

**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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS INC.**

Applicants

**MOTION RECORD  
(Meeting Order and Other Relief)  
(Returnable November 18, 2020)**

November 11, 2020

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OF HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
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Applicants

**MOTION RECORD**

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**Tab 1**



**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 PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
**HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE  
AUTOMOTIVE PRODUCTS INC. (the "Applicants")**

**NOTICE OF MOTION  
(Meeting Order and Other Relief)  
(Returnable November 18, 2020)**

The Applicants will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on November 18, 2020 at 10:00 a.m., or as soon after that time as the motion can be heard, by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 pandemic. Please refer to the conference details attached as Schedule "A" hereto in order to attend. Please advise if you intend to join the motion by emailing Trevor Courtis at [tcourtis@mccarthy.ca](mailto:tcourtis@mccarthy.ca).

**THE MOTION IS FOR:**

1. an order (the "**Flow-Through Payment Order**") substantially in the form of the draft order included at Tab 3 of the Motion Record of the Applicants, authorizing the Applicants to continue certain flow-through payment arrangements involving the Customers (defined below) and tooling suppliers, including the payment of certain pre-filing amounts owing to tooling suppliers;

2. an order (the “**Continuation of Equipment Payments Order**”) substantially in the form of the draft order included at Tab 4 of the Motion Record of the Applicants, authorizing the Applicants to continue making payments to lessors and secured creditors in accordance with existing payment arrangements with respect to equipment that is used in its operations;

3. an order (the “**Meeting Order**”) substantially in the form of the draft order included at Tab 5 of the Motion Record of the Applicants, among other things:

- (a) accepting the filing with the Court of the plan of compromise, arrangement and reorganization of the Applicants under the CCAA and the *Business Corporations Act* (Ontario) dated November 18, 2020 (the “**Plan**”);
- (b) approving, pursuant to section 22 of the CCAA, the classification of creditors as set out in the Plan;
- (c) authorizing and directing the Applicants to call, hold and conduct a meeting of Affected Creditors (the “**Meeting**”) to vote on the Plan;
- (d) authorizing and directing the mailing and distribution of certain meeting materials and other procedures to be followed to provide notice of the Meeting;
- (e) approving the procedures to be followed at the Meeting, including voting procedures;

- (f) setting a date for the hearing of the Applicants' motion for an order (the "**Sanction Order**") approving the Plan (the "**Sanction Hearing**"); and
  - (g) extending the Stay Period (as defined in the Amended and Restated Initial Order dated September 28, 2020) until and including December 31, 2020;  
and
4. such further and other relief as counsel may request and this Court will allow.

**THE GROUNDS FOR THE MOTION ARE:**

5. All capitalized terms used but not defined herein have the meanings given to them in the Plan or the affidavit of Jacques Nadeau, sworn November 11, 2020. For ease of reference, the Applicants will be collectively referred to herein as "**Hematite**".

***Background***

6. Hematite commenced proceedings under the *Companies Creditors' Arrangement Act*, ("**CCAA**") and obtained an initial order on September 18, 2020 (as amended and restated, the "**Initial Order**"). The Initial Order included, among other things, a stay of proceedings until September 28, 2020 (the "**Stay Period**") and the appointment of KPMG Inc. to act as the Court-appointed monitor of Hematite (in such capacity, the "**Monitor**").

7. On September 28, 2020, Hematite obtained an order amending and restating the Initial Order to, among other things, extend the Stay Period to November 27, 2020.

8. On September 17, 2020, Hematite entered into the Plan Sponsor Agreement with Woodbridge Foam Corporation (“**Woodbridge**”) whereby Woodbridge agreed to provide the DIP Facility during the pendency of the CCAA Proceedings and support a CCAA plan that will allow Hematite to emerge as a going concern with a restructured business and balance sheet and fresh financing from Woodbridge, which will acquire 100% ownership in Hematite Holdings Inc. (“**Hematite Holdings**”) and Hematite Industrial Products Inc. (“**Hematite Industrial**”) upon the completion of the restructuring.

9. Prior to the commencement of the CCAA Proceedings, Hematite and Woodbridge (as Hematite’s proposed restructuring plan sponsor) engaged with Hematite’s key lenders, its key customers and certain of its key suppliers and reached agreements and arrangements with each that are necessary to support a financial restructuring of Hematite and see it emerge from the CCAA Proceedings as a going concern in short order.

***Flow-Through Payment Order***

10. Tooling suppliers invoice Hematite for tooling that is manufactured and supplied to Hematite for use in its manufacturing operations making component parts for Toyota Motor Engineering & Manufacturing North America, Inc., FCA US LLC and Ford Motor Company (collectively, the “**Customers**”).

11. Hematite, in turn, invoices the Customer for the tooling that will be used to produce component parts for that Customer. The Customer becomes the owner of the

tooling once it has been paid for, but the tooling is held and used by Hematite to produce those component parts.

12. As Customers pay Hematite for that tooling, Hematite “flows through” that payment by paying the tooling suppliers for the corresponding amount that they invoiced.

13. The Flow-Through Payment Order will allow Hematite to continue its flow-through payment arrangements with its tooling suppliers and Customers. The relief sought in the Flow-Through Payment Order is tailored to only permit these “flow-through” payments where the following conditions are satisfied:

- (a) the amounts are related to the production and supply of tooling that has been delivered to Hematite;
- (b) the tooling has or will become the property of the applicable Customer;
- (c) the tooling is being, or will be, used in the production of parts for the applicable Customer;
- (d) Hematite has received payment of the amounts from the applicable Customer on or after the Filing Date; and
- (e) the payment received from the applicable Customer is in respect of the specific tooling supplied.

14. The Flow-Through Payment Order also directs Hematite to apply payments received from a Customer in respect of any specific tooling to pay the applicable tooling

suppliers on a “flow-through” basis (but only up to 100% of the amount owing to the tooling supplier in respect of the specific tool at the relevant time). Hematite is required to account for these payments in its books and records in a traceable manner.

15. Making the flow-through payments on a “pay-when-paid” basis will not affect Hematite’s cash flow as the flow-through portion of these payments was not included when the cash flow was developed. It is crucial that these payments from Customers, including with respect to certain pre-filing amounts owing to tooling suppliers, continue to be permitted to flow through to tooling suppliers in order to prevent disruption to Hematite’s operations. Failure to make these flow through payments could cause defaults in the arrangements with Customers which, absent the CCAA stay, may entitle the Customers to take possession of tooling that remains key to Hematite’s manufacturing business.

16. Accordingly, it is appropriate to grant the Flow-Through Payment Order.

***Continuation of Equipment Payments Order***

17. Hematite has entered into various capital leases and secured loan agreements with lessors and secured creditors (each, an “**Equipment Creditor**”) with respect to equipment that is used in its operations. The applicable agreements generally provide that Hematite is required to make certain payments at certain intervals.

18. The Continuation of Equipment Payments Order will allow Hematite to continue its existing payment arrangements with Equipment Creditors with respect to equipment that is used in its operations. The relief sought in the Continuation of Equipment

Payments Order is tailored to only permit the payment to Equipment Creditors where the following conditions are satisfied:

- (a) the amounts are owed to an Equipment Creditor for equipment leased from or specifically financed by such Equipment Creditor;
- (b) the equipment was delivered to Hematite prior to the Initial Filing Date;
- (c) the equipment is being, or will be, used in the operations of the Applicants;
- (d) the applicable agreement between one or more of the Applicants and the Equipment Creditor related to the equipment has not been disclaimed or terminated by the Applicants;
- (e) if the *Personal Property Security Act (Ontario)*, *Uniform Commercial Code (US)* or similar statutes in other jurisdictions applies to the applicable agreement, the Equipment Creditor has taken all steps required by the applicable statute to obtain a first priority purchase-money security interest in the equipment; and
- (f) Woodbridge agrees to such payment.

19. It is important that Hematite have the authority to continue to make payments to Equipment Creditors in a manner consistent with the payment arrangements in place as of the Initial Filing Date, including with respect to certain pre-filing amounts owing, in order to ensure its continued use of the equipment.

20. Accordingly, it is appropriate to grant the Continuation of Equipment Payments Order.

***Meeting Order***

21. With the support of Woodbridge and the Monitor, Hematite has formulated a plan to restructure its business and obligations, which will be effected pursuant to the Plan. The objective is to allow Hematite to emerge from the CCAA Proceedings under new ownership and on a restructured basis, while addressing the interests of all stakeholders in a fair and reasonable manner in the circumstances.

22. Hematite believes that the Plan represents the only viable path that will enable it to emerge from the CCAA Proceedings as a going concern. The Plan is consistent with the arrangements reached with each of Hematite's key lenders, its key customers and certain of its key suppliers. The ongoing support of each of these key stakeholders is contingent on the Plan being implemented. The Plan offers some recovery to Affected Creditors, who will receive a distribution under the Plan in exchange for the release of their claims. The distribution will be funded from the Plan Funding Amount to be advanced by Woodbridge as consideration for the shares to be issued to it that will give it 100% ownership of the restructured Hematite Holdings and Hematite Industrial.

23. If the Plan is not implemented and Hematite does not receive the much-needed capital injection from Woodbridge and the ongoing support of its key lenders, customers and suppliers, it is anticipated that Hematite will be required to cease operations. It is expected that Affected Creditors will derive a greater benefit from implementation of the Plan than they would derive from bankruptcy or liquidation of Hematite.



24. The Meeting Order deals with the processes and procedures relating to the Plan and the meeting of Affected Creditors to vote on the Plan including the notice to be provided, governance of the Meeting and voting procedures.

25. Hematite believes that the classification of Affected Creditors as a single class, as contemplated in the Meeting Order and the Plan, is fair and reasonable having regard to the creditors' legal interests, the remedies available to them, the consideration offered to them under the Plan and the extent to which they would recover their claims by exercising those remedies.

26. The Meeting Materials, the processes for providing notice of the Meeting, and the procedures for the Meeting, including the voting procedures, set out in the Meeting Order are reasonable and appropriate in the circumstances.

27. If the Plan is approved by the Required Majorities, the Applicants intend to seek the Sanction Order approving the Plan and granting related relief at the Sanction Hearing.

28. It is in the best interests of Hematite and its stakeholders that Hematite proceed to file the Plan and have Affected Creditors vote on it.

29. The Stay Period is currently set to expire on November 27, 2020. The Meeting Order provides for a further extension of the Stay Period to and including December 31, 2020.

30. Hematite has acted, and continues to act, in good faith and with due diligence in the CCAA Proceedings, and has acted in accordance with the CCAA and the various

orders of the Court at all times. Hematite will have sufficient liquidity to meet its obligations during the proposed extension of the Stay Period.

31. Accordingly, it is appropriate to grant the Meeting Order including the proposed extension of the Stay Period.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) the affidavit of Jacques Nadeau, sworn November 11, 2020;
- (b) the Third Report of the Monitor, to be filed; and
- (c) such further and other materials as counsel may advise and this Court may permit.

November 11, 2020

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Lawyers for the Applicants

TO: SERVICE LIST

## SCHEDULE "A"

### Conference Details to join Motion via Zoom

Topic: Hematite Holdings Inc. (Court File No. CV-20-00647824-00CL)

Time: Nov 18, 2020 10:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/93755387715?pwd=M2lzcjZudWlGY1BENTBDdU9ud0x3Zz09>

Sync Folder: <https://ln2.sync.com/dl/bdbbc2e70/2qs7wixh-g7n9y3hc-3pk57h4k-2vaywn24>

Meeting ID: 937 5538 7715

Passcode: 918039

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Dial by your location

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE -**  
**COMMERCIAL LIST**

Proceeding commenced at Toronto

**NOTICE OF MOTION**  
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Lawyers for the Applicants

**Tab 2**

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Applicants

**AFFIDAVIT OF JACQUES NADEAU  
(Sworn November 11, 2020)**

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HEMATITE AUTOMOTIVE PRODUCTS INC.**

Applicants

**AFFIDAVIT OF JACQUES NADEAU  
(Sworn November 11, 2020)**

I, Jacques Nadeau, of the City of Guelph, in the Province of Ontario, MAKE OATH

AND SAY:

1. I am the Chief Treasury Officer of Hematite.<sup>1</sup> I am a Chartered Professional Accountant and have been involved in the financial and operational management of Hematite for over 25 years. From 1988 to 2002, I was a controller and then the chief financial officer of Hematite. Upon returning to Hematite in 2007, I served as a general manager and then the chief operations officer until 2019. I resumed the role of chief financial officer in the summer of 2019 until June 2020 when my role became more focused on treasury and cash management, given Hematite's increasing challenges in that area, as set out herein.

2. Through my various roles, I am familiar with the operations, financial results and strategies of Hematite. As such, I have personal knowledge of the matters to which I depose in

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<sup>1</sup> For ease of reference, the Applicants will be collectively referred to herein as "**Hematite**".

this affidavit. Where I do not possess personal knowledge, I have stated the source of my knowledge and believe it to be true.

3. All capitalized terms not otherwise defined herein have the meanings given to them in the Plan (defined below). All dollar references herein are Canadian dollars unless otherwise referenced.

## **I. OVERVIEW**

### *(i) Circumstances Leading to the CCAA Proceedings*

4. Hematite is primarily a tier 1 supplier of component parts to the automotive manufacturing industry. Hematite has operated in Canada since 1978, and currently operates from facilities in Brantford and Guelph, Ontario. Over the past several years, Hematite has pursued an expansion of its manufacturing operations into the United States. In order to finance the significant real estate, equipment and other capital expenditures for this expansion, Hematite was required to reduce its cash reserves and take on significant secured indebtedness.

5. The COVID-19 pandemic and the resulting government-mandated shutdowns, including in the automotive industry, had a significant adverse impact on Hematite's financial position. The only viable path to preserving Hematite's business was a strategic transaction that included a capital injection and a restructuring on terms acceptable to Hematite's existing lenders and customers.

6. On September 17, 2020, Hematite entered into a plan sponsor agreement (as amended, the "**Plan Sponsor Agreement**") with Woodbridge Foam Corporation ("**Woodbridge**") whereby Woodbridge agreed to provide interim financing (the "**DIP Facility**") during the

pendency of proceedings under the *Companies' Creditors Arrangement Act* (“**CCAA**”) and support a CCAA plan that will allow Hematite to emerge as a going concern with a restructured business and balance sheet and fresh financing from Woodbridge, which will acquire 100% ownership in Hematite Holdings Inc. (“**Hematite Holdings**”) and Hematite Industrial Products Inc. (“**Hematite Industrial**”) upon the completion of the restructuring.

7. Prior to the commencement of these CCAA proceedings (the “**CCAA Proceedings**”), Hematite and Woodbridge (as Hematite’s proposed restructuring plan sponsor) engaged with Hematite’s key lenders (The Toronto-Dominion Bank (“**TD**”) and BDC Capital Inc. (“**BDC**”)), its key customers (Toyota Motor Engineering & Manufacturing North America, Inc., FCA US LLC and Ford Motor Company (collectively, the “**Customers**”)) and certain of its key suppliers and reached agreements and arrangements with each that are necessary to support a financial restructuring of Hematite and see it emerge from these CCAA proceedings as a going concern in short order.

*(ii) CCAA Proceedings*

8. On September 18, 2020, the Honourable Mr. Justice Hainey granted Hematite an initial order (the “**Initial Order**”) pursuant to the CCAA, including a stay of proceedings until September 28, 2020 (the “**Stay Period**”) and the appointment of KPMG Inc. as monitor of the Applicants (in such capacity, the “**Monitor**”).

9. On September 28, 2020, the Honourable Mr. Justice Hainey granted Hematite an order (the “**Amended and Restated Initial Order**”) pursuant to the CCAA amending and restating the Initial Order to, among other things, extend the Stay Period to November 27, 2020. A copy of the Amended and Restated Initial Order is attached hereto as **Exhibit “A”**.

10. On October 13, 2020, the Honourable Mr. Justice Hainey granted Hematite an order (the “**Claims Procedure Order**”) approving a procedure for the identification, quantification and resolution of certain claims of creditors of the Applicants and their respective directors and officers (the “**Claims Procedure**”). A copy of the Claims Procedure Order is attached hereto as **Exhibit “B”**.

*(iii) Relief Sought on This Motion*

11. I swear this affidavit in support of a motion by Hematite seeking:

- (a) an order (the “**Flow-Through Payment Order**”) substantially in the form of the draft order included at Tab 3 of Hematite’s Motion Record, authorizing the Applicants to continue certain flow-through payment arrangements involving the Customers and tooling suppliers, including the payment of certain pre-filing amounts owing to tooling suppliers;
- (b) an order (the “**Continuation of Equipment Payments Order**”) substantially in the form of the draft order included at Tab 4 of Hematite’s Motion Record, authorizing the Applicants to continue making payments to lessors and secured creditors in accordance with existing payment arrangements with respect to equipment that is used in its operations;
- (c) an order (the “**Meeting Order**”) substantially in the form of the draft order included at Tab 5 of Hematite’s Motion Record, among other things:
  - (i) accepting the filing with the Court of the plan of compromise, arrangement and reorganization of the Applicants under the CCAA and

the *Business Corporations Act* (Ontario) dated November 18, 2020 (the “**Plan**”);

- (ii) approving, pursuant to section 22 of the CCAA, the classification of creditors as set out in the Plan;
- (iii) authorizing and directing the Applicants to call, hold and conduct a meeting of Affected Creditors (the “**Meeting**”) to vote on the Plan;
- (iv) authorizing and directing the mailing and distribution of certain meeting materials and other procedures to be followed to provide notice of the Meeting;
- (v) approving the procedures to be followed at the Meeting, including voting procedures;
- (vi) setting a date for the hearing of the Applicants’ motion for an order (the “**Sanction Order**”) approving the Plan (the “**Sanction Hearing**”); and
- (vii) extending the Stay Period (as defined in the Amended and Restated Initial Order dated September 28, 2020) until and including December 31, 2020.

#### *Flow-Through Payment Order*

12. The Flow-Through Payment Order will allow Hematite to continue its flow-through payment arrangements with its tooling suppliers and Customers. The payment arrangements involve Customers paying Hematite for tooling that is manufactured by tooling suppliers to

enable Hematite to produce component parts for the Customers. The Customers become the owners of the tooling but it is used by Hematite in the production of parts for the Customers.

13. The Customer payments “flow through” Hematite to tooling suppliers once received from the Customers. Making the flow-through payments on a “pay-when-paid” basis will not affect Hematite’s cash flow as the flow-through portion of these payments was not included when the cash flow was developed.

14. It is crucial that these payments from Customers, including with respect to certain pre-filing amounts owing to tooling suppliers, continue to be permitted to flow through to tooling suppliers in order to prevent disruption to Hematite’s operations. Failure to make these flow through payments could cause defaults in the arrangements with Customers which, absent the CCAA stay, may entitle Customers to take possession of tooling that remains key to Hematite’s manufacturing business. Accordingly, it is appropriate to grant the Flow-Through Payment Order.

*Continuation of Equipment Payments Order*

15. The Continuation of Equipment Payments Order will allow Hematite to continue its existing payment arrangements with Equipment Creditors with respect to equipment that is used in its operations. It is important that Hematite have the authority to continue to make payments to Equipment Creditors in a manner consistent with the payment arrangements in place as of the Filing Date, including with respect to certain pre-filing amounts owing, in order to ensure its continued use of the equipment. Accordingly, it is appropriate to grant the Continuation of Equipment Payments Order.

*Meeting Order*

16. As described in greater detail below, the Plan is consistent with the agreements and arrangements entered into with Hematite's key stakeholders prior to the CCAA Proceedings, including its secured lenders, major customers and certain key suppliers. Woodbridge will acquire 100% ownership of Hematite Holdings and Hematite Industrial. Hematite will benefit from Woodbridge's significant Canadian and international experience, including in the automotive industry, pivotal turnaround expertise, operational support and liquidity backing.

17. The Plan compromises the claims of Affected Creditors, who will receive a distribution under the Plan, and will allow Hematite to emerge from the CCAA Proceedings as a going concern with a restructured business and balance sheet for the benefit of its approximately 275 employees, its creditors and its other stakeholders generally. The distributions to Affected Creditors will be funded from the Plan Funding Amount to be advanced by Woodbridge as consideration for the shares to be issued to it. Hematite believes that Woodbridge's involvement as Plan Sponsor is essential to implementing the Plan and completing Hematite's restructuring as the Plan Funding Amount will result in significantly higher recoveries to Affected Creditors than they would receive in bankruptcy proceedings.

18. It is appropriate to grant the Meeting Order so that Hematite may call the Meeting of the Affected Creditors to consider and vote on the Plan. The Meeting Order also provides for an extension of the Stay Period to and including December 31, 2020, which Hematite hopes will provide it with sufficient time to hold the Meeting, seek Court approval of the Plan at the Sanction Hearing and complete the various steps necessary to implement the Plan.

## II. UPDATES

### (i) *Chapter 15 Proceedings*

19. As noted in previous affidavits filed in these proceedings:
- (a) on September 22, 2020, each of the Applicants filed a petition (the “**Chapter 15 Cases**”) in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”) for recognition of these CCAA proceedings in the United States as “foreign main proceedings” pursuant to chapter 15 of title 11 of the United States Code (the “**Bankruptcy Code**”);
  - (b) on September 23, 2020, the U.S. Court issued an order, among other things, provisionally recognizing these CCAA proceedings as “foreign main proceedings” and provisionally recognizing and enforcing the Initial Order in the United States;
  - (c) on October 1, 2020, the U.S. Court issued an order provisionally recognizing and enforcing the Amended and Restated Initial Order in the United States; and
  - (d) a final hearing on the petitions for recognition was scheduled for October 19, 2020 before the U.S. Court on notice to all known creditors of Hematite in the United States.
20. On October 14, 2020, in accordance with the scheduling order of the U.S. Court, Hematite filed a certificate with the U.S. Court certifying that no objection to the final recognition order had been filed and served.



21. On October 15, 2020, the Honourable Judge Walrath of the U.S. Court issued an Order Granting Verified Petition for (i) Recognition of Foreign Main Proceeding, (ii) Recognition of Foreign Representative and (iii) Related Relief Under Chapter 15 of the Bankruptcy Code (the “**Final Recognition Order**”), without a hearing. A copy of the Final Recognition Order is attached hereto as **Exhibit “C”**.

22. Following the issuance of the Claims Procedure Order by this Court, Hematite filed a Notice of Entry by Canadian Court of Claims Procedure Order (the “**Chapter 15 Claims Procedure Notice**”) with the U.S. Court which attaches the Claims Procedure Order and outlines, among other things, the notice procedures and the claims bar dates established by the Claims Procedure Order. The Chapter 15 Claims Procedure Notice states that any claimant that files a proof of claim solely with the U.S. Court or in connection with the Chapter 15 Cases must refile such proof of claim in accordance with the provisions of the Claims Procedure Order. A copy of the Chapter 15 Claims Procedure Notice is attached hereto as **Exhibit “D”**.

*(ii) Claims Procedure*

23. Hematite and the Monitor have each worked diligently to complete the various noticing procedures required by the Claims Procedure Order.<sup>2</sup> The following are the key milestones and deadlines that were established by the Claims Procedure Order:

- (a) Claims Package sent to Known Claimants: October 15, 2020;
- (b) Publication of newspaper notices: October 20, 2020;
- (c) Pre-Filing Claims Bar Date: 5:00 p.m. (Eastern Time) on November 9, 2020; and

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<sup>2</sup> All capitalized terms in this section have the meanings given to them in the Claims Procedure Order.

- (d) Restructuring Claims Bar Date: 5:00 p.m. (Eastern Time) on the later of: (i) the Pre-Filing Claims Bar Date; and (ii) the day which is 21 days after the Monitor sends a Claims Package with respect to a Restructuring Claim to the Claimant.

A. Notice Procedures Completed

24. On or before October 15, 2020, the Monitor sent a Claims Package to each of the Known Claimants located in Canada by email to the last known email address of the Known Claimant set out in the books and records of the Applicants. Where an email address was not known by Hematite for a Known Claimant, the Monitor sent the Claims Package by either ordinary mail, courier or facsimile to the last known mailing address or facsimile address of the Known Claimant.

25. On or before October 15, 2020, the Applicants' U.S. counsel (Womble Bond Dickenson (US) LLP), in consultation with the Monitor, sent a Claims Package to each of the Known Claimants located in the United States by U.S. mail, consistent with the usual practice of providing notice by that method in U.S. bankruptcy proceedings. The Monitor also sent the Claims Package by email to Known Claimants in the United States where such email address was known.

26. On or before October 15, 2020, the Monitor caused the Notice to Claimants, Claims Package, Instruction Letter and Claims Procedure Order to be posted on the Monitor's Website.

27. On October 19, 2020, the Notice to Claimants was published in the USA Today (National Edition). A copy of the Verification of Publication is attached hereto as **Exhibit "E"**.

28. On October 20, 2020, the Notice to Claimants was published in *The Globe and Mail* (National Edition). A copy of the publication is attached hereto as **Exhibit “F”**.

B. Summary of Claims Filed

29. The Pre-Filing Claims Bar Date was November 9, 2020 at 5:00 p.m. (Eastern Time). I am informed by the Monitor that 162 Proofs of Claim were filed by the Pre-Filing Claims Bar Date, asserting Claims in the aggregate amount of approximately \$49.6 million. The Monitor and Hematite have commenced their review of the Claims, but it is premature to estimate the amount of Claims that are likely to be accepted. I am informed by the Monitor that further details regarding these Claims will included its Third Report, to be filed.

**III. FLOW-THROUGH PAYMENT ORDER**

A. Flow-Through Payment Arrangements

30. As noted above, Hematite manufactures component parts such as under body shields, lower air deflectors and wheel liners which are used in the automotive manufacturing operations of the Customers. Hematite uses tooling that is unique to the particular component part and Customer in order to produce these component parts. Each component part is designed by the Customer, which design is provided to the tooling supplier that manufactures the tooling and supplies it to Hematite to use in its manufacturing operations.

31. Each tooling supplier invoices Hematite for the tooling. Hematite, in turn, invoices the Customer for the tooling that will be used to produce component parts for that Customer. The Customer becomes the owner of the tooling once it has been paid for, but the tooling is held and used by Hematite to produce those component parts. As Customers pay Hematite for that tooling,

Hematite “flows through” that payment by paying the tooling suppliers for the corresponding amount that they invoiced.

B. The Need For Relief

32. As of September 18, 2020, the date Hematite commenced these CCAA Proceedings (the “**Filing Date**”), Hematite owed certain amounts to tooling suppliers that had been, or subsequently were, invoiced to the Customers (the “**Pre-Filing Flow-Through Amount**”).

33. Paragraph 11 of the Amended and Restated Initial Order currently prohibits Hematite, until further order of this Court, from making any “payments of principal, interest thereof or otherwise on account of amounts owing by [Hematite] to any of their creditors as of the Filing Date.” Hematite is accordingly currently unable to “flow through” the Pre-Filing Flow-Through Amount to tooling suppliers upon receiving payment of those amounts from the Customers.

34. With respect to amounts invoiced by tooling suppliers in respect of tooling delivered on or after the Filing Date, while the Amended and Restated Initial Order would not prohibit Hematite from making the “flow-through” payments to the tooling suppliers upon receiving payment of those amounts from the Customers, the tooling suppliers and Customers have expressed a desire for greater certainty that those payments may continue to be made during the CCAA Proceedings in accordance with past practice.

35. It is crucial that these payments from Customers, including the Pre-Filing Flow-Through Amount, continue to be permitted to “flow through” to tooling suppliers in order to prevent the significant disruption to Hematite’s operations that would be caused by an interruption in the supply of necessary tooling. Failure to make these flow through payments could cause defaults in

the arrangements with Customers which, absent the CCAA stay, may entitle the Customers to take possession of tooling that remains key to Hematite's manufacturing business.

C. Relief Sought in the Flow-Through Payment Order

36. The relief sought in the Flow-Through Payment Order is tailored to only permit these "flow-through" payments where the following conditions are satisfied:

- (a) the amounts are related to the production and supply of tooling that has been delivered to Hematite;
- (b) the tooling has or will become the property of the applicable Customer;
- (c) the tooling is being, or will be, used in the production of parts for the applicable Customer;
- (d) Hematite has received payment of the amounts from the applicable Customer on or after the Filing Date; and
- (e) the payment received from the applicable Customer is in respect of the specific tooling supplied.

37. The Flow-Through Payment Order also directs Hematite to apply payments received from a Customer in respect of any specific tooling to pay the applicable tooling suppliers on a "flow-through" basis (but only up to 100% of the amount owing to the tooling supplier in respect of the specific tool at the relevant time). Hematite is required to account for these payments in its books and records in a traceable manner.

38. Making the flow through payments on a “pay-when-paid” basis will not affect Hematite’s cash flow as the flow through portion of these payments was not included when the cash flow was developed.

39. The Flow-Through Payment Order does not authorize Hematite to pay tooling suppliers for amounts owing to them where Hematite does not receive a corresponding payment from the Customers. There are a few contracts with tooling suppliers where the amounts invoiced or expected to be invoiced by the tooling supplier exceed the amounts that Hematite has received or expects to receive from the corresponding Customer. Any claims of the tooling suppliers in relation to these contracts are not affected by the Flow-Through Payment Order and will be addressed in the Plan as described below.

40. Further, to the extent tooling suppliers have not been paid, they are required to prove their claims in accordance with the Claims Procedure Order without prejudice to their ability to receive further amounts if and when Customers pay for the specific tooling.

41. I believe that the relief sought in the Flow-Through Payment Order is appropriately tailored to ensure the continuation of the existing “flow-through” payment arrangements with the tooling suppliers and the Customers, each of which are key stakeholders in Hematite’s business, while minimizing any potential prejudice to its other creditors and stakeholders.

#### **IV. CONTINUATION OF EQUIPMENT PAYMENTS ORDER**

42. Hematite has entered into various capital leases and secured loan agreements with lessors and secured creditors (each, an “**Equipment Creditor**”) with respect to equipment that is used in

its operations. The applicable agreements generally provide that Hematite is required to make certain payments at certain intervals.

43. As noted above, paragraph 11 of the Amended and Restated Initial Order currently prohibits Hematite, until further order of this Court, from making any “payments of principal, interest thereof or otherwise on account of amounts owing by [Hematite] to any of their creditors as of the Filing Date.” Hematite is accordingly currently unable to pay Equipment Creditors for amounts owing that were incurred prior to the Filing Date and are now payable in accordance with the payment arrangements in place as of the Filing Date.

44. Hematite, in consultation with Woodbridge and with the approval of the Monitor and Woodbridge, has reviewed the agreements that it was a party to as of the Filing Date. Hematite has disclaimed agreements where it was determined that either (i) the equipment was not required for its current or anticipated operations, or (ii) it was not desirable to continue the agreement in light of its economic terms. Accordingly, the equipment agreements that Hematite remains a party to relate to equipment that is important to Hematite’s operations and contain terms, including payment terms, that Hematite and Woodbridge have decided are reasonable to continue with.

45. As noted below, claims of secured creditors will not be compromised pursuant to the Plan and thus Hematite would be required to pay these pre-filing amounts owing on or after the implementation of the Plan to prevent the Equipment Creditor from exercising any remedies it may have as a result of the non-payment once these proceedings have been terminated and the stay of proceedings granted in the Amended and Restated Initial Order is no longer effective.

46. It is important that Hematite have the authority to continue to make payments to Equipment Creditors in a manner consistent with the payment arrangements in place as of the Filing Date, including with respect to certain pre-filing amounts owing, in order to ensure its continued use of the equipment.

47. The relief sought in the Continuation of Equipment Payments Order is tailored to only permit the payment to Equipment Creditors where the following conditions are satisfied:

- (a) the amounts are owed to an Equipment Creditor for equipment leased from or specifically financed by such Equipment Creditor;
- (b) the equipment was delivered to Hematite prior to the Filing Date;
- (c) the equipment is being, or will be, used in the operations of the Applicants;
- (d) the applicable agreement between one or more of the Applicants and the Equipment Creditor related to the equipment has not been disclaimed or terminated by the Applicants;
- (e) if the *Personal Property Security Act* (Ontario), *Uniform Commercial Code* (US) or similar statutes in other jurisdictions applies to the applicable agreement, the Equipment Creditor has taken all steps required by the applicable statute to obtain a first priority purchase-money security interest in the equipment; and
- (f) Woodbridge agrees to such payment.

48. I believe that the relief sought in the Continuation of Equipment Payments Order is appropriately tailored to ensure the continuation of existing payment arrangements with



Equipment Creditors while minimizing any potential prejudice to its other creditors and stakeholders.

## V. CCAA PLAN

### (i) *Overview*

49. With the support of Woodbridge and the Monitor, Hematite has formulated a plan to restructure its business and obligations, which will be effected pursuant to the Plan. The objective is to allow Hematite to emerge from the CCAA Proceedings under new ownership and on a restructured basis, while addressing the interests of all stakeholders in a fair and reasonable manner in the circumstances. A copy of the Plan is attached hereto as **Exhibit “G”**.

50. While Hematite is not presently seeking Court approval of the Plan or the transactions contemplated by it (the “**Transaction**”), the overarching aim, by the completion of the CCAA Proceedings, is to: (i) complete a restructuring and reorganization of Hematite whereby the existing shares of Hematite Holdings and Hematite Industrial will be extinguished and Woodbridge will acquire all of the new shares of Hematite Holdings and Hematite Industrial for the Plan Funding Amount; (ii) provide for a compromise of Affected Claims and consideration for Affected Claims that are Proven Claims; (iii) effect a release and discharge of all Affected Claims – all in the expectation that Affected Creditors will derive a greater benefit from implementation of the Plan than they would derive from a bankruptcy or liquidation of Hematite.

51. The Meeting Order, which is now sought by Hematite, deals with the processes and procedures relating to the Plan and the meeting of Affected Creditors to vote on the Plan.

(ii) *The Transaction*

52. Pursuant to the Plan, the Plan Sponsor Agreement and the CCAA Proceedings, Woodbridge will acquire Hematite Holdings and Hematite Industrial and the obligations of Hematite will be restructured. Woodbridge, Hematite Holdings and Hematite Industrial will enter into a subscription agreement (the “**Subscription Agreement**”) prior to the Plan Implementation Date providing for the subscription by Woodbridge for certain new common shares of Hematite Holdings and Hematite Industrial (the “**New Common Shares**”) for a purchase price equal to the Plan Funding Amount. The Plan Funding Amount will be allocated between Hematite Holdings and Hematite Industrial in the manner contemplated by the Subscription Agreement.

53. The Plan Funding Amount is the amount needed by Hematite, in excess of the Cash on Hand at the Effective Time: (i) to fund the Creditor Distribution Pool (including the Unresolved Claims Reserve); (ii) to fund the Administration Reserve; (iii) to pay amounts to Unaffected Creditors required by the Plan; (iv) to make any other payments to be made by Hematite pursuant to or as otherwise contemplated by the Plan; and (v) to leave Hematite with a sufficient amount of cash for working capital purposes immediately after the Effective Time as determined by Hematite and Woodbridge in accordance with the Plan Sponsor Agreement.

54. On the Plan Implementation Date, Hematite will file articles of reorganization for each of Hematite Holdings and Hematite Industrial, which will, in each case, among other things:

- (a) create an unlimited number of New Common Shares and set out the rights, privileges, restrictions and conditions attaching thereto; and
- (b) extinguish the Existing Shares for no consideration.

(iii) *Affected and Unaffected Claims*

A. Affected Claims

55. The Plan provides for a single class of Affected Creditors. An “Affected Creditor” is defined in the Plan as a Creditor with an Affected Claim. An “Affected Claim” is defined as any Claim that is not an Unaffected Claim and includes, for greater certainty, a Tooling Claim, a Restructuring Claim and an Equity Claim. Oversimplified, Affected Claims generally consist of unsecured claims against the Applicants.

B. Unaffected Claims

56. In addition to the Claims of certain key stakeholders, which are described in further detail below and are being restructured or otherwise addressed in separate arrangements with each such stakeholder, the following Claims are Unaffected Claims and will not be compromised pursuant to the Plan:

- (a) Claims secured by the CCAA Charges;
- (b) Claims that are accepted as or determined to be Secured Claims pursuant to the Claims Procedure Order;
- (c) CCAA Priority Payment Claims, which are claims for amounts required to be paid by sections 6(3), (5) and (6) of the CCAA;
- (d) Claims of Employees and Directors that are unrelated to the cessation of employment for all amounts owing to them in their capacity as such by statute or otherwise for or in connection with accrued salary, accrued wages, accrued

bonuses, fees and expenses, reimbursement obligations, accrued vacation leave and accrued vacation pay;

- (e) Insured Claims, which are that portion of a Claim arising from a cause of action for which Hematite is covered by insurance, only to the extent of such coverage and limited to the actual recovery received from the applicable insurer(s) by Hematite;
- (f) Tooling Claims, but only to the extent of Tooling Payments, if any, made after the Distribution Record Date (as described further below);
- (g) Claims by any Director under any directors' or officers' indemnity policy or agreement with Hematite to the extent not otherwise covered by the CCAA Charges; and
- (h) Claims by the Monitor, counsel to the Monitor, the CRO, or counsel to Hematite.

C. Key Lenders

57. Prior to the commencement of these proceedings, Hematite and Woodbridge made arrangements with TD, Hematite's primary operating lender, whereby Woodbridge acquired part of the debt (the "**Assigned TD Loans**") and all of the security of TD, other than in respect of certain equipment leases which would be unaffected in the CCAA Proceedings. Hematite was in default of the Assigned TD Loans at the time of their acquisition by Woodbridge. Definitive documentation with respect to these arrangements was entered into on September 21, 2020 and the transfer of the Assigned TD Loans was implemented.

58. As contemplated in these arrangements, any Claim related to certain equipment leases with TD Equipment Finance Canada listed in Schedule “B” to the Plan is an Excluded Claim and will not be compromised pursuant to the Plan. The Plan contemplates that, as a condition to the implementation of the Plan, Woodbridge and Hematite will agree upon the terms that will govern the repayment of the TD Assigned Loans.

59. Similarly, prior to the commencement of these proceedings, Hematite and Woodbridge made arrangements with BDC, Hematite’s other key lender, whereby BDC would agree to forbear from enforcing its rights and, effective upon implementation of the Plan, will amend its credit agreement to convert its debt into a post-restructuring facility. Efforts to finalize the definitive documentation with respect to these arrangements are underway. As contemplated in these arrangements, any Claim pursuant to, or related to, the letter of offer of financing no. 076542-03 dated December 21, 2017, as amended, supplemented and otherwise modified from time to time, between BDC, Hematite Manufacturing and certain others is an Excluded Claim and will not be compromised pursuant to the Plan.

#### D. Customers

60. Prior to the commencement of these proceedings, Hematite and Woodbridge entered into customer support and consent agreements (the “**Customer Support Agreements**”) with each of the Customers whereby the Customers agreed to certain ongoing purchase commitments to support the ongoing operation of the Hematite business during and following the CCAA Proceedings.

61. As contemplated in these agreements, the CCAA Plan provides that any Claim by a Customer in relation to any warranty, recall, product liability or other obligation of Hematite to

such Customer pursuant to the purchase agreements, purchase orders, and/or other contracts set out in the Customer Support Agreements is an Excluded Claim and will not be compromised pursuant to the Plan.

