

**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

RESPONDING PARTY'S MOTION RECORD
(Returnable May 29, 2012)

May 15, 2012

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TO: THE SERVICE LIST

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

Applicants

**SERVICE LIST
(as at May 10, 2012)**

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INDEX

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INDEX

<u>Tab</u>	<u>Document</u>	<u>Page</u>
	Affidavit of Dr. Ralf Widmer sworn May 15, 2012	1-11
A	Exhibit "A" Long Term Supply Agreement	12-35
B	Exhibit "B" Q1 2012 Currency Adjustment Calculation	36-37
C	Exhibit "C" Q2 2012 Currency Adjustment Calculation	38-39
D	Exhibit "D" Amendment No. 1 to Long Term Supply Agreement	40-43
E	Exhibit "E" Call Option Exercise Letter	44-46
F	Exhibit "F" March 20 Letter	47-49
G	Exhibit "G" March 22 Letter	50-51

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**AFFIDAVIT OF RALF WIDMER
(Sworn May 15, 2012)**

I, Dr. Ralf Widmer of the City of Unterschleissheim, Bavaria, Germany, MAKE
OATH AND SAY:

1. I am a Senior Counsel of Wacker Chemie AG (“**Wacker**”). As such, I have personal knowledge of the matters deposed to herein. Where I have relied upon other sources for information, I have specifically referred to such sources and verily believe them to be true. In preparing this Affidavit, I have also consulted with other employees of Wacker.
2. This Affidavit is sworn in response to a motion brought by Timminco Limited (“**Timminco**”) and Bécancour Silicon Inc. (“**BSI**”, and together with Timminco, the “**Applicants**”) for an order, *inter alia*, that the Long Term Supply Agreement, as amended by Amendment No. 1 (each as defined and described herein) be assigned to QSI Partners Ltd. (“**QSI**”) pursuant to section 11.3 of the *Companies' Creditors Arrangement Act* (the “**CCAA**”).
3. Wacker objects to the forced assignment of the Long Term Supply Agreement, as amended by Amendment No. 1, to QSI absent: (a) the assignment to QSI of all other amendments, clarifications, notices and other relevant documents relating thereto; (b) a parental



- 2 -

guarantee from QSI's parent Globe Specialty Metals, Inc. ("**Globe**"), for the reasons set out herein; and (c) the payment of certain cure costs to Wacker relating to short shipments of product in the first and second quarter of 2012, as are more particularly described herein or, in the alternative, a confirmation by QSI that it will deliver such product to Wacker at the agreed prices.

Background

4. Wacker is a globally-operated chemical company with production sites spanning all key regions, including Europe, Asia and the Americas, and employing over 16,300 employees on five continents. Wacker's product range includes silicon products, polysilicon for the photovoltaic industry and polysilicon and wafers for the semiconductor industry. Wacker sells its products in more than 100 countries.

Wacker Contract

A. Long Term Supply Agreement

5. Wacker is a significant and long-standing customer of BSI. Wacker purchases substantially all of the silicon metal sold by Quebec Silicon Limited Partnership to BSI.

6. The terms of such supply are set out in the Long Term Supply Agreement between BSI and Wacker dated effective January 1, 2011 (as amended as discussed later in this affidavit) (the "**Long Term Supply Agreement**"), which sets out the parties' mutual commitments for the years 2011 to 2015 and terminates December 31, 2015, subject to earlier termination in accordance with the terms thereof. A copy of the Long Term Supply Agreement, including all appendices thereto, is appended hereto as Exhibit "A".



- 3 -

7. The Long Term Supply Agreement is not assignable by either party without the prior written consent of the other party, provided that BSI may assign the Agreement to an affiliate in connection with a *bona fide* corporate reorganization relating to BSI.

(a) Product

8. The Long Term Supply Agreement contemplates that BSI shall sell and Wacker shall purchase: (a) silicon metal, water granulation and high titanium content having the specifications set out in Appendix 1 to the Long Term Supply Agreement ("**Water Granulated Product**") and (b) silicon metal, Standard B, having the specifications set out in Appendix 2 to the Long Term Supply Agreement (the "**Standard B Product**", and together with the Water Granulated Product, the "**Product**").

(b) Quantity

9. BSI is obligated to deliver and Wacker is obligated to purchase a specified quantity of each Product for each of the years 2011 through 2015 (the "**Base Quantity**"), provided that Wacker has various options to increase or decrease the quantity of Product to be delivered in any of the years 2012 through 2015 by a specified percentage if an election is made before a specified time period (collectively, the "**Quantity Options**").

10. In addition to the Base Quantity, the Long Term Supply Agreement provides that BSI shall deliver and Wacker shall purchase the following, in respect of which the Quantity Options do not apply:

- (a) an additional [REDACTED] tons of Product during the years 2011 through 2013 (the "**Additional Quantity**"); and



(b) [REDACTED] tons of Product on account of volumes not delivered to Wacker in 2010 as required by previous supply agreements and purchase orders (the "2010 Backlog Quantity").

(c) **Pricing**

11. The Long Term Supply Agreement set out pricing for deliveries of the 2010 Backlog Quantity, as well as for the Base Quantity and the Additional Quantity for the year 2011, and contemplates that the parties will commence negotiations on pricing of Product within certain specified ranges for the years 2012 through 2015 by no later than [REDACTED] of the preceding year. Any such agreement shall be evidenced in writing by no later than [REDACTED] of such preceding year.

12. Where the parties fail to reach a mutual written agreement on pricing by such time, BSI has the right to deliver to Wacker the Water Granulated Product and/or the Standard B Product, as applicable, for such year at a price equal to the "Put Price" for such Product set out in Appendix 4 to the Long Term Supply Agreement (the "Put Option"). In addition, Wacker has the right to buy from BSI the Water Granulated Product and/or Standard B Product, as applicable, for such year at a price equal to the "Call Price" for such Product set out in Appendix 4 to the Long Term Supply Agreement (the "Call Option"). Absent the exercise of a Put Option or a Call Option, the parties' obligations relating to the Base Quantity and Additional Quantity of Water Granulated Product or Standard B Product, as applicable, for such year is suspended and each party is free to purchase and sell such quantities of such Product from or to third parties during such year. Further, in the event there is no mutual written agreement on the price for a Product for two consecutive years, and neither the Put Option nor the Call Option have been



- 5 -

exercised in respect of such years, then the parties' obligations in respect of such Product terminate on December 31st at the end of such two year period.

13. The Long Term Supply Agreement also provides that the price for all Product deliveries shall be adjusted each calendar quarter in accordance with a currency adjustment formula set out therein, provided that the average daily USD(\$)/EUR(€) noon exchange rate for such quarter as published by the European Central Bank is greater than or less than a specified base exchange rate for such quarter by more than 0.5%. Wacker's currency adjustment calculations for Q1 2012 and Q2 2012 are appended hereto as Exhibits "B" and "C", respectively.

B. Amendment No. 1

14. Pursuant to an amending agreement to the Long Term Supply Agreement dated September 6, 2011 ("Amendment No. 1"), the parties agreed to modify Appendix 4 to the Long Term Supply Agreement (setting out Base Quantities, Additional Quantities, Put Prices and Call Prices) to exclude the quantity of Standard B Product subject to a purchase order dated [REDACTED] between Wacker and [REDACTED] from the Base Quantity commitments for 2012. A copy of Amendment No. 1 is appended hereto as Exhibit "D".

C. Call Option Exercise Letter

15. Wacker and BSI were not able to reach an agreement as to the pricing for the Water Granulated Product or the Standard B Product for the year 2012 by [REDACTED]. Accordingly, pursuant to a letter from Wacker to BSI dated November 3, 2011 (the "Call Option Exercise Letter"), Wacker exercised its Call Option in respect of both Products to purchase the Base Quantity and the Additional Quantity of each Product at the Call Prices set out in Appendix 4 to the Long Term Supply Agreement. A copy of the Call Option Exercise Letter is appended hereto as Exhibit "E".



D. The March Letters

16. Wacker participated in the stalking horse sales process and auction approved by the Court pursuant to an Order made March 9, 2012. In connection therewith, Wacker was provided with access to the Applicants' on-line data room. In conducting its due diligence, Wacker noticed that certain documentation and information relating to the Wacker/BSI supply arrangements had not been posted to the data room. Accordingly, Wacker wrote a letter to BSI and FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of the Applicants dated March 20, 2012 (the "**March 20 Letter**") confirming: (a) an amendment to the Long Term Supply Agreement dated May 31, 2011/June 1, 2011 regarding quantities ordered by Wacker but not delivered by BSI in 2011 (the "**2011 Backlog Quantity**"), delivery of which would be postponed to 2013 and 2014 ("**Amendment No. 2**"); and (b) quantities ordered by Wacker for the first quarter of 2012 but not delivered by BSI on March 31, 2012 as requested (the "**2012 Q1 Backlog Quantity**"). The March 20 Letter stated that Wacker expected any potential assignment of the Long Term Supply Agreement would explicitly include Amendment No. 2 and emphasized that Wacker expected due delivery of the 2012 Q1 Backlog Quantity. A copy of the March 20 Letter is appended hereto as Exhibit "F".

