

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

N°: 500-11-060598-212

SUPERIOR COURT

(Commercial Division)
(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C. 1995, c. 36, as amended)

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

BLACKROCK METALS INC.

-and-

BLACKROCK MINING INC.

-and-

BRM METALS GP INC.

-and-

BLACKROCK METALS LP

Applicants

-and-

DELOITTE RESTRUCTURING INC.

Monitor

**APPLICATION FOR (I) A THIRD EXTENSION OF THE STAY OF PROCEEDINGS AND (II)
THE ISSUANCE OF AN APPROVAL AND VESTING ORDER AND ANCILLARY RELIEF**
(Companies' Creditors Arrangement Act, sections 11 and 36(1))

INTRODUCTION

1. The Applicants are debtor companies identified in sections 10 to 17 of the *Application for the issuance of (i) an Initial Order, (ii) an Amended and Restated Initial Order, and (iii) an Order approving a Sale and Investment Solicitation Process and approving a Stalking Horse Agreement of Purchase and Sale* filed on December 22, 2021 (the "**Initial Application**"), for which a First Day Initial Order under the *Companies' Creditors Arrangement Act* ("**CCAA**") was issued by this Court on December 23, 2021 (the "**First Day Order**"), as appears from the Court record.

2. All capitalized terms not defined herein shall bear the meaning ascribed to them in the Initial Application and/or in the Bidding Procedures Order (defined hereafter).
3. On January 7, 2022, and further to the Comeback Hearing, the Honourable Justice Paquette J.S.C. released the following judgment and orders:
 - a) A judgment on the contestation of certain shareholders (the “**Comeback Hearing Judgment**”);
 - b) An Amended and Restated Initial Order (the “**A&R Initial Order**”); and
 - c) An order approving sale and investment solicitation process (the “**SISP**”) and a stalking horse agreement of purchase and sale (the “**Bidding Procedures Order**”).
4. Pursuant to the Comeback Hearing Judgment and the Bidding Procedures Order, the Court extended the SISP by an additional 30 days beyond what was originally contemplated further to a request by certain shareholders of the Applicants.
5. On February 24, 2022, following the filing by the Applicants of their *Motion for a first extension of the stay of proceedings*, this Court issued an Order extending the Stay Period (as defined at paragraph 8 of the A&R Initial Order), until March 25, 2022, as appears from the Court record.
6. On March 25, 2022, following the filing by the Applicants of their *Second Motion to extend the stay of proceedings*, this Court issued an Order extending the Stay Period until May 27, 2022, as appears from the Court record.
7. As a result of the SISP and as provided in the Bidding Procedures Order, on May 16, 2022, the Applicants and the Monitor selected the qualified Bid of the Stalking Horse Bidders (Investissement Québec (“**IQ**”) and OMF Fund H. Ltd. (“**Orion**”)) as the Successful Bid (the “**Successful Bid**”), which consists is based on the transactions contemplated in the Stalking Horse Agreement entered into as of December 22, 2021, communicated herewith as **Exhibit R-1**, and which provides for several transactions described hereinafter (the “**Proposed Purchase and Sale Transactions**”).
8. The Proposed Purchase and Sale Transactions provide for various reorganisation transactions which are listed and detailed in Schedule E to the Stalking Horse Agreement (the “**Steps Memorandum**”).
9. By the present Application (the “**Approval and Vesting Order Application**”), the Applicants hereby request this Honorable Court to approve the Proposed Purchase and Sale Transactions and the various transactions contemplated in the Steps Memorandum, in accordance with the terms of the draft Approval and Vesting Order (“**RVO**”), **Exhibit R-2**.
10. The Applicants are advised that the Monitor supports the approval of the Proposed Purchased and Sale Transactions, the proposed RVO and the proposed extension of the stay of proceedings and that it will file a report regarding same before the hearing (the “**Monitor’s Fifth Report**”), which will notably include updated cashflow projections of the Applicants.

