end of such 10 Business Day period.
- (e) If the Vendors send a notice of objection within the 10 Business Day period, the Parties will revise the Draft Statement of BSI Working Capital to reflect the final resolution amongst the Vendors and the Purchaser or final determination by the Court of such objections under Section 3.7(c) within two Business Days following such final resolution amongst the Vendors and the Purchaser or determination by the Court, as applicable. Such revised Draft Statement of BSI Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of BSI Working Capital will become the "Statement of BSI Working Capital" on the next Business Day following revision of the Draft Statement of BSI Working Capital under this Section 3.7(e).
- (f) The Purchaser and the Vendors will each bear their own fees and expenses, in preparing or reviewing, as the case may be, the Draft Statement of BSI Working Capital.

3.8 BSI Working Capital Purchase Price Adjustment

- (a) Subject to Section 3.8(c), the Purchase Price will be increased or decreased, as the case may be, dollar-for-dollar, to the extent that the BSI Working Capital, as determined from the Statement of BSI Working Capital, is more or less than C\$4,509,000.

- (b) Subject to Section 3.8(c), if the BSI Working Capital, as determined from the Statement of BSI Working Capital, is more than C\$4,509,000, the Purchaser will pay to the Vendor the amount of such difference as an increase to the Purchase Price. If the BSI Working Capital as determined from the Statement of BSI Working Capital is less than C\$4,509,000, the Vendors shall pay to the Purchaser the amount of the difference. Any amounts to be paid by the Purchaser to the Vendors, or by the Vendors to the Purchaser, under this Section will be paid within 2 Business Days after the Draft Statement of BSI Working Capital becomes the Statement of BSI Working Capital in accordance with Section 3.7(d) or Section 3.7(e), as the case may be.
- (c) If the adjustment arising from BSI Working Capital, as determined from the Statement of BSI Working Capital, would increase or decrease the Purchase Price by an amount of less than C\$150,000, then there shall be no adjustment to the Purchase Price; provided, however that any such adjustment of C\$150,000 or more shall increase or decrease the Purchase Price, dollar for dollar, for the entire amount of the adjustment.

3.9 Sufficiency of Funds

The Vendors will not distribute an amount of the Purchase Price equal to C\$4,509,000 (or, after preparation of the Draft Statement of BSI Working Capital, such lesser amount equal to the difference between C\$4,509,000 and the BSI Working Capital amount shown on the Draft Statement of BSI Working Capital) until the Statement of BSI Working Capital is determined in accordance with Section 3.7.

3.10 Preparation of QSLP Working Capital Statement

- (a) Ten Business Days prior to the expected Closing Date (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing), the Vendors will prepare in good faith and deliver to the Purchaser and the Monitor a draft statement of QSLP Working Capital (the "Closing Date Draft Statement of QSLP Working Capital") as of the Closing Date (or such other date as mutually agreed by the Vendors and Purchaser in writing). The Closing Date Draft Statement of QSLP Working Capital will be prepared in accordance with IFRS and the Sample QSLP Working Capital Statement. For the avoidance of doubt, in the Sample QSLP Working Capital Statement, a provision against certain accounts receivable from BSI amounting to approximately C\$9,700,000 has been booked and considered as of January 2012 as set forth in Schedule "M". Such provisions in at least the same amount shall also be booked and considered when calculating the QSLP Current Assets as of the Closing Date notwithstanding a potential assumption by the Purchaser hereunder of the underlying obligation to make the respective payment to QSLP.
- (b) The Purchaser will have 10 Business Days to review the Closing Date Draft Statement of QSLP Working Capital following receipt of it and the

Purchaser must notify the Vendors in writing if they have any objections to the Closing Date Draft Statement of QSLP Working Capital within such 10 Business Day period. The notice of objection must contain a statement of the basis of the Purchaser's objections.

- (c) If the Purchaser sends a notice of objection of the Closing Date Draft Statement of QSLP Working Capital in accordance with Section 3.10(b), within 90 days following the date of notification by the Vendors to the Purchaser of such objections, the Vendors or the Purchaser may bring a motion before the Court for a determination of such objections with respect to the Closing Date Draft Statement of QSLP Working Capital.
- (d) If the Purchaser does not notify the Vendors of any objection in accordance with Section 3.10(b), the Parties are deemed to have accepted and approved the Closing Date Draft Statement of QSLP Working Capital and such Closing Date Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Closing Date Draft Statement of QSLP Working Capital will become the "Closing Date Statement of QSLP Working Capital" on the next Business Day following the end of such 10 Business Day period.
- (e) If the Purchaser sends a notice of objection within the 10 Business Day period, the Parties will revise the Closing Date Draft Statement of QSLP Working Capital to reflect the final resolution amongst the Vendors and the Purchaser or final determination by the Court of such objections under Section 3.10(c) within 10 Business Days following such final resolution amongst the Vendors and the Purchaser or determination by the Court, as applicable. Such revised Closing Date Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of QSLP Working Capital will become the "Closing Date Statement of QSLP Working Capital" on the next Business Day following revision of the Closing Date Draft Statement of QSLP Working Capital under this Section 3.10.
- (f) The Purchaser and the Vendors will each bear their own fees and expenses, in preparing or reviewing, as the case may be, the Closing Draft Statement of QSLP Working Capital.
- (g) The Vendors will provide the Purchaser full access to its Books and Records and other such information reasonably necessary for it to evaluate the Closing Date Draft Statement of QSLP Working Capital.

3.11 Interim Financing

Provided that Closing is not delayed due to the failure of the Vendors to fulfill the conditions under sections 5.1 and 5.3 or any breach of the representations and warranties of

the Vendors in section 4.2, the Purchaser shall provide Interim Financing to the Vendors on the following basis:

- (a) If the Purchaser is the Successful Bidder:
 - (i) in the event Closing has not occurred by June 8, 2012, up to a maximum aggregate amount of \$2.5 million, and
 - (ii) in the event the Closing occurs after June 20, 2012, an additional amount sufficient to repay the DIP Facility; or
- (b) If the Purchaser is the Back-Up Bidder, and thereafter becomes the Successful Bidder by receipt of notice by the Purchaser from the Vendors under the last paragraph of Section 3.4 hereof:
 - (i) up to a maximum aggregate amount of \$3 million from and after the date of receipt of such notice up to and including the Closing Date.
 - (ii) the Purchaser agrees to negotiate in good faith with the Vendors in connection with the potential provision of additional interim financing to take out and assume the DIP Facility.

For greater certainty, in the event that this Agreement is the Back-Up Bid and thereafter the Purchaser is the Successful Bidder, the Purchaser shall have no obligation to provide any Interim Financing except in accordance with this subsection 3.1(b)(i).

provided that in any of the cases (a) and (b) above, the Vendors shall repay to the Purchaser any amounts owing pursuant to any Interim Financing (i) if Purchaser is the Successful Bidder or the Back-Up Bidder, and thereafter becomes the Successful Bidder, by crediting of such amount against the Purchase Price as set forth in section 3.3 (a) hereof on or before Closing, or (ii) if this Agreement is terminated for any reason, by payment into an account designated by the Purchaser, within two (2) Business Days of the earlier of the sale of the QSLP Equity or any real property and 30 days from the date of such termination.

SECTION 4 REPRESENTATIONS AND WARRANTIES

4.1 Purchaser's Representations

The Purchaser represents and warrants to the Vendors as of the date hereof and as of the Closing Time that and acknowledges that the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) as at the Closing Time, the Purchaser will be a corporation duly incorporated, organized and subsisting under the laws of Germany or, if

the Purchaser is an Affiliate of the Guarantor, under the laws of its jurisdiction of incorporation, and will have the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;

- (b) as at the Closing Time, the Purchaser will have taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein will not breach its constating documents, any agreement binding upon the Purchaser or any Applicable Laws with respect to the Purchaser;
- (c) other than the Approval and Vesting Order, the Assignment Order (if applicable), the Antitrust Clearances and any Specific Conveyances, execution, delivery and performance of this Agreement by the Purchaser does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority;
- (d) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party will be, as at the Closing Time, duly and validly executed and delivered by the Purchaser and will, as at the Closing Time, constitute legal, valid and binding obligations of the Purchaser enforceable in accordance with the terms hereof or thereof;
- (e) except in connection with the CCAA Proceedings and the Antitrust Clearances, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Purchaser affecting the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;
- (f) the Purchaser is not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;
- (g) the Purchaser has or will have made adequate arrangements to have sufficient funds available to satisfy its obligations to pay the Purchase Price as set forth in Section 3.3;
- (h) the Purchaser is controlled by a WTO Investor, within the meaning of the Investment Canada Act; and
- (i) the Purchaser and its affiliates do not have assets in Canada that exceed \$100 million or gross revenues from sales in, from or into Canada that exceed \$100 million, all as determined in accordance with Part IX of the Competition Act and the Notifiable Transactions Regulations thereunder.

4.2 Vendors' Representations

The Vendors, jointly and severally, represent and warrant to the Purchaser as of the date hereof and as of the Closing Time as follows and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Timminco is a corporation duly incorporated, organized and subsisting under the *Canada Business Corporations Act*;
- (b) BSI is a corporation duly organized and subject to and subsisting under the *Business Corporations Act (Québec)*;
- (c) except as disclosed in the Disclosure Letter, BSI has good and marketable title to the QSLP Equity, free and clear of Encumbrances other than the Permitted Encumbrances. The total issued and outstanding securities of QSLP consist of 100,010 units. The total issued and outstanding capital of QSGP consists of 51 Class A Shares and 49 Class B Shares. Except as set forth in the QSLP Contracts, there are no existing rights or privileges to acquire any unissued securities of QSLP or QSGP or any of such outstanding securities held by BSI or QSGP;
- (d) except as disclosed in the Disclosure Letter and as of the file currency date specified therein, BSI is the sole and unconditional beneficial owner of and has good and marketable title to the BSI Owned Property and is the sole and unconditional beneficial and legal owner of and has good and marketable title to and the other material Purchased Assets purported to be owned by BSI, excluding Contracts and Intellectual Property, free and clear of Encumbrances other than Permitted Encumbrances;
- (e) except as disclosed in the Disclosure Letter and as of the file currency date specified therein, (i) QSLP has good and marketable title to all of the material personal property purported to be owned by QSLP and the QSLP Real Property and has a valid leasehold interest in the QSLP Mineral Rights; (ii) the QSLP Mineral Rights are in good standing and in full force and effect; and (iii) the QSLP Mineral Rights and product derived from the QSLP Mineral Rights are not subject to or bound by any royalty, royalty interest or similar payment or interest or other Encumbrances;
- (f) except as would not result in a Material Adverse Change and except as disclosed in the Disclosure Letter, to the best of the Vendors' and their management's knowledge: (i) the use of the BSI Owned Property by BSI is in compliance with and not subject to any liability under Applicable Laws related to environmental protection, restoration and rehabilitation, occupational health and safety or natural resources matters and (ii) QSLP's operations are in compliance with and not subject to any liability under Applicable Laws related to environmental protection, restoration

and rehabilitation, natural resource or occupational health and safety matters;

- (g) except as disclosed in the Disclosure Letter, the Vendors have not licensed their rights in any Intellectual Property held by the Vendors to any Person. The Vendors have not received from any Person any notice (written or oral) that any of the Vendor's registered Intellectual Property is invalid or defective, or the use of such registered Intellectual Property is or would be infringing, misappropriating or violating in any way any Intellectual Property of such Person;
- (h) the Vendors and their management are unaware of any pending challenge to the validity of Silicon Metal Contracts or the transactions contemplated thereunder and has not received any written notice threatening any such challenge;
- (i) the aggregate amount of the Shortfall at its highest was 5,440 metric tons. As at January 30, 2012, QSLP had produced and delivered to DCC no less than 2,500 metric tons of silicon metal at BSI's request in satisfaction of BSI's obligation to DCC in respect of the Shortfall;
- (j) excluding the CCAA Proceedings, the Vendors are not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Vendors;
- (k) subject to obtaining the Approval and Vesting Order, the Vendors have the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (l) subject to obtaining the Approval and Vesting Order, each of the Vendors has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and the entering into of this Agreement and completion of the transactions contemplated herein will not breach its constating documents;
- (m) other than the CCAA Proceedings, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Vendors or affecting any of the Purchased Assets, the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Vendors;
- (n) subject to obtaining the Approval and Vesting Order, this Agreement and all other documents contemplated hereunder to which the Vendors are or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by each of the Vendors and constitute or

will, as at the Closing Time, constitute legal, valid and binding obligations of each of the Vendors enforceable in accordance with the terms hereof or thereof;

- (o) neither Vendor is a non-resident of Canada for purposes of section 116 of the Income Tax Act;
- (p) the aggregate book value of the Purchased Assets does not exceed \$330 million, as calculated in accordance with the Investment Canada Act and the regulations thereto;
- (q) the Vendors and their affiliates do not have assets in Canada that exceed \$300 million or gross revenues from sales in, from or into Canada that exceed \$300 million, all as determined in accordance with Part IX of the Competition Act and the Notifiable Transactions Regulations thereunder;
- (r) each of the Vendors is a registrant for the purposes of tax imposed under (A) *An Act Respecting the Québec Sales Tax* (Québec) with the following registration numbers for Timminco and BSI, respectively, 1000873612 and 100829788, and (B) Part IX of the Excise Tax Act with the following registration numbers for Timminco and BSI, respectively, 105289094 RT0002 and 104881412 RT0001;
- (s) each of QSLP and QSGP has paid all taxes which are due and payable by it to all applicable Governmental Authorities and has remitted all amounts that it withheld or collected on account of amounts that it was required by Applicable Law to have withheld or collected, including for all Canada Pension Plan contributions, provincial pension plan contributions, employment insurance premiums, employer health taxes, Sales Tax and any other material taxes to the appropriate Governmental Authority within the time required under Applicable Law;
- (t) no finder, broker or similar intermediary acting on behalf of the Vendors or any of their Affiliates is entitled to a commission, fee or other compensation from the Purchaser in connection with the negotiation, execution or delivery of this Agreement or the consummation of the Transaction; and
- (u) to the best of the Vendors' knowledge, information and belief, after due inquiry, there are no pre-Closing breaches of contract under the QSLP Contracts listed in items 5 and 6 of Schedule F hereto.

4.3 Limitations

With the exception of the Vendors' representations and warranties in Section 4.2 and the Purchaser's representations and warranties in Section 4.1, neither the Vendors nor the Purchaser, nor their respective Representatives, nor any of their respective officers, directors or employees make, have made or shall be deemed to have made any other representation

or warranty, express or implied, at law or in equity, in respect of the Vendors, the Purchaser, or the Purchased Assets or the sale and purchase of the Purchased Assets pursuant to this Agreement.

SECTION 5 CONDITIONS

5.1 Conditions - Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Vendors contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date;
- (b) the Vendors shall have performed in all material respects each of their obligations under this Agreement to the extent required to be performed at or before the Closing Time;
- (c) all stays of proceedings contained in the Initial Order shall have remained in effect as at the Closing Time except where any such stay is terminated or lifted or amended in a manner which is not prejudicial to the Purchaser or which does not adversely affect the Purchaser's rights under this Agreement or the Purchased Assets and the exercise of rights contained in the Initial Order has not been amended or modified in any manner prejudicial to the Purchaser as at the Closing Time;
- (d) the Approval and Vesting Order and the Assignment Order and shall have been obtained, shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom) and all appeal periods shall have expired therefrom and such Orders shall be final and binding;
- (e) each Consent and Approval, including the DCC Consent and the Antitrust Clearances, shall have been obtained as at the Closing Time or, in the absence of any such Consent and Approval, the Court shall have granted the Assignment Order in respect of such Consent and Approval (other than the Antitrust Clearances) and the Assignment Order shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom) as at the Closing Time;
- (f) after the date of this Agreement and before the Closing Time, there shall not have occurred any Material Adverse Change;
- (g) the Closing Date Statement of QSLP Working Capital shall have been determined in accordance with Section 3.10(d) or 3.10(e) and the QSLP

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Working Capital shown on the Closing Date Statement of QSLP Working Capital shall not be less than \$7,500,000;

- (h) BSI shall have delivered to the Purchaser evidence that the minimum aggregate amount of silicon metal that QSLP shall have produced and delivered to DCC at BSI's request in satisfaction of BSI's obligation to DCC in respect of the Shortfall shall be no less than the amount set forth in Schedule "I"; and
- (i) the Vendors shall deliver a certificate to the Purchaser certifying that all Post-Filing Costs and taxes payable in respect of the transactions contemplated under the HP2 Severance Transaction Documents in accordance with the valuation specified therein, that are due, have been paid or provided for, and for those incurred but not yet due, provided for.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 5.1 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set out in Section 5.1 is not satisfied or performed on or prior to the date specified therefor, the Purchaser may elect on written notice to the Vendors to terminate this Agreement.

5.2 Conditions - Vendors

The obligation of the Vendors to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date; and
- (b) the Purchaser shall have performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 5.2 may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in Section 5.2 is not satisfied or performed on or prior to the date specified therefor, the Vendors may elect on written notice to the Purchaser to terminate the Agreement.

5.3 Conditions - Purchaser and Vendors

The obligations of the Vendors and the Purchaser to complete the Transaction are subject to the following conditions being fulfilled or performed:

- (a) this Agreement is the Successful Bid (for greater certainty, in accordance with the Bidding Procedures, to the extent any Portion Bid or an Aggregated Bid is the Successful Bid (each such capitalized term as defined in the Bidding Procedures), the Purchaser shall not be obliged to complete the Transaction or purchase any subset of assets or assume any subset of liabilities which are not covered by such Portion Bid or Aggregated Bid);
- (b) the Approval and Vesting Order shall have been obtained and shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom);
- (c) no order shall have been issued by a Governmental Authority which restrains or prohibits the completion of the Transaction; and
- (d) no motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendors and the Purchaser. If the conditions set out in this Section 5.3 are not satisfied performed or mutually waived on or before the Termination Date, any Party shall have the option to terminate this Agreement upon written notice to the other Parties.

5.4 Conditions - Acceleration of Time Periods

Notwithstanding section 13 of the Bidding Procedures providing for up to 28 days to seek approval of the Transaction, on request of the Purchaser, the Vendors will use commercially reasonable efforts to bring a motion to obtain the Approval and Vesting Order and the Assignment Order as soon as is practicable prior to the expiry of such 28 day period.

5.5 Conditions - Antitrust Clearances

The Purchaser undertakes to use commercially reasonable efforts to obtain the Antitrust Clearances as quickly as possible after this Agreement is executed by all parties and the Purchaser has become the Successful Bidder:

- (a) following consultation with the Vendors, the Purchaser shall determine, acting reasonably, the jurisdictions in which filings are required under any applicable antitrust, competition or similar rules in order to obtain the Antitrust Clearances;
- (b) the Purchaser shall take all actions necessary to submit the filings required to obtain the Antitrust Clearances as promptly as possible, provided that the Purchaser has received the required information from the Vendors;
- (c) in order to ensure that the Antitrust Clearances are obtained as soon as reasonably practicable, the Purchaser shall take the lead in preparing the

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filings required to obtain the Antitrust Clearances and the Vendors shall undertake to provide the Purchaser promptly with all assistance and information available to them that is reasonably requested by the Purchaser in order to prepare the filings required to obtain the Antitrust Clearances.

- (d) the Purchaser shall share drafts of the filings or any subsequent submission with the Vendors. In this context, competitively sensitive information will only be provided to the Vendors' external counsel on an "external counsel only" basis;
- (e) the Purchaser shall not agree to the extension of any applicable review or waiting period without the consent of the Vendors. Such consent, where requested by the Purchaser, shall not be unreasonably withheld, provided however that any such extension shall not, in and of itself, extend the Termination Date or the termination rights under Section 6.10;
- (f) the Purchaser shall pay all relevant administrative fees due to the Governmental Authorities in the context of the merger control filings to obtain the Antitrust Clearances;
- (g) the Purchaser shall provide the Vendors with final copies of filings submitted to Governmental Authorities in connection with obtaining the Antitrust Clearances; except to the extent such information is competitively sensitive, in which case it shall be shared with the Vendors' external counsel only;
- (h) the Purchaser shall not be required to offer any divestments or other remedies which may be required to obtain the Antitrust Clearances;
- (i) the Purchaser shall use its reasonable commercial efforts to obtain all Antitrust Clearances by 18 June 2012 or, in those jurisdictions where the Antitrust Clearance is not available by this date, a derogation from the suspension obligation.

Notwithstanding anything herein the contrary, the Purchaser shall not disclose to the Vendors or the Vendors' counsel any information provided to it by DCC, unless DCC has consented thereto.

SECTION 6 CLOSING

6.1 Closing

Subject to the conditions set out in this Agreement, the completion of the Transaction shall take place at the Closing Time at the offices of Stikeman Elliott LLP, Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9, or as otherwise determined by mutual

agreement of the Parties in writing, but, in any event, shall take place prior to the Termination Date.

6.2 Purchaser's Deliveries on Closing

At or before the Closing Time, the Purchaser shall execute and deliver, or arrange for the delivery, as the case may be, to the Vendors the following, each of which shall be in form and substance satisfactory to the Vendors, acting reasonably:

- (a) the Closing Cash Payment;
- (b) the Assignment and Assumption Agreement and any Specific Conveyance requiring execution by the Purchaser;
- (c) payment of Transfer Taxes required by Applicable Law to be collected by any Vendor, or alternatively, if applicable, the election(s) referred to in Section 3.6(c) executed by the Purchaser;
- (d) joinders to the applicable QSLP Contracts, as required thereunder;
- (e) a document specifying the Purchase Price allocation for tax purposes provided for in Section 3.5;
- (f) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all respects the covenants to be performed by it prior to the Closing Time;
- (g) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.1 of this Agreement have been fulfilled, performed or waived as of the Closing Time;
- (h) an access agreement executed by the Purchaser substantially in accordance with the terms and conditions as set out in the access agreement term sheet attached hereto as Schedule "O" (the "Access Agreement Term Sheet") and such reasonable and customary terms, conditions, representations, warranties and covenants as typically found in agreements of this nature; and
- (i) such further and other documentation as is referred to in this Agreement or as the Vendors may reasonably require to give effect to this Agreement.

6.3 Vendors' Deliveries on Closing

At or before the Closing Time, the Vendors shall execute and deliver, or arrange for the delivery, as the case may be, to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) an executed copy of each Specific Conveyance;
- (b) all Consents and Approvals, or with respect to any Consent and Approval which is not obtained, a notarial copy of an Assignment Order in lieu of such Consent and Approval;
- (c) the Assignment and Assumption Agreement and the Books and Records relating to the Purchased Assets;
- (d) a notarial copy of the Approval and Vesting Order;
- (e) a certificate dated as of the Closing Date confirming that there has been no Material Adverse Change; that all of the representations and warranties of the Vendors contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendors have performed in all material respects the covenants to be performed by them prior to the Closing Time;
- (f) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.2 of this Agreement have been fulfilled, performed or waived as of the Closing Time;
- (g) an executed copy of the Monitor's Certificate;
- (h) stock/unit certificates or similar documents representing the QSLP Equity;
- (i) if applicable, the election(s) referred to in Section 3.6(c) executed by the Vendors;
- (j) resignation letters, effective as of the Closing Time, executed by each of the officers, directors or responsible persons nominated, elected or appointed by BSI in QSLP or QSGP;
- (k) an access agreement executed by Grupo Ferroatlantica, S.A. substantially in accordance with the terms and conditions as set out in the Access Agreement Term Sheet and such reasonable and customary terms, conditions, representations, warranties and covenants as typically found in agreements of this nature; and
- (l) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

6.4 Possession of Assets

- (a) The Vendors shall remain in possession of the Purchased Assets until Closing. Until Closing and subject to the last sentence of this Section 6.4(a), the Vendors shall (i) subject to the Orders of the Court in the CCAA Proceedings, use the Purchased Assets only in the Ordinary Course of Business and use commercially reasonable efforts to maintain, preserve and protect the Purchased Assets in the condition in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the Ordinary Course of Business, (ii) not dispose of any of the Purchased Assets other than sale of inventory in the Ordinary Course of Business, and (iii) not enter into any material contract or agreement in respect of any of the Purchased Assets other than in the Ordinary Course of Business; except, in each case, with the prior written consent of the Purchaser, not to be unreasonably withheld, and provided that any failure to respond to any such request for consent within five (5) Business Days of receipt by the Purchaser of such request shall be deemed to be consent hereunder. Until Closing, and subject to the last sentence of this Section 6.4(a), BSI shall, to the extent it is empowered to do so pursuant to the QSLP Contracts and the rights attached to the QSLP Equity, (i) cause the business of QSLP to be conducted in the ordinary course consistent with the conduct of such business on the date hereof and (ii) cause QSLP not to make any distributions to the limited partners of QSLP. BSI and QSLP may enter into the HP2 Severance Transaction Documents after the date of this Agreement and before Closing and in connection therewith BSI shall provide updated Schedules "B" and "F" and an updated Disclosure Letter to reflect the transactions contemplated under the HP2 Severance Transaction Documents and such updated Schedules and the Disclosure Letter shall be accepted by the Purchaser as Schedule "B", "F" and the Disclosure Letter, as the case may be, hereunder, provided that the Vendors shall only enter into a HP2 Severance Transaction Document if all HP2 Severance Transaction Documents are entered into on or before Closing.
- (b) On Closing, the Purchaser shall take possession of the Purchased Assets where situate at Closing. The Purchaser acknowledges that the Vendors have no obligation to deliver physical possession of the Purchased Assets to the Purchaser other than as set forth in Section 6.3(h). In no event shall the Purchased Assets be sold, assigned, transferred or set over to the Purchaser until the conditions set out in the Approval and Vesting Order have been satisfied and the Purchaser has satisfied all delivery requirements outlined in Section 6.2. The Purchaser shall promptly notify the Vendors of any Excluded Assets which may come into the possession or control of the Purchaser shall promptly release such Excluded Assets to the Vendors, or to such other Person as the Vendors may direct in writing, for greater certainty, title shall not be deemed to vest to the Purchaser in

respect of any Excluded Assets. The Vendors shall have no obligation to remove any Excluded Equipment from any premises that constitute part of Purchased Assets. The Purchaser shall permit the Vendors and their agents and representatives to have reasonable access to such premises to prepare for sale, sell and remove any such Excluded Equipment for a period of three (3) months after the Closing Date. All right, title and interest in any such Excluded Equipment which is not sold or removed from such premises after three (3) months following Closing shall vest in the Purchaser unless the Purchaser objects to such title transfer in which case, right, title and interest shall continue to vest in the applicable Vendor but the Purchaser shall be entitled to dispose of such Excluded Equipment at the Purchaser's expense.

6.5 Assumption of Obligations

At the Closing Time and conditional upon Closing, the Purchaser agrees to pay and be responsible for all the liabilities and obligations of the Vendors under the Contracts to the extent that such liabilities and obligations consist of liabilities or obligations that arise out of event or circumstances that occur after the Closing Time or are to be performed after the Closing Time.

6.6 Material Adverse Change

The Vendors shall notify the Purchaser upon the occurrence of a Material Adverse Change or the occurrence of any material loss or damage to the Purchased Assets.

6.7 Access Rights

Upon at least two (2) Business Days' prior notice by the Purchaser to the Vendors and at any time (i) after the Purchaser has become the Successful Bidder, or (ii) after notice to the Purchaser from the Vendors of the occurrence of an event or circumstance referred to in Section 6.6, the Purchaser may have reasonable access to the Purchased Assets during normal business hours and in each case prior to Closing for the purpose of enabling the Purchaser to conduct such inspections of the Purchased Assets as it deems appropriate, acting reasonably. Such inspection shall only be conducted in the presence of a representative of the Vendors, if so required at the discretion of the Vendors. The Purchaser shall not conduct any tests, drilling or other invasive action with respect to the Purchased Assets without the prior written consent of the Vendors, which consent may be withheld in the Vendors' sole and absolute discretion. The Purchaser agrees to indemnify and save the Vendors harmless from and against all claims, demands, losses, actions and costs incurred or arising from or in any way directly related to physical harm to property or people caused by the Purchaser's inspection of the Purchased Assets or the attendance of the Purchaser, its employees or agents at properties comprising part of the Purchased Assets. For greater certainty, the Purchaser shall not be responsible to indemnify and save the Vendors harmless from and against the findings of the Purchaser's inspection.

The Vendors shall continue to make the online data room available to the Purchaser, the Back-Up Bidder (as defined in the Bidding Procedures) and their respective employees and advisors.

6.8 Risk

The Purchased Assets shall be and remain at the risk of the Vendors to the extent of their interest until Closing and at the risk of the Purchaser from and after Closing. If, prior to Closing, the Purchased Assets or the assets of QSLP, including but not limited to the Facility, shall be substantially damaged or destroyed by fire or other casualty, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) days after notification to the Purchaser by the Vendors of the occurrence of damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) days of the Closing Date) in which event this Agreement shall (for greater certainty and without limitation subject to Section 6.10) be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial (or if it is substantial but the Purchaser declines its option to terminate), the Purchaser shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction provided that such damage or destruction is insured or, otherwise, to an agreed abatement. If any dispute arises under this section as to whether damage or destruction is substantial or with respect to the amount of any abatement, such dispute will be determined in accordance with Section 6.9. For the avoidance of doubt, the Parties agree with respect to damage or destruction of the QSLP Assets, the Purchaser shall not be entitled to any assignment of the proceeds of insurance payable to QSLP however such proceeds shall be distributed to the partners of QSLP subsequent to the Closing.

6.9 Dispute Resolution

If any dispute arises:

- (a) under Section 6.8 as to whether any damage or destruction is substantial or with respect to the amount of any abatement; or
- (b) with respect to any other matter related to the Transaction or the interpretation or enforcement of this Agreement;

such dispute will be determined by the Court, or by such other Person or in such other manner as the Court may direct.

6.10 Termination

This Agreement shall automatically terminate at any time prior to the Closing Time upon the occurrence of any of the following:

- (a) by mutual written agreement of the Vendors and the Purchaser;

- (b) if the Agreement is not the Successful Bid or the Back-Up Bid (as determined pursuant to the Bidding Procedures); or
- (c) if the Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid is closed.

This Agreement may be terminated at any time prior to the Closing Time upon the occurrence of any of the following:

- (d) as provided in Section 5 (provided that the terminating Party has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled) or Section 6.8; or
- (e) by any of the Parties (provided that the terminating Party has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled) if Closing shall not have occurred on or prior to the Termination Date in accordance with Section 5.3.

If this Agreement is terminated in the circumstances set out in this Section, all further obligations of the Parties under this Agreement will terminate and neither Party shall have any liability or further obligations hereunder, except as contemplated in Section 6.11, which shall survive such termination.

6.11 Effects of Termination and Closing

- (a) If this Agreement is terminated pursuant to Section 5, 6.8 or 6.10, all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of: (i) Section 3.4 (Deposit) and; (ii) Section 6.11 (Effects of Termination and Closing).
- (b) If the Transaction is not completed solely as a result of Purchaser's failure to perform any of its obligations hereunder, then the Deposit shall be forfeited to the Vendors as liquidated damages and the Vendors shall have no other rights and remedies against the Purchaser available at law or in equity.
- (c) Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

SECTION 7 PERFORMANCE GUARANTEE

7.1 Performance Guarantee

- (a) In the event Wacker Chemie AG makes the election and assignment referred to in Section 8.11, the Guarantor irrevocably and unconditionally guarantees the timely and complete performance of, and compliance with the Purchaser's obligations hereunder (collectively, the "Guaranteed Obligations").
- (b) If for any reason the Purchaser fails at any time to perform or comply with any Guaranteed Obligation that is to be performed or complied with by the Purchaser under this Agreement, then the Guarantor shall perform or comply with such Guaranteed Obligation in accordance with and subject to the provisions of this Agreement. Such performance or compliance by the Guarantor is deemed to be performance or compliance by the Purchaser under this Agreement.
- (c) The Guarantor is jointly and severally liable with the Purchaser for the performance of, and compliance with, the Guaranteed Obligations. The Vendors are not bound to proceed against the Purchaser or to pursue any rights or remedies against the Purchaser before being entitled to pursue its rights against the Guarantor.
- (d) The obligation of the Guarantor in this Section 7 shall terminate immediately upon Closing or a termination of this Agreement that is not solely as a result of a failure of the Purchaser to perform any of its obligations hereunder except, in the case of a Closing, for the Guaranteed Obligations in respect of (i) the determination of the Statement of BSI Working Capital in accordance with Section 3.7, (ii) the payment of the Purchase Price adjustment, if any, pursuant to Section 3.7 and (iii) the indemnity obligation of the Purchaser in Section 8.10 which shall survive until satisfaction of the matters referred to in paragraphs (i) and (ii) above have been completed and thereafter shall terminate (except in respect of any amounts that have become due under Section 8.10 prior to such date).
- (e) The guarantee shall be in favour of the Vendors and no other party shall be considered a third party beneficiary.

7.2 Absolute Liability

The liability of the Guarantor is absolute and unconditional irrespective of: (i) any lack of validity or enforceability of any Guaranteed Obligation against the Purchaser (other than the termination of any Guaranteed Obligations in accordance with the terms hereof); (ii) any change in the time or times for, or place or manner of performance or any other indulgences which the Vendors may grant to the Purchaser; (iii) any amendment, restatement, replacement, supplement, modification or renewal of this Agreement; (iv) any

assignment of all or any part of this Agreement; (v) any limitation of status or power, disability, incapacity or other circumstance relating to the Purchaser, including any bankruptcy, insolvency, winding-up, dissolution, liquidation, restructuring or other creditors' proceedings involving or affecting the Purchaser; or (vi) any change in the ownership, control, name, objects, businesses, assets, capital structure or constitution of the Purchaser or any reorganization, amalgamation or other change in the existence of the Purchaser.

7.3 Defences

The liabilities and obligations of the Guarantor under this Section 7 are subject to the terms of this Agreement and will not exceed any liability or obligation of the Purchaser to the Vendors under this Agreement. The Guarantor is entitled to all rights, privileges and defences available to the Purchaser with respect to any obligation or liability, including without limitation all provisions of this Agreement relating to limitation of liability and the resolution of disputes.

7.4 Payment on Demand

The Guarantor will pay and perform its liabilities and obligations under this Section 7 immediately after demand for such payment and performance is made in writing to it. Under no circumstances shall the Guarantor's obligation hereunder exceed the Purchase Price, as it may be adjusted pursuant to Section 3.8. For the avoidance of doubt, upon the payment of the Purchase Price by the Guarantor, the Guarantor shall be subrogated to the rights of the Purchaser and subject to the obligations of the Purchaser, all in accordance with the terms of this Agreement.

SECTION 8 GENERAL

8.1 Access to Books and Records

- (a) For a period of 6 years from the Closing Date or for such longer period as may be required by Applicable Law, the Purchaser will retain all original Books and Records that are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement and subject to Section 8.1(c), each Vendor (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of either Vendor) has the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser.
- (b) Subject to Section 8.1(c), for a period of the lesser of (x) 6 years from the Closing Date and (y) so long as the Purchaser together with any Affiliate thereof controls QSLP or QSGP, the Purchaser shall cause QSGP to permit each Vendor (and any representative, agent or trustee in bankruptcy of the

estate of either Vendor) to inspect the books and records of the Vendors maintained by QSGP and QSLP and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser. Any information received by the Purchaser or its representatives pursuant to this Section 8.1 shall be held in strict confidence except as may be required by Applicable Law (including disclosure required in connection with any tax returns or bankruptcy and insolvency proceedings).

- (c) If a Vendor or its affiliates are engaged in any business that competes, directly or indirectly, with the business carried on by QSLP, then the Purchaser shall only be required to provide the right to inspect as contemplated in Section 8.1(a) or (b) to such Vendor if the sole purpose is of evaluating or preparing any of its tax returns, the sale of the remaining assets of either Vendor, in respect of any third party claim against such Person or in connection with any bankruptcy and insolvency proceeding. For greater certainty, the right of Monitor, any former director or officer or any trustee in bankruptcy of the estate of either Vendor to inspect books and records and make copies thereof shall not be restricted under this Section 8.1(c).

8.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by fax or e-mail, addressed:

in the case of the Purchaser, as follows:

Wacker Chemie AG
Hanns-Seidel-Platz 4
81737 Muenchen, Germany

Attention: Dr. Tobias Brandis
Telephone: +49 89 6279 2760
Email: Tobias.Brandis@wacker.com

with a copy to:

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, Ontario
M5X 1B8

Attention: Steven Golick
Fax: (416) 862-6666
Email: sgolick@osler.com

and in the case of the Guarantor, as follows:

Wacker Chemie AG
Hanns-Seidel-Platz 4
81737 Muenchen, Germany

Attention: Goetz Neumann
Telephone: + 49 89 6279 1205
Email: goetz.neumann@wacker.com

with a copy to:

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, Ontario
M5X 1B8

Attention: Steven Golick
Fax: (416) 862-6666
Email: sgolick@osler.com

and in the case of the Vendors, as follows:

Timminco Limited
150 King Street West, 2401
Toronto, Ontario
M5H 1J9

Attention: Peter Kalins,
President, General Counsel and Corporate Secretary
Fax: (416) 364-3451
Email: PKalins@timminco.com

with a copy to:

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

Attention: Daphne MacKenzie
Fax: (416) 947-0866
Email: dmackenzie@stikeman.com

with a copy to the Monitor:

FTI Consulting Canada Inc.
TD Waterhouse Tower, Suite 2010

79 Wellington Street
Toronto, Ontario
M5K 1G8

Attention: Nigel Meakin
Fax: (416) 649-8101
Email: nigel.meakin@fticonsulting.com

with a copy to:

Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario
M5L 1A9

Attention: Linc Rogers
Fax: (416) 863-2653
Email: Linc.Rogers@blakes.com

Any such notice or other communication, if given by personal delivery, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by fax or e-mail before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by fax or e-mail after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

8.3 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendors and the Purchaser or by their respective solicitors.

8.4 Currency

Except where otherwise indicated, all references herein to money amounts are in Canadian currency.

8.5 Survival

The representations and warranties of the Parties contained in this Agreement shall merge on Closing and the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

8.6 Benefit of Agreement

This Agreement shall ensure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and no Person, other than the Parties and their successors and their permitted assigns, shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

8.7 Entire Agreement

This Agreement, the attached Schedules hereto, and the confidentiality and standstill agreement dated as of January 18, 2012 between Timminco and the Purchaser, as supplemented by the addendum thereto dated as of January 18, 2012, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by all of the Parties.

8.8 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

8.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

8.10 Commission

The Purchaser agrees to indemnify the Vendors against any claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, the Transaction and the Vendors shall jointly and severally indemnify the Purchaser for any third party or agent or broker fees or other commissions payable by the Vendors on the Purchase Price or otherwise in connection with the Transaction.

8.11 Assignment by Purchaser

This Agreement may not be assigned by the Purchaser without the prior written consent of the Vendors, which consent may be withheld in the Vendors' sole and absolute discretion; provided, however that the Purchaser shall be permitted to assign the benefit of all or a portion of this Agreement prior to or after Closing to an Affiliate thereof in circumstances where (i) prior notice of such assignment is provided to the Vendors, (ii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment, and (iii) such assignment shall not release the Purchaser or the Guarantor (in the case of the

Guarantor during the existence of the Guarantee) from any obligation or liability hereunder in favour of the Vendors, and the Purchaser and the Guarantor shall acknowledge and confirm their continuing obligations and liabilities in favour of the Vendors in form and substance satisfactory to the Vendors; for greater certainty, the Purchaser shall be permitted to assign the right to buy all or a portion of the Purchased Assets to one or more Affiliates and such assignment shall be permitted so long as the requirements of this Section 8.11 are complied with. This Agreement may not be assigned by the Vendors without the consent of the Purchaser which consent may be withheld in the Purchaser's sole and absolute discretion.

8.12 Further Assurances

Each of the Parties shall, at the request and expense of the requesting party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such documents (including registrations and removal of Encumbrances (other than Permitted Encumbrances)) and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

8.13 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.


8.14 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein, other than those contained in Section 2.5(a), Section 2.5(g), Section 3.1, Section 3.6, Section 6 or Section 8, is prohibited or unenforceable pursuant to applicable law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

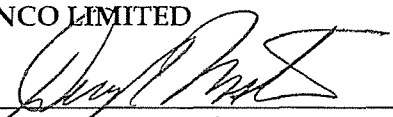
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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

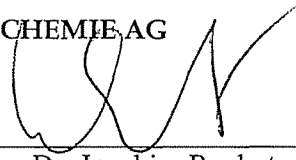
BECANCOUR SILICON INC.

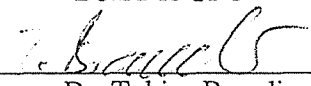
By: 
Name: *Peter A.M. Kalins*
Title: *President, General Counsel and Corporate Secretary*

TIMMINCO LIMITED

By: 
Name: *Douglas Pastuca*
Title: *CEO*

WACKER CHEMIE AG

By: 
Name: Dr. Joachim Rauhut
Title: Member of the Executive Board & CFO

By: 
Name: Dr. Tobias Brandis
Title: Senior Vice President, Corporate Development

Schedule A
Purchased Silicon Metal Assets

All of BSI's right, title and interest, in the QSLP Equity, the QSLP Contracts, the Silicon Metal Contracts and ancillary assets to the extent set forth in these Schedules.

1. Intellectual Property
 - (a) See attached Silicium Bécancour Inc. Non-Solar IP Portfolio Summary regarding patents and patent applications plus any other BSI patents or BSI patent applications relating to the silicon metal business (if any).
 - (b) Intellectual Property License Agreement among Québec Silicon Limited Partnership as Licensor and Bécancour Silicon Inc. and Dow Corning Corporation as Licensees, dated October 1, 2010.
 - (c) Intellectual Property License Agreement among Québec Silicon as Licensee and Bécancour Silicon Inc. and Dow Corning Corporation as Licensors, dated October 1, 2010.
 - (d) Intellectual property owned by Bécancour Silicon Inc. relating to the Composite Electrode Technology as such term is defined in the Intellectual Property Assignment Agreement dated September 30, 2010 between Bécancour Silicon Inc. and Québec Silicon Limited Partnership.
2. Silicon Metals Accounts Receivables
3. All Prepaid Expenses
4. All Inventory – Silicon Metals
5. All Inventory – Packing Supplies

Silicium Bécancour Inc. Non-Solar IP Portfolio Summary

1- Title	ELECTRODE FOR SILICON ALLOYS AND SILICON METAL									
Inventor(s):	BOISVERT, RENE & DOSTALER, JACQUES & DUBOIS, JACQUES & KSINSIK, DIETER W.									
Subject #	Country	Application # / Pct	Filing Date	Priority	Owner	Registration Date / Number	Due Date(s)	Status / other	Expire	
001 EXPIRED	CANADA	2,304,425	02-05-1997	2,304,425	588 CANADA INC.					
003 EXPIRED	INTERNATIONAL P	PCT/CA95D0408	27-04-1998	02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.					
004 ACTIVE	SOUTH AFRICA	950589	30-04-1998	02-05-1997 585,323 27-04-1997	588 CANADA INC.	27-01-1999 883669	Annual maintenance fee 30-04-2012			
006 ACTIVE	IRELAND	PI 5003247-3 PCT/CA95D0408	27-04-1998	2,304,425 02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.		Annual maintenance fee 25-04-2012		16-11-2021	
012 ACTIVE	CANADA	2,325,656 PCT/CA95D0408	27-04-1998	2,024,485 02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.	25-01-2005 2,288,655	Annual maintenance fee 27-04-2012		27-04-2016	
002 ACTIVE	UNITED STATES OF AMERICA	950,323	27-10-1997	2,024,485 02-05-1997	SILICON BÉCANCOUR INC.	29-10-1998 5,684,607			27-10-2117	
005 ACTIVE	EUROPE	98,516,756-1 PCT/CA95D0408	27-04-1998	2,304,425 02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.	15-07-2002 9,979,636	Annual maintenance fee 27-04-2012			
011 ACTIVE	ISRAEL	P-2499 PCT/CA95D0408	27-04-1998	02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.	25-01-2003 5,927,65	Annual maintenance fee 27-04-2012			
008 ACTIVE	ICELAND	52191199 PCT/CA95D0408	27-04-1998	2,024,485 02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.	15-11-2004 1165	Annual maintenance fee 27-04-2012			
010 ACTIVE	NORWAY	1599254 PCT/CA95D0408	27-04-1998	02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.	29-05-2003 3,16530	Annual maintenance fee 27-04-2012			
007 ACTIVE	POLAND	P-376353 PCT/CA95D0408	27-04-1998	2,024,485 02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.	25-07-2005 19321	Annual maintenance fee 27-04-2012			
009 ACTIVE	SLOVAKIA	PI 1483-23 PCT/CA95D0408	27-04-1998	2,024,485 02-05-1997 585,323 27-04-1997	SILICON BÉCANCOUR INC.	14-05-2006 20847	Annual maintenance fee 27-04-2012			

**Schedule B
Real Property**

1. Owned Property

HP2 PROPERTY:

Registered (legal) owner: QSGP (as nominee for BSI)

Beneficial owner: BSI

DESCRIPTION OF IMMOVABLE

An immovable situated in the City of Bécancour, Province of Québec, known and designated as being lot number FOUR MILLION SEVEN HUNDRED AND TWO THOUSAND FOUR HUNDRED NINETY-SEVEN (4 702 497) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2).

With the buildings located thereon (other than Excluded Assets and all other structures, fixtures and equipment), including the building bearing the civic address 6400 Yvon-Trudeau Street, City of Bécancour, Province of Québec, G9H 2V8. For greater certainty, the Purchased Assets shall not include any personal or movable property.

The whole as it is currently found with all that is or will be incorporated, attached, joined or united by accession to this immovable and that is considered an immovable under the law.

2. Leased Property

Lease dated September 30, 2010 between Québec Silicon General Partner Inc. and Bécancour Silicon Inc., in respect of office premises at 6500 Yvon Trudeau, Bécancour, Québec, for a term expiring September 30, 2040.

For greater certainty, no personal property or movable property leased by BSI or subject to a registered movable hypothec created thereon under Article 2954 of the Civil Code of Québec upon the acquisition of such movable asset or subject to a title retention arrangement in favour of the vendor thereof shall be included in the Purchased Assets.