17. For greater specificity, the 2012 Q1 Backlog Quantity represents product that was required to be shipped under the Supply Agreement subsequent to the CCAA filing by BSI. [REDACTED] tons were to have been delivered, while only [REDACTED] tons were in fact delivered, representing a shortfall of [REDACTED] tons. In addition, up to April 12, [REDACTED] tons were to have been delivered, and only [REDACTED] tons were delivered, representing a shortfall of an additional [REDACTED] tons. Wacker will incur additional costs of approximately [REDACTED] Euros/ton if is required to purchase this product elsewhere, for a total of [REDACTED] Euros (the 2012 Q1 Backlog Quantity and the April backlog quantity are herein referred to as the "**2012 Backlog Quantity**").



- 7 -

18. Pursuant to a document dated March 22, 2012 posted in the data room, BSI agreed with Wacker's representations in the March 20 Letter that: (a) BSI was in default of its delivery obligations relating to the 2011 Backlog Quantity; (b) the parties had agreed to postpone the delivery 2011 Backlog Quantity to 2013 and 2014; and (c) Wacker had requested delivery of the 2012 Q1 Backlog Quantity by letter dated March 31, 2012 (the "**March 22 Letter**", and together with the March 20 Letter, the "**March Letters**"). A copy of the March 22 Letter is appended hereto as Exhibit "G".

QSI Agreement

19. Pursuant to the Agreement of Purchase and Sale dated as of April 25, 2012 between the Applicants, as vendors, QSI as purchaser, and Globe, as guarantor (the "**QSI Agreement**"), QSI has agreed to purchase certain of the Vendors' assets and assume certain of the Vendors' liabilities as set out therein (the "**QSI Transaction**"). Pursuant to Schedule G to the QSI Agreement, it is currently contemplated that QSI will assume BSI's rights and obligations the Long Term Supply Agreement, as amended by Amendment No. 1. The QSI Agreement does not refer to or contemplate the assumption of rights or obligations under the Call Option Exercise Letter, the March Letters, Amendment No. 2, the 2011 Backlog Quantity or the 2012 Q1 Backlog Quantity.

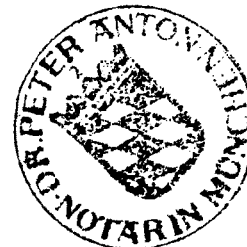
Proposed Consent Agreement

20. Section 5.1 of the QSI Agreement provides that the QSI Transaction is subject to, *inter alia*, obtaining the consent of Wacker to the assignment of the Long Term Supply Agreement, as amended by Amendment No. 1. Accordingly, on May 4, 2012, Timminco representatives reached out to Wacker to discuss same and circulated a proposed form of consent to assignment for Wacker's review and comment (the "**Proposed Consent**").



- 8 -

21. On May 7, 2012, Osler, Hoskin & Harcourt LLP (“**Osler**”), counsel to Wacker, circulated suggested revisions to the Proposed Consent, including, *inter alia*:
- (a) reference to all further amendments, clarifications, notices and other relevant documents relating to the Long Term Supply Agreement whether exchanged by e-mail or otherwise as documented on Annex 1 to the Proposed Consent (collectively, the “**Supply Agreement**”);
 - (b) payment in full of all monetary defaults;
 - (c) execution by QSI of an Assignment Agreement in favour of Wacker pursuant to which QSI would agree to be bound by the Supply Agreement and to fulfill all of the obligations and duties of BSI thereunder; and
 - (d) execution by Globe of an unlimited, unconditional guarantee of all of QSI’s obligations under the Supply Agreement.
22. On May 9, 2012, Torys LLP (“**Torys**”), counsel to QSI and Globe circulated their comments on Osler’s suggested revisions to the Proposed Consent. Such comments included removal of references to the payment of monetary defaults and to the Globe guarantee. Further, the proposed revisions included an express acknowledgement by Wacker that as of the date of the assignment there were no existing defaults under the Supply Agreement and that no monetary amounts were owing to Wacker thereunder.
23. On the same date, Osler advised Torys that their proposed revisions were not acceptable. The parties are continuing to negotiate the terms and conditions of the Proposed Consent.



Objection to Proposed Assignment

24. Wacker objects to the forced assignment of the Long Term Supply Agreement and Amendment No. 1 under section 11.3 of the CCAA. First, the proposed assignment does not contemplate the entire supply relationship between Wacker and BSI. If assigned, QSI must assume the Supply Agreement in its entirety. QSI may not selectively assume certain portions of the Supply Agreement and exclude the remaining portions of the contract.
25. Even if the Supply Agreement is assigned to QSI in its entirety, Wacker must be compensated for the 2012 Backlog Quantity as a condition precedent to any such assignment or in the alternative, QSI must agree to deliver such product.
26. In addition, if the Supply Agreement is assigned to QSI in its entirety, Wacker requires comfort from Globe in the form of an unlimited, unconditional guarantee of QSI's obligations under the Supply Agreement given the fact that QSI is a special purpose company incorporated under the laws of the Cayman Islands with no demonstrated liquidity on a stand-alone basis. I understand from reading the Affidavit of Steven Lebowitz sworn May 8, 2012 in connection with these CCAA proceedings that QSI has "sufficient access to liquidity" through access to Globe's cash and cash equivalents balances, cash flows from operations and unused commitments under its existing credit facilities.
27. It is important to note that Globe guaranteed most of QSI's obligations under the QSI Agreement, but this guarantee does not extend to the continuing obligations of BSI to perform under the Supply Agreement.
28. As the only significant customer and a creditor of BSI, Wacker has a material interest in the assurance that any assignee will be able to perform under the Supply Agreement.



- 10 -

29. The transfer of the Supply Agreement to the successful bidder was always of significant importance in the sales process. While Wacker's position is that the Supply Agreement cannot be assigned in part, and can only be assigned in whole, in the event that the Supply Agreement is not assigned in whole to the purchaser, Wacker will have a significant damages claim against BSI, which will negatively affect the recovery for creditors of BSI. I note that the Wacker bid contemplates the assignment in whole of the Supply Agreement.
30. Wacker appreciates that the company's motion seeks the approval of the QSI Agreement. Although Wacker and its counsel were informed at the auction of the analysis by the Monitor and the company of the last Wacker bid, Wacker did not agree with this analysis. In fact, Wacker believes that its bid creates higher value for BSI and its stakeholders, including as to certainty of closing. Wacker remains available, as per the bid procedures approved by this Court, to complete the transaction in accordance with its last bid, which qualifies as the back-up bid.
31. In addition, Dow Corning Corporation ("DCC") contacted Wacker after the auction to discuss and clarify Wacker's bid, and a proposal for certain revisions to Wacker's bid. Wacker does not wish to engage in any detailed negotiations with DCC at this point in time, but will wait for the Court's decision as to whether it approves the QSI bid or Wacker is nominated the Successful Bidder. Wacker is of the view that based on Wacker's bid regarding assumed liabilities and assumed contracts, DCC's proposal regarding certain amendments and clarifications to such bid and subsequent discussions between Wacker and DCC, Wacker's and DCC's positions are commercially very close, and negotiations with DCC could be finalized within a short time frame.



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- 11 -

SWORN BEFORE ME at the City of
Munich, in the County/Region of
Bavaria, on May 15, 2012.

Ralf Widmer

Dr. Ralf Widmer

[Signature]
Notary Public

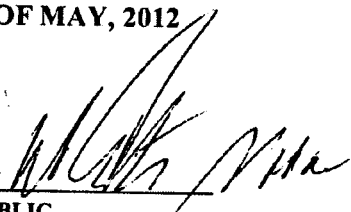


Notar
Dr. Peter Anton
Amrathplatz 3/III, Luitpoldblock
80333 München
Tel. (089) 290 14 00



TAB A

**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF DR. RALF WIDMER
SWORN BEFORE ME
ON THIS 15TH DAY OF MAY, 2012**



NOTARY PUBLIC

**Notar
Dr. Peter Anton
Amiraplatz 3/III, Luitpoldblock
80333 München
Tel. (089) 290 14 90**

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LONG-TERM SUPPLY AGREEMENT

Between

Wacker Chemie AG
Hanns-Seldel-Platz 4
81737 München
Federal Republic of Germany

- hereinafter referred to as "BUYER" -

and

Bécancour Silicon Inc. / Silicium Bécancour Inc.
6500 Rue Yvon-Trudeau
Bécancour, Québec
G9H 2V8 Canada

- hereinafter referred to as "SELLER" -

The BUYER and SELLER shall hereinafter be collectively referred to as the "Parties", and individually as a "Party".

