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C A N A D A
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC
COURT. No.: 500-11-060598-212

S U P E R I O R C O U R T
Commercial Division

**IN THE MATTER OF A PLAN OF
ARRANGEMENT OR COMPROMISE OF:**

BLACKROCK METALS INC., a duly incorporated company having its principal place of business at 1606-1080 Côte du Beaver Hall, in the city and district of Montreal, province of Quebec, H2Z 1S8.

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BLACKROCK MINING INC., a duly incorporated company having its principal place of business at 1606-1080 Côte du Beaver Hall, in the city and district of Montreal, province of Quebec, H2Z 1S8.

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BRM METALS GP INC., a duly incorporated company having its principal place of business at 1606-1080 Côte du Beaver Hall, in the city and district of Montreal, province of Quebec, H2Z 1S8.

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BLACKROCK METALS LP, a limited partnership formed under the laws of Quebec, having its principal place of business at 1606-1080 Côte du Beaver Hall, in the city and district of Montreal, province of Quebec, H2Z 1S8.

Debtors

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INVESTISSEMENT QUÉBEC, a corporation duly constituted under the *Act respecting Investissement Québec and La Financière du Québec* (CQLR c I-16.0.1), having its head office at 600, de la Gauchetière West, Suite 1500, in the city and district of Montreal, province of Quebec, H3B 4L8

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OMF FUND II H LTD., a duly incorporated company having its principal place of business at 7 Bryant Park, 1045 ave of the Americas, New York, New York, 10018

Mises-en-cause

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DELOITTE RESTRUCTURING INC., a duly incorporated company having a place of business at 500-1190 ave des Canadiens-de-Montréal, in the city and district of Montreal, province of Quebec, H3B 0M7

Monitor

**SECOND REPORT TO THE COURT
SUBMITTED BY DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS MONITOR**

(Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended ("CCAA"))

INTRODUCTION

1. On December 23, 2021, BlackRock Metals Inc. ("**BlackRock Metals**"), BlackRock Mining Inc. ("**BlackRock Mining**"), BlackRock Metals LP ("**BRM LP**") and BRM Metals GP Inc. ("**BRM GP**") (collectively "**BRM**" or the "**Debtors**") filed for and obtained protection from their creditors under the CCAA pursuant to an Order rendered by this Honourable Court (the "**First Day Initial Order**"). The First Day Initial Order provides for, *inter alia*, (i) a stay of proceedings against the Debtors until January 2, 2022 (the "**Stay Period**") (ii) the appointment of Deloitte Restructuring Inc. as the monitor under the CCAA ("**Deloitte**" or the "**Monitor**"), and the (iii) granting of an Administration Charge. The proceedings commenced under the CCAA by the Debtors will be referred to herein as the "**CCAA Proceedings**".
2. On December 22, 2021, the Monitor issued its First Report. The purpose of the First Report was to provide background information on Deloitte's qualification to act as Monitor, the business, affairs and financial results of BRM, BRM's main creditors, the proposed sale and investment solicitation process (the "**SISP**"), the administration charge sought in the First Day Initial Order and to cover specifically the Cash Flow Statement, in accordance with paragraph 23(1)(b) of the CCAA.

3. On January 2, 2022, there was a deemed extension of the Stay Period up to and including January 7, 2022. As indicated in the First Day Initial Order, any Person wishing to object to such deemed extension was required to serve a detailed written contestation stating the objection to such deemed extension and the grounds for such objection on or before December 27, 2021. No such contestation was received.
4. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not otherwise defined are as defined in the First Report or the Application under the CCAA.

