

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

In re:

HEMATITE HOLDINGS INC., *et al.*,¹

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 20-12387 (MFW)

Jointly Administered

Objection Deadline: December 15, 2020 at 4:00 p.m. (ET)
Hearing Date: December 22, 2020 at 2:00 p.m. (ET)

**NOTICE OF MOTION OF HEMATITE HOLDINGS INC., AS
FOREIGN REPRESENTATIVE, FOR AN ORDER RECOGNIZING THE
CANADIAN COURT’S ORDER SANCTIONING AND APPROVING CCAA PLAN**

PLEASE TAKE NOTICE that on December 1, 2020, Hematite Holdings Inc., in its capacity as the Canadian Court-appointed and authorized foreign representative (the “Foreign Representative”) for the above-captioned debtors which are the subjects of a reorganization proceeding commenced before the Ontario Superior Court Of Justice (Commercial List) in Canada under Canada’s *Companies’ Creditors Arrangement Act*, by and through the Foreign Representative’s undersigned counsel, filed the *Motion of Hematite Holdings Inc., as Foreign Representative, for an Order Recognizing the Canadian Court’s Order Sanctioning and Approving CCAA Plan* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). A copy of the Motion is served upon you with this notice.

PLEASE TAKE FURTHER NOTICE that objections or responses, if any, to the Motion must be filed with the Bankruptcy Court, 824 North Market Street, Wilmington, Delaware 19801,

¹ 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.

on or before **December 15, 2020 at 4:00 p.m. (prevailing Eastern Time)**, and served upon the undersigned counsel to the Foreign Representative.

PLEASE TAKE FURTHER NOTICE that a hearing with respect to the Motion will be held on **December 22, 2020 at 2:00 p.m. (prevailing Eastern Time)** before the Honorable Mary F. Walrath, United States Bankruptcy Judge for the District of Delaware, at the Bankruptcy Court, 824 North Market Street, 5th Floor, Courtroom No. 4, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND TO THE MOTION IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR A HEARING.

Dated: December 1, 2020
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

/s/ Todd A. Atkinson

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

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

In re:

HEMATITE HOLDINGS INC., *et al.*,¹

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 20-12387 (MFW)

Jointly Administered

Objection Deadline: December 15, 2020 at 4:00 p.m. (ET)

Hearing Date: December 22, 2020 at 2:00 p.m. (ET)

**MOTION OF HEMATITE HOLDINGS INC., AS FOREIGN REPRESENTATIVE,
FOR AN ORDER RECOGNIZING THE CANADIAN COURT'S ORDER
SANCTIONING AND APPROVING CCAA PLAN**

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 (collectively, the "Debtors") which are the subjects of a reorganization proceeding (the "CCAA Proceeding") commenced before the Ontario Superior Court Of Justice (Commercial List) in Canada (the "Canadian Court") under Canada's *Companies' Creditors Arrangement Act* (the "CCAA"), respectfully moves (the "Motion") for the entry of an order, pursuant to sections 105, 1507, 1525, and 1527 of title 11 of the United States Code (the "Bankruptcy Code"), substantially in the form attached as **Exhibit A** (the "Sanction Recognition Order") recognizing the Canadian Court's Sanction Order (the "Sanction Order") with respect to the Plan of Compromise, Arrangement and Reorganization of the Debtors (the "CCAA Plan")²

¹ 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.

² A true and correct copy of current CCAA Plan is annexed hereto as **Exhibit B**. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the CCAA Plan.

which, if entered by the Canadian Court, would allow the Debtors to emerge from the CCAA under new ownership and on a restructured basis, while addressing the interests of all stakeholders in a fair and reasonable manner. A copy of the draft Sanction Order, in its current proposed form, is attached to the proposed Sanction Recognition Order as Exhibit 1.³ In support of the relief requested herein, the Foreign Representative, through its undersigned counsel, respectfully represents:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion pursuant to sections 157 and 1334 of title 28 of the United States Code and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Matters under chapter 15 of the Bankruptcy Code are core matters under section 157(b)(2)(P) of title 28 of the United States Code.

2. The Foreign Representative, in its capacity as authorized foreign representative, consents to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. Venue is proper in this Court and this District pursuant to 28 U.S.C. § 1410.

BACKGROUND

A. CCAA Proceeding

4. On September 18, 2020, the Canadian Court issued the initial order (the “Initial Order”) that, among other things, appointed KPMG Inc. (“KPMG,” or the “Monitor”) to monitor

³ The hearing to consider the Canadian Court's entry of the proposed Sanction Order is currently scheduled for December 18, 2020. If approved, an as-entered copy of the Sanction Order (together with a blacklined version thereof, if necessary) will be filed and served upon all persons and entities receiving notice of this Motion.

and assist the Debtors in their business and financial affairs in accordance with section 23 of the CCAA. The Canadian Court also appointed the Foreign Representative to assist the Debtors in accordance with paragraphs 48 and 49 of the Initial Order.

5. On September 28, 2020, the Debtors sought and obtained additional relief in the Canadian Court, extending the Initial Order and the stay of proceedings until November 27, 2020 (the “Stay Period”), and granting certain other relief appropriate under the circumstances pursuant to an amended and restated initial order (the “Amended Initial Order”).

6. On October 13, 2020, the Canadian Court issued the Claims Procedure Order (the “Claims Procedure Order”), approving a procedure for the identification, quantification and resolution of certain claims of creditors of the Debtors and their respective directors and officers.

7. On November 18, 2020, the Canadian Court issued the Meeting Order (the “Meeting Order”), authorizing the Debtors to, among other things, file a plan and distribute meeting materials, and extending the Stay Period until December 31, 2020.

B. Chapter 15 Cases

8. On September 22, 2020 (the “Petition Date”), the Foreign Representative commenced these cases by filing voluntary petitions for relief under chapter 15 of the Bankruptcy Code.

9. On September 23, 2020, the Court entered the *Order Granting Provisional Relief* [Doc. No. 10], pursuant to which the Court, among other things, recognized and enforced the Initial Order in the United States, on a provisional basis.

10. On October 1, 2020, the Court entered the *Order Granting Additional Provisional Relief* [Doc. No. 26], pursuant to which the Court, among other things, recognized and enforced the Amended Initial Order in the United States, on a provisional basis.

11. 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 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 Final Recognition Order, ¶¶ 2, 6.

12. On October 15, 2020, the Foreign Representative filed *Notice of Entry by Canadian Court of Claims Procedure Order* [Docket No. 38], which notice, among other things, instructed all creditors of the Debtors to file claims in the Canadian Court.

13. Additional information about the Debtors’ business and operations, the events leading up to the filing of the Petitions for Recognition, and the facts and circumstances surrounding the CCAA Proceeding and the Chapter 15 Cases, are set forth in (a) the *Declaration of Jacques Nadeau in Support of the Debtors’ Chapter 15 Petitions and First Day Pleadings in Foreign Proceeding* (Doc. No. 3, Ex. B) (the “Nadeau Declaration”); and (b) the *Third Report of the Monitor dated November 16, 2020* (the “Reports”), attached hereto as **Exhibit C**. The Nadeau Declaration and the Reports are incorporated herein by reference.

THE CCAA PLAN⁴

14. Prior to and following entry of the Initial Order, the Monitor, the Debtors and the Foreign Representative, and each of their respective professional advisors, worked with the

⁴ This summary of the CCAA Plan is being provided for reference only. In the event there are any discrepancies between this summary and the CCAA Plan, the terms of the CCAA Plan shall control.

Debtors' creditors on a consensual restructuring. If sanctioned by the Canadian Court, the proposed CCAA Plan and entry of the Sanction Order is expected to provide the following treatment of claims:

15. The following Claims are "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, which claims are required to be paid under the CCAA, including certain government claims and employee claims;
 - d. Claims of a member of the Debtors against another member of the Debtors;
 - 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 Debtors, 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 Debtors 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 Capital Inc., 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 Debtors 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 Debtors 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 Debtors (“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 Debtors 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 Debtors.

16. Unaffected Claims will either be paid pursuant to the CCAA Plan or will continue uncompromised by the CCAA Plan.

17. As to “Affected Claims,” 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 Section 3.4 of the CCAA Plan as follows:

- a. On the Initial Distribution Date (or such other date in accordance with the CCAA Plan) each Affected Creditor with:
 - i. Proven Claims (other than Equity Claims) not exceeding in the aggregate the Election Amount of \$10,000, or
 - ii. Proven Claims (other than Equity Claims) exceeding the aggregate Election Amount of \$10,000 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 of \$10,000 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 of \$5.5 million after deducting (i) the amount

held in the Unresolved Claims Reserve, and (ii) the amounts paid to Convenience Creditors.

18. As set forth more specifically in Section 7.1 of the CCAA Plan and the Sanction Order, certain parties, including the Debtors, the CRO, the Monitor, the Plan Sponsor and their respective Representatives (as defined in the CCAA Plan), are being released and discharged from, among other things, any and all claims and liabilities that in any way relate to or arise of out of or in connection with any Claims (including D&O Claims), the Debtors' business and affairs, the CCAA Plan or the Canadian Proceeding. The released claims do not include:

- a. the right to enforce against the Debtors their obligation under the Plan;
- b. the right to enforce the Unaffected Claims against the Debtors;
- c. 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;
- d. 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;
- e. any claim against the Debtors for the purchase or supply of goods or services delivered after the Filing Date; and
- f. the right to enforce against the Debtors any agreement in force on the Plan Implementation Date that was entered into by the Debtors 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 Proceeding pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA.

RELIEF REQUESTED

19. By this Motion, the Foreign Representative seeks entry of an order, substantially in the form attached hereto as **Exhibit A**, (a) recognizing and giving full force and effect to, pursuant to sections 105, 1507, 1525, and 1527 of the Bankruptcy Code and under well-established

principles of international comity, the Canadian Court's Sanction Order and the CCAA Plan in the United States; and (b) granting related relief.

BASIS FOR RELIEF

20. The Foreign Representative submits that the relief requested herein is authorized pursuant to section 1507(b) of the Bankruptcy Code because enforcement of the CCAA Plan in the United States is consistent with the principles of comity and will reasonably assure:

- a. just treatment of all holders of Claims against or interests in the Debtors' property, because the laws of Canada and the United States share both the same common law traditions and fundamental insolvency principles, and the Foreign Representative believes that the CCAA Plan justly and fairly distributes the property of the Debtors for the benefit of all of the Debtors' stakeholders, both in the United States and abroad;
- b. protection of holders of Affected Claims in the United States against prejudice and inconvenience in the processing of such Claims in the Canadian Proceeding because Canadian law does not prefer the Claims of Canadian citizens over others, and because the inconvenience faced by United States creditors in the Canadian Proceeding is no greater than the inconvenience faced by foreign creditors bringing Claims in the United States;
- c. prevention of preferential or fraudulent dispositions of the Debtors' property, because in the absence of enforcement, United States creditors might attempt to proceed against the Debtors' assets without regard for the Canadian Proceeding, leading to unequal treatment of certain creditors in a manner contrary to the fundamental purposes of the Bankruptcy Code; and
- d. distribution of proceeds of the Debtors' property in a manner that is fundamentally similar to the order prescribed by the Bankruptcy Code.

21. In addition, section 1525(a) of the Bankruptcy Code provides that, "consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative," and section 1527(3) of the Bankruptcy Code explicitly provides that one

such form of cooperation may include “coordination of the administration and supervision of the debtor’s assets and affairs.” 11 U.S.C. §§ 1525(a); 1527(3).⁵

22. The Sanction Order and the method of satisfying Claims of Affected Creditors provide a fair and effective framework by which the Debtors’ property will be distributed to Affected Creditors. Recognition of the Sanction Order will further the administration of the Canadian Proceeding and these Chapter 15 Cases by establishing the structure by which the Debtors will exit these insolvency proceedings, which have been conducted with notable efficiency and consensus. As such, enforcement of the Sanction Order in the United States will ensure the efficient administration of the Debtors’ estates on a uniform basis while simultaneously promoting the concepts of international cooperation in accordance with chapter 15 of the Bankruptcy Code. Accordingly, the Foreign Representative respectfully requests that this Court recognize and enforce the Sanction Order, subject to its consideration and issuance by the Canadian Court. Additionally, Section 9.1 of the CCAA Plan provides that entry of the Sanction Recognition Order is a condition precedent to the implementation of the CCAA Plan.

23. The Foreign Representative submits further that the enforcement and recognition of the Sanction Order and the CCAA Plan in the United States is not manifestly contrary to the public policy of the United States and, therefore, section 1506 of the Bankruptcy Code does not present any bar to the enforcement of such order and the CCAA Plan. The manner in which the Debtors’ property is to be distributed under the CCAA Plan is consistent with restructuring

⁵ Section 1521 of the Bankruptcy Code also proscribes various other forms of relief that may be granted in a chapter 15 proceeding following recognition. While the Foreign Representative is of the view that section 1507 of the Bankruptcy Code establishes the basis for granting recognition and enforcement of the Sanction Order, section 1521 also provides a basis for, and does not include a prohibition on, the relief requested herein.

methods contemplated by the Bankruptcy Code and United States insolvency principles. As such, the requested relief is consistent with the public policy of the United States.

24. While the CCAA Plan contains releases in favor of certain third parties, including most notably the Plan Sponsor, third party releases in foreign insolvency proceedings have been enforced in the United States under section 1507 of the Bankruptcy Code. *See, e.g., In re Sino-Forest Corp.*, 501 B.R. 655 (Bankr. S.D.N.Y. 2013) (enforcing a third-party release that may not have been permissible under United States law); *In re Metcalfe & Mansfield Alternative Invs.*, 421 B.R. 685 (Bankr. S.D.N.Y. 2010) (same).

25. Although some courts have declined to enforce non-consensual third-party releases in the context of chapter 15 proceedings, *see Ad Hoc Group of Vitro Noteholders v. Vitro, S.A.B. de C.V. (In re Vitro, S.A.B. de C.V.)*, 701 F.3d 1031 (5th Cir. 2012), they have done so (a) under factual circumstances different than those presented in these cases, and pursuant to a framework of statutory interpretation that is not binding in this judicial district. In *Vitro*, the plan in question, a *Concurso* plan proposed under the Mexican Business Reorganization Act, provided for the discharge of certain bond debt owed by the debtor, Vitro S.A.B. de C.V. (“Vitro”), and also discharged the obligations of certain non-debtor subsidiaries of Vitro that were guarantors of the debt. Vitro’s Plan was objected to by certain of the bondholders but was confirmed over their objection because the plan was accepted by 74.67% of Vitro’s creditors -however, over 50% of the votes cast on Vitro’s plan were held by insiders of Vitro, which are treated the same as votes of non-insider creditors under the Mexican Business Reorganization Act. The bankruptcy court denied recognition and enforcement of the releases in favor of the non-debtor subsidiaries. On appeal, the Fifth Circuit found that such releases were not categorically prohibited, but sustained the bankruptcy court’s ruling on the facts presented in *Vitro*, which included:

- a. equity retaining substantial value while creditors did not receive a distribution close to what they were originally owed;
- b. the acceptance of the plan was dominated by votes of insider creditors, whose claims existed as a result of pre-petition restructuring of Vitro's financial obligations; and the lack of consent by the affected non-insider creditors to the plan.

26. The CCAA Plan and circumstances of these Chapter 15 Cases are vastly different from what was presented in *Vitro*. In this case, the Plan Sponsor—an entity not affiliated with the Debtors—is being released and the most significant concerns that resulted in denying enforcement of the third-party releases in *Vitro*—insiders and equity holders enriching themselves at the expense, and to the detriment, of non-insider creditors—are not present in this case.⁶

27. The facts and circumstances surrounding the sanction of the CCAA Plan more closely resembles the facts and circumstances of the *Metcalfe* and *Sino-Forest* cases. As observed by the *Metcalfe* court, “the correct inquiry in a chapter 15 case was not whether the Canadian orders could be enforced under U.S. law in a plenary chapter 11 case, but whether recognition of the Canadian courts’ decision was proper in the exercise of comity in a case under chapter 15.” *In re Metcalfe*, 421 BR at 687. Here, because the CCAA Plan is anticipated to be sanctioned by the Canadian Court and have the required support of the Debtors’ constituencies, the Foreign Representative submits that the releases contained in the CCAA Plan are appropriate and should be approved by this Court as consistent with the policies animating chapter 15 of the Bankruptcy Code.