Preamble

- A. BUYER has requirements for Water Granulated Product and Standard B Product (as such terms are defined herein), and SELLER is willing to supply such materials to BUYER.
- B. BUYER and SELLER have previously executed the following agreements in respect of such material:

- (i) a Long-Term Supply Agreement dated February 16th, 2010 for the purchase and supply of the Water Granulated Product, or Standard A Product in the alternative, for the years 2010 to 2014, which was amended by

[REDACTED]

and

- (ii) a Long-Term Supply Agreement dated February 16th, 2010 for the purchase and supply of the Standard B Product, for the years 2010 to 2014, which was amended by

[REDACTED]

the foregoing agreements, as amended, are hereinafter collectively referred to as the "2010-2014 Supply Agreements"; and

- (iii) a purchase order issued by BUYER to SELLER for deliveries of Standard B Product in 2010 for a total of [REDACTED] tons (the "Spot PO"), which volumes were

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excluded from, and in addition to, the volumes to be delivered in 2010 under the 2010-2014 Supply Agreements.

- C. BUYER and SELLER wish to amend certain provisions of the 2010-2014 Supply Agreements regarding the pricing for materials delivered in the years 2011 to 2014 and to concurrently extend commitments regarding the purchase and supply of materials for the year 2015. BUYER and SELLER wish to document such amendment and extension by way of a restatement of their mutual commitments in respect of the years 2011 to 2015, through this new, singular Long-Term Supply Agreement (the "2011-2015 Supply Agreement" or this "Agreement"), which shall supersede the 2010-2014 Supply Agreements, all on then terms as set forth below.

Now, therefore, in consideration of the foregoing and the mutual premises hereinafter contained, BUYER and SELLER agree as follows, effective as of the 1st day of January, 2011:

1. Product

- 1.1 SELLER agrees to sell and deliver, and BUYER agrees to purchase and take, the following materials (hereinafter collectively referred to as "PRODUCT"):

- (i) *Water Granulated Product*: Silicon metal, water granulation and high titanium content, having the specifications (Technical Terms of Delivery) as defined in Appendix 1 (hereinafter referred to as "Water Granulated Product").
- (ii) *Standard B Product*: Silicon metal, Standard B, having the specifications (Technical Terms of Delivery) as defined in Appendix 2 (hereinafter referred to as "Standard B Product").

2. Quantities

- 2.1 SELLER shall sell and deliver to BUYER, and BUYER shall purchase and take delivery from SELLER of, the quantity of PRODUCT specified as the "Base Quantity" in the table in Appendix 4, for each type of PRODUCT and for each of the years in such table (hereinafter referred to as the "Base Quantity"). The Base Quantity shall be subject to adjustment on account of BUYER's quantity options as set forth in section 2.2.
- 2.2 BUYER shall have the right to adjust the quantity of PRODUCT to be delivered in any of the years 2012, 2013, 2014 and 2015, as follows (hereinafter collectively referred to as the "BUYER's Quantity Options"):
- (i) *Option 1*: BUYER may, in its sole discretion, elect to increase or decrease the quantity of PRODUCT to be delivered in any year by up to [REDACTED] of the Base Quantity of such year (hereinafter referred to as "Option 1"). BUYER may exercise Option 1 by giving written notice to SELLER of the specific quantity to be delivered in such year, which shall not be less than [REDACTED] and not more than [REDACTED] of the Base Quantity for such year, by no later than [REDACTED] of the prior year. Such specified quantity shall be referred to as the "Nominated Quantity" for such

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year. If Option 1 is not exercised the Nominated Quantity for such year shall be equal to the Base Quantity for such year.

- (ii) *Option 2:* In addition to Option 1, BUYER may, in its sole discretion, elect to further increase or decrease the quantity of PRODUCT to be delivered in any year by up to [redacted] of the Nominated Quantity of such year (hereinafter referred to as "Option 2"). BUYER may exercise Option 2 by giving written notice to SELLER of the specific quantity to be delivered, which shall not be less than [redacted] and not more than [redacted] of the Nominated Quantity for such year, by no later than [redacted] of that same year.
- (iii) *Option 3:* In addition to Option 1, BUYER may, in its sole discretion, elect to further increase or decrease the quantity of PRODUCT to be delivered in any year by up to [redacted] of the Nominated Quantity of such year (hereinafter referred to as "Option 3"). Option 3 is available only if BUYER has not exercised Option 2 for such year. BUYER may exercise Option 3 by giving written notice to SELLER of the specific quantity to be delivered, which shall not be less than [redacted] and not more than [redacted] of the Nominated Quantity for such year, by no later than [redacted] of that same year.

BUYER's Quantity Options shall apply separately in respect of the Base Quantity (or Nominated Quantity) for Water Granulated Product and the Base Quantity (or Nominated Quantity) for Standard B Product, in each year. None of BUYER's Quantity Options shall apply for any PRODUCT for any year in respect of which the Put Option or the Call Option is exercised in accordance with section 3.6.

- 2.3 In addition to the Base Quantity, SELLER shall sell and deliver to BUYER, and BUYER shall purchase and take delivery from SELLER of, an additional 4,500 tons of PRODUCT (the "Additional Quantity") during the years 2011, 2012 and 2013, allocated as set forth in the table in Appendix 4, and subject to section 2.4. The Additional Quantity shall be in addition to, and not included as part of, the Base Quantity to be delivered for such years. None of Wacker Option 1, Wacker Option 2 or Wacker Option 3 shall apply in respect of any deliveries of the Additional Quantity in such years.
- 2.4 The Parties intend to allocate the Additional Quantity as between Water Granulated Product and Standard B Product based on a ratio of [redacted]. The table in Appendix 4 only sets forth the target volumes of Additional Quantity to be delivered as Water Granulated Product and as Standard B Product in the years 2011, 2012 and 2013. However, notwithstanding the foregoing, in the event that SELLER is unable, in any such year, to procure from Québec Silicon a sufficient volume of Water Granulated Product (in addition to the volume of Water Granulated Product required to satisfy SELLER's delivery obligations to BUYER in respect of the Base Quantity and the Backlog Quantity 2010 for such year) to achieve the target volume of Water Granulated Product for the Additional Quantity for such year, then any shortfall in such volume will instead be satisfied by the delivery of an equivalent volume of Standard B Product for the Additional Quantity for such year. For greater certainty, the aggregate volume of the Additional Quantity deliverable to BUYER in any year, regardless of

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whether such volume is Water Granulated Product or Standard B Product, shall not be less than the total amounts as specified above for such year.

2.5 In addition to the Base Quantity and the Additional Quantity, SELLER shall sell and deliver to BUYER, and BUYER shall purchase and take delivery from SELLER of, an additional [REDACTED] tons of PRODUCT (the "Backlog Quantity 2010"), on account of volumes of PRODUCT that SELLER did not deliver to BUYER in 2010 as required by the 2010-2014 Supply Agreements and the Spot PO, as follows:

- (i) [REDACTED] tons in 2011, as Standard B Product; and
- (ii) [REDACTED] tons at any time over the period from January 1st, 2012 to December 31st, 2013, allocated as follows:

Water Granulated Product:	[REDACTED] tons
Standard B Product:	[REDACTED] tons

The amount of the Backlog Quantity 2010 shall be in addition to, and not included as part of, the Base Quantity and, accordingly, none of BUYER's Quantity Options shall apply in respect of any deliveries of the Backlog Quantity 2010 in any years.

2.6 By no later than [REDACTED] of each calendar year, BUYER will provide SELLER with an estimate of the quantities of PRODUCT to be purchased during the following calendar year. The aforesaid estimate shall be for BUYER's convenience only and shall neither bind BUYER nor SELLER, or in any manner whatsoever affect the Parties' obligations to deliver and purchase the quantities as under section 2.1, section 2.2 and section 2.3 hereof.

2.7 Not later than [REDACTED] days before the beginning of each calendar quarter, BUYER shall submit firm orders in writing for shipments of PRODUCT to be purchased during that calendar quarter. Such shipments shall be in approximately equal monthly quantities throughout the year.

3. Prices

3.1 The Parties have agreed on new prices starting as of January 1st, 2011, as set out in this Article 3. As a result of these new prices, for already delivered quantities of PRODUCT from January 1st, 2011 until the date of signature of this Agreement, BUYER shall pay to SELLER the additional net amount as specified in Appendix 3 within five (5) business days of the date of execution of this Agreement by both Parties. The Parties agree that Appendix 3 is a full and complete summary of the shipments of PRODUCT made during this period, and all related invoices shall be deemed to have been revised to reflect the new prices.

3.2 The price for all deliveries of the Base Quantity and the Additional Quantity of Water Granulated Product and Standard B Product, for the year 2011, shall be as follows:

- (i) For deliveries made from [REDACTED] to [REDACTED], 2011: [REDACTED] on the delivery basis of DAP Hamburg – Burchardkai, duty unpaid. (See section 5.1 for delivery terms.)