E. Woodbridge

62. Any Claim by Woodbridge or its affiliates against Hematite, including a Claim for or related to (i) the Assigned TD Loans, (ii) the Plan Sponsor Agreement, (iii) the DIP Facility, and (iv) the services agreement between Woodbridge and Hematite dated September 18, 2020, is an Excluded Claim and will not be compromised pursuant to the Plan.

*(iv) Treatment of Affected Creditors and Distributions Under the Plan*

63. Affected Creditors with a Proven Claim in an amount less than or equal to \$10,000 (the “**Election Amount**”) and those Affected Creditors with Proven Claims that exceed the Election Amount and who have delivered an Election Notice to the Monitor in accordance with the Meeting Order will receive, in full satisfaction of such Proven Claims (each, a “**Convenience Creditor**”), payment in an amount equal to the lesser of the Election Amount and the actual amount of such Proven Claims.

64. The Election Notice is included in the Proxy and Election Notice attached as Schedule “A” to the Meeting Order. In order to be effective, the Proxy and Election Notice must be received by the Monitor no later than 5:00 p.m. on the date that is three (3) Business Days prior to the date of the Meeting (or any adjournment thereof).

65. Affected Creditors with Proven Claims (other than Equity Claims) that exceed in aggregate the Election Amount and who have not delivered an Election Notice to the Monitor in

accordance with the Meeting Order will receive, in full satisfaction of such Proven Claims, their *pro rata* share of the balance of the Creditor Distribution Pool after deducting (i) the amount held in the Unresolved Claims Reserve, and (ii) the amounts paid to Convenience Creditors.

66. As noted above, tooling suppliers may have claims against Hematite that relate to the unpaid purchase price for tooling for a Customer ordered by and delivered to Hematite (each, a “**Tooling Claim**”). Consistent with the “flow through” payment arrangements set out above, Hematite may receive payments from a Customer after the Filing Date for tooling that is the subject of a Tooling Claim (each, a “**Tooling Receipt**”). Hematite may make a payment to the tooling supplier on account of their Tooling Claim, whether from a Tooling Receipt or otherwise (each, a “**Tooling Payment**”). The amount of a tooling supplier’s Tooling Claims against Hematite at any given time will equal the original amount of their Tooling Claims less any Tooling Payments received by the tooling supplier in respect of the Tooling Claims (the “**Tooling Claim Amount**”).

67. The Plan provides that the recovery of any Person having a Tooling Claim will be limited to:

- (a) Tooling Receipts that relate specifically to such Tooling Claim (as noted above, Hematite intends to continue “flowing through” the Tooling Receipts to tooling suppliers as they are received from the Customers) up to the Tooling Claim Amount; and
- (b) A *pro rata* distribution from the Creditor Distribution Pool in respect of the Tooling Claim Amount as of the Distribution Record Date.

68. In the case of most tooling suppliers, where the Tooling Payments actually paid by the corresponding Customer after the Filing Date are equal to their Tooling Claims, it is expected that they will ultimately recover their Tooling Claims in full.

69. Tooling Claims (net of any Tooling Payments already received by the applicable tooling supplier) will be treated as Affected Claims under the Plan and tooling suppliers will be entitled to vote as an Affected Creditor and receive a *pro rata* distribution from the Creditor Distribution Pool in respect of their Tooling Claim Amount, on the same basis as other Affected Creditors.

70. The Creditor Distribution Pool in the amount of \$5.5 million will be funded by Woodbridge (as part of the Plan Funding Amount), which includes the amount to be held in the Unresolved Claims Reserve but does not include the amount to be held in the Administration Reserve (which are each detailed further below).

71. At the Effective Time, all Affected Claims will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred subject only to the right of Affected Creditors with Proven Claims (other than Equity Claims) to receive distributions pursuant to the Plan.

(v) ***Treatment of Unaffected Creditors***

72. Hematite will make the following payments from Available Cash in full satisfaction and discharge of the following Unaffected Claims:

- (a) payment to each holder of a CCAA Priority Payment Claim of all amounts required to satisfy such holder's CCAA Priority Payment Claim in full;



- (b) payment in full of all Claims secured by the CCAA Charges, other than the DIP Lender's Charge (as defined in the Amended and Restated Initial Order); and
- (c) payment of any other amounts required to be paid in accordance with the Plan Sponsor Agreement, the Plan or the CCAA at or before the Effective Time.

73. The Unaffected Claims that are not paid pursuant to the Plan will continue and not be compromised by the Plan.

**(vi) Reserves**

74. The Plan provides for the establishment of an Unresolved Claims Reserve sufficient to provide each holder of an Unresolved Claim with the *pro rata* amount of the Creditor Distribution Pool that they would be entitled to under the Plan if such Unresolved Claims, or certain portions thereof, are determined to be Proven Claims in accordance with the Claims Procedure Order. The amount of the Unresolved Claims Reserve will be agreed upon by the Monitor, Hematite and the Plan Sponsor, and approved by the Court.

75. The Plan also provides for the establishment of the Administration Reserve in an amount sufficient to pay the fees and expenses of Hematite's counsel, the Monitor and the Monitor's counsel in connection with administering the resolution of Unresolved Claims in accordance with the Claims Procedure Order and performing any other work required of the Monitor after the Effective Time. The amount of the Administration Reserve will be agreed upon by the Monitor, Hematite and the Plan Sponsor, and approved by the Court. Any amount remaining in the Administration Reserve after completion of such work will be released to Hematite.

(vii) ***Releases***

76. The Plan provides that each of (i) Hematite; (ii) the CRO; (iii) the Monitor; (iv) Woodbridge; and (v) their respective Representatives (collectively, the “**Released Parties**”) will be fully, finally and irrevocably released and discharged from all Released Claims at the Effective Time, which will be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties.

77. From and after the Effective Time, all Persons will be permanently barred with respect to any Released Claims from: (i) commencing, directly or indirectly, any action or other proceeding of any kind against any of the Released Parties; (ii) enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property; (iii) commencing in any manner, directly or indirectly, any action or other proceeding of any kind against any Person who makes a claim or might reasonably be expected to make a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any Encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of the Plan.

(viii) ***Conditions Precedent to Plan Implementation***

78. Implementation of the Plan is conditional on the satisfaction or waiver of certain conditions set out in Section 9.1 of the Plan. At a high level, the conditions precedent include that:

- (a) the Plan will have been approved by the Affected Creditors;

- (b) the Sanction Order will have been issued by the Court, and the Sanction Order will have been recognized and given full force and effect in the United States by an order of the U.S. Court in the Chapter 15 Cases;
- (c) the Subscription Agreement will have been executed, delivered and become effective in accordance with its terms, subject only to the occurrence of the Plan Implementation Date, and Woodbridge will have paid the Plan Funding Amount to Hematite in accordance with the Subscription Agreement;
- (d) definitive documentation will have been entered into with BDC in the form of an amended and restated loan agreement between BDC (as lender), Hematite Manufacturing Inc. (as borrower) and certain others, in form and content satisfactory to each and consistent with the arrangements reached prior to the commencement of the CCAA Proceedings;
- (e) arrangements satisfactory to Woodbridge and Hematite in respect of the repayment of, and the terms governing, the DIP Facility and the Assigned TD Loans from and after the Plan Implementation Date will have become effective, subject only to the occurrence of the Plan Implementation Date;
- (f) each of the conditions precedent to the closing of the Transaction provided in the Plan Sponsor Agreement will have been satisfied or waived in accordance with the terms of the Plan Sponsor Agreement;
- (g) all relevant Persons will have executed, delivered and filed all documents and other instruments that, in the opinion of Hematite and Woodbridge, acting

reasonably, are necessary to implement the provisions of the Plan and the Sanction Order;

- (h) no action or proceeding will be pending by any third party or enjoin or prohibit the Transaction; and
- (i) all applicable approvals and orders of, and all applicable submissions and filings with, governmental, regulatory and judicial authorities having jurisdiction for the completion of the transactions contemplated by the Plan will have been obtained or made.

**(ix) *Filing the Plan***

79. Hematite is not presently seeking Court approval of the Plan. Rather, Hematite is seeking to file the Plan with the Court and to bring the Plan before the Affected Creditors to vote upon it at the proposed Meeting. The Plan reflects a significant step forward in the restructuring of Hematite. In my view, the Plan fairly balances the interests of Hematite's stakeholders and paves the way for a significantly better outcome for the Affected Creditors than they would derive from a bankruptcy or liquidation of Hematite.

80. The Plan is consistent with the agreements and arrangements entered into with Hematite's key stakeholders prior to the CCAA Proceedings, including its secured lenders, major customers and certain key suppliers, many of whom will be unaffected by the Plan (but subject to separate arrangements).

## VI. MEETING AND MEETING ORDER

81. Hematite intends to hold a Meeting to enable the Affected Creditors to vote on a resolution to approve the Plan and any amendments thereto. It is proposed that the Meeting be held on December 11, 2020. As a result of the COVID-19 pandemic and the continued restriction on gathering in the Province of Ontario, it is proposed that the Meeting will be held by videoconference and the details for such videoconference will be set out in the Notice of Meeting and Sanction Hearing and the Information Statement (each as defined in the Meeting Order). Affected Creditors will also be able to participate by telephone. I believe that, in the circumstances, it is necessary and appropriate to hold the Meeting by videoconference.

82. The Meeting Order provides that all Affected Creditors will constitute a single class for the purposes of considering and voting on the Plan. I believe that the classification of creditors is fair, having regard to the creditors' legal interests, the remedies available to them, the extent to which they would recover their claims by exercising those remedies and the consideration offered to them under the Plan.

(i) *Notice and Information Relating to the Meeting, Plan and Sanction Hearing*

83. Hematite has prepared the following documents in relation to the Meeting, the Plan and the Sanction Hearing:

- (a) an Information Statement, attached hereto as **Exhibit "H"**; and
- (b) the Notice of Meeting and Sanction Hearing, attached hereto as **Exhibit "I"**.

84. The Information Statement and the Notice of Meeting and Sanction Hearing, together with the Proxy and Election Notice for Affected Creditors substantially in the form attached as Schedule “A” to the Meeting Order (the “**Proxy and Election Notice**”) are collectively referred to as the “**Meeting Materials**”.

85. The Meeting Order sets out the manner in which notice of the Meeting will be provided. It provides that, as soon as practicable after the granting of the Meeting Order, the Monitor shall:

- (a) cause a copy of the Meeting Materials and the Meeting Order to be posted on the Monitor’s Website;
- (b) send the Meeting Materials to (i) all Affected Creditors with Affected Claims in respect of which a Proof of Claim has been filed in a proper and timely manner in accordance with the Claims Procedure Order and that is not barred pursuant to the Claims Procedure Order, (ii) the parties listed on the Consolidated List Required Pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure filed on September 24, 2020 with the United States Bankruptcy Court for the District of Delaware; (iii) the service list maintained by the Monitor in these CCAA Proceedings (the “**Service List**”); and (iv) any Affected Creditor or holder of a D&O Claim who makes a written request to the Monitor for a copy of the Meeting Materials (collectively, the “**Meeting Materials Parties**”) in each case by e-mail at the last known e-mail address for such Creditors set out in the books and records of the Applicants or as provided in relation to the Claims Procedure Order, or by regular mail, fax or courier if an e-mail address for such Creditors is not known (except that where such Creditors are represented by counsel known

by the Debtors, the email address, mailing address or fax number of such counsel may be substituted);

- (c) cause notice of the Meeting, substantially in the form of the Notice of Meeting and Sanction Hearing, amended or abridged as the Monitor deems reasonable in its discretion for the purposes of publication, to be published for a period of one (1) Business Day in *The Globe and Mail* (National Edition) and USA Today (National Edition).

86. In my view, the notice provisions set out in the Meeting Order are reasonable and provide sufficient notice of the Meeting and Sanction Hearing and information regarding the Plan.

**(ii) *Amendments to the Plan and Meeting Materials***

87. The Meeting Order contemplates that amendments may be made to the Plan and to the Meeting Materials. Specifically, the Meeting Order provides that:

- (a) Hematite may, with the consent of Woodbridge at any time, and from time to time, prior to or during the Meeting, amend, restate, modify and/or supplement the Plan provided that any such amendment, restatement, modification and/or supplement shall be made in accordance with the terms of the Plan and communicated in accordance with the Meeting Order; and
- (b) Hematite, in consultation with the Monitor and with the consent of Woodbridge, may from time to time: (a) make such changes to the documents in the Meeting Materials as Hematite, in consultation with the Monitor and Woodbridge, considers necessary or desirable, including but not limited to changes to conform

the content thereof to the terms of the Plan (including any amendments, restatements, modifications or supplements thereto), this Order or any further Orders of the Court; and (b) prepare any supplements to the Information Circular as Hematite, in consultation with the Monitor and Woodbridge, considers necessary or desirable (each, a “**Supplemental Information Circular**”).

88. The Meeting Order provides that, as soon as reasonably practicable after finalization of any Supplemental Information Circular, any amendments or supplements to the Meeting Materials and any amendments, restatements, modifications and/or supplements to the Plan in accordance with the Meeting Order, the Monitor will (a) cause such materials to be posted on the Monitor’s Website; and (b) if made prior to the Meeting, send such materials to the Meeting Materials Parties or, if made at the Meeting, provide notice to those present at the Meeting prior to the vote being taken to approve the Plan.

*(iii) Conduct of the Meeting*

89. The draft Meeting Order also provides for, among other things, the following in respect of the governance of the Meeting:

- (a) a representative of the Monitor, designated by the Monitor, shall preside as the chair (the “**Chair**”) of each Meeting and, subject to the Meeting Order and any further order of this Court, shall decide all matters relating to the conduct of the Meeting;
- (b) a quorum for the Meeting is one Affected Creditor with a Voting Claim in attendance at the Meeting personally or by proxy;



- (c) the Monitor may appoint scrutineers (the “**Scrutineers**”) for the supervision and tabulation of the attendance, quorum and votes cast at the Meeting;
- (d) a Person designated by the Monitor shall act as secretary at the Meeting;
- (e) the Chair shall be entitled to adjourn and further adjourn a Meeting at a Meeting or any adjourned Meeting provided that any such adjournment or adjournments shall be for a period of not more than thirty (30) days in total and, in the event of any such adjournment, Hematite and the Monitor shall not be required to deliver any notice of adjournment of a Meeting or adjourned Meeting other than posting notice on the Monitor’s Website and notifying the Service List of the adjournment; and
- (f) the only Persons entitled to notice of or to attend the Meeting are: (i) the Monitor and its counsel; (ii) those Persons, including the holders of Proxies, entitled to vote at the Meeting pursuant to the Meeting Order and their legal counsel and advisors; (iii) Hematite’s officers, legal counsel and advisors; (iv) the Chief Restructuring Officer; (v) Woodbridge’s officers, legal counsel and advisors; and (vi) the Scrutineers and the Secretary. Any other Person may be admitted to a Meeting on invitation of the Chair.

(iv) *Proxies and Representative Counsel as Proxy*

90. Affected Creditors entitled to vote at a Meeting may vote at the Meeting personally or by proxy; however, such a Creditor who is not an individual may only attend and vote at a Meeting if it has appointed a proxyholder to attend and act on its behalf at such Meeting.

91. Any Proxy must be received by the Monitor by no later than 5:00 p.m. on the date that is three (3) Business Days prior to the Meeting or any adjournment of the Meeting as provided in the Meeting Order.

(v) ***Voting Procedure***

92. At the Meeting, the Chair will direct a vote on a resolution to approve the Plan and any amendments thereto as Hematite may consider appropriate, and may direct a vote with respect to any other resolutions as the Chair may consider appropriate, in consultation with Hematite.

93. Only Affected Creditors holding Proven Claims or Unresolved Claims or their proxies will be entitled to vote at the Meeting.

94. The Record Date for the purposes of determining which Affected Creditors are entitled to vote at the Meeting in respect of all Proven Claims is December 4, 2020. Each Affected Creditor as of the Record Date with an Affected Claim that is a Proven Claim is entitled to one vote (each, a “**Voting Claim**”, and collectively the “**Voting Claims**”) in respect of such Affected Claim, which vote shall have a value equal to the dollar value of such Affected Creditor’s Proven Claim determined in accordance with the Claims Procedure Order, provided that:

- (a) in the case of a Proven Claim that includes an Insured Claim, the vote shall have a value equal to the portion of the Proven Claim, if any, that is not an Insured Claim;
- (b) in the case of a Proven Claim that includes a Tooling Claim, the vote shall have a value equal to the sum of (i) the portion of the Proven Claim, if any, that is not a Tooling Claim, and (ii) the Tooling Claim Amount as of the Record Date.

95. Unaffected Creditors and holders of Equity Claims are not entitled, in such capacity, to attend the Meeting or vote on the Plan.

96. Affected Creditors with Unresolved Claims (or their proxies) may attend and vote at the Meeting and will have their voting intentions with respect to the Unresolved Claims separately recorded by the Monitor and reported to this Court.

97. Pursuant to the Meeting Order, each Convenience Creditor with a Voting Claim will be deemed to vote in favour of the Plan unless such Convenience Creditor has notified the Monitor in writing of its intention to vote against the Plan prior to the Meeting and does vote against the Plan at such Meeting either personally or by proxy.

98. The vote on the resolution to approve the Plan will be decided by approval of the Plan by a majority in number of the Affected Creditors holding Voting Claims representing at least two-thirds in value of the Voting Claims that are in attendance personally or by proxy and voting at the Meeting (the “**Required Majorities**”).

*(vi) Monitor’s Report*

99. The Monitor will provide a report to the Court within three Business Days following the Meeting, which shall be served on the Service List and posted on the Monitor’s Website as soon as practicable after it is filed with the Court. The Monitor’s report on the Meeting will include:

- (a) the results of the voting at the Meeting on the resolution to approve the Plan;
- (b) whether the Required Majorities have approved the Plan;

- (c) whether the votes cast in respect of Unresolved Claims, if any, would affect the result of that vote; and
- (d) any other matter which the Monitor considers relevant.

**(vii) *Sanction Hearing***

100. If the Plan is approved by the Required Majorities, Hematite intends to seek Court approval of the Plan by seeking the Sanction Order at the Sanction Hearing before this Court on December 18, 2020, or such later date as the Court may set.

101. The Meeting Order provides that Hematite will serve the Service List with the motion materials relating to the Sanction Hearing and, otherwise, the posting on the Monitor's Website, service of the Meeting Materials and/or publication in accordance with the notice provisions of the Meeting Order will constitute sufficient service and notice of the Sanction Hearing.

102. Any party who wishes to oppose the entry of the Sanction Order will be required to serve on the Service List a notice setting out the basis for such opposition and a copy of the materials to be used to oppose the granting of the Sanction Order at least two (2) Business Days before the date set for the Sanction Hearing.

**(viii) *Meeting Order Should be Approved***

103. For the foregoing reasons, it is in the best interests of Hematite and its stakeholders that Hematite proceed to file the Plan and have Affected Creditors vote on it. Hematite therefore respectfully requests that this Honourable Court issue the Meeting Order, accept the Plan for filing and schedule the Sanction Hearing.

**VII. STAY EXTENSION**

104. The Stay Period is currently set to expire on November 27, 2020. Hematite is seeking a further extension of the Stay Period to and including December 31, 2020.

105. Since the Stay Period was most recently extended on September 28, 2020, Hematite has, among other things:

- (a) continued to operate and manage the business, subject to the terms of the Amended and Restated Initial Order;
- (b) disclaimed certain agreements that Hematite determined, in consultation with Woodbridge and the Monitor, were uneconomical and/or not required for its go-forward business plan;
- (c) obtained final recognition of the CCAA Proceedings as “foreign main proceedings”, and recognition and enforcement of the Amended and Restated Initial Order, in the United States pursuant to Chapter 15 of the Bankruptcy Code;
- (d) obtained the Claims Procedure Order from this Court on October 13, 2020, and carried out the noticing procedures contemplated in that Order;
- (e) assisted the Monitor as it commences the process to review claims received in accordance with the Claims Procedure Order;
- (f) continued its efforts to finalize definitive documentation with BDC;

- (g) worked with the Monitor to respond to inquiries from suppliers, customers, banking and other service providers, landlords and others regarding the CCAA proceedings;
- (h) addressed concerns raised by tooling suppliers and Customers with respect to the continuation of the existing payment arrangements that are reflected in the Flow-Through Payment Order (described further below); and
- (i) developed the Plan, the Meeting Order, the Meeting Materials and the other materials related thereto.

106. The Plan Sponsor Agreement between Hematite and Woodbridge requires that these CCAA Proceedings will be completed by December 31, 2020. The requested extension is necessary and appropriate in the circumstances to allow Hematite to, among other things:

- (a) continue assisting the Monitor as it reviews claims received in accordance with the Claims Procedure Order;
- (b) provide notice of the Meeting, the Plan and the Sanction Hearing in accordance with the Meeting Order;
- (c) conduct the Meeting on December 11, 2020 in accordance with the Meeting Order;
- (d) seek approval of the Plan at the Sanction Hearing;
- (e) negotiate agreements and finalize arrangements contemplated by the Plan Implementation Conditions; and

(f) implement the Plan.

107. Hematite has acted, and continues to act, in good faith and with due diligence in the CCAA Proceedings, and has acted in accordance with the CCAA and the various orders of the Court at all times.

108. For the foregoing reasons, I believe it is in the best interests of Hematite and its stakeholders that the Stay Period be extended to and including December 31, 2020.

**VIII. CONCLUSION**

109. For the reasons stated above, the relief requested in the Flow-Through Payment Order, the Continuation of Equipment Payments Order and the Meeting Order is in the best interests of Hematite and its stakeholders and appropriate in the circumstances.

SWORN BEFORE ME over videoconference on this 11th day of November, 2020. The affiant was located in the City of Guelph, in the Province of Ontario and the Commissioner was located in the Town of Whitchurch-Stouffville, in the Province of Ontario. This affidavit was commissioned remotely as a result of the COVID-19 pandemic.

  
\_\_\_\_\_  
Jacques Nadeau



\_\_\_\_\_  
A Commissioner for taking Affidavits  
Name: Trevor Courtis (LSO# 67715A)

This is **Exhibit “A”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020



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A Commissioner for taking affidavits



ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR.

)

MONDAY, THE 28TH

JUSTICE HAINEY

)

DAY OF SEPTEMBER, 2020

)



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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS INC.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS MOTION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order amending and restating the initial order (the "Initial Order") issued on September 18, 2020 (the "Initial Filing Date") was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

ON READING the affidavit of Jacques Nadeau sworn September 17, 2020 and the Exhibits thereto, the affidavit of Jacques Nadeau sworn September 24, 2020 and the Exhibits thereto, the consent of KPMG Inc. ("KPMG") to act as the Monitor (in such capacity, the "Monitor"), the Pre-Filing Report of KPMG in its capacity as the proposed Monitor, and the First Report of the Monitor dated September 25, 2020; on being advised that the secured creditors of the Applicants who are likely to be affected by the charges created herein were given notice; on hearing the submissions of counsel for the Applicants, the Monitor and those other parties listed on the counsel slip; and on being advised that those parties listed in the affidavit of service, filed, were given notice of the Motion.

#### **INITIAL ORDER AND INITIAL FILING DATE**

1. **THIS COURT ORDERS** that the Initial Order, reflecting the Initial Filing Date, shall be amended and restated as provided for herein.

#### **SERVICE**

2. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

#### **APPLICATION**

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

#### **PLAN OF ARRANGEMENT**

4. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan"),

#### **POSSESSION OF PROPERTY AND OPERATIONS**

5. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their businesses (the "Business") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, contractors, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by them, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place or, with the consent of the Monitor, replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the Initial Filing Date:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses (including, without limitation, in respect of expenses charged by employees to corporate credit cards) payable on or after the Initial Filing Date in respect of employees and contractors, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants, in respect of these proceedings, at their standard rates and charges; and
- (c) with the consent of the Monitor and the DIP Lender (as defined below), amounts owing for goods or services actually supplied to the Applicants prior to the Initial Filing Date by suppliers or other third parties if in the opinion of the Applicants such payment is necessary for the ongoing operations of the Applicants or preservation of the Property, and the payment is required to ensure ongoing supply, up to an aggregate limit of \$700,000 for all such payments without further Order of this Court.



8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course on or after the Initial Filing Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the Initial Filing Date (and, in respect of expenses incurred by credit card, the Applicants may provide cash collateral to the credit card issuer with the consent of the Monitor and DIP Lender).

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the Initial Filing Date, or where such Sales Taxes were accrued or collected prior to the Initial Filing Date but not required to be remitted until on or after the Initial Filing Date; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured

creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

10. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the Initial Filing Date, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the Initial Filing Date shall also be paid.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the Initial Filing Date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

### **RESTRUCTURING**

12. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the plan sponsor agreement between the Applicants and Woodbridge Foam Corporation dated September 17, 2020 and the Definitive Documents (as hereinafter defined) have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of the business or operations, and, with the consent of the DIP Lender, to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) terminate the employment of such employees or temporarily lay off such employees as they deem appropriate; and

- (c) pursue all avenues of refinancing the Business or Property in connection with the implementation of the Plan,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “Restructuring”).

13. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants’ entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants’ claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours’ prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

15. **THIS COURT ORDERS** that until and including November 27, 2020 or such later date as this Court may order (the “Stay Period”), no proceeding or enforcement process in any court

or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

17. **THIS COURT ORDERS** that, during the Stay Period, all rights and remedies of any Person against or in respect of Hematite R.E. 1, Inc. (the "Affected Party") arising out of, relating to, or triggered by the insolvency of any of the Applicants, the making or filing of these proceedings or any allegation, admission or evidence in these proceedings (collectively, the "Cross-Default Matters"), are hereby stayed and suspended except with the written consent of the relevant Applicants, the Affected Party and the Monitor, or leave of this Court, and the operation of any provision of any agreement or other arrangement between any Person and the Affected Party whether written or oral that purports to accelerate, terminate, cancel, suspend or modify such agreement or arrangement or create a right to purchase, a right of first refusal or a lien with respect to any property of the Affected Party as a result of any of the Cross-Default Matters is hereby stayed and restrained pending further order of this Court.



### **NO INTERFERENCE WITH RIGHTS**

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Initial Filing Date are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Initial Filing Date, nor shall any Person be under any obligation on or after the Initial Filing Date to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.



### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the Initial Filing Date and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

22. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000 as security for the indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 40 and 42 herein.

24. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

## APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that KPMG is hereby appointed as of the Initial Filing Date pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and its advisers of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in the preparation of the Applicants' cash flow statements, which information shall be reviewed with the Monitor;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the

Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor

shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential or privileged, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

30. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

#### **ADMINISTRATION CHARGE**

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a bi-weekly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicants, retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

32. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$500,000 as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of the Initial Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 40 and 42 hereof.



**DIP FINANCING**

34. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Woodbridge Foam Corporation (the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$6.0 million unless permitted by further Order of this Court.

35. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the Revolving DIP Loan Agreement between the Applicants and the DIP Lender dated as of September 17, 2020 (the “**DIP Loan Agreement**”), filed.

36. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, including the DIP Loan Agreement, the “**Definitive Documents**”), as are contemplated by the DIP Loan Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Loan Agreement and the other Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

37. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before the Initial Order was made. The DIP Lender’s Charge shall have the priority set out in paragraphs 40 and 42 hereof.

38. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender’s Charge, the DIP Lender, upon three (3) business days’ notice to the

Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Loan Agreement, the other Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Loan Agreement, the other Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

39. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

**VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

40. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge and the DIP Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum initial amount of \$500,000);

Second – DIP Lender's Charge; and

Third – Directors' Charge (to the maximum initial amount of \$500,000).

41. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge, the Administration Charge or the DIP Lender's Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent

to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

42. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

43. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtains the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Administration Charge and the Directors' Charge, or further Order of this Court.

44. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Loan Agreement or the other Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into

the DIP Loan Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Applicants pursuant to this Order, the DIP Loan Agreement or the other Definitive Documents, and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

45. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

46. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Loan Agreement, the other Definitive Documents or the DIP Lender's Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "Variation") whether by subsequent order of this Court, on or pending an appeal from this Order, such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender whether under this Order (as made prior to the Variation), under the DIP Loan Agreement and the other Definitive Documents, with respect to any advances made prior to the DIP Lender being given notice of the Variation and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Lender's Charge) for all advances so made.

#### **SERVICE AND NOTICE**

47. **THIS COURT ORDERS** that the Monitor shall (i) without delay from the Initial Filing Date, publish in the Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA in respect of the Initial Order, (ii) within five days after the Initial Filing Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner or by electronic message to the e-mail address as last shown on the records of the Applicants, a notice to every known creditor who has a claim against the Applicants of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly



available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

48. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the "Guide") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <http://home.kpmg/ca/hematitegroup>.

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile or other electronic transmission to the Applicants' creditors or other interested parties and their advisers at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery, facsimile or other electronic transmission shall be deemed to be received on day of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

50. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder.

51. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

52. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory body or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to Hematite Holdings Inc. in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

53. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that Hematite Holdings Inc. is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in any other jurisdiction outside Canada, including the United States pursuant to chapter 15 of title 11 of the United States Code.

54. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date it is made without any need for entry and filing.

A handwritten signature in black ink, appearing to read "Hematite", with a long horizontal stroke extending to the right and a vertical stroke at the end.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

SEP 29 2020

PER / PAR:

A handwritten signature in black ink, appearing to be a stylized "A" or similar character.

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 HEMATITE HOLDINGS INC. ET AL.

Court File No: CV-20-00647824-00CL

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

Proceeding commenced at Toronto

**AMENDED AND RESTATED  
INITIAL ORDER**

**McCarthy Tétrault LLP**  
Suite 5300, TD Bank Tower  
Toronto ON M5K 1E6  
Fax: 416-868-0673

**James Gage** LSO#: 346761  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Trevor Courtis** LSO#: 67715A  
Tel: 416-601-7643  
Email: [tcourtis@mccarthy.ca](mailto:tcourtis@mccarthy.ca)

This is **Exhibit “B”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020

A handwritten signature in black ink, consisting of a stylized 'J' followed by a large, loopy flourish.

---

A Commissioner for taking affidavits





Court File No. CV-20-00647824-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) TUESDAY, THE 13TH  
MR. JUSTICE HAINEY ) DAY OF OCTOBER, 2020

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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC., HEMATITE  
INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO HOLDINGS U.S.  
INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.

Applicants

**CLAIMS PROCEDURE ORDER**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order (the "**Claims Procedure Order**") approving a procedure for the identification, quantification, and resolution of certain claims of creditors of the Applicants and their respective directors and officers, was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

ON READING the Notice of Motion, the affidavit of Jacques Nadeau sworn October 7, 2020 and the Exhibits thereto, and the Second Report of KPMG Inc. in its capacity as monitor of the Applicants (the "**Monitor**") dated October 9, 2020 (the "**Second Report**"), and on hearing the submissions of counsel for the Applicants, the Monitor and those other parties that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service, filed.

## SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Record of the Applicants and the Second Report is hereby abridged and validated such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) “**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (b) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (c) “**CCAA Proceedings**” means the within proceedings in respect of the Applicants under the CCAA;
- (d) “**CCAA Charges**” means the Administration Charge, the DIP Lender’s Charge and the Directors’ Charge (as each such term is defined in the Initial Order) and any other court-ordered charge over the property of the Applicants that may be granted by the Court;
- (e) “**Claim**” means a Pre-Filing Claim, a Restructuring Claim and a D&O Claim, provided, however, that “Claim” shall not include an Excluded Claim;
- (f) “**Claimant**” means any Person asserting a Claim and includes the transferee or assignee of a Claim, transferred and recognized in accordance with paragraphs 35 and 36 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (g) “**Claims Officer**” means one or more individuals appointed in accordance with paragraph 31 of this Claims Procedure Order to act as a claims officer for the purposes of this Claims Procedure Order;

- (h) “**Claims Package**” means the Proof of Claim form, the Notice to Claimants, the Instruction Letter, and any other documentation the Applicants, in consultation with the Monitor, may deem appropriate;
- (i) “**Claims Procedure**” means the procedures outlined in this Claims Procedure Order, including the Schedules hereto;
- (j) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (k) “**D&O Claim**” means, as against any Director or Officer, in his or her capacity as such, any D&O Restructuring Claim and any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature that any creditor or other Person has or may be entitled to assert (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged wrongful or oppressive conduct, misrepresentation, fraud or breach of fiduciary duty), whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in equity or under statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence that in any way relate to or arise out of or in connection with (i) any Pre-Filing Claim; (ii) the assets, obligations, business or affairs of the Applicants; or (iii) the CCAA Proceedings or any matter or transaction occurring in or in connection with the CCAA Proceedings, but “**D&O Claim**” does not include a claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA;
- (l) “**D&O Restructuring Claim**” means, any right or claim of any Person against any Director or Officer, in his or her capacity as such, in connection with any indebtedness, liability or obligation of any kind whatsoever by any such Director

or Officer to such Person arising out of the restructuring, disclaimer, repudiation or termination by an Applicant on or after the Filing Date of any contract, lease, employment agreement or arrangement or other agreement or obligation whether written or oral but “D&O Restructuring Claim” does not include a claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA;

- (m) “**Director**” means any former or present director of any of the Applicants or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to a director of any of the Applicant or who currently manages or supervises the management of the business and affairs of any of the Applicants or did so in the past;
- (n) “**Directors’ Charge**” has the meaning given to such term in the Initial Order;
- (o) “**Dispute Package**” means the Proof of Claim filed by a Claimant, the Notice of Revision or Disallowance delivered by the Monitor in respect of that Proof of Claim, the Notice of Dispute filed by the Claimant in respect of the Notice of Revision or Disallowance, and any ancillary documentation as determined by the Monitor;
- (p) “**Equity Claim**” has the meaning set forth in Section 2(1) of the CCAA;
- (q) “**Excluded Claim**” means:
  - (i) any claim pursuant to, or related to, the master lease agreements, as amended, supplemented or otherwise modified from time to time, between Hematite Manufacturing Inc. and TD Equipment Finance Canada, a division of The Toronto-Dominion Bank, listed in Schedule “F” hereto;
  - (ii) any claim by Woodbridge Foam Corporation (“**Woodbridge**”) or its affiliates, including, without limitation, pursuant to, or related to:
    - (1) the Assignment and Assumption Agreement dated September 21, 2020 between The Toronto-Dominion Bank, Woodbridge and certain of the Applicants, among others;



- (2) the Plan Sponsor Agreement dated September 17, 2020 between Woodbridge and the Applicants, among others; or
  - (3) the Revolving DIP Loan Agreement dated September 17, 2020 between Woodbridge and the Applicants;
- (iii) any claim pursuant to, or related to, the Letter of Offer of Financing no. 076542-03 dated December 21, 2017, as amended, supplemented and otherwise modified from time to time, between BDC Capital Inc. and Hematite Manufacturing Inc., among others;
  - (iv) any claim by Toyota Motor Engineering & Manufacturing North America, Inc., FCA US LLC, or Ford Motor Company (and including each of their subsidiaries and affiliates, collectively, the “**Customers**”) in relation to any warranty, recall, product liability or other obligations of the Applicants to the Customers pursuant to the purchase agreements, purchase orders, and/or other contracts set out in the arrangements entered into between the Customers, Hematite Holdings Inc. and Woodbridge, as applicable;
  - (v) any claim secured by any of the CCAA Charges;
  - (vi) any claim by any of the Applicants against one or more of the other Applicants; and
  - (vii) any investigation, action, suit, order or proceeding in respect of the Applicants or any of them by or before a regulatory body (as defined in the CCAA), unless such investigation, action, suit, order or proceeding constitutes a “claim” within the meaning of the CCAA.
- (r) “**Filing Date**” means September 18, 2020;
  - (s) “**Initial Order**” means the Initial Order of the Honourable Mr. Justice Hailey made September 18, 2020 in these CCAA Proceedings, as amended, restated or varied from time to time;

- (t) “**Instruction Letter**” means the instruction letter to Claimants, substantially in the form attached as Schedule “**B**” hereto, regarding the completion of a Proof of Claim by a Claimant and the Claims Procedure described herein;
- (u) “**Meeting**” means a meeting of the creditors of the Applicants called for the purpose of considering and voting in respect of a Plan;
- (v) “**Monitor**” means KPMG Inc., in its capacity as the Court-appointed monitor of the Applicants;
- (w) “**Monitor’s Website**” means the case website established by the Monitor with the following URL: <http://home.kpmg/ca/hematitegroup>.
- (x) “**Notice to Claimants**” means the notice for publication by the Monitor as described in paragraph 15 hereof, in the form attached as Schedule “**A**”;
- (y) “**Notice of Dispute**” means the notice referred to in paragraph 27 hereof substantially in the form attached as Schedule “**E**” hereto which must be delivered to the Monitor by any Claimant wishing to dispute a Notice of Revision or Disallowance, with reasons for its dispute;
- (z) “**Notice of Revision or Disallowance**” means the notice referred to in paragraph 26 hereof, substantially in the form of Schedule “**D**” advising a Claimant that the Applicants, with the consent of the Monitor, have revised or rejected all or part of such Claimant’s Claim as set out in its Proof of Claim;
- (aa) “**Officer**” means any former or present officer of any of the Applicants or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to an officer of any of the Applicants;
- (bb) “**Orders**” means any and all orders issued by the Court within the CCAA Proceedings, including the Initial Order;
- (cc) “**Person**” means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or

unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;

- (dd) **“Plan”** means a plan of compromise or arrangement contemplated by the Initial Order;
  
- (ee) **“Pre-Filing Claim”** means any right of claim of any Person that may be asserted or made in whole or in part against any of the Applicants, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (international or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive, or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against any of the Applicants with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof that (A) is based in whole or in part on facts existing prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA had the Applicant become bankrupt on the Filing Date, including for greater certainty any claim against any of the Applicants for indemnification by any Directors or Officers in respect of a D&O

Claim other than a D&O Restructuring Claim (but excluding any such claim for indemnification that (i) is covered by the Directors' Charge, or (ii) is in respect of an Excluded Claim);

- (ff) **"Pre-Filing Claims Bar Date"** means 5:00 p.m. (Eastern Time) on November 9, 2020;
- (gg) **"Proof of Claim"** means the Proof of Claim referred to in paragraphs 18 to 21 hereof to be filed by Claimants, substantially in the form attached hereto as Schedule "C";
- (hh) **"Proven Claim"** means the amount and Status of a Claim of a Claimant as finally determined in accordance with this Claims Procedure Order;
- (ii) **"Restructuring Claim"** means a D&O Restructuring Claim and any right of claim of any Person against any of the Applicants in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any such Applicant to such Person arising out of the restructuring, disclaimer, repudiation or termination by such Applicant on or after the Filing Date of any contract, lease, employment agreement or arrangement or other agreement or obligation whether written or oral, including for greater certainty any claim against any of the Applicants for indemnification by any Directors or Officers in respect of a Restructuring Claim (but excluding any such claim for indemnification that (i) is covered by the Directors' Charge, or (ii) is in respect of an Excluded Claim);
- (jj) **"Restructuring Claims Bar Date"** means the later of:
  - (i) the Pre-Filing Claims Bar Date; and
  - (ii) 5:00 p.m. (Eastern Time) on the day which is twenty one (21) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with paragraph 14 hereof;
- (kk) **"Secured Claim"** means that portion of a Claim that is (i) secured by security validly charging or encumbering property or assets of the Applicants (including

statutory and possessory liens that create security interests) taking into account the value of such collateral and the priority of such security, and (ii) duly and properly perfected in accordance with the relevant legislation in the appropriate jurisdiction, as of the Filing Date or after the Filing Date if permitted by the Initial Order;

(ll) “**Status**” means, with respect to a Claim, whether such claim is an unsecured Claim, Secured Claim or Equity Claim; and

(mm) “**U.S. Court**” means the United States Bankruptcy Court for the District of Delaware.