⁶ In this regard, the Plan Sponsor after providing the Debtors with the DIP Loan to fund the Debtors’ operating needs during the Canadian Proceeding and these Chapter 15 Cases, has also agreed to provide the funding for the CCAA Plan. The Plan Sponsor represents the linchpin of the reorganization because without its funding, neither the Canadian Proceeding nor these Chapter 15 Cases would have been possible. Indeed, as of the Petition Date, the Debtors anticipated running out of cash to continue operations in a matter of days and faced the material risk that they would not continue as a going concern. *See* Nadeau Declaration, ¶¶ 30-32.

28. Further, as emphasized in *Metcalfe*, “when the foreign proceeding is in a sister common law jurisdiction with procedures akin to our own, comity should be extended with less hesitation, there being fewer concerns over the procedural safeguards employed in those proceedings.” *Metcalfe*, 421 B.R. at 698 (citation and quotations omitted). “The U.S. and Canada share the same common law traditions and fundamental principles of law. Canadian Courts afford creditors a full and fair opportunity to be heard in a manner consistent with standards of U.S. due process. U.S. federal courts have repeatedly granted comity to Canadian proceedings.” *Id.*

29. Based on the foregoing, the Foreign Representative respectfully requests that this Court recognize and give effect in the United States to the Sanction Order and the CCAA Plan pursuant to sections 105(a), 1507, 1525, and 1527 of the Bankruptcy Code, and under well-established principles of international comity and cooperation.

REQUEST FOR WAIVER OF STAY

30. The Foreign Representative respectfully requests a waiver of any stay of effectiveness imposed by the Federal Rules of Bankruptcy Procedure or the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware so that the relief requested herein can take effect immediately upon entry of an order approving this Motion.

NOTICE

31. The Foreign Representative will provide notice of this Motion to (i) counsel to the DIP Lender; (ii) the Canadian Department of Justice; (iii) the United States Internal Revenue Service; (iv) counsel to the Debtors in the CCAA Proceeding; (v) the Monitor in the CCAA Proceeding; (vi) the Office of the United States Trustee for the District of Delaware; (vii) the Ministry of Finance for the Province of Ontario; (viii) the Office of the United States Attorney for the District of Delaware; (ix) the Delaware Secretary of State; (x) the United States Securities and

Exchange Commission; (xi) the Delaware State Treasury; and (xii) any party that has filed a notice of appearance in these Chapter 15 Cases, via overnight courier and electronic mail to the extent available. The Foreign Representative submits that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be provided.

CONCLUSION

WHEREFORE, for all of the reasons stated above, the Foreign Representative respectfully requests that this Court: (a) enter an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein; and (b) grant such other and further relief as this Court deems just and proper.

Dated: December 1, 2020
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

/s/ Todd A. Atkinson

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

EXHIBIT A

Proposed Sanction Recognition Order

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

In re:

HEMATITE HOLDINGS INC., *et al.*,¹

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 20-12387 (MFW)

Jointly Administered

Related Docket Nos: ____

**ORDER RECOGNIZING
ORDER OF THE CANADIAN COURT
SANCTIONING AND APPROVING CCAA PLAN**

Upon consideration of the motion (the “Motion”)² of the Foreign Representative for entry of an order, pursuant to sections 105, 1507, 1525, and 1527 of the Bankruptcy Code, (a) recognizing the Canadian Court’s Sanction Order sanctioning, approving and enforcing the CCAA Plan (the “Sanction Order”); and (b) granting related relief; and due and proper notice of the relief sought in the Motion and Sanction Order having been provided; and it appearing that no other or further notice need be provided; and all of the proceedings had before the Court; and no objections to the Motion having been filed or all such objection having been resolved or overruled; and the Court having found and determined that the relief sought in the Motion is consistent with the purposes of Chapter 15 of the Bankruptcy Code; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, creditors, and all parties in interest in the Chapter 15

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² Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Motion.

Cases, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

THE COURT FINDS AND CONCLUDES AS FOLLOWS:

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. §§ 109 and 1501, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012.

B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).

C. The Debtors have consented to the Court's authority to enter a final order consistent with Article III of the U.S. Constitution.

D. Venue is proper before this Court pursuant to 28 U.S.C. § 1410.

E. On December 18, 2020, the Canadian Court approved and entered the Sanction Order.

F. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with public policy of the United States, warranted pursuant to section 1507 of the Bankruptcy Code, and will not cause hardship to any party in interest that is not outweighed by the benefits of the relief granted herein.

G. The relief granted herein will, in accordance with section 1507(b) of the Bankruptcy Code, reasonably assure: (i) the just treatment of all holders of claims against or interests in the Debtors' property; (ii) the protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in the Canadian Proceeding; (iii) the prevention of preferential or fraudulent dispositions of property of the Debtors; and (iv) the distribution of proceeds of the Debtors' property substantially in accordance with the order prescribed in the Bankruptcy Code.

H. The public interest will be served by the relief granted herein.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.
2. The Sanction Order, a copy of which is annexed hereto as Exhibit 1, is fully recognized, given full force and effect in the United States, is warranted pursuant to section 1507 of the Bankruptcy Code, and will not cause hardship to any party in interest that is not outweighed by the benefits of the relief granted herein.
3. The Foreign Representative, the Monitor, and the Debtors, as the case may be, are authorized and directed to take all steps and actions necessary or appropriate to implement the CCAA Plan in accordance with and subject to its terms and conditions, and enter into, adopt, execute, deliver, complete, implement and consummate all of the steps, compromises, settlements, transactions, assignments, arrangements, reorganizations, distributions, payments, deliveries, allocations, instruments, agreements and releases contemplated by, and subject to the terms and conditions of, the CCAA Plan, and all such steps and actions are approved.
4. No action or other proceeding shall be commenced against the Foreign Representative or the Monitor in any way arising from or related to their respective capacities or conduct as the Foreign Representative or Monitor, except with prior leave pursuant to an Order of the Canadian Court made on prior written notice to the Foreign Representative and the Monitor and provided any such Order granting leave includes a term granting the Foreign Representative, or Monitor, as applicable, security for its costs and the costs of its counsel in connection with any proposed action or proceeding, such security to be on terms the Canadian Court deems just and appropriate; provided, that, the Canadian Court shall have exclusive jurisdiction over any such action or other proceeding against the Foreign Representative or Monitor.

5. The Foreign Representative, the Monitor and the Debtors are authorized and empowered to, and may in their discretion and without any delay, take any such steps or perform such actions as may be necessary to effectuate the terms of this Order and the CCAA Plan, including, but not limited to, seeking any relief from this Court that may be necessary or appropriate to ensure that all conditions to the Plan Implementation Date will be satisfied

6. Notwithstanding any provisions in the Federal Rules of Bankruptcy Procedure to the contrary: (a) this Order shall be effective immediately and enforceable upon its entry; and (b) neither the Foreign Representative, the Monitor nor the Debtors are subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order.

7. Subject to paragraph 4 hereof, this Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order, and nothing contained herein shall be deemed to limit, modify, or impair this Court's jurisdiction over any motion of the Foreign Representative requesting relief in aid of the Canadian Proceeding pursuant to applicable provisions of the Bankruptcy Code and such jurisdiction is hereby retained.

EXHIBIT 1

[Draft] Sanction Order

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

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

THE HONOURABLE MR.) FRIDAY, THE 18TH
JUSTICE HAINEY) DAY OF DECEMBER, 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

SANCTION 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, among other things, approving and sanctioning the plan of compromise, arrangement and reorganization of the Applicants pursuant to the CCAA dated November 18, 2020 (the "**Plan**"), a copy of which is attached hereto as Schedule "A", was heard this day by Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the affidavit of Jacques Nadeau sworn December ●, 2020, the Fourth Report of KPMG Inc. in its capacity as monitor of the Applicants (the "**Monitor**") dated December ●, 2020 (the "**Fourth 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 AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record in support of this motion and the Fourth Report be and are hereby abridged and validated, such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms used in this Sanction Order and not expressly defined herein shall have the meanings given to them in the Plan or, if not therein defined, then as given to them in the Meeting Order.

B. NOTICE AND CONDUCT OF MEETING

3. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient notice, service, and delivery of the Plan, the Meeting Order and the Meeting Materials to all Persons upon which notice, service, and delivery were required.

4. **THIS COURT ORDERS AND DECLARES** that the Meeting was duly convened, held, and conducted on December 11, 2020 in accordance with the Meeting Order, the CCAA and all other Orders of the Court in these CCAA Proceedings.

C. SANCTION OF THE PLAN

5. **THIS COURT ORDERS AND DECLARES** that:

- (a) the Plan has been approved by the Required Majorities of the Affected Creditors at the Meeting in conformity with the Meeting Order and the CCAA;
- (b) the Applicants have complied with the provisions of the CCAA and the Orders of the Court made in these CCAA Proceedings in all respects;
- (c) the Applicants have acted, and continue to act, in good faith and with due diligence, and have not done or purported to do anything, nor does the Plan do or purport to do anything, that is not authorized by the CCAA or the Orders of the Court in these CCAA Proceedings;

- (d) the Plan and all of the matters and transactions contemplated thereby are fair and reasonable; and
- (e) the Plan and all associated steps, compromises, arrangements, releases, transactions and reorganizations effected thereby are hereby sanctioned and approved pursuant to section 6 of the CCAA.

D. PLAN IMPLEMENTATION

Authorization to Implement the Plan

6. THIS COURT ORDERS that:

- (a) each of the Applicants and the Monitor, as applicable, is hereby authorized and directed 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;
- (b) all distributions and payments under the Plan shall be free and clear of all claims, rights and interests of any Person other than the recipient, including, without limitation, all Encumbrances; and
- (c) none of the Applicants nor the Monitor shall incur any liability as a result of acting in accordance with the terms of the Plan and this Sanction Order.

Reserves

7. THIS COURT ORDERS that the Unresolved Claims Reserve in the amount of \$● and the Administration Reserve in the amount of \$● are hereby approved, and the Applicant shall set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor, in trust, the Unresolved Claims Reserve and the Administrative Reserve at or prior to the Effective Time in accordance with the Plan.

8. **THIS COURT ORDERS** that:

- (a) the Applicants and Monitor, as applicable, are hereby authorized and directed to distribute funds from the Unresolved Claims Reserve in accordance with the provisions of the Plan; and
- (b) the Monitor and Monitor's counsel shall be entitled to payment from the Administration Reserve for 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 after the Effective Time.

9. **THIS COURT ORDERS** that:

- (a) any amounts remaining in the Unresolved Claims Reserve 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; and
- (b) any amounts remaining in the Administration Reserve after the duties of the Monitor have been completed in respect of all Unresolved Claims and the Monitor has performed any other work required after the Effective Time,

shall be distributed or released in accordance with the Plan.

Articles of Reorganization and Shares

10. **THIS COURT ORDERS AND DECLARES** that the articles of Hematite Holdings Inc. and Hematite Industrial Products Inc. will be amended as set out in the applicable Articles of Reorganization as of the Effective Time.

11. **THIS COURT ORDERS AND DECLARES** that all warrants, options and agreements to purchase Existing Shares are of no further force or effect as of the Effective Time.

12. **THIS COURT ORDERS AND DECLARES** that the New Common Shares and New Redeemable Shares 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.

Plan Implementation Certificates

13. **THIS COURT ORDERS** that, upon receipt of the Certificate of Amendment for each of Hematite Holdings Inc. and Hematite Industrial Products Inc., the Hematite Group shall deliver to the Monitor a certificate (the “**Applicants’ 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 Inc. and Hematite Industrial Products Inc. 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. The Applicants shall file the Applicants’ Certificate with this Court as soon as reasonably practicable following delivery thereof to the Monitor.

14. **THIS COURT ORDERS** that, as soon as practicable following the Effective Time and receipt of the Applicants’ Certificate, the Monitor shall be authorized and directed to serve on the service list in these CCAA Proceedings (the “**Service List**”) and post on the website established by the Monitor in respect of these proceedings (the “**Monitor’s Website**”) a certificate in the form attached hereto as Schedule “B” (the “**Monitor’s Plan Implementation Certificate**”), signed by the Monitor, certifying that the Plan Implementation Date has occurred. The Monitor shall file the Monitor’s Plan Implementation Certificate with this Court as soon as reasonably practicable following delivery thereof to the Service List.

Restructuring Steps

15. **THIS COURT ORDERS** that the Restructuring Steps to be taken and the transactions, arrangements, reorganizations, transfer, assignments, cancellations, compromises, settlements, payments, extinguishments, discharges, injunctions and releases to be effected on the Plan Implementation Date are hereby authorized and approved and are and shall be deemed to occur and be effected in accordance with the terms of the Plan in the sequence and at the times contemplated by the Plan, without any further act or formality.

Effect of Plan Implementation

16. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time, the Plan and all associated steps, compromises, arrangements, transactions, releases and reorganizations effected thereby will be binding and effective upon and with respect to the Applicants, the Affected Creditors, the Released Parties, the Plan Sponsor and all other Persons named or referred to in, or subject to, the Plan or the Sanction Order.

17. **THIS COURT ORDERS** that, as at the Effective Time, any and all Affected Claims shall be and shall be 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 hereby forever discharged, enjoined and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims are hereby permanently stayed, excepting only any proceeding to enforce the obligation of the Applicants to make distributions in respect of such Affected Claims in the manner and to the extent provided for in the Plan and this Sanction Order.

18. **THIS COURT ORDERS** that, as at the Effective Time, any and all Released Claims shall be and shall be 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 hereby forever discharged, enjoined and restrained, and all proceedings with respect to, in connection with or relating to such Released Claims are hereby permanently stayed.

19. **THIS COURT ORDERS** 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, shall be and is hereby fully, finally, irrevocably and forever barred from making any such Claim and shall not be entitled to any consideration under the Plan, and such Person's Claim shall be and is hereby fully, finally, irrevocably and forever barred and extinguished.

20. **THIS COURT ORDERS** that:

- (a) the designation of any claim as an Unaffected Claim is without prejudice to the Applicants' right to dispute the existence, validity or quantum of any Unaffected Claim; and
- (b) nothing in this Sanction Order or the Plan shall affect or waive the Applicants' rights and defences, both legal and equitable, with respect to any Unaffected Claim, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Unaffected Claim.

21. **THIS COURT ORDERS AND DECLARES** that notwithstanding: (i) the pendency of these 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 "**BIA**"), the CCAA or otherwise in respect of the Applicants 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 any of the Applicants, the transactions contemplated by the Plan will be binding on any trustee in bankruptcy or receiver that may be appointed in respect of any of the Applicants or its assets and will not be void or voidable by creditors of any of the Applicants, 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 BIA, 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.

22. **THIS COURT ORDERS AND DECLARES** that all contracts, leases and other agreements and arrangements to which any of the Applicants or Hematite R.E. 1 Inc. (the "**Affected Party**") 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:

- (a) 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 Applicants);
- (b) the insolvency of the Applicants or the fact that the Applicants sought or obtained relief under the CCAA;
- (c) any compromises or arrangements effected pursuant to the Plan or any action taken or transaction effected pursuant to the Plan; or
- (d) any change in the control of the Applicants or the Affected Party arising from the implementation of the Plan and the transactions contemplated by the Plan Sponsor Agreement.

23. **THIS COURT ORDERS** that, from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults or non-compliance by any of the Applicants or the Affected Party, or caused by any of the Applicants or the Affected Party (directly or indirectly), under the terms of any Existing Agreement existing between such Person and any of the Applicants or the Affected Party up to the Effective Time and arising directly or indirectly from any of the matters or events listed in the immediately preceding paragraph, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under an Existing Agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Applicants from performing their obligations under the Plan.

Conflict with the Plan and Ongoing Effect of Orders Made in these CCAA Proceedings

24. **THIS COURT ORDERS** that, from and after the Effective Time, any conflict between:

- (a) the Plan; and

(b) the terms of any Agreement existing between any Person and the Applicants as at the Plan Implementation Date,

will be deemed to be governed by the terms of the Plan and this Sanction Order, which shall take precedence and priority.

25. **THIS COURT ORDERS** that other than as expressly set out herein, the provisions of the Initial Order, including the Stay Period, shall terminate at the Effective Time except with respect to the protections granted therein in favour of the Monitor. All other Orders of the Court made in these CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by or are inconsistent with this Sanction Order or any further Order of this Court in these CCAA Proceedings.

E. CCAA CHARGES

26. **THIS COURT ORDERS** that the Administration Charge (as provided for and defined in the Initial Order) shall be terminated, discharged, expunged and released upon the filing of the Monitor's Discharge Certificate (as defined below).