PURPOSES OF THE SECOND REPORT

5. The purpose of this second report of the Monitor (the "**Second Report**") is to provide information to the Court with respect to:
 - (i) Status of the CCAA proceedings;
 - (ii) The security review;
 - (iii) BRM's request for an order approving the Procedures for the Sale and Investment Solicitation Process and approving an Agreement of Purchase and Sale;
 - (iv) Charges sought in the proposed Amended and Restated Initial Order:
 - a. Extended Administration Charge;
 - b. The D&O Charge;
 - c. The Transaction Charge; and,
 - d. The Interim Facility and Interim Financing Charge.
 - (v) The extension of the Stay Period until March 4, 2022; and,
 - (vi) The Monitor's conclusions and recommendations.
6. In preparing the Second Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, BRM's books and records and financial information prepared by BRM and discussions with management ("**Management**") of BRM (collectively, the "**Information**"):
 - (i) The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and,
 - (ii) Some of the information referred to in this Second Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in Chartered Professional Accountants Canada Handbook, has not been performed.

7. Future oriented financial information referred to in this Second Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
8. Unless otherwise indicated, the Monitor's understanding of factual matters expressed in the Second Report concerning BRM and their business is based on the Information, and not independent factual determinations made by the Monitor.
9. The Information that was analyzed does not include the extent of the impact of Coronavirus ("**COVID-19**") on BRM's operations. At the time of the Second Report, the situation is continuing to evolve, and many uncertainties remain as to the effect the COVID-19 crisis has had and will continue to have on BRM and the broader domestic and global economies. The Monitor relied, in part, on publicly available information, Management forecasts and other information provided by Management in relation to the effect COVID-19 has had and will continue to have on BRM.
10. A copy of the Second Report and further reports of the Monitor, if any, will be made available on the Monitor's website at <https://www.insolvencies.deloitte.ca/blackrockmetals> (the "**Monitor's Website**"). The Monitor has also provided a dedicated email address and phone number that are referenced on the Monitor's website so that parties may contact the Monitor if they have questions with respect to the BRM's restructuring or the CCAA proceedings.

STATUS OF THE CCAA PROCEEDINGS

11. Since the granting of the First Day Initial Order:
 - (i) BRM continued to operate as a going concern and pay their current employees and their suppliers in the normal course of business, for services rendered after the beginning of the CCAA Proceedings, as permitted by the First Day Initial Order;
 - (ii) Management met with the employees to inform and explain the proposed restructuring and the CCAA Proceedings;
 - (iii) BRM, with the assistance of their legal counsel, issued a press release in French and English to announce the strategic restructuring process pursuant to the CCAA Proceedings;
 - (iv) The Monitor, with BRM's assistance, has been responding to questions of various creditors and stakeholders as to the status of the CCAA Proceedings; and,
 - (v) The Monitor has analyzed the receipts and disbursements transacted through BRM's bank accounts on a weekly basis with the full co-operation of Management since the granting of the First Day Initial Order. Other than the payroll of approximately \$79K, the disbursements were limited to \$3K and were mainly for bank charges related to the renewal of a letter of credit. BRM also collected \$4K for the sale of a vehicle that occurred a few months ago.
12. Pursuant to the First Day Initial Order:
 - (i) On December 23, 2021, the Monitor posted a copy of the CCAA Proceedings' application, the First Report, the First Day Initial Order and a list of creditors on the Monitor's Website;

- (ii) On December 23, 2021, the Monitor has also provided a dedicated email address (blackrockmetals@deloitte.ca) and phone number (514-393-5349) to allow interested parties to contact the Monitor directly if they have questions with respect to BRM's restructuring or the CCAA Proceedings;
- (iii) On December 23, 2021, the Monitor sent a notice, by prepaid ordinary mail, which included information about the CCAA Proceedings, the Monitor's telephone number and email address and the address to the Monitor's Website (the "**Notice to Creditors**") to each of the 26 known creditors, having a claim against BRM of more than \$1,000 based on the contact information of such known creditors provided by Management. A copy of the Notice to Creditors was also posted on the Monitor's Website;
- (iv) On December 23, 2021, the Monitor sent, by prepaid ordinary mail, a notice to each of the 11 current employees of BRM, which included information about the CCAA Proceedings, the Monitor's telephone number and email address and the address to the Monitor's Website. The employee notice was also posted on the Monitor's Website;
- (v) On December 23, 2021, the Monitor filed the first and second form (Form 1 and 2) with respect to the granting of the First Day Initial Order and certain other information as required by the Office of the Superintendent of Bankruptcy;
- (vi) On December 24, 2021, the Monitor also posted a copy of BRM's press releases on the Monitor's Website; and,
- (vii) On December 31, 2021, the Monitor published a first notice with respect to the First Day Initial Order in *La Presse +* and the *Globe and Mail National Edition*. On January 7, 2022, the Monitor will publish for a second notice in *La Presse +* and the *Globe and Mail National Edition*, the whole in accordance the First Day Initial Order.