THE SISP AND THE STEPS UNDERTAKEN IN RELATION TO THE BIDDING PROCEDURES

Phase 1 of the SISP

11. The SISP for the sale of the Applicants' business, property, assets and undertakings (collectively, the "**Business**") was conducted by the Monitor with the cooperation of and in consultation with the Applicants in the manner set forth in the Bidding Procedures Order.
12. The objective of the SISP was to solicit interest in, and opportunities for: (i) one or more sales or partial sales of all, substantially all, or certain portions of the Business; and/or (ii) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of the Applicants or their Business (the "**Opportunity**").
13. To that effect, the Monitor has sent 415 letters or emails to potential bidders describing the Opportunity (the "**Solicitation Letter**") outlining the SISP and inviting recipients of the Solicitation Letter to express their interest pursuant to the SISP.
14. The Monitor has also made available to potential bidders a confidential virtual data room (the "**VDR**") in relation to the Opportunity, provided that such potential bidders execute a non-disclosure agreement ("**NDA**").
15. As a result, the Monitor received seven (7) signed NDAs from potential bidders, which were thereafter granted access to the VDR.
16. Pursuant to paragraph 13 of the SISP, Phase 1 Qualified Bidders had until March 9, 2022, to submit their respective bids, which had to be delivered in the form of a non-binding letter of intent to the Monitor.
17. On March 9, 2022, the Monitor received only one non-binding letter of intent (the "**LOI**") from a Phase 1 Qualified Bidder composed of certain shareholders of the Applicant BlackRock Metals Inc. (the "**Shareholder Bidder**"), as appears from a copy of the LOI filed under seal, **Exhibit R-3**. It is also worth noting that the Shareholder Bidder executed its NDA on the same day as it submitted its LOI and just prior to the Phase 1 Bid Deadline.
18. On March 11, 2022, and after a review of the LOI filed by the Shareholder Bidder, the Monitor requested certain clarifications on same pursuant to paragraph 16 of the Bidding Procedures Order, as appears from a copy of the letter of the Monitor, **Exhibit R-4**.
19. On March 14, 2022, the Shareholder Bidder responded to the Monitor's request for clarifications (the "**Clarification Letter**"), which response was shared with the Applicants, as appears from the Clarification Letter, **Exhibit R-5**.
20. After review of the LOI and the Clarification Letter, on March 15, 2022, the Monitor confirmed to the Shareholder Bidder that the Applicants, in consultation and with the consent of the Monitor, had determined that the Shareholder Bidder LOI represented a Phase 1 Successful Bid pursuant to paragraphs 14, 17 and 19 of the Bidding Procedures Order, and consequently, that the Shareholder Bidder was deemed a Phase 2 Qualified Bidder.

21. In accordance with the SISP, the Shareholder Bidder was permitted to proceed to Phase 2 of the SISP.
22. Pursuant to paragraph 21 of the SISP, the Shareholder Bidder had until May 11, 2022, 5:00 p.m. (Eastern Standard Time) to submit its Phase 2 Qualified Bid (the “**Phase 2 Bid Deadline**”).

Phase 2 of the SISP

23. As part of Phase 2 of the SISP, the Shareholder Bidder was to complete its due diligence process and finalize its financing arrangements with a view to filing a fully binding Phase 2 Qualified Bid by the Phase 2 Bid Deadline a Phase 2 Qualified Bid.
24. During Phase 2 of the SISP, the Shareholder Bidder continued to have access to the VDR;
25. At the request of the Shareholder Bidder, during the Phase 2, access to the VDR was also provided to the various financial advisors (QVR¹, FTI and ERG) of the Shareholder Bidder as well as to various third parties identified.

REQUEST FOR EXTENSION

26. On May 9, 2022, a Teams conference was held with the Shareholder Bidder, its financial advisors and counsels, the Monitor and its counsel, the Applicants representatives and their counsel, and the members of the Special Committee of the board of directors of BlackRock Metals Inc. (the “**Special Committee**”) and its counsel.
27. During the course of this meeting, the Shareholder Bidder and its financial advisors provided the following information:
 - a) The Shareholder Bidder had initiated with the help of its own financial advisors a solicitation process to identify financial partners that would support the bid of the Shareholder Bidder;
 - b) Despite some cursory interest manifested by certain potential capital partners, and except for a non-binding letter of intent received from a third party for an amount significantly less than that required to exceed the Stalking Horse Bid, no other letter of intent or confirmation of interest in writing from a potential capital partner was received by the Shareholder Bidder during the SISP;
 - c) Nevertheless, some potential financial partners would, according to the Shareholder Bidder, still be interested in looking at the Project Volt (as defined in the Application);
 - d) None of the representatives of the Shareholder Bidder intended to participate in the financing of an eventual Phase 2 Qualified Bid, should there be such a bid; and

¹ This advisor was subsequently withdrawn.