3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

#### **GENERAL PROVISIONS**

6. **THIS COURT ORDERS** that the Applicants, in consultation with the Monitor, are hereby authorized (i) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where they are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to completion and execution of such forms, and (ii) to request any further documentation from a Claimant that the Applicants or the Monitor may reasonably require in order to determine the validity and/or Status of a Claim.

7. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the solicitation by the Applicants or the Monitor of Claims and the filing by



any Claimant of any Claims shall not, for that reason only, grant any Person standing in these proceedings.

8. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall constitute or be deemed to constitute an allocation or assignment of a Claim or an Excluded Claim into particular affected or unaffected classes for the purpose of a Plan and, for greater certainty, the treatment of Claims, Excluded Claims or any other claims are to be subject to a Plan and the class or classes of creditors for voting and distribution purposes shall be subject to the terms of any proposed Plan or further order of the Court.

9. **THIS COURT ORDERS** that all Claims filed shall be denominated in the original currency of the Claim. Where no currency is indicated, the Claim shall be presumed to be in Canadian Dollars. Any Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Filing Date.

#### **MONITOR'S ROLE**

10. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall assist the Applicants in connection with the administration of the Claims Procedure, including the determination of Claims of the Claimants and the referral of a particular Claim to the Court, as requested by the Applicants from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order or incidental thereto.

11. **THIS COURT ORDERS** that (i) in carrying out the terms of this Claims Procedure Order, the Monitor shall have all of the protections given it by the CCAA, the Initial Order, and this Claims Procedure Order, and as an officer of this Court, including the stay of proceedings in its favour, (ii) the Monitor shall incur no liability or obligation as a result of the carrying out of the provisions of this Claims Procedure Order, except to the extent that the Monitor has acted with gross negligence or willful misconduct, (iii) the Monitor shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants, all without

independent investigation, and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Claimant, except to the extent that the Monitor has acted with gross negligence or willful misconduct.

#### **NOTICE TO CLAIMANTS**

12. **THIS COURT ORDERS** that the Applicants shall provide to the Monitor a complete list of known potential Claimants, listed in the books and records of the Applicants (the “**Known Claimants**” and each a “**Known Claimant**”) as at the Filing Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to the Applicants’ books and records, which list shall include those parties listed on the Consolidated List Required Pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure filed on September 24, 2020 with the U.S. Court.

13. **THIS COURT ORDERS** that the Monitor shall send a Claims Package to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of the Applicants, or by ordinary mail, courier or facsimile to the last known mailing address or facsimile address of the Known Claimant if an email address for such Known Claimant is not known, by no later than October 15, 2020.

14. **THIS COURT ORDERS** that the Monitor shall send the Claims Package by email to the last known email address, or by ordinary mail, courier or facsimile to the last known mailing address or facsimile address if an email address is not known, of each Claimant with a Restructuring Claim:

- (a) if the Restructuring Claim arose prior to the date of the Claims Procedure Order, no later than three (3) Business Days following the time the Monitor actually becomes aware of the existence of the Restructuring Claim; and
- (b) if the Restructuring Claim arises from the restructuring, disclaimer, resiliation or termination of any lease, contracts, employment agreement or arrangement or other agreement or obligation, on or after the date of the Claims Procedure Order, no later than three (3) Business Days following the time the Monitor actually

becomes aware of the effective date of such restructuring, disclaimer, resiliation or termination of any lease, contract, employment agreement or arrangement or other agreement or obligation.

15. **THIS COURT ORDERS** that as soon as practicable, but no later than 5:00 p.m. on October 20, 2020, the Monitor shall cause the Notice to Claimants to be published, for at least one (1) Business Day, in *The Globe and Mail* (National Edition) and USA Today (National Edition). The Monitor shall also cause the Notice to Claimants to be published, as soon as practicable, in any local newspapers, trade journals or similar publications, if any, as the Applicants, in consultation with the Monitor and the DIP Lender (as defined in the Initial Order), deem appropriate.

16. **THIS COURT ORDERS** that the Monitor shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted to the Monitor's Website as soon as reasonably possible and cause it to remain posted thereon until its discharge as Monitor of the Applicants.

17. **THIS COURT ORDERS** that upon request by a Claimant for a Claims Package or documents or information relating to the Claims Procedure prior to the Pre-Filing Claims Bar Date or Restructuring Claims Bar Date, as applicable, the Monitor shall forthwith send a Claims Package, direct such Person to the documents posted on the Monitor's Website, or otherwise respond to the request for information or documents as the Monitor considers appropriate in the circumstances.

18. **THIS COURT ORDERS** that the form and substance of each of the Notice to Claimants, Proof of Claim form, Instruction Letter, Notice of Revision or Disallowance and Notice of Dispute, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Monitor may, from time to time, make such minor changes to such forms as the Monitor, in consultation with the Applicants, considers necessary or desirable.

#### **PROOFS OF CLAIMS**

19. **THIS COURT ORDERS** that any Person that wishes to assert a Pre-Filing Claim must deliver to the Monitor on or before the Pre-Filing Claims Bar Date a completed Proof of Claim,



including all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

20. **THIS COURT ORDERS** that any Person that wishes to assert a D&O Claim other than a D&O Restructuring Claim must deliver to the Monitor on or before the Pre-Filing Claims Bar Date a completed Proof of Claim form, together with all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

21. **THIS COURT ORDERS** that any Person that wishes to assert a Restructuring Claim must deliver to the Monitor on or before the Restructuring Claims Bar Date a completed Proof of Claim form, together with all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

22. **THIS COURT ORDERS** that any Person wishing to assert a Claim shall: (i) include any and all Claims it asserts against an Applicant or a Director or Officer of that Applicant in a single Proof of Claim; and (ii) file separate Proofs of Claim against each Applicant that it wishes to assert a Claim against.

23. **THIS COURT ORDERS** that any Person who does not file a Proof of Claim in accordance with this Claims Procedure Order with the Monitor by the Pre-Filing Claims Bar Date or Restructuring Claims Bar Date, as applicable, shall:

- (a) not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in, the Claims Procedure or the CCAA Proceedings in respect of such Claim;
- (b) with respect to a Pre-Filing Claim or a Restructuring Claim against any of the Applicants, be forever barred, estopped and enjoined from asserting or enforcing such Claim against such Applicant and such Applicant shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Applicants or the Monitor;
- (c) with respect to a D&O Claim against any Director or Officer, be forever barred, estopped and enjoined from asserting or enforcing such Claim against such

Director or Officer and such Director or Officer shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Applicants, the Monitor or the Directors or Officers;

- (d) not be permitted to vote at any Meeting on account of such Claim; and
- (e) not be permitted to participate in any distribution under any Plan related to such Claim or under these CCAA Proceedings.

### **ADJUDICATION OF CLAIMS**

24. **THIS COURT ORDERS** that the Monitor, in consultation with the Applicants (and in the case of a D&O Claim, in consultation with the applicable Director or Officer) shall review all Proofs of Claim filed in accordance with this Claims Procedure Order, and at any time may:

- (a) request additional information from a Claimant;
- (b) request that a Claimant file a revised Proof of Claim;
- (c) attempt to resolve and settle any issue arising in a Proof of Claim or in respect of a Claim;
- (d) accept (in whole or in part), the amount and/or Status of any Claim and so notify the Claimant in writing; and
- (e) revise or disallow (in whole or in part) the amount and/or Status of any Claim and so notify the Claimant in writing.

25. **THIS COURT ORDERS** that where a Claim has been accepted by the Monitor in accordance with this Claims Procedure Order, such Claim shall constitute such Claimant's Proven Claim. The acceptance of any Claim or other determination of same in accordance with this Claims Procedure Order, in full or in part, shall not constitute an admission of any fact, thing, liability, or quantum or status of any claim by any Person, save and except in the context of the CCAA Proceedings.

26. **THIS COURT ORDERS** that where a Claim is revised or disallowed (in whole or in part, and whether as to amount and/or Status), the Monitor shall deliver to the Claimant a Notice of Revision or Disallowance, attaching the form of Notice of Dispute.

27. **THIS COURT ORDERS** that any Person who intends to dispute a Notice of Revision or Disallowance sent pursuant to paragraph 26 hereof shall deliver a Notice of Dispute to the Monitor in writing by 5:00 p.m. (Eastern Time) on the day that is not later than ten (10) days after such Claimant is deemed to have received the Notice of Revision or Disallowance in accordance with paragraph 38 of this Claims Procedure Order or such longer period as may be agreed to by the Monitor in writing. The receipt of a Notice of Dispute by the Monitor within the ten (10) day period specific in this paragraph shall constitute an application to have the amount and/or Status of such claim determined pursuant to the Claims Procedure as provided in this Claims Procedure Order.

28. **THIS COURT ORDERS** that if any Person who received a Notice of Revision or Disallowance does not return a Notice of Dispute in accordance with paragraph 27 of this Claims Procedure Order, the value and Status of such Claim shall be deemed to be set out in the Notice of Revision or Disallowance for voting and distribution purposes, and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.

#### **RESOLUTION OF CLAIMS**

29. **THIS COURT ORDERS** that as soon as practicable after a Notice of Dispute is received by the Monitor in accordance with this Claims Procedure Order, the Monitor, in consultation with the Applicants, may attempt to resolve and settle the Claim with the Claimant.

30. **THIS COURT ORDERS** that in the event that a dispute raised in a Notice of Dispute is not settled within a reasonable time period or in a manner satisfactory to the Applicants, the Monitor and the applicable Claimant, the Monitor, in consultation with the Applicants, shall either: (i) send a Dispute Package to a Claims Officer, or (ii) on notice to the disputing Claimant, schedule an appointment with the Court for the purpose of scheduling a motion to seek a determination by the Court of the disputed Claim, at which appointment directions will be sought

from the Court on the process for such determination. For greater certainty, the foregoing includes any dispute arising as to whether a Claim or any portion thereof is or is not a Secured Claim or an Equity Claim.

31. **THIS COURT ORDERS** that the appointment of any Claims Officer to adjudicate a disputed Claim shall be subject to mutual agreement between the affected Claimant and the Applicants, in consultation with the Monitor, and if such agreement is not possible, Court approval. Either the Applicants or the Monitor are hereby authorized to bring a motion to seek an order of the Court appointing a Claims Officer in respect of any and all disputed Claims. The Applicants shall pay the reasonable professional fees and disbursements of each Claims Officer on presentation and acceptance of invoices from time to time. Each Claims Officer shall be entitled to a reasonable retainer against his or her fees and disbursements which shall be paid upon request by the Applicants, with the consent of the Monitor.

32. **THIS COURT ORDERS** that, subject to further order of the Court, the Claims Officer shall determine the Status and/or amount of each Claim in respect of which a dispute has been referred to such Claims Officer and in doing so, the Claims Officer shall be empowered to determine the process in which evidence may be brought before him or her as well as any other procedural matters which may arise in respect of the determination of any Claim.

33. **THIS COURT ORDERS** that the Applicants or the Claimant may appeal the Claims Officer's determination to this Court by serving upon the other (with a copy to the Monitor) and filing with this Court, within ten (10) calendar days of notification of the Claims Officer's determination of such Claimant's Claim, a notice of motion returnable on a date to be fixed by this Court. If a notice of motion is not filed within such period, then the Claims Officer's determination shall be deemed to be final and binding and shall be such Claimant's Proven Claim.

#### **EXCLUDED CLAIMS**

34. **THIS COURT ORDERS** that, for greater certainty, no Person holding an Excluded Claim shall be required to file a Proof of Claim in respect of such Excluded Claim, and such Person shall be unaffected by this Claims Procedure Order in respect of such Excluded Claim.



The Applicants may apply to the Court for a further order to govern the identification, quantification and resolution of Excluded Claims, whether by way of amendments to this Claims Procedure Order or a supplemental claims procedure order, if at any time the Applicants consider it necessary or desirable to do so.

#### **NOTICE OF TRANSFEREES**

35. **THIS COURT ORDERS** that neither the Monitor nor the Applicants shall be obligated to give notice or otherwise deal with the transferee or assignee of a Claim unless and until actual notice of the transfer or assignment, together with satisfactory evidence of the existence and validity of such transfer or assignment, shall have been received and acknowledged by the Applicants and the Monitor in writing. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to the receipt and acknowledgment by the Applicants and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which the Applicants may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the Applicants.

36. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Applicants and the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Applicants and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole,

shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

### **SERVICE AND NOTICES**

37. **THIS COURT ORDERS** that the forms of notice to be provided in accordance with this Claims Procedure Order shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order, the Pre-Filing Claims Bar Date and Restructuring Claims Bar Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Claims Procedure Order.

38. **THIS COURT ORDERS** that the Applicants and the Monitor may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Claims Package, and any letters, notices or other documents to the Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of the Applicants or set out in such Claimant's Proof of Claim. Any such service and delivery shall be deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario) or the United States, and the tenth Business Day after mailing internationally (other than to the United States); (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

39. **THIS COURT ORDERS** that any notice or communication (including Proofs of Claim and Notices of Dispute) to be given under this Claims Procedure Order by any Person to the Monitor or the Applicants shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

KPMG Inc.  
Court-appointed Monitor of the Applicants  
Bay Adelaide Centre  
333 Adelaide Street West, Suite 4600  
Toronto, Ontario M5H 2S5

Attention: Nicholas Brearton and Tim Montgomery  
Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)  
Fax: 416-777-8818  
Phone: 416-777-3978

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

40. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary or registered mail and then not received shall not, absent further order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Procedure Order.

41. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is later amended by further order of the Court, the Monitor shall post such further order on the Monitor's Website, and such posting shall constitute adequate notice to Claimants of such amended Claims Procedure.

#### **MISCELLANEOUS**

42. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, and without limitation to paragraph 33 of this Claims Procedure Order, the Monitor and the Applicants may apply to this Court from time to time for directions from this Court with respect to this Claims Procedure Order, or for such further order or orders as any of them may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.



43. **THIS COURT ORDERS** that this Claims Procedure Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

44. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this Claims Procedure Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to Hematite Holdings Inc. in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order.

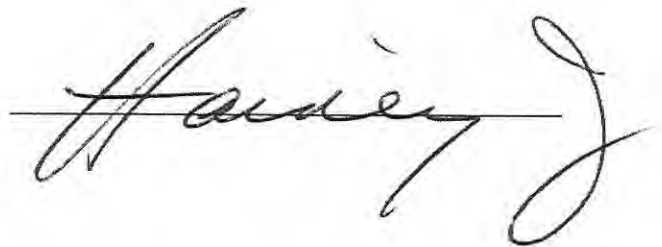
45. **THE COURT ORDERS** that the Applicants are hereby authorized and directed to file and serve this Claims Procedure Order with the U.S. Court.

46. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Claims Procedure Order and for assistance in carrying out the terms of this Claims Procedure Order.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

OCT 13 2020

PER / PAR: *AE*

A large, stylized handwritten signature in black ink, appearing to read "Hendry".



**SCHEDULE "A"**  
**NOTICE TO CLAIMANTS**

**SCHEDULE "A"**

**NOTICE TO CREDITORS OF HEMATITE HOLDINGS INC.,  
HEMATITE MANUFACTURING INC., HEMATITE INDUSTRIAL PRODUCTS INC.,  
CANADIAN PAVACO INC., PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS, INC.**

**(collectively, the "Applicants")**

**RE: NOTICE OF CLAIMS BAR DATE IN *COMPANIES' CREDITORS ARRANGEMENT ACT*  
("CCAA") PROCEEDINGS**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made October 13, 2020 (the "**Claims Procedure Order**"), a claims procedure has been commenced for the identification, quantification, and resolution of certain claims of creditors of the Applicants and their respective directors and officers. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that any Person that wishes to assert a Pre-Filing Claim or a D&O Claim (against any of the current or former Directors or Officers of the Applicants) (other than a D&O Restructuring Claim), other than an Excluded Claim, must deliver to KPMG Inc., in its capacity as the court-appointed monitor of the Applicants (the "**Monitor**") on or before the Pre-Filing Claims Bar Date a completed Proof of Claim form, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order.

**Pursuant to the Claims Procedure Order, the Pre-Filing Claims Bar Date is 5:00 p.m. (Eastern Time) on November 9, 2020.** Proofs of Claim in respect of Pre-Filing Claims and D&O Claims (other than D&O Restructuring Claims) must be completed and filed with the Monitor such that it is received on or before the Pre-Filing Claims Bar Date.

**PLEASE TAKE NOTICE** that any Person that wishes to assert a Restructuring Claim (including any D&O Restructuring Claim), other than an Excluded Claim, must deliver to the Monitor on or before the Restructuring Claims Bar Date a completed Proof of Claim form, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order.

**Pursuant to the Claims Procedure Order, the Restructuring Claims Bar Date is 5:00pm (Eastern Time) on the later of the Pre-Filing Claims Bar Date and the date that is twenty one (21) Calendar Days after the Monitor sends a Claims Package with respect to a Restructuring Claim.** Proofs of Claim in respect of Restructuring Claims must be completed and filed with the Monitor such that it is received on or before the Restructuring Claims Bar Date.

**PLEASE TAKE NOTICE** that **Pavaco Plastics Inc.** was amalgamated with Hematite Manufacturing Inc. on March 29, 2020 and any Claims against the former Pavaco Plastics Inc. must be filed against Hematite Manufacturing Inc. or they will be barred.

**Pursuant to the Claims Procedure Order,** the Monitor will cause Claims Packages to be sent to all Known Claimants on or before October 15, 2020. A copy of the Claims Procedure Order and the Claims Package can be found at the following website: <http://home.kpmg/ca/hematitegroup>.

**CLAIMS WHICH ARE NOT RECEIVED BY THE APPLICABLE CLAIMS BAR DATE  
WILL BE BARRED AND EXTINGUISHED FOREVER.**

**CREDITORS REQUIRING INFORMATION** or claim documentation may contact the Monitor at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

KPMG Inc., Court-appointed Monitor of Hematite Group

Claims Process

333 Bay Street, Suite 4600

Bay Adelaide Centre

Toronto, ON M5H 2S5

Attention: Tim Montgomery

Telephone: 416-777-3798

Fax: 416-777-8818

Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)

**SCHEDULE "B"**  
**INSTRUCTION LETTER**

## SCHEDULE "B"

### INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE FOR KNOWN CREDITORS OF HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS, INC.

(collectively, the "Applicants")

#### CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) dated October 13, 2020 (as such Order may be amended from time to time, the "**Claims Procedure Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**"), the Applicants and KPMG Inc., in its capacity as the Court-appointed monitor of the Applicants (the "**Monitor**"), have been authorized to conduct a claims procedure (the "**Claims Procedure**"). A copy of the Claims Procedure Order and other public information concerning this proceeding can be obtained from the Monitor's website at <http://home.kpmg/ca/hematitegroup>.

This letter provides general instructions for completing a Proof of Claim form. Capitalized terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Procedure Order.

The Claims Procedure is intended to identify and determine the amount of any claims against the Applicants or any or all of their respective current or former Directors or Officers, whether unliquidated, contingent or otherwise, that are to be affected in the plan of compromise or arrangement being pursued by the Applicants under the CCAA. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

All forms and inquiries with respect to the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

KPMG Inc., Court-appointed Monitor of Hematite Group

Claims Process

333 Bay Street, Suite 4600

Bay Adelaide Centre

Toronto, ON M5H 2S5

Attention: Tim Montgomery

Telephone: 416-777-3798

Fax: 416-777-8818

Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)

#### FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim against the Applicants or a Director or Officer of the Applicants, you must complete and file a Proof of Claim form with the Monitor. All Proofs of Claim for Pre-Filing

Claims (i.e. Claims against the Applicant arising prior to the Filing Date) and all D&O Claims (against any of the Directors or Officers of the Applicants) (other than D&O Restructuring Claims) **must be received by the Monitor before 5:00 p.m. (Toronto Time) on November 9, 2020** (the “**Pre-Filing Claims Bar Date**”). If you do not file a Proof of Claim in respect of any such Claims by the Pre-Filing Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding any plan of compromise or arrangement being proposed by the Applicants or participate in any distribution under such plan in respect of such Claims and any such Claims shall be forever extinguished and barred.

All Proofs of Claim for Restructuring Claims (i.e. Claims arising on or after the Filing Date arising out of the restructuring, disclaimer, repudiation or termination by an Applicant of any contract, lease employment agreement or arrangement or other agreement or obligation) (including D&O Restructuring Claims) **must be received by the Monitor before 5:00 p.m. (Toronto Time) on the later of the Pre-Filing Claims Bar Date and the date that is twenty one (21) Calendar Days after the Monitor sends a Claims Package with respect to a Restructuring Claim** (the “**Restructuring Claims Bar Date**”). If you do not file a Proof of Claim in respect of any such Restructuring Claims by the Restructuring Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding any plan of compromise or arrangement being proposed by the Applicants or participate in any distribution under such plan in respect of such Claims and any such Claims you may have against the Applicants and/or any of their respective Directors and Officers shall be forever extinguished and barred.

Note that **Pavaco Plastics Inc.** was amalgamated with Hematite Manufacturing Inc. on March 29, 2020 and any Claims against the former Pavaco Plastics Inc. must be filed against Hematite Manufacturing Inc. or they will be barred.

#### **ADDITIONAL FORMS**

Additional Proof of Claim forms can be obtained from the Monitor’s website at <http://home.kpmg/ca/hematitegroup> or by contacting the Monitor.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**SCHEDULE "C"**  
**PROOF OF CLAIM FORM**

**SCHEDULE "C"**

**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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING  
INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO  
HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.**

**(collectively, the "Applicants")**

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**PROOF OF CLAIM**

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**1. PARTICULARS OF CREDITOR**

(a) Full Legal Name of Creditor:

\_\_\_\_\_

(b) Full Mailing Address of Creditor:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) Telephone Number of Creditor:

\_\_\_\_\_

(d) Facsimile Number of Creditor:

\_\_\_\_\_

(e) E-mail Address of Creditor:

\_\_\_\_\_

(f) Attention (Contact Person):

\_\_\_\_\_



2. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes  No

(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): \_\_\_\_\_

3. **PROOF OF CLAIM**

**THE UNDERSIGNED CERTIFIES AS FOLLOWS:**

(a) That I am a Creditor of the Applicants /or the Director(s) or Officer(s) of the Applicants / I hold the position of \_\_\_\_\_ of the Creditor;

(b) That I have knowledge of all the circumstances connected with the Claim described and set out below;

(c) The Applicants and/or the Director(s) or Officer(s) of the Applicants was and still is indebted to the Creditor as follows:<sup>1</sup>

Debtor	Pre-Filing Claim Amount	Restructuring Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any:
Hematite Holdings Inc.				
Hematite Manufacturing Inc. (including Pavaco Plastics Inc.)				
Hematite Industrial Products Inc.				

<sup>1</sup> Any Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Filing Date

Debtor	Pre-Filing Claim Amount	Restructuring Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any:
Canadian Pavaco Inc.				
Pavaco Holdings U.S. Inc.				
Hematite, Inc.				
Hematite Automotive Products Inc.				
Directors and Officers of the Applicants				
<hr/> <i>(insert name(s) above)</i>				

4. **PARTICULARS OF CLAIM:**

The particulars of the undersigned's Claims (including Pre-Filing Claims, Restructuring Claims and Director/Officer Claims) are attached.

*(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. If a claim is made against any Directors or Officers, specify the applicable Directors or Officers and the legal basis for the Claim against them.)*

5. **FILING OF CLAIM**

For Pre-Filing Claims and D&O Claims (other than D&O Restructuring Claims), this Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the Pre-Filing Claims Bar Date (November 9, 2020)**.

For Restructuring Claims (including D&O Restructuring Claims), this Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the later of the Pre-**

**Filing Claims Bar Date and the date that is twenty one (21) Calendar Days after the Monitor sends a Claims Package with respect to a Restructuring Claim**

In both cases, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

KPMG Inc., Court-appointed Monitor of Hematite Group

Claims Process

333 Bay Street, Suite 4600

Bay Adelaide Centre

Toronto, ON M5H 2S5

Attention: Tim Montgomery

Telephone: 416-777-3798

Fax: 416-777-8818

Email: hematitegroup@kpmg.ca

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
*(signature of creditor or its authorized representative)*

Name:

Title:

*Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.*

**SCHEDULE "D"**

**NOTICE OF REVISION OR DISALLOWANCE**



**SCHEDULE “D”**

**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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING  
INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO  
HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.**

**(collectively, the “Applicants” or “Hematite Group”)**

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**NOTICE OF REVISION OR DISALLOWANCE**

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TO: [insert name and address of creditor]

Capitalized terms not defined in this Notice of Revision or Disallowance have the meaning ascribed to them in the Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of Hematite Group dated October 13, 2020 (the “**Claims Procedure Order**”).

Pursuant to the Claims Procedure Order, KPMG Inc. in its capacity as the court-appointed monitor of the Applicants (the “**Monitor**”) hereby gives you notice that it has reviewed your Proof of Claim and has revised or disallowed all or part of your Claim. Subject to further dispute by you in accordance with the Claims Procedure Order, your Proven Claim will be as follows:

<b>Name of Applicant and or any of their Directors and Officers, as applicable</b>	<b>Type of Claim per Proof of Claim</b>	<b>Amount of Claim per Proof of Claim</b>	<b>Type of Claim Allowed per this Notice of Revision or Disallowance</b>	<b>Amount of Claim Allowed per this Notice of Revision or Disallowance</b>
[Insert: name of appropriate party]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]	CAD \$	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]	CAD \$

Reasons for Revision or Disallowance

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**SERVICE OF NOTICE OF DISPUTE**

If you disagree with the amount of your Claim specified herein for voting and/or distribution purposes, you must deliver a Notice of Dispute to the Monitor in writing, no later than 5:00 p.m. (Eastern Time) on the day that is not later than **ten (10)** days after you have been deemed to have received the Notice of Revision or Disallowance under the Claims Procedure Order. The form of Notice of Dispute is enclosed.

If you do not deliver a Notice of Dispute, your Claim shall be deemed to be as set out in this Notice of Revision or Disallowance.

Notice of Dispute forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

KPMG Inc., Court-appointed Monitor of Hematite Group  
Claims Process

333 Bay Street, Suite 4600  
Bay Adelaide Centre  
Toronto, ON M5H 2S5  
Attention: Tim Montgomery

Telephone: 416-777-3798  
Fax: 416-777-8818  
Email: hematitegroup@kpmg.ca

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**SCHEDULE "E"**  
**NOTICE OF DISPUTE**

**SCHEDULE "E"**

**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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING  
INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO  
HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.**

**(collectively, the "Applicants" or "Hematite Group")**

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**NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE**

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**1. PARTICULARS OF CREDITOR**

(a) Full Legal Name of Creditor:

\_\_\_\_\_

(b) Full Mailing Address of Creditor:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) Telephone Number of Creditor:

\_\_\_\_\_

(d) Facsimile Number of Creditor:

\_\_\_\_\_

(e) E-mail Address of Creditor:

\_\_\_\_\_

(f) Attention (Contact Person):

\_\_\_\_\_



2. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes  No   
 (if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): \_\_\_\_\_

3. **DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

Pursuant to the Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of Hematite Group dated October 13, 2020 (the “**Claims Procedure Order**”), we hereby give you notice of our intention to dispute the Notice of Revision or Disallowance in respect of our Claim as set out in the following table:

Name of Applicant and or any of their Directors and Officers, as applicable	Type of Claim in Notice of Revision or Disallowance	Amount of Claim in Notice of Revision or Disallowance	Type of Claim Asserted per this Notice of Dispute	Amount of Claim Asserted per this Notice of Dispute

*[Insert: name of appropriate party]*

*[Unsecured Claim / Unsecured Priority Claim / Secured Claim]*

*[CAD \$]*

*[Unsecured Claim / Unsecured Priority Claim / Secured Claim]*

*[CAD \$]*

4. **REASONS FOR DISPUTE:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

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*(signature of creditor or its authorized representative)*  
Name:  
Title:

*Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.*

**SCHEDULE "F"**  
**TD EQUIPMENT LEASE AGREEMENTS**

1. Master equipment lease no. T000000658 dated April 5, 2018 between Pavaco Plastics Inc. (now named Hematite Manufacturing Inc.), as lessee, and TD Equipment Finance Canada, a division of the Toronto-Dominion Bank, as lessor, and the schedules thereto (being Schedule No. 18003130 dated April 5, 2018, and Schedule No. 18003120 dated April 5, 2018).
  
2. Master equipment lease no. 23296 dated February 22, 2013 between Pavaco Products Inc. (now named Hematite Manufacturing Inc.), as lessee, and TD Equipment Finance Canada, a division of the Toronto-Dominion Bank, as lessor, and the schedules thereto (being Schedule No. 10 dated April 25, 2016, and Schedule No. 12 dated August 22, 2016 and Schedule No. 13 dated November 23, 2016).

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 HEMATITE HOLDINGS INC. ET AL.

Court File No: CV-20-00647824-00CL

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

Proceedings commenced at Toronto

**CLAIMS PROCEDURE ORDER**

**McCarthy Tétrault LLP**

Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6  
Fax: 416-868-0673

**James Gage** LSO#: 346761

Tel: 416-601-7539

Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Trevor Courtis** LSO#: 67715A

Tel: 416-601-7643

Email: [tcourtis@mccarthy.ca](mailto:tcourtis@mccarthy.ca)

Lawyers for the Applicants

DOC#: 20783419

This is **Exhibit “C”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020



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A Commissioner for taking affidavits

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

HEMATITE HOLDINGS INC., *et al.*,<sup>1</sup>

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 20-12387 (MFW)

Jointly Administered

**Related Docket Nos.: 3, 33**

**ORDER GRANTING VERIFIED PETITION FOR (I) RECOGNITION OF FOREIGN  
MAIN PROCEEDING (II) RECOGNITION OF FOREIGN REPRESENTATIVE,  
AND (III) RELATED RELIEF UNDER CHAPTER 15 OF THE BANKRUPTCY CODE**

Upon consideration of the *Verified Petition for (I) Recognition of Foreign Main Proceeding (II) Recognition of Foreign Representative, and (III) Related Relief Under Chapter 15 of the Bankruptcy Code* [Docket No. 3] (together with the chapter 15 petitions filed for each of the Debtors, the “Petitions for Recognition”), the Nadeau Declaration,<sup>2</sup> the Provisional Relief Motion [Docket No. 6] and the Second Provisional Relief Motion [Docket No. 19] (together with the Petitions for Recognition, the Nadeau Declaration, and the Provisional Relief Motion, the “Chapter 15 Pleadings”), filed on September 22, 2020 and September 29, 2020, by or on behalf of the Foreign Representative, Hematite Holdings Inc. (“Hematite Holdings”), in its capacity as the duly-appointed foreign representative of the above captioned debtors (the “Debtors”), in a voluntary restructuring proceeding (the “CCAA Proceeding”) under the *Companies’ Creditors Arrangement Act* (the “CCAA”) currently pending before the Ontario Superior Court Of Justice (Commercial

<sup>1</sup> The U.S. Debtors in these chapter 15 cases and the last four digits of their U.S. Federal Employer Identification Numbers are as follows: Pavaco Holdings U.S. Inc. (5569); Hematite, Inc. (3799); and Hematite Automotive Products Inc. (5382). The Canadian Debtors in these chapter 15 cases and the last four digits of their unique identifier are as follows: Hematite Holdings Inc. (8581); Hematite Manufacturing Inc. (4900); Hematite Industrial Products Inc. (7706); and Canadian Pavaco Inc. (5315). The U.S. Debtors and the Canadian Debtors are referred to herein, collectively, as the “Debtors.” The Debtors’ principal offices are located at 659 Speedvale Avenue West, Guelph, Ontario, N1K 1E6, Canada.

<sup>2</sup> Capitalized terms not otherwise defined herein have the meaning ascribed to such terms in the Verified Petition.

List) in Ontario, Canada (the “Canadian Court”); and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012; and it appearing that venue is proper before this Court pursuant to 28 U.S.C. § 1410; and the Court having considered and reviewed the Chapter 15 Pleadings and having held a hearing to consider the relief requested in the Petitions for Recognition (the “Hearing”); and it appearing that timely notice of the filing of the Chapter 15 Pleadings and the Hearing has been given pursuant to the *Order (I) Scheduling Hearing on Verified Petition Under Chapter 15 of the Bankruptcy Code for Recognition of a Foreign Main Proceeding and for Additional Relief and Assistance Under 11 U.S.C. §§105(a), 1507, and 1521 and (II) Specifying Form and Manner of Service of Notice of Hearing* [Docket No. 12] and that no other or further notice need be provided; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

**THIS COURT HEREBY FINDS AND DETERMINES THAT:**

- A. This case was properly commenced pursuant to sections 1504, 1509 and 1515 of the title 11 of the United States Code (the “Bankruptcy Code”).
- B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012.
- C. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).
- D. Venue is proper in this district pursuant to 28 U.S.C. § 1410.
- E. The CCAA Proceeding is a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code.

F. The CCAA Proceeding is pending in Canada, which is the country in which the Debtors have their center of main interests and, as such, the CCAA Proceeding is a “foreign main proceeding” within the meaning of sections 1502(4) and 1517(b)(1) of the Bankruptcy Code and entitled to recognition as a foreign main proceeding in respect of each of the Debtors.

G. The Foreign Representative, Hematite Holdings, is a “person,” as such term is defined in section 101(41) of the Bankruptcy Code, has been duly appointed by the Debtors and has been declared by the Canadian Court as authorized to act as the “foreign representative” with respect to the CCAA Proceeding within the meaning of section 101(24) of the Bankruptcy Code.

H. The Petitions for Recognition meets all of the requirements set forth in section 1515 of the Bankruptcy Code and Fed. R. Bankr. P. 1007(a)(4) and 2002(q).

I. The CCAA Proceeding is entitled to recognition by the Court pursuant to section 1517(a) of the Bankruptcy Code and the Debtors have satisfied the eligibility requirements of section 109(a) of the Bankruptcy Code, as applicable.

J. The Debtors and the Foreign Representative are entitled to all of the relief set forth in section 1520 of the Bankruptcy Code.

K. Appropriate notice of the filing of, and the Hearing on, the Petition for Recognition was given, which notice is deemed adequate for all purposes, and no other or further notice need be given.

L. The relief granted hereby is necessary and appropriate, in the interests of the public and of international comity, not inconsistent with the public policy of the United States, warranted pursuant to sections 105(a), 362, 363, 364, 365(e), 1507(a), 1509(b)(2)-(3), 1520, 1521, 1522 and 1525 of the Bankruptcy Code, and will not cause hardship to creditors of the Debtors or other parties in interests that is not outweighed by the benefits of granting that relief.



M. The relief granted hereby is necessary to effectuate the purposes and objectives of chapter 15 and to protect the Debtors and the interests of their creditors and other parties in interest.

N. Absent the relief granted hereby, the Debtors and their directors and officers may be subject to the prosecution of judicial, quasi-judicial, arbitration, administrative or regulatory actions or proceedings in connection with the CCAA Proceeding or otherwise against the Debtors and their directors and officers or their property, thereby interfering with and causing harm to, the Debtors, their creditors, and other parties in interest in the CCAA Proceeding and, as a result, the Debtors, their creditors and such other parties in interest would suffer irreparable injury for which there is no adequate remedy at law.

O. Absent the requested relief, the efforts of the Debtors, the Canadian Court and the Foreign Representative in conducting the CCAA Proceeding and effecting their restructuring therein may be thwarted by the actions of certain creditors, a result that will obstruct the purposes of chapter 15 as reflected in section 1501(a) of the Bankruptcy Code.

P. Each of the injunctions contained in this Order (i) is within the Court's jurisdiction, (ii) is essential to the success of the Debtors' restructuring in the CCAA Proceeding, (iv) confers material benefits on, and is in the best interests of, the Debtors and their creditors, and (v) is important to the overall objectives of such restructuring.

**NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Petitions for Recognition and the Relief Requested are granted as set forth herein, and any objections thereto are overruled with prejudice.

2. The CCAA Proceeding is granted recognition with respect to each of the Debtors as a foreign main proceeding (as defined in section 1502 of the Bankruptcy Code) pursuant to sections 1517(a) and (b)(1) of the Bankruptcy Code.

3. Hematite Holdings is recognized as the “foreign representative” as defined in section 101(24) of the Bankruptcy Code in respect of the CCAA Proceeding.

4. The Debtors and the Foreign Representative are granted all of the relief set forth in section 1520 of the Bankruptcy Code including, without limitation, the application of the protection afforded by the automatic stay under section 362(a) of the Bankruptcy Code to the Debtors and to the Debtors’ property that is now within or in the future is located within the territorial jurisdiction of the United States.

5. The Foreign Representative is authorized to exercise the powers of a trustee to the extent provided by or for in the CCAA Proceeding and by 11 U.S.C. § 1520(a)(3).

6. The Initial Order and the Amended Initial Order, including any and all existing and future extensions, amendments, restatements, and/or supplements authorized by the Canadian Court, are hereby given full force and effect, on a final basis, with respect to the Debtors and the Debtors’ and their property that now or in the future is located within the territorial jurisdiction of the United States.

7. Pursuant to 11 U.S.C. § 1521(a)(1)-(3), all persons and entities, other than the Foreign Representative and his representatives and agents, are hereby enjoined (to the extent they have not been stayed under section 1520(a)) from:

- a. execution against any of the Debtors’ and their directors and officers (the “Protected Parties”) assets;
- b. the commencement or continuation, including the issuance or employment of process, of a judicial, quasi-judicial, administrative, regulatory, arbitral, or other action or proceeding, or to recover a claim, including, without limitation, any and all unpaid judgments, settlements or otherwise against the Debtors or other Protected Parties, which in either case is in any way related to, or would interfere with, the administration of the Debtors’ estates in the CCAA Proceeding;
- c. taking or continuing any act to create, perfect or enforce a lien or other security interest, setoff or other claim against the Debtors or other Protected Parties or any

of their property or proceeds thereof, other than the filing of any registration to preserve or protect a security interest;

- d. transferring, relinquishing or disposing of any property of the Debtors to any person or entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative;
- e. commencing or continuing an individual action or proceeding concerning the Debtors' or other Protected Parties' assets, rights, obligations or liabilities; and
- f. declaring or considering the filing of the CCAA Proceeding or these Chapter 15 Cases a default or event of default under any agreement, contract or arrangement;

provided, in each case, that such injunctions shall be effective solely within the territorial jurisdiction of the United States; and provided further that nothing herein shall: (x) prevent any entity from filing any claims against the Debtors in the CCAA Proceeding or (y) prevent any entity from seeking relief from the Canadian Court in the CCAA Proceeding or this Court in these Chapter 15 Cases, as applicable, for relief from the injunctions contained in the Order.