THE SECURITY REVIEW

- 13. As indicated in the First Report, counsel to the Monitor, Fasken, was mandated to conduct a review of the security documentation relating to the security granted by BRM in favor of BNY Trust Company of Canada, in its capacity as collateral agent and hypothecary representative, for the benefit of Investissement Quebec ("**IQ**") and OMF Fund II H. Ltd. ("**Orion**").
- 14. Fasken has now completed its review and delivered an opinion to the Monitor (the "**Security Opinion**"). Subject to the customary qualifications, assumptions and limitations set out therein, the Security Opinion indicates that the security provided by BRM for the benefit of IQ and Orion over BRM's assets that are subject to such security is valid and has been rendered opposable against third persons or perfected in accordance with applicable laws.
- 15. As indicated in the First Report, GICs have also been granted as financial collateral of letters of credit issued by the Royal Bank of Canada in favour of major utility suppliers (Hydro-Québec) as well as in favour of federal and provincial authorities (the "**LCs**"). RBC holds several first ranking hypothecs charging the GICs as well as their related RBC bank accounts (the "**RBC Security**")
- 16. The Monitor will also obtain an independent review of the RBC Security. Once completed, the Monitor will report to the Court on the conclusion of the review of the RBC Security. For the purposes hereof, the Monitor continues to base its report on the assumption that the RBC Security is valid and enforceable.

BRM'S REQUEST FOR AN ORDER APPROVING THE PROCEDURES FOR THE SALE AND INVESTMENT SOLICITATION PROCESS AND APPROVING AN AGREEMENT OF PURCHASE AND SALE

17. As mentioned in the First Report, the term of the secured Bridge Financing of \$91 million as of November 30, 2021, with IQ and Orion expired on December 1, 2021, and was not extended by IQ and Orion (the "**Secured Claim**").
18. In view of BRM's current significant indebtedness under the Bridge Financing, BRM's financial resources are not sufficient to fund the short-term operating costs, or the estimated construction and implementations costs of Project Volt, which are expecting to be approximately US\$1.02 billion.
19. The Board of Directors (the "**Board**") had to consider options available to it under these circumstances. Consequently, a special committee of the Board of Directors (the "**Special Committee**") was created to assist the Board in assessing the options and alternatives of the Company.
20. The Board, following the assessment and recommendation of the Special Committee, decided that the proposed restructuring, which includes the SISP, would be in the best interest of the Debtors and all its stakeholders, under the circumstances.
21. The Board, the Special Committee, BRM and its Management concluded that the SISP, which includes the acceptance of a stalking horse bid (the "**Stalking Horse Bid**"), is the best option available under the circumstances to attempt to maximize value for BRM's stakeholders. IQ and Orion would act as stalking horse bidders (the "**Stalking Horse Bidders**") in connection with the SISP to be conducted by the Monitor under the supervision of the Court.

The SISP

22. The SISP has been developed by the Debtors, in consultation with the Monitor and with the support of IQ and Orion.
23. The purpose of the SISP is to solicit interest in, and opportunities for: (i) one or more sales or partial sales of all, substantially all, or certain portion of BRM business; and/or (ii) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of the business and affairs of BRM as a going concern or a sale of all, substantially all, or certain of BRM business.
24. As part of their Application, the Debtors have requested the Court's approval of the SISP. The SISP would be carried out by the Monitor for the Debtors and in consultation with them.
25. The SISP, if approved by the Court, is to be conducted in accordance with the Procedures for the Sale and Investment Solicitation Process (the "**Bidding Procedures**"), which areas further described herein below.

