

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
NO: 500-11-063053-231
DATE: February 24, 2025

PRESIDING: THE HONOURABLE KAREN M. ROGERS, J.S.C.

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, C C-36 OF:**

STORNOWAY DIAMONDS (CANADA) INC.

-and-

11272420 CANADA INC.

Debtors

-and-

DELOITTE RESTRUCTURING INC.

Monitor

APPROVAL ORDER

- [1] **ON READING** the *Application for the Issuance of an Order Extending the Stay of Proceedings and for the Issuance of an Approval Order* dated February 19, 2025 (the "**Application**") of the Debtors pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**"), the affidavit and the exhibits filed in support thereof, as well as the Monitor's report entitled *Eighth Report to the Court submitted by Deloitte Restructuring Inc.* (the "**Monitor's Report**");
- [2] **CONSIDERING** the notification of the Application to the service list;
- [3] **CONSIDERING** the submissions of the attorneys present at the hearing on the Application and the testimony of the witnesses heard;

- [4] **CONSIDERING** the provisions of the CCAA;
- [5] **CONSIDERING** the terms of the initial order rendered on October 27, 2023 as amended and restated on November 3 and November 13, 2023, January 24, 2024, April 4, 2024 as well as October 4, 2024 and that the Stay Period (as defined below) was extended to February 28, 2025 pursuant to the Fourth Amended and Restated Initial Order, as amended on January 17, 2025 (the “**Initial Order**”);
- [6] **CONSIDERING** the terms of the SISP Approval Order rendered on October 27, 2023 (the “**SISP Order**”);
- [7] **CONSIDERING** that given the confirmation by the Streamers and by Diaquem that they consent to the issuance of this Order, it is appropriate to issue an order, *inter alia*, approving the Second Amended and Restated Call Option Agreement (the “**Second Amended and Restated Call Option Agreement**”) between the Debtors and Winsome Resources Limited (“**Winsome**”), a copy of which was communicated, under seal, as Exhibit R-5 to the Application.

THE COURT:

- [8] **GRANTS** the Application.
- [9] **ISSUES** an order pursuant to the CCAA (this “**Order**”).
- [10] **ORDERS** that all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Initial Order.

NOTIFICATION

- [11] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with further service thereof.
- [12] **DECLARES** that sufficient prior notice of the presentation of this Application has been given by the Debtors to interested parties.
- [13] **PERMITS** service of this Order at any time and place and by any means whatsoever.

APPROVAL OF THE CALL OPTION AGREEMENT

- [14] **ORDERS** and **DECLARES** that the Second Amended and Restated Call Option Agreement is hereby approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to by the parties thereto, including any extension of the deadlines and options periods set forth therein, but only with the consent of the Monitor, it being understood, however, that in any event, the Debtors shall not consent to any amendment, modification,

assignment, waiver, termination or extension of the Second Amended and Restated Call Option Agreement, including, without limitation, any extension of the deadlines and option periods set forth in the Second Amended and Restated Call Option Agreement and amendment which may affect the recovery of the Secured Creditors, without having previously obtained the prior written consent of the Streamers and of Diaquem.

- [15] **AUTHORIZES** the Debtors to execute *nunc pro tunc* the Second Amended and Restated Call Option Agreement, provided that nothing herein approves a Transaction (as described in paragraph [20] herein) contemplated in the Second Amended and Restated Call Option Agreement and **DECLARES** that the approval of such transaction shall be considered by this Court in a subsequent application to be filed and presented to this Court in accordance with the terms set forth in the Second Amended and Restated Call Option Agreement.
- [16] **AUTHORIZES** the Debtors and Winsome, and the Monitor to the extent applicable, to perform all acts, all undertakings and all covenants, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Second Amended and Restated Call Option Agreement (Exhibit R-5) and any other ancillary document which could be required or useful to give full and complete effect to the terms and conditions agreed upon by the Debtors and Winsome in the Second Amended and Restated Call Option Agreement, with the consent of the Streamers and of Diaquem.
- [17] **ORDERS** and **DECLARES** that, given the consent of the Streamers and of Diaquem to the execution by the Debtors of the Second Amended and Restated Call Option Agreement, this Order shall constitute the only remaining authorization required by the Debtors to enter into the Second Amended and Restated Call Option Agreement and that no further shareholder or regulatory approval, if applicable, shall be required in connection therewith, subject to the further order of this Court referred to in paragraph [15] above.
- [18] **ORDERS** that the Second Amended and Restated Call Option Agreement shall not be rendered invalid or unenforceable and the rights and remedies of Winsome thereunder shall not otherwise be limited or impaired in any way by (i) the Debtors' CCAA proceedings and the declarations of insolvency made in connection therewith; (ii) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") or, any bankruptcy order made pursuant to such application(s); (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of security interests, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an