8. Pursuant to 11 U.S.C. § 1521(a)(5), the administration or realization of the Debtors' assets within the territorial jurisdiction of the United States is entrusted to the Foreign Representative and the Foreign Representative is hereby established as the exclusive representative of the Debtors in the United States.

9. Pursuant to 11 U.S.C. §§ 1521(a)(6) and 1521(a)(7), all prior relief granted to the Debtors or the Foreign Representative by this Court pursuant to section 1519(a) or 1521 of the Bankruptcy Code shall be extended and that certain *Order Granting Provisional Relief* [Docket No. 10] and *Order Granting Additional Provisional Relief* [Docket No. 26] shall remain in full force and effect, notwithstanding anything to the contrary contained therein.

10. The Foreign Representative, the Debtors and their respective agents are authorized to serve or provide any notices required under the Bankruptcy Rules, local rules of this Court or in furtherance of the CCAA Proceeding.

11. No action taken by the Foreign Representative, the Debtors, or their respective successors, agents, representatives, advisors, or counsel in preparing, disseminating, applying for, implementing, or otherwise acting in furtherance of or in connection with the CCAA Proceeding, this order, these Chapter 15 Cases, or any adversary proceeding herein, or any further proceeding commenced hereunder, shall be deemed to constitute a waiver of the rights or benefits afforded such persons under sections 306 and 1510 of the Bankruptcy Code.

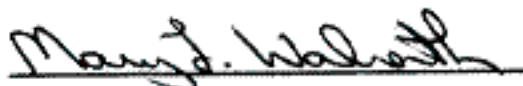
12. Notwithstanding any provision in the Bankruptcy Rules to the contrary, including, but not limited to, Bankruptcy Rules 7062 and 1018, (i) this Order shall be effective immediately and enforceable upon its entry; (ii) the Foreign Representative and the Interim DIP Lender are not subject to any stay in the implementation, enforcement or realization of the relief granted in this Order; and (c) the Foreign Representative and the Debtors are authorized and empowered, and may in their discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

13. A copy of this Order shall be served within five business days of entry of this order, by electronic mail to the extent email addresses are available and otherwise by U.S. mail, overnight or first-class postage prepaid, upon the Core Notice Parties and the Notice Parties (as defined in the *Motion of Foreign Representative for Order (I) Scheduling Hearing on Verified Petition Under Chapter 15 of the Bankruptcy Code for Recognition of a Foreign Main Proceeding and for Additional Relief and Assistance Under 11 U.S.C. §§ 105(a), 1507, and 1521; and (II) Specifying Form and Manner of Service of Notice of Hearing* [Docket No. 5]) and such other entities as the Court may direct. Such service shall be good and sufficient service and adequate notice for all purposes.

14. The Court shall retain jurisdiction with respect to the enforcement, amendment, or modification of this Order, any request for additional relief and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of the Court.

15. This Order shall be effective and enforceable immediately upon entry and shall constitute a final order within the meaning of 28 U.S.C. § 158(a).

Dated: October 15th, 2020  
Wilmington, Delaware



MARY F. WALRATH  
UNITED STATES BANKRUPTCY JUDGE

This is **Exhibit “D”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020

A handwritten signature in black ink, appearing to be 'J. Nadeau', written in a cursive style.

---

A Commissioner for taking affidavits

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

HEMATITE HOLDINGS INC., *et al.*,<sup>1</sup>

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 20-12387 (MFW)

Jointly Administrated

**NOTICE OF ENTRY BY CANADIAN COURT OF CLAIMS PROCEDURE ORDER**

Hematite Holdings Inc. (“Hematite Holdings”), in its capacity as the Canadian Court-appointed and authorized foreign representative (the “Foreign Representative”) for the above captioned debtors (the “Debtors”), which are the subjects of a reorganization proceeding (the “CCAA Proceeding”) commenced under Canada’s *Companies’ Creditors Arrangement Act* (the “CCAA”), pending before the Ontario Superior Court Of Justice (Commercial List) in Ontario, Canada (the “Canadian Court”), hereby submits this notice (the “Notice”) of entry of an order (the “Claims Procedure Order”) by the Canadian Court in the CCAA Proceeding establishing a claims procedure setting claims bar dates and governing the submission and reconciliation of all claims against the Debtors.

**PLEASE TAKE NOTICE** that on October 15, 2020, this Court entered the *Order Granting Verified Petition for (I) Recognition of Foreign Main Proceeding (II) Recognition of Foreign Representative, and (III) Related Relief Under Chapter 15 of the Bankruptcy Code* [Docket No. 35] (the “Final Recognition Order”) recognizing the CCAA Proceeding as a foreign

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<sup>1</sup> The U.S. Debtors in these chapter 15 cases and the last four digits of their U.S. Federal Employer Identification Numbers are as follows: Pavaco Holdings U.S. Inc. (5569); Hematite, Inc. (3799); and Hematite Automotive Products Inc. (5382). The Canadian Debtors in these chapter 15 cases and the last four digits of their unique identifier are as follows: Hematite Holdings Inc. (8581); Hematite Manufacturing Inc. (4900); Hematite Industrial Products Inc. (7706); and Canadian Pavaco Inc. (5315). The U.S. Debtors and the Canadian Debtors are referred to herein, collectively, as the “Debtors.” The Debtors’ principal offices are located at 659 Speedvale Avenue West, Guelph, Ontario, N1K 1E6, Canada.



main proceeding as well as granting comity and giving full force and effect in the United States to the CCAA Proceeding, the Initial Order and the Amended Initial Order issued by the Canadian Court on September 18, 2020 and September 28, 2020, respectively, and the transactions consummated or to be consummated thereunder. *See* Recognition Order, ¶¶ 2, 6.

**PLEASE TAKE FURTHER NOTICE** that on October 13, 2020, the Canadian Court issued the Claims Procedure Order. A true and correct copy of the Claims Procedure Order (and endorsement) is attached hereto as **Exhibit A**.

**PLEASE TAKE FURTHER NOTICE** that pursuant to the Claims Procedure Order, KPMG Inc., in its capacity as the Canadian Court-appointed Monitor in the CCAA Proceeding (the “Monitor”) will send a claims package (“Claims Package”) to all known potential claimants listed in Hematite’s books and records, including each party listed in the Consolidated List Required Pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure [Docket No. 14], by no later than October 15, 2020. *See* Claims Procedure Order, ¶¶ 12-13. The Claims Package includes, among other things, a notice to claimants, a claim instruction letter, and a blank proof of claim form.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Claims Procedure Order, the Monitor (i) has posted the Claims Package on the Monitor’s website (URL: <http://home.kpmg/ca/hematitegroup>) (the “Monitor Website”), and (ii) will cause the notice to claimants to be published, for at least one (1) business day, in *The Globe and Mail* (National Edition) and *USA Today* (National Edition) by October 20, 2020. *See* Claims Procedure Order, ¶ 15.

**PLEASE TAKE FURTHER NOTICE** that the Claims Procedure Order provides that any person that wishes to assert a claim against any of the Debtors or their respective Directors or

Officers must deliver a completed proof of claim to the Monitor by the following claims bar dates, as applicable: (a) **November 9, 2020 at 5:00 p.m.** (prevailing Eastern time) for Pre-Filing Claims and D&O Claims (other than the D&O Restructuring Claims) (as each term is defined in the Claims Procedure Order) or (b) for Restructuring Claims (as defined in the Claims Procedure Order), the later of (i) **November 9, 2020 at 5:00 p.m.** (prevailing Eastern time) and (ii) 21 days after the Claimant is deemed to have received a Claims Package sent by the Monitor with respect to a Restructuring Claim in accordance with paragraph 14 of the Claims Procedure Order. *See* Claims Procedure Order, ¶¶ 19-21.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Claims Procedure Order, any holder or potential holder of a claim against any of the Debtors must file a proof of claim in the CCAA Proceeding in the form and manner specified in the Claims Procedure Order. Failure to comply with the terms of the Claims Procedure Order, including failure to file a proof of claim in the form and manner specified therein, shall lead to the consequences detailed in paragraph 23 thereof. This includes, among other things, disallowance of the claim from participation in any distribution under the CCAA Proceeding. **Any claimant that files a proof of claim solely with this Court or in connection with these chapter 15 cases must refile such proof of claim in accordance with the provisions of the Claims Procedure Order. For the avoidance of doubt, proofs of claim filed solely in the United States with this Court are invalid.**

**PLEASE TAKE FURTHER NOTICE** that any inquiries with respect to the claims process as set forth in the Claims Procedure Order, and any requests for Claims Packages, should be directed to:

KPMG Inc.  
Court-appointed Monitor of Hematite Holdings, Inc. & others  
Bay Adelaide Centre  
333 Adelaide Street, West, Suite 4600  
Toronto, Ontario M5H 2S5

Attention: Nicholas Brearton and Tim Montgomery  
Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)  
Fax: 416-777-8818  
Phone: 416-777-3978

**PLEASE TAKE FURTHER NOTICE** that copies of the Claims Procedure Order and Claims Package can be accessed from the Monitor Website.

Dated: October 15, 2020  
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

/s/ Todd A. Atkinson

Matthew P. Ward (Del. Bar No. 4471)  
Morgan L. Patterson (Del. Bar No. 5388)  
Todd A. Atkinson (Del. Bar No. 4825)  
1313 N. Market Street, Suite 1200  
Wilmington, Delaware 19801  
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Email: [matthew.ward@wbd-us.com](mailto:matthew.ward@wbd-us.com)  
[morgan.patterson@wbd-us.com](mailto:morgan.patterson@wbd-us.com)  
[todd.atkinson@wbd-us.com](mailto:todd.atkinson@wbd-us.com)

*Counsel for Hematite Holdings Inc.,  
in its capacity as Foreign Representative*

**EXHIBIT A**

**Claims Procedure Order (and Endorsement)**



Court File No. CV-20-00647824-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) TUESDAY, THE 13TH  
MR. JUSTICE HAINEY ) DAY OF OCTOBER, 2020

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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC., HEMATITE  
INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO HOLDINGS U.S.  
INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.

Applicants

**CLAIMS PROCEDURE ORDER**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order (the "**Claims Procedure Order**") approving a procedure for the identification, quantification, and resolution of certain claims of creditors of the Applicants and their respective directors and officers, was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

ON READING the Notice of Motion, the affidavit of Jacques Nadeau sworn October 7, 2020 and the Exhibits thereto, and the Second Report of KPMG Inc. in its capacity as monitor of the Applicants (the "**Monitor**") dated October 9, 2020 (the "**Second Report**"), and on hearing the submissions of counsel for the Applicants, the Monitor and those other parties that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service, filed.

## SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Record of the Applicants and the Second Report is hereby abridged and validated such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) “**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (b) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (c) “**CCAA Proceedings**” means the within proceedings in respect of the Applicants under the CCAA;
- (d) “**CCAA Charges**” means the Administration Charge, the DIP Lender’s Charge and the Directors’ Charge (as each such term is defined in the Initial Order) and any other court-ordered charge over the property of the Applicants that may be granted by the Court;
- (e) “**Claim**” means a Pre-Filing Claim, a Restructuring Claim and a D&O Claim, provided, however, that “Claim” shall not include an Excluded Claim;
- (f) “**Claimant**” means any Person asserting a Claim and includes the transferee or assignee of a Claim, transferred and recognized in accordance with paragraphs 35 and 36 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (g) “**Claims Officer**” means one or more individuals appointed in accordance with paragraph 31 of this Claims Procedure Order to act as a claims officer for the purposes of this Claims Procedure Order;

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- (h) “**Claims Package**” means the Proof of Claim form, the Notice to Claimants, the Instruction Letter, and any other documentation the Applicants, in consultation with the Monitor, may deem appropriate;
- (i) “**Claims Procedure**” means the procedures outlined in this Claims Procedure Order, including the Schedules hereto;
- (j) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (k) “**D&O Claim**” means, as against any Director or Officer, in his or her capacity as such, any D&O Restructuring Claim and any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature that any creditor or other Person has or may be entitled to assert (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged wrongful or oppressive conduct, misrepresentation, fraud or breach of fiduciary duty), whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in equity or under statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence that in any way relate to or arise out of or in connection with (i) any Pre-Filing Claim; (ii) the assets, obligations, business or affairs of the Applicants; or (iii) the CCAA Proceedings or any matter or transaction occurring in or in connection with the CCAA Proceedings, but “**D&O Claim**” does not include a claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA;
- (l) “**D&O Restructuring Claim**” means, any right or claim of any Person against any Director or Officer, in his or her capacity as such, in connection with any indebtedness, liability or obligation of any kind whatsoever by any such Director



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or Officer to such Person arising out of the restructuring, disclaimer, repudiation or termination by an Applicant on or after the Filing Date of any contract, lease, employment agreement or arrangement or other agreement or obligation whether written or oral but “D&O Restructuring Claim” does not include a claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA;

- (m) “**Director**” means any former or present director of any of the Applicants or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to a director of any of the Applicant or who currently manages or supervises the management of the business and affairs of any of the Applicants or did so in the past;
- (n) “**Directors’ Charge**” has the meaning given to such term in the Initial Order;
- (o) “**Dispute Package**” means the Proof of Claim filed by a Claimant, the Notice of Revision or Disallowance delivered by the Monitor in respect of that Proof of Claim, the Notice of Dispute filed by the Claimant in respect of the Notice of Revision or Disallowance, and any ancillary documentation as determined by the Monitor;
- (p) “**Equity Claim**” has the meaning set forth in Section 2(1) of the CCAA;
- (q) “**Excluded Claim**” means:
  - (i) any claim pursuant to, or related to, the master lease agreements, as amended, supplemented or otherwise modified from time to time, between Hematite Manufacturing Inc. and TD Equipment Finance Canada, a division of The Toronto-Dominion Bank, listed in Schedule “F” hereto;
  - (ii) any claim by Woodbridge Foam Corporation (“**Woodbridge**”) or its affiliates, including, without limitation, pursuant to, or related to:
    - (1) the Assignment and Assumption Agreement dated September 21, 2020 between The Toronto-Dominion Bank, Woodbridge and certain of the Applicants, among others;



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- (2) the Plan Sponsor Agreement dated September 17, 2020 between Woodbridge and the Applicants, among others; or
  - (3) the Revolving DIP Loan Agreement dated September 17, 2020 between Woodbridge and the Applicants;
- (iii) any claim pursuant to, or related to, the Letter of Offer of Financing no. 076542-03 dated December 21, 2017, as amended, supplemented and otherwise modified from time to time, between BDC Capital Inc. and Hematite Manufacturing Inc., among others;
  - (iv) any claim by Toyota Motor Engineering & Manufacturing North America, Inc., FCA US LLC, or Ford Motor Company (and including each of their subsidiaries and affiliates, collectively, the “**Customers**”) in relation to any warranty, recall, product liability or other obligations of the Applicants to the Customers pursuant to the purchase agreements, purchase orders, and/or other contracts set out in the arrangements entered into between the Customers, Hematite Holdings Inc. and Woodbridge, as applicable;
  - (v) any claim secured by any of the CCAA Charges;
  - (vi) any claim by any of the Applicants against one or more of the other Applicants; and
  - (vii) any investigation, action, suit, order or proceeding in respect of the Applicants or any of them by or before a regulatory body (as defined in the CCAA), unless such investigation, action, suit, order or proceeding constitutes a “claim” within the meaning of the CCAA.
- (r) “**Filing Date**” means September 18, 2020;
  - (s) “**Initial Order**” means the Initial Order of the Honourable Mr. Justice Hailey made September 18, 2020 in these CCAA Proceedings, as amended, restated or varied from time to time;

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- (t) “**Instruction Letter**” means the instruction letter to Claimants, substantially in the form attached as Schedule “**B**” hereto, regarding the completion of a Proof of Claim by a Claimant and the Claims Procedure described herein;
- (u) “**Meeting**” means a meeting of the creditors of the Applicants called for the purpose of considering and voting in respect of a Plan;
- (v) “**Monitor**” means KPMG Inc., in its capacity as the Court-appointed monitor of the Applicants;
- (w) “**Monitor’s Website**” means the case website established by the Monitor with the following URL: <http://home.kpmg/ca/hematitegroup>.
- (x) “**Notice to Claimants**” means the notice for publication by the Monitor as described in paragraph 15 hereof, in the form attached as Schedule “**A**”;
- (y) “**Notice of Dispute**” means the notice referred to in paragraph 27 hereof substantially in the form attached as Schedule “**E**” hereto which must be delivered to the Monitor by any Claimant wishing to dispute a Notice of Revision or Disallowance, with reasons for its dispute;
- (z) “**Notice of Revision or Disallowance**” means the notice referred to in paragraph 26 hereof, substantially in the form of Schedule “**D**” advising a Claimant that the Applicants, with the consent of the Monitor, have revised or rejected all or part of such Claimant’s Claim as set out in its Proof of Claim;
- (aa) “**Officer**” means any former or present officer of any of the Applicants or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to an officer of any of the Applicants;
- (bb) “**Orders**” means any and all orders issued by the Court within the CCAA Proceedings, including the Initial Order;
- (cc) “**Person**” means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or

unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;

- (dd) “**Plan**” means a plan of compromise or arrangement contemplated by the Initial Order;
- (ee) “**Pre-Filing Claim**” means any right of claim of any Person that may be asserted or made in whole or in part against any of the Applicants, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (international or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive, or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against any of the Applicants with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof that (A) is based in whole or in part on facts existing prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA had the Applicant become bankrupt on the Filing Date, including for greater certainty any claim against any of the Applicants for indemnification by any Directors or Officers in respect of a D&O

Claim other than a D&O Restructuring Claim (but excluding any such claim for indemnification that (i) is covered by the Directors' Charge, or (ii) is in respect of an Excluded Claim);

- (ff) **"Pre-Filing Claims Bar Date"** means 5:00 p.m. (Eastern Time) on November 9, 2020;
- (gg) **"Proof of Claim"** means the Proof of Claim referred to in paragraphs 18 to 21 hereof to be filed by Claimants, substantially in the form attached hereto as Schedule "C";
- (hh) **"Proven Claim"** means the amount and Status of a Claim of a Claimant as finally determined in accordance with this Claims Procedure Order;
- (ii) **"Restructuring Claim"** means a D&O Restructuring Claim and any right of claim of any Person against any of the Applicants in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any such Applicant to such Person arising out of the restructuring, disclaimer, repudiation or termination by such Applicant on or after the Filing Date of any contract, lease, employment agreement or arrangement or other agreement or obligation whether written or oral, including for greater certainty any claim against any of the Applicants for indemnification by any Directors or Officers in respect of a Restructuring Claim (but excluding any such claim for indemnification that (i) is covered by the Directors' Charge, or (ii) is in respect of an Excluded Claim);
- (jj) **"Restructuring Claims Bar Date"** means the later of:
  - (i) the Pre-Filing Claims Bar Date; and
  - (ii) 5:00 p.m. (Eastern Time) on the day which is twenty one (21) days after the Monitor sends a Claims Package with respect to a Restructuring Claim in accordance with paragraph 14 hereof;
- (kk) **"Secured Claim"** means that portion of a Claim that is (i) secured by security validly charging or encumbering property or assets of the Applicants (including

statutory and possessory liens that create security interests) taking into account the value of such collateral and the priority of such security, and (ii) duly and properly perfected in accordance with the relevant legislation in the appropriate jurisdiction, as of the Filing Date or after the Filing Date if permitted by the Initial Order;

(ll) “**Status**” means, with respect to a Claim, whether such claim is an unsecured Claim, Secured Claim or Equity Claim; and

(mm) “**U.S. Court**” means the United States Bankruptcy Court for the District of Delaware.

3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

#### **GENERAL PROVISIONS**

6. **THIS COURT ORDERS** that the Applicants, in consultation with the Monitor, are hereby authorized (i) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where they are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to completion and execution of such forms, and (ii) to request any further documentation from a Claimant that the Applicants or the Monitor may reasonably require in order to determine the validity and/or Status of a Claim.

7. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the solicitation by the Applicants or the Monitor of Claims and the filing by



any Claimant of any Claims shall not, for that reason only, grant any Person standing in these proceedings.

8. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall constitute or be deemed to constitute an allocation or assignment of a Claim or an Excluded Claim into particular affected or unaffected classes for the purpose of a Plan and, for greater certainty, the treatment of Claims, Excluded Claims or any other claims are to be subject to a Plan and the class or classes of creditors for voting and distribution purposes shall be subject to the terms of any proposed Plan or further order of the Court.

9. **THIS COURT ORDERS** that all Claims filed shall be denominated in the original currency of the Claim. Where no currency is indicated, the Claim shall be presumed to be in Canadian Dollars. Any Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Filing Date.

#### **MONITOR'S ROLE**

10. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall assist the Applicants in connection with the administration of the Claims Procedure, including the determination of Claims of the Claimants and the referral of a particular Claim to the Court, as requested by the Applicants from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order or incidental thereto.

11. **THIS COURT ORDERS** that (i) in carrying out the terms of this Claims Procedure Order, the Monitor shall have all of the protections given it by the CCAA, the Initial Order, and this Claims Procedure Order, and as an officer of this Court, including the stay of proceedings in its favour, (ii) the Monitor shall incur no liability or obligation as a result of the carrying out of the provisions of this Claims Procedure Order, except to the extent that the Monitor has acted with gross negligence or willful misconduct, (iii) the Monitor shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants, all without

independent investigation, and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Claimant, except to the extent that the Monitor has acted with gross negligence or willful misconduct.

#### **NOTICE TO CLAIMANTS**

12. **THIS COURT ORDERS** that the Applicants shall provide to the Monitor a complete list of known potential Claimants, listed in the books and records of the Applicants (the “**Known Claimants**” and each a “**Known Claimant**”) as at the Filing Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to the Applicants’ books and records, which list shall include those parties listed on the Consolidated List Required Pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure filed on September 24, 2020 with the U.S. Court.

13. **THIS COURT ORDERS** that the Monitor shall send a Claims Package to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of the Applicants, or by ordinary mail, courier or facsimile to the last known mailing address or facsimile address of the Known Claimant if an email address for such Known Claimant is not known, by no later than October 15, 2020.

14. **THIS COURT ORDERS** that the Monitor shall send the Claims Package by email to the last known email address, or by ordinary mail, courier or facsimile to the last known mailing address or facsimile address if an email address is not known, of each Claimant with a Restructuring Claim:

- (a) if the Restructuring Claim arose prior to the date of the Claims Procedure Order, no later than three (3) Business Days following the time the Monitor actually becomes aware of the existence of the Restructuring Claim; and
- (b) if the Restructuring Claim arises from the restructuring, disclaimer, resiliation or termination of any lease, contracts, employment agreement or arrangement or other agreement or obligation, on or after the date of the Claims Procedure Order, no later than three (3) Business Days following the time the Monitor actually

becomes aware of the effective date of such restructuring, disclaimer, resiliation or termination of any lease, contract, employment agreement or arrangement or other agreement or obligation.

15. **THIS COURT ORDERS** that as soon as practicable, but no later than 5:00 p.m. on October 20, 2020, the Monitor shall cause the Notice to Claimants to be published, for at least one (1) Business Day, in *The Globe and Mail* (National Edition) and USA Today (National Edition). The Monitor shall also cause the Notice to Claimants to be published, as soon as practicable, in any local newspapers, trade journals or similar publications, if any, as the Applicants, in consultation with the Monitor and the DIP Lender (as defined in the Initial Order), deem appropriate.

16. **THIS COURT ORDERS** that the Monitor shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted to the Monitor's Website as soon as reasonably possible and cause it to remain posted thereon until its discharge as Monitor of the Applicants.

17. **THIS COURT ORDERS** that upon request by a Claimant for a Claims Package or documents or information relating to the Claims Procedure prior to the Pre-Filing Claims Bar Date or Restructuring Claims Bar Date, as applicable, the Monitor shall forthwith send a Claims Package, direct such Person to the documents posted on the Monitor's Website, or otherwise respond to the request for information or documents as the Monitor considers appropriate in the circumstances.

18. **THIS COURT ORDERS** that the form and substance of each of the Notice to Claimants, Proof of Claim form, Instruction Letter, Notice of Revision or Disallowance and Notice of Dispute, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Monitor may, from time to time, make such minor changes to such forms as the Monitor, in consultation with the Applicants, considers necessary or desirable.

#### **PROOFS OF CLAIMS**

19. **THIS COURT ORDERS** that any Person that wishes to assert a Pre-Filing Claim must deliver to the Monitor on or before the Pre-Filing Claims Bar Date a completed Proof of Claim,



including all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

20. **THIS COURT ORDERS** that any Person that wishes to assert a D&O Claim other than a D&O Restructuring Claim must deliver to the Monitor on or before the Pre-Filing Claims Bar Date a completed Proof of Claim form, together with all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

21. **THIS COURT ORDERS** that any Person that wishes to assert a Restructuring Claim must deliver to the Monitor on or before the Restructuring Claims Bar Date a completed Proof of Claim form, together with all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

22. **THIS COURT ORDERS** that any Person wishing to assert a Claim shall: (i) include any and all Claims it asserts against an Applicant or a Director or Officer of that Applicant in a single Proof of Claim; and (ii) file separate Proofs of Claim against each Applicant that it wishes to assert a Claim against.

23. **THIS COURT ORDERS** that any Person who does not file a Proof of Claim in accordance with this Claims Procedure Order with the Monitor by the Pre-Filing Claims Bar Date or Restructuring Claims Bar Date, as applicable, shall:

- (a) not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in, the Claims Procedure or the CCAA Proceedings in respect of such Claim;
- (b) with respect to a Pre-Filing Claim or a Restructuring Claim against any of the Applicants, be forever barred, estopped and enjoined from asserting or enforcing such Claim against such Applicant and such Applicant shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Applicants or the Monitor;
- (c) with respect to a D&O Claim against any Director or Officer, be forever barred, estopped and enjoined from asserting or enforcing such Claim against such

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Director or Officer and such Director or Officer shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Applicants, the Monitor or the Directors or Officers;

- (d) not be permitted to vote at any Meeting on account of such Claim; and
- (e) not be permitted to participate in any distribution under any Plan related to such Claim or under these CCAA Proceedings.

#### **ADJUDICATION OF CLAIMS**

24. **THIS COURT ORDERS** that the Monitor, in consultation with the Applicants (and in the case of a D&O Claim, in consultation with the applicable Director or Officer) shall review all Proofs of Claim filed in accordance with this Claims Procedure Order, and at any time may:

- (a) request additional information from a Claimant;
- (b) request that a Claimant file a revised Proof of Claim;
- (c) attempt to resolve and settle any issue arising in a Proof of Claim or in respect of a Claim;
- (d) accept (in whole or in part), the amount and/or Status of any Claim and so notify the Claimant in writing; and
- (e) revise or disallow (in whole or in part) the amount and/or Status of any Claim and so notify the Claimant in writing.

25. **THIS COURT ORDERS** that where a Claim has been accepted by the Monitor in accordance with this Claims Procedure Order, such Claim shall constitute such Claimant's Proven Claim. The acceptance of any Claim or other determination of same in accordance with this Claims Procedure Order, in full or in part, shall not constitute an admission of any fact, thing, liability, or quantum or status of any claim by any Person, save and except in the context of the CCAA Proceedings.

26. **THIS COURT ORDERS** that where a Claim is revised or disallowed (in whole or in part, and whether as to amount and/or Status), the Monitor shall deliver to the Claimant a Notice of Revision or Disallowance, attaching the form of Notice of Dispute.

27. **THIS COURT ORDERS** that any Person who intends to dispute a Notice of Revision or Disallowance sent pursuant to paragraph 26 hereof shall deliver a Notice of Dispute to the Monitor in writing by 5:00 p.m. (Eastern Time) on the day that is not later than ten (10) days after such Claimant is deemed to have received the Notice of Revision or Disallowance in accordance with paragraph 38 of this Claims Procedure Order or such longer period as may be agreed to by the Monitor in writing. The receipt of a Notice of Dispute by the Monitor within the ten (10) day period specific in this paragraph shall constitute an application to have the amount and/or Status of such claim determined pursuant to the Claims Procedure as provided in this Claims Procedure Order.

28. **THIS COURT ORDERS** that if any Person who received a Notice of Revision or Disallowance does not return a Notice of Dispute in accordance with paragraph 27 of this Claims Procedure Order, the value and Status of such Claim shall be deemed to be set out in the Notice of Revision or Disallowance for voting and distribution purposes, and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.

#### **RESOLUTION OF CLAIMS**

29. **THIS COURT ORDERS** that as soon as practicable after a Notice of Dispute is received by the Monitor in accordance with this Claims Procedure Order, the Monitor, in consultation with the Applicants, may attempt to resolve and settle the Claim with the Claimant.

30. **THIS COURT ORDERS** that in the event that a dispute raised in a Notice of Dispute is not settled within a reasonable time period or in a manner satisfactory to the Applicants, the Monitor and the applicable Claimant, the Monitor, in consultation with the Applicants, shall either: (i) send a Dispute Package to a Claims Officer, or (ii) on notice to the disputing Claimant, schedule an appointment with the Court for the purpose of scheduling a motion to seek a determination by the Court of the disputed Claim, at which appointment directions will be sought

from the Court on the process for such determination. For greater certainty, the foregoing includes any dispute arising as to whether a Claim or any portion thereof is or is not a Secured Claim or an Equity Claim.

31. **THIS COURT ORDERS** that the appointment of any Claims Officer to adjudicate a disputed Claim shall be subject to mutual agreement between the affected Claimant and the Applicants, in consultation with the Monitor, and if such agreement is not possible, Court approval. Either the Applicants or the Monitor are hereby authorized to bring a motion to seek an order of the Court appointing a Claims Officer in respect of any and all disputed Claims. The Applicants shall pay the reasonable professional fees and disbursements of each Claims Officer on presentation and acceptance of invoices from time to time. Each Claims Officer shall be entitled to a reasonable retainer against his or her fees and disbursements which shall be paid upon request by the Applicants, with the consent of the Monitor.

32. **THIS COURT ORDERS** that, subject to further order of the Court, the Claims Officer shall determine the Status and/or amount of each Claim in respect of which a dispute has been referred to such Claims Officer and in doing so, the Claims Officer shall be empowered to determine the process in which evidence may be brought before him or her as well as any other procedural matters which may arise in respect of the determination of any Claim.

33. **THIS COURT ORDERS** that the Applicants or the Claimant may appeal the Claims Officer's determination to this Court by serving upon the other (with a copy to the Monitor) and filing with this Court, within ten (10) calendar days of notification of the Claims Officer's determination of such Claimant's Claim, a notice of motion returnable on a date to be fixed by this Court. If a notice of motion is not filed within such period, then the Claims Officer's determination shall be deemed to be final and binding and shall be such Claimant's Proven Claim.

#### **EXCLUDED CLAIMS**

34. **THIS COURT ORDERS** that, for greater certainty, no Person holding an Excluded Claim shall be required to file a Proof of Claim in respect of such Excluded Claim, and such Person shall be unaffected by this Claims Procedure Order in respect of such Excluded Claim.



The Applicants may apply to the Court for a further order to govern the identification, quantification and resolution of Excluded Claims, whether by way of amendments to this Claims Procedure Order or a supplemental claims procedure order, if at any time the Applicants consider it necessary or desirable to do so.

#### **NOTICE OF TRANSFEREES**

35. **THIS COURT ORDERS** that neither the Monitor nor the Applicants shall be obligated to give notice or otherwise deal with the transferee or assignee of a Claim unless and until actual notice of the transfer or assignment, together with satisfactory evidence of the existence and validity of such transfer or assignment, shall have been received and acknowledged by the Applicants and the Monitor in writing. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to the receipt and acknowledgment by the Applicants and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which the Applicants may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the Applicants.

36. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Applicants and the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Applicants and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole,

shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

### **SERVICE AND NOTICES**

37. **THIS COURT ORDERS** that the forms of notice to be provided in accordance with this Claims Procedure Order shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order, the Pre-Filing Claims Bar Date and Restructuring Claims Bar Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Claims Procedure Order.

38. **THIS COURT ORDERS** that the Applicants and the Monitor may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Claims Package, and any letters, notices or other documents to the Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of the Applicants or set out in such Claimant's Proof of Claim. Any such service and delivery shall be deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario) or the United States, and the tenth Business Day after mailing internationally (other than to the United States); (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

39. **THIS COURT ORDERS** that any notice or communication (including Proofs of Claim and Notices of Dispute) to be given under this Claims Procedure Order by any Person to the Monitor or the Applicants shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

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KPMG Inc.  
Court-appointed Monitor of the Applicants  
Bay Adelaide Centre  
333 Adelaide Street West, Suite 4600  
Toronto, Ontario M5H 2S5

Attention: Nicholas Brearton and Tim Montgomery  
Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)  
Fax: 416-777-8818  
Phone: 416-777-3978

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

40. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary or registered mail and then not received shall not, absent further order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Procedure Order.

41. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is later amended by further order of the Court, the Monitor shall post such further order on the Monitor's Website, and such posting shall constitute adequate notice to Claimants of such amended Claims Procedure.

#### **MISCELLANEOUS**

42. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, and without limitation to paragraph 33 of this Claims Procedure Order, the Monitor and the Applicants may apply to this Court from time to time for directions from this Court with respect to this Claims Procedure Order, or for such further order or orders as any of them may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.



43. **THIS COURT ORDERS** that this Claims Procedure Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

44. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this Claims Procedure Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to Hematite Holdings Inc. in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order.

45. **THE COURT ORDERS** that the Applicants are hereby authorized and directed to file and serve this Claims Procedure Order with the U.S. Court.

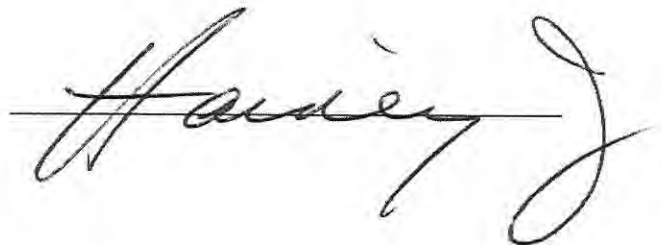
46. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Claims Procedure Order and for assistance in carrying out the terms of this Claims Procedure Order.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

OCT 13 2020

PER / PAR:

*AE*



**SCHEDULE "A"**  
**NOTICE TO CLAIMANTS**

**SCHEDULE "A"**

**NOTICE TO CREDITORS OF HEMATITE HOLDINGS INC.,  
HEMATITE MANUFACTURING INC., HEMATITE INDUSTRIAL PRODUCTS INC.,  
CANADIAN PAVACO INC., PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS, INC.**

**(collectively, the "Applicants")**

**RE: NOTICE OF CLAIMS BAR DATE IN *COMPANIES' CREDITORS ARRANGEMENT ACT*  
("CCAA") PROCEEDINGS**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made October 13, 2020 (the "**Claims Procedure Order**"), a claims procedure has been commenced for the identification, quantification, and resolution of certain claims of creditors of the Applicants and their respective directors and officers. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that any Person that wishes to assert a Pre-Filing Claim or a D&O Claim (against any of the current or former Directors or Officers of the Applicants) (other than a D&O Restructuring Claim), other than an Excluded Claim, must deliver to KPMG Inc., in its capacity as the court-appointed monitor of the Applicants (the "**Monitor**") on or before the Pre-Filing Claims Bar Date a completed Proof of Claim form, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order.

**Pursuant to the Claims Procedure Order, the Pre-Filing Claims Bar Date is 5:00 p.m. (Eastern Time) on November 9, 2020.** Proofs of Claim in respect of Pre-Filing Claims and D&O Claims (other than D&O Restructuring Claims) must be completed and filed with the Monitor such that it is received on or before the Pre-Filing Claims Bar Date.

**PLEASE TAKE NOTICE** that any Person that wishes to assert a Restructuring Claim (including any D&O Restructuring Claim), other than an Excluded Claim, must deliver to the Monitor on or before the Restructuring Claims Bar Date a completed Proof of Claim form, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order.

**Pursuant to the Claims Procedure Order, the Restructuring Claims Bar Date is 5:00pm (Eastern Time) on the later of the Pre-Filing Claims Bar Date and the date that is twenty one (21) Calendar Days after the Monitor sends a Claims Package with respect to a Restructuring Claim.** Proofs of Claim in respect of Restructuring Claims must be completed and filed with the Monitor such that it is received on or before the Restructuring Claims Bar Date.

**PLEASE TAKE NOTICE** that **Pavaco Plastics Inc.** was amalgamated with Hematite Manufacturing Inc. on March 29, 2020 and any Claims against the former Pavaco Plastics Inc. must be filed against Hematite Manufacturing Inc. or they will be barred.

**Pursuant to the Claims Procedure Order,** the Monitor will cause Claims Packages to be sent to all Known Claimants on or before October 15, 2020. A copy of the Claims Procedure Order and the Claims Package can be found at the following website: <http://home.kpmg/ca/hematitegroup>.

**CLAIMS WHICH ARE NOT RECEIVED BY THE APPLICABLE CLAIMS BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.**

- 2 -

**CREDITORS REQUIRING INFORMATION** or claim documentation may contact the Monitor at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

KPMG Inc., Court-appointed Monitor of Hematite Group

Claims Process

333 Bay Street, Suite 4600

Bay Adelaide Centre

Toronto, ON M5H 2S5

Attention: Tim Montgomery

Telephone: 416-777-3798

Fax: 416-777-8818

Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)

**SCHEDULE "B"**  
**INSTRUCTION LETTER**

**SCHEDULE "B"**

**INSTRUCTION LETTER  
FOR THE CLAIMS PROCEDURE FOR KNOWN CREDITORS  
OF HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC., HEMATITE  
INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO HOLDINGS U.S. INC.,  
HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS, INC.**

(collectively, the "Applicants")

**CLAIMS PROCEDURE**

By Order of the Ontario Superior Court of Justice (Commercial List) dated October 13, 2020 (as such Order may be amended from time to time, the "**Claims Procedure Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**"), the Applicants and KPMG Inc., in its capacity as the Court-appointed monitor of the Applicants (the "**Monitor**"), have been authorized to conduct a claims procedure (the "**Claims Procedure**"). A copy of the Claims Procedure Order and other public information concerning this proceeding can be obtained from the Monitor's website at <http://home.kpmg/ca/hematitegroup>.

This letter provides general instructions for completing a Proof of Claim form. Capitalized terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Procedure Order.

The Claims Procedure is intended to identify and determine the amount of any claims against the Applicants or any or all of their respective current or former Directors or Officers, whether unliquidated, contingent or otherwise, that are to be affected in the plan of compromise or arrangement being pursued by the Applicants under the CCAA. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

All forms and inquiries with respect to the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

KPMG Inc., Court-appointed Monitor of Hematite Group

Claims Process

333 Bay Street, Suite 4600

Bay Adelaide Centre

Toronto, ON M5H 2S5

Attention: Tim Montgomery

Telephone: 416-777-3798

Fax: 416-777-8818

Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)

**FOR CREDITORS SUBMITTING A PROOF OF CLAIM**

If you believe that you have a Claim against the Applicants or a Director or Officer of the Applicants, you must complete and file a Proof of Claim form with the Monitor. All Proofs of Claim for Pre-Filing



Claims (i.e. Claims against the Applicant arising prior to the Filing Date) and all D&O Claims (against any of the Directors or Officers of the Applicants) (other than D&O Restructuring Claims) **must be received by the Monitor before 5:00 p.m. (Toronto Time) on November 9, 2020** (the “**Pre-Filing Claims Bar Date**”). If you do not file a Proof of Claim in respect of any such Claims by the Pre-Filing Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding any plan of compromise or arrangement being proposed by the Applicants or participate in any distribution under such plan in respect of such Claims and any such Claims shall be forever extinguished and barred.