The Bidding Procedures

26. Capitalized terms not otherwise defined herein are as defined in the Bidding Procedures.
27. The SISP will be conducted by the Monitor, for the benefit of the Debtors, upon the approval of the Bidding Procedures Order and the Agreement of Purchase and Sale (the "**Stalking Horse Agreement**") by the Court in early January 2022.
28. The Stalking Horse Agreement constitutes a qualified bid by the Stalking Horse Bidders under this SISP and the Bidding Procedures and shall serve as the Stalking Horse Bid.
29. According to the Bidding Procedures, subject to any extensions and modifications, the SISP will be a two-phase bidding process, which will take place over a period of 90 days starting January 10, 2022.

The Stalking Horse Agreement

30. BRM entered into the Stalking Horse Agreement, subject to the approval of the Court, with IQ and Orion who, subject to the outcome of the SISP, have agreed to acquire the shares of BRM in consideration of a credit bid totalling the amount of its Secured Claim. As of November 30, 2021, the Secured Claim was approximately \$90.759 million. Interests accrue at 12% per annum and is capitalized to the loan balance.
31. A stalking-horse bid is an initial bid on the assets as part of a solicitation process in which the selling entity enters into an agreement for the purchase of the selling entity's shares or assets. The stalking horse bid establishes the floor price and provides a high level of deal certainty in the context of the solicitation process, thereby providing project stakeholders with assurance that a transaction will materialize. Therefore, even if no other bid is received in the context of a solicitation process, the assets or shares will ultimately be sold to the stalking horse bidder.
32. The Stalking Horse Agreement includes an expense reimbursement in an aggregate amount of \$2.5 million (the "**Expense Reimbursement**") in respect of legal and other costs incurred by the Stalking Horse Bidders in connection with the expenditure of time and money to act as the initial bidders as part of the SISP, as well as the preparation and negotiation of the Stalking Horse Agreement.
33. In the event the Stalking Horse Bidders are not the Successful Bidder and a transaction is completed with another interested party, the Stalking Horse Bidder will be entitled to collect the Expense Reimbursement, as compensation for the costs and expenses incurred for providing the Stalking Horse Bid. This Expense Reimbursement is justified by the expenditure of time and money and agreement to act as the Stalking Horse Bidders and the preparation of the Stalking Horse Bid.
34. If the Stalking Horse Bid is retained as the Successful Bid, the contemplated transaction and reorganization will be implemented through a reverse vesting order, as more fully described in the Stalking Horse Agreement.

Phase 1

35. Phase 1 of the SISP will start on January 10, 2022 and will have a duration of 30 days. Interested parties that participate in Phase 1 of the SISP will have up to February 9, 2022 ("**Phase 1 Bid Deadline**") to provide a non-binding letter of intent ("**LOI**") as described in the Bidding Procedures.

36. Following the Phase 1 Bid Deadline, the Debtors, in consultation and with the consent of the Monitor, shall determine the LOIs that will be selected as the most favourable Phase 1 Qualified Bids.
37. In order to be considered as a Phase 1 Qualified Bid, the LOI to be provided by an interested party must comply with certain conditions set forth in the Bidding Procedures, which conditions may be waived by the Monitor, in consultation with the Debtors.
38. As per the Bidding Procedures, one of these conditions to be respected, amongst others, to be considered as a Phase 1 Qualified Bid is for the LOI to include a Minimum Purchase Price providing net cash proceeds that are not less than the aggregate total of:
 - (i) the amount of cash payable under the Stalking Horse Agreement together with the amount of obligations being credit bid thereunder; plus,
 - (ii) the Expense Reimbursement; plus,
 - (iii) a minimum overbid amount of \$1 million.
39. An interested party that provides a Phase 1 Qualified Bid shall be deemed having provided a Phase 1 Successful Bid and, at the same time, become a Phase 2 Qualified Bidder.
40. In the event that no Phase 1 Successful Bids are received (other than the Stalking Horse Agreement), the Debtors will immediately thereafter the Phase 1 Bid Deadline seek Court approval of the transaction contemplated in the Stalking Horse Agreement and the issuance of a reverse vesting order required to implement the proposed transaction, and the Phase 2 of the Bidding Procedures will not proceed.