27. **THIS COURT ORDERS** that the Directors' Charge (as provided for and defined in the Initial Order) shall be terminated, discharged, expunged and released at the Effective Time.

28. **THIS COURT ORDERS** that the DIP Lender's Charge (as provided for and defined in the Initial Order) shall be terminated, discharged, expunged and released at the Effective Time.

F. APPLICANTS AND MONITOR

Conduct of the Directors and CRO of the Applicants

29. **THIS COURT ORDERS AND DECLARES** that the activities and conduct of the Directors and CRO of the Applicants in these CCAA Proceedings, as disclosed in the affidavits filed with the Court on behalf of the Applicants from time to time and the reports of the Monitor to the Court from time to time be and are hereby ratified and approved.

The Monitor

30. **THIS COURT ORDERS AND DECLARES** that the Monitor has complied with the provisions of the CCAA and the Orders of this Court made in these CCAA Proceedings in all respects.

31. **THIS COURT ORDERS AND DECLARES** that the Monitor has not done or purported to do anything that is not authorized by the CCAA.

32. **THIS COURT ORDERS AND DECLARES** that the activities and conduct of the Monitor and its representatives in these CCAA Proceedings, as disclosed in its reports to the Court from time to time, including, without limitation, in relation to conducting and administering the Meeting, be and are hereby ratified and approved, and that the Monitor has satisfied all of its obligations up to and including the date of this Sanction Order and all claims of any kind or nature against the Monitor arising from or relating to the services provided to the Applicants up to and including the date of this Sanction Order are hereby barred and extinguished.

33. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein, under the Plan and under the other Orders of this Court, shall be and is hereby authorized, directed and empowered to perform its functions and fulfill its obligations under the Plan to facilitate the implementation of the Plan and to complete all matters incidental to the termination of these CCAA Proceedings.

34. **THIS COURT ORDERS** that:

- (a) in carrying out the terms of this Sanction Order and the Plan, the Monitor shall have all the protections given to it by the CCAA and the other Orders in these CCAA Proceedings, and as an officer of the Court, including the stay of proceedings in its favour;
- (b) the Monitor shall incur no liability or obligation for any act or omission as a result of carrying out any duties or work in connection with the Sanction Order and/or the Plan, save and except for any gross negligence or wilful 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.

35. **THIS COURT ORDERS AND DECLARES** that any payments or deliveries under the Plan or this Sanction Order made or assisted by the Monitor shall not constitute a “distribution” and the Monitor shall not constitute a “legal representative” or “representative” of the Applicants or “other person” for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 46 of the *Employment Insurance Act* (Canada), section 22 of the *Retail Sales Tax Act* (Ontario), section 107 of the *Corporations Tax Act* (Ontario), or any other similar federal, provincial or territorial tax legislation (collectively, the “**Statutes**”), and the Monitor in making any such payments or deliveries of funds or assets in relation to the Plan is not “distributing”, not shall it be considered to have “distributed”, such funds or assets for the purposes of the Statutes, and the Monitor shall not incur any liability under the Statutes for making any payments or deliveries under the Plan or failing to withhold amounts, ordered or permitted hereunder, and the Monitor shall not have any liability for any of the Applicants’ tax liabilities regardless of how or when such liabilities may have arisen, and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Statutes or

otherwise at law, arising as a result of the distributions and deliveries under the Plan and this Sanction Order and any claims of this nature are hereby forever barred.

36. **THIS COURT ORDERS** that upon: (i) fulfillment of the Monitor's duties under the Claims Procedure Order, the Meeting Order and this Sanction Order; and (ii) the Monitor receiving an acknowledgement of payment in full of the claims secured by the Administration Charge, the Monitor shall serve on the Service List, post on the Monitor's website, and file with the Court a certificate substantially in the form attached hereto as Schedule "C" (the "**Monitor's Discharge Certificate**"), and that, upon the filing of the Monitor's Discharge Certificate, KPMG Inc. shall be deemed to be discharged from its duties, obligations and responsibilities as Monitor of the Applicants and shall be forever released, remised and discharged from any claims against it relating to its activities as Monitor.

Fee Approval

37. **THIS COURT ORDERS** that the fees and disbursements of the Monitor for the period from ● to ●, 2020 inclusive, as set out in the Fourth Report of the Monitor, are hereby approved.

38. **THIS COURT ORDERS** that the fees and disbursements of Gowling WLG (Canada) LLP, in its capacity as counsel to the Monitor, for the period from ● to ●, 2020 inclusive, as set out in the Fourth Report of the Monitor, are hereby approved.

39. **THIS COURT ORDERS** that the Monitor and its counsel shall not be required to pass any further accounts in these CCAA Proceedings unless otherwise requested by the Applicants.

G. RECOGNITION AND NOTICE

Notice

40. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Sanction Order, the Monitor shall cause a copy of this Sanction Order to be posted on the Monitor's Website, and the Applicants shall serve a copy on the parties on the Service List and those parties who appeared at the hearing of the motion for this Sanction Order. From and after the Effective Time, any notices, motions or documents which may be filed with the Court need only be served on the Applicants, the Monitor, the parties on the Service List and such Persons who

deliver a Notice of Appearance to the Applicants and the Monitor, and file it with the Court, after the Effective Time.

41. **THIS COURT ORDERS** that the measures in paragraph 40 shall constitute good and sufficient service and notice of this Sanction Order on all Persons who may be entitled to receive notice thereof 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.

General Provisions

42. **THIS COURT ORDERS** that, notwithstanding any other provision of this Sanction Order, the Applicants and the Monitor shall remain entitled to seek advice, directions or assistance from the Court in respect of the interpretation and implementation of this Sanction Order and the performance by the Applicants and the Monitor of their respective obligations under the Plan, the Sanction Order and any other matters that pertain to the completion of the administration of these CCAA Proceedings.

43. **THIS COURT ORDERS AND DECLARES** that, pursuant to section 142 of the *Courts of Justice Act* (Ontario), no Person shall be liable for any act done in good faith in accordance with any Order issued in this proceeding, and any person who takes any action whatsoever in reliance on this Sanction Order prior to the commencement of any appeal hereof or the expiry of any appeal period shall not be prejudiced or harmed in any manner by any such subsequent appeal.

44. **THIS COURT ORDERS** that this Sanction 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.

45. **THIS COURT ORDERS** that this Sanction Order is effective from the date that it is made and is enforceable without any need for entry and filing.

46. **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 Sanction Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Sanction Order and the Plan. 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 Sanction Order and the Plan or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Sanction Order and the Plan.

SCHEDULE "A"

Plan of Compromise, Arrangement and Reorganization

See attached.

SCHEDULE "B"

Monitor's Plan Implementation Certificate

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

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

MONITOR'S PLAN IMPLEMENTATION CERTIFICATE

WHEREAS pursuant to the Order of this Court dated September 18, 2020, KPMG Inc. was appointed as the monitor (the "**Monitor**") of the Applicants in the within CCAA proceedings (the "**CCAA Proceedings**");

AND WHEREAS pursuant to the Order of this Court dated November 18, 2020, the Applicants filed the plan of compromise, arrangement and reorganization pursuant to the *Companies' Creditors Arrangement Act* (Canada) and the *Business Corporations Act* (Ontario) (as may be amended or restated in accordance with its terms, the "**Plan**") with the Court;

AND WHEREAS the Plan has been sanctioned by this Honourable Court by Order dated December 18, 2020 (the "**Sanction Order**");

AND WHEREAS section 9.3 of the Plan and paragraph 14 of the Sanction Order require the Monitor to serve on the service list in the CCAA Proceedings and post on the website established by the Monitor in respect of the CCAA Proceedings a certificate, signed by the Monitor, certifying that the Plan Implementation Date has occurred;

AND WHEREAS the Applicants have delivered to the Monitor a copy of a certificate stating that each of the Plan Implementation Conditions have been satisfied or waived and the Articles of Reorganization of Hematite Holdings Inc. and Hematite Industrial Products Inc. have

been filed and have become effective as of the date set out in the applicable Certificate of Reorganization;

AND WHEREAS the Plan Implementation Date has occurred;

AND WHEREAS all capitalized terms used but not defined herein shall have the meanings given to them in the Plan;

THE MONITOR HEREBY CERTIFIES that:

1. The Plan Implementation Date has occurred; and
2. This Certificate is delivered by the Monitor on _____, 2020.

KPMG INC., solely in its capacity as court appointed monitor of the Applicants, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "C"

Monitor's Discharge Certificate

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

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

MONITOR'S DISCHARGE CERTIFICATE

WHEREAS pursuant to the Order of this Court dated September 18, 2020, KPMG Inc. was appointed as the monitor (the "**Monitor**") of the Applicants in the within CCAA proceedings (the "**CCAA Proceedings**");

AND WHEREAS pursuant to the Order of this Court dated November 18, 2020, the Applicants filed the plan of compromise, arrangement and reorganization pursuant to the *Companies' Creditors Arrangement Act* (Canada) and the *Business Corporations Act* (Ontario) (as may be amended or restated in accordance with its terms, the "**Plan**") with the Court;

AND WHEREAS the Plan has been sanctioned by this Honourable Court by Order dated December 18, 2020 (the "**Sanction Order**");

AND WHEREAS paragraph 36 the Sanction Order requires that, upon (i) fulfillment of the Monitor's duties under the Claims Procedure Order, the Meeting Order and the Sanction Order; and (ii) the Monitor receiving an acknowledgement of payment in full of the claims secured by the Administration Charge, the Monitor shall serve on the service list in the CCAA Proceedings and post on the website established by the Monitor in respect of these proceedings a certificate, signed by the Monitor, certifying same;

AND WHEREAS the Monitor has completed its duties under the Claims Procedure Order, the Meeting Order and the Sanction Order and has received an acknowledgement of payment in full of the claims secured by the Administration Charge;

AND WHEREAS all capitalized terms used but not defined herein shall have the meanings given to them in the Plan;

THE MONITOR HEREBY CERTIFIES that:

1. The Monitor has completed its duties under the Claims Procedure Order, the Meeting Order and the Sanction Order;
2. The Monitor has received an acknowledgement of payment in full of the claims secured by the Administration Charge;
3. Upon the filing of this Monitor's Discharge Certificate:
 - (a) the CCAA Proceedings shall be terminated;
 - (b) KPMG Inc. shall be discharged and released from its duties, obligations and responsibilities as Monitor of the Applicants and shall be forever released, remised and discharged from any claims against it relating to its activities as Monitor; and
 - (c) the Administration Charge (as provided for and defined in the Initial Order and any subsequent Orders in the CCAA Proceedings) shall be terminated, discharged, expunged and released.
4. This Certificate is delivered by the Monitor on _____, 2020.

KPMG INC., solely in its capacity as court appointed monitor of the Applicants, and not in its personal capacity or in any other capacity

Per: _____
Name:
Title:

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

SANCTION ORDER

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Lawyers for the Applicants

DOCS 20881145

EXHIBIT B

CCAA Plan

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

**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 18, 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 and 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 and Clifton.prophet@gowlingwlg.com

If to the Plan Sponsor:

Woodbridge Foam Corporation
4240 Sherwoodtowne Blvd.
Mississauga, Ontario
L4Z 2G6

Attention: Roland Deschamps
Email: RolandDeschamps@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 and Ian Michael
Email: sahnir@bennettjones.com and 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

posting notice of such address change on the Monitor's website (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 18th day of November, 2020.

SCHEDULE A
ARTICLES OF REORGANIZATION
HEMATITE HOLDINGS

6. The terms and conditions to which the reorganization is made subject by the Order have been complied with.
Les conditions que l'ordonnance impose à la réorganisation ont été respectées.

These articles are submitted under section 186 of the *Business Corporations Act* and are signed in duplicate.
Les présents statuts sont déposés en vertu de l'article 186 de la Loi sur les sociétés par actions. Ils sont signés en double exemplaire.

Hematite Holdings Inc.

Name of Corporation / *Dénomination sociale de la société*

By/
Par :

Signature / *Signature*

Description of Office / *Fonction*

SCHEDULE "1"

The Articles of the Corporation are amended as follows:

1. to replace the authorized share capital of the Corporation with the following:
 - (a) an unlimited number of common shares;
 - (b) an unlimited number of New Common Shares; and
 - (c) an unlimited number of New Redeemable Shares;
2. to delete the existing rights, privileges, restrictions and conditions attaching to the authorized share capital of the Corporation and substituting therefor Schedule "A-1" annexed hereto; and
3. to change each issued common share into 0.000001 of a New Redeemable Share and automatically redeem each New Redeemable Share in accordance with the terms of such New Redeemable Shares.

SCHEDULE "A-1"

1. The common shares shall have attached thereto the following rights, privileges, restrictions and conditions:
 - (a) **Voting.** The holders thereof shall be entitled to receive notice of, to attend and vote at all meetings of shareholders, except meetings at which only holders of a specified class of shares are entitled to vote.
 - (b) **Dividends.** The holders thereof shall be entitled to receive dividends, subject to the rights of holders of any other class of shares of the Corporation entitled to receive dividends in priority to or rateably with holders of the common shares, if, as and when declared by the directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends.
 - (c) **Distribution Rights.** Subject to the rights of the holders of any other class of shares of the Corporation, to receive the remaining property of the Corporation upon liquidation, dissolution or winding up of the Corporation or any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs.

2. The New Common Shares shall have attached thereto the following rights, privileges, restrictions and conditions:
 - (a) **Voting.** The holders thereof shall be entitled to receive notice of, to attend and vote at all meetings of shareholders, except meetings at which only holders of a specified class of shares are entitled to vote.
 - (b) **Dividends.** The holders thereof shall be entitled to receive dividends, subject to the rights of holders of any other class of shares of the Corporation entitled to receive dividends in priority to or rateably with holders of the New Common Shares, if, as and when declared by the directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends.
 - (c) **Distribution Rights.** Subject to the rights of the holders of any other class of shares of the Corporation, to receive the remaining property of the Corporation upon liquidation, dissolution or winding up of the Corporation or any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs.

3. The New Redeemable Shares shall have attached thereto the following rights, privileges, restrictions and conditions:
 - (a) **Fractional Interests.** No holder of a fractional interest in a New Redeemable Share will be entitled to be registered on the books of the Corporation in respect of such fraction of a New Redeemable Share.
 - (b) **Redemption by the Corporation.** All the outstanding New Redeemable Shares and fractional interests therein as at the Effective Time (as defined in the Plan of Compromise, Arrangement and Reorganization of the Corporation and certain of its subsidiaries dated November 18, 2020 (the "**Plan**")) on the Plan Implementation

Date (as defined in the Plan) will be automatically redeemed by the Corporation as at such time, without notice to the holders of such New Redeemable Shares, on payment of \$0.01 for each whole New Redeemable Share, such amount being herein referred to as the "**Redemption Price**". The Corporation will pay or cause to be paid to each holder of New Redeemable Shares or fractional interests therein to be redeemed the Redemption Price by cheque, provided that if the aggregate Redemption Price payable to any particular holder is less than \$10, the aggregate Redemption Price payable to such holder will be deemed to be \$0.00 and the New Redeemable Shares or fractional interests therein held by such holder will be redeemed as at the close of business of the Plan Implementation Date without any payment or further act or formality.

- (c) **Voting Rights.** The holders of the New Redeemable Shares or fractional interests therein will not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation and will not be entitled to vote any such meeting.

**SCHEDULE B
ARTICLES OF REORGANIZATION
HEMATITE INDUSTRIAL**

6. The terms and conditions to which the reorganization is made subject by the Order have been complied with.
Les conditions que l'ordonnance impose à la réorganisation ont été respectées.

These articles are submitted under section 186 of the *Business Corporations Act* and are signed in duplicate.
Les présents statuts sont déposés en vertu de l'article 186 de la Loi sur les sociétés par actions. Ils sont signés en double exemplaire.

Hematite Industrial Products Inc.

Name of Corporation / *Dénomination sociale de la société*

By/
Par :

Signature / *Signature*

Description of Office / *Fonction*

SCHEDULE "1"

The Articles of the Corporation are amended as follows:

1. to replace the authorized share capital of the Corporation with the following:
 - (a) an unlimited number of common shares;
 - (b) an unlimited number of voting Class A Special shares;
 - (c) an unlimited number of New Common Shares; and
 - (d) an unlimited number of New Redeemable Shares;
2. to delete the existing rights, privileges, restrictions and conditions attaching to the authorized share capital of the Corporation and substituting therefor Schedule "A-1" annexed hereto;
3. to change each issued common share into 0.000001 of a New Redeemable Share and automatically redeem such New Redeemable Shares in accordance with the terms of such New Redeemable Shares; and
4. to change each issued voting Class A Special share into 0.000001 of a New Redeemable Share and automatically redeem such New Redeemable Shares in accordance with the terms of such New Redeemable Shares.