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- (ii) For deliveries made on or after [REDACTED]: [REDACTED] on the delivery basis of FOB Port of Montreal. (See section 5.1 for delivery terms.)
- 3.3 The prices for deliveries of the Base Quantity (or Nominated Quantity, if applicable) and the Additional Quantity, as applicable, for each of the Water Granulated Product and the Standard B Product for each of the years 2012, 2013, 2014 and 2015 shall be negotiated annually, within the price ranges as specified in section 3.4 and section 3.5, as applicable, and on the delivery basis as specified in clause (i) of section 3.2. The Parties shall commence negotiations on such prices by no later than [REDACTED] of the preceding year (i.e., of 2011, 2012, 2013 and 2014, respectively). The Parties shall evidence their mutual agreement, if any, in respect of such prices, for each PRODUCT and each year, in writing by no later than [REDACTED] of such preceding year.
- 3.4 The Parties' annual price negotiations pursuant to section 3.3 for the years 2012, 2013 and 2014, shall be within the range of the "Put Price" and the "Call Price", for each year and for each PRODUCT, as specified in the table in Appendix 4.
- 3.5 The Parties' annual price negotiations pursuant to section 3.3 for the year 2015 and for each PRODUCT shall be with the following ranges, based on the actual price for deliveries of such PRODUCT in 2014, as determined in accordance with section 3.3, where the Parties have mutually agreed in writing on the price for 2014 and for such PRODUCT, or section 3.6, where the Put Option or the Call Option has been exercised for 2014 in respect of such PRODUCT (hereinafter referred to as the "Water Granulated Product Base Price 2014" and the "Standard B Product Base Price 2014", as applicable), subject to section 3.11:
- (i) *Water Granulated Product*: The price negotiation range for 2015 for the Water Granulated Product shall be between: (x) an amount equal to [REDACTED] of the Water Granulated Product Base Price 2014, which shall also be the "Put Price" for the Water Granulated Product for 2015, and (y) an amount equal to [REDACTED] of the Water Granulated Product Base Price 2014, which shall also be the "Call Price" for the Water Granulated Product for 2015.
- (ii) *Standard B Product*: The price negotiation range for 2015 for the Water Granulated Product shall be between: (x) an amount equal to [REDACTED] of the Standard B Product Base Price 2014, which shall also be the "Put Price" for the Standard B Product for 2015, and (y) an amount equal to [REDACTED] of the Standard B Product Base Price 2014, which shall also be the "Call Price" for the Standard B Product for 2015.
- 3.6 If, by [REDACTED] of the preceding year, the Parties have failed to reach a mutual written agreement on such prices for the Water Granulated Product or the Standard B Product, as the case may be, for any year, then the following shall apply:
- (iii) *Put Option*: SELLER shall have the right to sell and deliver to BUYER the Water Granulated Product and/or the Standard B Product, as applicable, at a price equal to the "Put Price" for such PRODUCT for such year (hereinafter referred to as the "Put Option"). SELLER may exercise the Put Option by giving written

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notice thereof to BUYER by no later than [REDACTED] of the preceding year. For greater certainty, the Put Option shall apply separately in respect of the Water Granulated Product and the Standard B Product, and SELLER's notice of exercise of the Put Option shall specify whether such notice is being given in respect of one or both of the Water Granulated Product and/or the Standard B Product.

- (iv) *Call Option:* BUYER shall have the right to buy from SELLER the Water Granulated Product and/or the Standard B Product, as applicable, at a price equal to the "Call Price" for such PRODUCT for such year (hereinafter referred to as the "Call Option"). BUYER may exercise the Call Option by giving written notice thereof to SELLER by no later than [REDACTED] of the preceding year. For greater certainty, the Put Option shall apply separately in respect of the Water Granulated Product and the Standard B Product, and BUYER's notice of exercise of the Call Option shall specify whether such notice is being given in respect of one or both of the Water Granulated Product and/or the Standard B Product.
- 3.7 In the event that SELLER exercises the Put Option for any PRODUCT for any year, then SELLER shall sell and deliver to BUYER, and BUYER shall purchase and take delivery from SELLER of, the Base Quantity and the Additional Quantity for such PRODUCT and for such year at the Put Price for such year, as specified in the table in Appendix 4, for the years 2012, 2013 and 2014, or as calculated in accordance with section 3.5, for the year 2015. In the event that BUYER exercises the Call Option for any PRODUCT for any year, then SELLER shall sell and deliver to BUYER, and BUYER shall purchase and take delivery from SELLER of, the Base Quantity and the Additional Quantity for such PRODUCT and for such year at the Call Price for such year, as specified in the table in Appendix 4, for the years 2012, 2013 and 2014, or as calculated in accordance with section 3.5, for the year 2015. None of BUYER's Quantity Options shall apply for any PRODUCT for any year in respect of which the Put Option or the Call Option is exercised.
- 3.8 If, following a failure by the Parties to reach a mutual written agreement on prices for the Water Granulated Product or the Standard B Product, for any year, neither the Put Option nor the Call Option is exercised in accordance with section 3.6, then the Parties' obligations in respect of deliveries of the Base Quantity and the Additional Quantity of the Water Granulated Product or the Standard B Product, as the case may be, for that year shall be suspended, and each Party shall be free to purchase and sell such quantities of such PRODUCT from or to third parties during such year. For greater certainty, to the extent that the Parties have reached a mutual written agreement on the price for the other PRODUCT for that year, in accordance with section 3.3, or have exercised the Put Option or the Call Option for the other PRODUCT for that year, in accordance with section 3.6, then such mutual agreement, Put Option or Call Option, as the case may be, shall apply in respect of such PRODUCT for such year.
- 3.9 In the event that section 3.8 applies for any PRODUCT for the year 2012, the price negotiations for such PRODUCT for 2013 shall nonetheless still be conducted in accordance with section 3.3 and section 3.4, and the Put Options and the Call Options shall still apply for 2013 in accordance with section 3.6. However, if there is again no

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mutual written agreement on price for such PRODUCT for 2013, by [REDACTED] 2012, and neither the Put Option nor the Call Option has again been exercised for 2013 for such PRODUCT by [REDACTED] 2012, then the Parties' obligations in respect of such PRODUCT shall terminate on December 31st, 2012.

3.10 In the event that section 3.8 applies for any PRODUCT for the year 2013, the price negotiations for such PRODUCT for 2014 shall nonetheless still be conducted in accordance with section 3.3 and section 3.4, and the Put Options and the Call Options shall still apply for 2014 in accordance with section 3.6. However, if there is again no mutual written agreement on price for such PRODUCT for 2014, by [REDACTED] 2013, and neither the Put Option nor the Call Option has again been exercised for 2014 for such PRODUCT by [REDACTED] 2013, then the Parties' obligations in respect of such PRODUCT shall terminate on December 31st, 2013.

3.11 In the event that section 3.8 applies for any PRODUCT for the year 2014, the price negotiations for such PRODUCT for 2015 shall nonetheless still be conducted in accordance with section 3.3 and section 3.5, and the Put Options and the Call Options shall still apply for 2014 in accordance with section 3.6; *provided that*, for the purposes of section 3.5, the range of price negotiations shall instead be between the "Put Price" and the "Call Price" as specified in Appendix 4 in respect of such PRODUCT for the year 2015, and such "Put Price" and such "Call Price" as specified in Appendix 4 shall be the "Put Price" and the "Call Price" in respect of such PRODUCT for 2015, for the purposes of section 3.6 and notwithstanding anything to the contrary in section 3.5. If there is again no mutual written agreement on price for such PRODUCT for 2015, by [REDACTED] 2014, and neither the Put Option nor the Call Option has again been exercised for 2015 for such PRODUCT by [REDACTED] 2014, then the Parties' obligations in respect of such PRODUCT shall terminate on December 31st, 2014.

3.12 The price for deliveries of the Backlog Quantity 2010 shall be as follows:

- (i) For the [REDACTED] tons of the corresponding to the Spot PO, the price will be [REDACTED]
- (ii) For deliveries of the remaining volumes of the Backlog Quantity 2010, the price will be [REDACTED]

In each case, the price will be adjusted by the Currency Adjustment applicable to the relevant calendar quarter in which such deliveries are made.

3.13 All prices are exclusive of VAT, unless otherwise specified.

3.14 SELLER shall invoice BUYER upon each shipment of PRODUCT, and BUYER shall pay SELLER's invoices [REDACTED], subject to section 3.15.

3.15 For 2011, SELLER shall invoice BUYER upon each shipment of PRODUCT, and BUYER shall pay each invoice [REDACTED] (the "Special Payment Terms"). [REDACTED] The Special Payment Terms shall continue to apply in 2011 until such

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time as SELLER notifies BUYER that it wishes to discontinue them, which SELLER may do at any time in its sole discretion.