Schedule C
Intentionally Deleted

Schedule D
Intentionally Deleted

Schedule E
Permitted Encumbrances

1. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the shares in the capital of Québec Silicon General Partner Inc. pursuant to the Articles of Incorporation of Québec Silicon General Partner Inc.
2. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the shares in the capital of Québec Silicon General Partner Inc. pursuant to the Shareholders Agreement between all the Shareholders of Québec Silicon General Partner Inc. dated October 1, 2010.
3. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the units of Québec Silicon Limited Partnership pursuant to the Amended and Restated Limited Partnership Agreement between Dow Corning Corporation and Québec Silicon General Partners Inc. dated October 1, 2010.
4. The right reserved to or vested in any municipality or government, or to any statutory or public authority, by the terms of any grant or permit acquired by the Vendors or any statutory provision to terminate any such grant or permit, or to require annual or other periodic payments as a condition to the continuance thereof.
5. The reservations, limitations, provisos and conditions (if any) expressed in any original grant from the Crown.
6. Servitudes, easements, rights of way or similar rights in land granted to or reserved by other persons, including without limitation:
 - (a) a servitude of passage by foot and vehicles against lot 3 417 110 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2), in favour of the HP2 Property and the Facility, created by virtue of a Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002;
 - (b) a servitude in favour of the HP2 Property and the Facility (with greater extent) to construct railroad tracks on lot 708-30, now known as lot 3 294 053 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2) to connect railroad lines to the main lines of the Canadian National Railway Company situated on lot 708-12, now known as lot 3 417 065 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2) created by virtue of a Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002;
 - (c) rights and obligations resulting from the Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002, including, without limitation, a right of access to and use of all roadways and other public facilities of the infrastructure of

the Central Quebec Industrial Park at Bécancour, rights of access and use of the harbour and dock facilities and the right of storage on the dock facilities in the Central Quebec Industrial Park at Bécancour, a right to erect a fence, a right to extend a private set of railroad tracks and a right to make available by means of water mains a supply of water sufficient to meet the needs; and

- (d) any and all servitudes to be granted in favour of and against the HP2 Property and the Facility by destination of proprietor and to be registered once executed.
7. Minor encroachments disclosed by and any errors or omissions existing in surveys of the HP2 Property (described in Schedule B) or neighbouring properties and any title defect, encroachment or breach of a zoning, land-use or building by-law or any other Applicable Law, by-law or regulation which might be disclosed by a more up-to-date survey of the HP2 Property (described in Schedule B) and survey matters generally, provided that the same does not materially impair the use or materially affect the value of the HP2 Property (described in Schedule B) for the purposes of the Ordinary Course of Business.
 8. Minor title defects or irregularities which are of minor nature, encroachments, easements, rights-of-way, rights to use, servitudes or similar interests, including, without restricting the generality of the foregoing, any remarks, comments, reserves, information, comments, issues, errors or omissions contained in title opinions, summaries of limited subsearch and/or "note de service" of the HP2 Property (described in Schedule B) or which might be disclosed by more up-to-date title opinions, which are of minor nature provided that same does not materially impair the use or materially affect the value of the HP2 Property (described in Schedule B) for the purposes of the Ordinary Course of Business.
 9. Statutory or inchoate liens which relate to obligations not yet due on account of taxes, local improvement rates or utilities.

Schedule F
QSLP Contracts

The Contracts relating to the formation, transfer of assets into and governance of QSGP and QSLP:

1. Framework Agreement
2. Business Transfer Agreement
3. Intellectual Property Assignment Agreement dated September 30, 2010 between Bécancour Silicon Inc. and Québec Silicon Limited Partnership.
4. Pension Transfer Agreement dated September 30, 2010 among Bécancour Silicon Inc., Québec Silicon Limited Partnership, by its general partner Québec Silicon General Partner Inc., and Dow Corning Corporation.
5. Amended and Restated Limited Partnership Agreement dated October 1, 2010 by and between Bécancour Silicon Inc., Dow Corning Canada Inc. and Québec Silicon General Partner Inc., as amended by the First Amendment thereto dated October 14, 2010.
6. Shareholders Agreement dated October 1, 2010 by and between Bécancour Silicon Inc., Dow Corning Netherlands, B.V. (now known as DC Global Holdings S.a.r.l.) and Québec Silicon General Partner Inc.

Schedule G
Silicon Metal Contracts

Contracts relating solely to the Purchased Silicon Metal Assets:

1. Output and Supply Agreement among Québec Silicon Limited Partnership, Bécancour Silicon Inc. and Dow Corning Corporation dated October 1, 2010, as amended by: (i) Amendment No. 1 dated November 16, 2010, effective as of October 1, 2010; (ii) Amendment No. 2 dated November 1, 2011, effective as of October 1, 2010; and (iii) Amendment No. 3 dated November 1, 2011, effective as of October 20, 2011.
2. Agency Services Agreement among Bécancour Silicon Inc. and Québec Silicon Limited Partnership dated September 30, 2010.
3. Purchase Order dated November 17, 2011 between Alliages Zabo Inc. and Silicium Bécancour Inc. for the sale and delivery of silicon metal.
4. Purchase Order dated December 13, 2011 between Cable Alcan and Bécancour Silicon Inc. for the sale and delivery silicon metal.
5. Purchase Order dated January 9, 2012 between GNP Ceramics, LLC and Bécancour Silicon Inc. for the sale and delivery of silicon metal.

Schedule H
Intentionally Deleted

Schedule I
Monthly Reimbursement

The minimum aggregate amount of silicon metal that QSLP shall have produced and delivered to DCC at BSI's request in satisfaction of BSI's obligations to DCC in respect of the Shortfall shall be no less than the amount set forth in the table below that corresponds to the month end period that is no less than fifteen (15) days prior to the Closing.

Month	Amount (in metric tons)
March 31, 2012	3,000
April, 30, 2012	3,250
May 31, 2012	3,500
June 30, 2012	3,750
July 31, 2012	4,167
August 31, 2012	4,584
September 30, 2012	4,941
October 31, 2012	5,108
November 30, 2012	5,275
December 31, 2012	5,440

Schedule J
Intentionally Deleted

Schedule K
Consents and Approvals

The consents, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) which are effective as of the Closing Time.

Consents and Approvals related to the Purchased Silicon Metal Assets

DCC Consent

Antitrust Clearances

Consents and Approvals related to the Real Property

Approval and issuance by the Quebec Ministry of Sustainable Development, Environment and Parks ("MSDEP") pursuant to the *Environment Quality Act* of the assignment or modification of Certificates of Authorization and Authorizations for the HP2 Property to the Purchaser, to the extent such Certificates of Authorization and Authorizations are required by the Purchaser for the conduct of operations at the HP2 Property.

Schedule L
Estimated BSI Working Capital Statement

WC Assets (CAD 000s)	5/31/2012
Accounts Receivable - Si Metal	933
Prepaid Expenses	-
Inventory - Si Metal	10
Inventory - Packing Supplies	2,060
<u>WC Assets</u>	1,506
	4,509

Schedule M Sample QSLP Working Capital Statement

	QSLP Net Working Capital												
	2010						2011						
	E	F	M	A	M	J	J	A	S	O	N	D	
Current Assets													
Accounts Receivable	1,763	4,328	7,238	3,170	3,148	2,581	1,924	109	4,053	1,561	1,607	840	1,000
Inventory	12,085	12,893	10,729	10,593	10,255	11,405	12,160	11,366	12,222	12,194	12,077	1,414	1,000
Prepaid Expenses	1,118	1,022	1,136	1,176	1,256	1,405	1,614	1,535	1,372	1,591	1,466	1,407	1,300
Other Current Assets	4,095	4,518	3,707	2,763	2,923	5,602	4,621	5,311	5,430	4,741	4,550	2,745	2,745
Total Current Assets	19,061	22,666	22,772	17,662	17,688	20,603	21,424	22,235	23,675	22,141	21,610	6,566	6,045
Current Liabilities													
Accounts Payable	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Other Current Liabilities	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Total Current Liabilities	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Working Capital	17,061	20,666	20,772	15,662	15,688	18,603	19,424	20,235	21,675	20,141	19,610	4,566	4,045
Non-Current Assets													
Property, Plant & Equipment	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Intangible Assets	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Total Non-Current Assets	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Total Assets	32,061	37,666	37,772	32,662	32,688	35,603	36,424	37,235	38,675	37,141	36,610	11,066	11,045
Current Liabilities	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Non-Current Liabilities	13,061	15,666	15,772	13,662	13,688	13,003	13,424	15,235	16,675	15,141	14,610	9,066	9,045
Total Liabilities	15,061	17,666	17,772	15,662	15,688	15,003	15,424	17,235	18,675	17,141	16,610	11,066	11,045
Equity	17,000	20,000	20,000	17,000	17,000	20,600	21,000	20,000	20,000	20,000	20,000	0	0

Notes:

- Due to the end of year 2011 QSLP was paying in the quarter instead of monthly (impact of \$1,000 in AP)
- Due to the 2011 production volume variance and inventory impact (including to budget)
- Due to the 2011 production volume variance and inventory impact (including to budget)
- Current Liabilities terms of 10 days for AP
- Current Liabilities terms of 10 days for AP
- Current Liabilities terms of 10 days for AP
- Due to the 2011 QSLP, a provision of \$5,000 has been recorded in QSLP (week 4) of December 31, 2011 and \$0.00 has been recorded as of January 31, 2012 on recommendation of external auditor. Balance

Schedule N
Access Agreement Term Sheet

ACCESS AGREEMENT TERM SHEET

April 24, 2012

Timminco Limited ("Timminco") and Bécancour Silicon Inc. ("BSI" and together with Timminco, the "Timminco Entities") filed for protection under the *Companies' Creditors Arrangement Act* (Canada) and FTI Consulting Canada Inc. was appointed monitor (the "Monitor") pursuant to an Order of the Ontario Superior Court of Justice [Commercial List] (the "Court") dated January 3, 2012. Pursuant to a further Order of the Court dated March 9, 2012, the Court authorized certain bidding procedures (the "Bidding Procedures") for the solicitation of offers for the acquisition of some or all of the Timminco Entities assets.

Assets on which the Timminco Entities have received offers in accordance with the Bidding Procedures include BSI's silicon production facility known as "HP2" located in Bécancour, Quebec. Offers have also been received for certain equipment identified as being located in HP2 in the Schedule of Solar Fixed Assets attached to Schedule H of the Stalking Horse Agreement (the "HP2 Equipment") from parties not offering to acquire HP2 itself. Access to HP2 is only available through property owned by Quebec Silicon General Partner Inc. as nominee for Quebec Silicon Limited Partnership ("QSLP"). Accordingly, any party not purchasing HP2 but purchasing certain HP2 Equipment will require access to HP2 to dismantle and remove any purchased HP2 Equipment. The following is a summary of key terms on with the Timminco Entities, in consultation with the Monitor, believe is a reasonable basis on which an access agreement between and among any purchaser of any HP2 Equipment (the "Purchaser"), QSLP and the purchaser of HP2, if any (such purchaser or BSI, as the case may be, is hereinafter referred to as the "Owner") could be based.

Key Terms:

1. Access. QSLP and the Owner (the "Counterparties") shall grant, at no additional charge or fee, access to HP2 to the Purchaser and its designated personnel for a period of 3 months following the closing of the transaction (or such other period as may be agreed to by the parties) (the "Access Period") for the purposes of dismantling and removing any purchased HP2 Equipment in accordance with the Plan (as defined below) and the terms of an access agreement to be entered into by the Purchaser and the Counterparties (the "Access Agreement"). A material breach of the obligations of the Purchaser under the Access Agreement, not cured within an agreed upon time frame, will result in the termination of the access rights granted to the Purchaser.
2. Dismantling and Removal Plan. The Purchaser shall submit to the Counterparties, prior to dismantling and removing of any purchased HP2 Equipment, a plan (the "Plan"), in form and substance reasonably satisfactory to

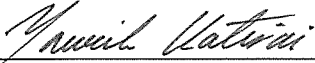
the Counterparties, for the dismantling and removal of the purchased HP2 Equipment, which will include a timetable, a designated representative in charge, a list of Purchaser personnel who will require access to HP2 and such other technical, logistical and/or operational details as may be appropriate including specific access requirements of the Purchaser during normal business hours of HP2. The Purchaser may update the Plan from time to time, with such updates to be reasonably satisfactory to the Counterparties. The Purchaser will covenant to comply with the terms of the Plan in all material respects.

3. **Supervision.** A representative of the Owner (including the Monitor to the extent BSI remains the Owner) shall be entitled, at the Owner's option, to attend, supervise and observe any access to HP2, including any dismantling and/or removal of any HP2 Equipment.
4. **Standard of Care.** The removal of any HP2 Equipment shall be done in a professional, competent and careful manner, by professionals or tradespersons fully qualified to dismantle and remove such equipment.
5. **Indemnity.** The Purchaser shall indemnify and hold each Counterparty harmless from and against any and claims, damage, loss or harm caused by, or resulting from, the Purchaser breaching its obligations under the Access Agreement.
6. **Costs.** The Purchaser shall be responsible for all costs and expenses associated with insuring, maintaining, up-keeping, dismantling and removing any HP2 Equipment.
7. **General Liability Insurance.** The Purchaser shall carry general liability insurance from a recognized insurance provider, in an amount reasonably satisfactory to the Counterparties.
8. **No Disruption.** The dismantling and removal of any HP2 Equipment will be done in such a manner so as not to unduly disrupt, hinder or delay operations at HP2 or any other personnel of the Owner or QSLP at such location or any other property owned by QSLP.
9. **Broom Swept Condition.** The Purchaser shall leave the areas of HP2 from which it has dismantled and removed HP2 Equipment in a clean, broom swept and safe condition at its own expense. Without limiting the foregoing, prior to the expiry of the Access Period, the Purchaser shall:
 - disconnect all electrical wires and/or air/water/other lines connected to any purchased HP2 Equipment and cap to the buss bar/nearest wall, as appropriate;
 - "blow off" all bolts, shear all anchor bolts or fasteners flush to the floor;
 - remove all oil and other lubricants and fluids from purchased HP2 Equipment and subsequently dispose of same;

- clean all pits created by the removal of HP2 Equipment of oil and other lubricants and fluids caused or created by the removal of any HP2 Equipment; and
 - repair all holes in the floor, walls or roof created by the Purchaser by the removal of any HP2 Equipment and repair any all damage caused by the Purchaser arising from or in connection with the access rights granted under the Access Agreement.
10. Other Terms. The Access Agreement will be subject to such other reasonable and customary representation, warranties and covenants as typically found in agreements of this nature.

TAB C

This is Exhibit "C"
to the affidavit of Peter Kalins,
sworn before me on the 9th day
of May, 2012



Commissioner for Taking Affidavits

Yusuf Yannick Katirai, a
Commissioner etc., Province of Ontario,
while a student-at-law.
Expires April 12, 2013.

AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (this "Agreement") is made and entered into as of this 25th day of April, 2012, between BECANCOUR SILICON INC., a corporation subject to the *Business Corporations Act* (Québec) ("BSI"), TIMMINCO LIMITED, a corporation incorporated under the *Canada Business Corporations Act* ("Timminco" and together with BSI, the "Vendors"), QSI PARTNERS LTD., a corporation incorporated under the laws of the Cayman Islands (the "Purchaser") and GLOBE SPECIALTY METALS, INC., a corporation incorporated under the laws of Delaware (the "Guarantor").

RECITALS:

- (A) Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated January 3, 2012 (as amended and as may be further amended or restated from time to time, the "Initial Order"), the Vendors are subject to proceedings (the "CCAA Proceedings") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA");
- (B) On March 1, 2012, the Vendors, the Purchaser, and the Guarantor entered into that certain Agreement of Purchase and Sale, for the purchase and sale of certain of the Vendors' assets (the "Stalking Horse Agreement") so as to set a minimum floor price in respect of the Vendors' sales process;
- (C) Pursuant to an order of the Court dated March 9, 2012 (as amended or restated from time to time, the "Bidding Procedures Order"), the Court, *inter alia*, approved (i) certain bidding procedures, attached as Schedule "A" thereto, for the solicitation of offers or proposals for the acquisition of the Vendors' property, assets and undertaking, or some portion thereof (the "Bidding Procedures") superior to that contemplated under the Stalking Horse Agreement, and (ii) an Expense Reimbursement payable to the Purchaser in accordance with Section 7.2 of the Stalking Horse Agreement; and
- (D) The Vendors desire to sell certain of their assets and the Purchaser has agreed subject to the selection of this Agreement as the Successful Bid in accordance with the Bidding Procedures, to purchase certain assets of the Vendors, subject to the terms and conditions set forth in this Agreement and in accordance with section 36 and other provisions of the CCAA and the Bidding Procedures Order;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Vendors, the Purchaser and the Guarantor agree as follows:

SECTION 1 INTERPRETATION

1.1 Definitions

In this Agreement:

- (a) **"Affiliate"** has the meaning ascribed to that term under National Instrument 45-106 - Prospectus and Registration Exemptions of the Canadian Securities Administrators;
- (b) **"Agreement"** has the meaning set out in the recitals hereto;
- (c) **"Applicable Law"** means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event;
- (d) **"Approval and Vesting Order"** means an order by the Court approving this Agreement, authorizing the Transaction and vesting in the Purchaser all the right, title and interest of the Vendors in and to the Purchased Assets free and clear of all Encumbrances, other than Permitted Encumbrances, in form and substance acceptable to the Parties, acting reasonably;
- (e) **"Assignment and Assumption Agreement"** means an agreement to be entered into between the Purchaser and the Vendors to be effective as of the Closing Time wherein the Vendors shall assign the Contracts to the Purchaser and the Purchaser shall thereafter assume the Assumed Obligations;
- (f) **"Assignment Order"** means an order or orders of the Court pursuant to Section 11.3 and other applicable provisions of the CCAA, in form and substance satisfactory to the Purchaser, acting reasonably, (i) authorizing and approving the assignment of any Contract for which a Consent and Approval has not been obtained (including the DCC Consent) and preventing any counterparty to the Contract from exercising any right or remedy under the Contract by reason of any defaults arising from the CCAA Proceedings or the insolvency of the Vendors and (ii) where no DCC Consent has been obtained, the vesting in the Purchaser of all right, title and interest of BSI in and to the QSLP Equity and the QSLP Contracts free and clear of any rights or remedies of DCC arising under any QSLP Contract in connection with (A) the transfer of the QSLP Equity or such QSLP Contract contemplated hereunder, (B) the Vendors' insolvency or CCAA Proceedings, or (C) any pre-Closing breach of contract;
- (g) **"Assumed Obligations"** has the meaning set out in Section 2.4;
- (h) **"Auction"** has the meaning set out in the Bidding Procedures;
- (i) **"Back-Up Bid"** has the meaning set out in the Bidding Procedures;

- (j) **"Benefit Plans"** means all oral or written plans, arrangements, agreements, programs, policies, practices or undertakings of each Vendor with respect to some or all of the Employees and which provide for or relate to:
- (i) bonus, profit sharing or deferred profit sharing, performance compensation, deferred or incentive compensation, supplemental retirement arrangements, share compensation, share purchase or share option, share appreciation rights, phantom stock, vacation or vacation pay, sick pay, employee loans, or any other compensation in addition to salary; or
 - (ii) insured or self-insured benefits for or relating to income continuation or other benefits during absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident, death or survivor's benefits, supplementary employment insurance, day care, tuition or professional commitments or expenses and perquisites or similar employment benefits;
- (k) **"Bidding Procedures"** has the meaning set out in the recitals hereto;
- (l) **"Bidding Procedures Order"** has the meaning set out in the recitals hereto;
- (m) **"Books and Records"** means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including tax and accounting books and records, used or intended for use by, and in the possession of, either Vendors, in connection with the ownership, or operation of the Purchased Assets, including the Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, credit records, records relating to suppliers and other data, in each case, relating to the Purchased Assets;
- (n) **"BSI Owned Property"** means the real property referred to under the heading **"Owned Property"** in Schedule **"B"**;
- (o) **"BSI Working Capital"** means the Silicon Metals Accounts Receivable, inventory and prepaid expenses of BSI set out in Schedule **"L"**;
- (p) **"Business Day"** means a day on which banks are open for business in Toronto, Montreal and New York but does not include a Saturday,

Sunday or statutory holiday in the Province of Ontario, or the Province of Québec or the State of New York;

- (q) "C\$" and "\$" means the lawful currency of Canada;
- (r) "CCAA" has the meaning set out in the recitals hereto;
- (s) "CCAA Proceedings" has the meaning set out in the recitals hereto;
- (t) "Claims" means any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person;
- (u) "Closing" means the successful completion of the Transaction;
- (v) "Closing Cash Payment" has the meaning set out in Section 3.2;
- (w) "Closing Cash Purchase Price" has the meaning set out in Section 3.2;
- (x) "Closing Date" means the fifth (5th) Business Day following the date on which the Approval and Vesting Order is granted or such other date as agreed to in writing by the Parties;
- (y) "Closing Date Draft Statement of QSLP Working Capital" has the meaning set out in Section 3.9(a);
- (z) "Closing Date Statement of QSLP Working Capital" has the meaning set out in Sections 3.9(d) and 3.9(e);
- (aa) "Closing Time" means 2:00 p.m. (Toronto time) on the Closing Date;
- (bb) "Collective Agreements" means all collective bargaining or similar agreements with any type of Employee representative applying or relating to any Employee of either of the Vendors, including the Convention Collective de Travail between BSI, QSLP and La Section Locale 184 du Syndicat Canadien des Communications, de l'Énergie et du Papier dated February 28, 2011 relating to BSI's hourly employees;
- (cc) "Competition Act" means the *Competition Act* (Canada) as amended, and includes the regulations promulgated thereunder;
- (dd) "Consents and Approvals" means the consents, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) as may be required to complete the Transaction, in form and substance (including without limitation the quantum of the

Consent Costs) satisfactory to the Purchaser, acting reasonably, as set forth in Schedule "K", and which are effective as of the Closing Time;

- (ee) "Consent Cost" has the meaning set out in Section 1.1(hh), for greater certainty and without limitation, Consent Costs do not include any amounts owing to or incurred by the Monitor or its or the Vendors' advisors;
- (ff) "Contracts" means all of the contracts and other written agreements to which the Vendors or either one of them are parties constituting part of the Purchased Assets;
- (gg) "Court" has the meaning set forth in the recitals hereto;
- (hh) "Cure Costs" means collectively, (i) the amounts, if any, that are required to be paid under section 11.3 of the CCAA to cure any monetary defaults in connection with the assignment of the Contracts to the Purchaser under section 11.3 of the CCAA; and (ii) such other reasonable costs required to obtain any Consent and Approval (such reasonable costs required to obtain any Consent and Approval, the "Consent Cost");
- (ii) "DCC" means any one or more of Dow Corning Canada, Inc., DC Global Holdings S.a.r.l. (formerly Dow Corning Netherlands, B.V.), Dow Corning Corporation or their Affiliates as applicable;
- (jj) "DCC Consent" means the consent to the transfer to the Purchaser (or its permitted assigns in accordance with Section 9.11) hereunder of the QSLP Equity and of all of the Contracts to which DCC is a party hereunder and waiver by DCC of any and all rights it has or will become entitled to under any QSLP Contract due to (i) the transfer of the QSLP Equity hereunder, or (ii) the Vendors' insolvency or CCAA Proceedings, or (iii) any pre-Closing breach of contracts, such consent and waiver to be in form and substance satisfactory to the Purchaser, acting reasonably;
- (kk) "Deposit" has the meaning set forth in Section 3.3;
- (ll) "DIP Amendment" means the amendment dated March 1, 2012 to the DIP agreement dated January 18, 2012 between the Vendors and the DIP Lender pursuant to which the parties thereto agreed, *inter alia*, that if either (i) the Closing takes place, or (ii) the Closing does not occur solely as a result of the failure by the Purchaser to perform any of its obligations under the Stalking Horse Agreement or hereunder, then the outstanding DIP Obligations (as defined in the DIP Amendment) owing by the Vendors under the DIP Facility and the obligation of the Monitor to return the remaining balance, if any, of the Maximum Amount (as defined in the DIP Amendment) (and interest earned thereon) to the Purchaser on the

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Maturity Date (as defined therein) shall be reduced by an aggregate amount equal to the Deposit;

- (mm) "DIP Facility" means the super-priority credit facility provided to the Vendors by the Purchaser pursuant to the DIP agreement dated January 18, 2012 between the Vendors and the DIP Lender (as may be amended), and approved by the DIP Order;
- (nn) "DIP Lender" means QSI Partners Ltd., in its capacity as lender under the DIP Facility;
- (oo) "DIP Lender's Charge" has the meaning set out in the DIP Order;
- (pp) "DIP Order" means the Order of the Court dated February 8, 2012, authorizing the DIP Facility, as amended from time to time;
- (qq) "Disclosure Letter" means the disclosure letter executed by the Vendors and delivered to the Purchaser prior to the execution of the Stalking Horse Agreement;
- (rr) "Draft Statement of BSI Working Capital" has the meaning set forth in Section 3.6(a);
- (ss) "Employee" means an individual who is, or previously was, employed or retained by either Vendor, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long term disability leave;
- (tt) "Encumbrances" means any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, adverse claim or right of a third party or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease);
- (uu) "Estimated BSI Working Capital Statement" means the forecasted working capital balances set forth in Schedule "L";
- (vv) "Excise Tax Act" means the *Excise Tax Act* (Canada), as amended;
- (ww) "Excluded Assets" means any and all properties, rights, assets and undertakings of the Vendors that do not constitute the Purchased Assets;
- (xx) "Excluded Equipment" means any equipment or machinery and any parts and components thereof, that are Excluded Assets;

- (yy) "Expense Reimbursement" has the meaning set forth in Section 7.2 of the Stalking Horse Agreement;
- (zz) "Governmental Authority" means any domestic or foreign government, whether federal, provincial, state, territorial, municipal; or supra-national; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation;
- (aaa) "Guaranteed Obligations" has the meaning set forth in Section 8.1(a);
- (bbb) "HP2 Severance Transaction Documents" means, collectively, (i) a deed of servitude by which QSGP shall establish by destination of proprietor, mutual and reciprocal real servitudes against and in favour of the property located at 6400 Yvon-Trudeau, Bécancour, Quebec (the "HP2 Property") and the property located at 6500 Yvon-Trudeau, Bécancour, Quebec (the "Facility"), in order to address operational, maintenance, cost sharing, access and other related matters between the Facility and the HP2 Property, including servitudes for illegal views, optical fibres, internet, telephone lines and systems, parking, access to Yvon-Trudeau Street, passage, locker room, security, shared equipment, water, sewer, natural gas, electricity, fire safety systems and equipment, spur lines, shipping and receiving doors and/or compressed air; (ii) a deed of sale between BSI as vendor to QSGP, acting as general partner of QSLP, as purchaser, of dust collector No. 21 located on the HP2 Property and the related duct connecting Furnaces No. 2 located on the Facility; (iii) a deed of sale under which QSGP, the registered owner of the HP2 Property, shall transfer legal title to the HP2 Property to BSI, its current beneficial owner; and (iv) following the registration in the land register of the deeds referred to in above paragraphs (i) and (iii), a termination agreement of the nominee agreement concerning the HP2 Property entered into on September 30, 2010 between BSI, as owner, and QSGP, as nominee; in each case, in substantially the form provided by BSI to the Purchaser under cover of letter dated March 1, 2012 or such other form agreed between the Vendors and the Purchaser, acting reasonably;
- (ccc) "IFRS" means the International Financial Reporting Standards, namely the standards, interpretations and the framework for the preparation and presentation of financial statements (in the absence of a standard or an interpretation) adopted by the International Accounting Standards Board (IASB), consistently applied;
- (ddd) "Income Tax Act" means the *Income Tax Act* (Canada), as amended;

- (eee) "Initial Order" has the meaning set out in the recitals hereto;
- (fff) "Intellectual Property" means, any interest in any and all intellectual and industrial property of any kind in any jurisdiction throughout the world, including: (i) all software, computer programs, layouts, interfaces, templates, applications and tools, and code of all types, including object and source code, and including ephemeral aspects, "look and feel", graphic design and user interface design ("Software"); (ii) all information and data, databases, database layouts and data structures (whether or not subject to copyright protection) ("Databases"); (iii) all literary, graphical, pictorial, artistic, audio-visual and other works, including webpages and webpage designs, templates, scripts, and similar material, and all compilations of any of the foregoing (collectively, together with Software and Databases, "Works"); (iv) all trade-marks, trade names, service marks, trade dress, logos and other marks and associated goodwill ("Marks"); (v) all domain names, patents, inventions, discoveries, arts, systems, methods, processes, machines, manufactures, developments and improvements ("Inventions"); (vi) all industrial designs; all formulae, confidential information, proprietary information, trade secrets and know how ("Know-How"); and (vii) any other works or other subject-matter that is subject to intellectual or industrial property protection under the laws of any jurisdiction throughout the world; in all cases of the foregoing whether or not registrable, registered or the subject of applications for registration, including Intellectual Property Rights;
- (ggg) "Intellectual Property Rights" means: (i) any and all statutory, common law or other intellectual and industrial property rights and interests of any kind or nature in and to Intellectual Property, including all copyrights and other rights in and to Works, moral rights and benefits in all waivers of moral rights, patents, patent rights and other rights in and to Inventions, rights to Marks, rights and benefits in and to domain name registrations, industrial design and design patent rights, trade secret rights and other rights in and to Know-How, (ii) all registrations, pending applications for registration, and rights to file applications, and rights of priority, renewal, extensions, divisionals, continuations (in whole or in part) or other derivative applications and registrations, for any of the foregoing; (iii) all licenses or other contractual rights in and to any of the foregoing (including third party software licenses) and all licenses granted in respect of any of the foregoing Intellectual Property, rights and interests; (iv) all future income and proceeds from any of the foregoing Intellectual Property, rights, interests or licenses; and (v) all rights of enforcement and to obtain remedies, including to damages and profits, by reason of past, present or future infringement of any of the foregoing Intellectual Property, rights, interests or licenses;

- (hhh) **"Investment Canada Act"** means *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.), as amended;
- (iii) **"Litigation Claims"** means, collectively, (i) any and all rights of actions or claims whatsoever of either Vendor against third parties arising by reason of any facts or circumstances that occurred or existed before the Closing but excluding any such rights of actions or claims of either Vendor against counterparties to any Contract, and (ii) all amounts owing or received in respect of any such rights of actions or claims;
- (jjj) **"Material Adverse Change"** means any one or more changes, effects, events or occurrences that, individually or in the aggregate:
- (i) is, or would reasonably be expected to be, material and adverse to the business, properties, assets, liabilities (contingent or otherwise), condition (financial or otherwise), capitalization, operations or results of operations of QSLP and the Purchased Assets, taken as a whole; or
 - (ii) prevents or materially delays or would reasonably be expected to prevent or materially delay the Vendors from consummating the Transaction;
- other than, in the case of clause (a) or (b), any change, effect, event or occurrence (i) in or relating to the CCAA Proceedings, (ii) in or relating to general political, economic or financial conditions in Canada, or (iii) in or relating to the industry involving the mining, processing and sale of silicon, in general, and which in the case of paragraph (i), (ii) and (iii) does not have a materially disproportionate effect on QSLP and the Purchased Assets, taken as a whole;
- (kkk) **"Monitor"** means FTI Consulting Canada Inc. in its capacity as Monitor of the Vendors in the CCAA Proceedings;
- (lll) **"Monitor's Certificate"** means the certificate to be filed with the Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Monitor has received the Closing Cash Purchase Price;
- (mmm) **"Ordinary Course of Business"** means the ordinary course of business of the Vendors with respect to the Purchased Assets consistent with the conduct of such business on the date hereof and consistent with the Orders of the Court in the CCAA Proceedings;

- (nnn) **"Output and Supply Agreement"** means the output and supply agreement among QSLP, BSI and DCC dated October 1, 2010, as amended;
- (ooo) **"Parties"** means, collectively, the Purchaser, the Guarantor and each of the Vendors, and **"Party"** means any one of them;
- (ppp) **"Pension Plans"** means any registered or unregistered pension plans of or sponsored by the Vendors, including the following: (i) the Retirement Pension Plan for the Hourly Employees of Timminco Metals, a Division of Timminco, at the Haley Plant (Ontario Registration Number 0589648), (ii) the Régime de Rentes pour les Employés Non Syndiqués de Silicium Bécancour Inc. (Québec Registration Number 26042), (iii) the Régime de Rentes pour les Employés Syndiqués de Silicium Bécancour Inc. (Québec Registration Number 32063) and (iv) the Pension Plan for the Timminco Salaried Employees (Ontario Registration Number 1039312);
- (qqq) **"Permitted Encumbrances"** means only those Encumbrances related to the Purchased Assets listed on Schedule "E" hereto, which the Purchaser, in connection with the Approval and Vesting Order, shall be entitled to seek to further limit or narrow; provided that, any refusal by the Court to grant the Approval and Vesting Order in respect of any such further limited or narrowed list of Permitted Encumbrances shall not constitute a failure to satisfy the condition in Section 5.3(b) hereof so long as the Court grants the Approval and Vesting Order in respect of the Permitted Encumbrances listed on Schedule "E" hereto;
- (rrr) **"Person"** means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, governmental authority or other entity however designated or constituted;
- (sss) **"Post-Filing Costs"** means any amounts owing or incurred and not paid under the Contracts arising from and after the commencement of the CCAA Proceedings to but excluding the Closing Date that are permitted to be paid pursuant to the Initial Order;
- (ttt) **"Post-Retirement Liabilities"** mean: (i) with respect to Employees whose employment is or was governed by a Collective Agreement (including retirees), all liabilities and obligations for the post-retirement benefits provided under the Collective Agreements or under Benefit Plans; and (ii) with respect to non-unionized Employees (including retirees), all liabilities and obligations for the post-retirement benefits provided under the Benefit Plans, as applicable;

- (uuu) **"Purchase Price"** has the meaning set out in Section 3.1;
- (vvv) **"Purchased Assets"** means, collectively, the Purchased Silicon Metal Assets, and the BSI Owned Property;
- (www) **"Purchased Silicon Metal Assets"** means all of BSI's right, title and interest, in and to those assets and rights set forth in Schedule "A" including the following: the QSLP Equity, the QSLP Contracts, the Silicon Metal Contracts and the ancillary assets and other property set forth in Schedule "A";
- (xxx) **"QSGP"** means Québec Silicon General Partner Inc., a corporation formed under the laws of Québec, and its successors and assigns;
- (yyy) **"QSLP"** means Québec Silicon Limited Partnership, a limited partnership formed under the laws of Québec, and its successors and assigns;
- (zzz) **"QSLP Contracts"** means the Contracts relating to the formation, transfer of assets into, and governance of, QSLP set forth in Schedule "F";
- (aaaa) **"QSLP Current Assets"** means, at any date, all current assets of QSLP, determined on a consolidated basis as of such date in accordance with IFRS (including, for greater certainty, cash, cash equivalents and all other current assets set forth in Schedule "M"), plus the aggregate amount of capital expenditures or other expenditures made from the date of this Agreement to such date on account of loss or damage to assets of QSLP or interruption of business of QSLP but only to the extent such amounts are recoverable under insurance policies of QSLP but not yet received by QSLP, and provided however that any such add back of any such capital expenditures or other expenditures will (i) be subject to providing the Purchaser with evidence satisfactory to it, acting reasonably, that such loss or damage is insured and such amounts will be recovered under such insurance policies and (ii) will not be included if the insurance proceeds are otherwise included as a current asset under IFRS. For greater certainty, the parties agree that the total of QSLP Current Assets as of end of January 2012 amounted to C\$34.649 million as reflected on Schedule "M";
- (bbbb) **"QSLP Current Liabilities"** means, at any time, all current liabilities of QSLP, determined on a consolidated basis as of such time in accordance with IFRS (including, for greater certainty, all financial debt (including but not limited to any line of credit from the shareholders of QSLP) and all current liabilities set forth in Schedule "M"). For greater certainty, the parties agree that the total of QSLP Current Liabilities as of end of January 2012 amounted to C\$28.373 million as reflected on Schedule "M";

- (cccc) "QSLP Equity" means, collectively, 51,000 units in the capital of QSLP and 51 Class A Shares in the capital of QSGP, in each case, registered in the name of BSI;
- (dddd) "QSLP Mineral Rights" means the Mining Lease BM674 issued by the Ministry of Natural Resources and Wildlife to BSI (then called Électrométallurgie S.K.W. Canada ltée) on January 13, 1976, as renewed, extended and amended;
- (eeee) "QSLP Real Property" means the real property municipally known as 6500 Yvon-Trudeau Street, Bécancour Québec,, known and designated as being lot number 4 702 498 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2);
- (ffff) "QSLP Working Capital" means as at any date the amount of the QSLP Current Assets minus the QSLP Current Liabilities in each case as of such date;
- (gggg) "Representative" means, in respect of a Party, each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates;
- (hhhh) "Sales Tax" means all taxes, interest, penalties and fines imposed under Part IX of the *Excise Tax Act* and *An Act Respecting the Québec Sales Tax* (Québec) and the regulations made thereunder and "Sales Tax Legislation" means all such acts and regulations;
- (iiii) "Sample QSLP Working Capital Statement" means the sample QSLP working capital statement set forth in Schedule "M";
- (jjjj) "Shortfall" means that certain amount of silicon metal to be sold by QSLP to DCC on a monthly basis from January 1, 2011 to December 31, 2012, in order to replace that certain amount of silicon metal that was part of the QSLP production allocation that DCC was entitled to receive but was instead sold to by QSLP to BSI pursuant to Section 2.2(b) of the Output and Supply Agreement;
- (kkkk) "Silicon Metal Accounts Receivable" means all accounts receivable (net of doubtful accounts) owing to BSI in respect of the silicon metals business of BSI except for (i) any tax refunds or credits or (ii) any Litigation Claims;
- (llll) "Silicon Metal Contracts" means the Contracts relating solely to the Purchased Silicon Metal Assets set forth in Schedule "G";

- (mmmm) **"Specific Conveyances"** means all conveyances, deeds of transfer, share transfers, bills of sale, assignments and transfers that are reasonably required to transfer the Purchased Assets to the Purchaser in customary form consistent with Section 2.2;
- (nnnn) **"Stalking Horse Agreement"** has the meaning set out in the recitals hereto;
- (oooo) **"Statement of BSI Working Capital"** has the meaning set forth in Section 3.6(d) or 3.6(e), as applicable;
- (pppp) **"Subsequent DIP Amendment"** has the meaning set forth in Section 3.10;
- (qqqq) **"Successful Bid"** has the meaning set out in the Bidding Procedures;
- (rrrr) **"Successful Bidder"** has the meaning set out in the Bidding Procedures;
- (ssss) **"Termination Date"** means July 1, 2012 or, in the event the Agreement is the Back Up Bid, 60 days from the date the Purchaser receives written notice that the Purchaser is the Successful Bidder in accordance with Section 3.3 hereof;
- (tttt) **"Transaction"** means the transaction of purchase and sale contemplated by this Agreement;
- (uuuu) **"Transfer Taxes"** means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including Sales Tax but excluding any taxes imposed or payable under the Income Tax Act and any other applicable income tax legislation; and
- (vvvv) **"Vendors"** has the meaning set out in the recitals hereto.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression "Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement.

1.3 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

1.4 Schedules

The following Schedules are incorporated in and form part of this Agreement:

Schedule "A"	-	Purchased Silicon Metal Assets
Schedule "B"	-	BSI Owned Property
Schedule "C"	-	Intentionally Deleted
Schedule "D"	-	Bidding Procedures Order
Schedule "E"	-	Permitted Encumbrances
Schedule "F"	-	QSLP Contracts
Schedule "G"	-	Silicon Metal Contracts
Schedule "H"	-	Intentionally Deleted
Schedule "I"	--	Monthly Reimbursement
Schedule "J"	-	Intentionally Deleted
Schedule "K"	-	Consents and Approvals
Schedule "L"	-	Estimated BSI Working Capital Statement Schedule
"M"		Sample QSLP Working Capital Statement
Schedule "N"		Access Agreement Term Sheet

SECTION 2 SALE AND PURCHASE AND ASSIGNMENT

2.1 Sale and Purchase of Assets

Subject to the terms and conditions hereof, at the Closing Time, the Vendors hereby agree to sell, assign and transfer to the Purchaser and the Purchaser hereby agrees to purchase from the Vendors, all of the Vendors' right, title and interest in and to the Purchased Assets free and clear of all Encumbrances other than Permitted Encumbrances.

2.2 Assignment of Purchased Assets

Subject to the conditions and terms hereof, at the Closing Time, the Vendors shall assign to the Purchaser all of the Vendors' rights, benefits and interests in and to the Contracts and the Purchaser shall assume the obligations and liabilities of the Vendors under the Contracts at the Closing Time (including Cure Costs but excluding Post-Filing Costs). Notwithstanding the foregoing, this Agreement and any document delivered under this Agreement shall not constitute an assignment or an attempted assignment of any Purchased Asset contemplated to be assigned to the Purchaser under this Agreement that is

not assignable without the Consent and Approval of a third party unless (i) such Consent and Approval has been obtained or (ii) the assignment has been ordered by the Court.

Prior to the application for the Approval and Vesting Order, the Vendors shall use their commercially reasonable efforts to obtain any Consent and Approval necessary for the assignment of any Contract to the Purchaser, including the DCC Consent. The Purchaser shall provide its reasonable cooperation to assist the Vendors in obtaining any such Consents and Approvals.

To the extent any Consent and Approval, including the DCC Consent, necessary for the assignment of any Contract to the Purchaser is not obtained prior to the application for the Approval and Vesting Order, the Vendors shall bring an application to the Court for approval of the Assignment Order.

2.3 "As is, Where is"

The Purchaser acknowledges that the Vendors are selling the Purchased Assets on an "as is, where is" basis as they shall exist at the Closing Time. Except as otherwise provided in Section 4.2(c) and 4.2(d), the Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendors do not guarantee title to the Purchased Assets. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendors to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario), as amended, the Civil Code of Québec or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Purchased Assets contained in the Schedules is for purpose of identification only. Except as otherwise provided in Section 4.2, no representation, warranty or condition has or will be given by the Vendors concerning completeness or accuracy of such descriptions.

2.4 Assumed Obligations

The Purchaser shall assume and perform, discharge and pay when due the debts, liabilities and obligations under the Contracts (to the extent assigned or transferred to the Purchaser on Closing) for the period from and after the Closing Time and all Cure Costs (other than Post-Filing Costs) of the Vendors (the "Assumed Obligations") after the Closing. Notwithstanding anything to the contrary contained herein, in no event shall the Purchaser's obligations to pay Cure Costs hereunder exceed a maximum aggregate amount of C\$10,000,000.

2.5 Excluded Obligations

Other than the Assumed Obligations, and all the obligations to be assumed pursuant to Sections 3.5 and 6.11 the Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any debts, liabilities or other obligations of the

Vendors (to any Person, including without limitation QSLP), including, without limiting the generality of the foregoing:

- (a) all debts, liabilities, obligations or Claims related to any Benefit Plans, Collective Agreements, Employees, Pension Plans, Post-Retirement Liabilities or any Excluded Asset;
- (b) all debts, liabilities and obligations related to any Purchased Asset (including Contracts but excluding Cure Costs) arising out of or related to the period prior to the Closing Time;
- (c) all obligations and liabilities owing by either Vendor to the other Vendor or any Affiliate thereof (for greater certainty other than Cure Costs excluding Post-Filing Costs);
- (d) all debts, liabilities and obligations for or related to any obligation for any taxes that are not expressly assumed by the Purchaser pursuant to Sections 2.4 and 3.5;
- (e) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes);
- (f) all debts, liabilities and obligations of the Vendors arising under this Agreement; and
- (g) any debts, liabilities, obligations or Claims (other than Claims under any QSLP Contracts) by any person, including without limitation QSLP, against the Vendors relating to amounts payable to, or in respect of, BSI's hourly retirees under the Collective Agreements or under the Benefit Plans.

SECTION 3
PURCHASE PRICE

3.1 Purchase Price

The aggregate purchase price (the "Purchase Price") payable by the Purchaser to the Vendors for the Purchased Assets is: (i) the sum of C\$26,875,000 payable in cash and (ii) the assumption by the Purchaser of the Assumed Obligations subject to the adjustment, if any, in accordance with Section 3.7.

3.2 Satisfaction of Purchase Price

Provided that all conditions of Closing have been satisfied or waived in accordance with Section 5, the Purchase Price shall be paid and satisfied on Closing as follows:

~~\$ 31,375,000.00~~ \$ 31,875,000.00
~~\$ 29,375,000.00~~
~~\$ 28,875,000.00~~
~~\$ 28,375,000.00~~
~~\$ 27,875,000.00~~
~~\$ 27,375,000.00~~

- (a) the crediting and set off of the Deposit against outstanding amounts owing to the DIP Lender under the DIP Facility pursuant to the DIP Amendment and, if applicable, the Subsequent DIP Amendment;
- (b) the application of all outstanding amounts owing to the DIP Lender under the DIP Facility (including any accrued interest thereon and any expenses and other amounts owing thereunder) in excess of the Deposit to the Purchase Price;
- (c) the balance of the cash portion of the Purchase Price (the "Closing Cash Payment" and together with the Deposit and the amount referred to in clause (b) above, the "Closing Cash Purchase Price") shall be paid on the Closing Date by wire transfer in immediately available funds payable to the Monitor pending further Order of the Court;
- (d) the assumption by the Purchaser of the Assumed Obligations.

Any adjustment required to be made to the Purchase Price in accordance with Section 3.7 shall be satisfied by the payment of the appropriate amount by the Party owing such payment to the other Party entitled thereto in the manner and at the time contemplated therein.

3.3 Deposit

Effective upon the execution of this Agreement by all of the Parties, the Purchaser shall provide to the Monitor, for and on behalf of the Vendors, a deposit (the "Deposit") of 15% of the Closing Cash Purchase Price (excluding any adjustment contemplated under Section 3.7 less the amount of the Deposit provided in accordance with section 3.3 of the Stalking Horse Agreement (which amount for greater certainty shall form part of the Deposit hereunder), pursuant to the credit and set off arrangement contemplated under the DIP Amendment. If the Closing takes place, the Deposit shall be credited and set off against the outstanding amounts owing to the DIP Lender under the DIP Facility pursuant to the DIP Amendment. The Deposit shall be credited and set off against outstanding amounts owing to the DIP Lender under the DIP Facility pursuant to the DIP Amendment in the event that Closing does not occur solely as a result of the failure by the Purchaser to perform any of its obligations hereunder. For greater certainty, the Parties agree that the DIP Amendment shall apply to this Agreement. Notwithstanding any provision herein, there will be no credit or set off of the amount of the Deposit to outstanding amounts owing to the DIP Lender under the DIP Facility on the Business Day following the occurrence of the earliest of any of the following (and the Vendors shall acknowledge the same in writing to the Purchaser):

- (a) if this Agreement is not the Successful Bid or the Back-Up Bid (as determined at the closing of the Auction pursuant to section 9(e) of the Bidding Procedures);

- (b) if this Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid of another purchaser is closed; or
- (c) if the Transaction is not completed by the Termination Date and either the Vendors or the Purchaser have terminated the Transaction thereafter for any other reason other than solely as a result of the failure of the Purchaser to perform any of its obligations hereunder.

If the Successful Bid does not close and this Agreement is the Back-Up Bid, the Vendors shall immediately provide written notice to the Purchaser of this fact pursuant to the Bidding Procedures. Upon receipt by the Purchaser of such notice at least 5 Business Days prior to the Termination Date, the Purchaser shall be required to close the Transaction on the same terms set out herein or in the Purchaser's revised bid, as applicable, by no later than the Termination Date and the Deposit shall be credited and set off as provided in Section 3.2.

3.4 Allocation of Purchase Price

The Purchase Price shall be allocated among the Purchased Assets by the Purchaser, acting reasonably, two Business Days prior to the Closing, a copy of which will be provided to the Vendors at such time. The Vendors and the Purchaser agree that the allocation of the Purchase Price for tax purposes among each of the classes of Purchased Assets of each of the Vendors shall be determined and agreed upon on a date no later than five (5) Business Days before the Closing Date. Each of the Vendors and the Purchaser shall report the sale and purchase of the Purchased Assets for all tax purposes in a manner consistent with such allocation, and will complete all tax returns, designations and elections in a manner consistent with such allocation and otherwise follow such allocation for all tax purposes on and subsequent to the Closing Date and may not take any position inconsistent with such allocation.