SCHEDULE "A-1"

1. The common shares shall have attached thereto the following rights, privileges, restrictions and conditions:
 - (a) **Voting.** The holders thereof shall be entitled to receive notice of, to attend and vote at all meetings of shareholders, except meetings at which only holders of a specified class of shares are entitled to vote.
 - (b) **Dividends.** The holders thereof shall be entitled to receive dividends, subject to the rights of holders of any other class of shares of the Corporation entitled to receive dividends in priority to or rateably with holders of the common shares, if, as and when declared by the directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends.
 - (c) **Distribution Rights.** Subject to the rights of the holders of any other class of shares of the Corporation, to receive the remaining property of the Corporation upon liquidation, dissolution or winding up of the Corporation or any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs.

2. The Class A Special shares ("**Class A shares**") shall have attached thereto the following rights, privileges, restrictions and conditions:
 - (a) **Interpretation.** Where used in this section:
 - (i) "**Redemption Amount**" in respect of the Class A shares is the amount which is equal to the fair market value of the property transferred to or exchanged with the Corporation on the first issuance of Class A shares, less the amount of non-share consideration, if any, paid, assumed or delivered by the Corporation as partial consideration for the purchase, acquisition or exchange of such property, divided by the number of such Class A shares issued by the Corporation as consideration or partial consideration for the purchase, acquisition or exchange of such property. In the event that Canada Revenue Agency ("**CRA**") determines that the fair market value of any property transferred to or exchanged with the Corporation in exchange for non-share consideration, if any, and the Class A shares is greater or less than the amount agreed and determined by the Corporation and the holders of the Class A shares, the Redemption Amount of the Class A shares so issued shall be increased or decreased to reflect the value as ultimately determined. The adjustment to the Redemption Amount per share shall be equal to the total increase or decrease ultimately determined, divided by the number of the Class A shares so issued. The Redemption Amount of the Class A shares so adjusted shall be deemed, retroactively to the date of first issuance, to have been their Redemption Amount. In the event that any of the Class A shares have been redeemed prior to the date of any such ultimate determination, cash settlements shall be made by the prior holder of such shares so redeemed or the Corporation, as the case may be, together with interest thereon calculated on a daily basis at the prime commercial lending rate charged by the Corporation's bankers from time to time for the relevant

period. Reference to value as ultimately determined herein shall have the following meaning:

- A. such amount as may be agreed upon by CRA, the Corporation and the holders of such shares to have been the fair market value of the property transferred or exchanged for such shares; or
 - B. in the absence of such agreement, such amount shall be determined by a Court having competent jurisdiction in the matter (after all appeal rights have been exhausted or all times for appeal have expired without appeals having been taken) to be the fair market value of the property transferred or exchanged for such shares.
- (ii) "**Act**" means the Business Corporations Act (Ontario), as amended, revised or replaced from time to time
- (b) **Redemption.** The Corporation may, upon giving notice as hereinafter provided, redeem the whole or any part of the Class A shares on payment for each share to be redeemed of the Redemption Amount thereof plus all dividends declared thereon but unpaid. Not less than thirty (30) days' notice in writing of such redemption shall be given by mailing such notice to the registered holder or holders of the shares to be redeemed, specifying the date and place or places of redemption. If notice of any such redemption be given by the Corporation in the manner aforesaid and an amount sufficient to redeem the shares be deposited with any trust company or chartered bank in Canada as specified in the notice on or before the date fixed for redemption, dividends on the Class A shares to be redeemed shall cease after the date so fixed for redemption and the holders thereof shall thereafter have no rights against the Corporation in respect thereof except, upon the surrender of certificates for such shares, to receive payment therefor out of the moneys so deposited.
- (c) **Retraction.** A holder of Class A shares shall be entitled to require the Corporation to redeem at any time or times all or any of the Class A shares registered in the name of such holder on the books of the Corporation by tendering to the Corporation at its registered office a share certificate representing the Class A shares which the registered holder desires to have the Corporation redeem together with a request in writing specifying:
- (i) that the registered holder desires to have some or all of the Class A shares represented by such certificate redeemed by the Corporation; and
 - (ii) the business day (in this paragraph referred to as the "**Redemption Date**") on which the holder desires to have the Corporation redeem such Class A shares.

All requests for redemption shall specify a Redemption Date which shall be not less than thirty (30) days after the day on which the request in writing is given to the Corporation. Upon receipt of a share certificate representing the Class A shares which the registered holder desires to have the Corporation redeem together with such request the Corporation shall on the Redemption Date, redeem

such Class A shares by paying to such registered holder the Redemption Amount of such shares plus all dividends declared thereon but unpaid. Such payment shall be made by cheque payable at par at any branch of the Corporation's bankers for the time being in Canada. The said Class A shares shall be redeemed on the Redemption Date and from and after the Redemption Date such shares shall cease to be entitled to dividends and the holder or holders thereof shall not be entitled to exercise any of the rights of holders of Class A shares in respect thereof unless payment is not made in accordance with the provisions hereof, in which event the rights of the holders of the said shares shall remain unaffected.

- (d) **Non-Cumulative Dividends.** The holders of Class A shares in priority to the holders of all other classes of shares, shall be entitled to non-cumulative cash dividends, as and when declared by resolution of the directors and in the discretion of the directors, out of monies of the Corporation properly applicable to the payment of dividends, at a rate not to exceed 8% per annum of the Redemption Amount in respect of the Class A shares. The directors, when declaring any dividends on Class A shares, or any other class of shares of the Corporation, may, in their sole discretion, elect to declare dividends on the said Class A shares in priority to or to the exclusion of any other class or classes of shares.
 - (e) **Voting.** Each holder of Class A shares shall be entitled to receive notice of and to attend all meetings of the shareholders of the Corporation, except meetings at which only holders of a specified class of shares or series of shares are entitled to attend, and at all such meetings shall be entitled to one vote in respect of each Class A share held by such holder.
 - (f) **Distribution Rights.** In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purposes of winding-up its affairs, the holders of the Class A shares shall be entitled to receive from the assets of the Corporation a sum equivalent to the aggregate Redemption Amount of all the Class A shares held by them, plus all dividends declared thereon but unpaid, before any amount shall be paid or any assets of the Corporation distributed to the holders of any common shares or any other shares ranking junior to the Class A shares. After payment to the holders of the Class A shares of the amount so payable to them as provided above, they shall not be entitled to share in any further distribution of the assets of the Corporation.
3. The New Common Shares shall have attached thereto the following rights, privileges, restrictions and conditions:
- (a) **Voting.** The holders thereof shall be entitled to receive notice of, to attend and vote at all meetings of shareholders, except meetings at which only holders of a specified class of shares are entitled to vote.
 - (b) **Dividends.** The holders thereof shall be entitled to receive dividends, subject to the rights of holders of any other class of shares of the Corporation entitled to receive dividends in priority to or rateably with holders of the New Common Shares, if, as and when declared by the directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends.

- (c) **Distribution Rights.** Subject to the rights of the holders of any other class of shares of the Corporation, to receive the remaining property of the Corporation upon liquidation, dissolution or winding up of the Corporation or any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs.
- 4. The New Redeemable Shares shall have attached thereto the following rights, privileges, restrictions and conditions:
 - (a) **Fractional Interests.** No holder of a fractional interest in a New Redeemable Share will be entitled to be registered on the books of the Corporation in respect of such fraction of a New Redeemable Share.
 - (b) **Redemption by the Corporation.** All the outstanding New Redeemable Shares and fractional interests therein as at the Effective Time (as defined in the Plan of Compromise, Arrangement and Reorganization of the Corporation dated November 18, 2020 (the "**Plan**")) on the Plan Implementation Date (as defined in the Plan) will be automatically redeemed by the Corporation as at such time, without notice to the holders of such New Redeemable Shares, on payment of \$0.01 for each whole New Redeemable Share, such amount being herein referred to as the "**Redemption Price**". The Corporation will pay or cause to be paid to each holder of New Redeemable Shares or fractional interests therein to be redeemed the Redemption Price by cheque, provided that if the aggregate Redemption Price payable to any particular holder is less than \$10, the aggregate Redemption Price payable to such holder will be deemed to be \$0.00 and the New Redeemable Shares or fractional interests therein held by such holder will be redeemed as at the close of business of the Plan Implementation Date without any payment or further act or formality.
 - (c) **Voting Rights.** The holders of the New Redeemable Shares or fractional interests therein will not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation and will not be entitled to vote any such meeting.

**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)

EXHIBIT C

Third Report of the Monitor dated November 16, 2020

Court File No.: 20-00647824-00CL

HEMATITE GROUP

**THIRD REPORT OF KPMG INC.,
IN ITS CAPACITY AS MONITOR**

November 16, 2020

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Court File No.: 20-00647824-00CL

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 "Hematite Group")

Applicants

THIRD REPORT OF KPMG INC.
In its capacity as Monitor of the Applicants

November 16, 2020

I. INTRODUCTION

1. On September 18, 2020 (the “**Filing Date**”), Hematite Holdings Inc. (“**Hematite Holdings**”) and the other Applicants (together, “**Hematite**”, the “**Company**” or the “**Applicants**”) were granted relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) by Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). The relief granted under the Initial Order included: a stay of proceedings in favour of the Applicants and a limited stay of proceedings in favour of their affiliate Hematite R.E. 1, Inc. for cross-defaults, from September 18, 2020 until September 28, 2020 (the “**Stay Period**”); the appointment of KPMG Inc. as Monitor (“**KPMG**” or the “**Monitor**”); and other related relief. The Applicants’ CCAA proceedings are referred to herein as the “**CCAA Proceedings**”.
2. On September 28, 2020, the Hematite Group was granted additional relief under the CCAA by Order (the “**Amended and Restated Initial Order**”) of the Court. The relief granted under the Amended and Restated Initial Order included, among other items, an extension of the Stay Period to November 27, 2020 and an increase in the maximum borrowings permitted under the DIP Loan Agreement and secured under the DIP Lender’s Charge to \$6.0 million (each as defined in the Amended and Restated Initial Order).
3. In support of the Amended and Restated Initial Order, KPMG in its capacity as Monitor, filed a report with the Court dated September 25, 2020 (the “**First Report**”), a copy of which is attached hereto as **Appendix “A”**.
4. On September 23, 2020, the United States Bankruptcy Court for the District of Delaware (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 pursuant to Chapter 15 of Title 11 of the United States Code (the “**Bankruptcy Code**”) (being the “**Chapter 15 Proceedings**”). On October 1, 2020, the U.S. Court issued an Order, among other things, recognizing and enforcing the Amended and Restated Initial Order in the United States.

5. On October 13, 2020, the Court granted an Order (the “**Claims Procedure Order**”) approving the Claims Procedure (as defined herein), including the establishment of a claims bar date for creditors to file proofs of claim in the CCAA Proceedings. A copy of the Claims Procedure Order is attached hereto as **Appendix “B”**.
6. In support of the Claims Procedure Order, KPMG in its capacity as Monitor, filed a report with the Court dated October 9, 2020 (the “**Second Report**”), a copy of which is attached here to as **Appendix “C”**.

II. PURPOSE OF REPORT

7. The purpose of this report (the “**Third Report**”) is to provide information to this Honourable Court pertaining to:
 - (a) the activities of the Applicants since the Filing Date;
 - (b) the activities of the Monitor since the date of the First Report;
 - (c) the Applicants’ reported cash flow results for the period from September 14 to October 30, 2020, including a comparison to the Cash Flow Forecast (as hereinafter defined);
 - (d) the Applicants’ revised cash flow forecast for the period from November 1, 2020 to January 1, 2021;
 - (e) the Applicants’ request for a further extension of the Stay Period through to December 31, 2020;
 - (f) the Claims Procedure and status of the claims received to date;
 - (g) the status of the Chapter 15 Proceedings;
 - (h) the Applicants’ request for an Order (the “**Flow-Through Payments Order**”) authorizing them to pay certain Flow-Through Payments (as hereinafter defined) received from customers to tooling suppliers;

- (i) the Applicants' request for an Order authorizing them to continue making certain Equipment Payments (as hereinafter defined) with respect to equipment that is used in their operations;
- (j) the plan of compromise, arrangement and reorganization of the Applicants under the CCAA and the *Business Corporations Act* (Ontario) to be dated November 18, 2020 (the "**Plan**");
- (k) the Applicants' request for an Order (the "**Meeting Order**"), *inter alia*:
 - (i) accepting the filing of the Plan;
 - (ii) authorizing the Monitor to admit the Late Claims (defined below) into the Claims Procedure;
 - (iii) approving, pursuant to section 22 of the CCAA, the classification of creditors as set out in the Plan;
 - (iv) authorizing and directing the Applicants to call, hold and conduct a meeting of Affected Creditors (the "**Meeting**") to vote on the Plan;
 - (v) authorizing and directing the mailing and distribution of certain meeting materials and other procedures to be followed to provide notice of the Meeting;
 - (vi) approving the procedures to be followed at the Meeting, including voting procedures;
 - (vii) setting a date for the hearing of the Applicants' motion for an order (the "**Sanction Order**") approving the Plan (the "**Sanction Hearing**"); and
 - (viii) sealing **Confidential Appendix "1"** of this Third Report.

III. TERMS OF REFERENCE

8. The Third Report should be read in conjunction with the Affidavit of Jacques Nadeau sworn November 11, 2020 (the “**November Nadeau Affidavit**”) filed by the Applicants in support of the motion returnable November 18, 2020 (the “**November 18 Motion**”), as certain information contained in the November Nadeau Affidavit has not been included herein in order to avoid unnecessary duplication.
9. In preparing this Third Report, the Monitor has relied solely on information and documents provided by the Applicants and their advisors, including unaudited financial information, books and records (the “**Books and Records**”) and financial information prepared by the Applicants and discussions with management (“**Management**”) (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in this Third Report, KPMG has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
10. Future orientated financial information contained in any Cash Flow Forecast or other statement is based on the Applicants’ estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Monitor expresses no assurance as to whether any Cash Flow Forecast or other projection will be achieved.
11. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.
12. Words and phrases not otherwise defined in this Third Report shall have the meaning ascribed to them in the November Nadeau Affidavit.

13. Copies of the Monitor's prior reports, this Third Report, and all motion records and Orders in the CCAA Proceedings and the Chapter 15 Proceedings will be made available on the Monitor's website at <http://www.home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/hematite-group.html> (the "**Monitor's Website**"). The Monitor has also established a toll-free phone number and an email that are referenced on the Monitor's website so that parties may contact the Monitor if they have questions with respect to the CCAA Proceedings.

IV. THE COMPANY'S ACTIVITIES

14. The Company's activities, since the Filing Date, have included:
- (a) continuing to operate and manage the business in the ordinary course in accordance with the Amended and Restated Initial Order;
 - (b) managing cash flow and making payments in accordance with the Amended and Restated Initial Order;
 - (c) requesting and obtaining advances under the DIP Facility;
 - (d) reporting cash receipts and disbursements, and variances to the Cash Flow Forecast, to the Monitor and Woodbridge Foam Corporation ("**Woodbridge**"), in its capacity as lender under the DIP Facility (the "**DIP Lender**");
 - (e) meeting and communicating with the Hematite Group's employees regarding the CCAA Proceedings;
 - (f) communicating with Hematite's creditors, customers, key suppliers and other stakeholders on various matters in connection with the CCAA Proceedings;
 - (g) as detailed in the First Report, executing the services agreement between Woodbridge and Hematite dated September 18, 2020 (the "**Services Agreement**");
 - (h) finalizing definitive documentation with The Toronto-Dominion Bank ("**TD**") with respect to the arrangements made prior to the commencement of the CCAA

Proceedings 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;

- (i) continuing its efforts to finalize definitive documentation with BDC Capital Inc. (“**BDC**”) with respect to the arrangements made prior to the commencement of the CCAA Proceedings 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;
- (j) advancing the Claims Procedure in accordance with the procedures and timelines as set out in the Claims Procedure Order;
- (k) disclaiming seven (7) leases and other agreements pursuant to section 32 of the CCAA, and surrendering collateral pursuant to two (2) secured equipment financing agreements;
- (l) formulating the Plan;
- (m) preparing court materials, together with its counsel, the Monitor, and the Monitor’s counsel, in respect of the Amended and Restated Initial Order, the Claims Procedure Order, and the November 18 Motion; and
- (n) preparing court materials, together with its Canadian and U.S. counsel, Womble Bond Dickenson (US) LLP (“**WBD**”), in order to, among other things, obtain recognition of the CCAA Proceedings as “foreign main proceedings”, and recognition and enforcement of the Initial Order and Amended and Restated Initial Order, in the United States pursuant to Chapter 15 of the Bankruptcy Code.