4. Currency Adjustment

4.1 For the purposes of section 0, the following terms shall have the meanings as set forth below:

- (i) "Average Quarterly Exchange Rate" means, for each applicable calendar quarter, the simple average of the daily noon exchange rates for U.S. Dollar to Euro on each day of such calendar quarter, as published by the European Central Bank on its website (www.ecb.eu); see Appendix 5.
- (ii) "Base Exchange Rate" means [REDACTED] for the years 2011, 2012, 2013 and 2014. "Base Exchange Rate" means [REDACTED] for the year starting January 1st 2015 until December 31st 2015.
- (iii) "Base Price" means, for each PRODUCT and for each of the years 2011, 2012, 2013, 2014 and 2015, the actual price that applies for deliveries of such PRODUCT for such year as determined in accordance with:
 - section 3.2 (for 2011, all PRODUCTS);
 - section 3.3 (for each of the years 2012, 2013, 2014 and 2015, where the Parties have mutually agreed in writing on the price for such year and for such PRODUCT);
 - section 3.6 (for each of the years 2012, 2013, 2014 and 2015, where the Put Option or the Call Option has been exercised in respect of such PRODUCT); and
 - section 3.12 (for the Backlog Quantity 2010 in respect of all PRODUCTS).

4.2 The price for all deliveries of PRODUCT shall be adjusted each calendar quarter, effective from the calendar quarter starting January 1st, 2011, in accordance with the following formula (hereinafter referred to as the "Currency Adjustments"), subject to section 4.3:

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- 4.3 The Currency Adjustments shall be calculated separately in respect of deliveries of Water Granulated Product and Standard B Product.
- 4.4 The Currency Adjustments shall only apply in a calendar quarter if the Average Quarterly Exchange Rate for such quarter is greater than, or less than, the Base Exchange Rate by more than [REDACTED]. In the event that no Currency Adjustments apply for the respective calendar quarter as a result of the foregoing, the price for deliveries of PRODUCT for such quarter shall be equal to the Base Price applicable for such PRODUCT for such quarter, without any adjustment (except as otherwise expressly provided in this Agreement).
- 4.5 The Currency Adjustment shall not apply in respect of any of the Put Prices nor any of the Call Prices specified in Appendix 4, for the purposes of the range of price negotiations under section 3.4 or section 3.5. However, if the Put Option or the Call Option is exercised in respect of any PRODUCT for any year in accordance with section 3.6, then the actual prices for deliveries of such PRODUCT (to the extent such actual prices are equal to the Put Prices or Call Prices, as the case may be) shall be the Base Prices and therefore subject to the Currency Adjustment.
- 4.6 BUYER shall calculate the new price to be in effect for deliveries in respect of each calendar quarter where the Currency Adjustment is applicable, and shall notify SELLER in writing of such price, along with details of the calculation and applicable supporting documentation, by no later than the fifth (5th) day after such calendar quarter.
- 5. Delivery
 - 5.1 The terms "DAP", "EXW", "FOB", "CFR" shall have the meanings as specified in the International Chamber of Commerce's INCOTERMS 2010.
 - 5.2 The governing weight for all deliveries shall be the weight mentioned on the Bill of Lading.
- 6. Quality / Inspection and Testing
 - 6.1 The PRODUCT supplied by SELLER shall conform to the specifications pursuant to section 1.1. A certificate of quality will be issued by SELLER upon BUYER's request.
 - 6.2 SELLER shall also comply in all material respects with all applicable laws relating to the manufacture of the PRODUCTS, including without limitation those concerning safety, accident prevention and environmental protection.
 - 6.3 BUYER shall be discharged from the obligation to perform an immediate incoming goods inspection unless there are defects that are obvious. BUYER shall, however, perform testing of incoming goods as soon as practicable upon arrival of each shipment at BUYER's operating facility and share the data and results of such testing with SELLER, in each case in accordance with BUYER's established procedures and past practices with SELLER in respect of the PRODUCT.

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Confidential

6.4 SELLER shall be given [redacted] days from the receipt of written notice from BUYER to examine any claims concerning any defective or non-conforming material. SELLER shall reply within [redacted] days of the receipt of such written notice confirming whether SELLER agrees that such material is defective or non-conforming and, if SELLER agrees, shall replace it with conforming material. BUYER shall forthwith thereafter return or otherwise dispose of the defective or non-conforming material, in accordance with SELLER's request. Any costs arising out of or in connection with such replacement, return or disposition of material shall be borne by SELLER.

7. Limitation of Liability

7.1 Except as provided in section 6.1, SELLER provides no explicit or implicit warranties, guarantees or representations concerning the PRODUCT, including without limitation any warranty, guarantee or liability as to merchantability, fitness for a particular purpose, or non-infringement of intellectual property rights or any other rights of third parties.

7.2 SELLER's sole liability in respect of any delivery of non-conforming PRODUCT shall be limited to the greater of: [redacted]

7.3 In no event shall any Party be liable to the other Party hereunder for any special, incidental, punitive, indirect or consequential damages (including but not limited to loss of profit, loss of business, loss of goodwill or loss of anticipated saving) in respect of any breach of this Agreement.

8. Management Systems

8.1 SELLER shall initiate and maintain a management system for quality, environment and safety in respect of the silicon metal manufacturing facilities in Bécancour, Québec (e.g. ISO 9001-2008) and shall provide evidence thereof upon BUYER's request.

8.2 BUYER is entitled to schedule a management system audit to make certain the system is adhered to.

9. Confidentiality

9.1 The Parties shall execute a separate Confidentiality Agreement in the form attached as Appendix 6 (the "Confidentiality Agreement"), which shall apply in respect of all confidential information exchanged between the between the Parties under this Agreement.

10. Force Majeure

10.1 If either Party should be prevented or restricted directly or indirectly by an event of Force Majeure (as hereinafter defined) from performing all or any of its obligations under this Agreement, the Party so affected will be relieved of performance of its obligations hereunder during the period that such event and its consequences will

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continue, but only to the extent so prevented, and will not be liable for any delay or failure in the performance or any of its obligations hereunder or loss or damage whether direct, general, special or consequential which the other Party may suffer due to or resulting from such delay or failure, provided always that prompt notice is given by the affected Party to the unaffected Party by facsimile, e-mail or telephone of the occurrence of the event constituting the Force Majeure, together with details thereof and an estimate of the period of time for which it will continue.

- 10.2 The term "Force Majeure" shall include without limitation strike, lock out, fire, explosion, flood, war, accident, act of god or any other cause beyond the reasonable control of the affected Party, whether similar or dissimilar to the causes enumerated above.
- 10.3 If the event of Force Majeure has continued for a period of an aggregate of [REDACTED] starting from the date of receipt of the notice per section 10.1, either Party may terminate this Agreement by written notice with immediate effect.

11. REACH

- 11.1 SELLER herewith confirms that it is fully aware of its obligations under the REACH legislation to the extent applicable to the delivery of PRODUCT to BUYER. SELLER further confirms and represents that:
- (i) The PRODUCT shall comply with the requirements of REACH.
 - (ii) To the extent required under REACH, the PRODUCT are or will be timely duly registered, and will remain registered, for the use(s) as previously identified by BUYER and communicated by BUYER to SELLER.
- 11.2 SELLER warrants the correctness and completeness of information provided to BUYER regarding the PRODUCT, including without limitation their substances, volumes, safety data sheets, chemical safety reports, toxicological properties, emission and other relevant data.

12. Entire Agreement and Amendments

- 12.1 This Agreement, including purchase orders issued from time to time by BUYER during the TERM for purchases of PRODUCT under this Agreement, and the Confidentiality Agreement, collectively constitute the whole agreement between the Parties as to the subject matter thereof. No agreements, representations or warranties between the Parties, other than those set out herein, are binding on the Parties.
- 12.2 Upon the execution of this Agreement by all Parties, the 2010-2014 Supply Agreements shall be deemed to have terminated effective as of December 31st, 2010. All of the Parties' obligations under the 2010-2014 Supply Agreements in respect of the period commencing January 1st, 2011 shall be superseded by the Parties' obligations under this Agreement.

Confidential

12.3 No waiver, alteration, or modification of this Agreement, including this clause, shall be valid unless made in writing and signed by authorized representatives of the Parties.

12.4 This Agreement has been negotiated in detail between BUYER and SELLER. General business terms of the Parties, as well as unilaterally issued documents not countersigned by both Parties, shall not apply.

13. Term and Termination

13.1 This Agreement will commence effective as of January 1st, 2011 and end as of December 31st, 2015 (hereinafter referred to as the "TERM"), unless terminated earlier, in whole or in part, in accordance with the provisions of section 3.9, section 3.10, section 3.11, section 10.3, section 13.2, or section 13.3.

13.2 BUYER may terminate this Agreement prior to the expiration of the TERM upon the occurrence of any material breach by SELLER, including but not limited to a failure by SELLER to deliver the quantities of PRODUCT duly ordered by BUYER in accordance with this Agreement, and in conformance with the specifications thereof, and a failure by SELLER to sufficiently cure such deficiency within [REDACTED] days of receipt by SELLER of BUYER's written notice of such failure. If SELLER rectifies any such failure within such cure period, then SELLER's performance deficiency shall be deemed fully rectified.