3.5 Transfer and Other Taxes

The Parties agree that:

- (a) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all applicable Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets or the registration of any Specific Conveyance necessitated hereby (including for greater certainty all debts, liabilities and obligations of the Vendors for Transfer Taxes payable in connection with the Transaction);
- (b) the Purchaser shall indemnify the Vendors for any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) for which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes;

- (c) if applicable, they shall jointly elect that no Sales Tax be payable pursuant to the Sales Tax Legislation with respect to the purchase and sale of the Purchased Assets under this Agreement and the Purchaser will file an election pursuant to section 167 of the Excise Tax Act and s. 75 of *An Act Respecting the Québec Sales Tax* (Québec), prepared by the Purchaser and made jointly by the Purchaser and each Vendor, in compliance with the requirements of the Sales Tax Legislation; and
- (d) the Purchaser shall perform, discharge and pay when due all debts, liabilities and obligations for realty taxes in respect of the Purchased Assets attributable to the period from and after the Closing Date.

3.6 Preparation of BSI Working Capital Statement

- (a) Within 20 Business Days following the Closing Date (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing), the Purchaser will prepare and deliver to the Vendors and the Monitor a draft statement of BSI Working Capital (the "**Draft Statement of BSI Working Capital**") prepared as of the Closing Date. The Draft Statement of BSI Working Capital will be prepared in accordance with IFRS consistent with the Estimated BSI Working Capital Statement referred to in Schedule "L", provided that it is consistent with IFRS.
- (b) The Vendors will have 10 Business Days to review the Draft Statement of BSI Working Capital following receipt of it and the Vendors must notify the Purchaser in writing if they have any objections to the Draft Statement of BSI Working Capital within such 10 Business Day period. The notice of objection must contain a statement of the basis of the Vendors' objections.
- (c) If the Vendors send a notice of objection of the Draft Statement of BSI Working Capital in accordance with Section 3.6(b), the Parties will work expeditiously and in good faith in an attempt to resolve such objections following the date of notification by the Vendors to the Purchaser of such objections. Failing resolution of any objection to the Draft Statement of BSI Working Capital raised by the Vendors, within 90 days following the date of notification by the Vendors to the Purchaser of such objections, the Vendors or the Purchaser may bring a motion before the Court for a determination of such objections with respect to the Draft Statement of BSI Working Capital.
- (d) If the Vendors do not notify the Purchaser of any objection in accordance with Section 3.6(b), the Parties are deemed to have accepted and approved the Draft Statement of BSI Working Capital and such Draft Statement of BSI Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of BSI Working Capital will become the "**Statement of BSI**

Working Capital” on the next Business Day following the end of such 5 Business Day period.

- (e) If the Vendors send a notice of objection within the 5 Business Day period, the Parties will revise the Draft Statement of BSI Working Capital to reflect the final resolution amongst the Vendors and the Purchaser or final determination by the Court of such objections under Section 3.6(c) within two Business Days following such final resolution amongst the Vendors and the Purchaser or determination by the Court, as applicable. Such revised Draft Statement of BSI Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of BSI Working Capital will become the **“Statement of BSI Working Capital”** on the next Business Day following revision of the Draft Statement of BSI Working Capital under this Section 3.6(e).
- (f) The Purchaser and the Vendors will each bear their own fees and expenses, in preparing or reviewing, as the case may be, the Draft Statement of BSI Working Capital.

3.7 BSI Working Capital Purchase Price Adjustment

- (a) Subject to Section 3.7(c), the Purchase Price will be increased or decreased, as the case may be, dollar-for-dollar, to the extent that the BSI Working Capital, as determined from the Statement of BSI Working Capital, is more or less than C\$4,509,000.
- (b) Subject to Section 3.7(c), if the BSI Working Capital, as determined from the Statement of BSI Working Capital, is more than C\$4,509,000, the Purchaser will pay to the Vendor the amount of such difference as an increase to the Purchase Price. If the BSI Working Capital as determined from the Statement of BSI Working Capital is less than C\$4,509,000, the Vendors shall pay to the Purchaser the amount of the difference. Any amounts to be paid by the Purchaser to the Vendors, or by the Vendors to the Purchaser, under this Section will be paid within 2 Business Days after the Draft Statement of BSI Working Capital becomes the Statement of BSI Working Capital in accordance with Section 3.6(d) or Section 3.6(e), as the case may be.
- (c) If the adjustment arising from BSI Working Capital, as determined from the Statement of BSI Working Capital, would increase or decrease the Purchase Price by an amount of less than C\$150,000, then there shall be no adjustment to the Purchase Price; provided, however that any such adjustment of C\$150,000 or more shall increase or decrease the Purchase Price, dollar for dollar, for the entire amount of the adjustment.

3.8 Sufficiency of Funds

The Vendors will not distribute an amount of the Purchase Price equal to C\$4,509,000 (or, after preparation of the Draft Statement of BSI Working Capital, such lesser amount equal to the difference between C\$4,509,000 and the BSI Working Capital amount shown on the Draft Statement of BSI Working Capital) until the Statement of BSI Working Capital is determined in accordance with Section 3.6.

3.9 Preparation of QSLP Working Capital Statement

- (a) Ten Business Days prior to the expected Closing Date (or such other date as is mutually agreed to by the Vendors and the Purchaser in writing), the Vendors will prepare in good faith and deliver to the Purchaser and the Monitor a draft statement of QSLP Working Capital (the "Closing Date Draft Statement of QSLP Working Capital") as of the Closing Date (or such other date as mutually agreed by the Vendors and Purchaser in writing). The Closing Date Draft Statement of QSLP Working Capital will be prepared in accordance with IFRS and the Sample QSLP Working Capital Statement. For the avoidance of doubt, in the Sample QSLP Working Capital Statement, a provision against certain accounts receivable from BSI amounting to approximately C\$9,700,000 has been booked and considered as of January 2012 as set forth in Schedule "M". Such provisions in at least the same amount shall also be booked and considered when calculating the QSLP Current Assets as of the Closing Date notwithstanding a potential assumption by the Purchaser hereunder of the underlying obligation to make the respective payment to QSLP.
- (b) The Purchaser will have 5 Business Days to review the Closing Date Draft Statement of QSLP Working Capital following receipt of it and the Purchaser must notify the Vendors in writing if they have any objections to the Closing Date Draft Statement of QSLP Working Capital within such 2 Business Day period. The notice of objection must contain a statement of the basis of the Purchaser's objections.
- (c) If the Purchaser sends a notice of objection of the Closing Date Draft Statement of QSLP Working Capital in accordance with Section 3.9(b), the Vendors or the Purchaser may bring a motion before the Court for a determination of such objections with respect to the Closing Date Draft Statement of QSLP Working Capital.
- (d) If the Purchaser does not notify the Vendors of any objection in accordance with Section 3.9(b), the Parties are deemed to have accepted and approved the Closing Date Draft Statement of QSLP Working Capital and such Closing Date Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Closing Date Draft Statement of QSLP

Working Capital will become the "Closing Date Statement of QSLP Working Capital" on the next Business Day following the end of such 2 Business Day period.

- (e) If the Purchaser sends a notice of objection within the 2 Business Day period, the Parties will revise the Closing Date Draft Statement of QSLP Working Capital to reflect the final resolution amongst the Vendors and the Purchaser or final determination by the Court of such objections under Section 3.9(c) within two Business Days following such final resolution amongst the Vendors and the Purchaser or determination by the Court, as applicable. Such revised Closing Date Draft Statement of QSLP Working Capital will be final, conclusive and binding upon the Parties, and will not be subject to appeal, absent manifest error. The Draft Statement of QSLP Working Capital will become the "Closing Date Statement of QSLP Working Capital" on the next Business Day following revision of the Closing Date Draft Statement of QSLP Working Capital under this Section 3.9(e).
- (f) The Purchaser and the Vendors will each bear their own fees and expenses, in preparing or reviewing, as the case may be, the Draft Statement of QSLP Working Capital.
- (g) The Vendors will provide the Purchaser full access to its Books and Records and other such information reasonably necessary for it to evaluate the Closing Date Draft Statement of QSLP Working Capital.

3.10 Extension and Increase of DIP Facility

Provided that Closing is not delayed due to the failure of the Vendors to fulfill the conditions under sections 5.1 and 5.3 or any breach of the representations and warranties of the Vendors in section 4.2, the DIP Facility shall be amended as follows (the "Subsequent DIP Amendment"):

- (a) If the Purchaser is the Successful Bidder, in the event Closing has not occurred by June 8, 2012, by increasing the amount of the DIP Facility by up to a maximum amount of \$2.5 million;

provided that in (a) above, the Vendors shall repay to the Purchaser any amounts owing pursuant to any Subsequent DIP Amendment by (i) crediting of such amount against the Purchase Price as set forth in section 3.2(a) hereof on or before Closing, or (ii) if this Agreement is terminated for any reason, by payment into an account designated by the Purchaser, within two (2) Business Days of such termination.

SECTION 4
REPRESENTATIONS AND WARRANTIES

4.1 Purchaser's Representations

The Purchaser represents and warrants to the Vendors as of the date hereof and as of the Closing Time that and acknowledges that the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) the Purchaser is a corporation duly incorporated, organized and subsisting under the laws of the Cayman Islands and has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (b) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein will not breach its constating documents, any agreement binding upon the Purchaser or any Applicable Laws with respect to the Purchaser;
- (c) other than the Bidding Procedures Order, the Approval and Vesting Order, the Assignment Order (if applicable) and any Specific Conveyances, execution, delivery and performance of this Agreement by the Purchaser does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority;
- (d) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by the Purchaser and constitute or will, as at the Closing Time, constitute legal, valid and binding obligations of the Purchaser enforceable in accordance with the terms hereof or thereof;
- (e) except in connection with the CCAA Proceedings, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Purchaser affecting the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;
- (f) the Purchaser is not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or

enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;

- (g) the Purchaser has or will have made adequate arrangements to have sufficient funds available to satisfy its obligations to pay the Purchase Price as set forth in Section 3.2;
- (h) the Purchaser is controlled by a WTO Investor, within the meaning of the Investment Canada Act; and
- (i) the Purchaser and its affiliates do not have assets in Canada that exceed \$100 million or gross revenues from sales in, from or into Canada that exceed \$100 million, all as determined in accordance with Part IX of the Competition Act and the Notifiable Transactions Regulations thereunder.

4.2 Vendors' Representations

The Vendors, jointly and severally, represent and warrant to the Purchaser as of the date hereof and as of the Closing Time as follows and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Timminco is a corporation duly incorporated, organized and subsisting under the *Canada Business Corporations Act*;
- (b) BSI is a corporation duly organized and subject to and subsisting under the *Business Corporations Act* (Québec);
- (c) except as disclosed in the Disclosure Letter, BSI has good and marketable title to the QSLP Equity, free and clear of Encumbrances other than the Permitted Encumbrances. The total issued and outstanding securities of QSLP consist of 100,010 units. The total issued and outstanding capital of QSGP consists of 51 Class A Shares and 49 Class B Shares. Except as set forth in the QSLP Contracts, there are no existing rights or privileges to acquire any unissued securities of QSLP or QSGP or any of such outstanding securities held by BSI or QSGP;
- (d) except as disclosed in the Disclosure Letter and as of the file currency date specified therein, BSI is the sole and unconditional legal and beneficial owner of and has good and marketable title to the BSI Owned Property and is the sole and unconditional beneficial and legal owner of and has good and marketable title to the other material Purchased Assets, excluding Contracts and Intellectual Property, free and clear of Encumbrances other than Permitted Encumbrances;

- (e) except as disclosed in the Disclosure Letter and as of the file currency date specified therein, (i) QSLP has good and marketable title to all of the material personal property purported to be owned by QSLP and the QSLP Real Property and has a valid leasehold interest in the QSLP Mineral Rights; (ii) the QSLP Mineral Rights are in good standing and in full force and effect; and (iii) the QSLP Mineral Rights and product derived from the QSLP Mineral Rights are not subject to or bound by any royalty, royalty interest or similar payment or interest or other Encumbrances;
- (f) except as would not result in a Material Adverse Change and except as disclosed in the Disclosure Letter, to the best of the Vendors' and their management's knowledge: (i) the use of the BSI Owned Property by BSI is in compliance with and not subject to any liability under Applicable Laws related to environmental protection, restoration and rehabilitation, occupational health and safety or natural resources matters and (ii) QSLP's operations are in compliance with and not subject to any liability under Applicable Laws related to environmental protection, restoration and rehabilitation, natural resource or occupational health and safety matters;
- (g) except as disclosed in the Disclosure Letter, the Vendors have not licensed their rights in any Intellectual Property held by the Vendors, to any Person. The Vendors have not received from any Person any notice (written or oral) that any of the Vendor's registered Intellectual Property is invalid or defective, or the use of such registered Intellectual Property is or would be infringing, misappropriating or violating in any way any Intellectual Property of such Person;
- (h) the Vendors and their management are unaware of any pending challenge to the validity of Silicon Metal Contracts or the transactions contemplated thereunder and has not received any written notice threatening any such challenge;
- (i) the aggregate amount of the Shortfall at its highest was 5,440 metric tons. As at January 30, 2012, QSLP had produced and delivered to DCC no less than 2,500 metric tons of silicon metal at BSI's request in satisfaction of BSI's obligation to DCC in respect of the Shortfall;
- (j) excluding the CCAA Proceedings, the Vendors are not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Vendors;

- (k) subject to obtaining the Approval and Vesting Order, the Vendors have the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (l) subject to obtaining the Approval and Vesting Order, each of the Vendors has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and the entering into of this Agreement and completion of the transactions contemplated herein will not breach its constating documents;
- (m) other than the CCAA Proceedings, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Vendors or affecting any of the Purchased Assets, the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Vendors;
- (n) subject to obtaining the Approval and Vesting Order, this Agreement and all other documents contemplated hereunder to which the Vendors are or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by each of the Vendors and constitute or will, as at the Closing Time, constitute legal, valid and binding obligations of each of the Vendors enforceable in accordance with the terms hereof or thereof;
- (o) neither Vendor is a non-resident of Canada for purposes of section 116 of the *Income Tax Act*;
- (p) the aggregate book value of the Purchased Assets does not exceed \$330 million, as calculated in accordance with the Investment Canada Act and the regulations thereto;
- (q) the Vendors and their affiliates do not have assets in Canada that exceed \$300 million or gross revenues from sales in, from or into Canada that exceed \$300 million, all as determined in accordance with Part IX of the Competition Act and the Notifiable Transactions Regulations thereunder;
- (r) each of the Vendors is a registrant for the purposes of tax imposed under (A) *An Act Respecting the Québec Sales Tax* (Québec) with the following registration numbers for Timminco and BSI, respectively, 1000873612 and 100829788, and (B) Part IX of the Excise Tax Act with the following registration numbers for Timminco and BSI, respectively, 105289094 RT0002 and 104881412 RT0001;
- (s) each of QSLP and QSGP has paid all taxes which are due and payable by it to all applicable Governmental Authorities and has remitted all

amounts that it withheld or collected on account of amounts that it was required by Applicable Law to have withheld or collected, including for all Canada Pension Plan contributions, provincial pension plan contributions, employment insurance premiums, employer health taxes, Sales Tax and any other material taxes to the appropriate Governmental Authority within the time required under Applicable Law;

- (t) no finder, broker or similar intermediary acting on behalf of the Vendors or any of their Affiliates is entitled to a commission, fee or other compensation from the Purchaser in connection with the negotiation, execution or delivery of this Agreement or the consummation of the Transaction; and
- (u) to the Vendors' knowledge, information and belief, after due inquiry, there are no pre-Closing breaches of contract under the QSLP Contracts listed in items 5 and 6 of Schedule F hereto.

4.3 Limitations

With the exception of the Vendors' representations and warranties in Section 4.2 and the Purchaser's representations and warranties in Section 4.1, neither the Vendors nor the Purchaser, nor their respective Representatives, nor any of their respective officers, directors or employees make, have made or shall be deemed to have made any other representation or warranty, express or implied, at law or in equity, in respect of the Vendors, the Purchaser, or the Purchased Assets or the sale and purchase of the Purchased Assets pursuant to this Agreement.

SECTION 5 CONDITIONS

5.1 Conditions - Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Vendors contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date;
- (b) the Vendors shall have performed in all material respects each of their obligations under this Agreement to the extent required to be performed at or before the Closing Time;
- (c) all stays of proceedings contained in the Initial Order shall have remained in effect as at the Closing Time except where any such stay is terminated or lifted or amended in a manner which is not prejudicial to the Purchaser

- or which does not adversely affect the Purchaser's rights under this Agreement or the Purchased Assets and the exercise of rights contained in the Initial Order has not been amended or modified in any manner prejudicial to the Purchaser as at the Closing Time;
- (d) each Consent and Approval including the DCC Consent, shall have been obtained as at the Closing Time or, in the absence of any such Consent and Approval, the Court shall have approved the Assignment Order in respect of such Consent and Approval and it shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom) as at the Closing Time;
 - (e) after the date of this Agreement and before the Closing Time, there shall not have occurred any Material Adverse Change;
 - (f) the Closing Date Statement of QSLP Working Capital shall have been determined in accordance with Section 3.9(d) or Section 3.9(e) and the QSLP Working Capital shown on the Closing Date Statement by QSLP Working Capital shall not be less than \$7,500,000;
 - (g) BSI shall have delivered to the Purchaser evidence, that the minimum aggregate amount of silicon metal that QSLP shall have produced and delivered to DCC at BSI's request in satisfaction of BSI's obligation to DCC in respect of the Shortfall shall be no less than the amount set forth in Schedule "I";
 - (h) the Vendors shall deliver a certificate, to the Purchaser certifying that all Post-Filing Costs and taxes payable in respect of the transactions contemplated under the HP2 Severance Transaction Documents in accordance with the valuation specified therein, that are due, have been paid or provided for, and for those incurred but not yet due, provided for.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 5.1 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set out in Section 5.1 is not satisfied or performed on or prior to the date specified therefor, the Purchaser may elect on written notice to the Vendors to terminate this Agreement.

5.2 Conditions - Vendors

The obligation of the Vendors to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date; and
- (b) the Purchaser shall have performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 5.2 may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in Section 5.2 is not satisfied or performed on or prior to the date specified therefor, the Vendors may elect on written notice to the Purchaser to terminate the Agreement.

5.3 Conditions - Purchaser and Vendors

The obligations of the Vendors and the Purchaser to complete the Transaction are subject to the following conditions being fulfilled or performed:

- (a) this Agreement is the Successful Bid (for greater certainty, in accordance with the Bidding Procedures, to the extent any Portion Bid or an Aggregated Bid is the Successful Bid (each such capitalized term as defined in the Bidding Procedures), the Purchaser shall not be obliged to complete the Transaction or purchase any subset of assets or assume any subset of liabilities which are not covered by such Portion Bid or Aggregated Bid);
- (b) the Approval and Vesting Order shall have been obtained and shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom);
- (c) no order shall have been issued by a Governmental Authority which restrains or prohibits the completion of the Transaction; and
- (d) no motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendors and the Purchaser. If the conditions set out in this Section 5.3 are not satisfied performed or mutually waived on or before the Termination Date, any Party shall have the option to terminate this Agreement upon written notice to the other Parties.

SECTION 6 CLOSING

6.1 Closing

Subject to the conditions set out in this Agreement, the completion of the Transaction shall take place at the Closing Time at the offices of Stikeman Elliott LLP, Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9, or as otherwise determined by mutual agreement of the Parties in writing, but, in any event, shall take place prior to the Termination Date.

6.2 Purchaser's Deliveries on Closing

At or before the Closing Time, the Purchaser shall execute and deliver, or arrange for the delivery, as the case may be, to the Vendors the following, each of which shall be in form and substance satisfactory to the Vendors, acting reasonably:

- (a) the Closing Cash Payment;
- (b) a payoff letter by the DIP Lender in respect of amounts outstanding under the DIP Facility including outstanding amounts advanced to the Vendors, interest accrued and unpaid thereon and any expenses and other amounts owing thereunder;
- (c) the Assignment and Assumption Agreement and any Specific Conveyance requiring execution by the Purchaser;
- (d) payment of Transfer Taxes required by Applicable Law to be collected by any Vendor, or alternatively, if applicable, the election(s) referred to in Section 3.5(c) executed by the Purchaser;
- (e) joinders to the applicable QSLP Contracts, as required thereunder;
- (f) a document specifying the Purchase Price allocation for tax purposes provided for in Section 3.4;
- (g) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all respects the covenants to be performed by it prior to the Closing Time;
- (h) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.1 of this Agreement have been fulfilled, performed or waived as of the Closing Time;

- (i) an access agreement executed by the Purchaser substantially in accordance with the terms and conditions set out in the access agreement term sheet attached hereto as Schedule "N" (the "Access Agreement Term Sheet") and such reasonable and customary terms, conditions, representations, warranties, and covenants as typically found in agreements of this nature; and
- (j) such further and other documentation as is referred to in this Agreement or as the Vendors may reasonably require to give effect to this Agreement.

6.3 Vendors' Deliveries on Closing

At or before the Closing Time, the Vendors shall execute and deliver, or arrange for the delivery, as the case may be, to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) an executed copy of each Specific Conveyance;
- (b) all Consents and Approvals, or with respect to any Consent and Approval which is not obtained, a notarial copy of an Assignment Order in lieu of such Consent and Approval;
- (c) the Assignment and Assumption Agreement and the Books and Records relating to the Purchased Assets;
- (d) a notarial copy of the Approval and Vesting Order;
- (e) a certificate dated as of the Closing Date confirming that there has been no Material Adverse Change; that all of the representations and warranties of the Vendors contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendors have performed in all material respects the covenants to be performed by them prior to the Closing Time;
- (f) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.2 of this Agreement have been fulfilled, performed or waived as of the Closing Time;
- (g) an executed copy of the Monitor's Certificate;
- (h) stock/unit certificates or similar documents representing the QSLP Equity;
- (i) if applicable, the election(s) referred to in Section 3.5(c) executed by the Vendors;

- (j) resignation letters, effective as of the Closing Time, executed by each of the officers, directors or responsible persons nominated, elected or appointed by BSI in QSLP or QSGP;
- (k) an access agreement executed by Grupo Ferroatlantica, S.A substantially in accordance with the terms and conditions as set out in the Access Agreement Term Sheet and such reasonable and customary terms, conditions, representations, warranties and covenants as typically found in agreements of this nature; and
- (l) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

6.4 Possession of Assets

- (a) The Vendors shall remain in possession of the Purchased Assets until Closing. Until Closing and subject to the last sentence of this Section 6.4(a), the Vendors shall (i) subject to the Orders of the Court in the CCAA Proceedings, use the Purchased Assets only in the Ordinary Course of Business and use commercially reasonable efforts to maintain, preserve and protect the Purchased Assets in the condition in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the Ordinary Course of Business, (ii) not dispose of any of the Purchased Assets other than sale of inventory in the Ordinary Course of Business, and (iii) not enter into any material contract or agreement in respect of any of the Purchased Assets other than in the Ordinary Course of Business; except, in each case, with the prior written consent of the Purchaser, not to be unreasonably withheld, and provided that any failure to respond to any such request for consent within two (2) Business Days of receipt by the Purchaser of such request shall be deemed to be consent hereunder. Until Closing, and subject to the last sentence of this Section 6.4(a), BSI shall, to the extent it is empowered to do so pursuant to the QSLP Contracts and the rights attached to the QSLP Equity, (i) cause the business of QSLP to be conducted in the ordinary course consistent with the conduct of such business on the date hereof and (ii) cause QSLP not to make any distributions to the limited partners of QSLP. BSI and QSLP may enter into the HP2 Severance Transaction Documents after the date of this Agreement and before Closing and in connection therewith BSI shall provide updated Schedules "B" and "F" and an updated Disclosure Letter to reflect the transactions contemplated under the HP2 Severance Transaction Documents and such updated Schedules and the Disclosure Letter shall be accepted by the Purchaser as Schedule "B", "F" and the Disclosure Letter, as the case may be, hereunder, provided that the

Vendors shall only enter into a HP2 Severance Transaction Document if all HP2 Severance Transaction Documents are entered into on or before Closing.

- (b) On Closing, the Purchaser shall take possession of the Purchased Assets where situate at Closing. The Purchaser acknowledges that the Vendors have no obligation to deliver physical possession of the Purchased Assets to the Purchaser other than as set forth in Section 6.3(h). In no event shall the Purchased Assets be sold, assigned, transferred or set over to the Purchaser until the conditions set out in the Approval and Vesting Order have been satisfied and the Purchaser has satisfied all delivery requirements outlined in Section 6.2. The Purchaser shall promptly notify the Vendors of any Excluded Assets which may come into the possession or control of the Purchaser shall promptly release such Excluded Assets to the Vendors, or to such other Person as the Vendors may direct in writing, for greater certainty, title shall not be deemed to vest to the Purchaser in respect of any Excluded Assets. The Vendors shall have no obligation to remove any Excluded Equipment from any premises that constitute part of Purchased Assets. The Purchaser shall permit the Vendors and their agents and representatives to have reasonable access to such premises to prepare for sale, sell and remove any such Excluded Equipment for a period of three (3) months after the Closing Date. All right, title and interest in any such Excluded Equipment which is not sold or removed from such premises after three (3) months following Closing shall vest in the Purchaser unless the Purchaser objects to such title transfer in which case, right, title and interest shall continue to vest in the applicable Vendor but the Purchaser shall be entitled to dispose of such Excluded Equipment at the Purchaser's expense.

6.5 Material Adverse Change

The Vendors shall notify the Purchaser upon the occurrence of a Material Adverse Change or the occurrence of any material loss or damage to the Purchased Assets.

6.6 Access Rights

Upon at least two (2) Business Days' prior notice by the Purchaser to the Vendors and at any time (i) after the Purchaser has become the Successful Bidder, or (ii) after notice to the Purchaser from the Vendors of the occurrence of an event or circumstance referred to in Section 6.5, the Purchaser may have reasonable access to the Purchased Assets during normal business hours and in each case prior to Closing for the purpose of enabling the Purchaser to conduct such inspections of the Purchased Assets as it deems appropriate, acting reasonably. Such inspection shall only be conducted in the presence of a representative of the Vendors, if so required at the discretion of the Vendors. The Purchaser shall not conduct any tests, drilling or other invasive action with respect to the Purchased Assets without the prior written consent of the Vendors, which consent may be withheld in

the Vendors' sole and absolute discretion. The Purchaser agrees to indemnify and save the Vendors harmless from and against all claims, demands, losses, actions and costs incurred or arising from or in any way directly related to physical harm to property or people caused by the Purchaser's inspection of the Purchased Assets or the attendance of the Purchaser, its employees or agents at properties comprising part of the Purchased Assets. For greater certainty, the Purchaser shall not be responsible to indemnify and save the Vendors harmless from and against the findings of the Purchaser's inspection.

The Vendors shall continue to make the online data room available to the Purchaser, the Back-Up Bidder (as defined in the Bidding Procedures) and their respective employees and advisors.

6.7 Risk

The Purchased Assets shall be and remain at the risk of the Vendors to the extent of their interest until Closing and at the risk of the Purchaser from and after Closing. If, prior to Closing, the Purchased Assets or the assets of QSLP, shall be substantially damaged or destroyed by fire or other casualty, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) days after notification to the Purchaser by the Vendors of the occurrence of damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) days of the Closing Date) in which event this Agreement shall (for greater certainty and without limitation subject to Section 6.10) be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial (or if it is substantial but the Purchaser declines its option to terminate), the Purchaser shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction provided that such damage or destruction is insured or, otherwise, to an agreed abatement. If any dispute arises under this section as to whether damage or destruction is substantial or with respect to the amount of any abatement, such dispute will be determined in accordance with Section 6.8.

6.8 Dispute Resolution

If any dispute arises:

- (a) under Section 6.7 as to whether any damage or destruction is substantial or with respect to the amount of any abatement; or
- (b) with respect to any other matter related to the Transaction or the interpretation or enforcement of this Agreement;

such dispute will be determined by the Court, or by such other Person or in such other manner as the Court may direct.

6.9 Termination

This Agreement shall automatically terminate at any time prior to the Closing Time upon the occurrence of any of the following:

- (a) by mutual written agreement of the Vendors and the Purchaser;
- (b) if the Agreement is not the Successful Bid or the Back-Up Bid (as determined pursuant to the Bidding Procedures); or
- (c) if the Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid is closed.

This Agreement may be terminated at any time prior to the Closing Time upon the occurrence of any of the following:

- (d) as provided in Section 5 (provided that the terminating Party has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled) or Section 6.7; or
- (e) by any of the Parties (provided that the terminating Party has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled) if Closing shall not have occurred on or prior to the Termination Date in accordance with Section 5.3.

If this Agreement is terminated in the circumstances set out in this Section, all further obligations of the Parties under this Agreement will terminate and neither Party shall have any liability or further obligations hereunder, except as contemplated in Section 6.10, which shall survive such termination.

6.10 Effects of Termination and Closing

- (a) If this Agreement is terminated pursuant to Section 5, 6.7 or 6.9, all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of: (i) Section 3.3 (Deposit); (ii) Section 6.10 (Effects of Termination and Closing); and (iii) Section 7.2 (Expense Reimbursement).
- (b) If the Transaction is not completed solely as a result of Purchaser's failure to perform any of its obligations hereunder, then the Deposit shall be forfeited to the Vendors as liquidated damages and the Vendors shall have no other rights and remedies against the Purchaser available at law or in equity.

- (c) Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

6.11 Assumption of Obligations

At the Closing Time and conditional upon Closing, the Purchaser agrees to pay and be responsible for all the liabilities and obligations of the Vendors under the Contracts to the extent that such liabilities and obligations consist of liabilities or obligations that arise out of events or circumstances that occur after the Closing Time or are to be performed after the Closing Time.

SECTION 7 BIDDING PROCEDURES

7.1 Bidding Procedures Order

The Parties acknowledge and agree that the Bidding Procedures Order recognized the Stalking Horse Agreement as a baseline or "stalking horse bid" and approved the payment of the Expense Reimbursement in the circumstances set out in Section 7.2 of the Stalking Horse Agreement.

7.2 Expense Reimbursement

Notwithstanding the entry into of this Agreement, the Parties acknowledge and agree that the Expense Reimbursement remains payable in accordance with Section 7.2 of the Stalking Horse Agreement, as approved by the Bidding Procedures Order, and that nothing herein shall constitute or be deemed to constitute any amendment, alteration, modification to, or waiver of any rights in respect of, Section 7.2 of the Stalking Horse Agreement or the Bidding Procedures Order.

SECTION 8 PERFORMANCE GUARANTEE

8.1 Performance Guarantee

- (a) The Guarantor irrevocably and unconditionally guarantees the timely and complete performance of, and compliance with the Purchaser's obligations under Sections 3.1, 3.2 (excluding 3.2(d)), 3.4, 3.5, 3.6, 3.7, 9.1 and 9.10 (collectively, the "Guaranteed Obligations").
- (b) If for any reason the Purchaser fails at any time to perform or comply with any Guaranteed Obligation that is to be performed or complied with by

the Purchaser under this Agreement, then the Guarantor shall perform or comply with such Guaranteed Obligation in accordance with and subject to the provisions of this Agreement. Such performance or compliance by the Guarantor is deemed to be performance or compliance by the Purchaser under this Agreement.

- (c) The Guarantor is jointly and severally liable with the Purchaser for the performance of, and compliance with, the Guaranteed Obligations. The Vendors are not bound to proceed against the Purchaser or to pursue any rights or remedies against the Purchaser before being entitled to pursue its rights against the Guarantor.
- (d) The obligation of the Guarantor in this Section 8 shall terminate immediately upon Closing or a termination of this Agreement that is not solely as a result of a failure of the Purchaser to perform any of its obligations hereunder except, in the case of a Closing, for the Guaranteed Obligations in respect of (i) the determination of the Statement of BSI Working Capital in accordance with Section 3.6, (ii) the payment of the Purchase Price adjustment, if any, pursuant to Section 3.7 and (iii) the indemnity obligation of the Purchaser in Section 9.10 which shall survive until satisfaction of the matters referred to in paragraphs (i) and (ii) above have been completed and thereafter shall terminate (except in respect of any amounts that have become due under Section 9.10 prior to such date).
- (e) The guarantee shall be in favour of the Vendors and no other party shall be considered a third party beneficiary.

8.2 Absolute Liability

The liability of the Guarantor is absolute and unconditional irrespective of: (i) any lack of validity or enforceability of any Guaranteed Obligation against the Purchaser (other than the termination of any Guaranteed Obligations in accordance with the terms hereof); (ii) any change in the time or times for, or place or manner of performance or any other indulgences which the Vendors may grant to the Purchaser; (iii) any amendment, restatement, replacement, supplement, modification or renewal of this Agreement; (iv) any assignment of all or any part of this Agreement; (v) any limitation of status or power, disability, incapacity or other circumstance relating to the Purchaser, including any bankruptcy, insolvency, winding-up, dissolution, liquidation, restructuring or other creditors' proceedings involving or affecting the Purchaser; or (vi) any change in the ownership, control, name, objects, businesses, assets, capital structure or constitution of the Purchaser or any reorganization, amalgamation or other change in the existence of the Purchaser.

8.3 Defences

The liabilities and obligations of the Guarantor under this Section 8 are subject to the terms of this Agreement and will not exceed any liability or obligation of the Purchaser to the Vendors under this Agreement. The Guarantor is entitled to all rights, privileges and defences available to the Purchaser with respect to any obligation or liability, including without limitation all provisions of this Agreement relating to limitation of liability and the resolution of disputes.

8.4 Payment on Demand

The Guarantor will pay and perform its liabilities and obligations under this Section 8 immediately after demand for such payment and performance is made in writing to it. Under no circumstances shall the Guarantor's obligation hereunder exceed the Purchase Price, as it may be adjusted pursuant to Section 3.7. For the avoidance of doubt, upon the payment of the Purchase Price by the Guarantor, the Guarantor shall be subrogated to the rights of the Purchaser and subject to the obligations of the Purchaser, all in accordance with the terms of this Agreement.

SECTION 9 GENERAL

9.1 Access to Books and Records

- (a) For a period of 6 years from the Closing Date or for such longer period as may be required by Applicable Law, the Purchaser will retain all original Books and Records that are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement and subject to Section 9.1(c), each Vendor (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of either Vendor) has the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser.
- (b) Subject to Section 9.1(c), for a period of the lesser of (x) 6 years from the Closing Date and (y) so long as the Purchaser together with any Affiliate thereof controls QSLP or QSGP, the Purchaser shall cause QSGP to permit each Vendor (and any representative, agent or trustee in bankruptcy of the estate of either Vendor) to inspect the books and records of the Vendors maintained by QSGP and QSLP and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser. Any information received by the Purchaser or its representatives pursuant to this

Section 9.1 shall be held in strict confidence except as may be required by Applicable Law (including disclosure required in connection with any tax returns or bankruptcy and insolvency proceedings).

- (c) If a Vendor or its affiliates are engaged in any business that competes, directly or indirectly, with the business carried on by QSLP, then the Purchaser shall only be required to provide the right to inspect as contemplated in Section 9.1(a) or (b) to such Vendor if the sole purpose is of evaluating or preparing any of its tax returns, the sale of the remaining assets of either Vendor, in respect of any third party claim against such Person or in connection with any bankruptcy and insolvency proceeding. For greater certainty, the right of Monitor, any former director or officer or any trustee in bankruptcy of the estate of either Vendor to inspect books and records and make copies thereof shall not be restricted under this Section 9.1(c).

9.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by fax or e-mail, addressed:

in the case of the Purchaser, as follows:

QSI Partners Ltd.
1st Floor - Windward 1
Regatta Office Park
PO BOX 10338
Grand Cayman KY1-1003
Cayman Islands

Attention: Desiree Mercer
Fax: (345) 949-7230
Telephone: (345) 949-7232

with a copy to:

Torys LLP
79 Wellington Street West
Suite 3000
Toronto, Ontario
M5K 1N2

Attention: David Bish
Fax: (416) 865-7380
Email: dbish@torys.com

and in the case of the Guarantor, as follows:

Globe Specialty Metals, Inc.
One Penn Plaza
250 West 34th Street, Suite 4125
New York, NY 10119

Attention: Stephen Lebowitz
Fax: (212) 798-8137
Telephone: (212) 798-8122

with a copy to:

Torys LLP
79 Wellington Street West
Suite 3000
Toronto, Ontario
M5K 1N2

Attention: David Bish
Fax: (416) 865-7380
Email: dbish@torys.com

and in the case of the Vendors, as follows:

Timminco Limited
150 King Street West, 2401
Toronto, Ontario
M5H 1J9

Attention: Peter Kalins,
President, General Counsel and Corporate Secretary
Fax: (416) 364-3451
Email: PKalins@timminco.com

with a copy to:

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

Attention: Daphne MacKenzie
Fax: (416) 947-0866
Email: dmackenzie@stikeman.com

with a copy to the Monitor:

FTI Consulting Canada Inc.
TD Waterhouse Tower, Suite 2010
79 Wellington Street
Toronto, Ontario
M5K 1G8

Attention: Nigel Meakin
Fax: (416) 649-8101
Email: nigel.meakin@fticonsulting.com

with a copy to:

Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario
M5L 1A9

Attention: Linc Rogers
Fax: (416) 863-2653
Email: Linc.Rogers@blakes.com

Any such notice or other communication, if given by personal delivery, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by fax or e-mail before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by fax or e-mail after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

9.3 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendors and the Purchaser or by their respective solicitors.

9.4 Currency

Except where otherwise indicated, all references herein to money amounts are in Canadian currency.

9.5 Survival

The representations and warranties of the Parties contained in this Agreement shall merge on Closing and the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

9.6 Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and no Person, other than the Parties and their successors and their permitted assigns, shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

9.7 Entire Agreement

This Agreement, the attached Schedules hereto, the letter contemplated in Sections 1.1(bbb) and 1.1(iiii), the Disclosure Letter and the confidentiality and standstill agreement dated as of January 6, 2012 between Timminco and the Purchaser, as supplemented by the addendum thereto dated as of January 11, 2012, the DIP Amendment, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by all of the Parties.

9.8 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

9.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

9.10 Commission

The Purchaser agrees to indemnify the Vendors against any claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, the Transaction and the Vendors shall jointly and severally indemnify the Purchaser for any third party or agent or broker fees or other commissions payable by the Vendors on the Purchase Price or otherwise in connection with the Transaction.

9.11 Assignment by Purchaser

This Agreement may not be assigned by the Purchaser without the prior written consent of the Vendors, which consent may be withheld in the Vendors' sole and absolute discretion; provided, however that the Purchaser shall be permitted to assign the benefit of all or a portion of this Agreement prior to or after Closing to an Affiliate thereof in circumstances where (i) prior notice of such assignment is provided to the Vendors, (ii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment, and (iii) such assignment shall not release the Purchaser or the Guarantor (in the case of the Guarantor during the existence of the Guarantee) from any obligation or liability hereunder in favour of the Vendors and the Purchaser and the Guarantor (in the case of the Guarantor during the existence of the Guarantee) shall acknowledge and confirm their continuing obligations and liabilities in favour of the Vendors in form and substance satisfactory to the Vendors; for greater certainty, the Purchaser shall be permitted to assign the right to buy all or a portion of the Purchased Assets to one or more Affiliates and such assignment shall be permitted so long as the requirements of this Section 9.11 are complied with. This Agreement may not be assigned by the Vendors without the consent of the Purchaser.

9.12 Further Assurances

Each of the Parties shall, at the request and expense of the requesting party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such documents (including registrations and removal of Encumbrances (other than Permitted Encumbrances)) and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

9.13 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.


9.14 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein, other than those contained in Section 3.1, Section 3.5, Section 6 or Section 8, is prohibited or unenforceable pursuant to applicable law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

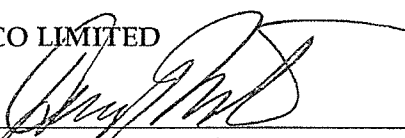
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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.


BECANCOUR SILICON INC.

By: 
Name: *Rita A.M. Kalin*
Title: *President, General Counsel and
Corporate Secretary*

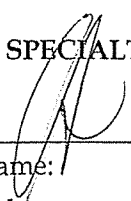
TIMMINCO LIMITED

By: 
Name: *Douglas Pastva*
Title: *CEO*

QSI PARTNERS LTD.

By: 
Name:
Title:

GLOBE SPECIALTY METALS, INC.

By: 
Name:
Title:

Schedule A
Purchased Silicon Metal Assets

Schedule B
BSI Owned Property

Schedule C
Intentionally Deleted

Schedule D
Bidding Procedures Order

Schedule E
Permitted Encumbrances

Schedule F
QSLP Contracts

Schedule G
Silicon Metal Contracts

Schedule H
[Intentionally Deleted]

Schedule I
Monthly Reimbursement

Schedule J
Solar Grade Silicon Contracts

Schedule K
Consents and Approvals

Schedule L
Estimated Working Capital Statement

Schedule M
Sample QSLP Working Capital Statement

Schedule A
Purchased Silicon Metal Assets

All of BSI's right, title and interest, in the QSLP Equity, the QSLP Contracts, the Silicon Metal Contracts and ancillary assets to the extent set forth in these Schedules.

1. Intellectual Property
 - (a) See attached Silicium Bécancour Inc. Non-Solar IP Portfolio Summary regarding patents and patent applications plus any other BSI patents or BSI patent applications relating to the silicon metal business (if any).
 - (b) Intellectual Property License Agreement among Québec Silicon Limited Partnership as Licensor and Bécancour Silicon Inc. and Dow Corning Corporation as Licensees, dated October 1, 2010.
 - (c) Intellectual Property License Agreement among Québec Silicon as Licensee and Bécancour Silicon Inc. and Dow Corning Corporation as Licensors, dated October 1, 2010.
 - (d) Intellectual property owned by Bécancour Silicon Inc. relating to the Composite Electrode Technology as such term is defined in the Intellectual Property Assignment Agreement dated September 30, 2010 between Bécancour Silicon Inc. and Québec Silicon Limited Partnership.
2. Silicon Metals Accounts Receivables
3. All Prepaid Expenses
4. All Inventory - Silicon Metals
5. All Inventory - Packing Supplies

1- Title	ELECTRODE FOR SILICON ALLOYS AND SILICON METAL									
Inventor(s):	BOISVERT, RENE & DOSTALER, JACQUES & DUBOIS, JACQUES & KSINSIK, DIETER W.									
Subject#	Country	Application # / Pct	Filing Date	Priority	Owner	Registration Date / Number	Due Date(s)	Status / other	Expire	
0001 EXPIRED	CANADA	2.204.425	02-05-1997		SKW CANADA INC.					
0003 EXPIRED	INTERNATIONAL P	PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.					
0004 ACTIVE	SOUTH AFRICA	98/3689	30-04-1998	2.204.425 02-05-1997 958.323	SKW CANADA INC.	27-01-1999 980689	Annual maintenance fee 30-04-2012			
0006 ACTIVE	BRAZIL	P1 9809347-9 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.		Annual maintenance fee 26-07-2012		16-11-2021	
0012 ACTIVE	CANADA	2.206.658 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC./SILICIUM BECANCOUR	24-01-2006 2.286.658	Annual maintenance fee 27-04-2012		27-04-2018	
0002 ACTIVE	UNITED STATES OF AMERICA	958.323	27-10-1997	2.204.425 02-05-1997	SILICIUM BECANCOUR INC./SILICIUM BECANCOUR	29-12-1998 5.854.807			27-10-2117	
0005 ACTIVE	EUROPE	98 916 756 4 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.	17-07-2002 0 979 596	Annual maintenance fee 27-04-2012			
0011 ACTIVE	YUGOSLAV REPUBLIC	P-9489 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.	28-01-2003 900756	Annual maintenance fee 27-04-2012			
0008 ACTIVE	ICELAND	5219/1999 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.	15-11-2004 1855	Annual maintenance fee 27-04-2012			
0010 ACTIVE	NORWAY	19995254 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.	29-09-2003 315630	Annual maintenance fee 27-04-2012			
0007 ACTIVE	POLAND	P-336590 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.	29-07-2005 189321	Annual maintenance fee 27-04-2012			
0009 ACTIVE	SLOVAKIA	PV 1493-99 PCT/CA98/00409	27-04-1998	2.204.425 02-05-1997 958.323	SILICIUM BECANCOUR INC.	14-06-2008 286447	Annual maintenance fee 27-04-2012			

**Schedule B
BSI Owned Property**

1. Owned Property

HP2 PROPERTY:

Registered (legal) owner: QSGP (as nominee for BSI)

Beneficial owner: BSI

DESCRIPTION OF IMMOVABLE

An immovable situated in the City of Bécancour, Province of Québec, known and designated as being lot number FOUR MILLION SEVEN HUNDRED AND TWO THOUSAND FOUR HUNDRED NINETY-SEVEN (4 702 497) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2).

With the buildings located thereon (other than Excluded Assets and all other structures, fixtures, and equipment), including the building bearing the civic address 6400 Yvon-Trudeau Street, City of Bécancour, Province of Québec, G9H 2V8. For greater certainty, the Purchased Assets shall not include any personal or immovable property.

The whole as it is currently found with all that is or will be incorporated, attached, joined or united by accession to this immovable and that is considered an immovable under the law.

2. [Intentionally Deleted.]

3. [Intentionally Deleted.]

4. [Intentionally Deleted.]

5. [Intentionally Deleted.]

6. [Intentionally Deleted.]

For greater certainty, no personal property or movable property leased by BSI or subject to a registered movable hypothec created thereon under Article 2954 of the Civil Code of Québec upon the acquisition of such movable asset or subject to a title retention arrangement in favour of the vendor thereof shall be included in the Purchased Assets.