- e) Despite the already extended SISP period and the representations of the Shareholder Bidder in its Clarification Letter, the Shareholder Bidder would not be in a position to file a Phase 2 Qualified Bid by the Phase 2 Bid Deadline.
28. The Shareholder Bidder therefore verbally requested that the Phase 2 Bid Deadline be extended for an additional 30 days in order for their advisors to continue their canvass of the market for financing.
29. The Shareholder Bidder confirmed its request for an extension of the Phase 2 Bid Deadline by letter dated May 9, 2022, **Exhibit R-6**.
30. In conformity with the SISP, the decision to extend the Phase 2 Bid Deadline was to be made by the Monitor, after consultation with the Applicants and with the approval of the Stalking Horse Bidders, acting reasonably.
31. Therefore, the Monitor consulted with the Applicants and requested the position of IQ and Orion on the proposed extension of the SISP.
32. On May 10, 2022, the Stalking Horse Bidders indicated they had serious concerns with the request but were nonetheless agreeable to considering an extension of the Phase 2 Bid Deadline subject to certain conditions including more particularly, and among other terms, the financing (on a basis subordinate to the DIP and the approximately \$100 million of secured debt held by the Stalking Horse Bidders) of the extra 30-day extension and the confirmation that no other extension would be sought in the future, as appears from an email of the counsels for one of the Stalking Horse Bidder, **Exhibit R-7**.
33. The Stalking Horse Bidders also sought the views of the Applicants and the Monitor as to the strength of the Shareholder Bid and the likelihood that an extension of the SISP would result in a Phase 2 Qualified Bid being put forward by the Shareholder Bidder.
34. On May 11, 2022, the Monitor provided to the Stalking Horse Bidders its preliminary views and recommendations on the requested extension, as appears from an email of the Monitor, **Exhibit R-8**.
35. On the same day, the Shareholder Bidder filed an *Application for extension of the Phase 2 Bid Deadline and the issuance of an order approving amended Bidding Procedures* (the "**Bid Extension Application**"), in which the Shareholder Bidder characterized the position of the Stalking Horse Bidders as abusive, as appears from a copy of the Bid Extension Application, **Exhibit R-9**.
36. On May 12, 2022, the Applicants, having convened a meeting of its board of directors to consider the extension request and having consulted with the Special Committee, and the Monitor confirmed that (i) they did not support the request for an extension of the Phase 2 Bid Deadline on the terms proposed by the Shareholder Bidder, and (ii) in accordance with the Bidding Procedures Order, the Applicants would move to file an application seeking the Court's approval of the Proposed Purchase and Sale Transactions in accordance with the Stalking Horse Agreement, **Exhibit R-10**.
37. In refusing to support the request of extension of the Phase 2 Bid Deadline, Applicants considered the following elements:

- a) The Shareholder Bidder has had more than 120 days to prepare its bid (and not 60 days, as suggested in the Bid Extension Application).
 - b) During Phase 1 of the SISP, the Monitor completed a thorough solicitation process to solicit interest in the Project Volt.
 - c) The Applicants have been seeking financing of the Project Volt for the last 4 years with the assistance of international financial advisors (Goldman Sach and Credit Suisse) who have made a complete search of the market to identify potential financing partners.
 - d) Nothing reasonably suggests that the Shareholder Bidder would be able to submit a binding and fully financed offer by June 11, 2022, even if an extension is granted.
 - e) No third-party capital provider has commenced any detailed interactive due diligence and there have been zero requests for any site visits or requests for meetings with representatives of the Applicant or the Monitor.
 - f) Notwithstanding having represented in its Phase 1 Successful Bid that the three principals of the Shareholders had sufficient net worth to fund a Phase 2 Bid, the three principals of the Shareholder Bidder have confirmed that they would not financially participate with their own money in their potential bid, other than to pay for their professional fees, and are completely dependent upon securing third-party financing, of which they have none to date and which is likely to take a long time to obtain, if at all.
 - g) Despite having offered a DIP loan of \$500,000 ranking *pari passu* with the existing DIP financing to support the Applicants' operating costs during the 30-day extension requested, such offer of the Shareholder Bidder does not constitute a meaningful offer to support the Applicants' costs since the repayment of such *pari passu* DIP loan would (i) be *pari passu* with the DIP loan provided by the Stalking Horse Bidders and rank ahead of the \$100 million secured debt owed to the Stalking Horse Bidders and, (ii) be fully guaranteed and (iii) the repayment would be borne by the Stalking Horse Bidders in the event that the Shareholder Bidder ultimately is unable to submit a Phase 2 Qualified.
 - h) As alleged in the Initial Application, the Applicants have proposed and supported a SISP as a means to improve the Stalking Horse Agreement with the intent to maximize the prospect of successfully closing the financing and the achievement of Project Volt.
 - i) The achievement of Project Volt remains the main focus of the Applicants and nothing in the proposed extension of the Shareholder Bidder reasonably leads the Applicants to believe that a successful Phase 2 Qualified Bid could be filed by the Shareholder Bidder if such extension is granted.
38. Additionally, the Grand Council of the Crees (Eeyou Istchee) and the Cree Nation Government, two creditors or parties to important agreements signed with the First Nation essential to the Project Volt, have confirmed through their counsel that they oppose the required extension as appears from a letter of their counsel communicated as **Exhibit R-11**.