13.3 SELLER may terminate this Agreement in the event of BUYER's failure to pay or other material breach by BUYER, if the failure to pay or such other breach is not rectified by BUYER within [REDACTED] days of receipt by BUYER of SELLER's written notice of such failure. If BUYER rectifies any such failure within such cure period, then SELLER's performance deficiency shall be deemed fully rectified.

13.4 Any termination of this Agreement prior to the expiration of the TERM shall not extinguish any rights that have accrued up to the effective date of any such early termination.

14. Assignment

14.1 This Agreement or any part thereof is not assignable by either Party without the prior written consent of the other Party, provided that SELLER shall be entitled to assign this Agreement to any affiliate in connection with any bona fide corporate reorganization relating to the SELLER.

15. Severability

15.1 In the event, any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

16. Notices

16.1 All notices under this Agreement will be deemed effective upon receipt and will be in writing and mailed, postage prepaid, to the following addresses:

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Confidential

To BUYER:

Wacker Chemie AG
Hanns-Seidel-Platz 4
81737 München
Germany

Attn: Procurement

To SELLER:

Bécancour Silicon Inc./Silicium Bécancour inc.
6500 rue Yvon-Trudeau
Bécancour, Quebec
Canada G9H 2V8

Attn: Sales Manager

With a copy to:

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

Attn: General Counsel

17. Applicable Law and Jurisdiction

17.1 This Agreement shall be construed and the legal relations between the parties hereto shall be determined in accordance with the laws of Germany. The application of the 1980 United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

17.2 The exclusive place of jurisdiction shall be München, Germany.

18. Miscellaneous

18.1 No agency, joint venture or any other partnership relationship shall be constituted by this Agreement.

18.2 This Agreement shall not confer, or create entitlement to, any license, option or other right, directly, indirectly or implicitly. This Agreement is not a technology transfer or a joint development agreement.

19. Appendices

19.1 The following appendices are attached to, and form an integral part of, this Agreement:

- Appendix 1 Product Specifications (Technical Terms of Delivery) for Water Granulated Product
- Appendix 2 Product Specifications (Technical Terms of Delivery) for Standard B Product

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- Appendix 3 Calculation of Net Amount Owning from BUYER to SELLER for Deliveries from January 1st, 2011 until the Date of Execution of Agreement
- Appendix 4 Base Quantities, Additional Quantities, Put Prices and Call Prices
- Appendix 5 Currency Adjustment – ECB Data
- Appendix 6 Confidentiality Agreement

Münich, Germany

Bécancour, Québec

Wacker Chemie AG

Bécancour Silicon-Inc.

By: J. Rauhut
Dr. J. Rauhut

By: John Ferguson

Title: CEO

Title: President & COO

By: C. Hartel
Dr. Christian Hartel
Raw Materials Procurement

By: Peter A.M. Kalins
Peter A.M. Kalins
General Counsel and
Corporate Secretary

Title: Senior Vice President

Title: General Counsel and Corporate Secretary

Date: 31.05.2011

Date: 01.06.2011

Handwritten initials: JL M



Wacker-Chemie
Versicherungsvermittlung GmbH
Hanns-Seidel-Platz 4
D-81737 München
Tel. +49 89 6279-1609
Fax +49 89 6279-2698
sonja.furitsch@wacker.com

Confidential

Wacker-Chemie Versicherungsvermittlung GmbH, Hanns-Seidel-Platz 4, D-81737 München

**APPENDIX 1
to Long Term Supply Agreement**

Product Specifications (Technical Terms of Delivery) for Water Granulated Product

(see attached)

Redacted in its Entirety

Sitz München
Amtsgericht München HRB 91 957
Geschäftsführer:
Goetz N. Neumann

Confidential

**APPENDIX 2
to Long Term Supply Agreement**

Product Specifications (Technical Terms of Delivery) for Standard B Product

(see attached)

Redacted in its Entirety

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Confidential

**APPENDIX 3
to Long Term Supply Agreement**

**Calculation of Net Amount Owing from BUYER to SELLER for Deliveries from
January 1st, 2011 until the Date of Execution of Agreement**

(see attached)

Redacted in its Entirety

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**APPENDIX 4
to Long Term Supply Agreement**

Base Quantities, Additional Quantities, Put Prices and Call Prices

Year	PRODUCT	Base Quantity (tons)	Additional Quantity ¹ (tons)	Total ² (tons)	Put Price ³	Call Price ³
2011 ⁴	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2012	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2013	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2014	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2015 ⁵	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total		[REDACTED]	[REDACTED]	[REDACTED]		

Notes:

- 1 The allocation of the Additional Quantity as between Water Granulated Product and Standard B Product are target amounts and subject to adjustment in accordance with section 2.4.
- 2 These amounts exclude any adjustments arising from the exercise of the BUYER's Quantity Options in any year, and in respect of the Base Quantity only of such year.
- 3 For the year 2011, not applicable. For the years 2012, 2013 and 2014, see section 3.4. For the year 2015, the Put Prices and the Call Prices are to be determined in accordance with section 3.5; the "Put Price" and the "Call Price" specified in this table shall only apply to the extent provided in section 3.11.
- 4 For the year 2011, the price for all PRODUCT is fixed at [REDACTED] as specified in section 3.2.
- 5 These amounts exclude the Backlog Quantity 2010 to be delivered pursuant to section 2.5.

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APPENDIX 6
to Long Term Supply Agreement
Currency Adjustment – ECB Data

(see attached)

Redacted in its Entirety

[Redacted content]

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**APPENDIX 6
to Long Term Supply Agreement
Confidentiality Agreement**

(see attached)

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Appendix 6 to Long Term Supply Agreement

CONFIDENTIALITY AGREEMENT

between **BÉCANCOUR SILICON INC.**, having its principal place of business at 6500 Yvon-Trudeau G9H 2V8 Bécancour, Canada (hereinafter called "BÉCANCOUR")

and **WACKER CHEMIE AG**, having its principal place of business at Hanns-Seidel-Platz 4, 81737 Munich, Germany and its affiliated companies (hereinafter jointly called "WACKER").

BÉCANCOUR and WACKER have signed the Long Term Supply Agreement Si-Metal, dated (hereinafter called the "SUPPLY AGREEMENT").

For the exclusive purpose of fulfilling the Parties' respective obligations under the Supply Agreement (hereinafter called the "PURPOSE") the parties will provide each other with certain confidential information.

In order to ensure that neither BÉCANCOUR nor WACKER are disadvantaged by exchanging such confidential information for the PURPOSE hereunder, the parties hereby agree as follows:

1. Obligations

- 1.1 Each party agrees to keep confidential the information and product samples provided by the other party (all hereinafter collectively called "INFORMATION"). Each party agrees not to make INFORMATION available to any third party, to use INFORMATION only for the PURPOSE, and not to exploit INFORMATION directly or indirectly, in whole or in part, in any form whatsoever, for any other purposes, including the obtainment of intellectual property rights. All information and product samples provided by a party under the Supply Agreement or this Agreement and all rights therein shall remain that party's sole property.
- 1.2 The receiving party shall immediately return or destroy all embodiments of the received INFORMATION, including but not limited to records, data media, product samples or other documents in any form, including any electronic (with respect to electronic files, deleted to the extent reasonable practicable), paper or otherwise embodied copies at the providing party's request which may be made at any time following the termination of the Supply Agreement. Complete return or destruction shall be confirmed in writing by the receiving party. The above shall not apply to one embodiment of the received INFORMATION, for the purposes of confirming compliance with this Agreement or the Supply Agreement, and back-up copies of electronic data routinely prepared but only for the time for which such back-up copies are normally retained.
- 1.3 Each party shall take all necessary steps to meet the obligations set forth in this Article 1. Each party shall disclose INFORMATION only to those of its employees or legal representatives who require it for the PURPOSE and who have agreed to be bound to the terms of this Agreement in writing, unless such persons are already bound by respective contracts or by applicable law. Each party shall be liable for any breach of the provisions of the Supply Agreement or this Agreement by its employees or its legal representatives.
- 1.4 Information disclosed to a party shall only be deemed INFORMATION according to the terms of this Agreement if disclosed in written form and identified as confidential or, if not disclosed in written form, confirmed in writing by the disclosing party within thirty (30) days of such provision, on the occasion of which the disclosed INFORMATION was designated as confidential. Likewise, product samples shall only be deemed INFORMATION according to the terms of the Supply Agreement or this Agreement if the delivery of product samples identified as confidential is confirmed by the delivering party in writing thirty (30) days of handover at the latest.

The receiving party shall make any objections to the contents of the written confirmation within thirty (30) days of its receipt.

2. Term

- 2 -

- 2.1 This Agreement shall enter into force on the effective date of the Supply Agreement and shall end with expiration or termination of the Supply Agreement.
- 2.2 Irrespective of the termination of this Agreement, the rights and obligations of the parties as set forth heretofore, in accordance with Article 1, shall remain in effect for a period of two (2) years beyond the term of this Agreement.