V. **ACTIVITIES OF THE MONITOR**

15. Since the date of the First Report, the activities of the Monitor have included:

- (a) attending at Court via videoconference for hearing of the Applicants’ motions in respect of the Amended and Restated Initial Order and the Claims Procedure Order;

- (b) maintaining the Monitor's Website, where all court materials and other relevant documents pertaining to the CCAA Proceedings and Chapter 15 Proceedings are available in electronic form;
- (c) responding to enquiries from creditors and other stakeholders in respect of the CCAA Proceedings;
- (d) monitoring the Company's cash flow and variances to the Cash Flow Forecast, including assisting Hematite with its reporting to the DIP Lender pursuant to the DIP Loan Agreement;
- (e) assisting the Company in developing the Updated Cash Flow Forecast (as hereinafter defined);
- (f) reviewing and analyzing, in collaboration with Hematite, the Company's arrangements with tooling suppliers and customers in connection with the Flow-Through Payments and other operational considerations;
- (g) in accordance with the Claims Procedure Order, and with the assistance of WBD:
 - (i) causing the Claims Package (as defined in the Second Report) to be sent to all known creditors on October 15, 2020;
 - (ii) publishing notices in *USA Today* (National Edition) and *Globe and Mail* (National Edition) on October 19 and October 20, 2020, respectively;
- (h) approving seven (7) disclaimers of leases and other agreements pursuant to section 32 of the CCAA, and sending Claims Packages in respect of potential Restructuring Claims;
- (i) reviewing and logging proofs of claim filed and corresponding with claimants, the Applicants, and Woodbridge, in its capacity as proposed plan sponsor pursuant to the Plan Sponsor Agreement (the "**Plan Sponsor**"), and their advisors in respect of same and the Claims Procedure generally;

- (j) sending 4 Notices of Revision or Disallowance, pursuant to the Claims Procedure Order (as discussed later in this Third Report);
- (k) assisting the Applicants and the Plan Sponsor in their development of the Plan;
- (l) communicating extensively with Management and the Applicants' legal counsel regarding, among other things, the Claims Procedure, liquidity matters, agreement disclaimers, operations, the Plan, and the CCAA Proceedings generally;
- (m) communicating with the Monitor's counsel, Gowling WLG (Canada) LLP, on various matters in respect of the CCAA Proceedings, including but not limited to the Flow-Through Payments, the disclaimer or termination of certain agreements, administration of the Claims Procedure, liquidity matters, discussions with key suppliers, and the Plan;
- (n) reviewing the Plan, and various other materials filed in support of the Claims Procedure Order and the November 18 Motion; and
- (o) preparing the Second Report and this Third Report.

VI. CASH FLOW FOR THE PERIOD SEPTEMBER 14 TO NOVEMBER 6, 2020

- 16. The Company's cash flow forecast for the period from September 14, 2020 to December 11, 2020 (the "**Cash Flow Forecast**") was filed with the Court in support of the Company's application for the Initial Order.
- 17. A comparison of Hematite's reported results to forecast for the period from September 14, 2020 to November 6, 2020 (the "**Period**") is summarized as follows:

Hematite Group			
Summary of Actual Receipts and Disbursements			
For the 8-week period ended November 6, 2020			
in \$CAD			
	Actual	Forecast	Variance
Cash Receipts			
Accounts Receivable	11,323,526	14,120,837	(2,797,311)
Other Receipts	1,093,877	-	1,093,877
Total Receipts	12,417,403	14,120,837	(1,703,434)
Cash Disbursements			
Inventory Purchases	9,967,965	7,981,318	(1,986,647)
Other Operating Expenses	1,075,345	1,327,272	251,928
Tooling Expense	755,089	300,000	(455,089)
Payroll and Benefits	3,252,791	3,354,252	101,461
Equipment and Auto leases	946,924	943,157	(3,767)
Tax Remittances	-	315,230	315,230
Capital Expenditures	214,537	771,350	556,813
Other Expenses	26,494	100,000	73,507
Interest	200,742	84,740	(116,002)
Professional fees	823,468	1,924,840	1,101,372
Total Disbursements	17,263,354	17,102,159	(161,195)
Net Cash Flow	(4,845,950)	(2,981,322)	(1,864,628)
Opening Cash	(229,180)	-	(229,180)
Net Cash Flow	(4,845,950)	(2,981,322)	(1,864,628)
Pre-filing Revolver Draw	933,969	875,587	58,382
DIP Loan Draw	4,717,105	6,000,000	(1,282,895)
Closing Cash	575,944	3,894,265	(3,318,321)
Opening DIP Loan Balance	-	-	-
DIP Draw	(4,717,105)	(6,000,000)	1,282,895
Closing DIP Loan Balance	(4,717,105)	(6,000,000)	(2,035,426)

18. As reflected in the summary table above, Hematite reported negative cash flow of approximately \$4.8 million during the Period and an outstanding amount under the DIP Facility of approximately \$4.7 million as at November 6, 2020. The Company's closing cash balance was approximately \$3.3 million lower than projected in the Cash Flow Forecast.
19. The net cash flow generated during the Period was approximately \$1.9 million lower than projected in the Cash Flow Forecast, the primary reasons for which are summarized below:
- (a) total cash receipts during the Period were approximately \$1.7 million lower than projected, mainly due to:

- (i) collections of the Company's existing accounts receivable were less than forecast by approximately \$0.8 million. Accounts receivable at the beginning of the Period was reconciled in order to ensure all cash collections were properly accounted for, however following the Filing Date the Company identified earlier collections which had been overlooked and as of yet unapplied in the Company's accounting system, overstating accounts receivable at the start of the Period by approximately \$0.8 million;
 - (ii) unfavourable timing difference of approximately \$1 million related to delayed accounts receivable collections of a major customer. The Monitor understands that Hematite has experienced delays in invoice processing and in providing the documentation required by the customer in order to reconcile account differences and issue payments in a timely manner. The Monitor further understands that Management is working to resolve these issues in order to collect the related accounts receivable that remains outstanding;
 - (iii) unfavourable timing differences on sales that were initially forecast to be collected in the Period (approximately \$1.4 million), but are now anticipated to be collected in November, consistent with the customer's payment terms; and partially offset by:
 - (iv) \$0.5 million favourable difference in collections due to sales which exceeded forecast in September and the first week of October; and
 - (v) Tooling Receipts (as hereinafter defined) of approximately \$0.7 million (of which \$0.4 million were received and 'flowed-through' to tooling suppliers prior to the Filing Date), and a Canada Emergency Wage Subsidy refund of approximately \$0.4 million, which were each not included in the Cash Flow Forecast.
- (b) The total cash disbursements during the Period were approximately \$0.2 million higher than projected, mainly due to:

- (i) lower than forecast professional fees payments of approximately \$1.1 million of which \$0.4 million is anticipated to be a permanent variance, as the DIP Lender has advised Hematite it intends to pay its advisors and legal counsel directly. The remaining favourable variance is anticipated to reverse in the coming weeks;
 - (ii) favourable timing difference in capital expenditures of approximately \$0.6 million as compared to the Cash Flow Forecast; partially offset by:
 - (iii) higher than forecast inventory purchases of approximately \$2 million to support higher than forecast sales in September, October and the first two weeks of November (increased sales over this period total approximately \$3 million).
20. Due to a combination of the above, the Company was in breach of certain financial covenants in its weekly reporting to the DIP Lender during the Period, as certain net cash flow variance limits were exceeded. The Monitor understands that the DIP Lender has issued a waiver letter in respect of existing defaults and that the DIP Facility is in good standing as at the date of this Third Report.

VII. HEMATITE'S REQUEST FOR AN EXTENSION OF THE STAY PERIOD

21. The current Stay Period expires on November 27, 2020. The Company is seeking a further extension of the Stay Period to December 31, 2020 (the "**Stay Extension**"), which is the deadline for implementation of the Plan pursuant to the Plan Sponsor Agreement.
22. The Company, with the assistance of the Monitor, has prepared an updated forecast of its cash receipts and disbursements for the period from November 7, 2020 through to January 1, 2021 (the "**Updated Cash Flow Forecast**"), a copy of which is attached hereto as **Appendix "D"**. The Updated Cash Flow Forecast is summarized as follows:

Hematite Group	
Weekly Cash Flow Forecast for the 8-week period November 7, 2020 to January 1, 2021 in \$CAD	
Total	
Cash Receipts	
Accounts Receivable	15,628,178
Other Receipts	35,000
Total Receipts	15,663,178
Cash Disbursements	
Inventory Purchases	6,223,243
Other Operating Expenses	1,728,420
Tooling Expense	378,938
Payroll and Benefits	3,575,534
Equipment and Auto leases	1,101,963
Tax Remittances	712,168
Capital Expenditures	1,779,615
Other Expenses	95,000
Interest	150,411
Professional fees	1,548,873
Total Disbursements	17,294,164
Net Cash Flow	(1,630,986)
Opening Cash	575,945
Net Cash Flow	(1,630,986)
DIP Loan Draw	1,282,895
Closing Cash	227,853
Opening DIP Loan Balance	(4,717,105)
DIP Draw	(1,282,895)
Closing DIP Loan Balance	(6,000,000)

23. The key changes in the underlying assumptions in the Updated Cash Flow Forecast as compared to the Cash Flow Forecast are summarized below:
- (a) updated projected timing and quantum of collections to more accurately reflect the payment terms of one of the Company's major customers, and remaining collections on sales that exceeded forecast through October 2020;
 - (b) increase in projected disbursements for higher variable costs (primarily inventory purchases, payroll, and other operating expenses) to support the Company's updated sales forecast for November 2020;
 - (c) increase in tooling-related disbursements of approximately \$0.4 million, including approximately \$0.2 million of Flow-Through Payments, subject to the Court granting the proposed Flow-Through Payment Order. The remaining \$0.2 million

relates to a post-filing tooling deposit which had not been included in the Cash Flow Forecast; and

- (d) reduction in professional fees as a result of the exclusion of the fees of the DIP Lender's advisors and legal counsel (approximately \$0.3 million in the Cash Flow Forecast) as the DIP Lender has advised Hematite it intends to pay these parties directly.
24. The Updated Cash Flow Forecast indicates that the Hematite Group is anticipated to have sufficient liquidity to fund both operating costs and the costs of the CCAA Proceedings through the Stay Period, should the Stay Extension be granted. The Monitor notes that the Updated Cash Flow Forecast is materially dependent upon the Company achieving the projected timing and amount of accounts receivable collections, and payments for inventory purchases. Inventory purchases are particularly driven by customer purchase orders as they are received.
25. The Monitor understands that the DIP Lender has approved the Updated Cash Flow Forecast.
26. The Monitor is of the view that the Stay Extension is appropriate in the circumstances, and supports Hematite's request for an extension of the Stay Period for the following reasons:
- (a) the Company has acted, and is continuing to act, in good faith and with due diligence and in accordance with the Amended and Restated Initial Order and the other Orders issued by the Court in the CCAA Proceedings;
 - (b) the Stay Extension is anticipated to allow the Company and the Plan Sponsor to satisfy the conditions precedent to the Plan (detailed later in this Third Report);
 - (c) the Stay Extension should not prejudice any employee or creditor, as the Updated Cash Flow Forecast indicates that Hematite is anticipated to have sufficient funds to pay for post-filing goods and services; and

- (d) the Monitor understands that Woodbridge, in its capacities as DIP Lender and proposed Plan Sponsor, is supportive of the Stay Extension, as it is necessary in order to achieve the timeline outlined in the Plan Sponsor Agreement.

VIII. CLAIMS PROCEDURE

Affected Claims Status

- 27. As noted earlier in this Third Report, the claims procedure was established pursuant to the Claims Procedure Order (the “**Claims Procedure**”) to facilitate the identification, quantification and resolution of certain Claims¹ of creditors of the Applicants and their respective directors and officers, including:
 - (a) Pre-Filing Claims (including D&O Claims other than D&O Restructuring Claims); and
 - (b) Restructuring Claims (including D&O Restructuring Claims) (each as defined in the Claims Procedure Order).
- 28. Also as previously noted in this Third Report, in accordance with the Claims Procedure Order:
 - (a) on October 15, 2020, the Claims Package was sent to all known creditors of the Hematite Group; and
 - (b) notices were published in *USA Today* (National Edition) and the *Globe and Mail* (National Edition) on October 19 and October 20, 2020, respectively.
- 29. Pursuant to the Claims Procedure Order, the claims bar date was 5:00 p.m. (Toronto Time) on November 9, 2020 with respect to the filing of any Pre-Filing Claims and D&O Claims (other than D&O Restructuring Claims) (the “**Pre-Filing Claims Bar Date**”).

¹ Capitalized terms used but not defined in this section of the Third Report shall have the meanings given to them in the Claims Procedure Order.

30. 162 Claims in the amount of approximately \$49.6 million in aggregate were filed prior to the Pre-Filing Claims Bar Date, summarized as follows:

SUMMARY OF CLAIMS FILED BEFORE THE PRE-FILING CLAIMS BAR DATE		
Claim Category ⁽¹⁾	Claims Filed	
	# ⁽¹⁾	Amount ⁽⁵⁾
Pre-Filing Claims ⁽²⁾	162	\$38,767,062
Pre-Filing D&O Claims ⁽³⁾	2	3,984,936
Restructuring Claims ⁽⁴⁾	19	6,897,462
Restructuring D&O Claims	-	-
Total Claims Filed ⁽¹⁾	162	\$49,649,460
Notes		
1 Certain Proofs of Claim included a combination of Pre-Filing Claims, Pre-Filing D&O Claims, and Restructuring Claims. For clarity, a total of 162 unique creditors filed claims.		
2 Three entities (including the Canada Revenue Agency) have filed placeholder claims (i.e. no amount included). Figures above do not include Pre-Filing Claims that were filed after the Pre-Filing Claims Bar Date.		
3 Includes one D&O Claim for \$3.98M and one claim from a former employee in relation to wrongful dismissal that included a placeholder D&O claim (i.e. no amount included).		
4 The 19 claimants who have filed a Restructuring Claim have also filed a Pre-Filing Claim (i.e. do not represent additional unique creditors).		
5 Amounts in CAD. All USD currency balances are converted to CAD using the September 18, 2020 spot rate of 1.3186.		

31. Also pursuant to the Claims Procedure Order, a claims bar date in respect of Restructuring Claims (the “**Restructuring Claims Bar Date**”) was set as the later of:
- the Pre-Filing Claims Bar Date; and
 - the date that is 21 days after the date on which the Monitor sends a Claims Package with respect to a Restructuring Claim.
32. As noted earlier in this Third Report, seven (7) agreement disclaimers were sent by the Company pursuant to section 32 of the CCAA. The last of these disclaimers was sent on November 13, 2020. The Monitor understands that the Applicants do not intend to disclaim any further agreements.
33. Based on the disclaimers sent by the Company, the Monitor anticipates receiving a further six (6) Restructuring Claims prior to the latest Restructuring Claims Bar Date, which will be December 4, 2020.

34. As at the date of this Third Report, the Monitor has received four (4) Pre-Filing Claims in the amount of approximately \$64,199 in aggregate after the Pre-Filing Claims Bar Date (the “**Late Claims**”). Three of the Late Claims were received by the Monitor on November 9, 2020 after 5:00 p.m. and one Late Claim was received by the Monitor on November 11, 2020. The Claims Procedure Order did not grant the Monitor discretion to extend the Pre-Filing Claims Bar Date to admit these Late Claims, or to extend the Restructuring Claims Bar Date.
35. The Monitor is of the view that it is appropriate to admit these Late Claims into the Claims Procedure for review and adjudication considering that: (i) they were received very shortly after the Pre-Filing Claims Bar Date; (ii) the quantum is modest; and (iii) the Applicants have not yet filed the Plan with the Court and obtained the Meeting Order. The Monitor understands that the Applicants and the Plan Sponsor are also supportive of admitting these Late Claims into the Claims Procedure.