39. Considering that no Phase 2 Qualified Bid was filed within the Phase 2 Bid Deadline, the Monitor and the Applicants selected the Stalking Horse Agreement as the Successful Bid in accordance with the Bidding Procedures Order.

THE PROPOSED PURCHASE AND SALE TRANSACTIONS

A. Description of the Proposed Purchase and Sale Transactions

40. The Proposed Purchase and Sale Transactions provide for the Stalking Horse Bidders to acquire the shares of BlackRock Metals Inc. ("**BRMI**"), by way of the Reorganization (as defined below) and the RVO, in consideration of a credit bid totalling their Secured Claim (defined below) in the aggregate approximate amount of \$ 95M as of May 16, 2022. Each of the Stalking Horse Bidders will acquire 50% of the shares of BRMI. BRMI is the sole shareholder of Blackrock Mining Inc. ("**BRM Mining**") and BRM Metals GP Inc. ("**BRM GP**") and all of the partnership interests in Blackrock Metals L.P. ("**BRM LP**") (BRM Mining, BRM GP and BRM LP, collectively the "**Subsidiaries**").

B. Steps of the Proposed Purchase and Sale Transactions

41. The steps of the Proposed Purchase and Sale Transactions, which are detailed in the Steps Memorandum, provide for the Applicants' reorganization (the "**Reorganization**") and can be summarized as follows:
- i. Upon the issuance of the RVO, BRMI will:
 - incorporate a corporation ("**New ParentCo**") under the *Quebec Business Corporation Act* ("**QBCA**"), and will become its sole shareholder, holding one voting and fully participating common share.
 - incorporate a corporation ("**ResidualCo**") under the QBCA and New ParentCo will become its sole shareholder holding one voting and fully participating common share.
 - ii. Both New ParentCo and ResidualCo will become parties under the present CCAA proceedings.
 - iii. One business day before the closing date, being the fifth (5th) business day following the date on which the RVO is granted by this Court (or such other date as agreed to in writing by the parties (the "**Closing Date**"), all of the issued shares of BRMI will be exchanged for common shares of New ParentCo on a one-for-one basis, such that, as a consequence, New ParentCo will thereafter hold all of the then issued and outstanding shares in the capital of BRMI, while simultaneously cancelling the share BRMI holds in New ParentCo, so that BRMI becomes New ParentCo's subsidiary.
 - iv. One business day before the Closing Date, the Applicants (BRMI and the Subsidiaries) will transfer their Excluded Assets (as listed in Schedule B of the Stalking Horse Agreement) to ResidualCo.