Phase 2

41. Phase 2 of the SISP will start immediately after the Phase 1 Bid Deadline and at the latest on February 14, 2022 and will have a duration of 60 days. Phase 1 Qualified Bidders will be invited to participate in Phase 2 of the SISP and will have up to April 11, 2022 ("**Phase 2 Bid Deadline**") to submit a binding offer (the "**Binding Offer**").
42. A Binding Offer will only be considered as a Phase 2 Qualified Bid if the Binding Offer, among the other criteria set out at in section 22 of the Bidding Procedures:
 - (i) has been received by the Phase 2 Bid Deadline;
 - (ii) is not subject to any financing condition or any other condition;
 - (iii) includes acknowledgments and representations of the conduction of their due diligence;
 - (iv) the net cash proceeds are higher than the Minimum Purchase Price, unless it is part of an Aggregated Bid;
 - (v) is irrevocable and capable of acceptance until the date set out in the Bidding Procedures;
 - (vi) is accompanied by a deposit in an amount of not less than 5% of the cash purchase price payable; and
 - (vii) is capable of being consummated within the timelines set in the Bidding Procedures.

43. The Debtors, in consultation and with the assistance of the Monitor, will review and evaluate each Phase 2 Qualified Bid, as well as identify the highest or otherwise best bid (the "**Successful Bid**"). The Phase 2 Qualified Bidder making such Successful Bid will become the successful bidder (the "**Successful Bidder**"). The Successful Bid is subject to the Court's approval.
44. In the event there is at least one Phase 2 Qualified Bid in addition to the Stalking Horse Agreement, the Successful Bid shall be concluded through an Auction. Subsequent bidding will continue in minimum increments of not less than \$1 million cash in excess of the Opening Bid, in the deadline and as per the conditions indicated in the Bidding Procedures.

Key dates of the SISP

45. As per the Bidding Procedures, assuming that the two phases of the SISP are executed, as well as the auction after Phase 2, the following dates constitute the key dates of the SISP:

Date		Event
January 10, 2022		Distribution of the solicitation letter to all identified potential bidders. Upon execution of a non-disclosure agreement, the Monitor will grant access to the CIM and VDR to potential bidders.
February 9, 2022	+30 days	Phase 1 Bid Deadline for delivery of a non-binding LOI.
February 14, 2022	+5 days	The Monitor will notify each Phase 1 Qualified Bidder in writing as to whether its bid constituted a Phase 1 Successful Bid; and, If no other bids qualify as Phase 1 Successful Bids, the hearing for the approval of the Stalking Horse Agreement will occur by no later than February 25, 2022 with an anticipated closing deadline as of March 4, 2022.
April 11, 2022	+56 days	Deadline for the delivery of a Binding Offer by Phase 2 Qualified Bidders.
April 15, 2022	+4 days	If required, that will be the auction commencement date and also the deadline for selection of final Successful Bid.
April 22, 2022	+7 days	Deadline for completion of definitive documentation in respect of Successful Bid.
April 29, 2022	+7 days	Deadline for filing of Approval Motion in respect of Successful Bid.
May 6, 2022	+7 days	Anticipated deadline for closing of Successful Bid; and, outside Date by which the Successful Bid must close.
TOTAL	116 days	

46. The terms and conditions of the SISP are more fully detailed in the Bidding Procedures, which will be provided to all Interested Parties at the beginning of the SISP.

Conclusion of the Monitor on the SISP, the Bidding Procedures and the Stalking Horse Agreement

47. In the course of its previous engagement as financial advisor of BRM, the Monitor assisted with the Debtors in the development of the SISP and its Bidding Procedures, with the contribution of Orion and IQ as Stalking Horse Bidders.