All Proofs of Claim for Restructuring Claims (i.e. Claims arising on or after the Filing Date arising out of the restructuring, disclaimer, repudiation or termination by an Applicant of any contract, lease employment agreement or arrangement or other agreement or obligation) (including D&O Restructuring Claims) **must be received by the Monitor before 5:00 p.m. (Toronto Time) on the later of the Pre-Filing Claims Bar Date and the date that is twenty one (21) Calendar Days after the Monitor sends a Claims Package with respect to a Restructuring Claim** (the “**Restructuring Claims Bar Date**”). If you do not file a Proof of Claim in respect of any such Restructuring Claims by the Restructuring Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding any plan of compromise or arrangement being proposed by the Applicants or participate in any distribution under such plan in respect of such Claims and any such Claims you may have against the Applicants and/or any of their respective Directors and Officers shall be forever extinguished and barred.

Note that **Pavaco Plastics Inc.** was amalgamated with Hematite Manufacturing Inc. on March 29, 2020 and any Claims against the former Pavaco Plastics Inc. must be filed against Hematite Manufacturing Inc. or they will be barred.

#### **ADDITIONAL FORMS**

Additional Proof of Claim forms can be obtained from the Monitor’s website at <http://home.kpmg/ca/hematitegroup> or by contacting the Monitor.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.



**SCHEDULE "C"**  
**PROOF OF CLAIM FORM**

**SCHEDULE "C"**

**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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING  
INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO  
HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.**

**(collectively, the "Applicants")**

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**PROOF OF CLAIM**

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**1. PARTICULARS OF CREDITOR**

(a) Full Legal Name of Creditor:

\_\_\_\_\_

(b) Full Mailing Address of Creditor:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) Telephone Number of Creditor:

\_\_\_\_\_

(d) Facsimile Number of Creditor:

\_\_\_\_\_

(e) E-mail Address of Creditor:

\_\_\_\_\_

(f) Attention (Contact Person):

\_\_\_\_\_

2. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes  No   
 (if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): \_\_\_\_\_

3. **PROOF OF CLAIM**

**THE UNDERSIGNED CERTIFIES AS FOLLOWS:**

- (a) That I am a Creditor of the Applicants /or the Director(s) or Officer(s) of the Applicants / I hold the position of \_\_\_\_\_ of the Creditor;
- (b) That I have knowledge of all the circumstances connected with the Claim described and set out below;
- (c) The Applicants and/or the Director(s) or Officer(s) of the Applicants was and still is indebted to the Creditor as follows:<sup>1</sup>

Debtor	Pre-Filing Claim Amount	Restructuring Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any:
Hematite Holdings Inc.				
Hematite Manufacturing Inc. (including Pavaco Plastics Inc.)				
Hematite Industrial Products Inc.				

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<sup>1</sup> Any Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Filing Date

Debtor	Pre-Filing Claim Amount	Restructuring Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any:
Canadian Pavaco Inc.				
Pavaco Holdings U.S. Inc.				
Hematite, Inc.				
Hematite Automotive Products Inc.				
Directors and Officers of the Applicants  <hr/> <i>(insert name(s) above)</i>				

4. **PARTICULARS OF CLAIM:**

The particulars of the undersigned's Claims (including Pre-Filing Claims, Restructuring Claims and Director/Officer Claims) are attached.

*(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. If a claim is made against any Directors or Officers, specify the applicable Directors or Officers and the legal basis for the Claim against them.)*

5. **FILING OF CLAIM**

For Pre-Filing Claims and D&O Claims (other than D&O Restructuring Claims), this Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the Pre-Filing Claims Bar Date (November 9, 2020)**.

For Restructuring Claims (including D&O Restructuring Claims), this Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the later of the Pre-**

**Filing Claims Bar Date and the date that is twenty one (21) Calendar Days after the Monitor sends a Claims Package with respect to a Restructuring Claim**

In both cases, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

KPMG Inc., Court-appointed Monitor of Hematite Group

Claims Process

333 Bay Street, Suite 4600

Bay Adelaide Centre

Toronto, ON M5H 2S5

Attention: Tim Montgomery

Telephone: 416-777-3798

Fax: 416-777-8818

Email: hematitegroup@kpmg.ca

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
*(signature of creditor or its authorized representative)*

Name:

Title:

*Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.*

**SCHEDULE "D"**

**NOTICE OF REVISION OR DISALLOWANCE**



## SCHEDULE "D"

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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING  
INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO  
HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.

(collectively, the "Applicants" or "Hematite Group")

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NOTICE OF REVISION OR DISALLOWANCE

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TO: [insert name and address of creditor]

Capitalized terms not defined in this Notice of Revision or Disallowance have the meaning ascribed to them in the Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of Hematite Group dated October 13, 2020 (the "Claims Procedure Order").

Pursuant to the Claims Procedure Order, KPMG Inc. in its capacity as the court-appointed monitor of the Applicants (the "Monitor") hereby gives you notice that it has reviewed your Proof of Claim and has revised or disallowed all or part of your Claim. Subject to further dispute by you in accordance with the Claims Procedure Order, your Proven Claim will be as follows:

Name of Applicant and or any of their Directors and Officers, as applicable	Type of Claim per Proof of Claim	Amount of Claim per Proof of Claim	Type of Claim Allowed per this Notice of Revision or Disallowance	Amount of Claim Allowed per this Notice of Revision or Disallowance
[Insert: name of appropriate party]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]	CAD \$	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]	CAD \$



Reasons for Revision or Disallowance

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**SERVICE OF NOTICE OF DISPUTE**

If you disagree with the amount of your Claim specified herein for voting and/or distribution purposes, you must deliver a Notice of Dispute to the Monitor in writing, no later than 5:00 p.m. (Eastern Time) on the day that is not later than **ten (10)** days after you have been deemed to have received the Notice of Revision or Disallowance under the Claims Procedure Order. The form of Notice of Dispute is enclosed.

If you do not deliver a Notice of Dispute, your Claim shall be deemed to be as set out in this Notice of Revision or Disallowance.

Notice of Dispute forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

KPMG Inc., Court-appointed Monitor of Hematite Group  
Claims Process

333 Bay Street, Suite 4600  
Bay Adelaide Centre  
Toronto, ON M5H 2S5  
Attention: Tim Montgomery

Telephone: 416-777-3798  
Fax: 416-777-8818  
Email: hematitegroup@kpmg.ca

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**SCHEDULE "E"**  
**NOTICE OF DISPUTE**

**SCHEDULE "E"**

**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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING  
INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO  
HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.**

**(collectively, the "Applicants" or "Hematite Group")**

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**NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE**

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**1. PARTICULARS OF CREDITOR**

(a) Full Legal Name of Creditor:

\_\_\_\_\_

(b) Full Mailing Address of Creditor:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) Telephone Number of Creditor:

\_\_\_\_\_

(d) Facsimile Number of Creditor:

\_\_\_\_\_

(e) E-mail Address of Creditor:

\_\_\_\_\_

(f) Attention (Contact Person):

\_\_\_\_\_

**2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes  No   
 (if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): \_\_\_\_\_

**3. DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

Pursuant to the Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of Hematite Group dated October 13, 2020 (the “**Claims Procedure Order**”), we hereby give you notice of our intention to dispute the Notice of Revision or Disallowance in respect of our Claim as set out in the following table:

Name of Applicant and or any of their Directors and Officers, as applicable	Type of Claim in Notice of Revision or Disallowance	Amount of Claim in Notice of Revision or Disallowance	Type of Claim Asserted per this Notice of Dispute	Amount of Claim Asserted per this Notice of Dispute

*[Insert: name of appropriate party]*

*[Unsecured Claim / Unsecured Priority Claim / Secured Claim]*

*[CAD \$]*

*[Unsecured Claim / Unsecured Priority Claim / Secured Claim]*

*[CAD \$]*

**4. REASONS FOR DISPUTE:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

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*(signature of creditor or its authorized representative)*

Name:

Title:

*Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.*

**SCHEDULE "F"**  
**TD EQUIPMENT LEASE AGREEMENTS**

1. Master equipment lease no. T000000658 dated April 5, 2018 between Pavaco Plastics Inc. (now named Hematite Manufacturing Inc.), as lessee, and TD Equipment Finance Canada, a division of the Toronto-Dominion Bank, as lessor, and the schedules thereto (being Schedule No. 18003130 dated April 5, 2018, and Schedule No. 18003120 dated April 5, 2018).
  
2. Master equipment lease no. 23296 dated February 22, 2013 between Pavaco Products Inc. (now named Hematite Manufacturing Inc.), as lessee, and TD Equipment Finance Canada, a division of the Toronto-Dominion Bank, as lessor, and the schedules thereto (being Schedule No. 10 dated April 25, 2016, and Schedule No. 12 dated August 22, 2016 and Schedule No. 13 dated November 23, 2016).

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 HEMATITE HOLDINGS INC. ET AL.

Court File No: CV-20-00647824-00CL

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

Proceedings commenced at Toronto

**CLAIMS PROCEDURE ORDER**

**McCarthy Tétrault LLP**  
Suite 5300, Toronto Dominion Bank Tower  
Toronto ON M5K 1E6  
Fax: 416-868-0673

**James Gage** LSO#: 346761  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Trevor Courtis** LSO#: 67715A  
Tel: 416-601-7643  
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Lawyers for the Applicants

DOC#: 20783419



Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

RE HEMATITE HOLDINGS INC.  
Plaintiff(s)  
AND  
\_\_\_\_\_ Defendant(s)

Case Management  Yes  No by Judge: \_\_\_\_\_

Counsel	Telephone No:	Facsimile No:

- Order  Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: \_\_\_\_\_
- Time Table approved (as follows):

① This motion is not opposed and is supported by the Monitor.

② I am satisfied that it should be granted on the terms of the attached Claims Procedure Order.

October 13, 2020 *Hailey J*

\_\_\_\_\_ Date \_\_\_\_\_ Judge's Signature \_\_\_\_\_

Additional Pages \_\_\_\_\_

This is **Exhibit “E”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020



---

A Commissioner for taking affidavits





This is **Exhibit “F”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020



---

A Commissioner for taking affidavits



# CPPIB: Neiman Marcus tried to sell Mytheresa last year, bankruptcy documents show

FROM B1

According to a report in the Dallas Morning News, Mr. Bourbonnais told a crowd at a breakfast meeting in Neiman Marcus's headquarters that when people congratulated him about Neiman Marcus, he would reply: "We're really happy about the deal, but call me in five years when we've tripled our investment."

It was not to be. Neiman Marcus spent much of the time under CPPIB's co-ownership trying to figure out how to pay its debts and negotiating with creditors, ultimately filing for bankruptcy in May, 2020.

However, a seemingly small decision six years earlier paved the way for today's payoff: After Neiman Marcus paid US\$253-million for German luxury goods retailer Mytheresa in 2014, it designated the company an "unrestricted subsidiary" under the terms of some of the company's borrowings.

That legal designation gave Neiman Marcus far more flexibility with Mytheresa than if it was a typical subsidiary. It was also part of a larger trend in which borrowers have increasing power over creditors, sometimes flipping the bankruptcy script.

An increasing number of lenders have been willing to provide riskier debt financing because of the higher returns. The competition means that savvy borrowers can increasingly insist on better deal terms. That includes the ability to carve out some assets into separate companies, sheltering them from creditors in the case of a loan default or even bankruptcy. That defies the traditional pattern where equity holders are wiped out and lenders walk away with all the assets.

Neiman Marcus would prove to be no exception, and Mytheresa – a seller of luxury clothing, bags, shoes and accessories for women, men and children – would become a flashpoint in a looming bankruptcy.

In September, 2018, as Neiman Marcus continued to struggle with its debts, it moved to transfer ownership of the Mytheresa business, paid as a Neiman Marcus dividend to CPPIB and Ares. "Neiman Marcus' debt agreements expressly permitted the distribution of ownership interests in unrestricted subsidiaries without limit," Neiman Marcus said in bankruptcy documents.



U.S. luxury retailer Neiman Marcus filed for bankruptcy in May, 2020, after trying for several years to pay its debts and negotiate with creditors. The company has been co-owned by the Canada Pension Plan Investment Board since 2013. JEENAH MOON/REUTERS

However, Neiman Marcus's debtholders immediately balked, with some demanding that the Canadian pension plan and Ares return Mytheresa to Neiman Marcus and remove the unrestricted designation, and others demanding Neiman Marcus use Mytheresa's stock to backstop its borrowings.

In anticipation of a bankruptcy filing, Neiman Marcus says, it added "disinterested" members to its boards and gave them the power to determine if there were conflicts of interest in the Chapter 11 case. An investigation by Scott Vogel, one of those disinterested board members, later determined that creditors could likely make a "fraudulent conveyance" claim against Neiman Marcus because there was a strong possibility it was insolvent at the time it distributed Mytheresa to CPPIB and Ares, for no consideration in return.

Ultimately, in a settlement to resolve the legal battle, Neiman Marcus issued a

series of special shares and guarantees that promised the first US\$500-million in proceeds from an eventual sale of Mytheresa would go to the unsecured creditors, not CPPIB and Ares. Neiman Marcus entered bankruptcy in May of this year and emerged in September, with CPPIB and Ares losing their equity investment in the company.

The two still have Mytheresa, however. With the passage of time, it's entirely possible the owners can realize a value for the company that settles matters with the creditors and still leaves some return for themselves, albeit likely less than what they put into Neiman Marcus in 2013.

Neiman Marcus says in its bankruptcy documents that it tried to sell Mytheresa in May, 2019. It was able to tout sales growth of 28.5 per cent over two years and a profit margin of 5 per cent to 7 per cent, as measured by EBITDA, or earnings before interest, depreciation and amortization. Free cash flow – generally under-

An increasing number of lenders have been willing to provide riskier debt financing because of the higher returns. The competition means that savvy borrowers can increasingly insist on better deal terms.

stood to be cash from operations before capital expenditures – was break-even to negative in the period, however.

The sale was abandoned, Neiman Marcus says, when the best offer received "was only for approximately US\$25-million" – double what it had paid for it five years before.

In February of this year, Mytheresa was considering an initial public offering on the New York Stock Exchange, according to Reuters, with a potential US\$500-million valuation.

Since then, apparel retail has dealt with two competing phenomena in the COVID-19 era: People aren't going to the office or big social gatherings, so they have less need to dress up. But when they do shop, they increasingly do so online – which has helped the shares of many online-focused retailers explode in 2020.

Shares of three Mytheresa peers who list their shares on European stock exchanges – Zalando SE, Global Fashion Group SA and ASOS PLC – have increased between 80 per cent and 104 per cent since the end of July, 2019, when Mytheresa suspended its sales process.

Shares of Farfetch Ltd. and RealReal Inc., which listed in the United States, have risen by 34 per cent and fallen by 42 per cent, respectively, over that same time, according to S&P Global Market Intelligence. (Shares of RealReal, a luxury goods designer, have more closely tracked the COVID-19 struggles of the broader market than the other retailers.)

Michael Kliger, CEO of Mytheresa, told Women's Wear Daily in a September interview that his company's revenue and profit it has grown during the pandemic. In the year that ended June 30, sales rose nearly 20 per cent year-over-year and there was a "significant" increase in profit. During the pandemic, Mr. Kliger told the publication, Mytheresa saw "many more first-time customers, and possibly even customers who had never shopped online, anywhere before."

Investors in publicly traded online retailers are clearly betting that some of those gains will stick. And to the extent Mytheresa has increased in value since that 2019 assessment, CPPIB – and Canadians – will collect its share of those gains, giving it a lot more than a postbankruptcy goose egg.

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LEGALS

COURT FILE NO. CV-20-00647824-00CL  
IN THE 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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS INC. (the "Hematite Group")  
NOTICE OF CLAIMS BAR DATE

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made October 13, 2020 (the "**Order**"), a claims procedure has been commenced for the identification, quantification, and resolution of certain claims of creditors of the Hematite Group and their respective directors and officers. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Order.

**PLEASE TAKE NOTICE** that any Person that wishes to assert a Pre-Filing Claim or a D&O Claim, other than an Excluded Claim, must deliver to KPMG Inc., in its capacity as the Court-appointed monitor of the Hematite Group (the "**Monitor**"), a completed Proof of Claim form, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order, on or before the Pre-Filing Claims Bar Date.

**THE PRE-FILING CLAIMS BAR DATE is 5:00 p.m. (Eastern Time) on November 9, 2020.**

**PLEASE TAKE NOTICE** that any Person that wishes to assert a Restructuring Claim (including a D&O Restructuring Claim), other than an Excluded Claim, must deliver to the Monitor a completed Proof of Claim form, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order, on or before the Restructuring Claims Bar Date.

**THE RESTRUCTURING CLAIMS BAR DATE is 5:00pm (Eastern Time) on the later of the Pre-Filing Claims Bar Date, and the date that is twenty-one (21) days after the Monitor sends a Claims Package with respect to a Restructuring Claim.**

**PLEASE TAKE NOTICE** that **Pavaco Plastics Inc.** was amalgamated with Hematite Manufacturing Inc. on March 29, 2020 and any Claims against the former Pavaco Plastics Inc. must be filed against Hematite Manufacturing Inc.

**THE MONITOR WILL** cause Claims Packages to be sent to all Known Claimants on or before October 15, 2020. Copies of the Order and the Claims Package can be found at the Monitor's website: <http://home.kpmg.ca/hematitegroup>.

**CLAIMS WHICH ARE NOT PROPERLY RECEIVED BY THE APPLICABLE CLAIMS BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.**

**CREDITORS REQUIRING INFORMATION** or claim documentation may contact the Monitor at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

**KPMG Inc., Court-appointed Monitor of the Hematite Group**  
Attention: Tim Montgometry  
333 Bay Street, Suite 4600  
Toronto, ON, M5H 2S5

Telephone: (416) 777 3798  
Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)

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This is **Exhibit “G”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020



---

A Commissioner for taking affidavits

**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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS INC.**

Applicants

---

**PLAN OF COMPROMISE, ARRANGEMENT AND REORGANIZATION**

---

November ●, 2020



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## PLAN OF COMPROMISE, ARRANGEMENT AND REORGANIZATION

This is the plan of compromise, arrangement and reorganization of the Hematite Group pursuant to the CCAA and OBCA.

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

In the Plan:

“**Administration Reserve**” is defined in Section 5.2.

“**Affected Claim**” means any Claim that is not an Unaffected Claim and includes, for greater certainty, a Tooling Claim, a Restructuring Claim and an Equity Claim.

“**Affected Creditor**” means a Creditor with an Affected Claim.

“**Applicable Law**” means:

- (i) any applicable domestic or foreign law including any statute, subordinate legislation or treaty, as well as the common law; and
- (ii) any applicable and enforceable rule, regulation, requirement, order, judgment, injunction, award or decree of a Governmental Authority.

“**Articles of Reorganization**” means, as applicable to each of Hematite Holdings and Hematite Industrial:

- (i) the articles of reorganization of Hematite Holdings attached as Schedule A; and
- (ii) the articles of reorganization of Hematite Industrial attached as Schedule B.

“**Assigned TD Loans**” means the loans and other indebtedness assigned to the DIP Lender pursuant to the assignment and assumption agreement dated September 21, 2020 between The Toronto-Dominion Bank, the DIP Lender and certain members of the Hematite Group, among others;

“**Available Cash**” means the aggregate of Cash on Hand and the Plan Funding Amount.

“**BDC**” means BDC Capital Inc.

“**BDC A&R Loan Agreement**” means an amended and restated loan agreement between BDC (as lender), Hematite Manufacturing (as borrower) and certain others, in form and content satisfactory to each, providing for the restructuring of the existing loan by BDC to Hematite Manufacturing on terms consistent with the term sheet attached to the letter agreement between BDC, Hematite Manufacturing and certain others dated September 17, 2020.

“**Business Day**” means a day other than a Saturday, Sunday, statutory or civic holiday in Toronto, Ontario.

“**Cash on Hand**” means the cash on hand of the Hematite Group immediately prior to the Effective Time which, for greater certainty, does not include the Plan Funding Amount.

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCAA Charges**” means all court-ordered charges created by the Initial Order or any subsequent order in the CCAA Proceedings.

“**CCAA Priority Payment Claims**” means claims for amounts required to be paid by sections 6(3), (5) and (6) of the CCAA.

“**CCAA Proceedings**” means the proceedings under the CCAA in respect of the Hematite Group, commenced by the Initial Order.

“**Certificate of Amendment**” means, in the case of the Articles of Reorganization of each of Hematite Holdings and Hematite Industrial, the certificate of amendment to be issued under section 186 of the OBCA in respect of the Articles of Reorganization.

“**Chapter 15 Proceedings**” means the proceedings commenced by the Hematite Group on September 22, 2020 pursuant to Chapter 15 of the U.S. Bankruptcy Code.

“**Claim**” means:

- (i) any right or claim of any Person that may be asserted or made in whole or in part against any member of the Hematite Group, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever and any interest accrued thereon and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise) and, whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, unknown, by guarantee, surety, insurance deductible or otherwise, and whether or not such right is executory or anticipatory in nature including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or to be commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts existing prior to the Filing Date or relates to a time period prior to the Filing Date, and includes any other claims that would have been claims provable in bankruptcy had such member of the

Hematite Group become bankrupt on the Filing Date and also includes an Equity Claim and a Secured Claim, and

- (ii) any Restructuring Claim,

provided, however, that “Claim” does not include any investigation, action, suit, order or proceeding in respect of any member of the Hematite Group by or before a regulatory body (as defined in the CCAA), unless such investigation, action, suit, order or proceeding constitutes a “claim” within the meaning of the CCAA.

“**Claims Procedure Order**” means the claims procedure order of the Court made on October 13, 2020 and any supplemental claims procedure order made in respect of the process governing the proof of claims, in each case as amended from time to time.

“**Convenience Creditor**” is defined in Section 3.4(2)(a).

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Creditor**” means a Person having a Claim and includes the transferee or assignee of a transferred Claim that is recognized as a Creditor by the Monitor in accordance with the Claims Procedure Order, or a trustee, liquidator, receiver, receiver and manager or other Person acting on behalf of such Person.

“**Creditor Distribution Pool**” means \$5.5 million to fund distributions to Affected Creditors with Proven Claims as provided in the Plan, which amount includes the amount to be held in the Unresolved Claims Reserve but does not include the amount to be held in the Administration Reserve.

“**CRO**” means Mr. Blair Davidson.

“**Customers**” means Toyota Motor Engineering & Manufacturing North America, Inc., FCA US LLC, Ford Motor Company and their respective subsidiaries and affiliates.

“**D&O Claim**” is defined in the Claims Procedure Order.

“**DIP Lender**” means Woodbridge Foam Corporation.

“**DIP Loan**” means the loan provided by the DIP Lender to the Hematite Group pursuant to the revolving DIP loan agreement dated as of September 17, 2020, as amended from time to time.

“**Director**” means any Person who, as at the Effective Time, is a former or present director or officer of any member of the Hematite Group or any other Person of a similar position or who by Applicable Law is deemed to be or is treated similarly to a director or officer of a member of the Hematite Group or who currently manages or supervises the management of the business and affairs of a member of the Hematite Group or did so in the past.

“**Distribution Date**” means a Business Day upon which distributions are made by the Hematite Group to Affected Creditors in accordance with the provisions of the Plan.

“**Distribution Record Date**” means the date that is seven (7) Business Days prior to the Plan Implementation Date.

“**Effective Time**” means such time on the Plan Implementation Date as the Hematite Group and the Plan Sponsor may determine.

“**Election Amount**” means \$10,000.

“**Election Notice**” means a duly and timely filed election in the form contemplated by the Meeting Order pursuant to which an Affected Creditor with Proven Claims exceeding in aggregate the Election Amount elects to receive, subject to the terms and implementation of the Plan, payment of the Election Amount as a Convenience Creditor in full satisfaction of such Proven Claims pursuant to Section 3.4(2)(a).

“**Employees**” means all individuals currently or formerly employed by a member of the Hematite Group immediately prior to the Effective Time, whether on a full-time, part-time, salaried, hourly, unionized or non-unionized basis, including current employees on long-term disability or any other leave of absence, but which term, for greater certainty, does not include contractors.

“**Encumbrance**” means any mortgage, charge, pledge, lien (statutory or otherwise), hypothec, security interest (whether contractual, statutory or otherwise), encumbrance, statutory or possessory lien, trust or deemed trust (whether contractual, statutory or otherwise), execution, levy, charge, interest in property, or other financial or monetary claim or lease of personal property that creates a security interest, in respect of any assets that the Hematite Group owns or to which the Hematite Group is entitled or that secures payment or performance of an obligation, or similar charge of any kind.

“**Equity Claim**” means a Claim that constitutes an “equity claim” as that term is defined in section 2 of the CCAA, excluding any Claim by a member of the Hematite Group against another member of the Hematite Group.

“**Existing Agreement**” is defined in Section 8.2(m);

“**Existing Shares**” means, in the case of each of Hematite Holdings and Hematite Industrial, the common shares and any other shares or similar securities in its capital immediately prior to the Plan Implementation Date.

“**Filing Date**” means September 18, 2020.

“**Governmental Authority**” means any domestic or foreign legislative, executive, judicial or administrative body or Person having jurisdiction in the relevant circumstances.

“**Hematite Group**” means the Applicants in the CCAA Proceedings.

“**Hematite Holdings**” means Hematite Holdings Inc.

“**Hematite Industrial**” means Hematite Industrial Products Inc.

“**Hematite Manufacturing**” means Hematite Manufacturing Inc.

“**Initial Distribution Date**” means the first Distribution Date determined by the Hematite Group, which will be as soon as practicable following the Plan Implementation Date.

“**Initial Order**” means the order obtained from the Court upon application by the Hematite Group on the Filing Date commencing the CCAA Proceedings, as amended and/or amended and restated from time to time.

“**Insured Claims**” is defined in Section 2.3(j).

“**Meeting**” means the meeting of Affected Creditors to consider and vote on the Plan held pursuant to the Meeting Order.

“**Meeting Order**” means the order directing the calling and holding of the Meeting of Affected Creditors to consider and vote on the Plan, as amended from time to time, in form and content satisfactory to the Hematite Group and the Plan Sponsor.

“**Monitor**” means KPMG Inc., in its capacity as the monitor appointed pursuant to the Initial Order, and any successor thereto appointed in accordance with any further order of the Court.

“**New Common Shares**” means, in the case of each of Hematite Holdings and Hematite Industrial, the new common shares contemplated by its Articles of Reorganization and created upon the issuance of the related Certificate of Amendment.

“**New Redeemable Shares**” means, in the case of each of Hematite Holdings and Hematite Industrial, the new redeemable shares to be issued in exchange for the Existing Shares, in accordance with and as contemplated by its Articles of Reorganization and upon the issuance of the related Certificate of Amendment.

“**Non-Released Claims**” means, collectively: (i) the right to enforce against the Hematite Group its obligations under the Plan; (ii) the right to enforce the Unaffected Claims against the Hematite Group; (iii) solely as against a Director in his or her capacity as such, any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA; (iv) any claim against a Released Party, based on facts not known by the claimant prior to the Effective Time nor reasonably capable of being known prior to the Effective Time, if the Released Party is determined by a final order of a court of competent jurisdiction to have committed fraud; (v) any claim against the Hematite Group for the purchase or supply of goods or services delivered after the Filing Date; and (vi) the right to enforce against the Hematite Group any agreement in force on the Plan Implementation Date that was entered into by the Hematite Group between the filing of the Plan and the Plan Implementation Date, or, subject to the terms of the Sanction Order contemplated by Section 8.2(m) of the Plan, that was entered into prior to the Filing Date and not disclaimed during the CCAA Proceedings pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA.

“**OBCA**” means the *Business Corporations Act* (Ontario).



“**Order**” means any order, injunction, judgment, decree, ruling, writ, assessment or arbitration award of a Governmental Authority.

“**Person**” means any individual, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, government or any agency, officer or instrumentality thereof or any other entity.

“**Plan**” means this plan of compromise, arrangement and reorganization of the Hematite Group pursuant to the CCAA and OBCA, including all Schedules.

“**Plan Funding Amount**” means the amount needed by the Hematite Group, in excess of the Cash on Hand at the Effective Time, to fund the Creditor Distribution Pool (including the Unresolved Claims Reserve) in accordance with Article 5, to fund the Administration Reserve, to pay all amounts set out in Section 6.2 to the extent they are not already paid prior to the Effective Time, to make any other payments to be made by the Hematite Group pursuant to or as otherwise contemplated by the Plan, and to leave the Hematite Group with a sufficient amount of cash for working capital purposes immediately after the Effective Time as determined by the Hematite Group and the Plan Sponsor in accordance with the Plan Sponsor Agreement.

“**Plan Implementation Conditions**” is defined in Section 9.1.

“**Plan Implementation Date**” means the date of the Certificate of Amendment.

“**Plan Sponsor**” means Woodbridge Foam Corporation.

“**Plan Sponsor Agreement**” means the plan sponsor agreement between the Hematite Group and the Plan Sponsor made as of September 17, 2020, as amended from time to time.

“**Proof of Claim**” means a proof of claim filed in accordance with the Claims Procedure Order.

“**Proven Claim**” means a Claim (or the portion thereof) that has been finally determined: (i) in the case of an Affected Claim, for voting and distribution purposes; and (ii) in the case of any Unaffected Claim, for the purposes of any payment or performance thereof contemplated by the Plan, in each case in accordance with the Claims Procedure Order or any other Order of the Court.

“**Released Parties**” is defined in Section 7.1.

“**Released Claims**” means any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged oppression, misrepresentation, wrongful conduct, fraud or breach of fiduciary duty by any member of the Hematite Group or its Representatives) that any Creditor or other Person has or may be entitled to assert, whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in equity or under

statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence existing or taking place at or prior to the Effective Time, or such later time as actions are taken to implement the Plan and the Transaction, that in any way relate to or arise out of or in connection with (i) any Claims, including Claims that are enumerated in section 19(2) of the CCAA and that are compromised under the Plan in accordance with such section as a consequence of the applicable Creditor's vote in favour of or other form of consent to the Plan; (ii) the assets, obligations, business or affairs of each of the members of the Hematite Group; (iii) the CCAA Proceedings or any matter or transaction involving any of the members of the Hematite Group occurring in or in connection with the CCAA Proceedings (including the Plan, the Plan Sponsor Agreement, the Transaction and the development of each); or (iv) any D&O Claims, including Affected Claims and D&O Claims but excluding Non-Released Claims.

**“Representatives”** means, in relation to a Person, such Person's current and former directors, officers, partners, employees, consultants, legal counsel, actuaries, advisers and agents, including their respective heirs, executors, administrators and other legal representatives, successors and assigns, and each of their respective employees and partners.

**“Restructuring Claim”** means any right of any Person against any member of the Hematite Group in connection with any indebtedness, liability or obligation of any kind owed to such Person arising out of the disclaimer, restructuring, repudiation or termination after the Filing Date of any contract, lease, agreement or other arrangement, whether written or oral, including any such right of an employee arising as a result of the termination of employment of such employee on or after the Filing Date, provided that a “Restructuring Claim” does not include any Unaffected Claim.

**“Restructuring Steps”** is defined in Section 4.2.

**“Sanction Order”** means the order to be made under the CCAA and OBCA sanctioning the Plan, approving the Articles of Reorganization, and providing for the releases and other relief contemplated in the Plan, as such order may be amended from time to time, in form and content satisfactory to the Hematite Group and the Plan Sponsor.

**“Schedules”** is defined in Section 1.5.

**“Secured Claims”** means all Proven Claims of a Creditor to the extent that they are secured by a valid Encumbrance that is duly and properly registered or otherwise perfected in accordance with Applicable Law in the appropriate jurisdiction as of the Filing Date or thereafter to the extent permitted by the Initial Order or a further Order of the Court, to the extent of the value of such Encumbrance as at the Filing Date (having regard to the value of the assets subject to such Encumbrance and the priority of such Encumbrance) and which Claims are entitled to be proven as secured claims pursuant to the provisions of the CCAA.

**“Subscription Agreement”** means the subscription agreement between the Plan Sponsor, Hematite Holdings and Hematite Industrial, to be entered into prior to the Plan Implementation Date, providing for the subscription by the Plan Sponsor for New Common Shares of each of Hematite Holdings and Hematite Industrial, for an aggregate purchase price equal to the Plan

Funding Amount (to be allocated between Hematite Holdings and Hematite Industrial in the manner contemplated by the subscription agreement), in form and content satisfactory to the Plan Sponsor, Hematite Holdings and Hematite Industrial.

“**Tax Act**” means the *Income Tax Act* (Canada).

“**Tooling Claim**” means an Affected Claim or portion thereof that relates to the unpaid purchase price for tooling for a Customer ordered by and delivered to a member of the Hematite Group.

“**Tooling Claim Amount**” means, at the time it is being determined, the original amount of a Tooling Claim that is a Proven Claim, less all Tooling Payments in respect of the Tooling Claim, if any, made to the Affected Creditor up to such time and that were not taken into account in the determination of the original amount of the Tooling Claim.

“**Tooling Payment**” means a payment made by the Hematite Group after the Filing Date on account of a Tooling Claim, whether from a Tooling Receipt or otherwise (including the portion of any distribution in respect of an Affected Claim attributable to a Tooling Payment Amount, as contemplated by Section 3.7).

“**Tooling Receipt**” means a payment received by the Hematite Group from a Customer after the Filing Date for tooling that is the subject of a Tooling Claim.

“**Transaction**” means the restructuring of the obligations of the Hematite Group and the acquisition of Hematite Holdings and Hematite Industrial by the Plan Sponsor (and/or one or more of its affiliates) by way of the Plan, the Plan Sponsor Agreement and the CCAA Proceedings, and all transactions contemplated thereby or as conditions thereto.

“**Unaffected Claim**” is a Claim identified in Section 2.3.

“**Unaffected Creditor**” means a Creditor with an Unaffected Claim.

“**Uncashed Distribution**” is defined in Section 6.6(2).

“**Undeliverable Distribution**” is defined in Section 6.6(1).

“**Unresolved Claim**” means an Affected Claim (or the portion thereof) that at the relevant time is not a Proven Claim and is not barred pursuant to the Claims Procedure Order, but in respect of which a Proof of Claim has been filed in a proper and timely manner in accordance with the Claims Procedure Order.

“**Unresolved Claims Reserve**” is defined in Section 5.2.

## 1.2 Certain Rules of Interpretation

For the purposes of the Plan:

- (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and

conditions means that such document will be substantially in such form or substantially on such terms and conditions;

- (b) any reference in the Plan to an Order or an existing document or exhibit filed or to be filed means such Order, document or exhibit as it may have been or may be amended, modified or supplemented;
- (c) unless otherwise specified, all references to currency are in Canadian dollars;
- (d) the division of the Plan into “Articles” and “Sections” and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of “Articles” and “Sections” intended as complete or accurate descriptions of the content thereof;
- (e) the use of words in the singular or plural, or with a particular gender, including a definition, will not limit the scope or exclude the application of any provision of the Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) the words “includes” and “including” and similar terms of inclusion will not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather will mean “includes but is not limited to” and “including but not limited to”, so that references to included matters will be regarded as illustrative without being either characterizing or exhaustive;
- (g) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day means prior to 5:00 p.m. (Toronto time) on such Business Day;
- (h) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (i) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature or Governmental Authority includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (j) references to a specified “Article” or “Section” will, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms “the Plan”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions will be deemed

to refer generally to the Plan and not to any particular article, section or other portion of the Plan and includes any documents supplemental hereto; and

- (k) references to “Affected Creditor”, “Secured Creditor” or “Unaffected Creditor” refer to Creditors of the applicable member of the Hematite Group in such capacity.

### 1.3 **Successors and Assigns**

The Plan will be binding upon and enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and permitted assigns of any Person named or referred to in or subject to the Plan.

### 1.4 **Governing Law and Jurisdiction**

The Plan will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of the Plan and all proceedings taken in connection with the Plan and its provisions will be subject to the exclusive jurisdiction of the Court.

### 1.5 **Schedules**

The following are the Schedules to the Plan (the “**Schedules**”), which are incorporated by reference into the Plan and form a part of it:

- Schedule A – Articles of Reorganization of Hematite Holdings
- Schedule B – Articles of Reorganization of Hematite Industrial
- Schedule C – TD Lease Agreements

## **ARTICLE 2** **PURPOSE AND EFFECT OF THE PLAN**

### 2.1 **Purpose**

The purposes of the Plan are to:

- (a) complete a restructuring of the Hematite Group by implementing the Restructuring Steps and filing the Articles of Reorganization of each of Hematite Holdings and Hematite Industrial;
- (b) provide for the compromise of all Affected Claims by providing to holders of the relevant Affected Claims that are Proven Claims a distribution from the Creditor Distribution Pool;
- (c) effect a release and discharge of all Affected Claims and Released Claims;

- (d) implement the acquisition of Hematite Holdings and Hematite Industrial by the Plan Sponsor (and/or one or more of its affiliates); and
- (e) ensure the Hematite Group continues to operate as a going concern,

in the expectation that Affected Creditors generally will derive a greater benefit from implementation of the Plan than they would derive from a bankruptcy or liquidation of the Hematite Group.

## 2.2 **Affected Claims and Released Claims**

The Plan provides for a compromise with Affected Creditors and a full, final and irrevocable release and discharge of the Affected Claims and the Released Claims. The Plan will become effective at the Effective Time in accordance with its terms and will be binding on and enure to the benefit of the Hematite Group, the Affected Creditors, the Released Parties, the Plan Sponsor and all other Persons named or referred to in, or subject to, the Plan.