Adjudication of Claims

36. Also, as at the date of this Third Report, the Monitor has provisionally adjudicated 22 Claims as follows:

SUMMARY OF CLAIMS ADJUDICATED		
<i>As at the date of this Third Report</i>		
Adjudication Status	# ⁽¹⁾	Amount
Fully Allowed	18	1,633,365
Partially Allowed ⁽²⁾	2	179,396
Partially Disallowed ⁽²⁾	2	15,126
Fully Disallowed ⁽²⁾	2	18,521
Yet to be Reviewed	144	47,867,733
Total	166	49,714,140
Notes		
1 Figures include the Late Claims.		
2 The Monitor has issued a total of four (4) Notices of Disallowance/Revision as at the date of this Third Report. The 10-day periods in which the claimants may file a Notice of Dispute in response to the Notice of Disallowance/Revision have not yet passed.		

37. The Monitor has yet to receive any Notices of Dispute as at the date of this Third Report.

38. The Monitor shall continue to review all Proofs of Claim filed, in consultation with the Applicants (and in the case of a D&O Claim, in consultation with the applicable Director or Officer), and shall accept, revise or disallow the amount of each Claim for voting and/or distribution purposes and shall deliver to the Claimant a Notice of Revision or Disallowance, substantially in the form attached as a schedule to the Claims Procedure Order. As discussed in a later section to this Third Report, the Monitor is in the process of reviewing claims received in the amount of approximately \$21 million which are anticipated to be disallowed.

Excluded Claims

Background

39. TD was Hematite's primary operating lender prior to the commencement of the CCAA Proceedings. Hematite was in default of its credit agreement with TD at the Filing Date. The Monitor understands that prior to the Filing Date, Hematite and Woodbridge reached an agreement in principle with TD whereby Woodbridge would acquire a portion of the debt, and take assignment of all of TD's security over certain of the Applicants' property, excluding certain equipment leases which would be unaffected in the CCAA Proceedings. Definitive documentation with respect to these arrangements was entered into on September 21, 2020 (the "**TD Assignment and Assumption Agreement**").
40. At the Filing Date, BDC and certain of the Applicants were party to a letter of offer of financing no. 076542-03 dated December 21, 2017, as amended, supplemented and otherwise modified from time to time (the "**BDC Loan**"). The Monitor understands that prior to the commencement of these proceedings, reached an agreement in principle with BDC, whereby BDC would agree to forbear from enforcing its rights and, effective upon implementation of the Plan, would amend its credit agreement to convert the BDC Loan into a post-restructuring facility. As discussed later in this Third Report, it is a condition precedent to implementation of the Plan that definitive documentation be entered into in respect of same.

41. The Monitor further understands that prior to the commencement of the CCAA Proceedings, Hematite and Woodbridge engaged in extensive discussions with 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**”) and ultimately 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 Hematite’s business during and following the CCAA Proceedings.

Excluded Claims

42. Pursuant to the Claims Procedure Order, Excluded Claims are as follows:
- (a) any claim pursuant to, or related to, the equipment leases with TD Equipment Finance Canada listed in Schedule “F” to the Claims Procedure Order (the “**TD Leases**”);
 - (b) any claim pursuant to, or related to, the BDC Loan;
 - (c) any claim by Woodbridge or its affiliates, including, without limitation, pursuant to, or related to:
 - (i) the Assignment and Assumption Agreement;
 - (ii) the Plan Sponsor Agreement; or
 - (iii) the DIP Loan Agreement;
 - (d) any claim by 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 Customer Support Agreements, as applicable;
 - (e) claims secured by any of the Charges (as defined in the Amended and Restated Initial Order);

- (f) any claim by any of the Applicants against one or more of the other Applicants; and
- (g) 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.

43. As outlined in the Second Report, Excluded Claims are unaffected by the Claims Procedure Order, and holders of said Claims were not required to file a proof of claim in the Claims Procedure. Accordingly, as discussed later in this Third Report, Excluded Claims will also be Unaffected Claims in the Plan.

IX. CHAPTER 15 PROCEEDINGS UPDATE

44. As further detailed in the November Nadeau Affidavit, on October 15, 2020, 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 as **Exhibit “D”** to the November Nadeau Affidavit.

45. Following the issuance of the Claims Procedure Order, 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, among other things, outlines the notice procedures and the claims bar dates established by the Claims Procedure Order. The Chapter 15 Claims Procedure Notice states that any claimant who files a proof of claim solely with the U.S. Court or in connection with the Chapter 15 Proceedings 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 as **Exhibit “E”** to the November Nadeau Affidavit.

46. Given the timing and the notice requirements under the Bankruptcy Code, the Applicants intend to seek recognition of the Meeting Order by the U.S. Court during the week of November 30, 2020, and seek recognition of the Sanction Order by the U.S. Court during the week of December 21, 2020 after the anticipated Sanction Hearing, all subject to applicable Orders of this Court.

47. Copies of the materials filed, and orders made, in the Chapter 15 Proceedings are available on the Monitor's Website.

X. THE FLOW-THROUGH PAYMENTS

48. As described in more detail in the November Nadeau Affidavit, Hematite manufactures component parts for its customers utilizing tooling that is unique to each component part and customer. Each component part is designed by the customer, manufactured by a tooling supplier, and supplied by the tooling supplier to Hematite for use in manufacturing.
49. Tooling suppliers invoice Hematite for the tooling. Once approved for production, Hematite invoices the tooling to the customer, and upon payment (each a "**Tooling Receipt**") title passes to the customer (but remains in Hematite's possession for use in manufacturing). The Monitor understands that, in the ordinary course, Hematite pays the tooling supplier when it receives the Tooling Receipt (the "**Flow-Through Payments**").
50. According to the Books and Records, as at the Filing Date, Hematite owed approximately \$6.9 million to tooling suppliers in respect of tooling ordered by customers and delivered to Hematite for use in manufacturing (the "**Tooling Claims**"), certain of which had been, or was subsequently invoiced to the applicable customer in the ordinary course.
51. The Monitor understands that Hematite has received approximately \$0.3 million in Tooling Receipts since the Filing Date, but pursuant to the Amended and Restated Initial Order, has not made any Flow-Through Payments to tooling suppliers.
52. Also as outlined in the November Nadeau Affidavit, both customers and tooling suppliers have expressed a desire for greater certainty that Flow-Through Payments will continue to be made, in accordance with the pre-existing arrangements described above.
53. The proposed Flow-Through Payment Order authorizes the Applicants to, among other things, make Flow-Through Payments (including the projected Flow-Through Payment in the amount of approximately \$0.2 million in the Updated Cash Flow Forecast) in respect of Tooling Receipts collected since the Filing Date, and any further Tooling Receipts collected, including as they related to Tooling Claims which existed at the Filing Date.

54. The Monitor further understands that, in respect of four contracts with tooling suppliers, 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 Tooling Claims in relation to these contracts will be addressed in the Plan (as detailed later in this Third Report).
55. The Monitor is of the view that the Flow-Through Payment Order is appropriate in the circumstances, and supports Hematite's request to make Flow-Through Payments for the following reasons:
- (a) if Flow-Through Payments for Tooling Claims, including pre-filing Tooling Claims, are not made there is a risk of interruption of tooling supply and/or that Customers could seek to assert their ownership rights over unpaid tooling being used by the Applicants. Either result would be materially detrimental to the Applicants' business; and
 - (b) the Flow-Through Payment Order should not prejudice any employee or creditor, as the Monitor understands that, by definition, Flow-Through Payments are not anticipated to have a negative cash flow impact in the post-filing period. In this regard, the Monitor notes that the Flow-Through Payments were not included in the Applicants' Cash Flow Forecast.

XI. CONTINUATION OF EQUIPMENT PAYMENTS

56. As outlined in more detail in the November Nadeau Affidavit, the Applicants are party to various capital leases and secured loan agreements (the "**Equipment Agreements**") with lessors and secured creditors (each, an "**Equipment Creditor**") with respect to equipment that is used in their operations.
57. As a result of the importance of the equipment provided by the Equipment Creditors to Hematite's business, and the legal rights arising from the lease or purchase money security interests in respect of specific machinery pursuant to the Equipment Agreements, the Applicants have been making payments to certain of the Equipment Creditors since the Filing Date. In the circumstances and as detailed below, the Applicants are appropriately

seeking an exception to the Amended and Restate Initial Order provisions prohibiting payment of amounts owing on the Filing Date in order to authorize the payments that have been made to Equipment Creditors (which amount to approximately \$60,000) and the payments that may be made to Equipment Creditors as they become due during the remainder of the CCAA Proceedings.

58. The Monitor understands that Hematite, in consultation with Woodbridge, has reviewed all of the Equipment Agreements. The Monitor further understands that the Equipment Agreements that have not been disclaimed or terminated are being used in Hematite's operations, and that it is the desire of both the Company and Woodbridge to continue to maintain them in good standing.
59. Further, as outlined later in this Third Report, as Secured Claims that will not be compromised pursuant to the Plan, Hematite would be required to pay the Equipment Creditors to prevent them from exercising their rights and remedies once the Plan has been implemented and the stay of proceedings granted in the Amended and Restated Initial Order is no longer effective.
60. The proposed Continuation of Equipment Payments Order contemplates, among other things, that the Applicants will be entitled but not required to make payments to the Equipment Creditors in respect of Equipment Agreements, provided that:
 - (a) the equipment is being, or will be, used in the operations of the Applicants;
 - (b) the particular Equipment Agreement 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 agrees.

61. The Monitor is of the view that the Continuation of Equipment Payments Order is appropriate in the circumstances, and supports Hematite's request to make certain payments in respect of Equipment Agreements for the following reasons:
- (a) it is not anticipated to materially prejudice the Applicants' other creditors or stakeholders, as Secured Claims, including valid claims of the Equipment Creditors, will not otherwise be compromised pursuant to the Plan;
 - (b) it facilitates the Company's continued use of the equipment subject to the Equipment Agreements, by allowing payments to be made;
 - (c) payments require the approval of the DIP Lender;
 - (d) the Updated Cash Flow Forecast indicates that Company is anticipated to have sufficient liquidity to make the payments; and
 - (e) the Monitor understands that the DIP Lender is supportive of the Continuation of Equipment Payments Order.

XII. THE PLAN

Overview

62. While this Third Report summarizes the key aspects of the Plan (below), readers are advised to carefully read the Plan in full. A copy of the Plan is attached as **Exhibit "G"** to the November Nadeau Affidavit.
63. The Plan has been formulated by Hematite, in consultation with Woodbridge, in its capacity as proposed Plan Sponsor.
64. Pursuant to the Plan Sponsor Agreement, the Plan Implementation Date (as defined in the Plan) is to occur on or before December 31, 2020.

Purposes of the Plan

65. The principal purposes of the Plan are to:

- (a) complete a restructuring of the Applicants that sees the Hematite Group continue as a going concern;
 - (b) provide for the compromise of all Affected Claims and distributions to Affected Creditors from the Creditor Distribution Pool (as defined in the Plan and discussed below); and
 - (c) implement the acquisition of Hematite Holdings and Hematite Industrial Products Inc. (“**Hematite Industrial**”) by the Plan Sponsor (and/or one or more affiliates).
66. The Plan is formulated with the expectation that it will result in a greater benefit to the Affected Creditors than a bankruptcy or liquidation of the Applicants.

Affected Claims

67. Generally speaking, Affected Claims are unsecured claims and for greater certainty include Tooling Claims (discussed further below), Restructuring Claims, and Equity Claims.
68. For the purposes of voting on and participating in the Plan, Affected Creditors are grouped into a single class, regardless of the Applicant of which they are a creditor.
69. 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.
70. The Election Notice is included in the Proxy and Election Notice attached as Schedule “A” to the proposed 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).
71. The Creditor Distribution Pool in the amount of \$5.5 million will be funded by the Plan Sponsor, 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 (each as hereinafter defined).

72. 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 (until such claims are resolved), and (ii) the amounts paid to Convenience Creditors.
73. At this early stage in the Claims Procedure, there are 142 Claims yet to be reviewed, and the Monitor anticipates that several additional Restructuring Claims may be filed with respect to agreements that were disclaimed by the Hematite Group.
74. As of the date of this Third Report, the Monitor has fully or partially disallowed four (4) in the aggregate amount of approximately \$30,000. Based on the Monitor's preliminary review, there are several large Claims that the Monitor expects to disallow in the aggregate amount of approximately \$21 million. Accordingly, as of the date of this Third Report, the Monitor would provisionally estimate that the aggregate Claims of Affected Creditors may be approximately \$29 million, as summarized below:

CLAIMS FILED - ESTIMATED AFFECTED CLAIMS		
<i>As at the date of this Third Report</i>		
Claims Status	#	Amount
Filed ⁽¹⁾	166	\$49,714,140
Partially Disallowed ⁽²⁾	(4)	(33,646)
Expected to be Disallowed ⁽³⁾	(3)	(20,958,778)
Estimated Affected Claims	163	28,721,716
Less: Estimated Convenience Creditor Claims ⁽⁴⁾	121	(1,309,877)
Estimated Affected Claims (excluding Convenience Creditors)	42	\$27,411,838
Creditor Distribution Pool		\$ 5,500,000
Less: Estimated Convenience Creditor Distributions ⁽⁴⁾		(678,483)
Remaining Creditor Distribution Pool		4,821,517
% Recovery on Estimated Affected Claims		18%
Notes		
1 Figures include the Late Claims. The Restructuring Claims Bar Date has not yet passed, and several claims may still be filed.		
2 The 10 day period for which the claimants have to file a Notice of Dispute has not yet lapsed.		
3 The Monitor and its counsel have reviewed certain large claims and are of the preliminary view that these Claims are likely to be disallowed.		
4 Includes all claimants with claims less than the Election Amount (\$10k), and for the purposes of this analysis, assumes that claimants with claims up to \$54k will file Election Notices with the Monitor in order to be considered Convenience Creditors.		

75. Assuming the foregoing, this would result in an estimated recovery on claims filed, before consideration of the Unresolved Claims Reserve, of 18% on a preliminary basis.
76. 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.

Tooling Claims

77. For the purposes of participating in the Plan as an Affected Creditor, a tooling supplier's Tooling Claim will be reduced by any payments received as against the Tooling Claim, regardless of whether said payment is a Flow-Through Payment pursuant to a Tooling Receipt, or otherwise (ultimately, the "**Tooling Claim Amount**").
78. Section 3.7 of the Plan provides that, from and after the Effective Time, the recovery of any Person on its Tooling Claim will be limited to:

- (a) a *pro rata* distribution from the Creditor Distribution Pool in respect of the Tooling Claim Amount as of the Distribution Record Date (a “**Tooling Distribution**”); plus
 - (b) Flow-Through Payments in respect of the Tooling Claim, from and after the Distribution Record Date (up to the amount of the Tooling Claim, less the Tooling Distribution).
79. Tooling Claims will be Unaffected Claims only to the extent of Tooling Payments (including a Tooling Distribution), if any, made after the Distribution Record Date.
80. As outlined in the November Nadeau Affidavit, the Plan contemplates that tooling suppliers may receive up to, but not greater than, 100% recovery in respect of their Tooling Claim, through a combination of a Tooling Distribution and/or Flow-Through Payments following the Distribution Record Date.
81. The Monitor understands that based on the customer contracts in place, the tooling suppliers who have filed claims (representing approximately \$2.2 million of the approximately \$49.6 million filed) are anticipated to ultimately recover their Tooling Claim in full following the Plan Implementation Date, subject to Tooling Receipts being paid by customers.

Unaffected Claims

82. 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) claims for amounts required to be paid pursuant to subsections 6(3), (5) and (6) of the CCAA (the “**CCAA Priority Payment Claims**”);
 - (d) any claim by any of the Applicants against one or more of the other Applicants;

- (e) any Claim pursuant to, or related to, the TD Leases;
- (f) any Claim by Woodbridge or its affiliates against any member of the Hematite Group, including a Claim for or related to:
 - (i) the debts pursuant to the TD Assignment and Assumption Agreement (the “**Assigned TD Loans**”);
 - (ii) the Plan Sponsor Agreement;
 - (iii) the DIP Loan; or
 - (iv) the Services Agreement.
- (g) any Claim pursuant to, or related to, the BDC Loan;
- (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) 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;
- (k) Tooling Claims, but only to the extent of Tooling Payments, if any, made after the Distribution Record Date (as noted above);

- (l) 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
- (m) Claims by the Monitor, counsel to the Monitor, the CRO, or counsel to Hematite.