48. The delays and timeline of the SISP, including its two-phase approach, allow the potential bidders an initial 30 days to provide a non-binding LOI and an additional 56 days (excluding the 5-day notice period) to finalize its due diligence and ultimately provide a Binding Offer, as well as a deposit of 5% to support its Binding Offer. The Monitor is of the view that the delays and timelines are fair and reasonable in the circumstances for the following reasons:

- (i) it allows BRM to complete the SISP, while respecting its current liquidity constraints;
- (ii) Phase 1 of the Bidding Procedures provides the Monitor with flexibility to waive any one or more of the requirements specified in subparagraphs 14(j) and/or (k) of the Bidding Procedures and deem any such non-compliant LOI to be a Phase 1 Qualified Bid;
- (iii) considering the limited tangible assets of BRM and the current state of Project Volt, for which the conception and development are completed but the construction remains to be completed, the Monitor believes the absence of any operations and revenues should expedite the due diligence to be performed on BRM;
- (iv) the timeline of the Bidding Procedures will allow the Monitor the required time to adequately market the opportunity on a global basis, for which the Monitor has already started to leverage its global network;
- (v) the contemplated two phase SISP will provide a reasonable opportunity for all potential interested parties identified to submit an offer, as required by the end of each phase; and,
- (vi) the auction, if required as a last step after the Phase 2 Bid Deadline, is a fair process to obtain the most valuable outcome from the SISP.

49. In regards of the Stalking Horse Agreement, the Monitor believes that the Stalking Horse Bid used as a baseline offer not only provides deal certainty, but also allows for the solicitation of a higher value bid in the context of the SISP. Consequently, the Monitor believes that the Stalking Horse Agreement could attract a superior offer for BRM's business in the market through the SISP, thereby maximizing the return to the stakeholders.

50. The Stalking Horse Agreement provides for an Expense Reimbursement that is capped at \$2.5 million. The Monitor of the view that the Expense Reimbursement is fair and reasonable, namely for the following reasons:

- (i) Expense reimbursements of this nature are standard practice for stalking horse bids;

- (ii) The amount of the Expense Reimbursement is justified by the complexity of the contemplated transaction, the fact that there are two parties involved and by the overall projected value of Project Volt;
- (iii) The Stalking Horse Agreement, including the Expense Reimbursement, is the result of an arm's length negotiations between the Special Committee and the Stalking Horse Bidders and ultimately accepted by the Board following the recommendation of the Special Committee;
- (iv) The legal documents supporting the contemplated transaction have already been prepared largely by the Stalking Horse Bidders. In the event that the Stalking Horse Bid is not the Successful Bid, these documents could continue to be used to complete another transaction; and,
- (v) The Expense Reimbursement was a condition of the Stalking Horse Bidders to act as the initial bidder.

51. For all these reasons, the Monitor is of the view that the Expense Reimbursement is justified and reasonable.

Interim financing

52. Based on the above timeline and on BRM's Cash Flow Statement included in the First Report of the Monitor, BRM's cash on hand is sufficient in the event the SISP is concluded after Phase 1 and the Stalking Horse Agreement is retained. Otherwise, BRM's Cash Flow Statement shows that BRM does not have sufficient liquidity to operate and conduct the SISP, assuming that Phase 1, Phase 2 and the Auction planned in the SISP are necessary.

53. As appears from the Application, BRM has negotiated a debtor-in-possession financing (the "**DIP Facility**") with the Stalking Horse Bidders, Orion and IQ, (the "**DIP Lenders**") for the continuation of the SISP.

54. The DIP Lenders have agreed to make additional credit available to the Debtors under the DIP Facility, in the aggregate amount of \$2 million and pursuant to the terms and conditions of the Sixth Amending Agreement to the Bridge Financing, which provide for the same terms and conditions than the Bridge Financing and its previous amendments.