Schedule C
Intentionally Deleted

Schedule D
Bidding Procedures Order

Intentionally Deleted

Schedule E
Permitted Encumbrances

1. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the shares in the capital of Québec Silicon General Partner Inc. pursuant to the Articles of Incorporation of Québec Silicon General Partner Inc.
2. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the shares in the capital of Québec Silicon General Partner Inc. pursuant to the Shareholders Agreement between all the Shareholders of Québec Silicon General Partner Inc. dated October 1, 2010.
3. Other than for any restriction in respect of any of the transactions contemplated by this Agreement, the transfer restrictions on the units of Québec Silicon Limited Partnership pursuant to the Amended and Restated Limited Partnership Agreement between Dow Corning Corporation and Québec Silicon General Partners Inc. dated October 1, 2010.
4. The right reserved to or vested in any municipality or government, or to any statutory or public authority, by the terms of any grant or permit acquired by the Vendors or any statutory provision to terminate any such grant or permit, or to require annual or other periodic payments as a condition to the continuance thereof.
5. The reservations, limitations, provisos and conditions (if any) expressed in any original grant from the Crown.
6. Servitudes, easements, rights of way or similar rights in land granted to or reserved by other persons, including without limitation:
 - a. a servitude of passage by foot and vehicles against lot 3 417 110 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2), in favour of the HP2 Property and the Facility, created by virtue of a Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002;
 - b. a servitude in favour of the HP2 Property and the Facility (with greater extent) to construct railroad tracks on lot 708-30, now known as lot 3 294 053 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2) to connect railroad lines to the main lines of the Canadian National Railway Company situated on lot 708-12, now known as lot 3 417 065 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2) created by virtue of a Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002;
 - c. rights and obligations resulting from the Deed of Transfer registered at the Registry Office for the Registration Division of Nicolet 1 (Bécancour) under number 94 002, including, without limitation, a right of access to and use of all roadways and other public facilities of the infrastructure of the Central Quebec

Industrial Park at Bécancour, rights of access and use of the harbour and dock facilities and the right of storage on the dock facilities in the Central Quebec Industrial Park at Bécancour, a right to erect a fence, a right to extend a private set of railroad tracks and a right to make available by means of water mains a supply of water sufficient to meet the needs;

- d. any and all servitudes to be granted in favour of and against the HP2 Property and the Facility by destination of proprietor and to be registered once executed.
7. Minor encroachments disclosed by and any errors or omissions existing in surveys of HP2 Property (described in Schedule B) or neighbouring properties and any title defect, encroachment or breach of a zoning, land-use or building by-law or any other Applicable Law, by-law or regulation which might be disclosed by a more up-to-date survey of the HP2 Property (described in Schedule B) and survey matters generally, provided that the same does not materially impair the use or materially affect the value of the HP2 Property (described in Schedule B) for the purposes of the Ordinary Course of Business.
8. Minor title defects or irregularities which are of minor nature, encroachments, easements, rights-of-way, rights to use, servitudes or similar interests, including, without restricting the generality of the foregoing, any remarks, comments, reserves, information, comments, issues, errors or omissions contained in title opinions, summaries of limited subsearch and/or "note de service" of the HP2 Property (described in Schedule B) or which might be disclosed by more up-to-date title opinions, which are of minor nature provided that same does not materially impair the use or materially affect the value of the HP2 Property (described in Schedule B) for the purposes of the Ordinary Course of Business.
9. Statutory or inchoate liens which relate to obligations not yet due on account of taxes, local improvement rates or utilities.

Schedule F
QSLP Contracts

The Contracts relating to the formation, transfer of assets into and governance of QSGP and QSLP:

1. [Intentionally Deleted.]
2. [Intentionally Deleted.]
3. [Intentionally Deleted.]
4. [Intentionally Deleted.]
5. Amended and Restated Limited Partnership Agreement dated October 1, 2010 by and between Bécancour Silicon Inc., Dow Corning Canada Inc. and Québec Silicon General Partner Inc., as amended by the First Amendment thereto dated October 14, 2010.
6. Shareholders Agreement dated October 1, 2010 by and between Bécancour Silicon Inc., Dow Corning Netherlands, B.V. (now known as DC Global Holdings S.a.r.l.) and Québec Silicon General Partner Inc.

Schedule G
Silicon Metal Contracts

Contracts relating solely to the Purchased Silicon Metal Assets:

1. Long-Term Supply Agreement dated June 1, 2011, and effective January 1, 2011, between Bécancour Silicon Inc. and Wacker Chemie AG, as amended by Amendment No. 1 thereto dated September 6, 2011.
2. Output and Supply Agreement among Québec Silicon Limited Partnership, Bécancour Silicon Inc. and Dow Corning Corporation dated October 1, 2010, as amended by: (i) Amendment No. 1 dated November 16, 2010, effective as of October 1, 2010; (ii) Amendment No. 2 dated November 1, 2011, effective as of October 1, 2010; and (iii) Amendment No. 3 dated November 1, 2011, effective as of October 20, 2011.
3. [Intentionally Deleted.]
4. [Intentionally Deleted.]
5. [Intentionally Deleted.]
6. [Intentionally Deleted.]
7. [Intentionally Deleted.]
8. Purchase Order dated November 17, 2011 between Alliages Zabo Inc. and Silicium Bécancour Inc. for the sale and delivery of silicon metal.
9. Purchase Order dated December 13, 2011 between Cable Alcan and Bécancour Silicon Inc. for the sale and delivery silicon metal.
10. [Intentionally Deleted.]
11. Purchase Order dated January 9, 2012 between GNP Ceramics, LLC and Bécancour Silicon Inc. for the sale and delivery of silicon metal.

Schedule H

[Intentionally Deleted]

Schedule I
Monthly Reimbursement

The minimum aggregate amount of silicon metal that QSLP shall have produced and delivered to DCC at BSI's request in satisfaction of BSI's obligations to DCC in respect of the Shortfall shall be no less than the amount set forth in the table below that corresponds to the month end period that is no less than fifteen (15) days prior to the Closing.

Month	Amount (in metric tons)
March 31, 2012	3,000
April, 30, 2012	3,250
May 31, 2012	3,500
June 30, 2012*	3,750
July 31, 2012*	4,167
August 31, 2012*	4,584
September 30, 2012*	4,941
October 31, 2012*	5,108
November 30, 2012*	5,275
December 31, 2012*	5,440

*Closing can only occur in the month following this date if agreed in writing by the Parties hereto

Schedule J

[Intentionally Deleted]

Schedule K
Consents and Approvals

The consents, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) which are effective as of the Closing Time.

Consents and Approvals related to the Purchased Silicon Metal Assets

1. DCC Consent
2. Long-Term Supply Agreement dated June 1, 2011, and effective January 1, 2011, between Bécancour Silicon Inc. and Wacker Chemie AG, as amended by Amendment No. 1 thereto dated September 6, 2011. This agreement is not assignable by either party without the prior written consent of the other.
3. [Intentionally Deleted.]
4. Nominee Agreement dated September 30, 2010 between Bécancour Silicon Inc. and Québec Silicon General Partner Inc., in respect of the HP2 Property.
5. [Intentionally Deleted.]
6. [Intentionally Deleted.]
7. [Intentionally Deleted.]
8. Approval and issuance by the Quebec Ministry of Sustainable Development, Environment and Parks ("MSDEP") pursuant to the *Environment Quality Act* ("EQA") of the assignment or modification of certificates of authorization and authorizations for the HP2 Property to the Purchaser, to the extent such certificates of authorization or authorizations are required by the Purchaser for the conduct of operations at the HP2 Property.

Schedule L
Estimated BSI Working Capital Statement

WC Assets (CAD 000s)	5/31/2012
Accounts Receivable - Si Metal	933
	-
Prepaid Expenses	10
Inventory - Si Metal	2,060
Inventory - Packing Supplies	1,506
<u>WC Assets</u>	4,509

Schedule "N"
ACCESS AGREEMENT TERM SHEET

April 24, 2012

Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. ("**BSI**" and together with Timminco, the "**Timminco Entities**") filed for protection under the *Companies' Creditors Arrangement Act* (Canada) and FTI Consulting Canada Inc. was appointed monitor (the "**Monitor**") pursuant to an Order of the Ontario Superior Court of Justice [Commercial List] (the "**Court**") dated January 3, 2012. Pursuant to a further Order of the Court dated March 9, 2012, the Court authorized certain bidding procedures (the "**Bidding Procedures**") for the solicitation of offers for the acquisition of some or all of the Timminco Entities assets.

Assets on which the Timminco Entities have received offers in accordance with the Bidding Procedures include BSI's silicon production facility known as "**HP2**" located in Bécancour, Quebec. Offers have also been received for certain equipment identified as being located in HP2 in the Schedule of Solar Fixed Assets attached to Schedule H of the Stalking Horse Agreement (the "**HP2 Equipment**") from parties not offering to acquire HP2 itself. Access to HP2 is only available through property owned by Quebec Silicon General Partner Inc. as nominee for Quebec Silicon Limited Partnership ("**QSLP**"). Accordingly, any party not purchasing HP2 but purchasing certain HP2 Equipment will require access to HP2 to dismantle and remove any purchased HP2 Equipment. The following is a summary of key terms on which the Timminco Entities, in consultation with the Monitor, believe is a reasonable basis on which an access agreement between and among any purchaser of any HP2 Equipment (the "**Purchaser**"), QSLP and the purchaser of HP2, if any (such purchaser or BSI, as the case may be, is hereinafter referred to as the "**Owner**") could be based.

Key Terms:

1. **Access.** QSLP and the Owner (the "**Counterparties**") shall grant, at no additional charge or fee, access to HP2 to the Purchaser and its designated personnel for a period of 3 months following the closing of the transaction (or such other period as may be agreed to by the parties) (the "**Access Period**") for the purposes of dismantling and removing any purchased HP2 Equipment in accordance with the Plan (as defined below) and the terms of an access agreement to be entered into by the Purchaser and the Counterparties (the "**Access Agreement**"). A material breach of the obligations of the Purchaser under the Access Agreement, not cured within an agreed upon time frame, will result in the termination of the access rights granted to the Purchaser.
2. **Dismantling and Removal Plan.** The Purchaser shall submit to the Counterparties, prior to dismantling and removing of any purchased HP2 Equipment, a plan (the "**Plan**"), in form and substance reasonably satisfactory to the Counterparties, for the dismantling and removal of the purchased HP2 Equipment, which will include a timetable, a designated representative in charge, a list of Purchaser personnel who will require access to HP2 and such other technical, logistical and/or operational details as

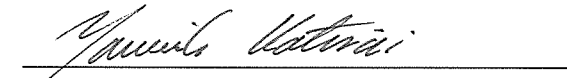
may be appropriate including specific access requirements of the Purchaser during normal business hours of HP2. The Purchaser may update the Plan from time to time, with such updates to be reasonably satisfactory to the Counterparties. The Purchaser will covenant to comply with the terms of the Plan in all material respects.

3. **Supervision.** A representative of the Owner (including the Monitor to the extent BSI remains the Owner) shall be entitled, at the Owner's option, to attend, supervise and observe any access to HP2, including any dismantling and/or removal of any HP2 Equipment.
4. **Standard of Care.** The removal of any HP2 Equipment shall be done in a professional, competent and careful manner, by professionals or tradespersons fully qualified to dismantle and remove such equipment.
5. **Indemnity.** The Purchaser shall indemnify and hold each Counterparty harmless from and against any and claims, damage, loss or harm caused by, or resulting from, the Purchaser breaching its obligations under the Access Agreement.
6. **Costs.** The Purchaser shall be responsible for all costs and expenses associated with insuring, maintaining, up-keeping, dismantling and removing any HP2 Equipment.
7. **General Liability Insurance.** The Purchaser shall carry general liability insurance from a recognized insurance provider, in an amount reasonably satisfactory to the Counterparties.
8. **No Disruption.** The dismantling and removal of any HP2 Equipment will be done in such a manner so as not to unduly disrupt, hinder or delay operations at HP2 or any other personnel of the Owner or QSLP at such location or any other property owned by QSLP.
9. **Broom Swept Condition.** The Purchaser shall leave the areas of HP2 from which it has dismantled and removed HP2 Equipment in a clean, broom swept and safe condition at its own expense. Without limiting the foregoing, prior to the expiry of the Access Period, the Purchaser shall:
 - disconnect all electrical wires and/or air/water/other lines connected to any purchased HP2 Equipment and cap to the buss bar/nearest wall, as appropriate;
 - "blow off" all bolts, shear all anchor bolts or fasteners flush to the floor;
 - remove all oil and other lubricants and fluids from purchased HP2 Equipment and subsequently dispose of same;
 - clean all pits created by the removal of HP2 Equipment of oil and other lubricants and fluids caused or created by the removal of any HP2 Equipment; and
 - repair all holes in the floor, walls or roof created by the Purchaser by the removal of any HP2 Equipment and repair any all damage caused by the Purchaser arising from or in connection with the access rights granted under the Access Agreement.

10. **Other Terms.** The Access Agreement will be subject to such other reasonable and customary representation, warranties and covenants as typically found in agreements of this nature.

TAB D

This is Exhibit "D"
to the affidavit of Peter Kalins,
sworn before me on the 9th day
of May, 2012



Commissioner for Taking Affidavits

**Yusuf Yannick Katirai, a
Commissioner etc., Province of Ontario,
while a student-at-law.
Expires April 12, 2013.**

FRAMEWORK AGREEMENT

dated as of

August 10, 2010

by and among

DOW CORNING CORPORATION,

TIMMINCO LIMITED

and

BECANCOUR SILICON INC.

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FRAMEWORK AGREEMENT

THIS FRAMEWORK AGREEMENT (this "Agreement"), dated as of August 10, 2010, is entered into by and among DOW CORNING CORPORATION, a Michigan corporation ("DCC"), TIMMINCO LIMITED, a corporation governed by the laws of Canada ("TL"), and BECANCOUR SILICON INC., a corporation governed by the laws of Québec and a wholly owned subsidiary of TL ("BSI").

WITNESSETH:

WHEREAS, DCC and BSI desire to enter into a joint venture arrangement whereby, among other things, (i) DCC, through DCC GP Company, shall acquire, and BSI shall cause the GP to issue to DCC GP Company, Class B GP Shares representing forty-nine percent (49%) of the GP Shares, (ii) DCC, through DCC LP Company, shall acquire, and BSI shall cause Becancour JV to issue to DCC LP Company, LP Interests representing forty-nine percent (49%) of the LP Interests, (iii) DCC GP Company, BSI and the GP will enter into the GP Shareholders Agreement, (iv) DCC LP Company, BSI and Becancour JV will enter into the Amended and Restated Limited Partnership Agreement, and (v) DCC Customer, BSI and Becancour JV will enter into the Output and Supply Agreement, in each case following the contribution by BSI to Becancour JV of certain assets relating to the Business and all on the terms and conditions set forth herein; and

WHEREAS, DCC, TL and BSI are entering into this Agreement in order to set forth certain key terms of such joint venture arrangement, including the relationship of the parties following the Closing.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements set forth herein, intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. When used in this Agreement, the following terms shall have the respective meanings specified below:

"Adjusted Direct Cost" means, per metric ton of Product manufactured, the Actual Full Cost (as defined in the Output and Supply Agreement), excluding financing and depreciation costs.

"Amended and Restated Limited Partnership Agreement" has the meaning set forth in Section 3.2(e).

"Amended GP Charter" has the meaning set forth in Section 3.2(f).

"Ancillary Agreements" means the Business Transfer Agreement, the Amended and Restated Limited Partnership Agreement, the GP Shareholders Agreement, the Output and Supply Agreement, the Real Property Agreements, the Services Agreements, the Pension Transfer Agreement, if applicable, the Intellectual Property Agreements and Working Capital Facility Agreements.

"Assumed Obligations" means amounts included on the balance sheet of Becancour JV, calculated in accordance with GAAP, as of the Closing Date for long-term indebtedness (including current portion), other long-term liabilities (excluding any pension plan obligations), short-term indebtedness, capital lease obligations, and any other obligation for borrowed money; without restricting the generality of the above, and for the avoidance of doubt, such obligations do not include Total Current Liabilities.

"Balance Sheet" means the pro forma balance sheet of the Business as of June 30, 2010 after giving effect to the Restructuring Transactions.

"Basic Indemnity Cap" means CAD \$17,500,000.

"Becancour JV" means a limited partnership to be formed under the laws of the Province of Quebec, Canada, by BSI and the GP and to which certain assets and liabilities of the Business will be transferred, directly or indirectly, by BSI, all as more fully provided herein and which entity shall be owned by the GP, as general partner, and DCC LP Company and BSI, as special partners, as of the Closing and as a result of the Restructuring Transactions and the transactions contemplated hereby.

"Benchmark Net Working Capital" means seven million, two hundred and fifty thousand Canadian dollars (CAD \$7,250,000).

"Books and Records" means the originals or copies of all customer lists, sales records, financial records, compliance records, data files, personnel records and other materials prepared for the Business, Tax records and other books and records, each in the possession or control of BSI or any of its affiliates, whether or not stored in hardcopy form or on magnetic or optical media.

"BSI Knowledge Parties" means those Persons set forth in Exhibit A.

"BSI Material Adverse Effect" means any state of facts, circumstance, change, event, development or effect that, individually or in the aggregate, (A) has or would reasonably be expected to have a material adverse effect on the assets, liabilities, business, results of operations or financial condition of the Business, individually or in the aggregate, other than, in each case, any change, event, development or effect that results from or is related to (i) changes in Law, GAAP or other applicable accounting standards or the interpretations thereof so long as such state of acts, events, circumstances, changes or effects do not have a materially disproportionate effect on the Business as compared to other companies in the industry in which it operates, (ii) changes affecting the industry in which the Business operates so long as such state of acts, events, circumstances, changes or effects do not have a materially disproportionate effect on the Business as compared to other companies in the industry in which it operates, or (iii) the announcement of this Agreement or the taking of any action required by this Agreement and

the Ancillary Agreements, or the not taking of any such action at the request of DCC, including the loss of employees, customers, suppliers or distributors as a result thereof other than as a result of BSI's failure to comply with its obligations under Section 6.1 hereof or (B) materially impairs or delays (or could reasonably be expected to materially impair or delay) the ability of TL or BSI or their affiliates (including the Subject Entities) to consummate the transactions contemplated by this Agreement or any Ancillary Agreement.

"Business" means the silicon metal production operations (excluding solar grade silicon purification operations) currently owned and operated by BSI at the Facility.

"Business Day" means any day other than Saturday, Sunday and any day on which banking institutions in the State of New York or in the Province of Quebec, Canada, are authorized by Law or other governmental action to close.

"Business Employee" has the meaning set forth in Section 4.12.

"Business Transfer Agreement" means the Business Transfer Agreement to be entered into by and among BSI, TL and Becancour JV to reflect the business transfer transactions summarized in Exhibit B hereto and in form reasonably satisfactory to DCC and BSI.

"Cadastral Operation" has the meaning set forth in Section 6.8(g).

"Capacity/Cost Adjustment Amount" has the meaning set forth in Section 2.4(c)(iv).

"Certificate of Location" means a certificate of location prepared by a duly certified Quebec Land Surveyor in compliance with the *Land Surveyors Act* (Quebec) and the regulations adopted thereunder.

"Class B GP Shares" means the Class B shares in the share capital of the GP, all of which shall be issued to DCC GP Company as of the Closing.

"Cleanup" means all actions required under applicable Environmental Laws to: (1) cleanup, remove, treat, reclaim or remediate Hazardous Materials in the Environment; (2) prevent the Release of Hazardous Materials so that they do not migrate, endanger or threaten to endanger public health, safety or welfare or the Environment; (3) perform pre-remedial studies and investigations and post-remedial monitoring; (4) respond to any requests for information or documents in any way relating to cleanup, removal, treatment, reclamation or remediation or potential cleanup, removal, treatment, reclamation or remediation of Hazardous Materials in the Environment; or (5) perform reclamation or remediation of damaged or degraded natural resources.

"Closing Date" means the date and time as of which the Closing actually takes place.

"Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

"Competition Act" means the *Competition Act* (Canada).

"Contract" means, with respect to any Person, any legally binding agreement, arrangement, undertaking, contract, commitment, obligation, promise, indenture, deed of trust or other instrument, document or agreement (whether written or oral and whether express or implied) by which that Person, or any amount of its properties or assets, is bound or subject.

"Current Adjusted Direct Cost Amount" means [REDACTED] which is the weighted average Adjusted Direct Cost during the Pre-Closing Measurement Period.

"Current Capacity" means 47,000 metric tons of Product in grades to be purchased by BSI and DCC Customer.

"DCC Customer" means DCC or any affiliate to which DCC from time to time assigns its rights and obligations under the Output and Supply Agreement or otherwise designates to be a party thereto.

"DCC GP Company" means the corporation assigned by DCC immediately prior to the Closing to acquire the Class B GP Shares representing forty-nine percent (49%) of the GP Shares.

"DCC JV Companies" means DCC GP Company and DCC LP Company.

"DCC LP Company" means the Canadian corporation assigned by DCC immediately prior to the Closing to acquire LP Interests representing forty-nine percent (49%) of the LP Interests.

"DCC Material Adverse Effect" means any change, event, development or effect that, individually or in the aggregate, has impaired, hindered, delayed or adversely affected, or would reasonably be expected to impair, hinder, delay or adversely affect, in any material respect the ability of DCC to perform its obligations under this Agreement and the Ancillary Agreements or to consummate the transactions contemplated hereby and thereby.

"Deed of Transfer" means the deed of transfer in form and substance reasonably acceptable to the parties conveying legal title to Lot 3 294 055 to the GP, as nominee for BSI regarding the HP2 Property and as nominee for Becancour JV regarding the Facility.

"End Date" means November 30, 2010, as such date may be amended pursuant to Section 8.1(a)(ii).

"Environment" means the indoor and outdoor environment including without limitation ambient air, atmosphere, surface water, groundwater, soil, land, surface or subsurface strata.

"Environmental Claim" means any notice (written or oral) by any Person alleging potential Liability (including, without limitation, potential Liability for investigatory costs, Cleanup costs, governmental response costs, natural resources damages, illegal or irregular deforestation activities, conservation area damages, property damages, personal injuries, fines or

penalties) arising out of, based on or resulting from (a) the presence, or Release into the Environment, of any Hazardous Material at any location, whether or not owned by a Subject Entity, or (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law.

"Environmental Laws" means all federal, local, provincial, municipal and foreign Laws relating in whole or in part to the Environment or its protection, pollution or protection of human health and occupational safety, including, without limitation, laws and regulations relating to exposure, emissions, discharges, Cleanup, Releases or threatened Releases of Hazardous Materials, Permits, forestry, mining, property transfer or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

"Environmental Liability Cap" means CAD \$20,000,000.

"Estimated Pension Shortfall Adjustment Amount" means [REDACTED] converted to US dollars at a 1.02:1.00 exchange rate).

"Facility" means the immovable property owned by BSI prior to the Restructuring Transactions and Becancour JV following the Restructuring Transactions, located at 6500, Yvon-Trudeau Street, Bécancour, Quebec, consisting of a part of Lot 3 294 055 and being the immovable property shown on the plan set forth in Schedule A of Exhibit G, including all buildings and improvements thereon, less the immovable property outlined in red thereon and labeled as the "HP2 Property," including all buildings and improvements thereon, and which will be known and designated by a separate lot number of the Cadastre of Québec following the completion of the Cadastral Operation. For greater certainty, the term "Facility" shall not include in any way by reference or otherwise (i) the silica fume disposal site, located at 5355, rue du Chemin-de-Fer, Bécancour, Quebec, (ii) the HP1 facility, located at 5500, rue Yvon-Trudeau, Bécancour, Quebec, and (iii) the HP2 Property.

"Final Pension Shortfall Adjustment Amount" means the Estimated Pension Shortfall Adjustment Amount or, if different, the Estimated Pension Shortfall Adjustment Amount as adjusted, applying the same methodologies used to calculate the Estimated Pension Shortfall Adjustment Amount, to reflect any change in the composition of the Transferred Employees between the date as of which the Estimated Pension Shortfall Adjustment Amount was determined and the Closing Date.

"GAAP" means the accounting principles generally accepted in Canada from time to time, including the policies and standards of disclosure recommended by the Canadian Institute of Chartered Accountants from time to time, applied in a consistent manner from period to period.

"Governmental Authority" means any nation or government, any state, province or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or regulation, including any domestic (federal, state or local), foreign or supranational governmental or regulatory authority, agency, department, board, commission, administration or

instrumentality, any court, tribunal or arbitral body or any self-regulatory or quasi-governmental organization.

"Governmental Order" means any binding order, decision, directive, declaration, writ, judgment, injunction, decree, notice, stipulation, determination or award entered by or with or issued by any Governmental Authority (in each such case whether preliminary or final).

"GP" means a corporation to be formed under the laws of the Province of Quebec, Canada, by BSI, to serve as the general partner of Becancour JV.

"GP Interests" means all of the general partnership interests in Becancour JV.

"GP Shareholders Agreement" has the meaning set forth in Section 3.2(d).

"GP Shares" means all of the equity interests in the GP, including all of the Class A shares and all of the Class B shares in the share capital of the GP.

"Hazardous Materials" means any substance, material, pollutant, contaminant, matter or waste that is regulated by Environmental Laws, including without limitation any material, substance or waste that is defined as a "hazardous waste," "hazardous substance," "hazardous material," "extremely hazardous waste," "dangerous substance," "deleterious substance," "dangerous goods," "explosive," "contaminant," "pollutant," "toxic substances and/or waste," "inhalation hazard," or "industrial residue" or by words of similar meaning under any provision of applicable Environmental Laws, and including but not limited to petroleum, petroleum products, asbestos, asbestos-containing material, urea formaldehyde, polychlorinated biphenyls (PCBs), lubricants, solvents, scrap (including pesticides and associated packaging), incinerator, mining, mineral and foundry waste, toxic mold and carcinogens or suspected carcinogens.

"HP2 Facility" means the HP2 facility, located at 6500, Yvon-Trudeau Street, Becancour, Quebec, which is part of Lot 3 294 055 as of the date hereof.

"HP2 Property" means that portion of Lot 3 294 055 on which the HP2 Facility is located, as more fully shown outlined in red in Schedule A to Exhibit G and labeled as the "HP2 Property," including the HP2 Facility and all other buildings and improvements thereon, and which will be known and designated by a separate lot number of the Cadastre of Québec following the completion of the Cadastral Operation.

"IFRS" means International Financial Reporting Standards, as in effect from time to time.

"Indebtedness" means, with respect to any Person, without duplication, (i) all obligations of such Person for borrowed money (including all accrued and unpaid interest and all prepayment penalties or premiums), (ii) all obligations of such Person evidenced by bonds, debentures, notes or similar debt instruments (including all accrued and unpaid interest and all prepayment penalties or premiums), (iii) all obligations of such Person under capitalized leases, (iv) all obligations of others secured by any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (v) all letters of credit issued

for the account of such Person, (vi) all obligations of such Person under conditional sale, title retention or similar arrangements or other obligations to pay the deferred purchase price for property or services (other than ordinary course trade payables), including earn-out obligations, (vii) all obligations of such Person in respect of interest rate and currency swap obligations, and (viii) all guarantees of or by such Person of any of the matters described in clauses (i) – (vii).

"Intellectual Property" means all intellectual property rights in any jurisdiction including all (i) copyrights, (ii) patents and industrial designs, including all divisionals, continuations, continuations-in-part, or patents issued thereon or reissues thereof, (iii) computer programs, databases, compilations and data, and all documentation related to any of the foregoing, (iv) trade-marks, service marks, trade names, domain names, designs, logos, emblems, signs or insignia, slogans, other similar designations of source or origin and general intangibles of like nature, together with the goodwill of the business symbolized by any of the foregoing, (v) registrations and applications relating to any of the foregoing, and (vi) confidential information and know-how, including trade secrets.

"Intellectual Property Agreements" has the meaning set forth in Section 3.2(p).

"Interests" means, collectively, (i) the Class B GP Shares representing forty-nine percent (49%) of the GP Shares and (ii) the LP Interests representing forty-nine percent (49%) of the LP Interests.

"Knowledge" means the actual knowledge of any specified parties, which includes the knowledge such party reasonably should have known in the reasonable conduct of his or her duties.

"Land Register" means the Québec Land Registry Office for the applicable registration division.

"Law" means any law (including common or civil law), ordinance, writ, directive, guideline, order in council, policy, decision, declaration, judgment, order, code, decree, injunction, statute, treaty, rule, regulation, regulatory requirement or determination of (or an agreement with) a Governmental Authority, each to the extent of having the force of law.

"Lease" means any lease, sublease, license or other occupancy agreement related to the Leased Real Property, together with all amendments, modifications, renewals or supplements thereto.

"Liability" means any debt, liability, penalty, fine, commitment, obligation, claim or cause of action of any kind whatsoever, whether due or to become due, known or unknown, accrued or fixed, absolute or contingent, or otherwise.

"Lien" means any and all liens, easements, servitudes, covenants, rights of way, title defects, encumbrances, options to purchase or lease or otherwise acquire any interest, conditional sales agreements, charges, security interests, options, claims, mortgages, hypothecs, pledges, proxies, voting trusts or agreements, or restrictions on title or transfer of any nature whatsoever and however created.

"Losses" means any and all actual losses, liabilities, damages, judgments, settlements and expenses (including interest and penalties recovered by a Third Party with respect thereto) and reasonable attorneys', consultants' and other experts' (including accountants) fees and expenses incurred in the defense of any of the same or in asserting, preserving or enforcing any of the rights of an Indemnified Person arising under Article IX or Article X, incurred by any Indemnified Person, whether or not involving a Third Party claim.

"Lot 3 294 055" means the immovable property known as lot 3 294 055 of the Cadastre of Quebec, in the Registration of Nicolet (Nicolet 1).

"LP Interests" means all of the interests of the special partners of Becancour JV in Becancour JV.

"Mining Property" means the immovable property located in Charlevoix Region, Province of Quebec, leased by BSI from the Quebec Ministry of Natural Resources and Wildlife pursuant to mining lease #674 renewed on January 13, 2006.

"Net Working Capital" means the Total Current Assets minus the Total Current Liabilities. For the purposes of calculating any adjustment to the Purchase Price as a result of any shortfall or any excess of Net Working Capital, an exchange rate of CAD:USD of 1.02:1.00 shall be used to convert Canadian dollars to U.S. dollars.

"Nominee Agreement" means the nominee agreement, in form and substance reasonably acceptable to the parties, setting out the terms and conditions upon which the GP shall act as nominee for and on behalf of Becancour JV for holding title to the Facility, and for and on behalf of BSI for holding title to the HP2 Property.

"Note" means the promissory note issued by Becancour JV to BSI pursuant to the Business Transfer Agreement.

"Off-the-Shelf Software" means commercially available off-the-shelf software owned by a Third Party that (i) has not been configured or customized for the user and (ii) is licensed to the user for a one-time or annual fee of US \$10,000 or less.

"Off-Title Deed of Transfer" means a deed of transfer, in form and substance reasonably acceptable to the parties, to be executed by the GP, BSI and Becancour JV prior to the Closing Date, conveying beneficial title to the Facility to the GP, which shall not be published in the Land Register.

"Output and Supply Agreement" has the meaning set forth in Section 3.2(l).

"Pension Transfer Agreement" means the Pension Transfer Agreement, if any, to be entered into by and between BSI and Becancour JV to reflect the transfer of assets and liabilities from BSI pension plans to Becancour JV pension plans on the terms set forth in Annex B to Exhibit B and such other terms as are reasonably satisfactory to BSI and DCC.

"Permits" means all licenses, franchises, permits, certificates, certificates of authorization, consents, registrations, approvals, accreditations or other similar authorizations

from any Governmental Authority required for, affecting, or relating in any way to, the Business, the Facility or any business operated or services furnished by the applicable Subject Entity and, where applicable, it includes but it is not limited to all Permits issued under Environmental Laws.

"Permitted Liens" means:

(a) prior claims or Liens for taxes, rates, assessments or governmental charges or levies not at the time due nor delinquent or, if due, the validity of which is being contested diligently at the time by, inter alia, any relevant Person in good faith by appropriate proceedings, and prior claims or legal hypothecs for the excess of the amount of any past due taxes or utilities for which a final assessment or account has not been received over the amount of such taxes or utilities as estimated and paid, inter alia, by such relevant Person, the whole provided that such relevant Person has set aside on its books adequate reserves with respect thereto;

(b) restrictions, easements, rights-of-way, restrictive covenants, licenses, servitudes, watercourse, right of access or user or other similar rights in land (including, without restriction, rights of way and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to or reserved by other Persons and shown of record or in a current title report for the applicable property and rights reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, license, franchise, grant or permit to terminate or to require annual payments as a condition to the continuance thereof, which do not, either individually or in the aggregate, materially impair the value, use, development, management, ownership or operation of the property subject thereto and do not materially adversely affect the marketability of such property;

(c) reservations in any original grants from the Crown of any land or interest therein and reservations of minerals right (including coal, oil and natural gas) in any grants from the Crown or from any other predecessors in title;

(d) Liens incurred or deposits given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the development, management, ownership and operation of property;

(e) any builder's, mechanic's, architect's, engineer's, supplier's of material, labourer's, carrier's, warehousemen's, materialmen's or other similar Liens incidental to the construction or renovation of property or out of the furnishing of materials, supplies or services, where the action to enforce the same has not proceeded to a final judgment, is being defended or contested in good faith by appropriate proceedings within thirty (30) days from the registration of such Liens by any applicable Person and such applicable Person shall have set aside on its books adequate reserves with respect thereto, and provided further that legal hypothecs securing claims of Persons having taken part in the construction or renovation of an immovable or equivalent Liens arising in the ordinary course of business of the applicable Person consistent with past practice in respect of amounts that are not yet due or payable, or, if due or payable, the validation or amount of which is being contested in good faith by appropriate proceedings within thirty (30) days from the registration of such legal hypothecs or Liens, for which adequate

reserves have been reflected in the financial statements of the applicable Person or on the Balance Sheet;

(f) Liens or deposits to secure workers' compensation, unemployment insurance or other similar statutory assessments;

(g) zoning, use and building by-laws and ordinances and federal, provincial or municipal by-laws and regulations and other governmental restrictions as to the use of property that do not either, individually or in the aggregate, materially impair the value, use, development, management, ownership or operation of the property subject thereto and do not materially adversely affect the marketability of such property;

(h) subdivision agreements, site plan control agreements, servicing agreements and other similar agreements with municipalities affecting the development or use of the applicable real property which do not, either individually or in the aggregate, materially impair the value, use, development, management, ownership or operation of the property subject thereto and do not materially adversely affect the marketability of such property;

(i) until the Closing Date, hypothecs in favor of Bank of America, N.A. and of Investissement Québec, as disclosed in Section 4.7(a) of the Disclosure Letter; and

(j) any other Liens on an asset that do not, individually or in the aggregate, affect in more than a de minimis way the value of, or impair the right or ability to use, operate, develop, manage or own such asset in the ordinary course of business of the applicable Person consistent with past practice.

"Person" means and includes an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an association, an unincorporated organization, a Governmental Authority and any other entity or group.

"Post-Closing Measurement Period" means the 36-month period commencing on the first day of the first full month following the Closing Date.

"Post-Closing Tax Period" means any Tax period beginning after the Closing Date and the portion of any Straddle Period beginning after the Closing Date.

"Pre-Closing Environmental Liabilities" means any and all Losses relating to BSI, its predecessors and the Subject Entities (collectively, "BSI Affiliated Entities") or with respect to the Business, the Facility or the Mining Property, and arising out of or related to: (i) a violation of or non-compliance with any Environmental Laws by BSI Affiliated Entities, the Business, the Facility or the Mining Property, on or prior to the Closing Date, including, without limitation, a failure to obtain, maintain or comply with any Permits issued under applicable Environmental Laws and required for the Business, the Facility or the Mining Property; (ii) the presence of Hazardous Materials or introduction of Hazardous Materials to the Environment, on or prior to the Closing Date, at, in, on, under or migrating from or to the Facility, the Mining Property or any other real property currently or formerly owned, operated or leased by or under the custody of BSI Affiliated Entities or the Business, including liabilities relating to the investigation, remediation, or monitoring of such Hazardous Materials; (iii) natural resource

damages, property damages, personal or bodily injury or wrongful death relating to the presence of or exposure to Hazardous Materials (including, without limitation, asbestos-containing materials), at, in, on, under or migrating from or to the Facility, the Mining Property or any other real property currently or formerly owned, operated or leased by or under the custody of BSI Affiliated Entities or the Business, on or prior to the Closing Date; (iv) the use, generation, storage, transportation, treatment, sale or other off-site disposal of Hazardous Materials on or prior to the Closing Date by BSI Affiliated Entities or with respect to the Business, the Facility or the Mining Property; and (v) any agreement or operation of law pursuant to which BSI Affiliated Entities or the Business, the Facility or the Mining Property becomes liable for any of the foregoing, including as a successor-in-interest.

"Pre-Closing Measurement Period" means the six-month period from January 1 to June 30, 2010.

"Pre-Closing Tax Period" means any Tax period ending on or before the Closing Date and the portion of any Straddle Period up to and including the Closing Date.

"Product" has the meaning set forth in the Output and Supply Agreement.

"Purchase Price Cap" means an amount equal to the Actual Closing Purchase Price as adjusted in accordance with Article II herein, as converted into Canadian dollars at a 1.02:1.00 CAD:US exchange rate for purposes of determining the cap amount.

"Real Property Agreements" has the meaning set forth in Section 3.2(m).

"Release" means any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, dispersal, leaching or migration into the Environment.

"Representative" means, with respect to any Person, (a) such Person, (b) its respective affiliates and (c) such Person's, and such Person's respective affiliates', respective officers, directors, employees, shareholders, partners, members, controlling persons, auditors, financial advisors, attorneys, accountants, consultants, agents, advisors or representatives.

"Services Agreements" has the meaning set forth in Section 3.2(o).

"Shared Employees" means the employees identified as such in Schedule A to Exhibit H hereto.

"Straddle Period" means any Tax period that includes, but does not end on, the Closing Date.

"Subject Entities" means (i) the GP, and (ii) Becancour JV.

"Tax Audit" means any audit, assessment, claim, levy, proceeding or other examination by any Governmental Authority, or appeal of any of the foregoing relating to Taxes.

"Tax Return" means any federal, state, provincial, local or foreign return, report, election, declaration or similar statement or information in written form (including any

attachment, exhibit, schedule or supplement thereto) relating to Taxes, including any information return, claim for refund and amendment thereof.

"Taxes" means all federal, state, provincial, territorial, county, municipal, local or foreign taxes, duties, imposts, levies, assessments, tariffs and other charges imposed, assessed or collected by a Governmental Authority including (i) any gross income, net income, gross receipts, business, royalty, capital, capital gains, goods and services, harmonized sales, value added, severance, stamp, franchise, occupation, premium, capital stock, sales and use, real property, land transfer, personal property, ad valorem, transfer, licence, profits, windfall profits, environmental, payroll, employment, employer health, pension plan, anti-dumping, countervail, excise, severance, stamp, occupation, or premium tax, (ii) all withholdings on amounts paid to or by the relevant person, (iii) all employment insurance premiums required under any applicable law and any other pension plan contributions or premiums, (iv) any fine, penalty, interest, or addition to tax, (v) any tax imposed, assessed, or collected or payable pursuant to any tax-sharing agreement or any other contract relating to the sharing or payment of any such tax, levy, assessment, tariff, duty, deficiency, or fee, and (vi) any liability for any of the foregoing as a transferee, successor, guarantor, or by contract or by operation of law.

"Third Party" means any Person (or group of Persons), including a Governmental Authority, other than the parties hereto and their respective affiliates.

"Title Commitment" means a title insurance in the form ordinarily used by First Canadian Title Insurance Company or Chicago Title Insurance Company Canada.

"Total Current Assets" means the current assets of Becancour JV calculated in accordance with Section 2.3 hereof, which shall include, without limitation, the following line items: raw materials inventory (including by-products: fines, crusher dust and oxides/slag) and prepaid expenses, and which shall exclude the following line items: cash (to the extent contributed by the GP), finished goods inventory (including by-products: silica fume and SOG80) and accounts receivable.

"Total Current Liabilities" means the current liabilities of Becancour JV calculated in accordance with Section 2.3 hereof, which shall include, without limitation, current liabilities arising since the date of its formation which have not been discharged (including any interest outstanding on the Note), and which shall exclude Taxes or other items the responsibility for which has been retained by BSI.

"Working Capital Facility Agreements" means the revolving credit facility to be entered into by Becancour JV and DCC and the security agreements related thereto on terms substantially consistent with the term sheet attached as Exhibit J hereto and on such other terms as are agreed to by BSI and DCC.

ARTICLE II

PURCHASE AND SALE OF THE INTERESTS

Section 2.1 Sale and Transfer of the Interests. Subject to the terms and conditions of this Agreement, at the Closing and following the contribution of assets and

assumption of certain Liabilities pursuant to the Restructuring Transactions, BSI shall (a) cause the GP to issue to DCC GP Company Class B GP Shares representing forty-nine percent (49%) of the GP Shares, and (b) cause Becancour JV to issue to DCC LP Company LP Interests representing forty-nine percent (49%) of the LP Interests, in each case free and clear of all Liens. Promptly following the Closing, BSI shall cause Becancour JV to pay to BSI an amount equal to the Estimated Closing Purchase Price, together with any interest accrued on the Note, in full satisfaction of all amounts outstanding under the Note.

Section 2.2 The Purchase Price.

(a) Subject to the terms and conditions of this Agreement, in consideration of the aforesaid issuance of Class B GP Shares representing forty-nine percent (49%) of the GP Shares to DCC GP Company, DCC GP Company shall contribute, or cause to be contributed, to the GP, at the Closing, consideration of four thousand, nine hundred Canadian dollars (CAD \$4,900) (the "GP Shares Consideration"). BSI shall cause the GP to contribute the GP Shares Consideration, together with any amounts previously contributed by BSI to the GP, to Becancour JV.

(b) Subject to the terms and conditions of this Agreement, in consideration of the aforesaid issuance of LP Interests representing forty-nine percent (49%) of the LP Interests to DCC LP Company, DCC LP Company shall contribute, or cause to be contributed, to Becancour JV, the sum of (i) consideration of forty-two million, seventy-five thousand and eight hundred and ten U.S. dollars (U.S. \$42,075,810) (the "Base LP Interests Consideration"), (ii) less an amount equal to forty-nine percent (49%) of the Assumed Obligations, (iii) increased by forty-nine percent (49%) of the amount, if any, by which Net Working Capital as of the Closing Date exceeds the Benchmark Net Working Capital, (iv) decreased by forty-nine percent (49%) of the amount, if any, by which Net Working Capital as of the Closing Date is less than the Benchmark Net Working Capital, (v) increased by any Capacity/Cost Adjustment Amount, and (vi) less an amount equal to the Final Pension Shortfall Adjustment Amount (the net of such amounts (i) through (vi), the "Purchase Price").

(c) At the Closing, DCC LP Company shall contribute to Becancour JV a cash amount (the "Estimated Closing Purchase Price") consisting of the sum of (i) the Base LP Interests Consideration, (ii) less an amount equal to forty-nine percent (49%) of the estimated Assumed Obligations, (iii) increased by forty-nine percent (49%) of the amount, if any, by which the estimated Net Working Capital exceeds the Benchmark Net Working Capital, (iv) decreased by forty-nine percent (49%) of the amount, if any, by which estimated Net Working Capital is less than the Benchmark Net Working Capital, and (v) less an amount equal to the Estimated Pension Shortfall Adjustment Amount, as determined in the case of clauses (iii) and (iv) as set forth in Section 2.3. The Estimated Closing Purchase Price shall be paid by wire transfer of immediately available funds to an account or accounts designated in writing by BSI to DCC three (3) Business Days prior to the Closing.

(d) The Estimated Closing Purchase Price shall be further adjusted consistent with the provisions of Section 2.2(b), and any amounts payable in connection therewith shall be paid in the manner set forth in Sections 2.3 and 2.4.

Section 2.3 Closing Purchase Price Adjustment.

(a) Three (3) Business Days prior to the Closing Date, BSI shall prepare and deliver to DCC a calculation showing, in reasonable detail, a good faith estimate of the Estimated Closing Purchase Price expected as of the Closing (the "Pre-Closing Statement"), including a statement of the estimated Net Working Capital and a statement of the estimated Assumed Obligations, in each case as of the Closing. The Pre-Closing Statement shall be prepared in accordance with GAAP applied consistently (but only to the extent consistent with GAAP) with the Balance Sheet. To the extent that DCC has any comments on the amounts reflected on such statement, BSI shall seek in good faith to take into account and adjust, as it deems appropriate, the contents of the Pre-Closing Statement; it being understood, however, that BSI, for the purposes of the Closing, shall ultimately determine such amounts, and the amounts set forth on the Pre-Closing Statement shall not influence or bind the parties with respect to any of the post-Closing adjustment procedures set forth in this Section 2.3.

(b) As promptly as practical, but in no event more than sixty (60) calendar days after the Closing, BSI shall prepare and deliver to DCC a statement of Net Working Capital, a statement of the Assumed Obligations, and a statement of the Final Pension Shortfall Adjustment Amount, together with a statement setting forth the relevant calculations resulting in any proposed adjustment to the Estimated Closing Purchase Price (together, the "Proposed Closing Purchase Price Statement"), which shall show the difference between the actual Assumed Obligations and Net Working Capital, as of the Closing Date, and the Assumed Obligations and Net Working Capital estimated for the purposes of Section 2.2(c) and which shall also show the difference between the Estimated Pension Shortfall Adjustment Amount and the Final Pension Shortfall Adjustment Amount. During the forty-five (45) day period following the delivery by BSI of the Proposed Closing Purchase Price Statement, DCC and its Representatives may review such statement and the working papers of BSI's and/or Becancour JV's auditors relating to the Proposed Closing Purchase Price Statement and shall have such access to BSI's and/or Becancour JV's personnel as may be reasonably necessary to permit DCC and its Representatives to review in detail the manner in which the Proposed Closing Purchase Price Statement was prepared. BSI shall and shall cause Becancour JV, as well as their Representatives, to cooperate with DCC and DCC's Representatives in facilitating such review. Upon completion of such review, DCC shall give any comments or objections it has with respect to the Proposed Closing Purchase Price Statement to BSI in writing within such forty-five (45) day period (the "Objection Letter"). DCC and BSI shall attempt in good faith to resolve any differences and issues as set forth in the Objection Letter. If no Objection Letter is delivered or the matters set forth in the Objection Letter are so resolved, then the Proposed Closing Purchase Price Statement, as adjusted for any changes as are agreed upon by DCC and BSI, shall be final and binding upon DCC and BSI and shall constitute the final Actual Closing Purchase Price (the "Actual Closing Purchase Price"). If the matters raised by DCC in the Objection Letter cannot be resolved between DCC and BSI within thirty (30) days of the date of the Objection Letter, the question or questions in dispute shall then be promptly submitted to (i) Deloitte and Touche LLP or (ii) if Deloitte and Touche LLP is unwilling or unable to serve, then a nationally-recognized accounting firm jointly selected by BSI and DCC not then performing, or that has not performed in the past two (2) years, material services for any of the parties hereto or their respective affiliates (such firm in the case of (i) or (ii), the "Accounting Referee"). The Accounting Referee shall be requested to deliver to BSI and DCC, as promptly as practicable, and within forty-five

(45) calendar days of being referred the matter, a report setting forth its adjustments, if any, to the Proposed Closing Purchase Price Statement, and the calculations supporting such adjustments. The Accounting Referee shall act as an arbitrator to determine, based solely on the provisions of this Agreement and the presentations by DCC and BSI, and not by independent review, only those issues still in dispute. Such report shall be final and binding upon the parties hereto and the Proposed Closing Purchase Price Statement as adjusted pursuant to such report shall be final and binding on the parties hereto and the Actual Closing Purchase Price shall be determined in accordance therewith. The cost of the Accounting Referee's review and report shall be borne one-half by BSI and one-half by DCC. Notwithstanding the foregoing, matters raised by DCC in the Objection Letter relating to the Estimated Pension Shortfall Adjustment Amount or the Final Pension Shortfall Adjustment Amount shall be resolved in a manner consistent with Annex B of Exhibit B.