Equity Claims

83. 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.

Reserves

84. The Plan provides for an amount to be held as a reserve (the “**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 is to be agreed upon by the Monitor, Hematite and the Plan Sponsor, and approved by the Court in the Sanction Order. Pursuant to the Plan, the Monitor will oversee the distribution of funds from the Unresolved Claims Reserve. As outlined earlier in this Third Report, at this early stage in the Claims Procedure, the amount of Unresolved Claims that may exist at the Distribution Record Date cannot be estimated.
85. The Plan also provides for an amount to be held as a reserve (the “**Administration Reserve**”) in an amount sufficient to pay the fees and expenses of 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 in

the Sanction Order. Any amount remaining in the Administration Reserve after completion of such work will be released by the Monitor to Hematite.

The Transaction

86. Pursuant to the Plan, the Plan Sponsor 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 each of Hematite Holdings and Hematite Industrial (together, the “**New Common Shares**”).
87. The purchase price for the New Common Shares will be equal to the amount that is needed by Hematite, in excess of the Cash on Hand at the Effective Time to:
- (a) fund the Creditor Distribution Pool (including the Unresolved Claims Reserve);
 - (b) fund the Administration Reserve;
 - (c) pay amounts to Unaffected Creditors as required by the Plan (as discussed below);
 - (d) make any other payments to be made by Hematite pursuant to or as otherwise contemplated by the Plan; and
 - (e) 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);
- (collectively, the “**Plan Funding Amount**”, and together with Cash on Hand, the “**Available Cash**”).
88. On the Plan Implementation Date, Hematite will file the 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 of Hematite Holdings and Hematite Industrial for no consideration.

Payments and Distributions

Unaffected Claims

89. At or before the Effective Time, Hematite will make the following payments from Available Cash in full satisfaction and discharge of the following Unaffected Claims:
- (a) payment of all CCAA Priority Payment Claims in full;
 - (b) payment in full of all Claims secured by the CCAA Charges, other than the DIP Lender's Charge; and
 - (c) payment of any other amounts required to be paid in accordance with the Plan Sponsor Agreement, the Plan or the CCAA Proceedings at or before the Effective Time.
90. The Unaffected Claims that are not paid pursuant to the Plan will continue and not be compromised by the Plan.

Affected Claims

91. 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 (subject to the Unresolved Claims Reserve). 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.

92. The first distribution date (the “**Initial Distribution Date**”) will be as soon as practicable following the Plan Implementation Date (the timing of which is discussed later in this Third Report).
93. 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.
94. 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.
95. 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* in respect of each Affected Claim that is a Proven Claim, provided that the amount remaining in the Unresolved Claims Reserve makes such a distribution economically practical, 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.
96. If any distribution to an Affected Creditor 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. On the second anniversary of the Plan Implementation Date, the amount of any Undeliverable Distributions will be released to the Hematite Group.

97. If any cheque in payment of a distribution to an Affected Creditor 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 (ii) the amount otherwise payable pursuant to such cancelled cheque will be released to the Hematite Group.

Conditions Precedent to Plan Implementation

98. Implementation of the Plan is conditional on the satisfaction or waiver of certain conditions, including (but not limited to) 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 Proceedings;
 - (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 in respect of the BDC Loan, in the form of an amended and restated loan agreement between BDC, Hematite Manufacturing Inc. 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.

Plan Implementation

99. Upon receipt of the Certificate of Amendment evidencing the filing of the Articles of Reorganization with respect to 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.
100. As soon as practicable following the occurrence of the Effective Time, the Monitor will serve on the service list in the CCAA Proceedings (the “**Service List**”) 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.

Plan Releases

101. 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.
102. 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.

Modification of the Plan

103. The Plan and the proposed Meeting Order contemplate that the Applicants may amend, restate, modify and/or supplement the Plan (including to address or further address the treatment of claims subject to the Claims Procedure Order), on terms satisfactory to the Plan Sponsor, so long as any such amendment is filed with the Court and:
 - (a) if made prior to or at the Meeting, communicated to Affected Creditors, in the manner outlined earlier in this Third Report; and
 - (b) if made following the Meeting, approved by the Court.

104. Notwithstanding the foregoing, after the Meeting 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:
- (a) is filed with the Court;
 - (b) is posted on the Monitor's Website and notice thereof is provided to the Service List;
 - (c) 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
 - (d) does not amend the conditions precedent to Plan implementation.
105. Finally, the Company may make any amendment, restatement, modification or supplement to the Plan 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:
- (a) is filed with the Court;
 - (b) is posted on the Monitor's Website and notice thereof is provided to the Service List; and
 - (c) concerns a matter which is of an administrative nature required to better give effect to the implementation of the Plan, or 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.

Monitor's Recommendation

106. The Monitor is not anticipating to report to the Court or to provide further information to the Affected Creditors prior to the Meeting Date, and as such is providing its recommendation on both the filing and the creditors' acceptance of the Plan in this Third Report.
107. In the Monitor's view, the only realistic alternative to the Plan in the circumstances is a liquidation of the Applicants.
108. The Applicants' business can only survive as an enterprise and a going concern with the support of the Customers and secured creditors. The Monitor understands from the Applicants that stakeholder support is highly dependent upon Customer approval of the ownership and control of the business going forward. As a result of significant efforts by the Applicants and Woodbridge, the Customers are supportive of Woodbridge's ultimate stewardship of Hematite's business. Without this support and the arrangements that have been made with respect to the claims of the senior secured creditors, the business would not likely be able to continue as a going concern. Given the Company's severe liquidity constraints, the only realistic alternative to the Plan would be liquidation.
109. In addition, the Monitor notes that:
- (a) pursuant to the Plan Sponsor Agreement, the Applicants are required to obtain the Meeting Order by November 18, 2020 and the Sanction Order by December 18, 2020 and
 - (b) failure of the Company to comply with the Plan Sponsor Agreement is an event of default pursuant to the DIP Loan Agreement. Absent the cooperation of the DIP Lender, Hematite would not have sufficient liquidity to operate the business or to pursue a going-concern alternative to the Plan.
110. In order to evaluate the Plan as against the likely alternative, the Monitor has prepared an analysis of a range of recoveries which may be available to unsecured creditors of the Hematite Group in a liquidation scenario pursuant to a bankruptcy (the "**Liquidation**

Analysis”). As a result of, among other things, the specialized nature of Hematite’s business and its fixed assets, as well as the high degree of encumbrances on the assets, the Liquidation Analysis indicates that the estimated range of liquidation values is anticipated to result in a significant shortfall to the secured creditors, and no recovery for unsecured creditors. A copy of the Liquidation Analysis is attached hereto as **Confidential Appendix “1”**.

111. As part of its evaluation of the Plan, the Monitor has reviewed the Books and Records for any payments made which could be considered voidable transactions pursuant to subsection 95(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”). The Monitor reviewed Hematite’s individual cash disbursements recorded in the amount of \$100,000 or greater:
- (a) in the last three (3) months prior to the Filing Date, for creditors with whom the Monitor would have expected the Company to be dealing at arms’ length in the ordinary course; and
 - (b) in the last 12 months prior to the Filing Date, for creditors with whom the Monitor understands the Company is affiliated or related (but, for greater certainty, is not an Applicant).

Based on the Monitor’s review of the above, there was no evidence to suggest any payments made by Hematite could be considered a voidable transaction pursuant to section 95(1) of the BIA.

112. As described in the November Nadeau Affidavit, the classification of creditors was determined with regard to, among other things, 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. On that basis, it is the Monitor’s view that one class of Affected Creditors is appropriate in the circumstances.
113. Therefore, the Monitor recommends that the Plan be filed pursuant to the proposed Meeting Order, and that the Affected Creditors vote in favour of the Plan, for the following reasons:

- (a) the Plan is anticipated to allow the Hematite Group to continue as a going concern, preserving jobs for approximately 280 employees, a supply channel for customers, and a sales channel for suppliers;
- (b) the Plan is the product of extensive negotiations between Hematite and the Plan Sponsor, with the assistance of the Monitor;
- (c) the Plan provides for some recovery for Affected Creditors and the Liquidation Analysis indicates that, in a liquidation scenario, no recovery for Affected Creditors would be anticipated;
- (d) the Plan is a balance of the interests of the Plan Sponsor, the Company, and the Company's stakeholders. Given, among other things, the treatment of the Unaffected Claims and the Excluded Claims, even in the unlikely event of recoveries to unsecured creditors in a liquidation scenario, these would be distributed *pro rata* to a significantly higher amount of claims in aggregate than the amount of Affected Claims expected under the Plan;
- (e) the classification of creditors in the Plan is fair and reasonable;
- (f) the Plan contemplates the payment of the priority amounts as required pursuant to subsections 6(3), (5) and (6) of the CCAA;
- (g) the Plan has a reasonable prospect of being implemented; and
- (h) in the Monitor's view, the Plan is fair and reasonable.

XIII. CREDITORS' MEETING

114. The Plan contemplates that the meeting of Affected Creditors will be held in accordance with the Meeting Order (the "**Meeting**"). The proposed Meeting Order contemplates hosting the Meeting virtually through videoconference due to the COVID-19 pandemic on December 11, 2020 at 11:00 a.m. (Toronto Time). The Monitor notes that the Office of the Superintendent of Bankruptcy has encouraged licensed insolvency trustees to make every reasonable effort to hold meetings electronically during the pandemic and videoconference

meetings have been authorized by the Court in other CCAA proceedings on multiple occasions.

115. The proposed Meeting Order permits the Applicants, in consultation with the Monitor and with the approval of the Plan Sponsor, to may make any changes with respect to the date, time, and method of the Meeting as considered necessary or desirable in the circumstances.

Meeting Materials

116. The proposed Meeting Order approves the following (collectively, the “**Meeting Materials**”):

- (a) the Information Statement (a copy of which is attached as **Exhibit “H”** to the November Nadeau Affidavit);
- (b) the Notice of Meeting and Sanction Hearing (a copy of which is attached as **Exhibit “I”** to the November Nadeau Affidavit); and
- (c) the Proxy and Election Notice for Affected Creditors.

117. In consultation with the Monitor and with the approval of the Plan Sponsor, the Applicants may make such changes to the Meeting Materials, or prepare supplements to the Information Statement, as considered necessary or desirable in the circumstances.

118. Also pursuant to the proposed Meeting Order, the Monitor is directed to, *inter alia*, as soon as practicable after the granting of the Meeting Order:

- (a) post copies of the Meeting Materials and the Meeting Order on the Monitor’s Website, to remain posted until at least one (1) business day following the Plan Implementation Date;
- (b) send the Meeting Materials (by email, if known, otherwise by regular mail, fax or courier) 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 U.S. Court;
- (iii) 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 Parties**”); and

- (c) cause notice of the Meeting to be published for a period of one (1) business day in *The Globe and Mail* (National Edition) and *USA Today* (National Edition).

119. The Monitor shall, in respect of any supplemental Information Statement, and any supplements or amendments to the Meeting Materials prepared:

- (a) promptly post such materials to the Monitor’s Website; and
- (b) if prior to the Meeting, send to the Meeting Parties; or if at the Meeting, provide notice to those present at the Meeting prior to the vote to approve the Plan.

Conduct at the Meeting

120. The proposed Meeting Order:

- (a) directs the Monitor to designate a representative to act as chair of the Meeting (the “**Chair**”) to decide all matters relating to the conduct of the Meeting, and to designate a secretary for the Meeting (the “**Secretary**”); and
- (b) authorizes the Monitor to appoint scrutineers (the “**Scrutineers**”) for the supervision and tabulation of the attendance, quorum and votes cast at the Meeting;
- (c) directs that the only Persons entitled to notice of, or to attend, the Meeting are:
 - (i) the Monitor and its counsel;
 - (ii) those entitled to vote at the Meeting pursuant to the Meeting Order (in person or by proxy) and their legal counsel and advisors;
 - (iii) the Applicants’ officers, legal counsel and advisors;
 - (iv) the CRO;
 - (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.

121. Quorum is one (1) Affected Creditor with an Affected Claim as of December 4, 2020 that is a Proven Claim (a “**Voting Claim**”).

Voting

122. The proposed Meeting Order provides that Affected Creditors with a Proven Claim or Unresolved Claim will be entitled to vote at the Meeting. Each Voting Claim shall have one (1) vote and a value equal to its Proven Claim. Votes in respect of Unresolved Claims will be counted but recorded separately (as described further below).

123. The Plan shall 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 at the Meeting (the “**Required Majorities**”) voting in favour of the Plan. The result of the vote will be binding on all Affected Creditors, whether or not any such Affected Creditor was present at the Meeting or voted in respect of the Plan.
124. A voting Proxy 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 Meeting, and the Chair is entitled to rely on such duly filed Proxy for voting at the Meeting.
125. 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.
126. If, after reviewing the votes cast at the Meeting, it appears that approval or rejection of the Plan by the Affected Creditors could be decided 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 such Unresolved Claims, as appropriate.
127. The Monitor will file a report with the Court no later than three (3) 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 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.

Conclusion

128. The Monitor expects that it will be able to complete the tasks that the proposed Meeting Order directs. The Monitor is satisfied that the Meeting Materials appropriately describe the material terms of the Plan. The Monitor is satisfied that the procedures in the Meeting Order will provide Affected Creditors with sufficient notice of the Meeting and an adequate opportunity to vote on the Plan.

XIV. SANCTION HEARING

129. Should the Plan be approved by the Required Majorities, the proposed Meeting Order directs the Applicants to bring seek the Sanction Order at the Sanction Hearing.

130. The Meeting Order further provides 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 Sanction Hearing Date, or such shorter time as this Court may allow.

XV. SEALING

131. The Applicants are seeking to seal the Liquidation Analysis attached as **Confidential Appendix “1”** to this Third Report until further Order of this Court, as it contains confidential financial and other information of the Applicants that could prejudice the Company if publicly available. The Monitor is supportive of the request for a sealing Order in the circumstances, as no creditor is anticipated to be prejudiced by same. The material conclusion in the Liquidation Analysis from the perspective of Affected Creditors is that no recovery is anticipated for them in a liquidation scenario. In the Monitor’s view, there is no material benefit to Affected Creditors, and the potential for material detriment to the Company, if the details of the Liquidation Analysis were to be disclosed.

XVI. MONITOR’S CONCLUSION AND RECOMMENDATIONS

132. The Applicants are seeking this Court’s approval of:

- (a) the Meeting Order;
- (b) the Flow-Through Payment Order; and
- (c) the Continued Equipment Payments Order.

133. For the stated reasons herein, the Monitor recommends that the Court grants the relief being sought by the Applicants, should the Court see fit to do so.

All of which is respectfully submitted this 16th day of November 2020.

KPMG Inc.
In its capacity as Monitor of
Hematite Group
And not in its personal or corporate capacity

Per:



Katherine Forbes
CPA, CA, CIRP, LIT
Senior Vice President



Tim Montgomery
CIRP, LIT
Vice President

APPENDIX “A” – THE MONITOR’S FIRST REPORT

Court File No.:20-00647824-00CL

HEMATITE GROUP

**FIRST REPORT OF KPMG INC.,
IN ITS CAPACITY AS MONITOR**

SEPTEMBER 25, 2020

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Court File No.: 20-00647824-00CL

**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 "Hematite Group")**

Applicants

**FIRST REPORT OF KPMG INC.
In its capacity as Monitor of the Applicants**

SEPTEMBER 25, 2020

I. INTRODUCTION

1. On September 18, 2020, Hematite Holdings Inc. (“**Hematite Holdings**”) and the other Applicants (together, the “**Hematite Group**”, the “**Company**” or the “**Applicants**”) were granted relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) by Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), The relief granted under the Initial Order included a stay of proceedings in favour of the Applicants and a limited stay of proceedings in favour of their affiliate Hematite R.E. 1, Inc. (“**RE1**”) for cross-defaults, from September 18, 2020 until September 28, 2020 (the “**Initial Stay Period**”); the appointment of KPMG Inc. as Monitor (“**KPMG**” or the “**Monitor**”); and, other related relief. The Applicant’s CCAA proceedings are referred to herein as the “**CCAA Proceedings**”.
2. In accordance with the Initial Order, the Court is scheduled to hear a motion by the Applicants for further relief on September 28, 2020 (the “**Comeback Motion**”).
3. Capitalized terms used but not defined in this report are as defined in the Initial Order.