55. The DIP Facility will be used only, if required, by the Debtors. It also provides comfort to all interested parties that the SISP will be implemented and completed in accordance with the Bidding Procedures.

56. The DIP Facility is to bear interest at a rate of 12% per annum. BRM has negotiated a DIP Facility with the DIP Lenders, who are also the secured creditors for the restructuring of the Debtors, on the same terms and conditions as the existing financing. There was no competitive process initiated by the Debtors to find an alternative interim lender. Given the nature of BRM's assets and the time limitation imposed on the Board to secure financing, given the demand by the secured creditors, the DIP Facility offered by the DIP lenders appeared to be the best option for sourcing interim financing.

57. The Monitor is of the view that the DIP facility is reasonable and market in the circumstances.

CHARGES SOUGHT IN THE PROPOSED AMENDED AND RESTATED INITIAL ORDER

58. The Debtors seek the issuance of the Amended and Restated Initial Order, which provides for, *inter alia*, the following charges:

- (i) Extended Administration Charge;
- (ii) The D&O charge;
- (iii) The Transaction Charge; and,
- (iv) The Interim Facility and Interim Financing charge.

Extended Administration Charge

59. As mentioned in the First Report, the First Day Initial Order provided for a priority charge in the amount of \$0.5 million in favor of the BRM's counsel, the Monitor and the Monitor's counsel as security for their professional fees and disbursements incurred both before and after the issuance of the First Day Initial Order in respect of the CCAA proceedings (the "**Administration Charge**"), it being understood that an increase of the Administration Charge to an amount of \$1 million (the "**Extended Administration Charge**") would be sought at the comeback hearing.
60. The Extended Administration Charge is established based on the number of professionals involved in the current proceedings and protected by the Extended Administration Charge, the respective professional's previous experience with restructuring of similar magnitude and complexity.
61. The proposed beneficiaries of the Extended Administration Charge will have a significant and key role in the contemplated transaction resulting from the SISP.
62. The Monitor believes that the Extended Administration Charge is required is reasonable under the circumstances and should be granted upon the issuance of the Amended and Restated Initial Order.

D&O Charge

63. The proposed Amended and Restated Initial Order provides for a charge in an amount not to exceed \$250,000 (the "**D&O Charge**") to secure the indemnity provided for those remaining directors and officers in respect of liabilities incurred in such capacity after the commencement of these CCAA proceedings, except to the extent that such obligation or liability would incur as a result of the director's or officer's gross negligence or willful misconduct.
64. The Monitor understands that the Debtors maintain primary and excess directors' and officers' liability insurance policies:
- (i) A Management Liability, Professional Liability, Crime Coverage and Kidnap and Ransom/Extortion Coverage for Private Companies issued by AIG Insurance Company of Canada (the "**Primary D&O Policy**"); and,
 - (ii) The CODA Premier Directors and Officers Liability Excess DIC Policy issued by Chubb Insurance Company of Canada (the "**Excess D&O Policy**" and collectively with the Primary D&O Policy the "**D&O Policies**").
65. The D&O Policies contain limits and exclusions that could potentially affect the total amount of insurance available to the directors and officers of the Debtors. For example:
- (i) The Primary D&O Policy has an aggregate limit of liability of \$10 million and the Excess D&O Policy has an aggregate limit of liability of \$5 million.

- (ii) All officers and directors of the Debtors share the limits available under the D&O Policies, which could further reduce amounts available to protect the officers and directors against claims instituted against them.
66. Although the Debtors intend to comply with the applicable laws and regulations, the directors and officers have expressed their concern with respect to potential personal liability in the context of the restructuring of the Debtors and therefore require the Debtors to indemnify them of all liabilities.
67. The Debtors' directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that coverage is unavailable under the D&O Policies.
68. The Monitor has been advised that the D&O Charge is necessary for the continued service of the Debtors' directors and officers during BRM's restructuring. The amount of the D&O Charge has been calculated by the Debtors taking into consideration the monthly payroll costs of existing employees and the accrued vacation pay. Having considered the analysis prepared by the Debtors, the Monitor is of the view that the D&O Charge is required and reasonable in the circumstances.