(c) Within five (5) Business Days of the determination of the Actual Closing Purchase Price in accordance with Section 2.3(b), the applicable party shall contribute to Becancour JV an amount equal to any adjustment to the Estimated Closing Purchase Price by wire transfer of immediately available funds to an account or accounts designated in writing by Becancour JV as follows:

(i) In the event the Actual Closing Purchase Price is greater than the Estimated Purchase Price paid at the Closing by DCC, then DCC shall contribute, or cause to be contributed to, Becancour JV an amount equal to the difference between the Actual Closing Purchase Price and the Estimated Purchase Price.

(ii) In the event the Actual Closing Purchase Price is less than the Estimated Purchase Price paid at the Closing by DCC, then BSI shall contribute, or cause to be contributed to, Becancour JV an amount equal to the difference between the Estimated Purchase Price and the Actual Closing Purchase Price.

(iii) Any adjustment amount contributed under this Section 2.3(c) shall be paid with interest for the period from, and including, the Closing Date to, but excluding, the date of payment, calculated at the lesser of (x) the prime rate under "Money Rates" as reported in The Wall Street Journal on the first Business Day of the month during which interest is payable plus two percent (2%) or (y) the maximum rate of interest permitted to be charged by applicable Laws.

(d) Any amounts so contributed to Becancour JV pursuant to this Section 2.3 by any special partner (or its affiliate) shall be promptly distributed by Becancour JV to the other special partner, as a special distribution to such special partner.

Section 2.4 Post-Closing Purchase Price Adjustments.

(a) Subject to the deductions and limitations set forth in Section 2.4(c), if during the Post-Closing Measurement Period, the rolling average of the Adjusted Direct Cost

during any 12-month period in the Post-Closing Measurement Period is less than the Current Adjusted Direct Cost Amount, then DCC shall contribute, or cause to be contributed to, Becancour JV, as a one-time payment of additional consideration, an amount (the "Cost-Based Adjustment") based on the reduction in Adjusted Direct Cost from the Current Adjusted Direct Cost Amount, for the 12-month period selected by BSI, equal to the sum of: (i) for the first [REDACTED] in reduction per metric ton, [REDACTED] for each [REDACTED] per metric ton reduction and (ii) for each additional [REDACTED] per metric ton in reduction [REDACTED]. For purposes of the foregoing calculation, the Adjusted Direct Cost for the relevant period will be determined in accordance with the procedures set forth in the Output and Supply Agreement for each Product line produced at the Facility. Then, using those figures, a weighted average will be determined utilizing a breakdown of each Product line as follows [REDACTED] which is the breakdown of each Product line used to determine the Current Adjusted Direct Cost Amount.

(b) Subject to the deductions and limitations set forth in Section 2.4(c), if during any consecutive six-month period in the Post-Closing Measurement Period, the average annual production capacity of Product of the Facility exceeds the Current Capacity, for any reason (whether due to productivity improvements or otherwise), then DCC shall contribute, or cause to be contributed to, Becancour JV, as additional consideration, a one-time payment (the "Capacity-Based Adjustment"), equal to [REDACTED] per metric ton in increased capacity.

(c) The aggregate of any amounts payable as a Cost-Based Adjustment and Capacity-Based Adjustment (together, the "Capacity/Cost Adjustment Amount") shall be reduced and/or limited as follows:

(i) The amount, if any, of capital investments made or expended by Becancour JV (from whatever source) in excess of [REDACTED] during the Post-Closing Measurement Period (subject to pro-ration if the Capacity/Cost Adjustment Amount becomes payable prior to the termination of the Post-Closing Measurement Period pursuant to Section 2.4(e)(ii) and 2.4(h)) shall reduce the Capacity/Cost Adjustment Amount by CAD \$0.49 for each CAD \$1.00 so expended (converted into US Dollars based on the exchange rate in effect at the end of the Post-Closing Measurement Period or such earlier time as any Capacity/Cost Adjustment Amount shall become payable). Notwithstanding the foregoing, amounts expended during the Post-Closing Measurement Period that are expensed during such period, rather than capitalized, in a manner consistent with BSI's historical practices and in accordance with IFRS (to the extent applicable to the item in question) will not reduce the Capacity/Cost Adjustment Amount that would otherwise be payable.

(ii) The Special Capex (as defined in the Output and Supply Agreement) shall not be counted against the above-referred amount of [REDACTED] during the Post-Closing Measurement Period.

(iii) Any additional costs to achieve a Boron level that is less than what is currently contained in the Product produced for DCC shall not be counted against the above-referred amount of [REDACTED] during the Post-Closing Measurement Period.

(iv) The aggregate maximum amount payable as a Capacity/Cost Adjustment Amount shall be US \$10,000,000 (the "Capacity/Cost Adjustment Amount Cap").

(d) All amounts used in the calculation of any Cost-Based Adjustment or Capacity-Based Adjustment shall be determined in accordance with BSI's historical practices and in accordance with IFRS (to the extent applicable to the item in question), and calculations shall assume that the Facility will be operated in the ordinary course of business, including down time for ordinary course maintenance and repairs.

(e) Within sixty (60) calendar days following the earlier of (i) the end of the Post-Closing Measurement Period and (ii) such time between the end of the 12-month period following the Closing Date and the end of the Post-Closing Measurement Period that BSI reasonably believes that Becancour JV shall have achieved cost reductions and/or capacity increases that would result in the Capacity/Cost Adjustment Amount exceeding the Capacity/Cost Adjustment Amount Cap (subject to the terms of Section 2.4(c)(i)), BSI shall prepare and deliver to DCC a statement prepared in good faith and in accordance with the terms of this Section 2.4 setting forth the relevant calculations resulting in any Capacity/Cost Adjustment Amount, as applicable (a "Proposed Adjustment Statement").

(f) During the forty-five (45) day period following the delivery by BSI of the Proposed Adjustment Statement, DCC and its Representatives may review such statement and its supporting materials and shall have such access to BSI's and/or Becancour JV's personnel as may be reasonably necessary to permit DCC and its Representatives to review in detail the manner in which the Proposed Adjustment Statement was prepared. BSI shall and shall cause Becancour JV, as well as their Representatives, to cooperate with DCC and DCC's Representatives in facilitating such review. Upon completion of such review, DCC shall give any comments or objections it has with respect to the Proposed Adjustment Statement to BSI in writing within such forty-five (45) day period (the "Adjustment Objection Letter"). DCC and BSI shall attempt in good faith to resolve any differences and issues as set forth in the Adjustment Objection Letter. If no Adjustment Objection Letter is delivered or the matters set forth in the Adjustment Objection Letter are so resolved, then the Proposed Adjustment Statement, as adjusted for any changes as are agreed upon by DCC and BSI, shall be final and binding upon DCC and BSI.

(g) If the matters raised by DCC in the Adjustment Objection Letter cannot be resolved between DCC and BSI within thirty (30) days of the date of the Adjustment Objection Letter, the question or questions in dispute shall then be promptly submitted to an Accounting Referee or an independent engineering firm jointly selected by BSI and DCC, as appropriate and agreed by the parties. The Accounting Referee or independent engineer shall be requested to deliver to BSI and DCC, as promptly as practicable, and within forty-five (45) calendar days of being referred the matter, a report setting forth its adjustments, if any, to the Proposed Adjustment Statement, and the calculations supporting such adjustments. The Accounting Referee or independent engineer shall act as an arbitrator to determine, based solely on the provisions of this Agreement and the presentations by DCC and BSI, and not by independent review, only those issues still in dispute. Such report shall be final and binding upon the parties hereto and the Proposed Adjustment Statement as adjusted pursuant to such

report shall be final and binding on the parties hereto and any Capacity/Cost Adjustment Amount shall be determined in accordance therewith. The cost of the Accounting Referee's or independent engineer's review and report shall be borne one-half by BSI and one-half by DCC.

(h) Subject to Section 2.4(i), within thirty (30) calendar days of the determination of the amount of any Capacity/Cost Adjustment Amount payable to BSI pursuant to this Section 2.4, DCC shall contribute, or cause to be contributed to, Becancour JV such amount by wire transfer of immediately available funds to an account or accounts designated in writing by BSI or Becancour JV to DCC. Notwithstanding the foregoing, no Capacity/Cost Adjustment Amount shall be payable in connection with a Proposed Adjustment Statement delivered to DCC pursuant to Section 2.4(e)(ii) unless the final and binding Proposed Adjustment Statement with respect thereto shall entitle Becancour JV and BSI to a Capacity/Cost Adjustment Amount equal to the Capacity/Cost Adjustment Amount Cap. If such final and binding Proposed Adjustment Statement would otherwise entitle BSI to a Capacity/Cost Adjustment Amount that is less than the Capacity/Cost Adjustment Amount Cap, then no amount shall be payable at such time. Rather, BSI shall prepare and deliver a new Proposed Adjustment Statement pursuant to Section 2.4(e)(i) and be entitled to any payment only when the statement prepared at that time becomes final, based on the amount set forth on such statement.

(i) Notwithstanding the foregoing, to the extent that any amounts are then due and payable to DCC or any of its Affiliates by Becancour JV or BSI or any of its Affiliates, or by BSI or any of its Affiliates to Becancour JV, DCC shall not be required to contribute, or cause to be contributed to, Becancour JV any Capacity/Cost Adjustment Amount until such past due and payable amounts have been paid to DCC or its applicable Affiliates, or Becancour JV, as the case may be, in full. For the avoidance of doubt, Becancour JV and BSI shall not be entitled to more than one payment under this Section 2.4.

(j) Any amounts so contributed to Becancour JV pursuant to this Section 2.4 shall be promptly distributed by Becancour JV to BSI, as a special distribution to BSI.

(k) An illustrative example of the calculation of the Capacity/Cost Adjustment Amount is set forth in Section 2.4(k) of the Disclosure Letter.

Section 2.5 Further Assurances. After the Closing, BSI and TL shall from time to time, at the reasonable request of DCC, execute and deliver, or cause their affiliates to execute and deliver, such other instruments of conveyance and transfer and take such other actions as DCC may reasonably request, in order to consummate the transactions contemplated hereby and to vest in DCC GP Company the right, title and interest in and to the Class B GP Shares and to vest in DCC LP Company the right, title and interest in and to the LP Interests.

ARTICLE III

THE CLOSING

Section 3.1 The Closing. The closing (the "Closing") of the sale and issuance of the Interests as contemplated by this Agreement shall take place at a location mutually agreed between DCC and BSI, at 10:00 am local time, as soon as reasonably practicable, but in any

event within two (2) Business Days after the satisfaction or waiver of the conditions set forth in Article VII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to satisfaction or waiver thereof), or such other date and time as shall be mutually agreed upon by the parties. The parties agree that September 30, 2010 shall be the target date for the Closing.

Section 3.2 Deliveries by BSI and TL. Subject to the conditions set forth in this Agreement, at the Closing, and simultaneously with DCC's deliveries hereunder, BSI and TL shall deliver, or cause to be delivered, to DCC, the following:

(a) the share certificates representing the Class B GP Shares, and evidence of the recordation of the issuance of the Class B GP Shares in the corporate register, in each case sufficient to vest in DCC GP Company good and marketable title to such Class B GP Shares;

(b) the certificates evidencing units of LP Interests representing forty-nine percent (49%) of the LP Interests, and evidence of the recordation of the issuance of such LP Interests in the register, in each case sufficient to vest in DCC LP Company good and marketable title to such LP Interests;

(c) copies of the certificates for Class A GP Shares, and LP Interests, previously issued to BSI and evidence of cancellation of the Note;

(d) the General Partner Shareholders Agreement in the form set forth on Exhibit C (the "GP Shareholders Agreement"), duly executed by BSI and the GP;

(e) the Amended and Restated Limited Partnership Agreement of Becancour JV in the form set forth on Exhibit D hereto (the "Amended and Restated Limited Partnership Agreement"), duly executed by BSI and the GP, together with evidence of its immatriculation in the Province of Quebec;

(f) evidence of the filing of an instrument of amendment to the articles of incorporation of the GP, amending and restating such articles of incorporation to include the terms set forth on Exhibit E hereto and such other terms reasonably satisfactory to DCC (the "Amended GP Charter");

(g) evidence of the election/replacement of the directors and officers of the GP and Becancour JV consistent with Section 3.2(g) of the Disclosure Letter;

(h) executed copies of the consents referred to in Sections 7.2(e) and 7.2(f);

(i) the officer's certificate referred to in Section 7.2(c);

(j) the opinion of Stikeman Elliott LLP referred to in Section 7.2(g);

(k) the Output and Supply Agreement in the form set forth on Exhibit F hereto (the "Output and Supply Agreement"), duly executed by BSI and Becancour JV;

(l) the Business Transfer Agreement, duly executed by BSI and Becancour JV, and, where required, evidence of registration at the proper movable or immovable register;

(m) the real property agreements reflecting the terms set forth in Exhibit G hereto and such other terms as are reasonably satisfactory to DCC and BSI (the "Real Property Agreements"), duly executed by BSI and Becancour JV;

(n) the Pension Transfer Agreement, duly executed by BSI and Becancour JV;

(o) the services agreements reflecting the terms set forth in Exhibit H hereto and such other terms as are reasonably satisfactory to DCC and BSI (the "Services Agreements"), duly executed by Becancour JV, BSI and TL, as applicable;

(p) the intellectual property agreements reflecting the terms set forth in Exhibit I hereto and such other terms as are reasonably satisfactory to DCC and BSI (the "Intellectual Property Agreements"), duly executed by Becancour JV and BSI;

(q) the Working Capital Facility Agreements, duly executed by Becancour JV;

(r) other Ancillary Agreements, if any, to which TL, BSI, and/or Becancour JV is a party, duly executed by TL, BSI, and/or Becancour JV, as applicable;

(s) evidence of the completion of the Restructuring Transactions as referred to in Section 7.2(o) hereof;

(t) evidence of the prior execution of the Deed of Transfer, by BSI and the GP as nominee for and on behalf of Becancour JV and evidence of registration, subject to the provisions of Section 6.8(f);

(u) evidence of the prior execution of the Off-Title Deed of Transfer, by BSI, the GP and Becancour JV;

(v) evidence of the prior execution of the Nominee Agreement, by BSI, the GP and Becancour JV;

(w) evidence of the prior execution of the deed of transfer of the mining lease for the Mining Property, by BSI and Becancour JV, and evidence of registration in the proper applicable registers;

(x) a copy of the pay-off letter or irrevocable undertaking evidencing that Bank of America, N.A. and Investissement Québec have undertaken to promptly discharge the hypothecs, as disclosed in Section 4.7(a) of the Disclosure Letter; and

(y) all other previously undelivered documents reasonably required to be delivered by BSI or TL to DCC or one of its affiliates at or prior to the Closing in connection with the consummation of the transactions contemplated hereby.

Section 3.3 Deliveries by DCC. Subject to the conditions set forth in this Agreement, at the Closing, and simultaneously with BSI's and TL's deliveries hereunder, DCC shall deliver or cause to be delivered to BSI, TL or Becancour JV, as applicable, the following:

- (a) the GP Shares Consideration;
- (b) the Estimated Closing Purchase Price;
- (c) the GP Shareholders Agreement, duly executed by DCC GP Company;
- (d) the Amended and Restated Limited Partnership Agreement, duly executed by DCC LP Company;
- (e) the Output and Supply Agreement, duly executed by DCC Customer;
- (f) the Working Capital Facility Agreements, duly executed by DCC or its applicable affiliates;
- (g) other Ancillary Agreements, if any, to which DCC or one of its affiliates is a party, duly executed by DCC or one or more of its affiliates, as applicable;
- (h) the officer's certificate referred to in Section 7.3(c); and
- (i) all other previously undelivered documents required to be delivered by DCC to BSI or TL, as applicable, at or prior to the Closing in connection with the consummation of the transactions contemplated hereby.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BSI

BSI represents and warrants to DCC as follows:

Section 4.1 Organization and Qualification. BSI is duly organized, validly existing and in good standing, or the equivalent thereof, under the Laws of its jurisdiction of incorporation. BSI has the requisite corporate power and authority (or the equivalent thereof) and any necessary Permits to own, operate and lease the properties that it purports to own, operate or lease and to carry on its business as it is now being conducted, and is duly qualified to do business, and is in good standing in each jurisdiction where the character of its properties owned, operated or leased or the nature of its activities makes such qualification necessary, except as may be otherwise indicated in Section 4.1 of the disclosure letter delivered by BSI to DCC simultaneously with the execution of this Agreement (the "Disclosure Letter"). Each of the Subject Entities is, or upon its formation and organization will be, duly organized, validly

existing and in good standing, or the equivalent thereof, under the Laws of its jurisdiction of incorporation or organization. Each of the Subject Entities is, or upon its formation and organization will be, duly qualified to do business, and is, or upon its formation and organization will be, in good standing in each jurisdiction where the character of the properties to be owned, operated or leased by it, or the nature of its activities, following completion of the Restructuring Transactions makes such qualification necessary. Except for the Subject Entities, BSI does not have any subsidiaries. Section 4.1 of the Disclosure Letter sets forth a complete list of the jurisdictions in which BSI is, and each Subject Entity is or will be upon its formation and organization, qualified to do business. Neither of the Subject Entities has conducted or will conduct any business prior to the consummation of the Restructuring Transactions other than in connection with its formation and organization or in connection with giving effect to the Restructuring Transactions.

Section 4.2 Capitalization.

(a) All of the outstanding shares in the share capital of BSI are held by TL and there is no other Person who has any rights to acquire equity in BSI other than TL. Immediately prior to the Closing, all of the outstanding LP Interests will be owned beneficially and of record by BSI. Immediately prior to the Closing, all of the outstanding GP Shares will be owned beneficially and of record by BSI. At the Closing, following the issuance of GP Shares and LP Interests to the DCC JV Companies as contemplated hereby, all of the outstanding Class A GP Shares, Class B GP Shares and LP Interests will be duly authorized, validly issued, fully paid, non-assessable and free of preemptive rights or Liens (other than pursuant to this Agreement, the Amended and Restated Limited Partnership Agreement and the GP Shareholders Agreement).

(b) Except as may be provided for in the Amended and Restated Limited Partnership Agreement and the GP Shareholders Agreement or as set forth on Section 4.2(b) of the Disclosure Letter, (i) no subscription, warrant, option, convertible security or other right to purchase or acquire any shares in the share capital of BSI or other equity interest issuable by BSI or either of the Subject Entities is authorized or outstanding, (ii) none of BSI or the Subject Entities has any obligation to issue any subscription, warrant, option, restricted share award, convertible security or other such right, (iii) there are no agreements, options, warrants or other Contracts, rights or arrangements existing or outstanding that provide for the purchase, sale, issuance or transfer of any shares in the share capital of BSI or other equity interest of BSI or either of the Subject Entities or interests therein (other than this Agreement), and (iv) there are no outstanding or authorized share appreciation, phantom share or similar rights with respect to BSI or either of the Subject Entities.

(c) Except as may be provided for in the Amended and Restated Limited Partnership Agreement and the GP Shareholders Agreement, (i) there are no voting trusts or other agreements or understandings to which BSI, any shareholder of BSI, or either Subject Entity is a party with respect to the voting of the shares in the share capital of BSI or other equity interests of BSI or either Subject Entity, and (ii) neither BSI nor either Subject Entity is required to redeem, repurchase or otherwise acquire shares or other equity interests of BSI or either Subject Entity as a result of the transactions contemplated by this Agreement.

(d) At or prior to the Closing, BSI will cause the GP to contribute CAD \$10,000 to Becancour JV, including the GP Shares Consideration contributed to the GP by DCC or one of its affiliates.

Section 4.3 Corporate Authorization; Enforceability; Board Action.

(a) Each of BSI and TL have, and the applicable Subject Entities will have at the relevant time prior to the Closing, the requisite power and authority to enter into this Agreement and/or the applicable Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the applicable Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of BSI and TL and shall be duly authorized at the relevant time prior to the Closing by the applicable Subject Entities, and no other proceedings on the part of BSI, TL and the applicable Subject Entities or their respective shareholders are or shall be necessary to authorize the execution and delivery of this Agreement and/or the applicable Ancillary Agreements or to consummate the transactions contemplated hereby or thereby. This Agreement has been duly executed and delivered by each of BSI and TL and, assuming due authorization, execution and delivery of this Agreement by the other parties hereto, constitutes a valid and binding agreement of BSI and TL enforceable against BSI and TL in accordance with its terms, except to the extent that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws, now or hereafter in effect, affecting creditors' rights generally, and to general equity principles. When executed and delivered, the applicable Ancillary Agreements will have been duly executed and delivered by each of BSI, TL and the applicable Subject Entities, and, assuming due authorization, execution and delivery of such Ancillary Agreements by the other parties thereto, will constitute valid and binding agreements of each of BSI, TL and the applicable Subject Entities enforceable against each of BSI, TL and the applicable Subject Entities in accordance with their terms, except to the extent that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws, now or hereafter in effect, affecting creditors' rights generally, and to general equity principles.

(b) Each of the Boards of Directors of BSI and TL, at meetings duly called and held or by unanimous written consent, has (i) approved and adopted this Agreement and the Ancillary Agreements, and the transactions contemplated hereby and thereby and (ii) determined that the consideration to be received hereunder reflects fair value for the Interests. No other corporate or shareholder approvals are required by BSI or TL to authorize the transactions contemplated by this Agreement or the Ancillary Agreements.

Section 4.4 Consents and Approvals; No Violations.

(a) Except as set forth in Section 4.4(a) of the Disclosure Letter, the execution, delivery and performance by BSI, TL and the applicable Subject Entities of this Agreement and/or the applicable Ancillary Agreements, and the consummation by BSI, TL and the applicable Subject Entities of the transactions contemplated hereby and thereby, require no action by or in respect of, or notice to or filing with, any Governmental Authority other than compliance with any applicable requirements of the antitrust, competition, foreign investment, securities or similar Laws set forth on Section 7.1(a) of the Disclosure Letter.

(b) Except as set forth in Section 4.4(b) of the Disclosure Letter, none of the execution, delivery or performance by BSI, TL or the applicable Subject Entities of this Agreement and/or the applicable Ancillary Agreements, or the consummation by BSI, TL or the applicable Subject Entities of the transactions contemplated hereby or thereby or compliance by BSI, TL or the applicable Subject Entities with any of the provisions hereof or thereof will (i) conflict with or result in any breach of any provisions of the articles of incorporation or bylaws or similar organizational and governing documents of BSI or TL or the similar organizational and governing documents of any of the Subject Entities, (ii) assuming compliance with the matters referred to in Section 4.4(a), conflict with or result in any violation of any provision of any Law binding upon or applicable to BSI, TL or any of the Subject Entities, (iii) require the consent, approval or authorization of, or notice to or filing with, any Third Party with respect to, result in any violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, amendment, or acceleration of any right or obligation of BSI, TL or any Subject Entity or to a loss of any benefit to which BSI, TL or any Subject Entity is entitled) under, any provision of any Contract or any Permit, (iv) result in the creation or imposition of any Lien (other than a Permitted Lien) on any asset of the Business (except as may be provided for in the Amended and Restated Limited Partnership Agreement and the GP Shareholders Agreement) or (v) result in a fraudulent act or preference contemplated in Art. 1631 of the Civil Code of Quebec. In furtherance thereof, BSI hereby confirms that, both before and immediately after the Closing, (a) each of BSI and TL will have sufficient capital with which to conduct its business, (b) the aggregate property of each of BSI and TL, at a fair valuation (including if disposed of at a fairly conducted sale under legal process), is sufficient to enable payment by it of all obligations, due and accruing, and (c) each of BSI and TL will be able generally to meet its obligations as they come due.

Section 4.5 Financial Statements.

(a) Section 4.5(a) of the Disclosure Letter sets forth a true and complete copy of BSI's unaudited financial statements, which include a balance sheet of BSI as of December 31 for each of the fiscal years ended 2007 to 2009, together with the related statements of operations and retained earnings and of cash flows for each of the fiscal years then ended, all of which have been reviewed by TL's auditors as part of their review of TL's financial statements (the "Year-End Financial Statements"). Section 4.5(a) of the Disclosure Letter sets forth a true and complete copy of BSI's unaudited interim Balance Sheet as of June 30, 2010 and the related unaudited interim statements of operations and retained earnings for the six (6) months ended June 30, 2010 (the "Interim Unaudited Financial Statements" and, together with the Year-End Financial Statements, the "Financial Statements"). The Financial Statements have been prepared from, and are in accordance with, the Books and Records of BSI, comply in all material respects with applicable accounting requirements, have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the financial position and the results of operations and cash flows (and changes in financial position, if any) of BSI as at the dates thereof or for the periods presented therein (subject, in the case of the Interim Unaudited Financial Statements, to normal year-end adjustments and the absence of footnotes), in each case in conformity with GAAP applied on a consistent basis (except as may be indicated in the notes thereto).

(b) The Balance Sheet has been prepared from, and is in accordance with, the Books and Records of BSI and fairly presents, on a pro forma basis, the Business as at the date thereof and after giving effect to the Restructuring Transactions.

(c) As of December 31, 2009, the assets of BSI in the United States did not equal or exceed a fair market value of US \$63.4 million. In addition, BSI's sales in or into the United States (whether to Third Parties in the United States or to BSI or its affiliates in the United States) during the 12-month period ended December 31, 2009 did not equal or exceed US \$63.4 million. BSI does not have any subsidiaries with any assets or sales in or into the United States.

(d) Except as set forth on Section 4.5(d) of the Disclosure Letter, there are no significant deficiencies or material weaknesses (as such terms are defined in the rules promulgated under applicable securities Laws) relating to the internal accounting processes of BSI.

(e) None of BSI, TL or, to the Knowledge of the BSI Knowledge Parties, any of their Representatives has received or otherwise had or obtained Knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting practices, procedures, methodologies or methods of BSI or any Subject Entity, including any complaint, allegation, assertion or claim that BSI has engaged in questionable accounting practices.

Section 4.6 Absence of Certain Changes; Conduct of the Business.

(a) Since June 30, 2010, (i) there has occurred no change, effect, event, occurrence, circumstance, state of facts or development that, individually or in the aggregate, has had or would reasonably be expected to have a BSI Material Adverse Effect and (ii) BSI has conducted the Business only in the ordinary course of business consistent with past practice, subject to the Restructuring Transactions. Except for the Restructuring Transactions and as set forth in Section 4.6 of the Disclosure Letter, from June 30, 2010 through the date of this Agreement, neither BSI nor any Subject Entity has taken any action that, if taken after the date of this Agreement, would violate any of the provisions set forth in Section 6.1 hereof.

(b) BSI has engaged only in the Business, together with (i) the manufacture of solar grade silicon, (ii) the trading of silicon metal products, and (iii) the recovery and sale of silica fumes, and BSI has not owned and does not own any other business.

Section 4.7 Undisclosed Liabilities.

(a) Except for Liabilities (i) set forth on the face of the Financial Statements, (ii) incurred in the ordinary course of business and consistent with past practice and since the date of the most recent Financial Statements, (iii) that are not, individually or in the aggregate, material to BSI, or (iv) incurred in connection with this Agreement or the transactions contemplated hereby, none of BSI or any Subject Entity has incurred any Liabilities related to the Business of any nature. Section 4.7(a) of the Disclosure Letter sets forth a (x) description of the aggregate Indebtedness of BSI outstanding as of the date hereof and (y) list of all guarantees,

sureties, letters of credit or similar arrangements entered into by BSI, TL or any of their affiliates on behalf of the Business.

(b) Except as set forth on Section 4.7(b) of the Disclosure Letter, since January 1, 2008, there have been no warranty or similar claims or Liabilities arising from the sale, distribution or use of silicon or any other material or product produced by the Business.

Section 4.8 Litigation.

(a) Section 4.8 of the Disclosure Letter sets forth a complete list of each litigation, suit, action, claim, charge, arbitration, complaint or other proceeding (each, an "Action") that has been instituted or, to the Knowledge of the BSI Knowledge Parties, threatened against or by BSI or any Subject Entity, the outcome of which, if determined adversely to BSI or any Subject Entity, would be reasonably expected to individually involve Liabilities of CAD \$200,000 or more or, in the aggregate, have a BSI Material Adverse Effect. Except as set forth in Section 4.8(a) of the Disclosure Letter, (i) there is no Action by or before any Governmental Authority pending or, to the Knowledge of the BSI Knowledge Parties, threatened against or by BSI or any Subject Entity, except for such Actions as would not, individually or in the aggregate, reasonably be expected to have a BSI Material Adverse Effect and (ii) no investigation or inquiry by or before any Governmental Authority is pending or, to the Knowledge of the BSI Knowledge Parties, threatened against any Subject Entity or the Business.

(b) There are no material Government Orders outstanding against BSI or any Subject Entity, other than Governmental Orders applying generally to the industry in which BSI and the Subject Entities operate.

Section 4.9 Compliance with Laws.

(a) Except as disclosed in Section 4.9 of the Disclosure Schedule, BSI is, and has been at all times since January 1, 2007, and the Subject Entities will be, and will have been at all times since January 1, 2007, in compliance in all material respects with all applicable Laws as they relate to the Business.

(b) Except as would not reasonably be expected to have a BSI Material Adverse Effect, (i) all Permits are valid and in full force and effect, (ii) there is no default under, nor any violation of, any Permit, and no event has occurred or condition exists that constitutes or, that with notice or lapse of time or both, could constitute, a default under, or violation of, any Permit, (iii) none of the Permits shall be terminated or impaired or become terminable, in whole or in part, as a result of the transactions contemplated hereby, and (iv) all applications required to have been filed for the renewal of any Permits have been duly filed, and all legal and technical information has been duly presented, on a timely basis with the appropriate Governmental Authorities. All such Permits are set forth in Section 4.9(b) of the Disclosure Letter.

(c) Since January 1, 2007, except as set forth in Section 4.9(c) of the Disclosure Letter, with respect to the Business, neither BSI nor TL has received, and no BSI Knowledge Party has any Knowledge of, any written or oral notice from any Governmental Authority that alleges any material non-compliance by BSI (or that BSI is under investigation or

the subject of an inquiry by any such Governmental Authority for such alleged noncompliance) with any applicable Law.

(d) Except as set forth on Section 4.9(d) of the Disclosure Schedule, BSI owns or possesses, and, following the Closing, Becancour JV will own or possess, all right, title and interest in and to all of the Permits and governmental approvals that are necessary to conduct the Business as conducted on the date of this Agreement (collectively, the "Governmental Approvals"). Section 4.9(d) of the Disclosure Letter sets forth a true and complete list, as of the date hereof, of all material Governmental Approvals. Each such Governmental Approval is valid and in full force and effect as of the date hereof, and BSI is in material compliance with the terms and conditions of its Governmental Approvals and neither BSI nor TL has received written notice that BSI is in violation of any of the terms or conditions of such Governmental Approvals. BSI has taken all actions to maintain such Governmental Approvals, and there has been no decision by BSI not to renew any material Governmental Approval. To the Knowledge of the BSI Knowledge Parties, there is no investigation or proceeding, including a survey report indicating deficiencies that have not been deemed corrected by the applicable Governmental Authority, pending or threatened that could result in the suspension, cancellation, termination, limitation, restriction, loss, expiration, or impairment of any Governmental Approval, other than expiration in accordance with the terms thereof. To the Knowledge of the BSI Knowledge Parties, no event has occurred that, with the giving of notice, the passage of time, or both, would (i) constitute grounds for a material violation, order or deficiency with respect to any Governmental Approval or (ii) revoke, withdraw or suspend any Governmental Approval. Except as set forth in Section 4.9(f) of the Disclosure Letter, all Governmental Approvals relating to the Business shall survive the transactions contemplated by this Agreement and shall be available for use by the Subject Entities immediately following the Closing.

(e) (i) No payment has been made by or on behalf of BSI, with respect to the Business, or any Subject Entity with the understanding that any part of such payment is to be used for any purpose other than that described in the documents supporting such payment, and (ii) none of BSI or, to the Knowledge of the BSI Knowledge Parties, its Representatives or any other Person associated with or acting for or on behalf of BSI has, directly or indirectly, made, with respect to the Business, any illegal contribution, gift, bribe, rebate, payoff, influence payment, kickback or other illegal payment to any Person, private or public, regardless of form, whether in money, property or services, (A) to obtain favorable treatment for BSI or any of its Representatives in securing business, (B) to pay for favorable treatment for business secured for BSI or any of its Representatives, (C) to obtain special concessions, or for special concessions already obtained, for or in respect of BSI or any of its Representatives, or (D) otherwise for the benefit of BSI or any of its Representatives in violation of any Law. Neither BSI nor any Representative or Person acting on behalf of BSI has knowingly and with corrupt intent accepted or received any unlawful contribution, payment, gift, kickback, expenditure or other item of value in connection with the Business.

(f) Except as set forth in Section 4.9(f) of the Disclosure Letter, all regulatory reports, schedules, statements, documents, filings, submissions, forms, registrations and other documents, together with any amendments required to be made with respect thereto, with respect to the Business required to have been filed with any Governmental Authority (the

"Business Documents") have been filed, and all applicable Taxes, fees and assessments due and payable in connection therewith have been timely paid. All Business Documents were true, correct and complete when filed, complied with applicable Law in effect when filed, did not contain any untrue statement of a fact or omit to state a fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, and no deficiencies have been asserted by any such Governmental Authority with respect to Business Documents that have not been satisfied except, in each case, as would not reasonably be expected to have a BSI Material Adverse Effect. There is no unresolved violation or exception by any such Governmental Authority with respect to any of the Business Documents .

(g) BSI has been and is in material compliance with (i) all applicable Laws concerning security, and (ii) all of its internal policies and/or agreements with other Persons concerning security, in each case as they relate to the Business except, in each case, as would not reasonably be expected to have a BSI Material Adverse Effect.

Section 4.10 Books and Records. The Books and Records of BSI and the Subject Entities (i) are complete and accurate in all material respects and (ii) have been maintained in accordance with BSI's customary business practices and in material compliance with applicable Law.

Section 4.11 Employee Benefit Plans.

(a) Section 4.11(a) of the Disclosure Letter sets forth a true and complete list of each deferred compensation, bonus, incentive compensation, share purchase, stock option, share appreciation, phantom share or other equity compensation, savings, profit sharing, severance or termination pay, medical, surgical, hospitalization, life or other insurance (whether insured or self-insured), employee loan, employee assistance, supplementary unemployment benefit, termination, retention or severance agreement, pension, retirement, supplementary retirement and other benefit plan, fund, program, agreement or arrangement, in each case, that is sponsored, maintained or contributed to or required to be contributed to by TL, BSI or any Subject Entity or any affiliate of BSI or any Subject Entity (excluding the Canada Pension Plan, the Quebec Pension Plan, any health or drug plan established and administered by a Province and workers' compensation insurance provided by federal or provincial legislation or a comparable program established and administered outside Canada), or to which TL, BSI or any Subject Entity or any affiliate of BSI or any Subject Entity is party, or is for the benefit of any Business Employee (collectively, the "Employee Plans").

(b) With respect to each Employee Plan, TL, BSI and/or a Subject Entity has heretofore made available or caused to be made available to DCC true and complete copies of the most recent version of the Employee Plan and any amendments thereto, any related custodial or other funding vehicle, the most recent actuarial report and annual information return, the financial statements, if any, and all material contracts relating to Employee Plans with respect to which TL, BSI or a Subject Entity may have any liability, including insurance contracts, investment management contracts, record keeping agreements and other services agreements. Except as set forth in Section 4.11(b) of the Disclosure Letter, there have not been

any amendments, modifications, terminations or any other changes to the most recent version of any Employee Plans.

(c) No promises or commitments have been made to amend any Employee Plan or to provide increased benefits thereunder, except as required by applicable Law.

(d) Each Employee Plan is, and has been since its establishment, duly registered where required by applicable Law and is in good standing thereunder (including registration with the relevant tax authorities where such registration is required to qualify for tax exemption or other beneficial tax status), and has been administered in material compliance with its terms and all applicable Law.

(e) All employer and employee obligations in respect of the Employee Plans, including payments, contributions and premiums required under applicable Law and their terms have been satisfied (or if applicable, accrued in accordance with normal accounting practices), and there are no outstanding defaults or violations in respect thereof.

(f) Except as set forth in Section 4.11(f) of the Disclosure Letter, no Employee Plan provides medical, surgical, hospitalization, death or similar benefits (whether or not insured) for periods extending beyond retirement or other termination of service.

(g) No Employee Plan is a multi-employer pension plan and there is no obligation with respect to a Business Employee under a multi-employer pension plan.

(h) Except as set forth in Section 4.11(h) of the Disclosure Letter, the consummation of the transactions contemplated by this Agreement will not, either alone or in combination with another event, accelerate the time of payment or vesting, or increase the amount of compensation or benefits due any such Business Employee.

(i) There are no pending or, to the Knowledge of the BSI Knowledge Parties, threatened actions, suits, claims, trials, demands, investigations, arbitrations or other proceedings with respect to the Employee Plans against TL, BSI or any Subject Entity, or the administrators, trustees, custodians, insurers or funds of such Employee Plans, by or on behalf of any Employee Plan, by any Person or beneficiary covered under any such Employee Plan, or otherwise involving any such Employee Plan (other than routine claims for benefits).

(j) No order has been made or notice given pursuant to any applicable Law requiring (or proposing to require) any Person to take (or refrain from taking) any action in respect of any Employee Plan, and no event has occurred and no condition or circumstance exists that has resulted or could reasonably result in any Employee Plan (i) being ordered or required to be terminated or wound-up, (ii) have its registration under any applicable Law refused or revoked, (iii) being placed under the administration of any trustee or any regulatory authority or (iv) being required to pay any Tax or penalty under any applicable Law.

(k) Except as set forth in Section 4.11(k) of the Disclosure Letter, no Business Employee holds any equity compensation awards (including, without limitation, stock options, restricted stock, or phantom stock awards) of TL, BSI or any Subject Entity.

Section 4.12 Employee Matters.

(a) Set forth on Section 4.12(a) of the Disclosure Letter is a list of all employees of BSI, TL or any of their affiliates (other than the Shared Employees) on a no-name basis who are dedicated to the Business (the "Business Employees"), and setting out, for each Business Employee, their position or title; their status (i.e., full time, part time, temporary, casual, seasonal, co-op student); whether they are employed for an indeterminate term or a fixed term and, in the latter case, the duration and expiry date of the term; their total annual remuneration, including a breakdown of salary and bonus or other incentive compensation, if any; whether the employee is a member of a collective bargaining union or agency; their total length of employment including any prior employment that would affect calculation of years of service for any purpose, including statutory entitlements, contractual entitlements, benefit entitlements or pension entitlements; and whether any employees are on any approved or statutory leave of absence, and, if so, the nature of such absence and the expected date of return. No Subject Entity employs any individual other than the Business Employees and the Shared Employees.

(b) Except as set forth in Section 4.12(b) of the Disclosure Letter:

(i) BSI is not a party to or bound by any collective bargaining agreement, labor agreement or work rules, or any other similar agreement with any labor union or labor organization;

(ii) There is no collective bargaining agreement with any labor union or labor organization in respect of any of the Business Employees or Shared Employees. Set forth on Section 4.12(b) of the Disclosure Letter is a true and correct list of the current expiration dates of each collective bargaining agreement;

(iii) No trade union, council of trade unions, employee bargaining agency or affiliated bargaining agent:

(1) holds bargaining rights with respect to any Business Employees or Shared Employees by way of certification, interim certification, voluntary recognition, designation or successor rights;

(2) has applied to be certified as the bargaining agent of any Business Employees or Shared Employees; or

(3) has applied to have BSI or a Subject Entity declared a related employer or successor employer pursuant to applicable labor legislation with respect to any Business Employees or Shared Employees.

(iv) There are no actual, threatened to the Knowledge of the BSI Knowledge Parties or pending organizing activities of any trade union, council of trade unions, employee bargaining agency or affiliated bargaining agent or any actual, threatened to the Knowledge of the BSI Knowledge Parties or pending unfair labor practice complaints, strikes, work stoppages, picketing, lock-outs, slowdowns, boycotts or similar labor related disputes or proceedings

pertaining to the Business Employees or Shared Employees, and there have not been any such activities or disputes or proceedings within the last three (3) years.

(c) There are no Actions against BSI pending or, to the Knowledge of the BSI Knowledge Parties, threatened to be brought or filed with any Governmental Authority in connection with the employment of any Business Employee or Shared Employee.

(d) All vacation pay for Business Employees and Shared Employees is properly reflected and accrued in the Books and Records.

(e) Since the date of the Balance Sheet, except in the ordinary course of business or as required by Law and consistent with BSI's past practices, there have been no increases or decreases in staffing levels in relation to the Business and there have been no material changes in the terms and conditions of employment of any Business Employees or Shared Employees, including their salaries, remuneration and any other payments to them, and there have been no material changes in any remuneration payable or benefits provided to any officer, director, consultant, independent or dependent contractor or agent engaged in relation to the Business, and there have been no agreements, promises or commitments made with respect thereto.

(f) BSI and the Subject Entities are in compliance in all material respects with applicable employment equity Laws in relation to the Business Employees or the Shared Employees and, to the extent required pursuant to such Laws, have prepared and posted an employment equity plan for all Business Employees and Shared Employees.

(g) BSI and the Subject Entities are in compliance in all material respects with applicable pay equity Laws in relation to the Business Employees and Shared Employees and have prepared and posted a pay equity plan for all Business Employees and Shared Employees and made all necessary adjustments pursuant to such pay equity plan in full compliance with applicable Laws, and BSI has fully disclosed to DCC the terms pertaining thereto.

(h) No material disputes or proceedings are pending or, to the Knowledge of the BSI Knowledge Parties, threatened against BSI or a Subject Entity in relation to the employment of any current or former employee or consultant employed or engaged in relation to the Business. To the Knowledge of the BSI Knowledge Parties, BSI has not received notice of the intent of any Governmental Authority responsible for the enforcement of labor or employment Laws to conduct an investigation with respect to or relating to any current or former employee or consultant employed or engaged in relation to the Business, and no such investigation is in progress.

(i) To the Knowledge of the BSI Knowledge Parties, BSI has at all times within the past five (5) years, as it relates to the Business, properly classified, under applicable Law, each of its employees as employees, and each of its independent contractors as independent contractors, and has treated each person classified by it as an employee or independent contractor consistently with such status. There is no proceeding pending or, to the Knowledge of the BSI Knowledge Parties, threatened against BSI challenging the classification

of any person as an employee or an independent contractor, including any claim for unpaid benefits, for or on behalf of, any such person.

(j) BSI is not, in relation to the Business: (i) delinquent in payments to any current or former employees or consultants, including, without limitation, outsourced employees, temporary employees, sales agents, and self-employed workers, for any services or amounts required to be reimbursed or otherwise paid, including, without limitation, all severance payments and other labor rights pursuant to any Contract between such employee or consultant and BSI or pursuant to applicable Law; or (ii) liable for any material payment to any trust or other fund or to any Governmental Authority with respect to employment insurance benefits, withholding Taxes, social security contributions, or other benefits or obligations for employees (other than routine payments to be made in the ordinary course of business consistent with past practice).

(k) To the Knowledge of the BSI Knowledge Parties, no Business Employee or Shared Employee, and no current or former employee or consultant of BSI employed or engaged in relation to the Business, is in violation of any material term of any employment agreement, consulting agreement, nondisclosure agreement, fiduciary duty, duty of loyalty, noncompetition agreement, restrictive covenant or other obligation of any such employee or consultant.

Section 4.13 Taxes. Except as set forth in Section 4.13 of the Disclosure Letter:

(a) BSI has (i) duly and timely filed (or has had duly and timely filed on its behalf) with the appropriate Governmental Authority all Tax Returns required to be filed by it and all such Tax Returns are true, correct and complete, (ii) duly and timely paid in full (or has had duly and timely paid in full on its behalf) all Taxes required to be paid by it (whether or not shown on any Tax Return), and (iii) made (or has had made on its behalf) adequate provision in accordance with GAAP for all accrued Taxes not yet due and payable, where, in each case, a failure to do so has resulted in, or will result in, a Lien on the assets of Becancour JV.

(b) There are no proceedings, investigations, audits or claims now pending or threatened in writing against BSI in respect of Taxes relating to the assets of Becancour JV, and there are no matters under audit or appeal with any Governmental Authority relating to such Taxes, which, in either case, would result in a Lien on the assets of Becancour JV.

(c) Neither BSI nor any of the BSI Knowledge Parties (or other Employees responsible for Tax matters) expects any Governmental Authority to assess any additional Taxes for any period for which Tax Returns have been filed which would result in a Lien on the assets of Becancour JV.

(d) There are no Liens for Taxes upon any of the assets of Becancour JV.

(e) Neither BSI nor any BSI affiliate that transferred assets to Becancour JV is a non-resident of Canada, or a partnership other than a Canadian Partnership, within the meaning of section 116 of the *Income Tax Act* (Canada).

(f) Each of BSI and any BSI affiliate that transferred assets to Becancour JV that carries on commercial activities in Canada is duly registered under subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) with respect to the goods and services tax and harmonized sales tax.

(g) Each of BSI and any BSI affiliate that transferred assets to Becancour JV that carries on commercial activities in Quebec is duly registered under Division I of Chapter VIII of Title I of the *Quebec Sales Tax Act* with respect to the Quebec sales tax, and their registration numbers are set forth in Section 4.13 of the Disclosure Letter.

(h) Neither BSI nor Becancour JV is or has been engaged in a trade or business within the United States for United States federal income Tax purposes or otherwise is or has been subject to Tax in the United States.

(i) None of the assets owned by Becancour JV constitutes "United States real property interest" within the meaning of Section 897(c)(1) of the Code.

(j) No Governmental Authority in a jurisdiction in which BSI or any BSI affiliate does or did not file Tax Returns with respect to the Business or the assets transferred to Becancour JV has made a written claim that BSI or such BSI affiliate is or may be required to file Tax Returns in, or is or may be subject to Tax by, that jurisdiction with respect to the Business or such assets.

Section 4.14 Certain Contracts.

(a) Section 4.14(a) of the Disclosure Letter sets forth a true and correct list, as of the date hereof, of all of the material Contracts relating to the Business to which BSI or either of the Subject Entities is a party or by which its assets are bound, including all Contracts relating to the Business in the following categories (the "Material Contracts"):

(i) any Contract with any affiliate, current or former officer, director, employee, shareholder or other Representative of BSI or with a family member of any of the foregoing or with an entity in which any of the foregoing is a controlling Person;

(ii) any Lease;

(iii) any Contract entered into during the last three (3) years relating to the disposition or acquisition by BSI of any material assets other than in the ordinary course of business;

(iv) any indenture, mortgage, note, promissory note, bond, loan, guaranty, surety or credit agreement or other Contract relating to Indebtedness, including any letters of credit issued on behalf of the Business;

(v) any Contract (including vendor contracts) that is reasonably anticipated to involve aggregate payments or consideration furnished

by or to BSI or any Subject Entity of more than U.S. \$500,000 in any year or that expires more than a year after the date of this Agreement;

(vi) any Contract relating to the supply of vegetal charcoal, sawmill leftovers or quartz;

(vii) any Contract which could reasonably be expected to affect the ability of Becancour JV to fulfill its commitments pursuant to the Output and Supply Agreement;

(viii) any Contract relating to (i) the provision of power, energy or other natural resources or (ii) mining or other land-usage rights or restrictions;

(ix) any management, consulting, advertising, marketing, sales, distribution or promotion Contract that (A) involves annual payments in excess of U.S. \$100,000 or (B) is not cancelable on 30 days' notice without payment or penalty;

(x) any Contract for capital expenditures in excess of U.S. \$100,000 in the aggregate;

(xi) any Contract with any Governmental Authority;

(xii) any Contract (A) pursuant to which BSI grants any right to use any material Intellectual Property owned by BSI, (B) pursuant to which BSI receives the right to use any material Intellectual Property owned by any Third Party, including any affiliate of BSI (other than Contracts granting rights to use Off-the-Shelf Software), or (C) restricting BSI's right to use any material Intellectual Property that is owned by BSI;

(xiii) any Contract having a duration in excess of one year and not terminable without penalty or payment in excess of U.S. \$50,000 upon 90 days or less prior notice to BSI; and

(xiv) any Contract containing covenants not to compete in any line of business or with any other Person in any geographical area, covenants of any other Person not to compete with BSI in any line of business or in any geographical area, or covenants that in any way purport to or would limit the ability of any Subject Entity, DCC or any of their respective affiliates (after the Closing Date) to compete with any Person.