3. Exceptions

- 3.1 The obligations of Article 1 shall not apply to any portion of INFORMATION of which the receiving party can prove by evidence that it:
- a) was already known to the receiving party at the time of receipt; or
 - b) was already in the public domain before the time of receipt, or entered into the public domain thereafter, through no act, involvement or fault of the receiving party; or
 - c) was lawfully directly or indirectly provided to the receiving party by an independent third party on a non confidential basis having the right to do so and who was not under any obligation of confidentiality to the providing party; or
 - d) was independently developed by the receiving party by personnel not aware of the INFORMATION.

Any combination of features shall not be deemed to be within the foregoing exceptions merely because individual features are within an exception, unless the actual combination itself is within an exception. Any specific INFORMATION shall not be deemed to be in the foregoing exceptions merely because it is encompassed by more general information which is within an exception, unless the specific INFORMATION itself is within an exception.

- 3.2 Notwithstanding the obligations of Article 1, the receiving party may disclose INFORMATION of the other party, if it is required to do so in response to a valid order of a competent court or other government authority; provided however, INFORMATION shall not be disclosed without (a) first timely notifying the providing party in writing to allow the providing party to safeguard its rights by protective order or equivalent; and (b) not without cooperating with the providing party to limit the scope of INFORMATION disclosed to the greatest extent possible; and (c) to ensure that disclosed INFORMATION is treated as confidential by the recipient to the greatest extent possible by law; and (d) used solely for the purposes for which the order was issued.

4. Miscellaneous

- 4.1 Except as otherwise expressly provided in the Supply Agreement: (a) nothing in this Agreement shall require either party to disclose any specific information to the other party; (b) no agency, joint venture or any other partnership relationship shall be constituted by this Agreement; and (c) nothing in this Agreement shall confer, or create entitlement to, any license, option or other right, directly, indirectly or implicitly. This Agreement is not a technology transfer or a joint development agreement.
- 4.2 Except as otherwise expressly provided in the Supply Agreement: (a) neither party shall be bound to enter into any further agreements of any kind; (b) no provision of this Agreement shall limit the parties' right to provide to or to receive from third parties identical or similar materials, products, product samples, information or services; and (c) no provision of this Agreement shall prevent the parties from entering into an identical or similar exchange of information or agreements with third parties, provided that the relevant party shall not breach its obligations under Article 1.
- 4.3 Each party agrees that this Agreement provides no explicit or implicit warranties, guarantees or representations concerning the information and product samples provided. IN PARTICULAR, ALL INFORMATION AND PRODUCT SAMPLES PROVIDED UNDER THIS AGREEMENT SHALL BE PROVIDED "AS IS", WITHOUT ANY WARRANTY, GUARANTEE OR LIABILITY AS TO ACCURACY, COMPLETENESS, SUFFICIENCY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR ANY OTHER RIGHTS OF THIRD PARTIES. Any liability of either party with respect to the foregoing of this paragraph shall be limited only to that due to willful misconduct or gross negligence or provided for under mandatory statutory law. In no event shall any party be liable to the other party hereunder for any special, incidental, punitive, indirect or consequential damages (including but not

limited to loss of profit or loss of business), whether based upon contract, tort or any other legal theory.

4.4 The parties acknowledge that money damages may not be a sufficient remedy for any breach of this Agreement by either party and that the non-breaching party may seek equitable relief, including injunction and specific performance, as a remedy (as determined by a court of competent jurisdiction) for any such breach. Such remedies shall not be deemed to be remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or at equity.

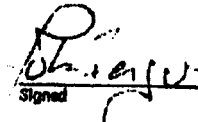

4.5 All other provisions of the Supply Agreement shall apply to this Agreement, and in the event of any inconsistency in terms, the provisions of the Supply Agreement shall prevail.



Bécancour, June 1st 2011
(Date)

Munich, May 27, 2011
(Date)

BECANCOUR SILICON INC.

WACKER CHEMIE AG

 Signed	 Signed
JOHN FENGER President, B.C.O.	Peter A.M. Kallne General Counsel and Corporate Secretary
Name Position	Name Position

 Signed	 Signed
Dr. Christian Hartel Raw Materials Procurement Senior Vice President	J.V. Dr. Robert Bauer President Council
Name Position	Name Position

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TAB B

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF DR. RALF WIDMER
SWORN BEFORE ME
ON THIS 15TH DAY OF MAY, 2012**



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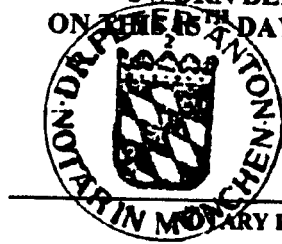
NOTARY PUBLIC

Notar
Dr. Peter Anton
Amiraplatz 3/III, Luitpoldblock
80333 München
Tel. (089) 200 14 90

[Redacted in its Entirety]

TAB C

**THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF DR. RALF WIDMER
SWORN BEFORE ME
ON THE 15TH DAY OF MAY, 2012**



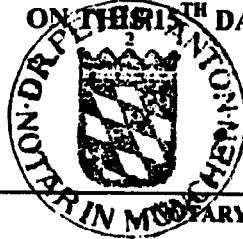
[Handwritten signature]



Notar
Dr. Peter Anton
Andreasplatz 3/II, Luisenpark
80333 München
Tel. (089) 280 14 90

[Redacted in its Entirety]

**THIS IS EXHIBIT "D" REFERRED TO IN THE
AFFIDAVIT OF RALF WIDMER
SWORN BEFORE ME
ON THIS 15TH DAY OF MAY, 2012**



[Handwritten signature]



**Notar
Dr. Peter Anton
Amiraplatz 3/III, Luitpoldblock
80333 München
Tel. (089) 290 14 90**

**AMENDMENT No. 1
TO THE
2011-2015 SUPPLY AGREEMENT**

This Amendment No. 1 (the "Amendment") dated September 6th, 2011 by and between:

**Wacker Chemie AG
Hanns-Seidel-Platz 4
81737 München
Federal Republic of German
(hereinafter referred to as "BUYER")**

and

**Bécancoeur Silicon Inc. / Silicium Bécancoeur Inc.
6500 rue Yvon-Trudeau
Bécancoeur, Québec
Canada G9H 2V8
(hereinafter referred to as "SELLER")**

Recitals:

- A. BUYER and SELLER have entered into a Long Term Supply Agreement dated with effect as of the 1st day of January, 2011 (the "2011-2015 Supply Agreement"), pursuant to which BUYER and SELLER amended certain provisions of the 2010-2014 Supply Agreement regarding the pricing for materials delivered in the years 2011 to 2014 and concurrently extended commitments regarding the purchase and supply of materials for the year 2015.
- B. BUYER and SELLER have agreed to modify Appendix 4 to the 2011-2015 Supply Agreement to exclude from the Base Quantity commitments for 2012 the quantity of Standard B Product that is the subject of [REDACTED] between BUYER and [REDACTED]

Now, therefore, in consideration of the foregoing and the mutual premises hereinafter contained, BUYER and SELLER agree as follows, effective as of the date hereof:

- 1. Capitalized terms not otherwise defined in this Amendment shall have the meanings attributed thereto in the 2011-2015 Supply Agreement.
- 2. With effect as of [REDACTED] Appendix 4 to the 2011-2015 Supply Agreement is hereby deleted in its entirety and the following is substituted thereof:

Handwritten initials/signature

TAB D

**APPENDIX 4
to Long Term Supply Agreement**

Base Quantities, Additional Quantities, Put Prices and Call Prices

Year	PRODUCT	Base Quantity (tons)	Additional Quantity ¹ (tons)	Total ² (tons)	Put Price ³	Call Price ³
2011 ⁴	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2012	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2013	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2014	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2015 ³	Water Gran. Standard B Total:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total		[REDACTED]	[REDACTED]	[REDACTED]		

Notes:

- 1 The allocation of the Additional Quantity as between Water Granulated Product and Standard B Product are target amounts and subject to adjustment in accordance with section 2.4.
- 2 These amounts exclude any adjustments arising from the exercise of the BUYER's Quantity Options in any year, and in respect of the Base Quantity only of such year.
- 3 For the year 2011, not applicable. For the years 2012, 2013 and 2014, see section 3.4. For the year 2015, the Put Prices and the Call Prices are to be determined in accordance with section 3.5; the "Put Price" and the "Call Price" specified in this table shall only apply to the extent provided in section 3.11.
- 4 For the year 2011, the price for all PRODUCT is fixed at [REDACTED] as specified in section 3.2.
- 5 These amounts exclude the Backlog Quantity 2010 to be delivered pursuant to section 2.5.
- 6 This amount will be reduced by the quantity of Standard B Product (the "Sudamin Quantity") that is the subject of [REDACTED] between BUYER and [REDACTED] (as amended, the [REDACTED]). For the avoidance of doubt,

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of

the [redacted] Quantity will not be subject to the BUYER's Quantity Options and will only be subject to the terms and conditions set out in the [redacted] Purchase Order.