## 2.3 **Unaffected Claims**

Subject to the express provisions hereof providing for the payment or restructuring by separate arrangement of certain Unaffected Claims and the treatment of Insured Claims and Tooling Claims, the Plan does not compromise the following (collectively, the “**Unaffected Claims**”):

- (a) Claims secured by the CCAA Charges;
- (b) Claims that are accepted as or determined to be Secured Claims pursuant to the Claims Procedure Order;
- (c) CCAA Priority Payment Claims;
- (d) Claims of a member of the Hematite Group against another member of the Hematite Group;
- (e) any Claim pursuant to, or related to, the master lease agreements, as amended, supplemented or otherwise modified from time to time, between Hematite Manufacturing and TD Equipment Finance Canada, a division of The Toronto-Dominion Bank, listed in Schedule C hereto;
- (f) any Claim by Woodbridge Foam Corporation or its affiliates against any member of the Hematite Group, including a Claim for or related to:
  - (i) the Assigned TD Loans;
  - (ii) the Plan Sponsor Agreement;
  - (iii) the DIP Loan; and
  - (iv) the services agreement between Woodbridge Foam Corporation and the Hematite Group dated September 18, 2020;

- (g) any Claim pursuant to, or related to, the letter of offer of financing no. 076542-03 dated December 21, 2017, as amended, supplemented and otherwise modified from time to time, between BDC, Hematite Manufacturing and certain others;
- (h) any Claim by a Customer in relation to any warranty, recall, product liability or other obligation of a member of the Hematite Group to such Customer pursuant to the purchase agreements, purchase orders, and/or other contracts set out in the arrangements entered into between such Customer, Hematite Holdings and Woodbridge Foam Corporation;
- (i) Claims of Employees and Directors that are unrelated to the cessation of employment for all amounts owing to them in their capacity as such by statute or otherwise for or in connection with accrued salary, accrued wages, accrued bonuses, fees and expenses, reimbursement obligations, accrued vacation leave and accrued vacation pay;
- (j) subject to and solely as provided in Section 3.6, that portion of a Claim arising from a cause of action for which the Hematite Group is covered by insurance, only to the extent of such coverage and limited to the actual recovery received from the applicable insurer(s) by the Hematite Group (“**Insured Claims**”);
- (k) subject to and solely as provided in Section 3.7, Tooling Claims but only to the extent of Tooling Payments, if any, made after the Distribution Record Date;
- (l) Claims by any Director under any directors’ or officers’ indemnity policy or agreement with the Hematite Group to the extent not otherwise covered by the CCAA Charges; and
- (m) Claims by the Monitor, counsel to the Monitor, the CRO, or counsel to the Hematite Group.

Nothing in the Plan will affect the Hematite Group’s rights and defences, both legal and equitable, with respect to any Unaffected Claims including all rights or entitlements to set-offs or recoupments against such Unaffected Claims.

#### 2.4 **Equity Claims**

At the Effective Time, the Plan will be binding on all holders of Equity Claims. Holders of Equity Claims will not receive a distribution or other consideration under the Plan and will not be entitled to vote on the Plan in respect of their Equity Claims. On the Plan Implementation Date all Equity Claims will be fully, finally, irrevocably and forever compromised, released, discharged and barred without any compensation of any kind whatsoever.



**ARTICLE 3**  
**CLASSIFICATION AND TREATMENT OF CREDITORS AND RELATED MATTERS**

**3.1 Claims Procedure**

The procedure for determining the validity and quantum of the Affected Claims for the purposes of the Plan will be governed by the Claims Procedure Order, the Meeting Order, the CCAA, the Plan and any further Order of the Court. For the avoidance of doubt, the Claims Procedure Order will remain in full force and effect from and after the Plan Implementation Date.

**3.2 Classification of Creditors**

In accordance with the Meeting Order, Affected Creditors will form a single class for the purposes of considering and voting on the Plan.

**3.3 Meeting of Affected Creditors**

The Meeting will be held in accordance with the Meeting Order and any further Order of the Court. The only Persons entitled to attend the Meeting are those specified in the Meeting Order and any further Order of the Court.

**3.4 Treatment of Affected Claims**

- (1) At the Effective Time, all Affected Claims will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred subject only to the right of Affected Creditors with Proven Claims (other than Equity Claims) to receive distributions pursuant to this Section 3.4.
- (2) On the Initial Distribution Date (or such later date in accordance with Section 6.4 in respect of any Unresolved Claim that becomes a Proven Claim, if any),
  - (a) each Affected Creditor with:
    - (i) Proven Claims (other than Equity Claims) not exceeding in aggregate the Election Amount, or
    - (ii) Proven Claims (other than Equity Claims) exceeding the aggregate of the Election Amount but who has duly filed an Election Notice with the Monitor,

will receive, in full satisfaction of such Proven Claims (in each case, a “**Convenience Creditor**”), payment in an amount equal to the lesser of the Election Amount and the actual amount of such Proven Claims; and
  - (b) each Affected Creditor with Proven Claims (other than Equity Claims) that exceed in aggregate the Election Amount and who has not duly filed an Election Notice will receive, in full satisfaction of such Proven Claims, its *pro rata* share of the balance of the Creditor Distribution Pool after deducting (i) the amount

held in the Unresolved Claims Reserve, and (ii) the amounts paid to Convenience Creditors in accordance with Section 3.4(2)(a).

- (3) For greater certainty, an Affected Creditor with a Proven Claim will receive distributions as set forth in this Section 3.4 only to the extent that such Proven Claim is not an Equity Claim and has not been paid, released or otherwise satisfied prior to the Effective Time.

### 3.5 **Unaffected Claims**

Unaffected Creditors will not be entitled to vote on the Plan. Unaffected Claims will be paid in accordance with Section 6.2 or otherwise satisfied in accordance with the applicable agreements and other arrangements between Unaffected Creditors and the Hematite Group.

### 3.6 **Insured Claims**

Notwithstanding anything to the contrary herein, from and after the Effective Time, any Person having an Insured Claim will be irrevocably limited to recovery in respect of such Insured Claim solely from the proceeds of the applicable insurance policies, and any Person with an Insured Claim will have no right to, and will not, directly or indirectly, make any claim or seek any recoveries from any Person, other than enforcing such Person's rights to be paid by the applicable insurer(s) from the proceeds of the applicable insurance policies. This Section 3.6 may be relied upon by the Hematite Group and any other Released Party in defence or estoppel of or to enjoin any claim, action or proceeding brought in contravention of this section. Nothing in the Plan will prejudice, compromise, release or otherwise affect any right or defence of any insured or insurer in respect of an Insured Claim. Notwithstanding the forgoing, an Affected Claim that includes an Insured Claim may still receive a distribution in respect of the portion of the Affected Claim, if any, that is not an Insured Claim.

### 3.7 **Tooling Claims**

Notwithstanding anything to the contrary herein, from and after the Effective Time, any Person having a Tooling Claim will be irrevocably limited to recovery in respect of such Tooling Claim solely from Tooling Receipts that relate specifically to such Tooling Claim, and any Person with a Tooling Claim will have no right to, and will not, directly or indirectly, make any claim or seek any recoveries from the Hematite Group or any other Person, other than enforcing such Person's right to be paid from time to time the Tooling Claim Amount from any Tooling Receipts. This Section 3.7 may be relied upon by the Hematite Group and any other Released Party in defence or estoppel of or to enjoin any claim, action or proceeding brought in contravention of this Section. Nothing in the Plan will prejudice, compromise, release or otherwise affect any right or defence in respect of a Tooling Claim. Notwithstanding the foregoing, an Affected Claim that includes a Tooling Claim may still receive a distribution in respect of (i) the portion of the Affected Claim, if any, that is not a Tooling Claim, and (ii) the Tooling Claim Amount as of the Distribution Record Date, provided that the portion of such distribution attributable to the Tooling Claim Amount will be treated as a Tooling Payment for the purposes of determining the Tooling Claim Amount at any time after the Distribution Record Date.

### 3.8 **Unresolved Claims**

No Affected Creditor will be entitled to receive any distribution hereunder with respect to an Unresolved Claim or any portion thereof unless and until, and then only to the extent that, such Unresolved Claim is finally resolved in the manner set out in the Claims Procedure Order and becomes a Proven Claim entitled to the treatment described in Section 3.4.

### 3.9 **Extinguishment of Claims**

At the Effective Time and in accordance with the terms of the Plan and Sanction Order, the treatment of Affected Claims (including Unresolved Claims) and Released Claims, in each case as set forth herein, will be final and binding on the Hematite Group, Affected Creditors and any Person holding a Released Claim. All Affected Claims and all Released Claims will be fully, finally, irrevocably and forever released, discharged, cancelled and barred and the Hematite Group will thereupon have no further obligation whatsoever in respect of the Affected Claims and the Released Claims, as applicable; provided that (i) nothing herein releases the Hematite Group from the obligation to make distributions or provide entitlements in the manner and to the extent provided for in the Plan; and (ii) such discharge and release of the Hematite Group will be without prejudice to the right of an Affected Creditor in respect of an Unresolved Claim to prove such Unresolved Claim in accordance with the Claims Procedure Order.

### 3.10 **Guarantees and Similar Covenants**

No Person who has a claim under any guarantee, surety, indemnity or similar covenant in respect of any Claim that is compromised or released under the Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim that is compromised or released under the Plan will be entitled to any greater rights as against the Hematite Group than the Person whose Claim is compromised or released under the Plan.

### 3.11 **Set-Off**

The law of set-off applies to all Claims in accordance with Applicable Law. Without limiting the generality of the foregoing, the Hematite Group will be entitled to set-off from any payments or distributions to be made to a Creditor hereunder, any amounts that became due and owing to the Hematite Group after the Filing Date from such Creditor.

## **ARTICLE 4** **RESTRUCTURING STEPS AND REORGANIZATION**

### 4.1 **Articles of Reorganization**

Upon satisfaction or waiver of each of the Plan Implementation Conditions in accordance with Section 9.1, each of Hematite Holdings and Hematite Industrial will file its Articles of Reorganization. Subject to and without limitation to their terms, in each case the Articles of Reorganization will:

- (a) create an unlimited number of New Common Shares and set out the rights, privileges, restrictions and conditions attaching thereto; and

- (b) create an unlimited number of New Redeemable Shares and set out the rights, privileges, restrictions and conditions attaching thereto; and
- (c) change each Existing Share into 0.000001 of a New Redeemable Share and automatically redeem each New Redeemable Share in accordance with the terms thereof.

#### 4.2 **Restructuring Steps**

At the Effective Time on the Plan Implementation Date, the following will occur, and be deemed to have occurred, in the order set out below unless otherwise specified in this Section 4.2 and become effective, without any further act or formality:

- (a) the Articles of Reorganization of each of Hematite Holdings and Hematite Industrial will be effective and the New Common Shares and New Redeemable Shares of each to be issued pursuant to or in connection with the Plan will be validly issued and, in connection therewith, the Plan Funding Amount will be paid to Hematite Holdings and Hematite Industrial (as allocated by them in accordance with the Subscription Agreement);
- (b) the New Redeemable Shares of each of Hematite Holdings and Hematite Industrial will be redeemed and cancelled in accordance with their terms;
- (c) to the extent not already paid, the Hematite Group will set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor, in trust, an amount required to satisfy the CCAA Priority Payment Claims and all Claims secured by the CCAA Charges, in full, which Unaffected Claims will be paid by the Hematite Group or Monitor, for and on behalf of the Hematite Group, to the respective Unaffected Claim holders from such funds within five (5) Business Days after the Plan Implementation Date (unless otherwise agreed with an Unaffected Claim holder);
- (d) the Hematite Group will set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor, in trust (i) the Creditor Distribution Pool (including the amount thereof to be held in the Unresolved Claims Reserve) in accordance with Article 5, and (ii) the Administration Reserve in accordance with Article 5;
- (e) the Hematite Group will pay any other amounts that it is required to pay on or before the Effective Time in accordance with the Plan Sponsor Agreement, the Plan or other applicable agreement;
- (f) all Affected Claims and Released Claims will be fully, finally, irrevocably and forever released, discharged, cancelled and barred in accordance with Section 3.9 and Article 7, and all notes, certificates and other instruments evidencing Affected Claims (and all guarantees associated with each of the foregoing) will be deemed cancelled and extinguished and be null and void in accordance with Section 6.8;

- (g) the arrangements between the DIP Lender and the Hematite Group contemplated by Section 9.1(g) in respect of the DIP Loan and the Assigned TD Loans will be effective; and
- (h) the term of office of those individuals who are Directors of the Hematite Group immediately prior to the Effective Time will terminate and the Plan Sponsor will appoint replacement directors and officers as of the Effective Time,

(collectively, the “**Restructuring Steps**”). The failure of the Plan to incorporate any provision of a document evidencing a Restructuring Step will not derogate from the enforceability of such provision.

#### 4.3 **Stated Capital**

In the case of each of Hematite Holdings and Hematite Industrial, the aggregate stated capital for the purposes of the OBCA of the New Common Shares issued to the Plan Sponsor (and/or to one or more of its affiliates as it may direct) pursuant to the Plan and the Subscription Agreement will be as determined by the directors of Hematite Holdings or Hematite Industrial, as applicable, in consultation with the Plan Sponsor.

#### 4.4 **Corporate Approvals**

The execution, delivery, implementation and consummation of all matters contemplated under the Plan involving corporate action of the Hematite Group, including the Restructuring Steps and filing of Articles of Reorganization by each of Hematite Holdings and Hematite Industrial, will be authorized and approved under the Plan and by the Court as part of the Sanction Order in all respects and for all purposes without any requirement of further action by any Person.

### **ARTICLE 5** **CASH POOL AND UNRESOLVED CLAIMS RESERVE AND ADMINISTRATION** **RESERVE**

#### 5.1 **Creditor Distribution Pool**

At or before the Effective Time, the Hematite Group will set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor, in trust, the amount of the Creditor Distribution Pool (less the amount of the Unresolved Claims Reserve, which amount will be set aside or delivered to the Monitor pursuant to Section 5.2), from which cash distributions will be made to Affected Creditors with Proven Claims on and subject to the terms of Article 6. The Monitor will oversee the distribution of funds from the Creditor Distribution Pool in accordance with the provisions of Article 6.

#### 5.2 **Unresolved Claims Reserve and Administration Reserve**

- (1) At or before the Effective Time, the Hematite Group will set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor:

- (a) the amount approved by the Court in the Sanction Order to be held as a reserve for Unresolved Claims (the “**Unresolved Claims Reserve**”), in an amount to be agreed by the Monitor, the Hematite Group and the Plan Sponsor, and from which distributions required by the Plan in respect of Unresolved Claims will be made if such Unresolved Claims (or parts thereof) are determined to be Proven Claims in accordance with the Claims Procedure Order; and
  - (b) the amount approved by the Court in the Sanction Order to be held as a reserve (the “**Administration Reserve**”), in an amount to be agreed by the Monitor, the Hematite Group and the Plan Sponsor, to pay the fees and expenses of the Monitor and its counsel in administering the resolution of Unresolved Claims in accordance with the Claims Procedure Order and performing such other activities as may be required of the Monitor after the Effective Time.
- (2) The Unresolved Claims Reserve will be held by the Hematite Group or the Monitor, as the case may be, for those entitled to a payment from it under the Plan (and for the Hematite Group to the extent of any surplus), and the Monitor will oversee the distribution of funds from the Unresolved Claims in accordance with the provisions of Section 6.4.
  - (3) The Monitor and its counsel shall be entitled to payment from the Administration Reserve of their fees and expenses in connection with administering the resolution of Unresolved Claims in accordance with the Claims Procedure Order and performing any other work required of the Monitor after the Effective Time. Any amount remaining in the Administration Reserve after completion of such work will no longer be required to be set aside by the Hematite Group and, if held by the Monitor, will be returned to the Hematite Group.

**ARTICLE 6**  
**PROVISIONS REGARDING DISTRIBUTIONS, PAYMENTS AND CURRENCY**

**6.1 Distributions Generally**

All distributions to Affected Creditors and other payments to be effected pursuant to the Plan will be made pursuant to this Article 6. For greater certainty, all payments and distributions pursuant to this Article 6 will be subject to satisfaction or waiver of the conditions specified in Article 9 and the occurrence of the Effective Time, will occur or be deemed to occur in accordance with the timing set out in Section 4.2.

**6.2 Payments of Certain Unaffected Claims**

At or before the Effective Time, the Hematite Group will make the following payments from Available Cash by wire transfer of immediately available funds in full satisfaction and discharge of the following:

- (a) payment to each holder of a CCAA Priority Payment Claim of all amounts required to satisfy such holder’s CCAA Priority Payment Claim in full;

- (b) payment in full of all Claims secured by the CCAA Charges, other than the DIP Lender's Charge (as defined in the Initial Order); and
- (c) payment of any other amounts required to be paid in accordance with the Plan Sponsor Agreement, the Plan or the CCAA at or before the Effective Time.

### 6.3 **Distribution Mechanics for Affected Claims**

In accordance with Section 3.4, the Hematite Group, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Hematite Group, will distribute to each Affected Creditor with a Proven Claim (other than an Equity Claim) its share of the Creditor Distribution Pool by way of (in the sole discretion of the Hematite Group or Monitor, as applicable): (i) cheque sent by prepaid ordinary mail to the address on file with the Hematite Group on the Distribution Record Date; or (ii) wire transfer of immediately available funds to an account designated in writing by the Affected Creditor to the Hematite Group and the Monitor (with any wire transfer or similar fee being satisfied from the distribution amount). No distribution will be made for an amount less than \$10. The Hematite Group's liability to an Affected Creditor for any distribution in an amount less than \$10 will be forever discharged and extinguished.

### 6.4 **Distributions in Respect of Unresolved Claims**

- (1) The Unresolved Claims Reserve (as may be reduced from time to time as Unresolved Claims are ultimately resolved) will be set aside by the Hematite Group (pursuant to arrangements satisfactory to the Monitor) or held by the Monitor, in trust, until the final determination of all Unresolved Claims in accordance with the Claims Procedure Order.
- (2) To the extent that an Unresolved Claim becomes a Proven Claim, the Hematite Group, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Hematite Group, will distribute to the holder thereof an amount from the Unresolved Claims Reserve equal to the share of the Creditor Distribution Pool that such Creditor would have been entitled to receive in respect of its Proven Claim on the Initial Distribution Date had such Unresolved Claim been a Proven Claim on the Initial Distribution Date.
- (3) After all Unresolved Claims have been finally resolved in accordance with the Claims Procedure Order and any required distributions have been made with respect to Proven Claims, the Hematite Group, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Hematite Group, will distribute the amount remaining in the Unresolved Claims Reserve *pro rata* to each Affected Creditor with a Proven Claim, other than the Convenience Creditors and holders of Equity Claims, provided that the amount remaining in the Unresolved Claims Reserve makes such a distribution economically practical (having regard to the funds to be distributed and the cost of such distribution), as determined by the Monitor, acting reasonably. If the Monitor is of the view that the amount remaining in the Unresolved Claims Reserve would not make such a distribution economically practical, then the amounts remaining in the Unresolved



Claims Reserve will no longer be required to be set aside by the Hematite Group and, if held by the Monitor, will be returned to the Hematite Group.

#### 6.5 **Allocation of Distributions**

All distributions made pursuant to the Plan to Affected Creditors will be allocated first towards the repayment of the amount of the Affected Claim attributable to principal and, if greater than the amount of principal, then second towards the repayment of any amount of such Claim attributable to unpaid interest.

#### 6.6 **Treatment of Unclaimed Distributions**

- (1) If any distribution to an Affected Creditor under this Article 6 is returned as undeliverable (an “**Undeliverable Distribution**”), then neither the Hematite Group nor the Monitor will be required to make further efforts to deliver the distribution to such Creditor unless and until the Hematite Group and Monitor are notified in writing by such Creditor of such Creditor’s current address at which time all such distribution will be made to such Creditor. The obligations of the Hematite Group and Monitor to an Affected Creditor with an Undeliverable Distribution will expire on the second anniversary of the Plan Implementation Date, after which date any entitlement with respect to any Undeliverable Distributions will be forever discharged and forever barred, without any compensation therefor, notwithstanding any Applicable Laws to the contrary. For greater clarity, nothing herein will require the Hematite Group or the Monitor to attempt to locate any Creditor or other Person with respect to an Undeliverable Distribution. No interest will be payable in respect of an Undeliverable Distribution. On the second anniversary of the Plan Implementation Date, the amount of any Undeliverable Distributions will be released to the Hematite Group.
- (2) If any cheque in payment of a distribution to an Affected Creditor under this Article 6 is not cashed within six (6) months after the date of the applicable distribution (an “**Uncashed Distribution**”): (i) such cheque may be cancelled by the Hematite Group or the Monitor, as applicable, after which date any entitlement with respect to such distribution will be forever discharged and forever barred and the obligations of the Hematite Group and Monitor with respect thereto will expire, without any compensation therefor, notwithstanding any Applicable Laws to the contrary; and (ii) the amount otherwise payable pursuant to such cancelled cheque will be released to the Hematite Group. For greater clarity, nothing herein will require the Hematite Group or the Monitor to attempt to locate any Creditor or other Person with respect to an Uncashed Distribution.

#### 6.7 **Withholding Rights**

The Hematite Group and any other Person facilitating payments pursuant to the Plan will be entitled to deduct and withhold from any such payment to any Person such amounts as may be required to be deducted or withheld under any Applicable Law and to remit such amounts to the appropriate Governmental Authority or other Person entitled thereto. To the extent that amounts are so withheld or deducted and remitted to the appropriate Governmental Authority or other

Person, such withheld or deducted amounts will be treated for all purposes hereof as having been paid to such Person as the remainder of the payment in respect of which such withholding or deduction was made. Without in any way limiting the generality of the foregoing, the Hematite Group (or the Monitor on its behalf) will deduct from any distribution to a Creditor hereunder any amounts as indicated by Employment and Social Development Canada in a Notice of Debt, and remit such amounts to Employment and Social Development Canada pursuant to the *Employment Insurance Act* (Canada). Any Creditor whose address on file with the Hematite Group on the Distribution Record Date is not a Canadian address will be treated as a non-resident of Canada for purposes of any applicable non-resident withholding tax on all payments hereunder, subject to receipt by the Hematite Group of information satisfactory to it (in its sole discretion) that such Creditor is not a non-resident. No gross-up or additional amount will be paid on any payment hereunder to the extent the Hematite Group or any other Person deducts or withholds amounts pursuant to this Section 6.7. Notwithstanding any withholding or deduction, each Person receiving a payment will have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Authority (including income and other tax obligations on account of such distribution).

#### 6.8 **Cancellation of Certificates and Notes, etc.**

At the Effective Time, all debentures, notes, certificates, indentures, guarantees, agreements, invoices and other instruments evidencing Affected Claims (and all guarantees associated with each of the foregoing) and Existing Shares will not entitle any holder thereof to any compensation or participation other than as expressly provided for in the Plan and will be deemed cancelled and extinguished and be null and void.

#### 6.9 **Calculations**

All amounts to be paid by the Hematite Group hereunder will be calculated by the Hematite Group, with the assistance of the Monitor. All calculations made by the Hematite Group will be conclusive, final and binding upon the Affected Creditors, the Hematite Group and all other Persons, absent manifest error.

#### 6.10 **Currency Matters**

Distributions to Affected Creditors with Proven Claims will be paid in Canadian dollars and any such Claims that are denominated in a currency other than the lawful money of Canada will be converted to the equivalent thereof in the lawful money of Canada at the noon rate of exchange as quoted by the Bank of Canada on the Filing Date, in accordance with the Claims Procedure Order.

### **ARTICLE 7** **RELEASES**

#### 7.1 **Plan Releases**

At the Effective Time, each of (i) the members of the Hematite Group, (ii) the CRO, (iii) the Monitor, (iv) the Plan Sponsor, and (v) their respective Representatives (collectively, the “**Released Parties**”), will be fully, finally and irrevocably released and discharged from all

Released Claims which will be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties. Notwithstanding the foregoing, nothing in this Section 7.1 will release Non-Released Claims.

## 7.2 **Injunctions**

From and after the Effective Time, all Persons are permanently and forever barred, estopped, stayed and enjoined with respect to any and all Released Claims from: (i) commencing, conducting, continuing or making in any manner, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property; (iii) commencing, conducting, continuing or making in any manner, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes a claim or might reasonably be expected to make a claim, in any manner or forum, including by way of contribution or indemnity or other relief, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any Encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of the Plan. All Persons who have previously commenced a Released Claim in any court, which Released Claim has not been finally determined, dismissed or discontinued prior to the Effective Time, shall forthwith after the Effective Time take steps to discontinue and/or dismiss, without costs, such Released Claim.

## **ARTICLE 8** **COURT SANCTION**

### 8.1 **Application for Sanction Order**

If the Plan is approved by the majority of Affected Creditors required by the CCAA, the Hematite Group will apply for the Sanction Order on or before the date set for the Sanction Order hearing or such later date as the Court may set.

### 8.2 **Sanction Order**

The Hematite Group will apply for a Sanction Order that will, among other things:

- (a) declare that (i) the Plan has been approved by the required majorities of Affected Creditors in conformity with the Meeting Order and the CCAA; (ii) the Hematite Group has complied with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects; (ii) neither the Hematite Group nor Monitor has done or purported to do anything that is not authorized by the CCAA; and (iii) the Plan and the transactions contemplated thereby are fair and reasonable;

- (b) declare that the Plan and all associated steps, compromises, arrangements, releases, transactions and reorganizations effected thereby are sanctioned and approved;
- (c) declare that the articles of Hematite Holdings and Hematite Industrial will be amended as set out in the applicable Articles of Reorganization as of the Effective Time;
- (d) declare that all warrants, options and agreements to purchase Existing Shares are of no further force or effect as of the Effective Time;
- (e) declare that the New Common Shares and New Redeemable Shares of each of Hematite Holdings and Hematite Industrial issued pursuant to or in connection with the Plan will be validly issued and outstanding as fully paid and non-assessable as of the Effective Time;
- (f) approve and authorize the Restructuring Steps;
- (g) order that, as of the Effective Time, any and all Affected Claims are and are deemed to be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, and the ability of any Person to proceed against any of the Applicants in respect of or relating to any Affected Claims, whether directly, indirectly, derivatively or otherwise is forever discharged, enjoined and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims are permanently stayed, excepting only any proceeding to enforce the obligation of the Hematite Group to make distributions in respect of such Affected Claims in the manner and to the extent provided for in the Plan and the Sanction Order;
- (h) order that, as of the Effective Time, any and all Released Claims are and are deemed to be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, and the ability of any Person to proceed against any of the Released Parties in respect of or relating to any Released Claims, whether directly, indirectly, derivatively or otherwise is forever discharged, enjoined and restrained, and all proceedings with respect to, in connection with or relating to such Released Claims are permanently stayed;
- (i) order that any Person that did not file a proof of claim in respect of a Claim by the applicable bar date in accordance with the Claims Procedure Order, and any Person with an Affected Claim that is not a Proven Claim or Unresolved Claim, is fully, finally, irrevocably and forever barred from making any such Claim and is not be entitled to any consideration under the Plan, and such Person's Claim is fully, finally, irrevocably and forever barred and extinguished;
- (j) authorize the Hematite Group and the Monitor to take all steps and actions, and to do all things, necessary or appropriate to implement the Plan in accordance with and subject to its terms and conditions, and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions,

payments, deliveries, allocations, instruments and agreements contemplated by, and subject to the terms and conditions of, the Plan;

- (k) declare that each of the CCAA Charges will be terminated, discharged, expunged and released at the applicable time set out in the Sanction Order;
- (l) declare that, notwithstanding: (i) the pendency of the CCAA Proceedings; (ii) any applications for a bankruptcy, receivership or other order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada), the CCAA or otherwise in respect of the Hematite Group and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of the Hematite Group, the transactions contemplated by the Plan will be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Hematite Group or their assets and will not be void or voidable by creditors of the Hematite Group, nor will the Plan, or the payments and distributions contemplated pursuant thereto constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada), CCAA or any other applicable federal or provincial legislation, nor will the Plan constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation;
- (m) declare that all contracts, leases and other agreements and arrangements to which any of the Applicants is a party, whether written or oral (each, including any and all amendments or supplements thereto, an “**Existing Agreement**”) that have not been terminated or disclaimed pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA will be and remain in full force and effect, unamended as of the Effective Time, and no Person who is a party to any such Existing Agreement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set off, dilution or other remedy) or make any demand under or in respect of any such Existing Agreement and no automatic termination will have any validity or effect, by reason of:
  - (i) any event that occurred on or prior to the Effective Time and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events or default arising as a result of the insolvency of the Hematite Group);
  - (ii) the insolvency of the Hematite Group or the fact that the Hematite Group sought or obtained relief under the CCAA;
  - (iii) any compromises or arrangements effected pursuant to the Plan or any action taken or transaction effected pursuant to the Plan; or

- (iv) any change in the control of the Hematite Group arising from the implementation of the Plan and the transactions contemplated by the Plan Sponsor Agreement;
- (n) declare that the stay of proceedings under the Initial Order continues until the Effective Time;
- (o) approve the conduct of the CRO and Director of the Hematite Group during the CCAA Proceedings;
- (p) approve all conduct the Monitor and the Monitor's Representative in relation to the Hematite Group and bar all claims against them arising from or relating to the services provided to the Hematite Group up to and including the date of the Sanction Order;
- (q) declare that the Hematite Group and the Monitor may apply to the Court for advice and direction in respect of any matters arising from or in relation to the Plan; and
- (r) approve the Unresolved Claims Reserve and Administration Reserve amounts.

**ARTICLE 9**  
**PLAN CONDITIONS PRECEDENT AND IMPLEMENTATION**

**9.1 Conditions Precedent to Plan Implementation**

The Plan is subject to the satisfaction of the following conditions (the “**Plan Implementation Conditions**”), which may be waived (except in the case of Sections 9.1(a) and (b) below which may not be waived) only by the mutual agreement, in writing, of the Hematite Group and the Plan Sponsor:

- (a) the Plan will have been approved by the Affected Creditors;
- (b) the Sanction Order will have been issued by the Court, consistent with the terms of Section 8.2, with such minor amendments as may be approved by the Hematite Group, the Monitor and the Plan Sponsor;
- (c) the Sanction Order will have been recognized and given full force and effect in the United States by an order of the U.S. Bankruptcy Court in the Chapter 15 Proceedings;
- (d) the Subscription Agreement will have been executed, delivered and become effective in accordance with its terms, subject only to the occurrence of the Plan Implementation Date, and the Plan Sponsor will have paid the Plan Funding Amount to Hematite Holdings and Hematite Industrial in accordance with and as allocated by the Subscription Agreement;

- (e) the BDC A&R Loan Agreement and all guarantees and security required pursuant thereto will have been executed, delivered and become effective in accordance with their terms, subject only to the occurrence of the Plan Implementation Date, on terms and conditions satisfactory to BDC and the Hematite Group;
- (f) arrangements satisfactory to the DIP Lender and the Hematite Group in respect of the repayment of, and the terms governing, the DIP Loan and the Assigned TD Loans from and after the Plan Implementation Date have become effective, subject only to the occurrence of the Plan Implementation Date;
- (g) each of the conditions precedent to the closing of the Transaction provided in the Plan Sponsor Agreement will have been satisfied or waived in accordance with the terms of the Plan Sponsor Agreement;
- (h) all relevant Persons will have executed, delivered and filed all documents and other instruments that, in the opinion of the Hematite Group and Plan Sponsor, acting reasonably, are necessary to implement the provisions of the Plan and the Sanction Order;
- (i) no action or proceeding will be pending by any third party to enjoin or prohibit the Transaction; and
- (j) all applicable approvals and orders of, and all applicable submissions and filings with, Governmental Authorities having jurisdiction for the completion of the steps and transactions contemplated by the Plan (including the steps and transactions which are Plan Implementation Conditions) will have been obtained or made, as the case may be, in each case to the extent deemed necessary or advisable by the Hematite Group and Plan Sponsor, in form and substance satisfactory to the Hematite Group and Plan Sponsor.

## 9.2 **Hematite Group's Certificate – Plan Implementation**

Upon receipt of the Certificate of Amendment for each of Hematite Holdings and Hematite Industrial, the Hematite Group will deliver to the Monitor and the Plan Sponsor, and file with the Court, a copy of a certificate (i) stating that each of the Plan Implementation Conditions has been satisfied or waived and that the Articles of Reorganization for each of Hematite Holdings and Hematite Industrial have been filed and have become effective as of the date set out in the applicable Certificate of Amendment, and (ii) designating an Effective Time on the Plan Implementation Date.

## 9.3 **Monitor's Certificate – Plan Implementation**

As soon as practicable following the occurrence of the Effective Time, the Monitor will serve on the service list in the CCAA Proceedings and post on the Monitor's Website a certificate confirming that the Plan Implementation Date has occurred and the time of the Effective Time, and will file such certificate with the Court as soon as practicable after it has been delivered.



**ARTICLE 10**  
**GENERAL**

10.1 **Binding Effect**

At the Effective Time and in accordance with the sequence of steps set out in Section 4.2, the Plan will become effective and binding on and enure to the benefit of the Hematite Group, the Affected Creditors, the Released Parties, the Plan Sponsor and any other Person named or referred to in or subject to the Plan and their respective heirs, executors, successors and assigns. Without limiting the generality of the foregoing, at the Effective Time:

- (a) the treatment of Affected Claims and Released Claims under the Plan will be final and binding for all purposes upon and enure to the benefit of the Hematite Group, the Released Parties, all Affected Creditors, the Plan Sponsor and all other Persons named or referred to in, or subject to, the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (b) all Affected Claims will be forever discharged and released, excepting only with respect to any distribution thereon in the manner and to the extent provided for in the Plan;
- (c) all Released Claims will be forever discharged, released, enjoined and barred;
- (d) each Affected Creditor and each Person holding a Released Claim will be deemed to have consented and agreed to all of the provisions of the Plan in its entirety; and
- (e) each Affected Creditor and each Person holding a Released Claim (to the extent that contractual releases have not been executed and delivered by such Person) will be deemed to have:
  - (i) executed and delivered to the Hematite Group and to the other Released Parties, as applicable, all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety;
  - (ii) waived any default by or rescinded any demand for payment against the Hematite Group that has occurred on or prior to the Effective Time pursuant to, based on or as a result of any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor or Person holding a Released Claim and the Hematite Group with respect to an Affected Claim or Released Claim, respectively; and
  - (iii) agreed that, if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing as at the moment before the Effective Time between such Affected Creditor or Person holding a Released Claim and the Hematite Group with

respect to an Affected Claim or Released Claim, respectively, and the provisions of the Plan, then the provisions of the Plan take precedence and priority and the provisions of such agreement or other arrangement are amended accordingly.

## 10.2 **Deeming Provisions**

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

## 10.3 **Modification of the Plan**

- (1) The Hematite Group reserves the right, at any time and from time to time, to amend, restate, modify and/or supplement the Plan (including to address or further address the treatment of claims subject to the Claims Procedure Order), provided that any such amendment, restatement, modification or supplement is on terms satisfactory to the Plan Sponsor and must be contained in a written document which is filed with the Court and (i) if made prior to or at the Meeting, communicated to Affected Creditors in the manner contemplated by the Meeting Order; and (ii) if made following the Meeting, approved by the Court.
- (2) Notwithstanding Section 10.3(1), after the Meetings and before the Plan Implementation Date the Hematite Group may amend, restate, modify and/or supplement the Plan with the consent of the Plan Sponsor and the Monitor, without the consent of the Affected Creditors or approval of the Court, provided that any such amendment, restatement, modification and/or supplement (i) is filed with the Court; (ii) is posted on the website maintained by the Monitor and notice thereof is provided to the Service List maintained by the Monitor for the CCAA; (iii) does not materially decrease the anticipated recovery of Affected Creditors under the Plan and is otherwise not materially adverse to the financial or economic interests of Affected Creditors, in each case as determined by the Monitor; and (iv) does not amend the Plan Implementation Conditions.
- (3) Notwithstanding Sections 10.3(1) and (2), any amendment, restatement, modification or supplement to the Plan may be made by the Hematite Group at any time and from time to time with the consent of the Monitor and the Plan Sponsor, without the consent of the Affected Creditors or approval of the Court, provided that any such amendment, restatement, modification and/or supplement (i) is filed with the Court; (ii) is posted on the website maintained by the Monitor and notice thereof is provided to the Service List maintained by the Monitor for the CCAA; and (iii) (A) concerns a matter which is of an administrative nature required to better give effect to the implementation of the Plan, or (B) is to cure any errors, omissions or ambiguities, and in either case is not materially adverse to the financial or economic interests of the Affected Creditors as determined by the Monitor.
- (4) Any amended, restated, modified or supplementary Plan filed with the Court and, if required by this Section, approved by the Court, will for all purposes be and be deemed to be a part of and incorporated in the Plan.

#### 10.4 **Paramountcy**

From and after the Effective Time, any conflict between:

- (a) the Plan or the Sanction Order; and
- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between one or more of the Affected Creditors and the Hematite Group as at the moment before the Effective Time,

will be deemed to be governed by the terms, conditions and provisions of the Plan and the Sanction Order, which will take precedence and priority.

#### 10.5 **Severability of Plan Provisions**

If, prior to the Plan Implementation Date, any term or provision of the Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Hematite Group and with the consent of the Monitor and the Plan Sponsor, will have the power to either (a) sever such term or provision from the balance of the Plan and provide the Hematite Group with the option to proceed with the implementation of the balance of the Plan, or (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as so altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that the Hematite Group proceed with the implementation of the Plan, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

#### 10.6 **Protections of the Monitor**

The Monitor is acting and will continue to act in all respects in its capacity as Monitor in the CCAA Proceedings with respect to the Hematite Group (and not in its personal capacity). The Monitor will not be responsible or liable for any obligations of the Hematite Group. The Monitor will have the powers and protections granted to it by the Plan, the CCAA and any other Order made in the CCAA Proceedings. KPMG Inc. will incur no personal liability whatsoever whether on its own part or in respect of any failure on the part of the Hematite Group to observe, perform or comply with any of its obligations under the Plan. Any release, discharge or other benefit conferred upon the Monitor pursuant to the Plan will enure to the benefit of KPMG Inc. The Monitor in its personal capacity will be a third party beneficiary to the Plan entitled to enforce such releases, discharges and benefits in accordance with the terms of the Plan.

#### 10.7 **Plan Sponsor**

The Plan Sponsor's obligations are limited to the obligations of the Plan Sponsor expressly set out in the Plan Sponsor Agreement and this Plan. In no event will the Plan Sponsor assume, be

deemed to assume or otherwise be liable for any obligations of, or Claims against, any member of the Hematite Group or any other Person. In the event of any conflict between the Plan Sponsor Agreement and the terms of this Plan, the terms of this Plan shall govern.

#### 10.8 **Different Capacities**

Persons who are affected by the Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless otherwise provided in the Meeting Order expressly agreed by the Hematite Group and the Person in writing or unless its Claims overlap or are otherwise duplicative.