(b) Copies of all such Material Contracts referred to in Section 4.14(a) have been previously delivered to or made available for inspection by DCC, and such copies are complete and correct. Except as set forth in Section 4.14(b) of the Disclosure Letter, (i) each Material Contract is a valid, binding and enforceable obligation of BSI, and, to the Knowledge of the BSI Knowledge Parties, the other parties thereto, and is in full force and effect, (ii) except as would not reasonably be expected to have a Material Adverse Effect, BSI has performed in all

material respects all obligations required to be performed by it to date under each Material Contract and is not (with or without the lapse of time or the giving of notice, or both) in breach or default thereunder, (iii) to the Knowledge of the BSI Knowledge Parties, each of the other parties to each Material Contract has performed in all material respects all obligations required to be performed by it under such Material Contract and is not (with or without the lapse of time or the giving of notice, or both) in breach or default thereunder, and (iv) BSI has not received notice of an intention to cancel, not renew, terminate, materially modify or challenge the validity or enforceability of any Material Contract.

Section 4.15 Intellectual Property.

(a) Section 4.15(a) of the Disclosure Letter sets forth a complete and accurate list of all Intellectual Property relating to the Business owned by (i) BSI or (ii) any other Person and used in the conduct of the Business, in each case, that is the subject of a registration or an application for registration and lists, in each case, the owner, the jurisdiction and the application or registration number thereof (collectively, "Registered Intellectual Property"). BSI is the record owner of all Registered Intellectual Property free and clear of all Liens (except Permitted Liens), all Registered Intellectual Property is valid and in force, and all application, renewal and maintenance fees and filings in relation to all Registered Intellectual Property have been paid and maintained to date.

(b) The applicable Subject Entity shall own as of the Closing, free and clear of all Liens (except Permitted Liens), or shall have valid and enforceable rights or licenses to use, free and clear of all Liens (except Permitted Liens), all of the Intellectual Property that is used in, or necessary to carry on, the Business as conducted on the date of this Agreement.

(c) To the Knowledge of the BSI Knowledge Parties, the conduct of the Business does not infringe or otherwise violate the Intellectual Property of any Third Party. Neither BSI nor TL has received any written notice and no claim is pending or, to the Knowledge of the BSI Knowledge Parties, threatened alleging any of the foregoing or challenging the ownership, use, validity, enforceability or registrability of any Intellectual Property owned by BSI, TL or any of their respective affiliates and used in the Business (collectively, "Business Intellectual Property"). To the Knowledge of the BSI Knowledge Parties, no Third Party is infringing or otherwise violating any of the Business Intellectual Property. Neither BSI nor TL has made or threatened any claim against any Third Party alleging infringement or other violation of any Business Intellectual Property and no such claim is currently pending.

(d) BSI has taken commercially reasonable efforts to protect the confidentiality of its trade secrets, and none of its trade secrets has been disclosed or authorized to be disclosed to any Third Party other than pursuant to a written non-disclosure agreement.

(e) Each employee and consultant who has developed Intellectual Property on behalf of BSI or for use in the Business has executed an agreement with BSI (or affiliate thereof) that conveys on an exclusive basis to BSI (or affiliate thereof) any and all right, title and interest in and to such Intellectual Property.

(f) Except as set forth on Section 4.15(f) of the Disclosure Letter, the solar grade silicon purification operations of BSI do not share any Intellectual Property with the Business.

(g) None of the software licenses set forth on Section 4.15(a) of the Disclosure Letter contains any provision that, following the Restructuring Transactions, will be binding on DCC or its affiliates.

Section 4.16 Properties and Assets.

(a) Section 4.16(a) of the Disclosure Letter sets forth a true, correct and complete description of the immovable properties (the "Owned Real Property"), which are the only immovable properties owned by BSI. The Facility is the only immovable property required in connection with the Business and will be beneficially owned by Becancour JV immediately before the Closing Date. BSI or the applicable affiliate has, and the applicable Subject Entity will have at the Closing, good and valid title to or other legal right to use all properties and assets (real and personal and tangible and intangible), including all such properties and assets that it purports to own or has legal right to use as reflected on the Balance Sheet (except for properties and assets disposed of in the ordinary course of business and consistent with past practice and in compliance with this Agreement). None of such properties or assets reflected on the Balance Sheet is subject, or at the Closing will be subject, to any Liens except Permitted Liens. BSI has delivered or made available to DCC true and correct copies of all title reports and title policies (including all exception documents referenced therein) and certificates of location regarding the Owned Real Property in its possession.

(b) Section 4.16(b) of the Disclosure Letter sets forth a true, correct and complete description of the Mining Property (the "Leased Real Property" and, together with the Owned Real Property, the "Real Property"), which is the only immovable property leased by BSI in connection with, and required by, the Business and which will be leased by Becancour JV immediately before the Closing Date. BSI has delivered or made available to DCC true, correct and complete copies of all Leases relating to the Leased Real Property, together with all title reports and title policies (including all exception documents referenced therein) and certificates of location, if any, relating to the Leased Real Property in its possession. No consents of any landlord under the Lease are required in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. Except as set forth in Section 4.16(b) of the Disclosure Letter, there are no leases, subleases, ground leases, licenses or other occupancy agreements affecting the use or occupancy of the Leased Real Property by BSI or any affiliate or to which BSI or any affiliate is a party or bound with respect to the Leased Real Property. All Leases with respect to the Leased Real Property of BSI or its affiliate are in good standing and in full force and effect, and all Contracts evidencing such Leased Real Property have been registered with the applicable Governmental Authority (including, without limitation, the applicable recording office for real property records), as applicable, in order to provide constructive notice of and/or enforce such Contract in the case of a sale of such Leased Real Property to a Third Party.

(c) There are no (i) to the Knowledge of the BSI Knowledge Parties, plans by any Governmental Authority that may result in the imposition of any general or special

assessment relating to any of the Real Property, (ii) written notices from any Governmental Authority that have been received by BSI or TL indicating that any of the Real Property or any Improvements (as defined below) is currently not in compliance with applicable zoning laws or regulations or that the Governmental Authority will be seeking modification of any variances, special exceptions, conditions or agreements pertaining to such Real Property or that such Governmental Authority intends to modify other governmental rules or restrictions applicable to the Real Property or the use thereof or (iii) outstanding written notices from any Governmental Authority that have been received by BSI or TL requiring or calling attention to the need for any work, repair, construction, alteration or installation on, or in connection with, any of the Real Property, except where the failure to perform such work, repair, construction, alteration or installation has not resulted and would not reasonably be expected to result, individually or in the aggregate, in a BSI Material Adverse Effect. There is no pending or, to the Knowledge of the BSI Knowledge Parties, threatened change in the zoning classification of any parcel of the Real Property. No expropriation proceedings against any Real Property is pending or, to the Knowledge of the BSI Knowledge Parties, threatened. All of the properties and assets of BSI and its affiliates consisting of buildings, fixtures, building systems and equipment (whether owned or leased) currently used in the normal operations of the Business (the "Improvements") have been maintained and are in good operating condition, subject to normal wear and tear, and are free from material defects, except where such defects would not reasonably be expected to have a BSI Material Adverse Effect.

(d) Section 4.16(d) of the Disclosure Letter sets forth all Contracts relating to the leasing of personal property involving annual payments in excess of U.S. \$100,000 relating to personal property used in the Business. BSI has delivered or made available to DCC true, correct and complete copies of such Contracts, together with all amendments, modifications or supplements thereto. All Contracts under which BSI is a lessee are in good standing and in full force and effect. BSI has, and the applicable Subject Entity will have at the Closing, good and marketable title to all of the items of personal property reflected on the Balance Sheet, free and clear of any and all Liens other than the Permitted Liens. All such items of personal property that are used in the normal operation of the Business are in good condition and in a state of good maintenance and repair (ordinary wear and tear excepted) and are suitable for the purposes used, in all cases, in all material respects. None of the personal property that is used in the normal operation of the Business is located outside of the Real Property, except on a temporary basis for repair or maintenance, and all of the personal property located on the Real Property is owned or leased by BSI or the Subject Entities, save for such personal (movable) property owned by any tenant or leased by BSI or the Subject Entities.

(e) BSI has not granted, and no BSI Knowledge Party has any Knowledge of, any outstanding options, rights of first offer, rights of refusal or similar preemptive rights to purchase or lease any of the Real Property, or any portion thereof or interest therein (other than any such rights in favor of BSI or a Subject Entity). Except as contemplated by this Agreement and the Restructuring Transactions, BSI has not entered into any Contract or other obligation (including options), and no BSI Knowledge Party has any Knowledge of any Contract or other obligation (including options), that is currently in effect for the sale, exchange, encumbrance or transfer of any of the Real Property.

(f) The present use of the Real Property (including the Improvements) is, and the Improvements themselves are, in substantial conformity with all applicable Laws and with all recorded deeds, restrictions of record and other agreements affecting such Real Property other than any violations or failures to conform that do not materially and adversely affect the use and operation of the Real Property, and neither BSI nor TL has received any written notice of any violation thereof currently outstanding, and the BSI Knowledge Parties have no Knowledge of any violation thereof currently outstanding. The Real Property includes all land, Improvements, easements and other rights and interests appurtenant thereto materially necessary for use by BSI in the conduct of the Business as presently conducted. To the Knowledge of the BSI Knowledge Parties, none of the items set forth in Section 4.16 of the Disclosure Letter have or have had a material adverse effect, individually or in the aggregate, on the use of the Real Property.

(g) Other than the Real Property Agreements, there are no leases, subleases, licenses or agreements, written or oral, granting to any party or parties (other than BSI or a Subject Entity) the right of use or occupancy of any portion of any Real Property.

(h) No portion of the Real Property has suffered any damage by fire or other casualty loss which has not heretofore been repaired and restored to its condition before such loss or casualty, except as would not, individually or in the aggregate, reasonably be expected to interfere in any material respect with the use of such Real Property, or with respect to any Leased Real Property, which has not heretofore been repaired and restored in accordance with the terms of the applicable Lease.

(i) Each Real Property has direct vehicular and pedestrian access to a public street adjoining such Real Property or has vehicular and pedestrian access to a public street via (i) a permanent, irrevocable and appurtenant easement benefiting such parcel of Real Property or (ii) an adjacent parcel that is included in the Real Property, and such access is not dependent on any land or other real property interest that is not included in the Real Property.

(j) Subject to the provisions of the Real Property Agreements, the parcels constituting the Owned Real Property are assessed separately from all other adjacent property not constituting Owned Real Property for purposes of real property Taxes, and each of the parcels of the Owned Real Property complies with all applicable subdivision, land parcelization and local governmental taxation or separate assessment requirements, without reliance on property not constituting Owned Real Property.

(k) Subject to the provisions of the Real Property Agreements, all services and utilities required for the use of the Real Property (including, without limitation, water, steam, sewage, fluids, gas and electricity supply lines and conduits, heating, ventilation and air flow and treatment systems, cables, fiber optics, wiring and other physical waves and aerial conduits conveying and connecting devices related to communications, telecommunications and data systems, spur lines and shipping/receiving doors and gates) have been installed, completed and paid for in full, are in good operating condition, except for normal wear and tear, and are sufficient for the operations of the Business as currently conducted.

(l) All Taxes in respect of the Owned Real Property have been paid without subrogation as of the date of this Agreement and no land transfer duties in respect of the Owned Real Property are due or payable as of the date of this Agreement. All Taxes related to the occupancy of the Leased Real Property have been paid without subrogation as of the date of this Agreement.

(m) No portion of the Real Property is a recognized or a classified cultural property or situated in a historic or natural zone, within a classified historic site or in a protected area, in each case pursuant to the *Cultural Property Act* (Québec). No portion of the Real Property is situated in an agricultural zone within the meaning of the *Act respecting the Preservation of Agricultural Land and Agricultural Activities* (Québec).

Section 4.17 Environmental Matters.

(a) Except as set forth in Section 4.17(a) of the Disclosure Letter, with respect to the Business, the Facility, or to the Knowledge of the BSI Knowledge Parties, with respect to the Mining Property, (i) BSI is, and following the Restructuring Transactions the Subject Entities will be, in compliance, in all material respects, with all applicable Environmental Laws, including, without limitation, holding and complying with the terms of all material Permits required by applicable Environmental Laws for the operation of the Business and the Facility, and no event has occurred or condition exists that constitutes or, that with notice or lapse of time or both, could constitute, a material default under, or violation of, any Environmental Laws or Permit held or required pursuant to applicable Environmental Law, and (ii) none of BSI, TL or either Subject Entity has received any Governmental Order or other written communication, whether from a Governmental Authority, citizens group, employee, former employee or otherwise, that alleges that BSI is not in such compliance with all applicable Environmental Laws, and, to the Knowledge of the BSI Knowledge Parties, there are no circumstances that may prevent or interfere with such full compliance in the future. All Permits currently held or in the process of being obtained by BSI or its affiliates related to the Business pursuant to applicable Environmental Laws are identified in Section 4.17(a) of the Disclosure Letter.

(b) Except as set forth in Section 4.17(b) of the Disclosure Letter, with respect to the Business, the Facility or the Mining Property, there is no Environmental Claim pending or, to the Knowledge of the BSI Knowledge Parties, threatened against BSI or any Subject Entity or, to the Knowledge of the BSI Knowledge Parties, against any Person whose Liability for any such Environmental Claim BSI has or may have retained or assumed either contractually or by operation of Law.

(c) Except as set forth in Section 4.17(c) of the Disclosure Letter or as would not, individually or in the aggregate, reasonably be expected to have a BSI Material Adverse Effect, (i) there are no past or present actions, activities, circumstances, conditions, events or incidents, including, without limitation, the Release of any Hazardous Material, particulates, vapors or smoke at the Facility, the HP2 Property, any other location currently or formerly operated by BSI in connection with the Business (other than the silica fume disposal site) or, to the Knowledge of the BSI Knowledge Parties, at the Mining Property, that could reasonably be expected to form the basis of any Environmental Claim against BSI or any Subject

Entity or, to the Knowledge of the BSI Knowledge Parties, against any Person whose Liability for any such Environmental Claim BSI or any Subject Entity has or may have retained or assumed either contractually or by operation of Law; (ii) there have been no Releases of Hazardous Materials at the Facility, the HP2 Property, any other location currently or formerly operated by BSI in connection with the Business (other than the silica fume disposal site) or, to the Knowledge of the BSI Knowledge Parties, at the Mining Property that could reasonably be expected to require Cleanup or which could reasonably be expected to create a threat to human health, worker safety or the Environment; and (iii) there are no past or present damages, degradation or other irregular interferences at the Facility, the HP2 Property, any other location currently or formerly operated by BSI in connection with the Business (other than the silica fume disposal site) or, to the Knowledge of the BSI Knowledge Parties, at the Mining Property regarding any natural resources including environmental reserves, legal reserves, conservation units and areas of permanent conservation.

(d) Without in any way limiting the generality of the foregoing, (i) all on-site landfills at the Facility or the HP2 Property and, to the Knowledge of the BSI Knowledge Parties, off-site locations, where BSI, on behalf of the Business, has stored, disposed or arranged for the disposal of Hazardous Materials, mining tailings and debris, are identified in Section 4.17(d) of the Disclosure Letter, (ii) all underground storage tanks, and, if available, the age, capacity and contents of such tanks, located on the Facility are identified in Section 4.17(d) of the Disclosure Letter, (iii) except as set forth in Section 4.17(d) of the Disclosure Letter, there is no asbestos contained in or forming part of any building, building component, structure or office space at the Facility, and (iv) except as set forth in Section 4.17(d) of the Disclosure Letter, no polychlorinated biphenyls (PCBs) are used or stored at the Facility.

(e) Except as set forth in Section 4.17(e) of the Disclosure Letter, BSI is not, and following the Restructuring Transactions the Subject Entities will not be, a party to any Contract, with respect to the Business, the Facility or the Mining Property, pursuant to which it would be obligated to indemnify any other Person with respect to, or be responsible for any Liability pursuant to any Environmental Law.

(f) Except as set forth in Section 4.17(f) of the Disclosure Letter, BSI is not, and following the Restructuring Transactions the Subject Entities will not be, a party to any Contract or has any other obligation pursuant to which it would be or is required to maintain financial assurances, post a bond, provide escrow or collateral in relation to reclamation, recovery of degraded areas, remediation or Cleanup under any Environmental Law.

(g) Except as set forth in Section 4.17(g) of the Disclosure Letter, BSI does not have, and following the Restructuring Transactions the Subject Entities will not have, any outstanding or future obligations under current applicable Environmental Laws to Cleanup, restore or reclaim the Facility, the HP2 Property, the Mining Property or any other property that has been mined for quartz on behalf of the Business.

(h) Except as set forth in Section 4.17(h) of the Disclosure Letter, with respect to the Facility, the Mining Property or the Business, BSI does not have any known or reasonably foreseeable asset retirement obligations (AROs) as described by the Financial Accounting Standards Board (FASB) Interpretation No. 47 (FIN 47).

(i) To the Knowledge of the BSI Knowledge Parties, BSI has lawfully secured access, approvals, permissions or similar authorizations from all applicable Persons for the use of any natural resource (including but not limited to water, land, vegetation and forest products) at the Mining Property, and no current or reasonably foreseeable condition exists that could, with notice or lapse of time or both, cause the lawful use of such natural resource to be reduced, eliminated or denied.

(j) Except as set forth on Section 4.17(j) of the Disclosure Letter, BSI has provided or made available to DCC complete copies of all material environmental site assessments, reports, studies, documents, investigations, audit reviews, analyses, tests or monitoring data possessed by or in the control of BSI or TL pertaining to (i) Releases of Hazardous Materials at the Facility or the Mining Property, (ii) the environmental condition of the Facility, the Business or the Mining Property, or (iii) BSI's or the Business's compliance with applicable Environmental Laws.

(k) To the Knowledge of the BSI Knowledge Parties, all suppliers of raw materials to BSI with respect to the Business (including, without limitation, suppliers of vegetal charcoal, natural resources, sawmill leftovers and quartz), are and always have been in compliance with all applicable Environmental Laws, except as would not reasonably be expected to result, individually or in the aggregate, in a BSI Material Adverse Effect.

(l) To the Knowledge of the BSI Knowledge Parties, Sitec S.E.C. is in compliance with (i) all applicable Environmental Laws relating to the operation of the Mining Property and related activities and (ii) the Lac Malbaie Operating Agreement, dated April 30, 2007, between Sitec S.E.C. and BSI.

Section 4.18 Transactions with Affiliates.

(a) Except as set forth in Section 4.18(a) of the Disclosure Letter, there are no outstanding amounts payable to or receivable from, or advances by, BSI to, and BSI is not otherwise a creditor or debtor to, or party to any Contract or any other arrangement with, any equityholder, director, officer, employee, affiliate or associate of BSI, or any relative of any of the foregoing other than intercompany receivables and payables that will be settled prior to the Closing. Set forth on Section 4.18(a) of the Disclosure Letter is a true and correct list of all material services performed or products supplied by affiliates of BSI to or on behalf of the Business, as well as a true and correct description thereof.

(b) Section 4.18(b) of the Disclosure Letter sets forth a true and correct list of all Contracts to which BSI, TL, or any of their affiliates is a party which are related, but not exclusively related to, the Business (the "Shared Contracts").

(c) Immediately following the Closing and after taking into account the transactions contemplated by the Restructuring Transactions and the Ancillary Agreements, the Subject Entities will have all assets, properties, licenses, employees and rights necessary for the normal operation of the Business in the same manner as conducted immediately prior to the date hereof.

Section 4.19 Insurance. Section 4.19 of the Disclosure Letter sets forth a list of all insurance policies and fidelity bonds relating to the assets, business, operations, employees, officers or directors of BSI (including, for the sake of clarity, all such insurance policies and fidelity bonds held by any affiliate of BSI) and BSI has provided or made available to DCC true and complete copies of all insurance policies and fidelity bonds covering the Business. There is no claim by BSI or any of its affiliates pending under any of such policies or bonds as to which coverage has been, to the Knowledge of the BSI Knowledge Parties, questioned, denied or disputed by the underwriters of such policies or bonds or in respect of which such underwriters have reserved their rights. All premiums that are due with respect thereto covering all periods up to and including the Closing Date have been or will be paid or accrued, no notice of cancellation or termination has been received with respect to such policies or bonds or other form of insurance, such policies or bonds will not terminate or lapse by reason of the consummation of the transactions contemplated by this Agreement, and BSI and its affiliates have otherwise complied fully with the terms and conditions of all such policies and bonds. Such policies of insurance and bonds (or other policies and bonds providing substantially similar insurance coverage) are in full force and effect. BSI maintains insurance policies and fidelity bonds (including financial institutions bonds, property and casualty insurance, general liability insurance, professional liability insurance and workers' compensation insurance) of the type and in amounts customarily carried by Persons conducting businesses similar to the Business. The BSI Knowledge Parties have no Knowledge of any threatened termination of, premium increase with respect to, or alteration of coverage under, any of such policies or bonds.

Section 4.20 Value of Assets and Revenues. BSI, together with its affiliates (as defined in the Competition Act), does not have assets in Canada that exceed CAD \$300 million or annual gross revenues from sales in, from or into Canada that exceed CAD \$200 million, in either case, as determined pursuant to section 109 of the Competition Act.

Section 4.21 Finders' or Advisors' Fees. There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of BSI, TL, the Subject Entities or any of their affiliates who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 4.22 No Other Representations or Warranties. Except for the representations and warranties contained in this Article IV, none of BSI, TL nor any other Person makes any other express or implied representations and warranties with respect to BSI, TL, the Subject Entities, any of their respective Subsidiaries or the Business. BSI and TL disclaim any representations or warranties, whether made by BSI, TL or any of their affiliates, Representatives or other agents that is not contained in this Article IV. None of BSI, TL, any of their respective affiliates or any Person acting on behalf of BSI, TL or their affiliates makes any representations or warranties with respect to any estimates, projections and other forecasts or plans (including the reasonableness of the assumptions or the accuracy of the information underlying such estimates, projections and other forecasts or plans) except to the extent set forth in this Article IV.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF DCC

DCC represents and warrants to BSI and TL that:

Section 5.1 Organization and Qualification. DCC is a corporation duly organized, validly existing and in good standing under the Laws of Michigan. DCC has the requisite corporate power and corporate authority and any necessary Governmental Authority, franchise, license, certificate, or permit to own, operate and lease the properties that it purports to own, operate or lease and to carry on its business as it is now being conducted, and is duly qualified as a foreign corporation to do business, and is in good standing in each jurisdiction where the character of its properties owned, operated or leased or the nature of its activities makes such qualification necessary. Each of the DCC JV Companies is, or upon its formation or organization will be, duly organized, validly existing and in good standing, or the equivalent thereof, under the Laws of its jurisdiction of incorporation or organization. Each of the DCC JV Companies is, or upon its formation or organization will be, in good standing in each jurisdiction where the character of the properties to be owned, operated or leased by it, or the nature of its activities, make such qualification necessary.

Section 5.2 Corporate Authorization; Board Action. DCC has, and the DCC JV Companies will have prior to the Closing, the requisite corporate power and authority to enter into this Agreement and the Ancillary Agreements, as applicable, and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the applicable Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of DCC and shall be duly authorized prior to the Closing by the DCC JV Companies and no other corporate proceedings on the part of DCC or the DCC JV Companies are or shall be necessary to authorize the execution and delivery of this Agreement or the applicable Ancillary Agreements or to consummate the transactions contemplated hereby or thereby. This Agreement has been duly executed and delivered by DCC and, assuming due authorization, execution and delivery of this Agreement by the other parties hereto, constitutes a valid and binding agreement of DCC enforceable against it in accordance with its terms, except to the extent that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws, now or hereafter in effect, affecting creditors' rights generally, and to general equity principles. When executed and delivered, the Ancillary Agreements will have been duly executed and delivered by DCC and the DCC JV Companies, as applicable, and, assuming due authorization, execution and delivery of such Ancillary Agreements by the other parties thereto, will constitute valid and binding agreements of each of DCC and the DCC JV Companies, as applicable, enforceable against it in accordance with their terms, except to the extent that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws, now or hereafter in effect, affecting creditors' rights generally, and to general equity principles.

Section 5.3 Consents and Approvals; No Violations.

(a) The execution, delivery and performance by each of DCC and the DCC JV Companies of this Agreement and/or the applicable Ancillary Agreements, and the consummation by DCC and the DCC JV Companies of the transactions contemplated hereby and thereby, require no action by or in respect of, or notice to or filing with, any Governmental Authority other than compliance with any applicable requirements of any antitrust, competition, foreign investment or similar Laws.

(b) None of the execution, delivery or performance by DCC or the DCC JV Companies of this Agreement and/or the applicable Ancillary Agreements, or the consummation by DCC or the DCC JV Companies of the transactions contemplated hereby or thereby or compliance by DCC and the DCC JV Companies with any of the provisions hereof or thereof will (i) conflict with or result in any breach of any provisions of the organizational and governing documents of DCC or the DCC JV Companies, (ii) conflict with or result in any violation of any provision of any Law binding upon or applicable to DCC or the DCC JV Companies, (iii) require the consent, approval or authorization of, or notice to or filing with, any Third Party with respect to, result in any violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, amendment, or acceleration of any right or obligation of DCC or the DCC JV Companies or to a loss of any benefit to DCC or the DCC JV Companies) under any provision of any Contract binding upon DCC or the DCC JV Companies, or (iv) result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of DCC or the DCC JV Companies, except in the case of (ii), (iii) and (iv) for such conflicts, violations, breaches, defaults, rights or losses, or the failure to obtain any such consents or approvals or to provide such notices or make such filings, that would not reasonably be expected to have, individually or in the aggregate, a DCC Material Adverse Effect.

Section 5.4 Value of Assets and Revenues. DCC, together with its affiliates (as defined in the Competition Act), does not have assets in Canada that exceed CAD \$100 million or annual gross revenues from sales in, from or into Canada that exceed CAD \$200 million, in either case, as determined pursuant to section 109 of the Competition Act.

Section 5.5 Investment Representation. DCC is causing the DCC JV Companies to acquire the Interests for investment for its own account, not as a nominee or agent, and not with a view to, or for resale in connection with, any distribution thereof in violation of applicable securities Laws.

Section 5.6 Adequacy of Funds. DCC has access to, and will have at the Closing, adequate immediately available funds on hand to satisfy its and the DCC JV Companies' monetary and other obligations under this Agreement and the Ancillary Agreements without recourse to any new outside financing.

ARTICLE VI

COVENANTS

Section 6.1 Conduct of BSI.

(a) BSI and TL covenant and agree that, from and after the date of this Agreement and prior to the Closing or, if earlier, the termination of this Agreement in accordance with its terms, they will cause the Business to be conducted in all respects only in the ordinary course of business and consistent with past practice and, to the extent consistent therewith, shall use their respective reasonable best efforts to preserve the Business's organization intact and maintain the existing relations with suppliers, employees, creditors and business partners of the Business.

(b) Without limiting the provisions of Section 6.1(a), except as set forth in Section 6.1(b) of the Disclosure Letter and as contemplated by the Restructuring Transactions, BSI and TL covenant and agree that, except as expressly provided in this Agreement, or as required to comply with applicable Law, or with the prior written consent of DCC (which shall not be unreasonably withheld or delayed), from and after the date of this Agreement and prior to the Closing or, if earlier, the termination of this Agreement in accordance with its terms, BSI and TL shall not, and shall not permit the Subject Entities to:

(i) amend or propose to amend the articles of incorporation or bylaws or similar organizational documents of BSI;

(ii) issue, sell, transfer, pledge, dispose of or encumber any additional shares of, or securities convertible into or exchangeable for, or options, warrants, calls, commitments or rights of any kind to acquire, any shares of capital stock of any class or other equity interests of BSI or any Subject Entity;

(iii) adopt a plan of complete or partial liquidation or dissolution;

(iv) (A) increase the compensation or benefits payable to any Employee or consultant of BSI involved in the Business other than increases in the ordinary course of business, consistent with past practice to non-officer Business Employees; (B) grant any severance or termination pay to (or amend any such existing arrangement with) any Business Employee or consultant of BSI involved in the Business; (C) enter into any employment, deferred compensation or other similar agreement (or amend any such existing agreement) with any Business Employee or consultant of BSI involved in the Business other than in the ordinary course of business, consistent with past practices; (D) increase any benefits payable under any existing severance or termination pay policies or agreements or employment agreements affecting any Business Employee or consultant involved in the Business; or (E) permit any Business Employee or consultant of BSI involved in the Business who is not already a party to an agreement or a participant in a plan providing benefits upon or following a

"change in control" to become a party to any such agreement or a participant in any such plan, other than pursuant to a pre-existing contractual commitment or as required by applicable Law;

(v) enter into or amend any collective bargaining agreement with respect to the Business, except as may be required in connection with this Agreement;

(vi) adopt any new benefit plan, terminate any Employee Plan or modify any Employee Plan in a way that could result in additional cost to BSI other than non-material modifications required under the terms of an existing collective bargaining agreement;

(vii) take any action to cause any employee who would be considered to be a Business Employee as of the date hereof not to be a Business Employee; or, take any action to cause any employee of BSI, TL, or any of their affiliates who would not be considered a Business Employee as of the date hereof to become a Business Employee (other than any employees with annual compensation of less than US \$90,000 who are hired and transferred in the ordinary course of business, consistent with past practice);

(viii) sell, transfer, pledge, dispose of, or permit to exist any Lien on, any of the GP Shares or the LP Interests;

(ix) enter into, modify, amend or terminate any Contract providing energy for the Business or waive any material rights or claims pursuant thereto;

(x) enter into, modify, amend or terminate any Material Contract or waive, release or assign any material rights or claims, except in the ordinary course of business and consistent with past practice;

(xi) enter into any material transaction affecting the Business other than in the ordinary course of business and consistent with past practice;

(xii) permit (by failing to use its reasonable best efforts) any material insurance policy covering BSI or the Business to be cancelled or terminated or fail to use its reasonable best efforts to renew coverage under any such policy;

(xiii) with respect to BSI, enter into any material commitment or transaction (including any borrowing, capital expenditure or purchase, sale or lease of assets) requiring a capital expenditure by BSI, other than capital expenditures that do not exceed U.S. \$100,000 in the aggregate;

(xiv) grant any Lien (other than any Permitted Lien) on any asset or property of the Business (including Real Property);

(xv) with respect to Becancour JV make, amend or revoke any Tax accounting method or material Tax election, in a manner that is inconsistent with the past practice of the Business while owned and operated by BSI;

(xvi) change any of the accounting principles used by BSI unless required by GAAP or other applicable Laws;

(xvii) pay, discharge or satisfy any Liabilities of the Business other than the payment, discharge or satisfaction of any such Liabilities in the ordinary course of business and consistent with past practice and in accordance with their terms as in effect on the date of this Agreement;

(xviii) take, or agree to commit to take, or omit to take, any action that would make any representation or warranty set forth in Article IV hereof inaccurate in any respect at, or as of any time prior to, the Closing; or

(xix) enter into a Contract to do any of the foregoing, or authorize, recommend, propose or announce an intention to do any of the foregoing.

Section 6.2 Access to Information; Confidentiality.

(a) From the date of this Agreement to the Closing or, if earlier, the termination of this Agreement in accordance with its terms, BSI shall, and shall cause its affiliates to, give DCC and its Representatives reasonable access to the offices, Representatives, and properties of BSI and the Business give access to Books and Records of BSI and each Subject Entity during normal business hours, furnish to DCC and its Representatives such financial and operating data and all other information as such Persons may request and shall instruct its own Representatives to cooperate with DCC in its investigation of the Business; provided, that BSI shall have no obligation, prior to the Closing, to provide access to or furnish to DCC any such lists, information and records that are prohibited from being disclosed or transferred by applicable Law, or that would result in the waiver of any applicable attorney-client privilege or the violation of any confidentiality or non-disclosure agreement; provided, further, that BSI shall have no obligation at any time, either prior to the Closing or after the Closing, to disclose any information concerning its customers; provided, further, that in exercising its rights under this Section 6.2, DCC shall not be permitted to interfere unreasonably with the conduct of the business of BSI, TL or their Subsidiaries; and provided, further, that no investigation of BSI or the Business shall affect any representation or warranty given by any party hereunder.

(b) All information provided or obtained in connection with the transactions contemplated by this Agreement shall be held by DCC and its affiliates and Representatives in accordance with the Confidentiality Agreement, dated as of May 3, 2010, between TL and DCC (as amended to date, the "Confidentiality Agreement"). In the event of a conflict or inconsistency between the terms of this Agreement and the Confidentiality Agreement, the terms of this Agreement shall govern. The parties hereto agree that the Confidentiality Agreement shall terminate and be of no further force or effect as of the Closing.

Section 6.3 Regulatory Filings: Reasonable Best Efforts.

(a) To the extent required by Law, each of BSI and DCC shall, and shall cause their respective Representatives to, prior to and following the Closing, as applicable, (i) promptly make or cause to be made the filings required of such party or any of its respective Representatives, under any antitrust, competition, foreign investment or similar Laws with respect to the sale of the Interests and the other transactions contemplated by this Agreement and the Ancillary Agreements, (ii) use its reasonable best efforts to comply with any request under any such antitrust, competition, or foreign investment Laws for additional information, documents, or other material received by such party or any of its Representatives from any Governmental Authority in respect of such filings, the sale of the Interests or any other transactions contemplated by this Agreement or the Ancillary Agreements, (iii) cooperate with the other parties and their affiliates and Representatives in connection with any such filing and in connection with resolving any investigation or other inquiry of any such agency or other Governmental Authority under any antitrust, competition, or foreign investment Laws with respect to any such filing, the sale of the Interests or any other transactions contemplated by this Agreement or the Ancillary Agreements, and (iv) use reasonable best efforts to resolve such objections, if any, as may be asserted by any Governmental Authority with respect to the sale of the Interests or any other transactions contemplated by this Agreement or the Ancillary Agreements under any antitrust, competition, or foreign investment Laws. None of BSI, TL or any of their affiliates shall propose to enter into, or enter into, any agreement, arrangement or understanding with any Governmental Authority with respect to any Governmental Authority's review of the sale of the Interests or any other transactions contemplated by this Agreement without the prior written consent of DCC.

(b) Each of the parties hereto agrees to use reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the sale of the Interests and the other transactions contemplated by this Agreement, including (i) the obtaining of all other necessary actions or non-actions, waivers, consents and approvals from Governmental Authorities and the making of all other necessary registrations, declarations and filings with all Governmental Authorities, if any, (ii) the obtaining of all necessary consents, approvals or waivers from Third Parties, (iii) the transfer of all Permits and (iv) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by, and to fully carry out the purposes of, this Agreement.

(c) Notwithstanding anything to the contrary in this Section 6.3 or otherwise, (i) neither DCC nor any of its respective affiliates shall be required to divest or hold separate any of their or the Subject Entities' respective businesses, or assets, (ii) neither DCC nor any of its respective affiliates shall be required to enter into arrangements with respect to or license or conduct their business (or the business of the Subject Entities) in a specified manner, or agree to sell, hold separate, otherwise dispose of or license or conduct their business (or the business of the Subject Entities) in a specified manner, or take or agree to take any other action or agree to any limitation that could reasonably be expected to have an adverse effect, in either the short-term or the long-term, on the business, assets, properties, liabilities, financial condition or results of operations of DCC, the Subject Entities or any of their respective affiliates

(including any of the Subject Entities) or on the expected benefits of the transactions contemplated by this Agreement or the Ancillary Agreements, (iii) DCC shall not be required to waive any of the conditions set forth in Article VII, and (iv) no party shall be required to pursue or defend any administrative or judicial action or proceeding that may be instituted or threatened. BSI shall not enter into any such arrangements regarding the Business without DCC's consent.

(d) Each of BSI and TL shall use its reasonable best efforts to obtain, prior to the Closing, the unconditional consent, approval or waiver to the Closing and the other transactions contemplated hereby of each Third Party as required under any Contract relating to the Business to which BSI is then a party; provided that with respect to the foregoing, neither BSI nor TL shall make any material change to the underlying agreement or incur any cost for the account of Becancour JV or DCC or any of its respective affiliates in fulfilling its obligations in this Section 6.3(d).

Section 6.4 Notification of Certain Matters.

(a) BSI and TL shall notify DCC, and DCC shall notify BSI and TL, of (i) any fact, event, circumstance, change, condition, or effect that has had, or would reasonably be expected to have had, individually or in the aggregate, a BSI Material Adverse Effect or DCC Material Adverse Effect, (ii) any representation or warranty made by it contained in this Agreement becoming untrue or inaccurate in any material respect, and (iii) the failure by it to comply with or satisfy, in any material respect, any covenant, condition or agreement to be complied with or satisfied by it under this Agreement, in each case within three (3) Business Days of such Person becoming aware of the occurrence of such development.

(b) BSI and TL shall give prompt notice to DCC, and DCC shall give prompt notice to BSI and TL, of: (i) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement and (ii) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement.

(c) If, to the Knowledge of the BSI Knowledge Parties or DCC, as applicable, any event or matter arises after the date of this Agreement that, if existing or occurring at the date of this Agreement, (i) would have been required to be set forth or described by a party hereto in the Disclosure Letter or (ii) would have caused a representation or warranty or covenant in this Agreement to be violated in any material respect as of such date, then BSI and TL, on the one hand, or DCC, on the other hand, as applicable, shall, for informational purposes only, deliver to DCC, on the one hand, or BSI and TL, on the other hand, as applicable, a notice to reflect such event or matter two (2) Business Days prior to the Closing Date; provided, however, that such supplemental disclosure shall not be required to disclose any such event or matter with respect to representations or warranties that are expressly made as of a specific date.

(d) The parties' obligations under this Section 6.4 and the disclosure of any matter in accordance with the provisions of this Section 6.4 shall not limit or otherwise affect the remedies available hereunder to the party receiving such disclosure (including the remedies described in Article IX and Article X) and shall not be deemed to cure any breach or inaccuracy of any representation or warranty or covenant made in this Agreement.

Section 6.5 No Solicitation; Unsolicited Proposals. From the date of this Agreement until the Closing or, if earlier, the termination of this Agreement in accordance with its terms, neither BSI nor TL shall, and each shall cause its Representatives not to, directly or indirectly, (i) encourage, engage in, solicit or initiate any discussions or negotiate with, or provide any information to, or negotiate or enter into any agreement or agreement in principle with, any Person with respect to a sale, merger or business combination of BSI or any Subject Entity, the sale or encumbrance of any of their respective material assets (including all or any portion of the Interests or the Business) or any similar transaction (each, an "Alternative Transaction") or (ii) enter into any Contract (including any agreement in principle, letter of intent, or understanding) with respect to or contemplating any Alternative Transaction or enter into any agreement, arrangement or understanding requiring BSI, TL or any Subject Entity to abandon, terminate or fail to consummate the transactions contemplated by this Agreement or the Ancillary Agreements. BSI and TL also agree that they shall promptly request that each Third Party that has heretofore executed a confidentiality or similar agreement within the twelve (12) months prior to the date of this Agreement in connection with any Third Party's consideration of any Alternative Transaction return or destroy all confidential information heretofore furnished to any Third Party by or on behalf of TL or BSI or any of their affiliates.

Section 6.6 Subsequent Actions. If at any time after the Closing DCC shall consider or be advised that any deeds, bills of sale, instruments of conveyance, assignments, assurances or any other actions or things are necessary or desirable (i) to vest, perfect or confirm ownership (of record or otherwise) in the DCC JV Companies their respective right, title or interest in, to or under any or all of the Interests, (ii) to vest, perfect or confirm ownership (of record or otherwise) in any Subject Entity any of its rights, properties or assets, or (iii) otherwise to carry out this Agreement or any of the Ancillary Agreements, BSI and TL shall each execute and deliver all deeds, bills of sale, instruments of conveyance, powers of attorney, assignments and assurances and take and do all such other actions and things as may be requested by DCC in order to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the DCC JV Companies or any Subject Entity, as applicable, or otherwise to carry out this Agreement or the Ancillary Agreements.

Section 6.7 Employees and Employee Benefits.

(a) Prior to the Closing, BSI shall, and shall cause its affiliates to, take all actions necessary such that all Business Employees and the Shared Employees, and only Business Employees and Shared Employees, are employed by the Subject Entities as of the Closing.

(b) DCC and BSI agree that, effective as of the date of the Restructuring Transactions and, if applicable, subject to the Pension Transfer Agreement, Becancour JV shall (i) continue the employment of non-unionized Transferred Employees, with compensation and employee benefits (excluding any equity-based or incentive compensation) that are, in the aggregate, substantially comparable to the compensation and employee benefits provided to Transferred Employees immediately prior to the Closing, and (ii) continue the employment of all unionized Transferred Employees in accordance with applicable Law and assume all related obligations under the union certificates and any collective bargaining agreement. "Transferred

Employees" means all Business Employees and Shared Employees employed by BSI or its subsidiaries immediately prior to the Closing.

(c) Subject to applicable Law and Section 6.7(b) above, DCC and BSI agree that Becancour JV, in the welfare benefit plans to be established by it, shall (i) waive all limitations as to preexisting conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the Transferred Employees under any such welfare benefit plans of the Subject Entities that such employees may be eligible to participate in after the Closing, other than limitations or waiting periods that were in effect with respect to such employees as of the Closing under any welfare plan maintained by BSI or a Subject Entity for the Transferred Employees immediately prior to the Closing, and (ii) provide each Transferred Employee with credit for any co-payments and deductibles paid prior to the Closing in satisfying any applicable deductible or out-of-pocket requirements under any such welfare benefit plans that such employees are eligible to participate in after the Closing during the same plan year in which such co-payments and deductibles were paid.

(d) Notwithstanding anything to the contrary in this Agreement, DCC and BSI agree that Becancour JV shall continue to honor the terms of any applicable collective bargaining agreement as it relates to Transferred Employees.

(e) Notwithstanding anything in this Agreement to the contrary, no provision of this Agreement shall be deemed to (i) guarantee employment for any period of time for, or preclude the ability of Becancour JV or the GP, on behalf of Becancour JV, to terminate, any employee for any reason, (ii) create any Third Party beneficiary rights for any employee or (iii) except as expressly provided herein, require any Subject Entity to continue any benefit plan or prevent the amendment, modification or termination thereof after the Effective Time.

(f) BSI shall pay, up to a maximum aggregate amount of CAD \$5,000,000 in claims paid, and shall hold Becancour JV harmless for such amount, and Becancour JV shall reimburse BSI for any amounts in excess of CAD \$5,000,000 in claims paid, for post-retirement benefits of any Business Employee or Shared Employee who retires on or before September 30, 2016, with age and service credits qualifying such employee for benefits under the BSI post-retirement benefit plan in accordance with the terms of such plan as in effect as of the date hereof. Payments in this regard shall be made by BSI as they are incurred, and DCC acknowledges and agrees that the liability of BSI in this regard shall be unsecured, and shall not be the subject of any Purchase Price adjustment.

(g) BSI, and its relevant welfare benefit plans, shall retain responsibility for all covered medical and dental claims with respect to the Business Employees, payable to any Business Employees (or any covered dependent of any such Business Employees) under the terms of such plans to the extent such claims are incurred prior to the Closing or during a continuous period of hospitalization commencing prior to and ending after the Closing, and in each case Becancour JV shall not assume, nor shall Becancour JV or any Business Employee be responsible for payment of, such claims and expenses. Becancour JV, and its relevant welfare benefit plans, shall retain responsibility for all covered medical and dental claims with respect to Business Employees (or any covered dependent of any such Business Employees) under the terms of such plans to the extent such claims are incurred on or after the Closing, and in each

case BSI shall not assume, nor shall BSI be responsible for payment of, such claims and expenses. For these purposes, medical and dental claims shall be deemed to have been incurred on the date of treatment, other than claims for drugs or medical devices which shall be deemed to have been incurred on the date the prescription is filled or the medical device is ordered, as the case may be.

(h) Claims of Transferred Employees for disability benefits incurred on or after the Closing shall be the responsibility of Becancour JV under its welfare benefit plans. Claims of Business Employees for disability benefits incurred on or prior to the Closing shall be dealt with as follows:

(i) BSI, and the relevant welfare benefit plan, shall retain responsibility for any short-term disability benefits for each Business Employee who, on or prior to the Closing, qualified for such short-term disability benefits under the terms of the applicable BSI welfare benefit plan;

(ii) BSI, and the relevant welfare benefit plan, shall retain responsibility for any long-term disability benefits for each Business Employee who, on or prior to the Closing, qualified for such long-term disability benefits under the terms of the applicable BSI welfare benefit plan; and

(iii) BSI, and the relevant welfare benefit plan, shall retain responsibility for any long-term disability benefits for each Business Employee described in (i) above where such long-term disability benefits arise as a consequence of, and immediately following, the short-term disability period referenced therein and is applicable to the same injury or disease.

Section 6.8 Restructuring Transactions.

(a) Prior to the Closing, BSI and TL shall take, and shall cause their affiliates to take, all actions, and do, or cause to be done, all things reasonably necessary, under applicable Law, so as to consummate, prior to the Closing Date, the transactions described in Exhibit B (such transactions referred to herein as the "Restructuring Transactions").

(b) On or prior to the Closing Date, BSI shall cause the GP to adopt and file the Amended GP Charter and take any other actions required to give effect to the Amended GP Charter as of no later than the Closing.

(c) On or prior to the Closing Date, BSI shall cause Becancour JV to enter into the Amended and Restated Limited Partnership Agreement.

(d) On or prior to the Closing Date, BSI shall take all appropriate action to cause (i) either First Canadian Title Insurance Company or Chicago Title Insurance Company Canada (as applicable, the "Title Insurance Company") to issue an owner's policy of title insurance insuring good and valid title to the entirety of Lot 3 294 055 in the GP and rights, title and interest under the lease for the Mining Property in Becancour JV, subject only to Permitted Liens, in form and substance reasonably acceptable to DCC and including such endorsements (including, without limitation, a marketability endorsement) as reasonably required by DCC,

(ii) a subsearch or any other title matters report to be prepared by a lawyer or a notary practicing in the Province of Québec, covering all matters as required by the Title Insurance Company in order for it to permit the issuance of such owner's policy of title insurance, and (iii) a Certificate of Location of the entirety of Lot 3 294 055 to be prepared, which shall be in form and substance reasonably acceptable to DCC, shall be dated not earlier than sixty (60) days prior to the Closing Date, and on which Becancour JV and DCC shall be authorized to rely upon. The costs of any premiums in respect of such policy and any other costs in connection with the issuance thereof and such Certificate of Location shall be borne fifty-one percent (51%) by BSI and forty-nine percent (49%) by DCC.