- 3. Except as set out in this Amendment, all terms of the 2011-2015 Supply Agreement and Appendices remain unchanged and shall continue to be binding upon the parties and their successors and assigns.

The parties hereto have executed this Amendment No. 1, with effect as of the date indicated on the first page hereof.

Münich, Germany

Bécancour, Québec

Wacker Chemie AG

Bécancour Silicon Inc.

By: [Signature]

By: [Signature]

Title: DIRECTOR

Title: Peter A.M. Kaline
General Counsel and
Corporate Secretary

By: [Signature]

By: [Signature]

Title: Dr. Christian Hartel
~~Raw Materials Procurement~~

Title: Assistant General Counsel and Assistant Secretary

Date: Sep 6th 2011

Date: September 6th, 2011

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**THIS IS EXHIBIT "E" REFERRED TO IN THE
AFFIDAVIT OF DR. RALF WIDMER
SWORN BEFORE ME
ON THE 15TH DAY OF MAY, 2012**



[Handwritten signature]



Notar
Dr. Peter Anton
Amiraplatz 3/III, Luitpoldblock
80333 München
Tel. (089) 880 14 80

TAB E

WACKERKARIN VAN DE KLETERSTEEG
RMP-T1/MUCWacker Chemie AG
Hanns-Seidel-Platz 4
81737 München, Germany
Tel. +49 89 6279 1622
Fax +49 89 6279 2621
karin.kletersteeg@wacker.comWacker Chemie AG
Hanns-Seidel-Platz 4, 81737 München, GermanyBÉCANCOUR SILICON INC. /
SILICIUM BÉCANCOUR INC.
6500 rue Yvon-Trudeau
Béancour, QC G9H 2V8
Canada
Attn: Sales ManagerTIMMINCO LIMITED
150 King Street West, Suite 2401
Toronto, ON M5H 1J9
Canada
Attn: General CounselNovember 3rd, 2011

Long Term Supply Agreement – 2012

Dear Sirs,

We refer to the Long-Term Supply Agreement between WACKER CHEMIE AG ("BUYER") and BÉCANCOUR SILICON INC. / SILICIUM BÉCANCOUR INC. ("SELLER"), regarding the purchase and supply of silicon metals from 2011 to 2015, as amended (the "Agreement"). Capitalized terms not otherwise defined in this letter have the meanings ascribed to such terms in the Agreement.

BUYER acknowledges that the Parties were unable to reach a mutual agreement by [REDACTED] 2011 on the prices for the Water Granulated Product and for the Standard B Product for the year 2012, following negotiations between the Parties carried out pursuant to section 3.3 of the Agreement.

Accordingly, and pursuant to section 3.6 of the Agreement, BUYER hereby exercises its Call Option in respect of both the Water Granulated Product and for the Standard B Product for the year 2012, in each case for the full amount of the Base Quantity and the Additional Quantity as stipulated in Appendix 4 to the Agreement.

Site: München, Germany
District court: München HRB 159705
Executive Board:
Rudolf Staudigl (President)
Joachim Rauhut
Wilhelm Sittenthaler
Auguste Willems
Supervisory Board Chairman:
Peter-Alexander Wacker

Page 2 of 2

BUYER acknowledges that the Call Price for the Water Granulated Product is [REDACTED], and that the Call Price for the Standard B Product is [REDACTED] for deliveries in the year 2012.

Yours truly,

WACKER CHEMIE AG



ppa. Dr. Christian Hartel
Senior Vice President
Raw Materials Procurement



Dr. Sascha Klengel
Director
Raw Materials Procurement

40

TAB F

**THIS IS EXHIBIT "F" REFERRED TO IN THE
AFFIDAVIT OF DR. RALF WIDMER
SWORN BEFORE ME
ON THIS 5TH DAY OF MAY 2012**



[Handwritten signature]



**Notar
Dr. Peter Anton
Amrapsitz 3/II, Luitpoldplatz
80333 München
Tel. (089) 290 14 80**

WACKER

DR. CHRISTIAN HARTEL
RAW MATERIALS PROCUREMENT

Wacker Chemie AG
Hanns-Seidel-Platz 4
81737 München, Germany
Tel. +49 89 6279 1805
Fax +49 89 6279 2354
christian.hartel@wacker.com

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

Bécancour Silicon Inc./Silicium Bécancour Inc.
fao Mr. Doug Fastuca
6500 rue Yvon-Trudeau
Becancour, QC G9H 2V8
Canada

Cc Monitor of the assets of Bécancour Silicon Inc./Silicium
Bécancour Inc.
FTI Consulting
fao Mr. Nigel Meakin
TD Waterhouse Tower
79 Wellington Street West
Sulte 2010, P.O. Box 104
Toronto ON M5K 1G8
Canada

20 March 2012

**Contract amendment of Long-Term Supply Agreement dated 31 May/1 June 2011 as amended from time to time ("Contract") regarding quantities ordered but not delivered in 2011;
Request for delivery of ordered quantities within the first quarter of 2012 with purchase orders 9102673434, 9102673400 and 9102673515
Provisional reminder**

Dear Doug,

We would like to confirm again the amendment of the Long-Term Supply Agreement dated 31 May/1 June 2011 as agreed in 2011. Furthermore, we would like to emphasize that we expect delivery of all quantities ordered for the the first quarter of 2012 which, as of yet, have not been delivered in due time.

Sitz München
Amtsgericht München HRB 159705
Vorstand:
Rudolf Staudigl (Vorsitzender)
Joachim Rauhut
Wilhelm Sittenthaler
Auguste Willems
Vorsitzender des Aufsichtsrats:
Peter-Alexander Wacker

Seite 2 von 2

1) Contract amendment as regards quantities ordered but not delivered in 2011

In 2011, due to default Bécancour Silicon Inc. (BSI) did not deliver all of the agreed quantities to Wacker (compare itemization of quantities ordered but not delivered in 2011 as defined in the annex 1 to this letter). For this reason, Wacker conceded and BSI agreed that these shortfall quantities, which amount to [REDACTED] tons, would be delivered in 2013 and 2014, and consequently a postponement of the deliveries was agreed upon. The base price for these quantities to be delivered in 2013 and 2014 in addition to the already contracted quantities was agreed to amount to [REDACTED]

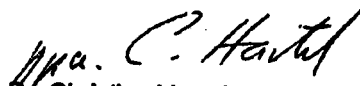
[REDACTED] We would expect that any potential assignment of the Contract would explicitly include the contract amendment as described above, and that potential assignees of such Contract are made aware thereof.

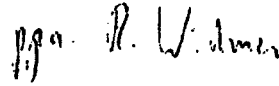
2) On-time delivery of ordered quantities during the first quarter of 2012

With purchase orders 9102673434, 9102673400 and 9102673515 dated December 21st, 2011 (compare annex 2) Wacker requested the delivery of [REDACTED] tons of product by 31 March 2012.

We would like to emphasize that we expect due delivery of such quantities.

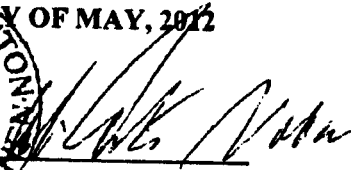
Kind regards,


Dr. Christian Hartel
Wacker Chemie AG
Senior Vice President
Raw Materials Procurement


Dr. Ralf Widmer
Wacker Chemie AG
Senior Counsel
Legal and Insurance

TAB G

**THIS IS EXHIBIT "G" REFERRED TO IN THE
AFFIDAVIT OF DR. RALF WIDMER
SWORN BEFORE ME
ON THIS 15TH DAY OF MAY, 2012**



NOTARY PUBLIC



Notar
Dr. Peter Anton
Amiraplatz 3/III, Luitpoldblock
80333 München
Tel. (089) 290 14 90

March 22, 2012

The Company agrees with the following facts as stated by Wacker in its letter dated 20 March 2012 as follows:

In 2011, due to default Becancour Silicon Inc. (BSI) did not deliver all of the agreed quantities to Wacker (compare itemized quantities ordered but not delivered in 2011 as defined on annex 1 to this letter). For this reason, Wacker conceded and BSI agreed that these shortfall quantities, which amount to [REDACTED] tons, would be delivered in 2013 and 2014, and consequently a postponement of the deliveries was agreed upon. The base price for these quantities to be delivered in 2013 and 2014 in addition to the already contracted quantities was agreed to amount to [REDACTED].

With purchase orders 9102673434, 9102673400 and 9102673515 dated December 21st, 2011 (compare annex 2) Wacker requested the delivery of [REDACTED] tons on product by 31 March 2012.

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

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

Court File No: CV-12-9359-00C

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**RESPONDING PARTY'S MOTION RECORD
(Returnable May 29, 2012)**

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Solicitors for Wacker Chemie AG