#### 10.9 **Notices**

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

If to the Hematite Group:

Hematite Group  
659 Speedvale Avenue West  
Guelph, Ontario  
N1K 1E6

Attention: John Pavanel

Tel: (519) 823-8350

With copies to (which will not constitute notice)

McCarthy Tétrault LLP  
66 Wellington Street West  
Suite 5300  
Toronto, Ontario Canada  
M5K 1E6

Fax No: 416-868-0673

Attention: James D. Gage and Trevor Courtis

Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca) and [tcourtis@mccarthy.ca](mailto:tcourtis@mccarthy.ca)

If to an Affected Creditor: to the mailing address, facsimile number or email address provided on such Affected Creditor's Proof of Claim or such more recent address particulars of an Affected Creditor as noted in the files of the Hematite Group or the Monitor;

If to the Monitor:

KPMG Inc.  
Bay Adelaide Centre  
Suite 4600, 333 Bay Street  
Toronto, Ontario  
M5H 2S5

Attention: Katherine Forbes  
Email: katherineforbes@kpmg.ca

With copies to (which will not constitute notice)

Gowlings WLG  
First Canadian Place  
100 King Street West  
Suite 1600  
Toronto, Ontario  
M5X 1G5

Attention: David Cohen and Cliff Prophet  
Email: [David.cohen@gowlingwlg.com](mailto:David.cohen@gowlingwlg.com) and  
[Clifton.prophet@gowlingwlg.com](mailto:Clifton.prophet@gowlingwlg.com)

If to the Plan Sponsor:

Woodbridge Foam Corporation  
4240 Sherwoodtowne Blvd.  
Mississauga, Ontario  
L4Z 2G6

Attention: Roland Deschamps  
Email: Roland [Deschamps@woodbridgegroup.com](mailto:Deschamps@woodbridgegroup.com)

With copies to (which will not constitute notice)

Bennett Jones LLP  
Suite 3400  
One First Canadian Place  
P.O. Box 130  
Toronto, Ontario  
M5X 1A4

Attention: Raj Sahni/Ian Michael  
Email: sahnir@bennettjones.com/michaeli@bennettjones.com

or to such other address as any party may from time to time notify the others in accordance with this section, or, in the case of an address change for the Hematite Group or the Monitor, by

posting notice of such address change on the Monitor's website ([home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/hematite-group.html](http://home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/hematite-group.html)) Any such communication so given or made will be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 4:00 p.m. (Toronto time) on such day. Otherwise, such communication will be deemed to have been given and made and to have been received on the next following Business Day.

#### 10.10 **Further Assurances**

Each of the Persons named or referred to in, or subject to, the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the Restructuring Steps and the Transaction notwithstanding any provision of the Plan that deems any event or transaction to occur without further formality.

#### 10.11 **Language**

This Plan, as well as any notices, schedules or other documents related thereto has been and will be prepared in the English language only. To the extent a French language or other translation is prepared, any such translation will be for informational purposes only, it being intended that the English language version will govern and prevail in all respects.

#### 10.12 **Acts to Occur on Next Business Day**

If any distribution, payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such distribution, payment or the performance of such act may be completed on the next succeeding Business Day, but will be deemed to have been completed as of the required date.

#### 10.13 **Non-Consummation of the Plan**

If the Plan is revoked at any time prior to the Effective Time, it will be null and void in all respects. Nothing contained in the Plan and no act taken in preparation for the implementation of the Plan will (a) constitute or be deemed to constitute a waiver or release of any Claims by or against the Hematite Group or any other Person; (b) prejudice the rights of the Hematite Group or any other Person in any further proceeding involving the Hematite Group; or (c) constitute an admission of any sort by the Hematite Group or any Person.

DATED as of the ● day of November, 2020.

**SCHEDULE A**  
**ARTICLES OF REORGANIZATION**  
**HEMATITE HOLDINGS**



**SCHEDULE B  
ARTICLES OF REORGANIZATION  
HEMATITE INDUSTRIAL**

**SCHEDULE C**  
**TD LEASE AGREEMENTS**

1. Master equipment lease no. T000000658 dated April 5, 2018 between Pavaco Plastics Inc. (now named Hematite Manufacturing Inc.), as lessee, and TD Equipment Finance Canada, a division of the Toronto-Dominion Bank, as lessor, and the schedules thereto (being Schedule No. 18003130 dated April 5, 2018, and Schedule No. 18003120 dated April 5, 2018).
  
2. Master equipment lease no. 23296 dated February 22, 2013 between Pavaco Products Inc. (now named Hematite Manufacturing Inc.), as lessee, and TD Equipment Finance Canada, a division of the Toronto-Dominion Bank, as lessor, and the schedules thereto (being Schedule No. 10 dated April 25, 2016, and Schedule No. 12 dated August 22, 2016 and Schedule No. 13 dated November 23, 2016)

This is **Exhibit “H”** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020



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A Commissioner for taking affidavits

**CCAA PROCEEDINGS OF THE HEMATITE GROUP**  
**INFORMATION STATEMENT AND SUMMARY OF CCAA PLAN**

*This information statement (the “**Information Statement**”) provides the background to the Hematite Group’s CCAA Proceedings and a summary of certain information contained in the schedules hereto (collectively, the “**Schedules**”) including the Plan. It is provided for the assistance of Affected Creditors only. The governing documents are the Plan, which is attached as Schedule “A” to this Information Statement, and the Meeting Order granted by the CCAA Court on November 18, 2020 (the “**Meeting Order**”), which is attached as Schedule “B” to this Information Statement. **This summary is qualified in its entirety by the more detailed information appearing in the Plan or the Meeting Order, as applicable, or that is referred to elsewhere in the Information Statement. Creditors should carefully read the Plan and the Meeting Order, and not only this Information Statement. In the event of any conflict between the contents of this Information Statement and the provisions of the Plan or the Meeting Order, the provisions of the Plan or the Meeting Order, as applicable, will govern.***

*Capitalized terms not otherwise defined in this Information Statement have the meanings given to them in the Plan or, if not defined in the Plan, in the Meeting Order.*

**Background and Overview:** Hematite Holdings Inc., Hematite Manufacturing Inc., Hematite Industrial Products Inc., Canadian Pavaco Inc., Pavaco Holdings U.S. Inc., Hematite, Inc. and Hematite Automotive Products, Inc. (the “**Applicants**” or the “**Hematite Group**”) are, collectively, a tier 1 supplier of component parts to the automotive manufacturing industry. The Hematite Group has operated in Canada since 1978, and currently operates from facilities in Brantford and Guelph, Ontario. Over the past several years, the Hematite Group has pursued an expansion of its manufacturing operations into the United States and commenced production at its facility in Englewood, Ohio. In order to finance the significant real estate, equipment and other capital expenditures for this expansion, the Hematite Group was required to reduce its cash reserves and take on significant secured indebtedness.

The COVID-19 pandemic and the resulting government-mandated shutdowns, including in the automotive industry, had a significant adverse impact on the Hematite Group’s financial position. The Hematite Group’s existing lenders provided forbearances and other accommodations for several months, but by the late summer indicated that they were not prepared to provide any further financing or accommodations. The Hematite Group’s customers also agreed to provide advance payments and more favourable payment terms for several months, however they similarly indicated that they were not able to provide any further relief in this regard due to the Hematite Group’s deteriorating financial condition. As a result, it became clear to the Hematite Group that it would run out of liquidity and would have to begin shutting down operations as soon as the week of September 21, 2020.

The only viable path to preserving the Hematite Group’s business was a strategic transaction that included a capital injection and a restructuring on terms acceptable to the Hematite Group’s existing lenders and customers. The Hematite Group entered into a plan sponsor

agreement (as amended, the “**Plan Sponsor Agreement**”) with Woodbridge Foam Corporation (the “**Plan Sponsor**”) whereby the Plan Sponsor agreed to provide interim financing (the “**DIP Facility**”) during the pendency of proceedings under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) and support a CCAA plan that will allow the Hematite Group to emerge as a going concern with a restructured business and balance sheet. As part of the restructuring transaction, the Plan Sponsor will provide fresh financing and directly and/or with affiliates acquire 100% ownership of Hematite Holdings Inc. (“**Hematite Holdings**”) and Hematite Industrial Products Inc. (“**Hematite Industrial**”) upon the completion of the restructuring. The Hematite Group will benefit from the Plan Sponsor’s significant Canadian and international experience, including in the automotive industry, pivotal turnaround expertise, operational support and liquidity backing.

As detailed further below, the Hematite Group commenced proceedings under the CCAA (the “**CCAA Proceedings**”) on September 18, 2020 and has worked diligently with the Plan Sponsor, its court-appointed monitor and its key stakeholders to develop its restructuring strategy which is reflected in the plan of compromise, arrangement and reorganization of the Hematite Group under the CCAA and the *Business Corporations Act* (Ontario) dated November 18, 2020 (the “**Plan**”).

The Hematite Group believes that the Plan represents the only viable path that will enable it to emerge from the CCAA Proceedings as a going concern. The Plan is consistent with the arrangements reached with each of the Hematite Group’s key lenders, its key customers and certain of its key suppliers. The ongoing support of each of these key stakeholders is contingent on the Plan being implemented. The Plan offers some recovery to Affected Creditors, who will receive a distribution under the Plan in exchange for the release of their claims. The distribution will be funded from the Plan Funding Amount to be advanced by the Plan Sponsor as consideration for the shares to be issued to it (and/or one or more affiliates) that will give them 100% ownership of the restructured Hematite Holdings and Hematite Industrial.

If the Plan is not implemented and the Hematite Group does not receive the much-needed capital injection from the Plan Sponsor and the ongoing support of its key lenders, customers and suppliers, it is anticipated that the Hematite Group will be required to cease operations. It is expected that Affected Creditors will derive a greater benefit from implementation of the Plan than they would derive from bankruptcy or liquidation of the Hematite Group.

The Hematite Group is seeking the approval of the Plan by the Affected Creditors at the Meeting (defined below). The Hematite Group believes that the Plan addresses the interests of all stakeholders in a fair and reasonable manner in the circumstances. It will allow the Hematite Group to emerge from the CCAA Proceedings as a going concern with a restructured business and balance sheet for the benefit of its approximately 275 employees, its creditors and its other stakeholders

generally.

**Insolvency Proceedings:**

On September 18, 2020, the Hematite Group commenced the CCAA Proceedings and obtained an initial order (as amended and restated, the “**Initial Order**”) from the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) that, among other things, granted the Applicants a stay of proceedings and appointed KPMG Inc. (“**KPMG**”) as monitor of the Applicants (in such capacity, the “**Monitor**”).

On September 22, 2020, the Applicants commenced proceedings (the “**Chapter 15 Cases**”) pursuant to chapter 15 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”). On September 23, 2020, the U.S. Court issued an order, among other things, provisionally recognizing the CCAA Proceedings as “foreign main proceedings” and provisionally recognizing and enforcing the Initial Order in the United States. On October 15, 2020, the U.S. Court issued a final order, among other things, recognizing the CCAA Proceedings as “foreign main proceedings” in the United States.

**Claims Procedure:**

On October 13, 2020, the CCAA Court granted an order establishing a claims procedure for the identification and quantification of certain claims of creditors against the Applicants (the “**Claims Procedure Order**”).<sup>1</sup>

In accordance with the Claims Procedure Order: (a) the Monitor sent or caused to be sent a Claims Package to each Known Claimant on or before October 15, 2020; (b) the Monitor sent or caused to be sent a Claims Package to each Claimant with a Restructuring Claim no later than three (3) Business Days following the time the Monitor actually became aware of the existence of the Restructuring Claim; (c) the Monitor caused the Notice to Claimants to be published in the *USA Today* (National Edition) on October 19, 2020 and in *The Globe and Mail* (National Edition) on October 20, 2020; and (d) the Monitor caused the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted on the Monitor’s Website.

The claims administration process set out in the Claims Procedure Order provided for, among other things: (a) a process for reviewing the Proofs of Claim filed with the Monitor; and (b) a process for the acceptance, revision or disallowance of Claims by the Monitor, in whole or in part, for the purposes of voting and/or distributions under the Plan.

**Classification of Creditors:**

For the purposes of considering and voting on the Plan, the sole class of creditors of the Applicants is comprised of all Affected Creditors (the “**Affected Creditor Class**”).

**Meeting:**

Pursuant to the Meeting Order granted by the CCAA Court on November 18, 2020, the Meeting has been called for the purposes of having the Affected Creditor Class consider and vote on the resolution

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<sup>1</sup> Capitalized terms used in this section of the Information Statement have the meanings given to them in the Claims Procedure Order.

to approve the Plan.

The Meeting is scheduled to be held at 11:00 a.m. (Eastern Time) on December 11, 2020 or as adjourned to such time as the Chair may determine. The Meeting will proceed by videoconference due to the COVID-19 pandemic. Affected Creditors will be able to participate by telephone as well. The conference details are provided in Schedule “C” hereto.

The Meeting will be held in accordance with the Meeting Order and any further order of the CCAA Court. The only Persons entitled to notice of or to attend the Meeting are: (i) the Monitor and its counsel; (ii) those Persons, including the holders of Proxies, entitled to vote at the Meeting pursuant to the Meeting Order and their legal counsel and advisors; (iii) the Hematite Group’s officers, legal counsel and advisors; (iv) the CRO; (v) the Plan Sponsor’s officers, legal counsel and advisors; and (vi) the Scrutineers and the Secretary. Any other Person may be admitted to the Meeting by the invitation of the Chair.

A representative of the Monitor, as designated by the Monitor, will preside as the Chair of the Meeting and, subject to the Meeting Order or any further order of the CCAA Court, will decide all matters relating to the conduct of the Meeting. At the Meeting, the Chair will direct a vote on a resolution to approve the Plan (and any amendments thereto made in accordance with the Plan) and may direct a vote with respect to any other resolutions as the Chair may consider appropriate. The form of resolution to approve the Plan is attached as Schedule “D” to this Information Statement.

The quorum required at the Meeting has been set by the Meeting Order as the attendance at the Meeting of one (1) Affected Creditor with a Voting Claim voting personally or by proxy. If the requisite quorum is not in attendance at the Meeting, then the Meeting will be adjourned by the Chair to a date thereafter and to such time and place as may be designated by the Chair.

**Entitlement to Vote:**

Only those Affected Creditors holding Affected Claims that are Proven Claims or Unresolved Claims (or their proxies) will be eligible to vote on the resolution to approve the Plan.

*Affected Creditors holding  
Affected Claims that are  
Proven Claims*

For the purposes of voting at the Meeting, each Affected Creditor, on the Record Date, with an Affected Claim that is a Proven Claim is entitled to one vote in respect of such Affected Claim, which vote (each, a “**Voting Claim**”, and collectively the “**Voting Claims**”) shall have a value equal to the dollar value of such Affected Creditor’s Proven Claim determined in accordance with the Claims Procedure Order, provided that:

- (a) in the case of a Proven Claim that includes an Insured Claim, the vote shall have a value equal to the portion of the Proven Claim, if any, that is not an Insured Claim; and
- (b) in the case of a Proven Claim that includes a Tooling Claim, the vote shall have a value equal to the sum of (i) the portion



of the Proven Claim, if any, that is not a Tooling Claim, and  
(ii) the Tooling Claim Amount as of the Record Date.

Each Convenience Creditor (defined below) with a Voting Claim will be deemed to vote in favour of the Plan unless such Convenience Creditor has notified the Monitor in writing of its intention to vote against the Plan prior to the Meeting and does vote against the Plan at such Meeting either personally or by proxy.

*Affected Creditors holding  
Affected Claims that are  
Unresolved Claims*

Affected Creditors with Unresolved Claims (or their proxies) may attend and vote at the Meeting and will have their voting intentions with respect to the Unresolved Claims separately recorded by the Monitor and reported to the CCAA Court. For the purposes of such a vote, each Affected Creditor with an Unresolved Claim is entitled to one vote in the Affected Creditor Class, which vote shall have the value accepted by the Monitor, if any, for voting purposes only, in respect of an Unresolved Claim. The voting of such a claim in the Meeting and valuation of the Unresolved Claim for voting purposes is without prejudice to the rights of the Applicants and Monitor, and the holder of the Unresolved Claim, with respect to the resolution of the Claim for distribution purposes.

Votes by Affected Creditors with Unresolved Claims in respect of such Unresolved Claims will not be considered in the calculation of the Required Majorities (defined below). However, if approval or non-approval of the Plan by the Affected Creditor Class proves to be determined by the votes cast in respect of Unresolved Claims, the Applicants and the Monitor, in consultation with the Plan Sponsor and on notice to the Service List, will request the CCAA Court's directions and, if necessary, appropriate deferral of the Sanction Hearing (defined below) and an expedited determination of any material Unresolved Claims, as appropriate.

*Unaffected Creditors and  
Equity Claims*

Unaffected Creditors are not entitled, in such capacity, to attend the Meeting or vote on the Plan.

Any Person with a Claim that meets the definition of an "Equity Claim" under the Plan will have no right to attend the Meeting or vote on the Plan.

**Appointment of  
Proxyholders and Voting:**

A Creditor with a Voting Claim who is not an individual may only attend and vote at the Meeting if it has appointed a proxyholder to attend and act on its behalf at the Meeting.

Any Proxy must be sent by e-mail, or only if it cannot be sent by e-mail, delivered to the Monitor by fax or mail in each case so that it is received by the Monitor by no later than 5:00 p.m. on the date that is three (3) Business Days prior to the date of the Meeting (or any adjournment thereof). The Monitor may waive strict compliance with the time limits imposed for receipt of a Proxy if deemed advisable to do so by the Monitor, in consultation with the Applicants.

Any failure to file a Proxy will not affect an Affected Creditor's right to

any distribution under the Plan.

For the purposes of tabulating the votes cast on any matter voted upon at the Meeting, the Chair is entitled to rely on any vote cast by a holder of a Proxy that has been duly submitted to the Monitor in accordance with the Meeting Order, without independent investigation. If a duly signed and returned Proxy does not provide an instruction to vote for or against the approval of the resolution on the Plan, the Proxy will be deemed to include an instruction to vote for the approval of the resolution and the Plan, provided that the Proxy holder does not otherwise exercise its right to vote at the Meeting.

**Purposes of the Plan:**

The purposes of the Plan are to: (a) complete a restructuring of the Hematite Group by implementing the Restructuring Steps and filing the Articles of Reorganization; (b) provide for the compromise of all Affected Claims by providing to holders of the relevant Affected Claims that are Proven Claims a distribution from the Creditor Distribution Pool; (c) effect a release and discharge of all Affected Claims and Released Claims; (d) implement the acquisition of Hematite Holdings and Hematite Industrial by the Plan Sponsor (and/or one or more of its affiliates); and (e) ensure the Hematite Group continues to operate as a going concern.

**Articles of Reorganization:**

On the Plan Implementation Date, Articles of Reorganization for each of Hematite Holdings and Hematite Industrial will be filed, which will, in each case, among other things:

- (a) create an unlimited number of New Common Shares and set out the rights, privileges, restrictions and conditions attaching thereto; and
- (b) extinguish the Existing Shares for no consideration.

**Treatment of Affected Claims:**

The Plan provides for a compromise of all Affected Claims that are Proven Claims and a full, final and irrevocable release and discharge of the Affected Claims and the Released Claims. Generally, the Plan provides for the treatment of Affected Claims as follows:

*Convenience Creditors*

Each Affected Creditor with (i) Proven Claims (other than Equity Claims) not exceeding in aggregate \$10,000 (the “**Election Amount**”), or (ii) Proven Claims (other than Equity Claims) exceeding in aggregate the Election Amount and who has delivered an Election Notice to the Monitor in accordance with the Meeting Order, will be a “**Convenience Creditor**”.

The Election Notice is included in the Proxy and Election Notice attached as Schedule “A” to the Meeting Order. In order to be effective, the Proxy and Election Notice must be received by the Monitor no later than 5:00 p.m. on the date that is three (3) Business Days prior to the date of the Meeting (or any adjournment thereof).

*Creditor Distribution Pool*

At or before the Effective Time, the Applicants will set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor, in trust, the amount of the Creditor Distribution Pool, which will be \$5.5

million less the amount of the Unresolved Claims Reserve which amount will be set aside or delivered to the Monitor pursuant to Section 5.2 of the Plan. The Monitor will oversee the distribution of funds from the Creditor Distribution Pool by the Applicants to Affected Creditors with Proven Claims in accordance with the provisions of Article 6 of the Plan.

*Distributions to Affected Creditors, Generally*

On the Initial Distribution Date (or such later date in accordance with Section 6.4 of the Plan, in respect of any Unresolved Claim that becomes a Proven Claim, if any):

- (a) each Convenience Creditor will receive, in full satisfaction of their Proven Claims, payment in an amount equal to the lesser of the Election Amount and the actual amount of such Proven Claims;
- (b) each Affected Creditor with Proven Claims (other than Equity Claims) that exceed in aggregate the Election Amount and who has not duly filed an Election Notice will receive, in full satisfaction of such Proven Claims, its *pro rata* share of the balance of the Creditor Distribution Pool after deducting (i) the amount held in the Unresolved Claims Reserve, and (ii) the amounts paid to Convenience Creditors.

An Affected Creditor with a Proven Claim will receive distributions set forth in the Plan only to the extent that such Proven Claim has not been paid, released or otherwise satisfied prior to the Effective Time. No distribution will be made for an amount less than \$10. The Hematite Group's liability to an Affected Creditor for any distribution in an amount less than \$10 will be forever discharged and extinguished.

*Equity Claims*

At the Effective Time, the Plan will be binding on all holders of Equity Claims. Holders of Equity Claims will not receive a distribution or other consideration under the Plan and will not be entitled to vote on the Plan in respect of their Equity Claims. On the Plan Implementation Date all Equity Claims will be fully, finally, irrevocably and forever compromised, released, discharged and barred without any compensation of any kind whatsoever.

*Unresolved Claims Reserve and Administration Reserve*

At or before the Effective Time, the Applicants will set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor:

- (a) the amount approved by the CCAA Court in the Sanction Order to be held as a reserve for Unresolved Claims (the “**Unresolved Claims Reserve**”), in an amount to be agreed by the Monitor, the Hematite Group and the Plan Sponsor, and from which distributions required by the Plan in respect of Unresolved Claims will be made if such Unresolved Claims (or parts thereof) are determined to be Proven Claims in accordance with the Claims Procedure Order; and
- (b) the amount approved by the CCAA Court in the Sanction Order to be held as a reserve (the “**Administration Reserve**”), in an amount to be agreed by the Monitor, the Hematite Group and

the Plan Sponsor, to pay the fees and expenses of the Monitor and its counsel in administering the resolution of Unresolved Claims in accordance with the Claims Procedure Order and performing such other activities as may be required of the Monitor after the Effective Time.

The Unresolved Claims Reserve and the Administration Reserve will be held by the Hematite Group or the Monitor, as the case may be, in trust for those entitled to a payment from it under the Plan (and for the Hematite Group to the extent of any surplus).

The Monitor and its counsel shall be entitled to payment from the Administration Reserve of their fees and expenses in connection with administering the resolution of Unresolved Claims in accordance with the Claims Procedure Order and performing any other work required of the Monitor after the Effective Time. Any amount remaining in the Administration Reserve after completion of such work will be released to the Hematite Group.

No Affected Creditor will be entitled to receive any distribution under the Plan with respect to an Unresolved Claim or any portion thereof unless and until, and then only to the extent that, such Unresolved Claim is finally resolved in the manner set out in the Claims Procedure Order and becomes a Proven Claim entitled to the treatment described in Section 6.4 of the Plan.

To the extent that an Unresolved Claim becomes a Proven Claim, the Hematite Group, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Hematite Group, will distribute to the holder thereof an amount from the Unresolved Claims Reserve equal to the *pro rata* share of the Creditor Distribution Pool that such Creditor would have been entitled to receive in respect of its Proven Claim on the Initial Distribution Date had such Unresolved Claim been a Proven Claim on the Initial Distribution Date.

After all Unresolved Claims have been finally resolved in accordance with the Claims Procedure Order and any required distributions have been made with respect to Proven Claims, the Hematite Group, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Hematite Group, will distribute the amount remaining in the Unresolved Claims Reserve *pro rata* to each Affected Creditor with a Proven Claim, other than the Convenience Creditors and holders of Equity Claims, provided that the amount remaining in the Unresolved Claims Reserve makes such a distribution economically practical (having regard to the funds to be distributed and the cost of such distribution), as determined by the Monitor, acting reasonably. If the Monitor is of the view that the amount remaining in the Unresolved Claims Reserve would not make such a distribution economically practical, then the amounts remaining in the Unresolved Claims Reserve will no longer be required to be set aside by the Hematite Group and, if held by the Monitor, will be returned to the Hematite Group.

**Treatment of Unaffected**

Subject to the express provisions of the Plan providing for the payment

**Claims:**

or restructuring by separate arrangement of certain Unaffected Claims and the treatment of Insured Claims and Tooling Claims, the Plan does not compromise Unaffected Claims. Unaffected Creditors, which for greater certainty are Creditors with Unaffected Claims, will not be entitled to vote on the Plan.

Unaffected Claims include: (a) Claims secured by the CCAA Charges; (b) Claims that are accepted as or determined to be Secured Claims pursuant to the Claims Procedure Order; (c) CCAA Priority Payment Claims; (d) Claims of a member of the Hematite Group against another member of the Hematite Group; (e) Any Claim pursuant to, or related to, the master lease agreements, as amended, supplemented or otherwise modified from time to time, between Hematite Manufacturing and TD Equipment Finance Canada, a division of The Toronto-Dominion Bank, listed in Schedule "B" to the Plan; (f) any Claim by Woodbridge Foam Corporation or its affiliates against any member of the Applicants, including a Claim for or related to: (i) the Assigned TD Loans; (ii) the Plan Sponsor Agreement; (iii) the DIP Loan; and (iv) the services agreement between Woodbridge Foam Corporation and the Applicants dated September 18, 2020; (g) any Claim pursuant to, or related to, the letter of offer of financing no. 076542-03 dated December 21, 2017, as amended, supplemented and otherwise modified from time to time, between BDC, Hematite Manufacturing and certain others; (h) any Claim by a Customer in relation to any warranty, recall, product liability or other obligation of a member of the Applicants to such Customer pursuant to the purchase agreements, purchase orders, and/or other contracts set out in the arrangements entered into between such Customer, Hematite Holdings and Woodbridge Foam Corporation; (i) Claims of Employees and Directors that are unrelated to the cessation of employment for all amounts owing to them in their capacity as such by statute or otherwise for or in connection with accrued salary, accrued wages, accrued bonuses, fees and expenses, reimbursement obligations, accrued vacation leave and accrued vacation pay; (j) subject to and solely as provided in Section 3.6 of the Plan, that portion of a Claim arising from a cause of action for which the Applicants are covered by insurance, only to the extent of such coverage and limited to the actual recovery received from the applicable insurer(s) by the Applicants ("**Insured Claims**"); (k) subject to and solely as provided in Section 3.7 of the Plan, Tooling Claims but only to the extent of Tooling Payments, if any, made after the Distribution Record Date; (l) Claims by any Director under any directors' or officers' indemnity policy or agreement with the Applicants to the extent not otherwise covered by the CCAA Charges; and (m) Claims by the Monitor, counsel to the Monitor, the CRO, or counsel to the Applicants.

The Plan provides that the Applicants will make the following payments from Available Cash by wire transfer of immediately available funds in full satisfaction and discharge of the following: (a) payment to each holder of a CCAA Priority Payment Claim of all amounts required to satisfy such holder's CCAA Priority Payment Claim in full; (b) payment in full of all Claims secured by the CCAA Charges, other than the DIP Lender's Charge (as defined in the Initial Order); and (c) payment of

any other amounts required to be paid in accordance with the Plan Sponsor Agreement, the Plan or the CCAA at or before the Effective Time.

Other Unaffected Claims will be satisfied in accordance with the applicable agreements and other arrangements between such Unaffected Creditors and the Applicants.

Nothing in the Plan affects the Applicant' rights and defences, both legal and equitable, with respect to any Unaffected Claims including all rights or entitlements to set offs or recoupments against such Unaffected Claims.

**Treatment of Insured Claims:**

From and after the Effective Time, any Person having an Insured Claim will be irrevocably limited to recovery in respect of such Insured Claim solely from the proceeds of the applicable insurance policies, and any Person with an Insured Claim will have no right to, and will not, directly or indirectly, make any claim or seek any recoveries from any Person, other than enforcing such Person's rights to be paid by the applicable insurer(s) from the proceeds of the applicable insurance policies. Notwithstanding the forgoing, an Affected Claim that includes an Insured Claim may still receive a distribution in respect of the portion of the Affected Claim, if any, that is not an Insured Claim.

**Treatment of Tooling Claims:**

From and after the Effective Time, any Person having a Tooling Claim will be irrevocably limited to recovery in respect of such Tooling Claim solely from Tooling Receipts that relate specifically to such Tooling Claim, and any Person with a Tooling Claim will have no right to, and will not, directly or indirectly, make any claim or seek any recoveries from the Hematite Group or any other Person, other than enforcing such Person's right to be paid from time to time the Tooling Payment Amount from any Tooling Receipts.

Notwithstanding the forgoing, an Affected Claim that includes a Tooling Claim may still receive a distribution in respect of (i) the portion of the Affected Claim, if any, that is not a Tooling Claim, and (ii) the Tooling Claim Amount as of the Distribution Record Date, provided that the portion of such distribution attributable to the Tooling Claim Amount will be treated as a Tooling Payment for the purposes of determining the Tooling Claim Amount at any time after the Distribution Record Date.

In the case of most tooling suppliers, where the Tooling Payments actually paid by the corresponding Customer after the Filing Date are equal to their Tooling Claims, they will ultimately recover their Tooling Claims in full.

Tooling Claims (net of any Tooling Payments already received by the applicable tooling supplier) will be treated as Affected Claims under the Plan and tooling suppliers will be entitled to vote as an Affected Creditor and receive a *pro rata* distribution from the Creditor Distribution Pool in respect of their Tooling Claim Amount, on the same basis as other Affected Creditors.

**Releases:**

At the Effective Time and in accordance with the sequence of steps set out in the Plan, each of the (i) the members of the Hematite Group, (ii) the CRO, (iii) the Monitor, (iv) the Plan Sponsor, and (v) their respective Representatives (collectively, the “**Released Parties**”), will be fully, finally and irrevocably released and discharged from all Released Claims which will be fully, finally, irrevocable and forever waived, discharged, released, cancelled and barred as against the Released Parties.

From and after the Effective Time, all Persons will be permanently barred with respect to any and all Released Claims from: (i) commencing, directly or indirectly, any action or other proceeding of any kind against any of the Released Parties; (ii) enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property; (iii) commencing in any manner, directly or indirectly, any action or other proceeding of any kind against any Person who makes a claim or might reasonably be expected to make a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any Encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of the Plan.

**Non-Released Claims:**

The Plan does not release the Non-Released Claims, which include: (i) the right to enforce against the Hematite Group its obligations under the Plan; (ii) the right to enforce the Unaffected Claims against the Hematite Group; (iii) solely as against a Director in his or her capacity as such, any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA; (iv) any claim against a Released Party, based on facts not known by the claimant prior to the Effective Time nor reasonably capable of being known prior to the Effective Time, if the Released Party is determined by a final order of a court of competent jurisdiction to have committed fraud; (v) any claim against the Hematite Group for the purchase or supply of goods or services delivered after the Filing Date; and (vi) the right to enforce against the Hematite Group any agreement in force on the Plan Implementation Date that was entered into by the Hematite Group between the filing of the Plan and the Plan Implementation Date, or, subject to the terms of the Sanction Order contemplated by paragraph 8.2(m) of the Plan, that was entered into prior to the Filing Date and not disclaimed during the CCAA Proceedings pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA.

**Creditor Approval of Plan:**

In order for the Plan to be approved pursuant to the CCAA, the Plan must be approved by a majority in number of the Affected Creditors holding Voting Claims representing at least two-thirds in value of the Voting Claims that are in attendance personally or by proxy and voting at the Meeting (the “**Required Majorities**”). Votes by Affected Creditors with Unresolved Claims in respect of such Unresolved Claims will not be considered in the calculation of the Required Majorities and



will be treated as set out in the Meeting Order.

**Court Approval of Plan:**

If the Plan is approved at the Meeting by the Required Majorities and the other necessary conditions are met, the Applicants intend to make an application to the CCAA Court for an order sanctioning the Plan (the “**Sanction Order**”) pursuant to the CCAA on December 18, 2020 (the “**Sanction Hearing**”) or such later date as is set by the CCAA Court upon motion by the Applicant.

Any person who wishes to oppose the entry of the Sanction Order will be required to serve on the Service List a notice setting out the basis for such opposition and a copy of the materials to be used to oppose the granting of the Sanction Order at least two (2) Business Days before the date set for the Sanction Hearing, or such shorter time as the CCAA Court, by order, may allow.

*Creditors should consult with their legal advisors with respect to the legal rights available to them in relation to the Plan and the Sanction Hearing.* In the event that the Sanction Hearing is adjourned, only those Persons who are listed on the Service List will be served with notice of the adjourned date of the Sanction Hearing.

**Conditions to Implementation of the Plan:**

The implementation of the Plan is subject to the satisfaction of the following conditions:

- (a) the Plan will have been approved by the Affected Creditors;
- (b) the Sanction Order will have been issued by the CCAA Court, consistent with the terms of Section 8.2 of the Plan with such minor amendments as may be approved by the Applicants, the Monitor and the Plan Sponsor;
- (c) the Sanction Order will have been recognized and given full force and effect in the United States by the U.S. Court in the Chapter 15 Cases;
- (d) the Subscription Agreement will have been executed, delivered and become effective in accordance with its terms, subject only to the occurrence of the Plan Implementation Date, and the Plan Sponsor will have paid the Plan Funding Amount to the applicable Applicants in accordance with the Subscription Agreement;
- (e) the BDC A&R Loan Agreement and all guarantees and security required pursuant thereto will have been executed, delivered and become effective in accordance with their terms, subject only to the occurrence of the Plan Implementation Date, on terms and conditions satisfactory to BDC and the Applicants;
- (f) arrangements satisfactory to the DIP Lender and the Hematite Group in respect of the repayment of, and the terms governing, the DIP Loan and the Assigned TD Loans from and after the Plan Implementation Date have become effective, subject only

to the occurrence of the Plan Implementation Date;

- (g) each of the conditions precedent to the closing of the Transaction provided in the Plan Sponsor Agreement will have been satisfied or waived in accordance with the terms of the Plan Sponsor Agreement;
- (h) all relevant Persons will have executed, delivered and filed all documents and other instruments that, in the opinion of the Hematite Group and Plan Sponsor, acting reasonably, are necessary to implement the provisions of the Plan and the Sanction Order;
- (i) no action or proceeding will be pending by any third party to enjoin or prohibit the Transaction; and
- (j) all applicable approvals and orders of, and all applicable submissions and filings with, Governmental Authorities having jurisdiction for the completion of the steps and transactions contemplated by the Plan (including the steps and transactions which are Plan Implementation Conditions) will have been obtained or made, as the case may be, in each case to the extent deemed necessary or advisable by the Hematite Group and Plan Sponsor, in form and substance satisfactory to the Hematite Group and Plan Sponsor.

Upon receipt of the Certificate of Amendment, the Hematite Group will deliver to the Monitor and the Plan Sponsor, and file with the CCAA Court, a copy of a certificate (i) stating that each of the Plan Implementation Conditions has been satisfied or waived and that the Articles of Reorganization have been filed and have become effective as of the date set out in the Certificate of Amendment, and (ii) designating an Effective Time on the Plan Implementation Date.

As soon as practicable following the occurrence of the Effective Time, the Monitor will serve on the service list in the CCAA Proceedings and post on the Monitor's Website a certificate confirming that the Plan Implementation Date has occurred and the time of the effective Time, and will file such certificate with the CCAA Court as soon as practicable after it has been delivered.

**Plan Modification:**

Under section 10.3(1) of the Plan, the Applicants reserve their right, at any time and from time to time, to amend, restate, modify and/or supplement the Plan (including to address or further address the treatment of claims subject to the Claims Procedure Order), provided that any such amendment, restatement, modification or supplement is on terms satisfactory to the Plan Sponsor and must be contained in a written document which is filed with the CCAA Court and (i) if made prior to or at the Meeting, communicated to Affected Creditors in the manner contemplated by the Meeting Order; and (ii) if made following the Meeting, approved by the CCAA Court.

Notwithstanding Section 10.3(1) of the Plan, after the Meetings and before the Plan Implementation Date the Hematite Group may amend,

restate, modify and/or supplement the Plan with the consent of the Plan Sponsor and the Monitor, without the consent of the Affected Creditors or approval of the CCAA Court, provided that any such amendment, restatement, modification and/or supplement (i) is filed with the CCAA Court; (ii) is posted on the website maintained by the Monitor and notice thereof is provided to the Service List maintained by the Monitor for the CCAA; (iii) does not materially decrease the anticipated recovery of Affected Creditors under the Plan and is otherwise not materially adverse to the financial or economic interests of Affected Creditors, in each case as determined by the Monitor; and (iv) does not amend the Plan Implementation Conditions.

Notwithstanding Sections 10.3(1) and (2) of the Plan, any amendment, restatement, modification or supplement to the Plan may be made by the Hematite Group at any time and from time to time with the consent of the Monitor and the Plan Sponsor, without the consent of the Affected Creditors or approval of the CCAA Court, provided that any such amendment, restatement, modification and/or supplement (i) is filed with the CCAA Court; (ii) is posted on the website maintained by the Monitor and notice thereof is provided to the Service List maintained by the Monitor for the CCAA; and (iii) (A) concerns a matter which is of an administrative nature required to better give effect to the implementation of the Plan, or (B) is to cure any errors, omissions or ambiguities, and in either case is not materially adverse to the financial or economic interests of the Affected Creditors as determined by the Monitor.

Any amended, restated, modified or supplementary Plan filed with the CCAA Court and, if required by this Section, approved by the CCAA Court, will for all purposes be and be deemed to be a part of and incorporated in the Plan.

**Timing of Plan Implementation:**

It is anticipated that the Plan will be implemented in accordance with the following timetable:

December 11, 2020	Meeting to vote on the Plan
December 18, 2020	Sanction Hearing
Upon the satisfaction or waiver of the Plan Implementation Conditions, the Business Day designated by the Applicants in consultation with the Monitor pursuant to Section 9.1 of the Plan	Plan Implementation

**Monitor:**

The Monitor supports the Applicants' request to convene the Meeting to consider and vote on the Plan.

**SCHEDULE "A"**  
**TO THE INFORMATION STATEMENT**  
**PLAN OF COMPROMISE AND ARRANGEMENT**

**SCHEDULE "B"**  
**TO THE INFORMATION STATEMENT**  
**MEETING ORDER**

**SCHEDULE “C”  
TO THE INFORMATION STATEMENT  
MEETING VIDEOCONFERENCE DETAILS**

<https://lync.kpmg.ca/meet/jojotang/5CRD4V5K>

Join by phone:

+1 (416) 777-8811,,7342677230# (CA)	English (United States)
+1 (604) 673-4457,,7342677230# (CA)	English (United States)
+1 (844) 499-8690,,7342677230# (CA)	English (United States)
+1 (514) 840-2670,,7342677230# (CA)	French (Canada)

Conference ID: 7342677230

**SCHEDULE “D”  
TO THE INFORMATION STATEMENT**

**FORM OF PLAN RESOLUTION**

**BE IT RESOLVED THAT:**

1. The Plan of Compromise, Arrangement and Reorganization of the Hematite Group pursuant to the *Companies’ Creditors Arrangement Act* (Canada) and the *Business Corporations Act* (Ontario) dated November 18, 2020 (the “**Plan**”) is hereby authorized and approved.



This is **Exhibit "I"** referred to in the  
affidavit of **JACQUES NADEAU**  
sworn before me this  
11th day of November, 2020



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A Commissioner for taking affidavits

**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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS INC.**

**NOTICE OF MEETING AND SANCTION HEARING**

On November 18, 2020, Hematite Holdings Inc., Hematite Manufacturing Inc., Hematite Industrial Products Inc., Canadian Pavaco Inc., Pavaco Holdings U.S. Inc., Hematite, Inc. and Hematite Automotive Products, Inc. (the "**Applicants**") filed a plan of compromise, arrangement and reorganization (the "**Plan**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") and obtained an order (the "**Meeting Order**") directing them to conduct a meeting of their creditors to vote on the Plan (the "**Meeting**"). All capitalized terms used in this Notice that are not defined herein have the meaning given to them in the Plan and the Meeting Order.