- v. One business day before the Closing Date, New ParentCo will assume the Applicant's (BRMI and the Subsidiaries) Excluded Obligations (as listed in Schedule B of the Stalking Horse Agreement and filed herewith as **Exhibit R-12**) and which, for greater certainty do not include any liabilities owing to IQ and/or Orion including the DIP loan (the "**Secured Claim**").
- vi. As a result of the aforementioned transactions, which, combined with the issuance of the RVO, would create novation pursuant to section 1660 of *the Civil Code of Québec*, the Applicants will be discharged of all of their obligations under the Excluded Obligations.
- vii. One business day before the Closing Date, each of the Stalking Horse Bidders (IQ and Orion) will assign their Secured Claim to New ParentCo for a purchase price equal to the fair market value of the Secured Claim, which is expected to be equal to its face amount, payable on demand and the obligation in respect of which is to be secured (the "**Secured Claim Purchase Price**").
- viii. Still one business day before the Closing Date and in order for New ParentCo to be paid by BRMI the Secured Claim assigned to it by the Stalking Horse Bidders, New ParentCo will subscribe to additional common shares of BRMI for a subscription price equal to the amount owing under the Secured Claim by BRMI, and both New ParentCo and BRMI will agree to set off the Secured Claim against said subscription price. As a result, BRMI would have paid the Secured Claim assigned to New ParentCo by the Stalking Horse Bidders.
- ix. Finally, and on the Closing Date and in settlement of the Secured Claim Purchase Price, IQ and Orion will acquire, as to 50% each, 100% of the issued and outstanding shares in the capital of BRMI from New ParentCo for an aggregate purchase price equal to the aggregate fair market value of the Secured Claim (the "**Share Purchase Price**") and thereafter.

C. The effect of the Proposed Purchase and Sale Transactions

- 42. The Proposed Purchase and Sale Transactions are structured as a reverse vesting order with notably the following effects:
 - a) The Stalking Horse Bidders will own 100% of the issued and outstanding shares in the capital of BRMI (and the Subsidiaries), and the Secured Debt (estimated at \$94 million dollars) will be completely paid and extinguished.
 - b) BRMI will assume the payment of the obligations under the contracts being assumed and the post-filing trade amounts.
 - c) The Excluded Obligations (Exhibit R-12) will be assigned to ResidualCo which will ultimately be assigned into bankruptcy.
 - d) All of the approximately 18 permits, licenses and other regulatory approvals will be retained by BRMI.
 - e) BRMI will retain many of the employees and consultants of the Applicants.

- f) Certain parties, including BRMI and the Stalking Horse Bidders and their directors, officers and advisers, as well as the Monitor and its legal counsel will benefit from releases in their favour.

43. With respect to the Excluded Obligations (Exhibit R-12), as of the date of this application, the excluded contracts and liabilities are related to:

- a) Agreements granting rights to subscribe shares in the share-capital of BRMI; or
- b) Agreement for ongoing or future services in respect of which there is no ongoing obligations;
- c) Royalty or offtake agreements representing future obligations of the Applicants;
- d) A board composition Agreement between certain shareholder of BRMI that will become mute should this Application be granted;
- e) An Escrow Agreement with respect to the deposit of shares of BRMI;
- f) Two leases for office spaces that have been vacated by the Applicants;
- g) Liabilities with respect to obligations to any employees, consultants or contractors that are terminated prior to the Reorganization, other than in respect of (a) wages, (b) payroll deductions and remittances or (c) vacation pay; or
- h) Liabilities with respect to any taxes of, or that relate to the Applicants, New ParentCo or Residualco prior to the Reorganization.

44. The reverse vesting order structure put forward under the Proposed Purchase and Sale Transactions is appropriate in the present file when considering the following relevant factors:

- a) The Applicants are parties to numerous and complex agreements and benefit from numerous special governmental authorizations which are set out in detail at paragraph 22 (e) and (f) of the Initial Application. A traditional vesting order structure to transfer the benefits of such agreements and authorizations would present regulatory challenges, especially when dealing with governmental authorizations that are discretionary in nature.
- b) Under a traditional vesting order structure, the Applicants would have to seek the consensual or forced assignment or transfer of their agreements and regulatory authorizations in accordance with the requirements of the CCAA, a process that would lead to additional risks, costs and delays.
- c) In a context of a traditional vesting order structure, the Excluded Obligations would not be assigned and assumed by a purchaser and would remain with the insolvent vendor.
- d) The proposed reverse vesting order structure results in better economic conditions for most of the creditors of the Applicants who see the pre-filing obligations of the

Applicants being assumed by BRMI whereas no such obligations would be assumed in a more traditional vesting order structure transaction.