“**Agreement**”) which binds the Debtors, and notwithstanding any provision to the contrary in any Agreement:

- (a) the execution, delivery or performance of the Second Amended and Restated Call Option Agreement shall not create or be deemed to constitute a breach by the Debtors of any Agreement to which it is a party; and
- (b) Winsome shall not have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the Debtors entering into the Second Amended and Restated Call Option Agreement.

[19] **ORDERS** that the Monitor is hereby authorized to distribute the additional call option considerations provided for in subsections 2.3 (4) and (5) of the Second Amended and Restated Call Option Agreement as per the terms of the Second Amended and Restated Call Option Agreement.

PROTECTION OF PERSONAL INFORMATION

[20] **ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and 18(6) of the Quebec *Act respecting the Protection of Personal Information in the Private Sector*, the Debtors, the Monitor and the SISP Agent are hereby authorized and permitted to disclose and provide to Winsome personal information of identifiable individuals, including employees of any of the Debtors, but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the Second Amended and Restated Call Option Agreement (a “**Transaction**”). Winsome shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Debtors, the Monitor or the SISP Agent, as applicable, or, in the alternative, destroy all such information and provide confirmation of its destruction to the Debtors and the Monitor. Winsome shall maintain the privacy of such information and, upon closing of the Transaction, shall be entitled to use the personal information provided to it that is related to the business acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Debtors or the Monitor, or ensure that all other personal information is destroyed and provide confirmation of its destruction to the Debtors and the Monitor.

GENERAL

[21] **TAKES ACT** of the Streamers and Diaquem’s respective consent to the execution by the Debtors of the Second Amended and Restated Call Option Agreement and to the approval thereof by this Court, in accordance with the terms of this Order, and **ORDERS** that (i) such consent shall not be construed as a waiver by the Streamers or Diaquem to any of their rights under their

respective contracts, agreements and arrangement entered into between the Debtors (or any of them) on the one hand, and the Streamers or Diaquem (or any of them) on the other hand, and that (ii) nothing in this order shall amend or otherwise affect paragraph 30 of the Initial Order, whereby this Court ordered and declared, *inter alia*, that the Streamers and Diaquem shall remain and be treated, at all times, as unaffected creditors in this proceedings.

- [22] **DECLARES** that this Order and any proceeding or affidavit leading to this Order, shall not, in and of themselves, constitute a default or failure to comply by the Debtors under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement subject to paragraph [21] of this Order.
- [23] **ORDERS** that the Debtors and the Monitor may from time to time apply to this Court for advice and directions in connection with the discharge of their respective powers and duties under the SISP (as defined in the SISP Order) or any matter related to the SISP or the implementation of the transactions contemplated in the Second Amended and Restated Call Option Agreement.
- [24] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in Canada, the United States of America or elsewhere, to give effect to this Order and to assist the Debtors, the Monitor, and their respective agents in carrying out the terms of this Order. All Courts, tribunals, regulatory and administrative bodies are hereby requested to make such orders and to provide such assistance to the Debtors and the Monitor as may be necessary or desirable to give effect to this Order.
- [25] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [26] **ORDERS** the provisional execution of this Order notwithstanding any appeal.

The Honourable Karen M. Rogers, J.S.C.

NO.: 500-11-063053-231

**SUPERIOR COURT
DISTRICT OF MONTREAL**

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

STORNOWAY DIAMONDS (CANADA) INC.

11272420 CANADA INC.

Debtors

-and-

DELOITTE RESTRUCTURING INC.

Monitor

EXHIBIT R-2

BO-0042

1001271938

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