**TAKE NOTICE** that:

1. The Plan contemplates the compromise of all Affected Claims and will effect a release and discharge of all Affected Claims and Released Claims.
2. The sole class of creditors of the Applicants for the purpose of voting on the Plan is comprised of all Affected Creditors holding Affected Claims that are Proven Claims (the "**Affected Creditor Class**").
3. You are receiving this Notice because you have been identified as a member or potential member of the Affected Creditor Class.
4. Enclosed with this Notice you will find a copy of an Information Statement prepared by the Applicants (which attaches the Plan as an exhibit) and a Proxy and Election Notice. In addition to these materials, you may also want to review the Meeting Order. The Meeting Order and other information is available on the Monitor's Website at following URL: <http://home.kpmg/ca/hematitegroup>.
5. The purpose of these materials is to provide you with documents to assist you in your review and consideration of the Plan and in deciding whether to vote to accept or reject the Plan, and to provide you with notice of the Meeting that will be held at the following date, time and location:

Date: December 11, 2020

Time: 11:00 a.m. (Eastern Time)

Location: Videoconference (details are attached to this Notice as **Schedule "A"**)

6. Only those Affected Creditors holding Affected Claims that are Proven Claims or Unresolved Claims will be eligible to attend the Meeting and vote on the resolution to approve the Plan. The votes of creditors holding Unresolved Claims will be separately tabulated and will be treated as set out in the Meeting Order. Unaffected Creditors and holders of Equity Claims will not be entitled to attend and vote at the Meeting.
7. Any Proxy, including the Proxy and Election Form, must be sent by e-mail, or only if it cannot be sent by e-mail, delivered to the Monitor in each case so that it is received by no later than 5:00 p.m. (Toronto Time) on the date that is three (3) Business Days prior to the Meeting or any adjournment of the Meeting.
8. Any failure to file a Proxy will not affect your right to any distribution under the Plan.
9. If the Plan is approved at the Meeting and the other necessary conditions are met, the Applicants intend to apply to the Court for an Order sanctioning the Plan pursuant to the CCAA (the “**Sanction Order**”) on December 18, 2020 (the “**Sanction Hearing**”). Any person wishing to oppose the relief sought at the Sanction Hearing must serve on the Service List a notice providing the basis for such opposition and a copy of the materials to be used to oppose the granting of the Sanction Order at least two (2) Business Days before the date set for the Sanction Hearing, or such shorter time as the Court, by Order, may allow.
10. Among other things, the following is required for the Plan to become effective:
  - (a) the Plan must be approved by a majority in number of the Affected Creditors holding Voting Claims representing at least two-thirds in value of the Voting Claims that are in attendance personally or by proxy and voting at the Meeting (the “**Required Majorities**”) in accordance with the Meeting Order;
  - (b) the Plan must be sanctioned by the Court and the Sanction Order must have been recognized and given full force and effect in the United States by an order of the United States Bankruptcy Court for the District of Delaware; and
  - (c) the other conditions precedent to implementation and effectiveness of the Plan that are set out in the Plan must be satisfied or waived pursuant to the terms of the Plan.

If you have any questions regarding these matters or the enclosed Proxy and Election Notice, please contact the Monitor. The fax number / email address / address for delivering Proxies to the Monitor are as follows:

KPMG Inc.  
Court-appointed Monitor of the Applicants  
Bay Adelaide Centre  
333 Bay Street, Suite 4600  
Toronto, ON M5H 2S5  
Attention: Katherine Forbes  
Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)  
Fax: 416-777-8818  
Tel: 416-777-3978

**SCHEDULE “A”  
VIDEOCONFERENCE DETAILS**

<https://lync.kpmg.ca/meet/jojotang/5CRD4V5K>

Join by phone:

+1 (416) 777-8811,,7342677230# (CA)	English (United States)
+1 (604) 673-4457,,7342677230# (CA)	English (United States)
+1 (844) 499-8690,,7342677230# (CA)	English (United States)
+1 (514) 840-2670,,7342677230# (CA)	French (Canada)

Conference ID: 7342677230

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 HEMATITE HOLDINGS INC. ET AL.

Court File No: CV-20-00647824-00CL

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

Proceeding commenced at Toronto

**AFFIDAVIT OF JACQUES NADEAU**  
**(Sworn November 11, 2020)**

**McCarthy Tétrault LLP**  
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**James Gage** LSO#: 346761  
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**Trevor Courtis** LSO#: 67715A  
Tel: 416-601-7643  
Email: [tcourtis@mccarthy.ca](mailto:tcourtis@mccarthy.ca)

Lawyers for the Applicants

DOC#: 20872763

**Tab 3**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) WEDNESDAY, THE 18TH  
 )  
MADAM JUSTICE CONWAY ) DAY OF NOVEMBER, 2020  
 )

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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC., HEMATITE  
INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO HOLDINGS U.S.  
INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.

Applicants

**ORDER  
(Flow-Through Payments to Tooling Suppliers)**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order authorizing the Applicants to continue certain flow-through payment arrangements involving OEM customers and tooling suppliers, including the payment of certain pre-filing amounts owing to tooling suppliers, was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the affidavit of Jacques Nadeau sworn November 11, 2020 and the Exhibits thereto (the "**Nadeau Affidavit**"), and the Third Report of KPMG Inc. in its capacity as monitor of the Applicants (the "**Monitor**") dated November 11, 2020 (the "**Third Report**"), and on hearing the submissions of counsel for the Applicants, the Monitor and those other parties that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service, filed.



## **INTERPRETATION**

1. **THIS COURT ORDERS** that capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Nadeau Affidavit.

## **FLOW THROUGH PAYMENTS**

2. **THIS COURT ORDERS** that, subject to paragraph 5, the Applicants are authorized to pay amounts owing to tooling suppliers for the production and supply of tooling delivered prior to September 18, 2020 (the “**Initial Filing Date**”) that has or will become the property of the Applicants’ OEM customers and is being, or will be, used in the production of parts for such OEM customers (“**Pre-Filing Tooling Payables**”), provided that the Applicants have received payment of those amounts from such OEM customers on or after the Initial Filing Date in respect of the specific tooling supplied.

3. **THIS COURT ORDERS** that, subject to paragraph 5, the Applicants are authorized to pay amounts owing to tooling suppliers for the production and supply of tooling delivered on or after the Initial Filing Date that has or will become the property of the Applicants’ OEM customers and is being, or will be, used in the production of parts for such OEM customers (“**Post-Filing Tooling Payables**” and together with the Pre-Filing Tooling Payables, the “**Tooling Payables**”), provided that the Applicants have received payment of those amounts from such OEM customers on or after the Initial Filing Date in respect of the specific tooling supplied.

4. **THIS COURT ORDERS** that, in the case of the Tooling Payables in respect of any specific tooling, the Applicants are hereby directed to use any funds received from an OEM customer prior to the implementation date of the Plan on account of such Tooling Payables to pay the applicable tooling supplier on a “flow-through” basis (but only up to 100% of the amount owing to the tooling supplier in respect of the specific tool at the relevant time), and may only use any such funds received by the applicable OEM customer for any other purpose after the tooling supplier has been paid 100% of the amount owing in respect of the specific tool. All funds received from OEM customers and paid to tooling suppliers on account of Tooling Payables shall be recorded on the books and records of the Applicants in a traceable manner.

5. **THIS COURT ORDERS** that nothing in this Order shall affect the claims of the tooling suppliers or the treatment thereof by the Applicants in these CCAA Proceedings in respect of amounts owed to the tooling suppliers which are not paid pursuant to this Order.

6. **THIS COURT ORDERS** that nothing herein impacts or derogates from the rights of the OEM customers including, without limitation, the OEM customers' rights to assert set off, claims for recoupment or otherwise in the event that they are entitled to under the terms of their contracts or pursuant to applicable law.

### **MISCELLANEOUS**

7. **THIS COURT ORDERS** that this order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all persons against whom it may be enforceable.

8. **THIS COURT ORDERS** that this order is effective from the date that it is made, and is enforceable without any need for entry and filing.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this order, to grant representative status to Hematite Holdings Inc. in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this order.

10. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this order and for assistance in carrying out the terms of this order.

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

Proceedings commenced at Toronto

**ORDER**  
**(Flow-Through Payments to Tooling Suppliers)**

**McCarthy Tétrault LLP**  
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**Trevor Courtis** LSO#: 67715A  
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Email: [tcourtis@mccarthy.ca](mailto:tcourtis@mccarthy.ca)

Lawyers for the Applicants

DOC#: 20908640

**Tab 4**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	WEDNESDAY, THE 18TH
	)	
MADAM JUSTICE CONWAY	)	DAY OF NOVEMBER, 2020

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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC., HEMATITE  
INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO HOLDINGS U.S.  
INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.

Applicants

**ORDER  
(Continuation of Equipment Payments)**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order authorizing the Applicants to continue making payments to equipment lessors and secured equipment lenders, including the payment of certain pre-filing amounts owing, was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the affidavit of Jacques Nadeau sworn November 11, 2020 and the Exhibits thereto (the "**Nadeau Affidavit**"), and the Third Report of KPMG Inc. in its capacity as monitor of the Applicants (the "**Monitor**") dated November 11, 2020, and on hearing the submissions of counsel for the Applicants, the Monitor and those other parties that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service, filed.

## INTERPRETATION

1. **THIS COURT ORDERS** that capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Nadeau Affidavit.

## CONTINUATION OF EQUIPMENT PAYMENTS

2. **THIS COURT ORDERS** that, notwithstanding paragraph 11 of the Amended and Restated Initial Order of the Honourable Mr. Justice Hainey made September 28, 2020 in these CCAA proceedings (the “**Amended and Restated Initial Order**”), the Applicants shall be entitled but not required to pay amounts owing to lessors or secured creditors (each, an “**Equipment Creditor**”) for equipment leased from or specifically financed by such Equipment Creditor and delivered prior to September 18, 2020 (the “**Initial Filing Date**”), whether such amounts have been, or will be, incurred prior to, on or after the Initial Filing Date, at such intervals and in such amounts as such payments are usually paid pursuant to the applicable agreement, provided that:

- (a) the equipment is being, or will be, used in the operations of the Applicants;
- (b) the applicable agreement between one or more of the Applicants and the Equipment Creditor related to the equipment has not been disclaimed or terminated by the Applicants;
- (c) if the *Personal Property Security Act (Ontario)*, *Uniform Commercial Code (US)* or similar statutes in other jurisdictions applies to the applicable agreement, the Equipment Creditor has taken all steps required by the applicable statute to obtain a first priority purchase-money security interest in the equipment; and
- (d) the DIP Lender (as defined in the Amended and Restated Initial Order) agrees.

3. **THIS COURT ORDERS** that nothing in this Order shall affect the claims of the Equipment Creditors or the treatment thereof by the Applicants in these CCAA Proceedings.



**MISCELLANEOUS**

4. **THIS COURT ORDERS** that this order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all persons against whom it may be enforceable.

5. **THIS COURT ORDERS** that this order is effective from the date that it is made, and is enforceable without any need for entry and filing.

6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this order, to grant representative status to Hematite Holdings Inc. in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this order.

7. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this order and for assistance in carrying out the terms of this order.

---

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

Proceedings commenced at Toronto

**ORDER**  
**(Continuation of Equipment Payments)**

**McCarthy Tétrault LLP**  
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Lawyers for the Applicants

DOC#: 20933198

**Tab 5**

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

THE HONOURABLE ) WEDNESDAY, THE 18<sup>th</sup>  
 )  
JUSTICE CONWAY ) DAY OF NOVEMBER, 2020

**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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS INC.**

**MEETING ORDER**

**THIS MOTION**, made by Hematite Holdings Inc., Hematite Manufacturing Inc., Hematite Industrial Products Inc., Canadian Pavaco Inc., Pavaco Holdings U.S. Inc., Hematite, Inc. and Hematite Automotive Products, Inc. (the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, among other things,

- (a) accepting the filing with the Court of the plan of compromise, arrangement and reorganization of the Applicants under the CCAA and the *Business Corporations Act* (Ontario) dated November 18, 2020 (the "**Plan**");
- (b) approving, pursuant to section 22 of the CCAA, the classification of creditors as set out in the Plan;
- (c) authorizing and directing the Applicants to call, hold and conduct a meeting of Affected Creditors (the "**Meeting**") to vote on the Plan;
- (d) authorizing and directing the mailing and distribution of certain meeting materials and other procedures to be followed to provide notice of the Meeting;

- (e) approving the procedures to be followed at the Meeting, including voting procedures;
- (f) setting a date for the hearing of the Applicants' motion for an order (the "**Sanction Order**") approving the Plan (the "**Sanction Hearing**"); and
- (g) extending the Stay Period (as defined in the Amended and Restated Initial Order dated September 28, 2020) until and including December 31, 2020,

was heard this day by way of judicial video conference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the affidavit of Jacques Nadeau sworn November 11, 2020 (the "**Nadeau Affidavit**"), the Third Report of KPMG Inc. in its capacity as the monitor of the Applicants (the "**Monitor**") dated November ●, 2020 (the "**Third Report**"), and on hearing the submissions of counsel for the Applicants, the Monitor and any such other counsel that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service, filed:

**A. SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record of the Applicants and the Third Report is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**B. DEFINITIONS AND INTERPRETATION**

2. **THIS COURT ORDERS** that capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Plan.
3. **THIS COURT ORDERS** that all reference to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word “including” or “includes” shall mean “including without limitation” or “includes without limitation”, as the case may be.

5. **THIS COURT ORDERS** that, unless the context otherwise requires, words importing the singular shall include the plural and *vice versa*, and words importing any gender shall include all genders.

**C. MONITOR’S ROLE**

6. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order and the Claims Procedure Order, is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Order.

7. **THIS COURT ORDERS** that:

- (a) in carrying out the terms of this Order, the Monitor shall have all the protections given to it by the CCAA, the Initial Order and the Claims Procedure Order, and as an officer of the Court, including the stay of proceedings in its favour;
- (b) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Order, save and except for any gross negligence or willful misconduct on its part;
- (c) the Monitor shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants without independent investigation; and
- (d) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

**D. CCAA PLAN FILING AND AMENDMENT**

8. **THIS COURT ORDERS** that the Plan is hereby accepted for filing and the Applicants are authorized to contemporaneously file the Plan with this Order.

9. **THIS COURT ORDERS** that the Applicants may, with the consent of the Plan Sponsor, at any time and from time to time, prior to or during the Meeting (as defined below), amend, restate, modify and/or supplement the Plan (which will thereafter constitute the “**Plan**” for the purposes of this Order); provided that any such amendment, restatement, modification and/or supplement shall be made in accordance with the terms of the Plan and communicated in accordance with Paragraph 17 hereof.

**E. CREDITOR CLASSIFICATION**

10. **THIS COURT ORDERS** that, pursuant to section 22 of the CCAA, a single class of Affected Creditors in respect of the Plan is hereby approved.

**F. AUTHORIZATION TO CALL AND HOLD MEETING**

11. **THIS COURT ORDERS** that the Applicants are authorized and directed to call, hold and conduct a meeting of the Affected Creditors on December 11, 2020 at 11:00 a.m. (Toronto time), or as adjourned to such time as the Chair may determine in accordance with Paragraph 26 or 27 hereof, for the purpose of considering and voting on the resolution to approve the Plan. The Meeting shall take place by videoconference due to the COVID-19 pandemic. The conference details will be provided in the Notice of Meeting and Sanction Hearing (as defined below).

**G. APPROVAL OF CERTAIN MEETING MATERIALS**

12. **THIS COURT ORDERS** that each of the following is hereby approved:

- (a) the Applicants’ information statement substantially in the form attached to the Nadeau Affidavit as Exhibit “H” (which attaches the Plan as an exhibit) (the “**Information Statement**”);
- (b) the form of notice regarding the Meeting and Sanction Hearing substantially in the form attached to the Nadeau Affidavit as Exhibit “I” (the “**Notice of Meeting and Sanction Hearing**”); and



- (c) the form of proxy and Election Notice for Affected Creditors substantially in the form attached as Schedule “A” hereto,

(collectively, the “**Meeting Materials**”).

13. **THIS COURT ORDERS** that the Applicants, in consultation with the Monitor and with the consent of the Plan Sponsor, may from time to time:

- (a) make such changes to the documents in the Meeting Materials as the Applicants, in consultation with the Monitor and the Plan Sponsor, consider necessary or desirable, including but not limited to changes to conform the content thereof to the terms of the Plan (including any amendments, restatements, modifications or supplements thereto), this Order or any further Orders of the Court and any changes necessary or desirable with respect to the date, time, and method of the Meeting and the Sanction Hearing; and
- (b) prepare any supplements to the Information Statement as the Applicants, in consultation with the Monitor and the Plan Sponsor, consider necessary or desirable (each a “**Supplemental Information Statement**”).

#### **H. NOTICE: POSTING, SERVICE AND PUBLICATION**

14. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause a copy of the Meeting Materials and this Order to be posted on the website established by the Monitor in respect of these proceedings (the “**Monitor’s Website**”). The Monitor shall ensure that such materials remain posted on the Monitor’s Website until at least one (1) Business Day after the Plan Implementation Date.

15. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall send the Meeting Materials to:

- (a) all Affected Creditors with Affected Claims in respect of which a Proof of Claim has been filed in a proper and timely manner in accordance with the Claims Procedure Order and that is not barred pursuant to the Claims Procedure Order;

- (b) the parties listed on the Consolidated List Required Pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure filed on September 24, 2020 with the United States Bankruptcy Court for the District of Delaware;
- (c) the service list maintained by the Monitor in these CCAA Proceedings (the “**Service List**”); and
- (d) any Affected Creditor or holder of a D&O Claim who makes a written request to the Monitor for a copy of the Meeting Materials,

in each case by e-mail at the last known e-mail address for such Creditors set out in the books and records of the Applicants or as provided in relation to the Claims Procedure Order, or by regular mail, fax or courier if an e-mail address for such Creditors is not known (except that where such Creditors are represented by counsel known by the Debtors, the email address, mailing address or fax number of such counsel may be substituted) (collectively, the “**Meeting Materials Parties**”).

16. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause notice of the Meeting, substantially in the form of the Notice of Meeting and Sanction Hearing, amended or abridged as the Monitor deems reasonable in its discretion for the purposes of publication, to be published for a period of one (1) Business Day in *The Globe and Mail* (National Edition) and USA Today (National Edition).

17. **THIS COURT ORDERS** that, as soon as reasonably practicable after finalization of any Supplemental Information Statement and any amendments or supplements to the Meeting Materials in accordance with Paragraph 13 hereof and any amendments, restatements, modifications and/or supplements to the Plan in accordance with Paragraph 9 hereof, the Monitor shall:

- (a) cause such materials to be posted on the Monitor’s Website (where the Monitor shall ensure that such materials remain posted until at least one (1) Business Day after the Plan Implementation Date); and

- (b) if made prior to the Meeting, send such materials to the Meeting Materials Parties or, if made at the Meeting, provide notice to those present at the Meeting prior to the vote being taken to approve the Plan.

18. **THIS COURT ORDERS** that the posting on the Monitor's Website, service of the Meeting Materials, and/or publication of notice in accordance with Paragraphs 14 to 17 above, shall constitute good and sufficient service and notice of this Order, the Plan and the Meeting on all Persons who may be entitled to receive notice thereof, or who may be entitled to be in attendance personally or by proxy at the Meeting or who may have an interest in these proceedings, and no other form of notice or service need be made on such Persons and no other document or material need be served on such Persons in respect of these proceedings. Service shall be effective: (i) in the case of mailing, three (3) Business Days after the date of mailing; (ii) in the case of service by courier, on the day after the courier was sent; and (iii) in the case of any other means of transmission or electronic communication, when dispatched or delivered for dispatch and in the case of service by fax or e-mail, on the day the fax or e-mail was transmitted, unless such day is not a Business Day, or the fax or e-mail transmission was made after 5:00 p.m., in which case, on the next Business Day.

19. **THIS COURT ORDERS** that the non-receipt of a copy of the Meeting Materials beyond the reasonable control of the Monitor, or any failure or omission to provide a copy of the Meeting Materials as a result of events beyond the reasonable control of the Monitor (including, any inability to use postal services) shall not constitute a breach of this Order, but if any such failure or omission is brought to the attention of the Monitor then the Monitor shall use reasonable efforts to rectify the failure or omission by the method and in the time most reasonably practicable in the circumstances.

**I. RECORD DATE**

20. **THIS COURT ORDERS** that the record date for the purposes of determining which Affected Creditors are entitled to vote at the Meeting (the "**Record Date**") is December 4, 2020.

**J. TRANSFER AND ASSIGNMENT OF CLAIMS**

21. **THIS COURT ORDERS** that, subject to any restrictions contained in Applicable Laws or any contractual arrangements with the Applicants, an Affected Creditor may transfer or assign the whole of its Affected Claim prior to the Meeting. If, subject to any restrictions contained in Applicable Laws or any contractual arrangement with the Applicants, an Affected Creditor transfers or assigns the whole of an Affected Claim to another Person, such transferee or assignee shall not be entitled to attend and vote the transferred or assigned Affected Claim at the Meeting unless (a) the assigned Affected Claim is a Voting Claim (as defined below) or Unresolved Claim, or a combination thereof; and (b) satisfactory notice of and proof of transfer or assignment has been delivered to the Applicants and the Monitor in accordance with the Claims Procedure Order, where applicable, no later than the Record Date.

**K. CONDUCT AT MEETING**

22. **THIS COURT ORDERS** that the Meeting shall be conducted, and the Plan shall be voted upon and, if approved by the Required Majorities (defined below), ratified and given full force and effect, in accordance with the provisions of this Order, the Claims Procedure Order, the CCAA, the *Business Corporations Act* (Ontario) or such other business corporations legislation applicable to an Applicant, and any further order of this Court.

23. **THIS COURT ORDERS** that a representative of the Monitor, designated by the Monitor, shall preside as the chair (the “**Chair**”) of the Meeting and, subject to this Order and any further order of this Court, shall decide all matters relating to the conduct of the Meeting.

24. **THIS COURT ORDERS** that the quorum required at the Meeting is one (1) Affected Creditor with a Voting Claim that is in attendance at the Meeting personally or by proxy.

25. **THIS COURT ORDERS** that the Monitor may appoint scrutineers (the “**Scrutineers**”) for the supervision and tabulation of the attendance, quorum and votes cast at the Meeting and that a Person designated by the Monitor shall act as secretary at the Meeting (the “**Secretary**”).

26. **THIS COURT ORDERS** that if: (i) the requisite quorum is not in attendance at the Meeting; or (ii) the Meeting is postponed by the vote of Affected Creditors present personally or by proxy holding the majority in value of Voting Claims (as defined below) voted in respect of such matter, then in either case the Meeting shall be adjourned by the Chair to a date thereafter and to such time and place as may be appointed by the Chair.

27. **THIS COURT ORDERS** that the Meeting need not be convened in order to be adjourned and that the Chair shall be entitled to adjourn and further adjourn the Meeting provided that any such adjournment or adjournments shall be for a period of not more than thirty (30) days in total and, in the event of any such adjournment, the Applicants and Monitor shall not be required to deliver any notice of adjournment other than posting notice on the Monitor's Website and notifying the Service List of the adjournment. Any Proxy (as defined below) validly delivered in connection with the Meeting shall be accepted as a Proxy in respect of any adjourned Meeting.

28. **THIS COURT ORDERS** that the only Persons entitled to notice of or to attend the Meeting are: (i) the Monitor and its counsel; (ii) those Persons, including the holders of Proxies, entitled to vote at Meeting pursuant to this Order and their legal counsel and advisors; (iii) the Applicants' officers, legal counsel and advisors; (iv) the Chief Restructuring Officer; (v) the Plan Sponsor's officers, legal counsel and advisors; and (vi) the Scrutineers and Secretary. Any other Person may be admitted to the Meeting on invitation of the Chair.

29. **THIS COURT ORDERS** that the Chair of the Meeting and the Monitor may rely on representations by attendees to confirm their identification.

**L. VOTING PROCEDURE**

30. **THIS COURT ORDERS** that, at the Meeting, the Chair shall direct a vote on a resolution to approve the Plan and any amendments thereto in accordance with the Plan, and may direct a vote with respect to any other resolutions as the Chair may consider appropriate, in consultation with the Applicants and in accordance with the Plan.

31. **THIS COURT ORDERS** that, only Affected Creditors holding Affected Claims that are Proven Claims or Unresolved Claims (and that are not Equity Claims) or their proxies shall be entitled to vote at the Meeting.

32. **THIS COURT ORDERS** that Unaffected Creditors and holders of Equity Claims are not entitled, in such capacity, to attend the Meeting or vote on the Plan.

33. **THIS COURT ORDERS** that each Affected Creditor as of the Record Date with an Affected Claim that is a Proven Claim is entitled to one vote in respect of such Affected Claim, which vote (each, a “**Voting Claim**”, and collectively the “**Voting Claims**”) shall have a value equal to the dollar value of such Affected Creditor’s Proven Claim determined in accordance with the Claims Procedure Order, provided that:

- (a) in the case of a Proven Claim that includes an Insured Claim, the vote shall have a value equal to the portion of the Proven Claim, if any, that is not an Insured Claim; and
- (b) in the case of a Proven Claim that includes a Tooling Claim, the vote shall have a value equal to the sum of (i) the portion of the Proven Claim, if any, that is not a Tooling Claim, and (ii) the Tooling Claim Amount as of the Record Date.

34. **THIS COURT ORDERS** that the vote on the resolution to approve the Plan shall be decided by approval of the Plan by a majority in number of the Affected Creditors holding Voting Claims representing at least two-thirds in value of the Voting Claims that are in attendance personally or by proxy and voting at the Meeting (the “**Required Majorities**”).

35. **THIS COURT ORDERS** that Affected Creditors with Unresolved Claims (or their proxies) may attend and vote at the Meeting and will have their voting intentions with respect to the Unresolved Claims separately recorded by the Monitor and reported to this Court. For purposes of such vote, each Affected Creditor with an Unresolved Claim is entitled to one vote, which vote shall have the value accepted by the Monitor, if any, for voting purposes only in respect of the Unresolved Claim. The voting of such claim at the Meeting and the valuation of it for voting purposes is without prejudice to the rights of the Applicants and Monitor, and the holder of the Unresolved Claim, with respect to the resolution of the Claim for distribution purposes. Votes by Affected Creditors with Unresolved Claims in respect of

such Unresolved Claims will not be considered in the calculation of the Required Majorities; however, if approval or non-approval of the Plan by the Affected Creditors would be determined by the votes cast in respect of Unresolved Claims, the Applicants and the Monitor, in consultation with the Plan Sponsor and on notice to the Service List, will request this Court's directions and, if necessary, a deferral of the Sanction Hearing (as defined below) and expedited determination of any material Unresolved Claims, as appropriate.

36. **THIS COURT ORDERS** that, following the vote at the Meeting, the Monitor will tally the votes in the manner set out herein and determine whether the Plan has been accepted by the Required Majorities.

37. **THIS COURT ORDERS** that the result of any vote at the Meeting shall be binding on all Affected Creditors, whether or not any such Affected Creditor is present at the Meeting or voted on the resolution to approve the Plan.

38. **THIS COURT ORDERS** that every question submitted to be decided at the Meeting, except to approve the resolution to approve the Plan, will be decided by a vote of a majority in value of the Voting Claims held by Affected Creditors in attendance personally or by proxy at such Meeting and cast in respect of such question.

**M. VOTING BY PROXY**

39. **THIS COURT ORDERS** that the Monitor, in consultation with the Applicants, is authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any form of proxy is completed and executed and is hereby authorized to accept and rely upon proxies substantially in the form attached hereto or such other form as is acceptable to the Monitor, in consultation with the Applicants (in each case, a "**Proxy**").

40. **THIS COURT ORDERS** that any Proxy must be received by the Monitor by no later than 5:00 p.m. on the date that is three (3) Business Days prior to the Meeting (or any adjournment thereof), provided that the Monitor may waive strict compliance with the time limits imposed for receipt of a Proxy if deemed advisable to do so by the Monitor, in consultation with the Applicants.

41. **THIS COURT ORDERS** that, for purposes of tabulating the votes cast on any matter voted upon at the Meeting, the Chair is entitled to rely on any vote cast by a holder of a Proxy that has been duly submitted to the Monitor in accordance with this Order, without independent investigation.

42. **THIS COURT ORDERS** that, if a duly signed and returned Proxy does not provide an instruction to vote for or against the approval of the resolution on the Plan, the Proxy will be deemed to include an instruction to vote for the approval of the resolution and the Plan, provided that the Proxy holder does not otherwise exercise its right to vote at the Meeting.

43. **THIS COURT ORDERS** that a Creditor with a Voting Claim who is not an individual may only attend and vote at the Meeting if it has appointed a proxyholder to attend and act on its behalf at the Meeting.

**N. CONVENIENCE CREDITORS**

44. **THIS COURT ORDERS** that, in respect of Convenience Creditors who will receive, subject to the terms and implementation of the Plan, payment in an amount equal to the lesser of the Election Amount and the actual amount of their Proven Claims,

- (a) in order for an Affected Creditor with Proven Claims exceeding the Election Amount to elect to receive the Election Amount as a Convenience Creditor in full satisfaction of such Proven Claims, such Affected Creditor is required to indicate such election in the Election Notice section of its Proxy, which Proxy must be submitted pursuant to the terms of this Order; and
- (b) an Affected Creditor with Proven Claims not exceeding the Election Amount shall not be permitted or required to make an election in the Election Notice section of its Proxy and shall receive an amount equal to the actual amount of such Proven Claim as a Convenience Creditor in full satisfaction of such Proven Claims and any election in the Election Notice section of the Proxy submitted by such Convenience Creditors shall be deemed null and void.

45. **THIS COURT ORDERS** that each Convenience Creditor with a Voting Claim shall be deemed to vote in favour of the Plan unless such Convenience Creditor has notified the



Monitor in writing of its intention to vote against the Plan prior to the Meeting of Affected Creditors and does vote against the Plan at such Meeting either personally or by proxy. The value of a Convenience Creditor's Affected Claim for voting purposes is the actual amount of such Proven Claim (subject to paragraphs 33(a) and 33(b) to the extent applicable).

**O. MONITOR'S REPORT AND SANCTION HEARING**

46. **THIS COURT ORDERS** that the Monitor shall provide a report to this Court no later than three (3) Business Days following the Meeting (the "**Monitor's Report Regarding the Meeting**"), which shall be served on the Service List and posted on the Monitor's Website as soon as practicable after it is filed with this Court, with respect to:

- (a) the results of the voting at the Meeting on the resolution to approve the Plan;
- (b) whether the Required Majorities have approved the Plan;
- (c) whether the votes cast in respect Unresolved Claims, if any, would affect the result of that vote; and
- (d) any other matter that the Monitor considers relevant.

47. **THIS COURT ORDERS** that, in the event that the Plan has been approved by the Required Majorities, the Applicants shall bring a motion before this Court on December 18, 2020 or such later date as is set by this Court for the Sanction Hearing upon motion by the Applicants seeking an order sanctioning the Plan.

48. **THIS COURT ORDERS** that the posting on the Monitor's Website, service of the Meeting Materials, and/or publication in accordance with Paragraphs 14 to 17 above, shall constitute good and sufficient service and notice of the Sanction Hearing on all Persons entitled to receive such service and no other form of notice or service need be made and no other materials need be served in respect of the Sanction Hearing, except that the Applicants shall serve the Service List with the motion materials relating to the Sanction Hearing and any additional materials to be used in support thereof and the Monitor shall post and serve the Monitor's Report Regarding the Meeting in accordance with Paragraph 46 above.

49. **THIS COURT ORDERS** that any party who wishes to oppose the entry of the Sanction Order shall serve on the Service List a notice setting out the basis for such opposition and a copy of the materials to be used to oppose the granting of the Sanction Order at least two (2) Business Days before the date set for the Sanction Hearing, or such shorter time as this Court, by order, may allow.

50. **THIS COURT ORDERS** that in the event that the Sanction Hearing is adjourned, only those Persons who have filed and served a Notice of Appearance in the Applicants' CCAA proceeding shall be served with notice of the adjourned date.

51. **THIS COURT ORDERS** that subject to any further order of this Court, in the event of any conflict, inconsistency, ambiguity or difference between the provisions of the Plan and this Order, the terms, conditions and provisions of the Plan shall govern and be paramount, and any such provision of this Order shall be deemed to be amended to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

**P. EXTENSION OF THE STAY PERIOD**

52. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 15 of the Amended and Restated Initial Order dated September 28, 2020) be and is hereby extended until and including December 31, 2020.

**Q. GENERAL**

53. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Order or for advise and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

54. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

55. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

56. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to Hematite Holdings Inc. to obtain recognition of this Order in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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**Schedule “A” – Form of Proxy**

**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  
HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC.,  
HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC.,  
PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND  
HEMATITE AUTOMOTIVE PRODUCTS INC.**

**PROXY AND ELECTION NOTICE**

Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the plan of compromise, arrangement and restructuring (as may be amended, restated or supplemented from time to time, the “**Plan**”) of Hematite Holdings Inc., Hematite Manufacturing Inc., Hematite Industrial Products Inc., Canadian Pavaco Inc., Pavaco Holdings U.S. Inc., Hematite, Inc. and Hematite Automotive Products, Inc. (the “**Applicants**”) pursuant to the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) and filed with the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the Order of the Court dated November 18, 2020 in respect of the meeting of Affected Creditors (the “**Meeting Order**”).

**VOTING BY PROXY**

**This proxy may only be filed by Affected Creditors with Voting Claims (each, an “Eligible Voting Creditor”).** Any such Affected Creditor who is not an individual may only attend and vote at the Meeting if a proxyholder has been appointed to act on its behalf at such meeting.

THE UNDERSIGNED ELIGIBLE VOTING CREDITOR hereby revokes all proxies previously given and nominates, constitutes, and appoints:

**Ms. Katherine Forbes of KPMG Inc.**, in its capacity as Monitor of the Applicants, or a person designated by her

or, instead of the foregoing, \_\_\_\_\_, or such other Person as he/she, in his/her sole discretion, may designate to attend on behalf of and act for the Eligible Voting Creditor at the Meeting of the Affected Creditors to be held in connection with the Plan and at any and all adjournments, postponements or other rescheduling of such Meeting, and to vote the amount of the Eligible Voting Creditor’s claim(s) for voting purposes as determined by and accepted for voting purposes in accordance with the Meeting Order and the Claims Procedure Order as follows:

**To be completed by an Eligible Voting Creditor:**

1. (mark one only):

Vote **FOR** approval of the Plan; or

Vote **AGAINST** approval of the Plan.

If this proxy is submitted and a box is not marked as a vote for or against approval of the Plan, this proxy shall be voted **FOR** approval of the Plan unless the Eligible Voting Creditor or their Proxyholder (provided the Proxyholder is a Person other than a representative of the Monitor) otherwise exercises their right to vote at the Meeting.

- and -

2. Vote at the nominee's discretion and otherwise act for and on behalf of the undersigned Eligible Voting Creditor with respect to any amendments, modifications, variations or supplements to the Plan and to any other matters that may come before the Meeting of the Affected Creditors or any adjournment, postponement or other rescheduling of such Meeting.

**CONVENIENCE CREDITOR ELECTION**

This Election may be completed by Affected Creditors with Proven Claims exceeding an aggregate of \$10,000 (the "**Election Amount**"):

Election to receive the Election Amount in respect of such Proven Claims

Pursuant to the Plan and the Meeting Order, Affected Creditors with Proven Claims not exceeding an aggregate of the Election Amount will receive the actual amount of such Proven Claims pursuant to the Plan and are not entitled to make the election above (such Creditors, together with Affected Creditors with Affected Claims exceeding an aggregate of the Election Amount who duly make the above Election in accordance with the Plan and the Meeting Order, a "**Convenience Creditor**").

Pursuant to the Meeting Order, any Convenience Creditor with a Voting Claim shall be deemed to vote in favour of the Plan unless such Convenience Creditor has notified the Monitor in writing of its intention to vote against the Plan prior to the Meeting of Affected Creditors and does vote against the Plan at such Meeting either personally or by proxy.

If this Proxy is submitted by an Affected Creditor whose Affected Claims that are Proven Claims exceed an aggregate of the Election Amount and the above box is not marked, such Affected Creditor will be deemed to have not filed an Election Notice.

Notwithstanding any elections made pursuant to this Proxy, any and all distributions in respect of Affected Claims shall be made subject to the terms (including, without limitation, any adjustments required pursuant to the Plan) and implementation of the Plan.

Any Proxy must be received by the Monitor by no later than 5:00 p.m. on the date that is three (3) Business Days prior to the date of the Meeting (or any adjournment thereof), provided that the Monitor may waive strict compliance with the time limits imposed for receipt of a Proxy if deemed advisable to do so by the Monitor, in consultation with the Applicants. Proxies may be sent to the Monitor by email or, only where it is not possible for the Proxy to be sent by email, by fax or mail to the following email address/fax number/address:

KPMG Inc.  
Court-appointed Monitor of the Applicants  
Bay Adelaide Centre  
333 Bay Street, Suite 4600  
Toronto, ON M5H 2S5  
Attention: Katherine Forbes  
Email: [hematitegroup@kpmg.ca](mailto:hematitegroup@kpmg.ca)  
Fax: 416-777-8818  
Tel: 416-777-3978

*[Remainder of page intentionally left blank]*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Print Name of Eligible Voting Creditor

\_\_\_\_\_  
Title of the authorized signing officer of the corporation, partnership or trust, if applicable

\_\_\_\_\_  
Signature of Eligible Voting Creditor or, if the Eligible Voting Creditor is a corporation, partnership or trust, signature of an authorized signing officer of the corporation, partnership or trust

\_\_\_\_\_  
Telephone Number of Eligible Voting Creditor or authorized signing officer

\_\_\_\_\_  
Mailing Address of Eligible Voting Creditor

\_\_\_\_\_  
E-mail Address of Eligible Voting Creditor

\_\_\_\_\_  
Print Name of Witness, if Eligible Voting Creditor is an individual

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 HEMATITE HOLDINGS INC. ET AL

Court File No. CV-20-00647824-00CL

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

Proceeding Commenced at Toronto

**MEETING ORDER**

**McCarthy Tétrault LLP**  
Toronto Dominion Bank Tower  
Toronto, ON M5K 1E6  
Fax: 416-868-0673

**James Gage** LSO#: 346761  
Tel: 416-601-7539  
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**Trevor Courtis** LSO#: 67715A  
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Lawyers for the Applicants

MT DOCS 20849806



**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD  
(Meeting Order and Other Relief)  
(Returnable November 11, 2020)**

**McCarthy Tétrault LLP**  
Suite 5300, TD Bank Tower  
Toronto ON M5K 1E6  
Fax: 416-868-0673

**James Gage** LSO#: 34676I  
Tel: 416-601-7539  
Eail: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Trevor Courtis** LSO#: 67715A  
Tel: 416-601-7643  
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Lawyers for the Applicants