(e) Prior to the Closing, BSI and TL shall take, and shall cause their affiliates to take, all actions, and do, or cause to be done, all things reasonably necessary under applicable Laws, including but not limited to Environmental Laws, to obtain the transfer, modification or re-issuance, prior to the Closing Date, of all Permits, including but not limited to Permits issued under Environmental Laws, for the operation of the Facility and the Business to Becancour JV.

(f) On or prior to the Closing Date, the Deed of Transfer shall have conveyed to the GP legal title to the entirety of Lot 3 294 055, and such Deed of Transfer shall have been published at the Land Register. In addition, the Off-Title Deed of Transfer shall have conveyed to Becancour JV the beneficial ownership of the Facility using the technical description corresponding to the Facility prepared by a Quebec Land Surveyor pursuant to clause (g) below, while the beneficial ownership of the HP2 Property shall be retained by BSI. All liabilities of every kind and nature attributable to the legal ownership of the HP2 Property being held by the GP as nominee for BSI shall be for the account of BSI and shall constitute Excluded Liabilities. Without limitation of the foregoing, the GP, as nominee of Becancour JV, shall have no liability whatsoever by virtue of being the registered owner of the HP2 Property, and BSI shall indemnify, defend and hold harmless the GP, as nominee of Becancour JV, and Becancour JV, for any actions, claims, causes of action, demands, losses attributable to the HP2 Property. BSI shall, at its own cost, (i) be solely responsible for the maintenance and repair of the HP2 Property in good working order, (ii) pay all property taxes attributable to the HP2 Property, (iii) maintain in full force and effect property and liability insurance with respect to the same (and shall name the GP and Becancour JV as additional insureds on its liability insurance for the HP2 Property), and (iv) not cause or permit any waste or nuisance to exist with respect to the HP2 Property. In the event that costs and expenses on account or regarding the Facility for post-Closing periods are invoiced to BSI, such costs and expenses shall be reimbursed by Becancour JV to BSI or, as the case may be, paid directly by Becancour JV to the relevant supplier or creditor. In the event that costs and expenses on account or regarding the HP2 Property for post-Closing periods are invoiced to Becancour JV or the GP as its nominee, such costs and expenses shall be reimbursed by BSI to Becancour JV or, as the case may be, paid directly by BSI to the relevant supplier or creditor. For purposes of the foregoing, the Servitude Agreements (as defined in Exhibit G) shall be treated as if they were in effect from and after the Closing Date. In addition, the terms of the Servitude Agreements shall not limit, modify or in any way affect the indemnification obligations of BSI or TL under this Agreement.

(g) With respect to certain matters subject to the Real Property Agreements, BSI covenants and agrees that, from the date of execution of this Agreement, BSI

shall use its best efforts to cause to be completed a cadastral operation (the "Cadastral Operation"), to be registered with the Land Register, to divide Lot 3 294 055 into two (2) separate and distinct lots corresponding to the Facility and the HP2 Property, respectively, and to attribute separate lot numbers thereto, subject to the terms and provisions hereinafter set forth. To this end, BSI shall allow any act or intervention as well as sign any documents or agreements, with appropriate corporate resolutions, authorizing the creation of the distinct lots for the purposes of the Cadastral Operation. The costs related to the Cadastral Operation shall be borne by BSI. The Cadastral Operation shall be completed no later than the six-month anniversary of the Closing Date. BSI shall cause to be prepared by a Québec Land Surveyor technical descriptions of the portions of Lot 3 294 055 corresponding to the Facility and the HP2 Property, respectively, together with diagrams of the same, which shall be consistent with the plan set forth in Schedule A to Exhibit G. Such descriptions, diagrams, and all other documents to be submitted to the appropriate Governmental Authorities in connection with the Cadastral Operation shall be provided to DCC for its written approval, not to be unreasonably withheld, prior to submission of the same to the appropriate Governmental Authorities. As soon as the Cadastral Operation is completed and in force, as evidenced by the opening of the land files corresponding to the Facility and the HP2 Property at the Land Register, BSI shall inform DCC in writing of the new lot numbers created pursuant to the Cadastral Operation designating the Facility and the HP2 Property as separate and distinct legal lots, together with copies of documentation evidencing the creation of such lots.

(h) Upon the written request of DCC or BSI at any time following the completion of the Cadastral Operation, the parties shall, or shall cause their respective affiliates to, take all actions required to convey to BSI or its designee legal title to the HP2 Property, the costs of which conveyance shall be borne solely by BSI.

Section 6.9 Ancillary Agreements.

(a) On or prior to the Closing, (i) DCC shall, and shall cause its respective affiliates to, execute and deliver to BSI copies of the applicable Ancillary Agreements to which such Person is a party and (ii) BSI shall, and shall cause its affiliates (including the Subject Entities) to, execute and deliver to DCC copies of the Ancillary Agreements to which such Person is a party.

(b) DCC and TL agree that they shall honor, and shall cause their respective affiliates to honor, the terms of the Ancillary Agreements, including, but not limited to, the provisions set forth in the GP Shareholders Agreement, the Amended GP Charter and the Amended and Restated Limited Partnership Agreement governing direct or indirect transfers of their interests in Becancour JV and the GP and other governance matters set forth therein.

Section 6.10 Intercompany Agreements and Accounts; Existing DCC Supply Agreement.

(a) Except for the Ancillary Agreements and the agreements set forth on Section 6.10 of the Disclosure Letter, all intercompany arrangements and Contracts between BSI, on the one hand, and TL or any of its affiliates other than BSI, on the other hand, relating to the Business shall be terminated and of no further force and effect after the Closing. Prior to the

Closing, BSI shall use its reasonable best efforts to settle (whether in the ordinary course of business or, in BSI's discretion, by way of capital contribution, dividend or otherwise) at or prior to the Closing, all intercompany receivables or payables and loans existing and outstanding at any time prior to the Closing between BSI, on the one hand, and TL or any of its affiliates other than BSI, on the other hand, relating to the Business. Notwithstanding the foregoing, all such intercompany receivables or payables and loans that are not settled as of the Closing that remain outstanding as of the Closing shall continue in full force and effect from and after the Closing and shall be paid in accordance with the terms thereof, or, if no such terms are specified, then in accordance with the normal commercial practices between unrelated Third Parties. Any such intercompany trade receivables or payables outstanding as of the Closing shall be taken into account in determining the Net Working Capital.

(b) The Purchase Agreement effective as of January 1, 2010, and as amended from time to time, by and between BSI and DCC shall continue in full force and effect in accordance with its terms.

Section 6.11 Insurance. BSI shall maintain or cause to be maintained in full force and effect the insurance policies covering the employees and the assets of the Business until the Closing. If any claims are actually made prior to the Closing Date under any liability insurance policy for the Business, then TL and BSI shall cause the applicable Person to file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies, and BSI will pay over to the applicable Subject Entity any proceeds of any insurance recovery under any such policy. If any casualty loss occurs prior to the Closing that is insured under any property or casualty insurance policy for any of the Subject Entities or the Business and claims associated with such losses have been made prior to the Closing, then BSI shall cause the applicable Subject Entity (or other affiliate) to file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies, and BSI will pay over to the applicable Subject Entity any proceeds of any insurance recovery under any such policy by BSI or its affiliates, other than any such proceeds that have been or will be applied to repair or replace the property subject to such claim. With respect to any occurrence-based insurance policies retained by BSI or any of its affiliates other than either of the Subject Entities after the Closing and covering the assets of the Business, BSI and TL shall, or shall cause their applicable affiliates to, continue to provide Becancour JV with access to and coverage under such policies. For claims that arise thereunder after the Closing out of occurrences that occurred prior to the Closing, BSI and TL shall, or shall cause their applicable affiliates to, reasonably cooperate with Becancour JV in submitting such claims, and recovering proceeds, under the applicable insurance policy, and BSI will pay over to Becancour JV any proceeds of any insurance recovery under any such policy by BSI or any of its affiliates; provided that Becancour JV shall be responsible for its portion of any deductible or co-payments legally due and owing relating to such claims and neither BSI nor any applicable affiliate shall be required to maintain any such policy beyond its current terms.

Section 6.12 Shared Contracts. Unless otherwise agreed to by the parties, BSI and TL, on the one hand, and DCC, on the other hand, shall use commercially reasonable efforts to cause the Shared Contracts to be split into separate contracts between the appropriate Third Party and BSI or TL (with respect to the portion of the Shared Contracts that does not relate to the Business) or applicable Subject Entity (with respect to the portion of the Shared Contracts

that relates to the Business). BSI, TL, and DCC agree to cooperate and provide reasonable assistance prior to and for a period of six (6) months following the Closing to effect such separation. In the event and to the extent BSI, TL, and DCC are unable to obtain required consent, approval or amendment required to separate the Shared Contracts, (i) BSI, TL, and DCC shall use their reasonable best efforts in good faith to separate such Shared Contracts as promptly as practicable and (ii) if such separation is not obtained, the parties shall use reasonable best efforts in good faith to effect any lawful arrangement designed to provide for the applicable Subject Entity, at no additional cost to DCC, the benefits after Closing that it would have received, and to subject the applicable Subject Entity directly to the liabilities thereunder, as if such Shared Contracts had been separated and acquired by the applicable Subject Entity.

Section 6.13 Parent Guarantees.

(a) TL hereby irrevocably, absolutely and unconditionally guarantees to DCC the following (collectively, the "TL Guaranteed Obligations"): (i) full, faithful and timely payment and performance by BSI and its affiliates (who may be a party to the Guaranteed Documents (as defined) from time to time) of all of their covenants, agreements and obligations under this Agreement, the Ancillary Agreements and each of the documents and instruments delivered in connection therewith (collectively, the "Guaranteed Documents"), (ii) the prompt payment, when due, of any and all of BSI's and its affiliates' indebtedness, obligations and liabilities of every kind and nature now or hereafter existing, due or to become due, pursuant to any of the Guaranteed Documents, and (iii) the prompt payment of any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by DCC in collecting or obtaining payment or performance of, or enforcing, this guaranty or any of the TL Guaranteed Obligations and interest thereon. In the event BSI or any of its affiliates becomes obligated to pay any TL Guaranteed Obligations and fails to timely pay such obligations in accordance with the terms of the Guaranteed Documents, then DCC may provide written notice to TL demanding that TL either cause BSI or its applicable affiliate to pay the TL Guaranteed Obligations or to pay such TL Guaranteed Obligations in the place and stead of BSI or its applicable affiliate.

(b) DCC hereby irrevocably, absolutely and unconditionally guarantees to BSI the following (collectively, the "DCC Guaranteed Obligations"): (i) full, faithful and timely payment and performance by DCC and its affiliates (who may be a party to the Guaranteed Documents from time to time) of all of their covenants, agreements and obligations under the Guaranteed Documents, (ii) the prompt payment, when due, of any and all of DCC's and its affiliates' indebtedness, obligations and liabilities of every kind and nature now or hereafter existing, due or to become due, pursuant to any of the Guaranteed Documents, and (iii) the prompt payment of any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by BSI in collecting or obtaining payment or performance of, or enforcing, this guaranty or any of the DCC Guaranteed Obligations and interest thereon. In the event DCC or any of its affiliates becomes obligated to pay any DCC Guaranteed Obligations and fails to timely pay such obligations in accordance with the terms of the Guaranteed Documents, then BSI may provide written notice to DCC demanding that DCC either cause its applicable affiliate to pay the DCC Guaranteed Obligations or to pay such DCC Guaranteed Obligations in the place and stead of its applicable affiliate.

Section 6.14 Environmental Compliance.

(a) Prior to the Closing, BSI shall take all commercially reasonable actions to complete the following: (i) remove and dispose at an authorized facility, in accordance with applicable Environmental Law, all equipment not in use at the Facility that contains PCBs in excess of 500 parts per million (ppm), and to replace said equipment as may be necessary; and (ii) BSI shall take all commercially reasonable actions to remove and dispose at an authorized facility, in accordance with applicable Environmental Law, all residual materials currently stored or deposited at the Facility in violation of or non-compliance with section 66 of the Environmental Quality Act (Quebec). In the event that any of the foregoing shall not occur prior to the Closing, BSI shall cause Becancour JV, at BSI's sole cost and expense, to complete such actions as promptly as reasonably practicable after the Closing, taking into account scheduled downtime for the respective furnaces. In connection with all equipment in use at the Facility after the Closing that contains PCBs in excess of 500 parts per million (ppm), in order to avoid production disruption, the parties acknowledge and agree that BSI shall cause Becancour JV, at BSI's sole cost and expense, to remove and dispose at an authorized facility, in accordance with applicable Environmental Law, any such equipment and replace any such equipment as may be necessary at the scheduled downtime for the respective furnaces; provided that, notwithstanding the foregoing, all such equipment shall be removed and replaced any time sooner required by Environment Canada.

(b) Prior to the Closing, BSI shall take all commercially reasonable actions to obtain a new Certificate of Authorization, to be issued in the name of Becancour JV, including submitting an appropriate application for a new Certificate of Authorization covering the activities of Becancour JV and correcting any non-compliance with applicable Environmental Law that is necessary for the issuance of a new Certificate of Authorization. BSI shall also cause an air emissions survey to be completed, as previously discussed with the Ministère du Développement durable, de l'Environnement et des Parcs.

(c) The parties acknowledge and agree that "Pre-Closing Environmental Liabilities" shall include, without limitation: (1) all Losses incurred in connection with the removal and disposal at an authorized facility, in accordance with applicable Environmental Law, of all equipment at the Facility that contains PCBs in excess of 500 parts per million (ppm), and the acquisition and installation of replacement equipment for the same as may be necessary; (2) all Losses incurred in connection with the removal and disposal at an authorized facility, in accordance with applicable Environmental Law, of all residual materials currently stored or deposited at the Facility in violation or non-compliance with section 66 of the Environmental Quality Act (Quebec); (3) all Losses incurred in connection with actions required to be undertaken in order for necessary Permits to be issued to Becancour JV, but, notwithstanding any provisions of this Agreement to the contrary, shall not include Losses incurred in connection with actions that may be required to obtain the Depollution Attestation that are in addition to those actions required to bring the Business into compliance with applicable Environmental Law as of the Closing Date; (4) all Losses incurred to remedy any noncompliance with applicable Environmental Law identified as a result of air emissions surveys to be undertaken in connection with obtaining a new Certificate of Authorization; and (5) all Losses incurred with respect to matters identified on Schedule 4.17 of the Disclosure Letter.

ARTICLE VII

CONDITIONS

Section 7.1 Conditions to the Obligations of Each Party. The obligations of BSI, TL, and DCC to effect the Closing are subject to the satisfaction (or, to the extent legally permissible, waiver) of the following conditions:

(a) *Antitrust.* Any approvals or waiting period (including any extension thereof) under any antitrust, competition, foreign investment or similar Laws required to have been obtained or expired (as the case may be) prior to the Closing shall have been obtained or expired, provided that no party may avail itself of this condition, except to the extent that a Governmental Authority has following the date hereof notified any party in writing that a filing or approval is so required by Law;

(b) *No Injunctions or Restraints.* No provision of any applicable Law and no judgment, injunction, order or decree that makes illegal or otherwise prohibits the Closing or any of the other transactions contemplated by this Agreement shall be in effect; and

(c) *Regulatory Matters.* The authorizations, consents, orders, permits or approvals of, or declarations or filings with, and all expirations of waiting periods imposed by, any Governmental Authority (other than the expiration of the applicable waiting period under the antitrust, competition, foreign investment or similar Laws that are addressed in Section 7.1(a)) set forth in Section 7.1(c) of the Disclosure Letter shall have been filed, have occurred or have been obtained (all of the foregoing, the "Requisite Regulatory Approvals") and all such Requisite Regulatory Approvals shall be in full force and effect; provided, however, that a Requisite Regulatory Approval shall not be deemed to have been obtained if in connection with the grant thereof there shall have been an imposition by any Governmental Authority of any condition, requirement, restriction or change of regulation, or any other action directly or indirectly related to such grant taken by such Governmental Authority, which could (or if implemented could) have more than an immaterial effect on DCC's anticipated benefits of the transactions contemplated hereby; provided, further, that this condition shall be deemed satisfied for any party that does not satisfy its obligations under Section 6.3.

Section 7.2 Conditions to the Obligations of DCC. The obligations of DCC to effect the Closing are subject to the satisfaction (or, to the extent legally permissible, waiver) of the following further conditions:

(a) *Representations and Warranties of BSI and TL.* (i) The representations and warranties set forth in Article IV of this Agreement (other than the BSI Fundamental Representations) shall be true and correct (without giving effect to any limitation as to "materiality" or "BSI Material Adverse Effect" set forth therein) as of the date of this Agreement and at and as of the Closing as if made at and as of such time (except to the extent expressly by its terms made as of an earlier date, in which case as of such earlier date) except where the failure of such representations and warranties to be so true and correct (giving effect to the applicable exceptions set forth in the Disclosure Letter but without giving effect to any limitations as to "materiality" or "BSI Material Adverse Effect" set forth therein) would not,

individually or in the aggregate, have a BSI Material Adverse Effect, and (ii) the BSI Fundamental Representations shall be true and correct in all respects on the date of this Agreement and at and as of the Closing as if made at and as of such time (except to the extent expressly by its terms made as of an earlier date, in which case as of such earlier date);

(b) *Performances of Obligations.* BSI and TL shall have performed in all material respects all of their respective covenants, agreements and obligations pursuant to this Agreement required to be performed by them at or prior to the Closing;

(c) *Officer's Certificate.* DCC shall have received a certificate signed by an executive officer of each of BSI and TL stating that each of the conditions set forth in Section 7.2(a) and (b) have been satisfied;

(d) *No Litigation.* No proceeding or litigation shall have been commenced by any Governmental Authority seeking to restrain or prohibit the consummation of the transaction contemplated by this Agreement, except for such proceedings or litigation as would not reasonably be expected to have a BSI Material Adverse Effect or a material adverse effect on the expected benefits of the transactions contemplated by this Agreement, including the Ancillary Agreements;

(e) *Third Party Consents.* All Third Party consents and approvals set forth in Section 7.2(e) of the Disclosure Letter shall have been obtained;

(f) *No BSI Material Adverse Effect.* Since the date hereof, there shall not have occurred a BSI Material Adverse Effect;

(g) *Legal Opinion.* BSI shall have delivered to DCC a legal opinion under the laws of the Province of Quebec and the federal laws of Canada applicable therein, dealing with the capacity, power and due authorization of BSI, the GP and Becancour JV, the legality, validity and enforceability of this Agreement and the Ancillary Documents, and the valid issuance of the Interests, to the reasonable satisfaction of DCC;

(h) *Amended and Restated Limited Partnership Agreement.* BSI and Becancour JV shall have executed and delivered to DCC a copy of the Amended and Restated Limited Partnership Agreement;

(i) *GP Shareholders Agreement.* BSI and the GP shall have executed and delivered to DCC a copy of the GP Shareholders Agreement;

(j) *Output and Supply Agreement.* BSI and Becancour JV shall have each executed and delivered to DCC a copy of the Output and Supply Agreement;

(k) *Real Property Agreements.* BSI and Becancour JV shall have executed and delivered to DCC copies of the Real Property Agreements;

(l) *Other Ancillary Agreements.* BSI, TL and its affiliates (including the Subject Entities), as applicable, shall have executed and delivered to DCC the Services Agreements, the Intellectual Property Agreements and the Working Capital Facility Agreements;

(m) *Restructuring Transactions.* The Restructuring Transactions described in Section 6.8, together with all other transactions and actions described in Section 6.8 required to be completed on or before the Closing Date, shall have been effectuated substantially as set forth therein and BSI and TL shall have delivered to DCC executed documents effectuating such transactions, together with evidence of registration as applicable;

(n) *Permit Transfers.* All Permits required to operate the Business and the Facility, including without limitation all Permits required under Environmental Laws, have been transferred or issued, as the case may be, to Becancour JV.

Section 7.3 Conditions to the Obligations of BSI and TL. The obligation of BSI and TL to effect the Closing is subject to the satisfaction (or, to the extent legally permissible, waiver) of the following further conditions:

(a) *Representations and Warranties of DCC.* (i) The representations and warranties contained in Article V of this Agreement (other than the DCC Fundamental Representations) shall be true and correct (without giving effect to any limitation as to "materiality" or "DCC Material Adverse Effect" set forth therein) as of the date of this Agreement and at and as of the Closing as if made at and as of such time (except to the extent expressly by its terms made as of an earlier date, in which case as of such earlier date) except where the failure of such representations and warranties to be so true and correct (giving effect to the applicable exceptions set forth in the Disclosure Letter but without giving effect to any limitations as to "materiality" or "DCC Material Adverse Effect" set forth therein) would not, individually or in the aggregate, have a DCC Material Adverse Effect, and (ii) the DCC Fundamental Representations shall be true and correct in all respects on the date of this Agreement and at and as of the Closing as if made at and as of such time (except to the extent expressly by its terms made as of an earlier date, in which case as of such earlier date);

(b) *Performance of Obligations.* DCC shall have performed in all material respects all of its covenants, agreements and obligations pursuant to this Agreement required to be performed by it at or prior to the Closing;

(c) *Officer's Certificate.* BSI and TL shall have received a certificate signed by an executive officer of DCC stating that each of the conditions set forth in Section 7.3(a) and (b) have been satisfied;

(d) *Amended and Restated Limited Partnership Agreement.* DCC LP Company shall have executed and delivered to BSI a copy of the Amended and Restated Limited Partnership Agreement;

(e) *GP Shareholders Agreement.* DCC GP Company shall have executed and delivered to BSI a copy of the GP Shareholders Agreement;

(f) *Output and Supply Agreement.* DCC Customer shall have executed and delivered to BSI and Becancour JV a copy of the Output and Supply Agreement; and

(g) *Other Ancillary Agreements.* DCC and its affiliates, as applicable, shall have executed and delivered to BSI and TL such agreements reasonably necessary or useful to fulfill the transactions contemplated in this Agreement.

Section 7.4 Frustration of Closing Conditions. No party hereto may rely, either as a basis for not consummating the transactions contemplated hereby or terminating this Agreement and the transactions contemplated hereby, on the failure of any condition set forth in Sections 7.1, 7.2 or 7.3, as the case may be, to be satisfied if such failure was caused by such party's breach of any provision of this Agreement or failure to use its reasonable best efforts to consummate the transactions contemplated hereby, as required by and subject to Section 6.3.

ARTICLE VIII

TERMINATION

Section 8.1 Termination.

(a) This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date:

(i) by mutual written consent of BSI and DCC;

(ii) by either BSI or DCC, if the Closing has not been consummated as of the End Date; provided, however, that at the End Date the right to terminate this Agreement under this Section 8.1(a)(ii) shall not be available to any party whose failure to fulfill in any material respect any obligation under this Agreement has caused or resulted in the failure of the Closing to occur on or before the End Date;

(iii) by either BSI or DCC if there shall be any Law that makes effecting the Closing illegal or otherwise prohibited or if any judgment, injunction, order or decree enjoining BSI and TL, on the one hand, or DCC, on the other hand, from effecting the Closing is entered and such judgment, injunction, order or decree shall become final and nonappealable; provided, however, that the right to terminate this Agreement under this Section 8.1(a)(iii) is not available to a party that has not fulfilled its obligations under Section 6.3; or

(iv) by either BSI or DCC if there shall have been a breach by the other of any of its representations, warranties, covenants or obligations contained in this Agreement, which breach would result in the failure to satisfy one or more of the conditions set forth in Section 7.2(a), (b) or (c) (in the case of a breach by BSI or TL) or Section 7.3(a), (b) or (c) (in the case of a breach by DCC), and in any such case such breach shall be incapable of being cured or, if capable of being cured, shall not have been cured within thirty (30) days after written notice thereof shall have been received by the party alleged to be in breach.

(b) The party desiring to terminate this Agreement pursuant to clause (ii), (iii), or (iv) of Section 8.1(a) shall give written notice of such termination to the other party in accordance with Section 11.3, specifying the provision hereof pursuant to which such termination is effected.

Section 8.2 Effect of Termination. If this Agreement is terminated pursuant to Section 8.1, this Agreement shall become void and of no effect with no Liability on the part of any party hereto, except (i) that the provisions of this Agreement set forth in this Section 8.2 and Article XI and the agreements contained in the Confidentiality Agreement (to the extent set forth therein), shall survive the termination hereof and (ii) that no such termination shall relieve any party of any Liability or damages resulting from any breach by that party of this Agreement prior to such termination.

Section 8.3 Fees and Expenses.

(a) If the transactions contemplated by this Agreement are not consummated, all costs and expenses incurred by any party to this Agreement in connection with this Agreement or the transactions contemplated hereby shall be paid by the party incurring such cost or expense. If the transactions contemplated by this Agreement are consummated, except as otherwise provided herein, prior to the Closing, BSI shall pay or reimburse all of the costs, fees and related expenses incurred by any Subject Entity in connection with this Agreement and the transactions contemplated hereby (whether relating to legal, accounting, actuarial, financial advisory or other fees and expenses) to the extent not fully reflected on the Proposed Closing Purchase Price Statement, as it may have been adjusted pursuant to Section 2.3(b).

(b) In furtherance of the foregoing, BSI will be responsible for all expenses incurred by or on behalf of any Subject Entity, including but not limited to the fees, expenses, and disbursements of its investment bankers, accountants, actuaries and counsel. BSI agrees to indemnify DCC and its affiliates and each Subject Entity against all claims for fees, expenses and disbursements by any Person that BSI is responsible for pursuant to the foregoing, to the extent not fully reflected on the Proposed Closing Purchase Price Statement, as it may have been adjusted pursuant to Section 2.3(b).

ARTICLE IX

INDEMNIFICATION

Section 9.1 Indemnification by BSI and TL.

(a) Subject to the limitations set forth in this Article IX and except for Taxes which are governed by Article X hereof, BSI and TL shall, from and after the Closing, jointly and severally indemnify, defend and hold harmless DCC and its affiliates (including, after the Closing, the Subject Entities), and each of their respective Representatives (and the respective heirs, successors and assigns of each of the foregoing) (the "DCC Indemnified Persons"), in each case, without duplication, from and against and in respect of all Losses incurred by any of the DCC Indemnified Persons, whether or not involving a Third-Party claim, that are caused by, arise from or are related to:

(i) any breach of any representation or warranty made by BSI or TL pursuant to this Agreement (after taking into account the provisions of Section 11.15 hereof); provided, however, that, in the case of any representation or warranty that is limited by "material," "BSI Material Adverse Effect" or by any similar term or limitation, the occurrence of a breach or inaccuracy of such representation or warranty, as the case may be, and the amount of Losses subject to indemnification hereunder shall be determined as if "material," "BSI Material Adverse Effect" or any similar term or limitation were not included therein;

(ii) any breach of any covenant or agreement of BSI or TL in this Agreement other than Section 6.4(c) hereof;

(iii) [Reserved];

(iv) all Liabilities (other than, for greater certainty, Liabilities that are the subject matter of Paragraph 12 of Annex B to Exhibit B hereto), to the extent not reflected on the Proposed Closing Purchase Price Statement, as it may have been adjusted pursuant to Section 2.3(b), relating to (A) operations of BSI or its predecessors, successors, affiliates or suppliers other than the Business (including, without limitation, any Pre-Closing Environmental Liabilities or Liabilities relating to natural resources), and (B) the Business, to the extent such Liabilities relate to pre-Closing matters and/or conditions (including, without limitation, any Pre-Closing Environmental Liabilities or Liabilities relating to natural resources), irrespective of when a party first becomes aware of any such Liabilities; and

(v) all Liabilities that constitute Excluded Liabilities (as defined in Exhibit B to this Agreement), including, without limitation, any Liabilities associated with the HP2 Property, the HP1 facility and the silica fume disposal site (as described in the Real Property Agreements), as well as operations conducted thereat, and all Liabilities associated with silica fume disposal, recovery or sale activities performed by or for BSI at any time.

(b) BSI's and TL's indemnification obligations arising from Section 9.1(a)(i) shall survive only until the eighteen-month anniversary of the Closing Date; provided, however, that the indemnification obligations related to the representations and warranties contained in (i) Sections 4.2, 4.3, 4.21 (collectively, the "BSI Fundamental Representations") and 4.22 shall survive without limitation and (ii) Sections 4.11, 4.12, 4.13 (as related to the indemnification obligations arising from Section 10.1(a)(ii)) and 4.17 shall survive until the expiration of the applicable statute of limitations plus a period of six (6) months. BSI's and TL's indemnification obligations arising under Sections 9.1(a)(ii) (but only if the applicable covenant by its terms has expired prior to then) and 9.1(a)(iv) (other than clause (A) thereof) shall survive only until the seventh (7th) anniversary of the Closing Date. No claim for the recovery of any Losses may be asserted by any DCC Indemnified Person after the termination of the applicable period as set forth in this Section 9.1(b); provided, however, that claims asserted in writing by any DCC Indemnified Person prior to the termination of the applicable period as set forth in this Section 9.1(b) shall not thereafter be barred.

(c) BSI and TL's obligations to indemnify the DCC Indemnified Persons for Losses pursuant to Section 9.1(a)(i) (except for BSI Fundamental Representations) is subject to the limitation that no indemnification shall be made by BSI with respect to any claim unless the aggregate amount of Losses exceeds CAD \$1,000,000; however, if such aggregate amount exceeds CAD \$1,000,000, then in such event, indemnification shall be made by BSI for the full amount of Losses (including the first CAD \$1,000,000). In no event shall BSI and TL's aggregate obligations to indemnify the DCC Indemnified Persons:

(i) exceed the Basic Indemnity Cap for Losses pursuant to Section 9.1(a)(i) (except for BSI Fundamental Representations), Section 9.1(a)(ii) (other than for intentional breaches) or Section 9.1(a)(iv) (except for Liabilities covered by the Environmental Liability Cap and Liabilities referred to in clause (A) thereof); and

(ii) exceed the Environmental Liability Cap for Losses for Pre-Closing Environmental Liabilities relating to the Business and Liabilities of the Business for natural resources pursuant to Section 9.1(a).

BSI's obligations to indemnify the DCC Indemnified Persons for Losses resulting from or arising out of (I) a breach of a BSI Fundamental Representation pursuant to Section 9.1(a)(i) or (II) Tax matters (including breaches of representations and warranties relating thereto), which are governed by Article X, or (III) Section 9.1(a)(v) shall not be subject to the limitations contained in this Section 9.1(c) except that, notwithstanding anything to the contrary in this Agreement, the Parties agree that to the fullest extent permitted by law, the total aggregate liability of BSI and TL for the matters described in this Article IX (other than Losses incurred in connection with the HP2 Property, Tax matters, and intentional breaches) shall be limited to the Purchase Price Cap. For the avoidance of doubt, a reserve for any Liability for interim Taxes, matters arising under Environmental Laws or for other matters reflected in the Net Working Capital shall not excuse BSI's indemnification obligations with respect to such matters in excess of such reserve amounts.

(d) For the avoidance of doubt, whether or not the Basic Indemnity Cap, the Environmental Liability Cap and/or the Purchase Price Cap have been reached shall be measured in relation to the Losses actually incurred by a DCC Indemnified Person pursuant to Section 9.1, (i.e., 49% of the aggregate Losses in the case of Becancour JV) irrespective of whether the amounts owed for such Losses are settled by payment to such DCC Indemnified Person (other than Becancour JV) or contributed to Becancour JV pursuant to Section 9.4.

Section 9.2 Indemnification by DCC.

(a) Subject to the limitations set forth in this Article IX, DCC shall indemnify, defend and hold harmless BSI, TL and each of their respective affiliates and Representatives (and the respective heirs, successors and assigns of each of the foregoing) (the "BSI Indemnified Persons") from and against and in respect of all Losses, whether or not involving a Third Party claim, which are caused by, arise from or are related to:

(i) any breach of any representation or warranty made by or pursuant to Article V; or

(ii) any breach of any covenant or other agreement of DCC contained in this Agreement.

(b) DCC indemnification obligations arising from Section 9.2(a)(i) shall survive only until the eighteen-month anniversary of the Closing Date. No claim for the recovery of any Losses may be asserted by any BSI Indemnified Person after the termination of the applicable period as set forth in this Section 9.2(b); provided, however, that claims asserted in writing by any BSI Indemnified Person prior to the termination of the applicable period as set forth in this Section 9.2(b) shall not thereafter be barred; provided, further, however, that the limitations set forth in this Section 9.2(b) shall not apply to any covenant or agreement to be performed by any party hereto.

(c) DCC's obligations to indemnify the BSI Indemnified Persons for Losses pursuant to Section 9.2(a)(i) is subject to the limitation that no indemnification shall be made by DCC with respect to any claim unless the aggregate amount of Losses exceeds CAD \$1,000,000; however, if such aggregate amount exceeds CAD \$1,000,000, then in such event, indemnification shall be made by DCC for the full amount of Losses (including the first CAD \$1,000,000). In no event shall DCC aggregate obligations to indemnify the BSI Indemnified Persons for Losses pursuant to Section 9.2(a) (other than for intentional breaches of covenants) exceed the Purchase Price Cap.

Section 9.3 Notice of Claim; Defense.

(a) A DCC Indemnified Person or a BSI Indemnified Person that desires to seek indemnification under any part of this Article IX (each, an "Indemnified Person") shall give to each party responsible or alleged to be responsible for indemnification hereunder (an "Indemnitor") prompt notice of any Indemnified Person or Third Party claim that may give rise to any indemnification obligation under this Article IX, together with the estimated amount of such claim (if then estimable). Failure to give such notice shall not affect the indemnification obligations hereunder in the absence of actual and material prejudice and, in such case, only to the extent of such prejudice.

(b) The Indemnitor shall have the right to assume the defense (at its expense) of any such claim through counsel of such Indemnitor's own choosing by so notifying the Indemnified Persons within fifteen (15) Business Days of the first receipt by such Indemnitor of such notice from the Indemnified Persons; provided, however, that any such counsel shall be reasonably satisfactory to the Indemnified Persons. In addition, if under applicable standards of professional conduct, a conflict between any Indemnified Persons and any Indemnitor exists in respect of such Third Party claim, the Indemnitor shall pay the reasonable fees and expenses of such additional counsel as may be required to be retained in order to resolve such conflict (but not more than one firm of counsel). The Indemnitor shall be liable for the fees and expenses of counsel employed by the Indemnified Persons for any period during which the Indemnitor has not assumed the defense of any such Third Party claim. If the Indemnitor assumes such defense, the Indemnified Persons shall have the right to participate in the defense thereof, including

meeting with applicable Governmental Authorities and other Third Party claimants and to employ counsel, at its own expense, separate from the counsel employed by the Indemnitor. If the Indemnitor chooses to defend or prosecute any Third Party claim, the Indemnified Persons shall agree to any settlement, compromise or discharge of such Third Party claim that the Indemnitor may recommend and that, by its terms, discharges the Indemnified Persons from any Liability in connection with such Third Party claim; provided, however, that, without the consent of the Indemnified Persons, the Indemnitor shall not consent to, and the Indemnified Persons shall not be required to agree to, the entry of any judgment or enter into any settlement that (i) provides for injunctive or other non-monetary relief affecting the Indemnified Persons or any affiliate of the Indemnified Persons, (ii) requires actions that interfere with or limit the operations of the Business or (iii) does not include as an unconditional term thereof the giving of a release from all Liability with respect to such claim by each claimant or plaintiff for the benefit of each Indemnified Person.

Section 9.4 Settlement of Indemnification Obligations. Following the determination of any amounts owed to an Indemnified Person pursuant to Section 9.1 or 9.2, the indemnification obligation shall be satisfied, in each case, by payment of such amount in immediately available funds to an account designated by:

(a) DCC, in the case such indemnification obligation arises under Section 9.1 as the result of a breach of any BSI Fundamental Representations solely with respect to BSI;

(b) Becancour JV, in the case such indemnification obligation arises under Section 9.1 and relates to BSI (except for breaches of any BSI Fundamental Representations) or the Business, unless DCC elects to receive the payment directly, in which event, DCC shall receive an amount equal to forty-nine percent (49%) of such Losses; and

(c) BSI, in the case such indemnification obligation arises under Section 9.2.

Section 9.5 Characterization of Indemnification Payments. Any payments made pursuant to this Article IX or Article X shall be treated for all Tax purposes as adjustments to (i) the Purchase Price contributed to Becancour JV pursuant to Section 2.2(b) and (ii) the special distributions to BSI or DCC LP Company, as the case may be, pursuant to Section 12.4 of the Amended and Restated Limited Partnership Agreement.

Section 9.6 Effect of Investigation. The right to indemnification and all other remedies based on any representation, warranty, covenant or obligation contained in or made pursuant to this Agreement shall not be affected by any investigation conducted with respect to, or any Knowledge by any party acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the date the Closing occurs, with respect to the accuracy or inaccuracy of, or compliance with, any such representation, warranty, covenant or obligation. The waiver of any condition to the obligation of any party hereto to consummate the transactions contemplated hereby, where such condition is based on the accuracy of any representation or warranty, or on the performance of or compliance with any

covenant or obligation, shall not affect the right to indemnification or other remedy based on such representation, warranty, covenant or obligation.

Section 9.7 Limitations on Indemnification.

(a) Notwithstanding the other provisions of this Article IX or Article X, the amount by which an Indemnitor is or may be required to pay to an Indemnified Person in respect of Losses for which indemnification is provided under this Article IX or Article X shall be reduced by any amounts actually received (including amounts actually received under insurance policies, which such Indemnified Person shall use its reasonable best efforts to collect) by the Indemnified Person from Third Parties in respect of such loss (such amounts are referred to herein as "Indemnity Reduction Amounts"). If any Indemnified Person receives any Indemnity Reduction Amounts in respect of a claim for which indemnification is provided under this Agreement after the full or partial amount of such claim has been paid by an Indemnitor, then the Indemnified Person shall promptly remit to the Indemnitor an amount equal to the excess, if any, of (i) the amount theretofore paid by the Indemnitor in respect of such claim, over (ii) the amount of the indemnity payment that would have been due if such Indemnity Reduction Amounts in respect thereof had been received before the indemnity payment was made.

(b) EXCEPT WITH RESPECT TO AMOUNTS PAID OR PAYABLE BY AN INDEMNIFIED PERSON IN CONNECTION WITH THIRD PARTY CLAIMS AND EXCEPT IN THE CASE OF FRAUD OR WILLFUL MISREPRESENTATION, AN INDEMNITOR SHALL NOT HAVE ANY LIABILITY TO ANY INDEMNIFIED PERSON FOR ANY LOSS OF PROFITS, SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), WHETHER OR NOT THE INDEMNITOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(c) Notwithstanding anything contained in this Agreement to the contrary, in the case of fraud or willful misrepresentation, the limitations on indemnification (including as to duration) contained in Sections 9.1(b) or 9.2(b) shall not apply to any claim for indemnification under this Article IX or Article X by an Indemnified Person.

Section 9.8 Exclusive Remedy.

(a) Except in the case of fraud or willful misrepresentation or as provided in Section 9.8(b), BSI, TL, and DCC agree that the indemnification provisions of this Article IX and Article X shall be the exclusive monetary remedy of the Indemnified Persons with respect to breaches of representations, warranties, covenants, obligations or other provisions of this Agreement.

(b) DCC, BSI and TL acknowledge and agree that irreparable damage would occur and DCC would not have any adequate remedy at law in the event that any of the provisions of Sections 6.3(a), 6.3(b), 6.5, 6.10, 6.11, 6.12 or 6.13 of this Agreement were not performed in accordance with their specific terms or were otherwise breached by BSI, TL or their affiliates. It is accordingly agreed that DCC shall be entitled to an injunction or injunctions

to prevent breaches of Sections 6.3(a), 6.3(b), 6.5, 6.10, 6.11, or 6.12 of this Agreement and to enforce specifically the terms and provisions of Sections 6.3(a), 6.3(b), 6.10, 6.11, or 6.12 of this Agreement, this being in addition to the remedies to which the Indemnified Persons are entitled pursuant to Section 9.1(a)(ii) above.

Section 9.9 Tax Indemnification. Notwithstanding anything to the contrary in this Agreement, the rights and obligations of the parties with respect to indemnification for any and all Tax matters, including for breaches of the representations and warranties set forth in Section 4.13, shall be governed by Article X hereof, and shall not be subject to this Article IX, except as set forth in Section 10.8 hereof.

ARTICLE X

TAX MATTERS

Section 10.1 Tax Indemnification.

(a) From and after the Closing, BSI and TL shall indemnify, defend and hold harmless the DCC Indemnified Persons from and against and in respect of all Losses incurred by any of the DCC Indemnified Persons, whether or not involving a Third-Party claim, which are caused by, arise from or are related to (i) all Taxes (or the non-payment thereof) of the Subject Entities for any Pre-Closing Tax Period (determined in accordance with Section 10.1(b) hereof), (ii) the breach or inaccuracy of any representation or warranty set forth in Section 4.13 hereof (it being agreed that for purposes of this Section 10.1(a)(ii) the representations and warranties set forth in Section 4.13 shall not be deemed to be qualified by any references therein to "materiality"), (iii) the breach or nonperformance of any covenant or agreement set forth in Section 6.1(b)(xv), (iv) all payments made by the Subject Entities to any Governmental Authority or any other Person pursuant to any Tax sharing, Tax indemnification or Tax allocation agreement or arrangement to which any of the Subject Entities is or was a party, or to which the Business or any of the Subject Entities' assets is or was subject, on or prior to the Closing Date, and (v) all Taxes (or the non-payment thereof) of BSI.

(b) For purposes of this Agreement, in the case of any Straddle Period:

(i) the Taxes of the Subject Entities that are imposed on a periodic basis and not based on income or receipts (e.g., property taxes) attributable to the Pre-Closing Tax Period shall be equal to the product of such Taxes attributable to the entire Tax period and a fraction, the numerator of which is the number of days in such period that elapsed through the Closing Date and the denominator of which is the number of days in such Tax period; provided, however, that, if the amount of periodic Taxes imposed for such Tax period reflects different rates of Tax imposed for different periods within such Tax period, the formula described in the preceding clause shall be applied separately with respect to each such period within the Tax period; and

(ii) the Taxes of the Subject Entities (other than those described in clause (i)) attributable to the Pre-Closing Tax Period shall be equal to

the amount computed as if such Tax period ended as of the close of the Closing Date.

Section 10.2 Tax Filings.

(a) BSI shall prepare, or cause to be prepared, consistent with past practice, and file, or cause to be filed, all Tax Returns of the Subject Entities that are due on or before the Closing Date.

(b) All Tax Returns of the Subject Entities that are due after the Closing Date shall be prepared and filed in the manner set forth in the Amended and Restated Limited Partnership Agreement and the GP Shareholders Agreement, as applicable.

Section 10.3 Cooperation on Tax Matters. DCC and BSI shall cooperate, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns pursuant to Section 10.2 and any Tax Audit relating to the Business. Such cooperation shall include the retention and (upon the other party's request) the provision of records and information which are reasonably relevant to any such Tax Audit. To the extent not delivered to Becancour JV pursuant to this Agreement, BSI agrees to retain all Books and Records with respect to Tax matters pertinent to the Business relating to any Pre-Closing Tax Period until the expiration of the statute of limitations (and, to the extent notified by DCC, any extensions thereof) of the respective Tax periods, and to give DCC reasonable written notice prior to transferring, destroying or discarding any such Books and Records and, if DCC so requests, BSI shall allow DCC to take possession of such Books and Records.

Section 10.4 Transfer Taxes. All sales, use, gross receipts, transfer, value added, intangible, recordation, documentary stamp or similar Taxes or charges of any nature whatsoever (together with any interest thereon, penalties, fines, fees, additions to tax or additional amounts with respect thereto) (collectively, "Transfer Taxes"), applicable to, or resulting from, the transactions contemplated by this Agreement, if any, shall be borne by BSI. BSI shall be responsible for preparing and timely filing (and DCC shall cooperate with BSI in preparing and filing) any Tax Returns with respect to any such Transfer Taxes. BSI shall provide DCC with a true copy of each such Tax Return as filed and evidence of the timely filing thereof.

Section 10.5 Tax Proceedings.

(a) If any Third Party shall notify any DCC Indemnified Person of any Tax Audit with respect to Taxes or other payments which may give rise to a claim for indemnification against BSI and TL under this Article X (each, a "Tax Proceeding"), DCC shall promptly notify BSI and TL thereof in writing; provided that the failure so to notify shall not relieve BSI or TL of its indemnification obligation provided under this Article X except to the extent BSI or TL, as applicable, shall have been materially prejudiced as a result of such failure.

(b) If any Tax Proceeding involves solely Taxes, or other payments, of BSI, one or more of which give rise to indemnity under this Article X (a "BSI Tax Proceeding"), BSI shall control the conduct of such BSI Tax Proceeding, employing counsel at BSI's own expense, and shall keep DCC informed regarding the progress and substantive aspects of such Tax Proceeding. If the result of a BSI Tax Proceeding could reasonably be expected to affect the

Tax liability of a DCC Indemnified Person in a period that ends after the Closing Date, BSI shall (i) employ counsel reasonably acceptable to DCC, (ii) allow DCC to attend the BSI Tax Proceeding and take part in all discussions and meetings with the relevant Governmental Authority in connection with the BSI Tax Proceeding that might adversely affect the DCC Indemnified Persons, (iii) consult in good faith with DCC before taking any significant action in connection with the BSI Tax Proceeding that might adversely affect the DCC Indemnified Persons, (iv) consult in good faith with DCC and afford DCC a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such BSI Tax Proceeding (including, to the extent practicable, any documents furnished to the applicable Governmental Authority in connection with any discovery request) to the extent such materials concern matters in the BSI Tax Proceeding that might adversely affect the DCC Indemnified Persons, (v) conduct the BSI Tax Proceeding diligently and in good faith, and (vi) not pay, discharge, settle, compromise, litigate, or otherwise dispose (collectively, "dispose") of any item subject to such BSI Pre-Closing Tax Proceeding without obtaining the prior written consent of DCC, which consent shall not be unreasonably withheld, conditioned, or delayed.

(c) If a Tax Proceeding involves solely Taxes, or other payments, of the Subject Entities, such Tax Proceeding shall be controlled and conducted in the manner set forth in the Amended and Restated Limited Partnership Agreement or the GP Shareholders Agreement, as applicable.

(d) If a Tax Proceeding involves both Taxes, or other payments, of BSI, giving rise to indemnity under this Article X, and Taxes, or other payments, of the Subject Entities, BSI and DCC shall attempt in good faith to sever the Tax Proceeding to (I) a BSI Tax Proceeding, which shall be subject to subsection (b) above, and (II) all other Tax Proceedings, which shall be subject to subsection (c) above. If the attempt to sever the Tax Proceeding fails, the Tax Proceeding shall be subject to subsection (c) above.

Section 10.6 Tax Sharing Agreements. All Tax sharing agreements or similar agreements with respect to or involving the Subject Entities, the Business or their assets, written or oral, shall be terminated as of the Closing Date and, after the Closing Date, the Subject Entities, the Business or their assets, as the case may be, shall not be bound thereby or have any Liability or obligation thereunder.