- e) The stakeholders, including the creditors who will see the rights resulting from their agreements being vested out of BRMI to ResidualCo and the existing BRMI shareholders will not be in a position worse than they would have been with a more traditional vesting of assets to a third party since the consideration paid will not lead to a residual value available for those stakeholders.
- f) The assets covered by the Proposed Purchase and Sale Transactions are mostly intangible in nature and their value are based on the capacity of the purchasers to successfully complete the financing and achieve Project Volt. As such, the consideration being paid by the Stalking Horse Bidders for the Applicants' business, which is equal to the Secured Claim Purchase Price, represents more than the value of the numerous and complex agreements and special governmental authorizations forming part of the assets of the Applicants and being preserved under the reverse vesting order structure.

45. The Proposed Purchase and Sale Transactions meet the criteria for approval provided for under the CCAA in that:

- a) The SISP was conducted by the Monitor, in consultation with the Applicants, in accordance with the Bidding Procedures Order Court and extended at the request of certain shareholders.
- b) The market has been adequately canvassed through a fulsome, fair and transparent process. Moreover, the Applicants deployed an elaborate and global search for financing during the years leading up to the initiation of the CCAA Proceedings that did not yield the desired results;
- c) The Monitor not only approved the SISP but also participated in the negotiation and development of the bidding procedures and had primary carriage of the process throughout. In the course of the SISP, the Monitor consulted with the Applicants and the Special Committee.
- d) The Proposed Purchase and Sale Transactions will be more beneficial to the Applicant's stakeholders than a sale or disposition in a bankruptcy context;
- e) IQ and Orion, the Applicants principal secured creditors and Interim Lender have been consulted where appropriate throughout the CCAA Proceedings and, as Stalking Horse Bidders, understandably support the proposed transaction;
- f) The Proposed Purchase and Sale Transactions are the only and best available alternative for the Applicants' creditors and other interested parties and will allow for the Applicants to emerge as a rehabilitated business in a strong position to complete the Construction Financing and move forward with Project Volt. This outcome is advantageous to the Applicants and their stakeholders, including their creditors, employees, trading partners and First Nations partners; and

- g) The consideration to be received in connection with the proposed transaction, valued at over \$100 M, is reasonable and fair as established by the SISP, which is the best available indicator of the market value of the Applicants' business and assets.
46. The Proposed Purchase and Sale Transactions pursuant to the Stalking Horse Agreement constitutes the only Phase 2 Qualified Bid received in the context of the SISP and the only and best option available to the Applicants' stakeholders.
47. Since December 2021, the Monitor, with the assistance and participation of the Applicants and the Special Committee and their respective counsel, has proceeded with the Court authorized SISP and has undertaken significant efforts to find investors, buyers, or strategic partners for their Business and to continue the Project Volt.
48. Except for the Shareholder Bidder who has not filed a Phase 2 Qualified Bid prior to the Phase 2 Bid Deadline, no other investors, buyers or strategic partners that participated in the SISP confirmed an interest in Project Volt or submitted a bid in accordance with the Bidding Procedures Order.
49. The Proposed Purchase and Sale Transactions will preserve, for the benefit of the Applicants' stakeholders generally, the operations of the Applicants and allow them to continue the multi-metallic ferroalloy project targeting the production of vanadium high purity pig iron and titanium products with an integrated mine and concentrator located in the Chibougamau region and a metallurgical complex located at Port of Saguenay.
50. It is submitted that the releases to be granted under the proposed RVO to the parties that were instrumental to the success of the restructuring are reasonable and appropriate in the circumstances and are in line with releases granted in the context of similar transactions.
51. The Monitor has reviewed the Proposed Purchase and Sale Transactions and the proposed RVO and fully supports this Approval and Vesting Order Application and the conclusions sought herein.
52. Considering the above facts and considerations, the Applicants submit that it is appropriate for this Court to approve the Stalking Horse Agreement and to issue the proposed RVO (Exhibit R-2).
53. Following the complete execution of the SISP as authorized and ordered by this Court pursuant to the Bidding Procedures Order, the execution of the RVO is necessary to proceed with the Proposed Purchase and Sale Transactions without delay and in accordance with their terms as described in the Stalking Horse Agreement and in the Steps Memorandum. In particular, the Stalking Horse Agreement provides that the transaction contemplated therein must close by June 6, 2022.
54. In order to properly implement to the Proposed Purchase and Sale Transactions, the Applicants also request that the stay of proceedings that is to expire on May 27, 2022, be extended.
55. Since the hearing on the present Approval and Vesting Order Application and the Bid Extension Application is set to be held on May 30 and 31, 2022, Applicants seek an order to be issued on an interim basis prior to May 27, 2022 extending the Stay Period, as defined at paragraph 8 of the Amended and Restated Initial Order, to June 30, 2022.