The Transaction Charge

69. The Debtors are seeking a transaction charge (the "**Transaction Charge**") over its property to secure the Expense Reimbursement payable to the Stalking Horse Bidder under the Stalking Horse Agreement.
70. The Stalking Horse Bidder provides a significant contribution to the proposed restructuring through its Stalking Horse Bid, as previously explained in this Second Report.
71. The Monitor is of the view that the Transaction Charge is reasonable in the circumstances and should be granted by the Court.

The Interim Facility and Interim Financing charge

72. BRM does not have sufficient liquidity to operate and conduct the SISP, assuming that Phase 1, Phase 2 and the Auction will be necessary. Consequently, BRM must obtain additional financing through the DIP Facility.
73. As appears from the DIP facility, all amounts advanced thereunder are to be secured by a Court-ordered super-priority charge in the amount of \$2.4 million on all BRM's assets in priority to all other charges except for the Extended Administration Charge, the D&O Charge and the Transaction Charge (the "**DIP Lenders' Charge**").
74. The Monitor supports BRM's request for interim financing for the following reasons:
- (i) In the Monitor's view, no creditor will be materially prejudiced as a result of the DIP Lenders' Charge, as the funding is expected to allow BRM to continue its restructuring efforts, which will enhance the recoveries of BRM's secured creditors, suppliers and employees, as opposed to a piecemeal liquidation, which would occur in the absence of funding; and,
 - (ii) The Monitor considered the terms of the DIP Facility and its costs to BRM as being competitive given that the DIP Facility contemplates an interest rate of 12% per annum, with no other fees or charges required.

Priorities of Charges

75. The priorities of the Administration Charge, the D&O Charge, the Transaction Charge and the DIP Lenders Charge (collectively, the "**CCAA Charges**") as between them, are as follows:

- (i) First, the Extended Administration Charge;
- (ii) Second, the D&O Charge;
- (iii) Third, the Transaction Charge; and,
- (iv) Fourth, the DIP Lenders' Charge.

REQUEST FOR EXTENSION OF THE STAY OF PROCEEDINGS

76. The current Stay Period expires on January 7, 2022.

77. The Debtors are seeking an extension of the Stay Period until March 4, 2022, in order to conduct the SISP and work on the proposed restructuring.

78. BRM intends to continue to pay its trade creditors for services rendered and goods provided in the normal course of business during the CCAA Proceedings.

79. As described in the First Report, the Cash Flow Statement indicates that BRM should have sufficient liquidity to continue to meet their obligations during the proposed extension of the Stay Period.

THE MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

80. In light of the foregoing, the Monitor is of the view that:

- (i) The extension of the Stay Period up to March 4, 2022 sought by the Debtors is required to conduct the SISP and implement the proposed restructuring for the benefit of all its stakeholders;
- (ii) Based on the information presently available, the Monitor believes the Debtors' creditors will not be materially prejudiced by the requested extension of the Stay Period; and,
- (iii) The Debtors have acted, and are acting, in good faith and with due diligence, which make the requested extension of the stay of proceedings appropriate.

81. The Monitor is also of the view that it is reasonable and appropriate in the circumstances to:

- (i) Approve the Bidding Procedures Order and the Stalking Horse Agreement; and,
- (ii) Grant the CCAA Charges.

82. Accordingly, the Monitor recommends that the Stay Period be extended to March 4, 2022, and that the other reliefs sought pursuant to the Debtors in the Amended and Restated Initial Order should be granted.

83. The Monitor respectfully submits to the Court this, its Second Report.

DATED AT MONTREAL, this 5th day of January, 2022.

DELOITTE RESTRUCTURING INC.

In its capacity as Court-Appointed Monitor of BRM



Benoit Clouâtre, CPA, CA, CIRP, LIT
Senior Vice President



Jean-François Nadon, CPA, CA, CIRP, LIT
President