Section 10.7 Tax Refunds and Credits. Any refunds or credits of Taxes of Becancour JV for any Post-Closing Tax Period shall be apportioned between BSI and DCC as set forth in the Amended and Restated Limited Partnership Agreement. Any refunds or credits of Taxes of Becancour JV for any Straddle Period shall be apportioned between a Pre-Closing Tax Period and a Post-Closing Tax Period in the same manner as the Liability for such Taxes is apportioned pursuant to Section 10.1.

Section 10.8 Exclusivity. Except as otherwise provided in this Article X, and except with respect to Sections 9.1(b), 9.5, 9.6, 9.7, 9.8 and 9.9, this Article X shall exclusively govern all matters related to Taxes under this Agreement and Article IX shall not apply to such matters.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Survival of Covenants, Representations and Warranties. Each of the covenants, representations and warranties of BSI and TL and DCC in this Agreement shall survive the Closing Date and shall continue in force thereafter, except as limited with respect to representations and warranties by Section 9.1(b) and Section 9.2(b); provided, that nothing in Articles IX or X or this Section 11.1 shall relieve the parties or their respective Representatives of any Liability following the Closing Date for any willful or fraudulent misrepresentations contained herein or in any other certificate or writing delivered pursuant hereto.

Section 11.2 Amendments; No Waivers.

(a) Any provision of this Agreement (including the Disclosure Letter and the Exhibits hereto) may be amended or waived at any time prior to the Closing if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by all of the parties hereto or, in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

Section 11.3 Notices. All notices, requests and other communications to any party hereunder shall be in writing (including facsimile or similar writing) and shall be deemed to have been duly given upon receipt when delivered in person, by facsimile or email (receipt confirmed) or by overnight courier or registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified by like notice):

if to BSI or TL, to:

Becancour Silicon Inc.
c/o Timminco Limited
Sun Life Financial Tower
150 King Street West
Suite 2401
Toronto ON M5H 1J9
Attention: General Counsel and Corporate Secretary
Fax: (416) 364-3451
E-mail: pkalins@timminco.com

a copy (which shall not constitute notice) to:

Stikeman Elliott LLP
 5300 Commerce Court West
 199 Bay Street
 Toronto, ON M5L 1B9
 Attention: Jay C. Kellerman
 Fax: (416) 947-0866
 E-mail: jkellerman@stikeman.com

if to DCC to:

Dow Corning Corporation
 2200 W. Salzburg Road
 Midland, Michigan 48686-0994
 Attention: Sue K. McDonnell
 Senior Vice President, General Counsel & Secretary
 Fax: (989) 496-8307
 E-mail: sue.mcdonnell@dowcorning.com

with a copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
 Four Times Square
 New York, New York 10036
 Attention: David J. Friedman
 Fax: (212) 735-2000
 E-mail: David.Friedman@skadden.com

Section 11.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided, that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other parties hereto, except that DCC may transfer or assign, in whole or from time to time in part, to one or more of its affiliates, its rights or obligations under this Agreement, but any such transfer or assignment shall not relieve DCC of its obligations hereunder.

Section 11.5 Governing Law. This Agreement, including all matters of construction, validity and performance, shall be construed in accordance with and governed by the law of the Province of Quebec (without regard to principles of conflicts or choice of laws) as to all matters, including but not limited to, matters of validity, construction, effect, performance and remedies.

Section 11.6 Jurisdiction. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby may be brought in any court located in the Judicial District of Montreal, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably

waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 11.3 shall be deemed effective service of process on such party.

Section 11.7 Counterparts; Effectiveness. This Agreement may be executed and delivered in one or more counterparts, included by facsimile, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 11.8 Entire Agreement. This Agreement (including the Disclosure Letter and the Exhibits hereto) and the Confidentiality Agreement constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersede and cancel all prior agreements, negotiations, correspondence, undertakings, understandings and communications of the parties, oral and written, with respect to the subject matter hereof and thereof.

Section 11.9 Third Party Beneficiaries. Nothing contained in this Agreement or in any instrument or document executed by any party in connection with the transactions contemplated hereby shall create any rights in, or be deemed to have been executed for the benefit of, any Person that is not a party hereto or thereto or a permitted successor or assign of such a party.

Section 11.10 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 11.11 Construction; Interpretation.

(a) The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement. As used in this Agreement, (i) unless otherwise specified herein, the term "affiliate," with respect to any Person, shall mean and include any Person controlling, controlled by or under common control with such Person, (ii) the term "including" shall mean "including, without limitation," (iii) words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other genders as the context requires, (iv) the words "hereof," "herein," and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including the Disclosure Letter and the Exhibits hereto) and not to any particular

provision of this Agreement, and article, section, paragraph, exhibit and schedule references are to the articles, sections, paragraphs, exhibits and schedules of this Agreement, unless otherwise specified, (v) the word "or" shall not be exclusive, and (vi) each of BSI, TL, and DCC will be referred to herein individually as a "party" and collectively as "parties" (except where the context otherwise requires). Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning. A reference to any party to this Agreement or any other agreement or document shall include such party's successors and permitted assigns. Any payment required to be made by any party hereto pursuant to this Agreement shall be made without setoff in United States Dollars, unless otherwise specified, and all references in this Agreement to "\$" are expressed in Canadian currency, unless otherwise specified.

(b) The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

(c) Any reference to any federal, state, local or non-United States statute or Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context otherwise requires.

Section 11.12 Changes in Equity Interests. For all purposes of this Agreement, the Interests shall include any securities issued or exchanged with respect thereto upon any recapitalization, reclassification, merger, consolidation, spin-off, partial or complete liquidation, stock dividend, split-up or combination of the securities of the applicable Subject Entity or any other change in the applicable Subject Entity's capital structure.

Section 11.13 Obligations of the Subject Entities. Whenever this Agreement requires a Subject Entity to take any action or to fail to take any action at or prior to the Closing, that requirement shall be deemed to include an agreement and undertaking on the part of BSI and TL to cause the applicable Subject Entity to take that action or to fail to take that action, as applicable.

Section 11.14 Publicity. The parties hereto shall coordinate all publicity relating to this Agreement, the Ancillary Agreements, and the transactions contemplated by this Agreement, and no party hereto shall issue any press release, publicity statement, or other public notice relating to this Agreement, the Ancillary Agreements, or the transactions contemplated by this Agreement, without the prior consent of the other parties hereto except to the extent that a particular action is required by applicable Law.

Section 11.15 Disclosure Letter. The Disclosure Letter shall be arranged to correspond to the representations and warranties in Article IV of this Agreement, and the disclosure in any portion of the Disclosure Letter shall qualify the corresponding provision in Article IV and any other provision or section of Article IV to which it is reasonably apparent on its face that such disclosure relates. In the Disclosure Letter, (a) all capitalized terms used but not defined therein shall have the meanings assigned to them in this Agreement, (b) the section numbers correspond to the section numbers in this Agreement and (c) inclusion of any item in a

Disclosure Letter (i) does not represent a determination that such item is material or establish a standard of materiality, (ii) does not represent a determination that such item did not arise in the ordinary course of business, (iii) does not represent a determination that the transactions contemplated hereby require the consent of Third Parties and (iv) shall not constitute, or be deemed to be, an admission to any Third Party concerning such item.

[Signature page follows]

IN WITNESS WHEREOF, BSI, TL and DCC have caused this Agreement to be executed by their respective duly authorized officers as of the date first written above.

BECANCOUR SILICON INC.

By: Peter A. M. Kalins
Name: Peter A. M. Kalins
Title: General Counsel and Corporate Secretary

TIMMINCO LIMITED

By: Heinz Schimmelbusch
Name: Heinz Schimmelbusch
Title: Chairman of the Board and Chief Executive Officer

DOW CORNING CORPORATION

By: Robert D. Hansen
Name: Robert D. Hansen
Title: Executive Vice President

EXHIBIT B**SUMMARY OF TERMS FOR BUSINESS TRANSFER AGREEMENT**

Upon the terms and subject to the conditions set forth in the Agreement, BSI agrees to implement the foregoing transactions pursuant to the steps and order set forth below during the period from and after the date of the Agreement and on or prior to the Closing Date:

1. BSI shall cause the GP to be formed as a wholly owned subsidiary of BSI and shall subscribe for Class A Shares of the GP, representing 100% of the then equity interest of the GP.
2. BSI shall, and BSI shall cause the GP to, form Becancour JV with the GP as the general partner.
3. In return for BSI's receipt of (i) limited partnership units in Becancour JV and (ii) a promissory note on the terms set forth below, BSI shall contribute, or cause to be contributed, all assets used primarily in connection with the Business held by it or any of its affiliates (the "Contribution"), in each case free and clear of all Liens other than Permitted Liens, and BSI shall cause Becancour JV to assume certain associated liabilities. The Business Transfer Agreement shall provide, among other things, that:
 - a. BSI shall contribute, assign, transfer, convey, grant and set over to Becancour JV (or otherwise cause such to occur), and Becancour JV shall acquire, all of BSI's and its affiliates' right, title and interest in and to all of the assets that are held by such parties as of the date of the Contribution and used primarily in connection with the Business, in each case, wherever located, including furniture, fixtures, equipment, contracts, licenses, Leases, permits, authorizations, Real Property (and improvements thereon) and related rights, rights to insurance claims for losses related to the Business (other than losses related to Excluded Assets (as defined below)) or the Contributed Assets and copies of books and records to the extent they concern the Contributed Assets, except for any Excluded Assets (as defined below) (collectively referred to herein as the "Contributed Assets"). The foregoing notwithstanding, assets relating to intellectual property matters shall be governed by the agreements described in Exhibit I to this Agreement, assets relating to the Real Property shall be subject to the agreements described in Exhibit G to this Agreement and the provisions of Section 6.8 of this Agreement, and assets relating to pension plan matters shall be governed by the agreements described in Annex B to this Exhibit B. Becancour JV shall accept the contribution of the Contributed Assets.
 - b. BSI shall retain and not contribute to Becancour JV, and Becancour JV shall not acquire from BSI, any of the Excluded Assets (as defined in Annex A hereto).
 - c. Becancour JV shall assume and agree to pay for, perform or otherwise discharge when due, at its sole expense, the current liabilities relating to the Business and

- obligations under contracts assumed by Becancour JV relating to actions or activities occurring after the Closing (collectively referred to herein as the "Assumed Liabilities"). For the avoidance of doubt, the Assumed Liabilities shall not include any Excluded Liabilities (as defined in Annex A hereto).
- d. BSI shall acknowledge and agree that Becancour JV shall not be obligated to assume, pay for, perform or otherwise discharge, and that Becancour JV is not assuming, and that BSI shall be solely responsible for paying, performing or otherwise discharging, at its sole expense, and without liability, cost, loss or expense of Becancour JV, any of the Excluded Liabilities.
 - e. BSI and Becancour JV shall take all actions necessary to cause the employment of the Business Employees and the Shared Employees, as of the date of the Contribution, to be transferred from BSI to Becancour JV, all in accordance with Section 6.7 and the terms of the Services Agreements to be entered into in accordance with Exhibit H of this Agreement.
 - f. BSI and Becancour JV shall execute and file a joint election pursuant to subsection 97(2) of the *Income Tax Act* (Canada) and any corresponding provincial provision in respect of the Contribution.
4. The Business Transfer Agreement shall provide that, to the extent that any asset is used in, but not primarily used in, the Business, and is not transferred hereunder by BSI, BSI agrees to fully cooperate with Becancour JV, to the extent permitted by law, to assist Becancour JV in making sure that the benefits of such assets (including any related information) are made available to Becancour JV.
 5. The promissory note shall have a principal amount equal to the Estimated Closing Purchase Price. Becancour JV shall have no obligation towards BSI under the promissory note for any amount in excess of the Estimated Closing Purchase Price, even if an Adjustment Amount is payable in excess of the Estimated Closing Purchase Price in accordance with the provisions of this Agreement. Such Adjustment Amount shall be paid to BSI by Becancour JV, to the extent so payable, by way of one or more distributions to BSI as holder of units in Becancour JV.
 6. BSI and DCC acknowledge and agree that the transfer of the Facility shall be further subject to the matters set forth on Exhibit G of the Framework Agreement.
 7. Becancour JV shall establish defined benefit and defined contribution registered pension plans for the Transferred Employees in accordance with the provisions of Annex B and, if applicable, the Pension Transfer Agreement, as well as group registered retirement savings plans.
 8. BSI and TL shall cause the cancellation of all inter-company accounts and all inter-company indebtedness of the Business as further described in Section 6.10 of the Agreement.

9. The transfers of assets and liabilities pursuant to the Business Transfer Agreement shall not affect any rights of DCC or BSI under this Agreement, including, without limitation, Articles IX and X thereof.

Annex ADefined Terms

"Excluded Assets" include the following:

- i. trade accounts receivable and other receivables of the Business;
- ii. cash and cash equivalents, bank accounts, bank deposits and accrued interest thereon;
- iii. finished silicon metal inventory, including materials in transit;
- iv. finished silicon product capitalized variances related to item (iii) above;
- v. finished silicon product capitalized production costs related to item (iii) above;
- vi. finished silicon product reserves related to item (iii) above;
- vii. silica fume ponds, existing and emptied;
- viii. future income tax assets;
- ix. deferred charges;
- x. receivables from TL or any of its affiliates;
- xi. contracts with customers for the supply of silicon metal;
- xii. assets under the applicable trusts of the BSI Pension Plans (as defined in Annex B), except as provided in Annex B;
- xiii. other excluded contracts; e.g., the BSI collective bargaining agreement, except as required by law in respect of Transferred Employees;
- xiv. losses, loss carry-forwards and rights to receive refunds, credits and loss carry-forwards with respect to any Taxes attributable to periods (or portions thereof) ending on or prior to the date of the Contribution;
- xv. all insurance plans and policies, but, without prejudice, to the right of Becancour JV to make claims thereunder;
- xvi. the HP2 Property and assets thereon relating to the solar-grade silicon purification operations, the HP1 facility located at 5500, rue Yvon-Trudeau, Becancour, Quebec, and the property located at 5355, rue du Chemin-de-Fer, Becancour, Quebec;
- xvii. all documents relating primarily to an Excluded Asset or Excluded Liability;
- xviii. minute books, stock records and corporate seal of BSI;
- xix. personnel records that BSI is required by law to retain in its possession;
- xx. all rights of BSI under the Business Transfer Agreement; and
- xxi. original book and records.

"Excluded Liabilities" include the following:

- i. Taxes payable by BSI and other Taxes applicable to the Business attributable to periods (or portions thereof) ending on or prior to the date of the Contribution;
- ii. all debts, liabilities, payables or other obligations due to TL or any of its affiliates in respect of any intercompany loan or similar indebtedness with respect to periods prior to the date of the Contribution;
- iii. all debts, liabilities and obligations relating to the Excluded Assets, including, without limitation, all liabilities that do not relate to or arise out of the operation of the Business

- or the ownership, control or use by BSI of the assets of the Business prior to the date of the Contribution, whether such liability arises before, on or after the date of the Contribution;
- iv. customer claims arising from the conduct of the Business prior to the date of the Contribution;
 - v. all debts, liabilities, payables or other obligations due to or on behalf of employees of TL, BSI or any of their affiliates that are not Transferred Employees;
 - vi. accrued and unpaid payroll and other amounts or entitlements due to or on behalf of hourly employees of the Business with respect to periods prior to the date of the Contribution;
 - vii. accrued and unpaid payroll and other amounts or entitlements due to or on behalf of salaried employees of the Business with respect to periods prior to the date of the Contribution;
 - viii. future income tax liabilities with respect to periods prior to the date of the Contribution, including, without limitation, Tax liabilities relating to payroll withholdings, contributions and remittances and accrued worker compensation assessments attributable to the performance of services for BSI prior to the date of the Contribution;
 - ix. deferred revenues with respect to periods prior to the date of the Contribution;
 - x. customer prepayments with respect to periods prior to the date of the Contribution;
 - xi. all liabilities of BSI arising solely from its membership in a consolidated group;
 - xii. all indebtedness for borrowed money and liabilities that are reflected on the balance sheet of BSI as long-term liabilities under GAAP (other than Assumed Obligations, if any);
 - xiii. all liabilities with respect to chargebacks, returns, allowances entered into or regarding sales shipped by BSI prior to the date of the Contribution;
 - xiv. any liability to pay severance, bonus, change of control or similar payments to any employee with respect to events occurring prior to the date of the Contribution, other than any notice or severance liability concerning any Transferred Employee (other than the Shared Employees, for which the severance liability, if any, shall be assumed jointly, but not severally, by BSI and by Becancour JV in the proportions corresponding to the allocation of time indicated in Schedule A to Exhibit H to this Agreement, as adjusted from time to time);
 - xv. any liability related to any pending or threatened litigation or other claim, action, investigation or proceeding against BSI;
 - xvi. any liability, including but not limited to pursuant to any employee benefit plan or pension plan (other than pension liabilities associated with Transferred Employees), attributable to the performance of services for BSI prior to the date of Contribution by any employee, independent contractor or agent of BSI or any other individuals rendering services to BSI;
 - xvii. any liability related to the disposal, recovery or sale of silica fumes by BSI, whether such liability arose before, on or after the date of the Contribution;
 - xviii. any liability arising out of or attributable to the Business or the ownership of the Becancour JV Property at any time prior to the Closing, including, without limitation, any Pre-Closing Environmental Liabilities, and any liability arising out of or attributable to the HP2 Property, whether arising prior to or after the Closing;
 - xix. expenses related to the transactions contemplated by the Business Transfer Agreement;
- and

xx. any other liability not specifically assumed by Becancour JV hereunder.

Annex B

Terms of Pension Asset Transfers

Annex BPension Plans

(1) BSI, at its own expense, will ensure that the Transferred Employees cease to participate in and accrue benefits under the Régime de rentes pour les employés non syndiqués de Silicium Bécancour Inc. and the Régime de rentes pour les employés syndiqués de Silicium Bécancour Inc. (the “**BSI Pension Plans**”) as of the day immediately preceding the Closing Date.

(2) Bécancour JV, at its own expense, shall establish effective as of the Closing Date and file, or cause to be filed, for registration with the appropriate regulatory authorities as soon as practicable after the Closing Date, but in any event no later than ninety (90) days following the day immediately preceding the Closing Date, registered pension plans that will contain contribution, pension benefits and ancillary benefits provisions that are substantially similar to the contribution, pension benefits and ancillary benefits provisions provided in respect of Transferred Employees under the corresponding BSI Pension Plans as of the day immediately preceding the Closing Date (the “**Bécancour Pension Plans**”).

(3) BSI and DCC acknowledge that, as required by applicable law, the Bécancour Pension Plans will recognize membership of the Transferred Employees for the purposes of eligibility for membership, vesting and locking-in under the BSI Pension Plans, and will also recognize periods of membership in the BSI Pension Plans, for purposes of calculating benefits under the Bécancour Pension Plans, as were recognized by BSI for purposes of calculating benefits payable under the BSI Pension Plans as of the day immediately preceding the Closing Date. For greater clarity, each Transferred Employee who participated in the defined benefit component of a BSI Pension Plan immediately prior to the Closing Date shall be enrolled in the defined benefit component of the corresponding Bécancour Pension Plan as of the Closing Date, and each Transferred Employee who participated in the defined contribution component of a BSI Pension Plan immediately prior to the Closing Date shall be enrolled in the defined contribution component of the corresponding Bécancour Pension Plan as of the Closing Date.

(4) As soon as practical and in any event no later than sixty (60) days after the Closing Date, BSI will cause Mercer (Canada) Limited (the “**BSI Actuary**”) to prepare a report with respect to each BSI Pension Plan (each a “**Pension Report**”), detailing the transfer of assets and liabilities in respect of the relevant Transferred Employees, from such BSI Pension Plan to the relevant Bécancour Pension Plan, and provide the BSI Actuary with such information as the BSI Actuary reasonably requires to do so. Each Pension Report will set out, as of the day immediately preceding the Closing Date, the amount of assets to be so transferred (the “**Transfer Amount**”) and such other information or detail as may be required to obtain the consent of the regulatory authorities to the proposed transfer. The BSI Actuary will calculate the Transfer Amount in respect of each BSI Pension Plan as:

- (a) in respect of defined benefit provisions, an amount equal to the market value of the assets of such BSI Pension Plan as at the Closing Date, multiplied by the ratio which the Liabilities attributable to the relevant Transferred Employees bear to the Liabilities for all active, deferred vested and retired participants under such

BSI Pension Plan, recognizing service credited under such BSI Pension Plan to the day immediately prior to the Closing Date;

- (b) in respect of defined contribution provisions, an amount equal to the sum of the employer and, if applicable, employee, contributions at the day immediately prior to the Closing Date made by or in respect of the relevant Transferred Employees, plus earnings and losses thereon;

and applying the provisions of such BSI Pension Plan as at the Closing Date. For purposes of Annex B, “**Liabilities**” shall mean the solvency liabilities under the BSI Pension Plans determined as of the Closing Date in accordance with the assumptions and methods applied by the BSI Actuary in the last report on such plans shared between the parties, or such other assumptions and methods as the parties may agree for use at the Closing Date.

(5) Forthwith after receiving the information from BSI necessary to commence preparation of the Pension Reports, the BSI Actuary will provide the firm of actuaries designated by DCC (the “**DCC Actuary**”) with such information as the DCC Actuary reasonably requires to review the Pension Reports. BSI shall instruct the BSI Actuary to deliver, or cause to be delivered, a copy of the Pension Reports to DCC. DCC will have a period of sixty (60) days following such delivery to review the Pension Reports and, during such review period, DCC and the DCC Actuary will have access to such documentation, and financial and accounting records of BSI and the BSI Actuary, relating to the BSI Pension Plans and funding media as may be reasonably required to permit confirmation that the Pension Reports were prepared in accordance with the provisions hereof. On or before the expiration of such review period, DCC will deliver a notice to BSI indicating that DCC either accepts or rejects either or both of the Pension Reports and such notice will set out in reasonable detail the basis for such rejection. If DCC has not delivered such notice to BSI by the expiration of the review period, DCC will be deemed for all purposes of this Agreement to have accepted the Pension Reports. All fees and expenses in connection with the preparation of the Pension Reports shall be for the account of BSI. All fees and expenses of DCC and the DCC Actuary in reviewing the Pension Reports will be for the account of DCC.

(6) If DCC rejects a Pension Report, BSI and DCC will attempt to resolve the differences or cause the differences to be resolved. If the differences are not resolved within thirty (30) days after delivery of the Pension Report to DCC, the dispute may be referred by either party to a third party actuary (the “**Third Party Actuary**”), who will be appointed jointly by the BSI Actuary and the DCC Actuary unless the BSI Actuary and the DCC Actuary cannot agree upon a third party actuary, in which case Morneau Sobeco [Montréal] will be appointed and deemed to be the Third Party Actuary for purposes hereof. The Third Party Actuary shall resolve the dispute within sixty (60) days of the referral, acting as an expert, not as an arbitrator, and such determination will be final and binding on all parties. The fees and expenses of the Third Party Actuary will be shared equally by BSI and DCC. Once a settlement or determination has been achieved, DCC will be deemed to have accepted the revised Pension Report upon its delivery to DCC.

(7) The portion of the cost of any benefits or other payments made to, or for the benefit of, any Transferred Employee on or after the Closing Date and before the relevant Pension Transfer Date (as defined in section 10) that is reasonably attributable to service of the Transferred Employee and that was recognized under the relevant BSI Pension Plan prior to the Closing Date will be paid pursuant to the instructions of Bécancour JV and will reduce the relevant Transfer Amount. Subject to agreement by both BSI and DCC, all expenses reasonably attributable to the administration of a BSI Pension Plan as they apply to its Transferred Employees on or after the Closing Date will be for the account of the relevant Bécancour Pension Plan and will further reduce the relevant Transfer Amount. Prior to the Pension Transfer Date, each Transfer Amount shall be invested and administered in the same manner as the other assets of the same component of the relevant BSI Pension Plan (subject to Transferred Employee direction in regard to defined contribution account assets), and none of BSI, its affiliates, or the administrator of the BSI Pension Plan or the delegates of same shall have any liability resulting solely from such identical investment and administration, except, for greater certainty, where any such person is found to have acted negligently, fraudulently or in bad faith in performing such investment or administration.

(8) BSI will provide, or will cause to be provided, to Bécancour JV, or the administrators of the Bécancour Pension Plans, such information in respect of the Transferred Employees as is reasonably required to administer the Bécancour Pension Plans properly and that is in the possession or control of BSI or any administrator of the relevant BSI Pension Plan.

(9) If any regulatory authority does not approve a transfer of relevant assets and Liabilities because, in the opinion of the regulatory authority, the relevant Transfer Amount is insufficient or excessive, the Transfer Amount will be increased or decreased, as the case may be, by such amount as may be necessary to obtain the approval of the regulatory authority.

(10) Within thirty (30) days after the later of (i) the establishment of a Bécancour Pension Plan and the registration thereof with the appropriate regulatory authorities in accordance with section 2 above, (ii) receipt by BSI, or the administrator of the relevant BSI Pension Plan, of such regulatory approvals as may be required in connection with the transfer of relevant assets and Liabilities and (iii) acceptance or deemed acceptance by DCC of the relevant Pension Reports referred to in sections 5 and 6 (a “**Pension Transfer Date**”), BSI will cause the custodians of such BSI Pension Plan’s fund to transfer assets equal to the relevant Transfer Amount, together with Interest on such amount computed for the period from the Closing Date through the Pension Transfer Date, to the custodians of the relevant Bécancour Pension Plan fund, and such Bécancour Pension Plan shall then assume the related Liabilities attributable to the Transferred Employees. Written confirmation of any such regulatory approval will be forwarded by each party to the other forthwith upon receipt. Upon such transfer, BSI and the relevant BSI Pension Plan shall have no further obligation to the relevant Transferred Employees. “**Interest**” means the rate of return earned by the BSI Pension Plan’s fund, after expenses and whether positive or negative, from the Closing Date through the relevant Pension Transfer Date.

(11) Each party shall take or cause to be taken whatever steps may be necessary, including the implementation of a reciprocal transfer agreement generally consistent with the methodologies and assumptions applied for purposes of this Annex B, in order to provide for the

transfer of an individual Transferred Employee, his or her pension rights and entitlements, and the related assets, following his or her termination of employment from Bécancour JV and immediate rehire by BSI (or any of its relevant affiliates), from the relevant Bécancour Pension Plan to the relevant BSI Pension Plan and resumption of accruals under such BSI Pension Plan.

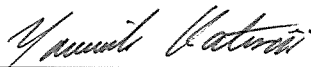
(12) Following the Pension Transfer Date, Bécancour JV and the relevant Bécancour Pension Plan shall indemnify and hold harmless BSI, and its employees and directors, and the relevant BSI Pension Plan, and its administrator and custodians, in respect of all claims, losses or demands by or on behalf of the Transferred Employees and their beneficiaries in relation to such BSI Pension Plan, except where such claims, losses or demands are found to have resulted from the negligence, fraud or bad faith of BSI, or its employees or directors, or the administrator or custodians of the relevant BSI Pension Plan.

(13) In the event of any discrepancies between the Pension Transfer Agreement and the provisions hereof, the Pension Transfer Agreement shall prevail.

(14) If BSI and DCC so agree, this Annex B shall be deemed to be the Pension Transfer Agreement.

TAB E

This is Exhibit "E"
to the affidavit of Peter Kalins,
sworn before me on the 9th day
of May, 2012



Commissioner for Taking Affidavits

Yusuf Yannick Katirai, a
Commissioner etc., Province of Ontario,
while a student-at-law.
Expires April 12, 2013.

BUSINESS TRANSFER AGREEMENT

Business transfer agreement dated September 30, 2010 (this "Agreement") among Bécancour Silicon Inc. ("BSI") and Québec Silicon Limited Partnership ("Becancour JV"), by its general partner Québec Silicon General Partner Inc. ("Becancour GP").

RECITALS

- (a) BSI, Timminco Limited, and Dow Corning Corporation ("DCC") are parties to a framework agreement dated August 10, 2010 (the "Framework Agreement").
- (b) It is a condition under the Framework Agreement that the parties enter into this agreement in order to, among other things, consummate, prior to the Closing Date, the Restructuring Transactions contemplated in Exhibit B of the Framework Agreement.
- (c) BSI is the legal and beneficial owner of the Contributed Assets.
- (d) BSI wishes to sell and Becancour JV wishes to purchase the Contributed Assets upon, and subject to, the terms and conditions contained in this Agreement in consideration for 51,000 limited partnership units in Becancour JV, a promissory note issued by Becancour JV in favour of BSI in a principal amount equal to US\$40,254,751 and the assumption of the Assumed Liabilities.
- (e) BSI and Becancour JV acknowledge and agree that the Contributed Assets are intended to be transferred to Becancour JV pursuant to subsection 97(2) of the *Income Tax Act* (Canada) (the "ITA") and any corresponding provisions of any provincial law.

In consideration of the foregoing and the mutual agreements contained in this Agreement (the receipt and adequacy of which are acknowledged), the parties agree as follows.

Section 1 Defined Terms

Capitalized terms used but not defined herein shall have the meanings given to them in the Framework Agreement.

Section 2 Purchase and Sale.

- (1) Subject to the terms and conditions of this Agreement, BSI hereby sells, assigns and transfers to Becancour JV and Becancour JV hereby purchases from BSI all of BSI's right, title and interest in and to all of the assets that are held by BSI as of the date hereof and used primarily in connection with the

Business (as defined in the Framework Agreement), in each case wherever located and free and clear of all liens other than Permitted Liens, including furniture, fixtures, equipment, contracts, licenses, Leases, permits, authorizations, current assets, Real Property (and improvements thereon, including the Facility, but excluding the HP2 Property, in each case as more fully described in Schedule "A" attached hereto) and related rights, rights to insurance claims for losses related to the Business (other than losses related to Excluded Assets (as defined below) or the assets transferred pursuant to this Agreement and copies of books and records to the extent they concern the assets transferred pursuant to this Agreement, except for any Excluded Assets (collectively, the "**Contributed Assets**").

- (2) Without limiting the generality of the foregoing, Contributed Assets held by BSI as of the date hereof relating to:
 - (a) intellectual property matters shall also be governed by the intellectual property transfer agreement to be entered into among BSI, all of BSI's affiliates, and Becancour JV (the "**Transfer Agreement**"), as described in Exhibit I to the Framework Agreement; and
 - (b) Real Property shall also be subject to (i) the Deed of Transfer, (ii) the nominee agreements relating to the Facility and the HP2 Property, (iii) the lease agreement to be entered into between Becancour GP, as landlord, and BSI, as tenant, and (iv) BSI's right of occupancy in the laboratory granted by Becancour GP, all as described in Exhibit G to the Framework Agreement and/or in the provisions of Section 6.8 of the Framework Agreement (collectively, the "**Real Estate Documents**").
- (3) The Contributed Assets shall not include any of the assets listed in the definition of "Excluded Assets" in Annex A to Exhibit B of the Framework Agreement (the "**Excluded Assets**").

Section 3 Liabilities.

- (1) BSI shall transfer and Becancour JV shall assume and agree to pay for, perform, or otherwise discharge when due, at Becancour JV's sole expense, the current liabilities and the pension liabilities relating to the Business (the "**Assumed Liabilities**") and obligations under contracts assumed by Becancour JV relating to actions or activities occurring after the date hereof (the "**Other Liabilities**"). The Assumed Liabilities shall not include any liability listed in the definition of "Excluded Liabilities" in Annex A to Exhibit B of the Framework Agreement (the "**Excluded Liabilities**").

- (2) BSI acknowledges and agrees that Becancour JV shall not be obligated to assume, pay for or otherwise discharge, and that Becancour JV is not assuming, and that BSI shall be solely responsible for paying, performing or otherwise discharging, at its sole expense, and without liability, cost, loss or expense of Becancour JV, any of the Excluded Liabilities.
- (3) Pension plan matters shall be governed by the Pension Transfer Agreement, as described in Annex B to Exhibit B of the Framework Agreement.

Section 4 Contracts.

Nothing in this Agreement shall be construed as an attempt to assign to Becancour JV any contract or agreement which, as a matter of law or by its terms, is not assignable in whole or in part without the consent of the other party or parties to such contract or agreement, unless such consent has been given. In order that Becancour JV may receive and realize the full benefit of the non-assigned contracts and agreements, BSI shall hold such contracts and agreements in trust for Becancour JV and all benefits derived from such contracts and agreements shall be for the account of Becancour JV. BSI shall take such action and do or cause to be done such things as are necessary or proper to ensure that the obligations of BSI under the non-assigned contracts and agreements are performed and that the value of all of such contracts and agreements are preserved and enure to the benefit of Becancour JV. BSI shall use its reasonable best efforts to obtain all consents necessary to assign such contracts and agreements to Becancour JV as soon as reasonably possible.

Section 5 Purchase Price.

The purchase price payable by Becancour JV to BSI for the Contributed Assets is C\$92,980,389, which purchase price may be adjusted by an amount equal to the adjustments of the purchase price payable to Becancour JV pursuant to Section 2.(3) and 2.4 of the Framework Agreement. The purchase price shall be paid by Becancour JV (i) issuing to BSI 51,000 limited partnership units in Becancour JV, (ii) issuing a promissory note in favour of BSI in a principal amount equal to US \$40,254,751, (iii) assuming the Assumed Liabilities, and (iv) as the case may be, distributing to BSI, in the event of adjustment of the purchase price as mentioned above, amounts so received by Becancour JV. BSI shall be liable for and shall pay all applicable federal and provincial sales taxes and all other taxes, duties, registration charges or other like charges payable in connection with the sale of the Contributed Assets by BSI to Becancour JV.

The purchase price shall be allocated in accordance with the election described in Section 9(1) hereof.

Section 6 Deliveries.

- (1) In connection with the consummation of the transactions contemplated herein, BSI shall make all deliveries to Becancour JV required pursuant to the Framework Agreement, including, but not limited to, the following:
 - (a) A certified copy of the resolution of the directors of BSI approving the transfer of the Contributed Assets to Becancour JV;
 - (b) Copies of all consents, approvals and waivers required to transfer the Contributed Assets to Becancour JV on terms acceptable to Becancour JV, acting reasonably; and
 - (c) Actual possession of the Contributed Assets and all deeds, conveyances, assurances, transfers and assignments and other instruments, in form and substance satisfactory to Becancour JV, necessary or reasonably required to transfer the Contributed Assets to Becancour JV with a good title, free and clear of all liens, charges, pledges, security interests and other encumbrances.

- (2) In connection with the consummation of the transactions contemplated herein, Becancour JV shall make all deliveries to BSI required pursuant to the Framework Agreement, including, but not limited to, the following:
 - (a) A certified copy of the resolutions of the directors of Becancour GP approving, on behalf of Becancour JV, the issuance of limited partnership units to BSI;
 - (b) limited partnership unit certificate(s) representing 51,000 limited partnership units in Becancour JV registered in the name of BSI; and
 - (c) a promissory note issued by Becancour JV in favour of BSI in a principal amount equal to US\$40,254,751 substantially in the form attached hereto as Schedule "B".

Section 7 Other Deliverables.

- (1) In connection with the consummation of the transactions contemplated herein, BSI and Becancour JV shall execute, or cause to be executed all of the documents required to complete the Restructuring Transactions that constitute conditions precedent to the Closing contemplated in the Framework Agreement, including, but not limited to, the following:
 - (a) the Transfer Agreement;
 - (b) the Real Estate Documents;

- (c) the Pension Transfer Agreement; and
- (d) the Services Agreements.

Section 8 Acknowledgement.

BSI and Becancour JV acknowledge that:

- (a) to the extent that any asset of BSI or its affiliates is used in, but not primarily used in, the Business, and such asset is not transferred under this Agreement by BSI to Becancour JV, BSI agrees to assist Becancour JV, to the extent permitted by law, in making sure that the benefits of such assets (including any related information) are made available to Becancour JV; and
- (b) the transfer of Contributed Assets and Assumed Liabilities from BSI to Becancour JV shall not affect any rights of DCC or BSI under the Framework Agreement, including, without limitation, Articles IX and X thereof.

Section 9 Elections

- (1) BSI, Becancour JV and Becancour GP each covenant and agree to elect jointly under subsection 97(2) of the ITA in respect of the transfer of the Contributed Assets that are determined by BSI and that are property eligible for such election as described in subsection 97(2) of the ITA, in the prescribed form and within the prescribed time for purposes of the ITA, and shall therein specify an amount in respect of each Contributed Asset as determined by BSI in its sole discretion within the limits of subsection 97(2) of the ITA. For the purposes of subsection 97(2) and paragraph 85(1)(e.1) of the ITA, the properties shall be deemed to be disposed of in the order designated by Becancour JV. BSI and Becancour JV agree to jointly file corresponding elections under the provisions of applicable provincial or territorial tax legislation and the foregoing provisions will apply to the making of any such elections, with necessary changes. All elections shall be prepared and filed by BSI.
- (2) BSI, Becancour JV and Becancour GP have jointly elected, under section 156 of the ETA and the corresponding provision of the QSTA such that no GST or QST is payable with respect to the sale of the Contributed Assets by BSI. Such elections shall be retained by both BSI and Becancour in their respective books and records. Moreover, BSI and Becancour JV shall jointly execute and file an election under section 167 of the ETA and section 75 of the QSTA within the prescribed time limits and in the prescribed forms for such purposes such that the sale of the Contributed Assets by BSI will take place without payment of GST or QST. Becancour

JV will file the election form referred to herein with the appropriate taxation authorities, together with its GST and QST returns for its GST and QST reporting period during which the transaction of purchase and sale of the Contributed Assets contemplated herein occurs and, promptly thereafter, Becancour JV will confirm to BSI in writing that such election form has been so filed.

Section 10 Time of the Essence.

Time shall be of the essence of this Agreement.

Section 11 Enurement.

This Agreement shall become effective when executed by BSI and Becancour JV and after that time shall be binding upon and enure to the benefit of the parties and their respective, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

Section 12 Waiver.

- (1) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (2) No failure on the part of BSI or Becancour JV to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

Section 13 Further Assurances.

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Contributed Assets to Becancour JV and carry out the terms and conditions of this Agreement in accordance with their true intent.

Section 14 Severability.

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

Section 15 Governing Law.

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Québec and the federal laws of Canada applicable therein.


Section 16 Counterparts.

This Agreement may be executed in any number of counterparts (including counterparts by facsimile) and all such counterparts taken together shall be deemed to constitute one and the same instrument.


[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF the parties have executed this Business Transfer Agreement.

BÉCANCOUR SILICON INC.

By: 
Name: Peter Kalins
Title: General Counsel and
Corporate Secretary
Authorized Signing Officer

**QUÉBEC SILICON LIMITED
PARTNERSHIP, by its general
partner, QUÉBEC SILICON
GENERAL PARTNER INC.**

By: 
Name: Peter Kalins
Title: General Counsel and
Corporate Secretary
Authorized Signing Officer

[signature page to the Business Transfer Agreement]

SCHEDULE "A"

Legal Description of the Facility

An immovable situated in the City of Bécancour, Province of Québec, known and designated as being lot number THREE MILLION TWO HUNDRED NINETY-FOUR THOUSAND AND FIFTY-FIVE (3 294 055) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2).

With the buildings and all other structures, fixtures, equipment and ancillary improvements located thereon, including the building bearing the civic address 6500 Yvon-Trudeau Street, City of Bécancour, Province of Québec, G9H 2V8.

As said immovable now subsists, with all its rights, members and appurtenances, without exception or reserve of any kind, and together with and subject to any servitudes, rights-of-way or privileges appurtenant or belonging thereto,

SAVE AND EXCEPT:

A parcel of land of irregular figure, situated in the City of Bécancour, Province of Québec, known and designated as being a part of lot THREE MILLION TWO HUNDRED NINETY-FOUR THOUSAND AND FIFTY-FIVE (Pt. 3 294 055) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2), which land can be described as follows:

Attachment:

Starting at point 851, which point is located at the intersection of the division lines between the Yvon-Trudeau Street (lot 3 417 006 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2)) and Arthur-Sicard Boulevard (lot 3 416 998 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2)); from said point 851, following a direction of 56°13'45" for a distance of 444,00 meters to point 875; from point 875, following a direction of 326°13'45" for a distance of 190,72 meters to point 868, which is the starting point of said parcel of land which can be described as follows:

Boundaries and measurements:

Bounded towards the South-West by another part of said lot 3 294 055;
 Bounded towards the North-West by another part of said lot 3 294 055;
 Bounded towards the North by another part of said lot 3 294 055;
 Bounded towards the North-East by another part of said lot 3 294 055;
 Bounded towards the South-East by another part of said lot 3 294 055; and

Measuring:

Boundaries	Pts	Pts	Line	Direction	Distance (meters)
South-West	868	857	Straight	326°13'45"	65,38
North-West	857	858	Straight	56°13'45"	169,53
North	858	859	Straight	101°15'37"	4,27
North-East	859	860	Straight	146°16'28"	81,33
South-East	860	861	Straight	236°16'28"	2,27
North-East	861	862	Straight	146°13'45"	22,27
South-East	862	863	Straight	236°13'45"	18,32
North-East	863	649	Straight	146°13'45"	22,96
South-East	649	505	Straight	236°13'45"	11,53
North-East	505	864	Straight	146°13'45"	18,47
South-East	864	865	Straight	236°13'45"	54,16
South-West	865	866	Straight	326°13'45"	23,78
South-West	866	867	Straight	293°18'04"	70,17
South-East	867	868	Straight	236°13'45"	48,10

Having a superficial area of 18 412,8 square meters.

As shown on a plan bearing number D-5111-3 prepared by René Beaudoin, Québec Land Surveyor, on September 27, 2010, under number 3870 of his minutes and B-5111 of his files.

With the buildings and all other structures, fixtures, equipment and ancillary improvements located thereon, including the building bearing the civic address 6500 Yvon-Trudeau Street, City of Bécancour, Province of Québec, G9H 2V8.

As said immovable now subsists, with all its rights, members and appurtenances, without exception or reserve of any kind, and together with and subject to any servitudes, rights-of-way or privileges appurtenant or belonging thereto.

Legal Description of the HP2 Property

A parcel of land of irregular figure, situated in the City of Bécancour, Province of Québec, known and designated as being a part of lot THREE MILLION TWO HUNDRED NINETY-FOUR THOUSAND AND FIFTY-FIVE (Pt. 3 294 055) of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2), which land can be described as follows:

Attachment:

Starting at point 851, which point is located at the intersection of the division lines between the Yvon-Trudeau Street (lot 3 417 006 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2)) and Arthur-Sicard Boulevard (lot 3 416 998 of the Cadastre of Québec, Registration Division of Nicolet (Nicolet 2)); from said point 851, following a direction of 56°13'45" for a distance of 444,00 meters to point 875; from point 875, following a direction of 326°13'45" for a distance of 190,72 meters to point 868, which is the starting point of said parcel of land which can be described as follows:

Boundaries and measurements:

Bounded towards the South-West by another part of said lot 3 294 055;
 Bounded towards the North-West by another part of said lot 3 294 055;
 Bounded towards the North by another part of said lot 3 294 055;
 Bounded towards the North-East by another part of said lot 3 294 055;
 Bounded towards the South-East by another part of said lot 3 294 055; and

Measuring :

Boundaries	Pts	Pts	Line	Direction	Distance (meters)
South-West	868	857	Straight	326°13'45"	65,38
North-West	857	858	Straight	56°13'45"	169,53
North	858	859	Straight	101°15'37"	4,27
North-East	859	860	Straight	146°16'28"	81,33
South-East	860	861	Straight	236°16'28"	2,27
North-East	861	862	Straight	146°13'45"	22,27
South-East	862	863	Straight	236°13'45"	18,32
North-East	863	649	Straight	146°13'45"	22,96
South-East	649	505	Straight	236°13'45"	11,53

North-East	505	864	Straight	146°13'45"	18,47
South-East	864	865	Straight	236°13'45"	54,16
South-West	865	866	Straight	326°13'45"	23,78
South-West	866	867	Straight	293°18'04"	70,17
South-East	867	868	Straight	236°13'45"	48,10

Having a superficial area of 18 412,8 square meters.

As shown on a plan bearing number D-5111-3 prepared by René Beaudoin, Québec Land Surveyor, on September 27, 2010, under number 3870 of his minutes and B-5111 of his files.

With the buildings and all other structures, fixtures, equipment and ancillary improvements located thereon, including the building bearing the civic address 6500 Yvon-Trudeau Street, City of Bécancour, Province of Québec, G9H 2V8.

As said immovable now subsists, with all its rights, members and appurtenances, without exception or reserve of any kind, and together with and subject to any servitudes, rights-of-way or privileges appurtenant or belonging thereto.

SCHEDULE "B"
FORM OF PROMISSORY NOTE

QUÉBEC SILICON LIMITED PARTNERSHIP
PROMISSORY NOTE

Amount: US\$40,254,751

Date: September 30 , 2010

FOR VALUE RECEIVED, the undersigned, Québec Silicon Limited Partnership (the "**Borrower**"), a limited partnership formed under the laws of Québec with its principal office and place of business at 6500, Yvon-Trudeau Street, Bécancour, Québec, **PROMISES TO PAY** to or to the order of Bécancour Silicon Inc. (the "**Lender**"), at its offices at 6500, rue Yvon-Trudeau, Bécancour, QC or such other place as the Lender may designate, the principal amount of Forty Million, Two Hundred and Fifty-Four Thousand, Seven Hundred and Fifty-One US DOLLARS (US\$40,254,751) ON DEMAND, with interest on such amount at the rate, calculated in the manner and payable at the times specified in this Note.

The principal amount remaining from time to time unpaid and outstanding shall bear interest, both before and after demand and judgment to the date of the repayment in full of the principal amount, at the rate of Five per cent (5%) per annum. Interest at such rate shall accrue daily and be calculated on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be, and shall be payable monthly, in arrears, on the first business day of each and every month commencing November 1, 2010. Overdue interest shall bear interest at a rate per annum equal to the same rate, calculated as aforesaid.

The Borrower shall have the right and privilege of paying the whole or any portion of the principal amount of this Note from time to time remaining unpaid and outstanding at any time or times.

The recording by the Lender in its accounts of principal amounts owing by the Borrower, accrued interest and repayments shall, in the absence of manifest mathematical error, be *prima facie* evidence of the same; provided that the failure of the Lender to record the same shall not affect the obligation of the Borrower to pay such amounts to the Lender.

The Borrower and all endorsers of this Note waive presentment for payment and notice of non-payment and agree and consent to all extensions or renewals of this Note without notice.

This Note shall be governed by and interpreted and enforced in accordance with the laws of the Province of Québec and the federal laws of Canada applicable therein. The Borrower irrevocably attorns and submits to the non-exclusive jurisdiction of the Québec courts situated in the City of Montreal, and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.

IN WITNESS WHEREOF the Borrower has executed this Note.

**QUÉBEC SILICON LIMITED
PARTNERSHIP, BY ITS GENERAL
PARTNER, QUÉBEC SILICON
GENERAL PARTNER INC.**

By: _____
Authorized Signing Officer

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.

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

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

Proceeding commenced at Toronto

**MOTION RECORD
(RETURNABLE MAY 18, 2012)**

VOLUME I OF II

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