56. The extension of the Stay Period will allow (i) this Court to proceed with the hearing set on May 30 and 31, 2022 and decide on the matters before the Court and (ii) the Applicants to implement to the Proposed Purchase and Sale Transactions.
57. Considering that their rights will be affected by the proposed RVO, this Approval and Vesting Order Application is being notified to all affected parties to the agreements listed as Excluded Obligations under the Stalking Horse Agreement, a list of which is communicated as **Exhibit R-13**.
58. Given the delays discussed above, the benefits of completing the restructuring as soon as possible and the costs associated with continuing the CCAA Proceedings, the Applicants request that the proposed RVO be rendered executory notwithstanding any appeal.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

On an Interim basis:

- [1] **ABRIDGE** the delays of presentation of the Application;
- [2] **GRANT** the Application as it pertains to a third extension of the Stay Period as defined at paragraph 8 of the Amended and Restated Initial Order dated January 7, 2022;
- [3] **EXTENDS** the Stay Period until June 30, 2022;

And on the merit of the Application:

- [4] **GRANT** the Application as it pertains to the approval of the Proposed Purchase and Sale Transactions;
- [5] **ISSUE** an order substantially in the form of the Draft Approval and Vesting Order, **Exhibit R-2**;
- [6] **THE WHOLE** without costs, except if contested.

MONTREAL, May 20, 2022

Lavery De Billy

LAVERY, DE BILLY, L.L.P.
Lawyers for Applicants

AFFIDAVIT

I, the undersigned, SEAN CLEARY, CEO of BlackRock Metals Inc., BlackRock Mining Inc., BRM Metals GP Inc. and BlackRock Metals LP (collectively, the "**Applicants**") having a place of business at 1606-1080, Beaver Hall Hill, in the city and judicial district of Montreal, Quebec, H2Z 1S8, solemnly affirm that:

1. I am the authorized representative of the Applicants;
2. All the facts alleged in the *Application for (i) a Third Extension of the Stay of Proceedings and (ii) the Issuance of an Approval and Vesting Order and Ancillary Relief* are to my personal knowledge and true.

AND I HAVE SIGNED:



SEAN CLEARY

SOLEMNLY AFFIRMED before me on May 20, 2022 by videoconference Teams, in Montréal allowing me to recognize Sean Cleary, and witnessing him having read the motion and the sworn declaration and having signed it. The document transferred by email is the *Application for (i) a Third Extension of the Stay of Proceedings and (ii) the Issuance of an Approval and Vesting Order and Ancillary Relief*.

Commissioner of Oaths for Province of
Quebec

NOTICE OF PRESENTATION

TO: **THE SERVICE LIST**

TAKE NOTICE that the present *Application for (i) a Third Extension of the Stay of Proceedings and (ii) the Issuance of an Approval and Vesting Order and Ancillary Relief* (the "**Application**") will be presented for before the Honourable Justice Marie-Anne Paquette, S.C.J., **on May 30, 2022 at 9:15 a.m.** in a forum to be further announced to the Service List.

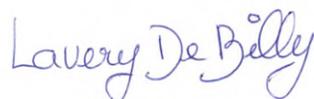
Hearing on the Application has been set by the Honourable Justice Marie-Anne Paquette, S.C.J., to be held on May 30 and May 31, 2022.

Any party wishing to object to Application shall file a notice of objection **no later than May 27, 2022, at 5:00 p.m.**

TAKE FURTHER NOTICE that the Applicants will present before the Honourable Justice Marie-Anne Paquette, S.C.J., the Application **on an Interim basis on May 27, 2022** for the issuance of an Order extending of the Stay Period from May 27, 2022 to June 30, 2022. Any party wishing to object to this interim application shall file a notice of objection **no later than May 26, 2022, at 5:00 p.m.**

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, May 20, 2022



LAVERY, DE BILLY, L.L.P.
Lawyers for Applicants

NO.: 500-11-060598-212

SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTRÉAL

***IN THE MATTER OF THE COMPANIES'
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THE ISSUANCE OF AN APPROVAL AND
VESTING ORDER AND ANCILLARY RELIEF**
(Companies' Creditors Arrangement Act,
sections 11 and 36(1))

ORIGINAL

O/file: 125468-00005

BL 1332

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