II. PURPOSE OF REPORT

4. In preparing this report (the “**First Report**”) the Monitor has reviewed the Court materials filed by the Applicants in connection with the Comeback Motion and had reference to the Information (defined below). The purpose of this First Report is to provide information to this Honourable Court pertaining to:
 - (a) the Monitor’s activities since its appointment;
 - (b) the Applicants’ communications with stakeholders and operations since the date of the Initial Order;
 - (c) the Applicants’ proceedings under Chapter 15 of Title 11 of the United States Code (the “**Chapter 15 Proceedings**” and the “**Bankruptcy Code**”, respectively);

- (d) the Applicants' Comeback Motion for an Order (the "**Amended and Restated Initial Order**") amending and restating the Initial Order to provide for, among other things:
 - (i) the extension of the Stay Period, as defined in the Initial Order, to November 27, 2020;
 - (ii) the increase of borrowings permitted under the DIP Loan Agreement and secured under the DIP Lender's Charge to \$6.0 million;
 - (iii) the increase of the maximum amount of the Directors' Charge to \$500,000;
 - (iv) the increase of the maximum amount of the Administrative Charge to \$500,000;
 - (v) the priority of the Charges over those Encumbrances exempted from priming under paragraph 42(a), (b) and (c) of the Initial Order;
 - (vi) the inclusion of certain typical restructuring powers and authorizations; and,
 - (vii) inclusion of provisions permitting but not requiring payment of amounts owing for goods and services supplied to the Applicants before the date of the Initial Order up to an aggregate limit of \$700,000, with the consent of the DIP Lender and the approval of the Monitor, to the extent necessary for the ongoing operations of the Applicants and required to ensure continued supply;
- (e) Monitor's conclusions and recommendations.

III. TERMS OF REFERENCE

5. In preparing this First Report, the Monitor has relied solely on information and documents provided by the Applicants and their advisors, including unaudited financial information, declarations and the Nadeau Comeback Affidavit (defined below) (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in

this First Report, KPMG has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“GAAS”) pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

6. Future orientated financial information contained in any Cash Flow Forecast or other statement is based on the Applicants’ estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Monitor expresses no assurance as to whether any Cash Flow Forecast or other projection will be achieved.
7. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND

8. Detailed information with respect to the Applicant’s business, operations, products and causes of insolvency is set out extensively in the Affidavit of Jacques Nadeau sworn September 17, 2020, previously filed with the Court.
9. This First Report should be read in conjunction with the Affidavit of Jacques Nadeau sworn September 24, 2020 (the “**Nadeau Comeback Affidavit**”), as certain information contained therein has not been included here in order to avoid unnecessary duplication.

V. MONITOR’S ACTIVITIES SINCE APPOINTMENT

10. The Monitor has established a website (www.home.kpmg.ca/en/home/services/advisory/deal-advisory/creditorlinks/hematite-group.html) (the “**Monitor’s Website**”) and an e-mail address (hematitegroup@kpmg.ca) and hotline (416-777-3978) for stakeholders to obtain information from the Monitor.

11. In accordance with the Initial Order, the following notices and documents have been posted on the Monitor's Website and/or sent to the Applicants' stakeholders by the Monitor since the date of the Initial Order:
 - (a) the Application Record of the Applicants dated September 18, 2020;
 - (b) the Report of KPMG in its capacity as Proposed Monitor dated September 17, 2020 (the "**Pre-Filing Report**");
 - (c) the Service List;
 - (d) a list showing the names and addresses of creditors of the Applicants' with claims greater than \$1,000 and the estimated amount of those claims;
 - (e) notices sent by mail of the CCAA proceedings to every creditor appearing in the Applicants' books and records as at the date of the Initial Order (excluding individual employees, former employees with pension or retirement savings plan entitlements, and retirees and other beneficiaries who have entitlements under any pension or retirement savings plan).

12. Also in accordance with the Initial Order, the Monitor published a notice in the *Globe and Mail* (National Edition) concerning the CCAA Proceedings, which ran on September 23, 2020 and will run again on September 30, 2020.

VI. COMMUNICATIONS AND OPERATIONS

13. The Monitor has been assisting the Applicants and working with their management and employees with respect to the following:
 - (a) developing communications documents to assist suppliers and customers and answer frequently asked questions from these stakeholders;
 - (b) assisting with employee communications and information sessions;
 - (c) supporting discussions with suppliers to help maintain stability and continuity in the supply chain;

- (d) communicating with the DIP Lender/proposed plan sponsor Woodbridge Foam Corporation (“**Woodbridge**”) and assisting in the preparation of necessary financial information; and,
 - (e) working cooperatively with Woodbridge and the Company to ensure that customer needs and interests are being addressed appropriately.
14. As anticipated and in accordance with the Applicants’ cash flow forecast for the period from September 14, 2020 to December 11, 2020 (the “**Cash Flow Forecast**”), the Applicants drew on the debtor-in-possession facility provided for under the DIP Loan Agreement (the “**DIP Facility**”) up to the amount permitted under the Initial Order, being \$2.3 million (the “**Interim DIP Facility Limit**”). With the liquidity provided by this advance, the Applicants have been able to meet their current needs and maintain their operations without disruption. As set out below and based on the Cash Flow Forecast, access to the further funding provided for under the DIP Loan Agreement is critical to permitting the Applicants to continue to meet their ongoing needs and provide the liquidity required to maintain their business as they pursue a restructuring.
15. Based on information provided by the Applicants and Woodbridge, the Monitor understands that Woodbridge is providing consulting services related to the operation of the business of the Hematite Group during the term of the Plan Sponsor Agreement until the implementation of the CCAA Plan is complete. Such services will be subject to a Services Agreement effective as of September 18, 2020 between Woodbridge and each member of the Hematite Group. Such consulting services include advising on the commercial, operational, technical, material handling, production scheduling, purchasing, management, lean manufacturing, financial planning and forecasting aspects of the business of the Hematite Group and providing support for the plant and corporate offices of the Hematite Group. It is anticipated that 7 to 10 employees of Woodbridge will be involved in providing the Services commencing immediately.
16. The Monitor further understands that the compensation for the consulting services provided by Woodbridge to the Hematite Group are a fixed monthly amount of \$100,000 plus applicable taxes, of which \$75,000 shall be paid in advance on the first day of each month,

and with the balance of \$25,000 being deferred until the implementation of the CCAA Plan.

17. Overall, during the early stages of this restructuring the Monitor believes that the Applicants have been managing their operations and their entry into these CCAA Proceedings effectively.

VII. CHAPTER 15 PROCEEDINGS

18. In accordance with the Initial Order and as advised in the Pre-Filing Report, on September 22, 2020 Hematite Holdings in its capacity as foreign representative for the Applicants filed petitions for relief under Chapter 15 of the Bankruptcy Code in the United States Bankruptcy Court, District of Delaware (the “**US Court**”). These filings commenced the Chapter 15 Proceedings as proceedings ancillary to those pending in this Court. In addition to the petitions, Hematite Holdings filed certain motions for provisional and ancillary relief (the “**First Day Motions**”).
19. On September 23, 2020, the First Day Motions came on for a hearing before the Honourable Judge Walrath, who granted the orders sought. In particular, orders were granted:
 - (a) authorizing the joint administration of the Chapter 15 cases of all of the Applicants;
 - (b) provisionally recognizing and enforcing the Initial Order under Chapter 15 of the Bankruptcy Code, including the provisions approving the DIP Facility and the DIP Lender’s Charge, and providing that the automatic stays arising under the Bankruptcy Code apply to the Applicants;
 - (c) scheduling a hearing on the provisional recognition and enforcement of the proposed Amended and Restated Initial Order for October 1, 2020; and,
 - (d) scheduling a final hearing on the recognition of the Initial Order and the CCAA Proceedings for October 19, 2020 and setting certain deadlines for objection;

20. Copies of the materials filed and orders made in the Chapter 15 Proceedings will be made available on the Monitor's Website.

VIII. STAY EXTENSION

21. Under the Initial Order, the stay expires on September 28, 2020. The Applicants are currently requesting an extension of the Stay Period to November 27, 2020.
22. The Monitor is of the view that the requested extension of the Stay Period is appropriate for the following reasons:
 - (a) the Applicants have been focussed on maintaining stability in their business since the date of the Initial Order and have succeeded in avoiding any disruptions to their ongoing operations thus far;
 - (b) the Applicants continue to benefit from the customer support and consent agreements which are in place with their key OEM customers;
 - (c) the Applicants continue to benefit from the support of Woodbridge as proposed plan sponsor and the cooperative arrangements in place with their key secured creditors Toronto-Dominion Bank (“**TD**”) and BDC Capital Inc. (“**BDC**”); and,
 - (d) based on the Cash Flow Forecast and with the financing provided under the DIP Facility, if the increase in permitted borrowing sought by the Applicants is approved by this Court, the Applicants are projected to have sufficient liquidity to operate during the proposed extension of the Stay Period.
23. Extending the Stay Period to November 27, 2020 should allow the Applicants time to commence and progress a claims process, develop a plan of arrangement and engage with stakeholders. Further, the Monitor notes that the milestones established for these steps in the Plan Sponsor Agreement between Hematite and Woodbridge require them to be significantly progressed over this period of time.

IX. DIP FACILITY INCREASE

24. The Cash Flow Forecast projects borrowings after the Initial Stay Period (after September 28, 2020) that exceed the Interim DIP Facility Limit. As set out in the Pre-Filing Report and based on the Cash Flow Forecast, the Monitor remains of the view that borrowings under the DIP Facility up to the maximum principal amount of \$6.0 million are necessary and appropriate to ensure that the Applicants have sufficient liquidity to maintain their operations over the proposed extension of the Stay Period.
25. Based on the Applicants' operations to the date of this First Report, the Monitor believes that access to the full amount of the DIP Facility will be required to ensure that the Applicants have the wherewithal to pursue a restructuring and give suppliers and customers confidence in their ongoing dealings with the Company.
26. The Monitor is of the further view that the Cash Flow Forecast and the need for the full amount of the DIP Facility which it implies remains consistent with and reflects the probable and hypothetical assumptions which it sets out. Nothing has come to the Monitor's attention that would cause it to believe that the probable and hypothetical assumptions applicable to the Cash Flow Forecast do not continue to be suitably supported and consistent with the restructuring plans of the Applicants or do not provide a reasonable basis for the Cash Flow Forecast.
27. The Monitor notes that the Applicants, with the support of Woodbridge, continue to benefit from the support of their major creditors and stakeholders, including their senior secured creditors, major customers and significant suppliers. In particular, the Monitor notes that both TD and BDC are on notice of and do not object to the increase to the amounts secured by the DIP Lender's Charge. The Monitor is therefore of the view that the increase of the DIP Facility and the amounts secured by the DIP Lender's Charge to \$6.0 million should enhance the prospects that a viable restructuring will emerge.
28. As set out in the Nadeau Comeback Affidavit and the draft Amended and Restated Initial Order, the Applicants also seek to have the DIP Lender's Charge elevated such that it enjoys priority over the claims of equipment lessors, parties who may have purchase-

money security interests and claims under statutory deemed trusts and liens, including the claims of municipalities or local governments for property taxes and utilities (the “**Potential Priority Claimants**”).

29. The Monitor is advised by the Applicants that the Potential Priority Claimants whose interests are recorded in public registry systems have been given notice of the Comeback Motion by way of a letter describing the relief being sought with respect to the Charges. The Monitor is further advised by the Applicants that Her Majesty in Right of Ontario, Her Majesty in Right of Canada and municipal authorities where the Applicants own real estate have also been given such notice of the Comeback Motion.
30. Based on the foregoing, the Monitor believes that the increase of the borrowings permitted under the DIP Loan Agreement and secured by the DIP Lender’s Charge to \$6.0 million and the granting of priority for the DIP Lender’s Charge over the Potential Priority Claimants are appropriate in the circumstances.

X. DIRECTORS’ AND ADMINISTRATIVE CHARGE INCREASES

31. The Initial Order provides for a charge in the maximum aggregate amount of \$300,000 to indemnify the current director and officer of the Applicants (the “**Director and Officer**”) against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of these CCAA proceedings (the “**Directors’ Charge**”).
32. As set out in the Pre-Filing Report, the Monitor understands that the Applicants maintain little or no directors’ and officers’ liability insurance and is not aware that any such coverage is available to the Applicants in present circumstances at a reasonable cost. The Monitor continues to be of the view that the Applicants’ sole director and officer is unwilling to continue his services and involvement in the CCAA Proceedings without the protection of the Directors’ Charge and that his participation is necessary to facilitate the successful completion of the CCAA Proceedings, including participation in the formulation of a Plan.

33. Taking into consideration sales taxes, employee payroll and related expenses (including source deductions) as well as other employment-related liabilities that attract potential liability for the Director and Officer and the quantum of these potential liabilities over the period of the Cash Flow Forecast, the Monitor is of the view that it is appropriate to increase the amount of the Directors' Charge from the \$300,000 provided under the Initial Order for the Initial Stay Period to \$500,000.
34. The Initial Order also provides for a charge in the maximum aggregate amount of \$250,000 charging the assets of the Applicants to secure the fees and disbursements incurred in connection with services rendered to the Applicants both before and after the commencement of the CCAA proceedings by the following entities: the Monitor, the Monitor's legal counsel, and legal counsel to the Applicants (the "**Administration Charge**").
35. In consultation with the DIP Lender and the Applicants and based on the projected fees and disbursements incurred and to be incurred for services rendered to the Applicants, the Monitor is of the view that it is appropriate to increase the amount of the Administration Charge to \$500,000.
36. Consistent with the treatment of the DIP Lender's Charge, in the draft Amended and Restated Initial Order the Applicants also seek to give the Directors' Charge and the Administration Charge priority over the Potential Priority Claimants
37. As noted above in relation to the relief sought concerning the DIP Facility and the DIP Lender's Charge, the Monitor understands that notice of the Comeback Motion and the contemplated increases in the quantum and priority of the Directors' Charge and the Administration Charge has been given to the Potential Priority Claimants and that no objections have been received.

XI. RESTRUCTURING POWERS

38. The draft Amended and Restated Initial Order sought by the Applicants includes provisions that are typical in restructurings under the CCAA, authorizing the Applicants to take

specified actions (“**Restructuring Powers**”). The Restructuring Powers the Applicants seek to add include authority to:

- (a) prepare a plan of compromise and arrangement;
 - (b) restructure their operations; and,
 - (c) deal with leased premises.
39. As specifically set out in the draft Amended and Restated Initial Order and consistent with practice, certain of the foregoing Restructuring Powers are subject to the consent of the DIP Lender and/or the Monitor and to the Definitive Documents applicable to the DIP Facility.
40. In addition, the draft Amended and Restated Initial Order contemplates that the Applicants will be entitled but not required to pay amounts owing for goods or services actually supplied prior to the date of the Initial Order if such payment is required to ensure continued supply necessary for their ongoing operations. Payment of these pre-filing amounts is to be limited to an aggregate limit of \$700,000 and subject to the consent of the Monitor and the DIP Lender.
41. Given the nature of the Applicants’ position in the supply chain for the automotive industry the timely and reliable supply of goods and services is of extraordinary importance to their ability to serve their key customers and preserve their ongoing business. It is accordingly vital to the Applicants that they have the flexibility, in limited circumstances and subject to the controls noted, to make pay pre-filing amounts for goods and services where this is a practical necessity for ongoing supply. In seeking this power, the Applicants have advised the Monitor that they do not intend to pay pre-filing claims as a general practice.
42. The Monitor is of the view that the added Restructuring Powers are generally consistent with established practice. With respect to the provisions providing for limited payment of pre-filing amounts for goods and services where necessary for ongoing supply and operations, the Monitor is of the view that these provisions are reasonable to permit the Applicants to manage their supply chain in a practical fashion.

XII. MONITOR'S CONCLUSION AND RECOMMENDATIONS

43. Based on the Monitor's information and observations to date, the Applicants are acting with due diligence and good faith. As noted, if the requested increases to the DIP Facility are authorized the Applicants should have adequate liquidity to continue their operations and restructuring efforts over the Stay Period if it is extended. The Monitor accordingly supports the extension of the Stay Period requested.
44. For the reasons set out in this First Report, the Monitor is of the view that the balance of the relief requested by the Applicants in the Comeback Motion is also appropriate and reasonable. The Monitor is of the view that granting the relief requested will provide the Applicants the best opportunity to restructure under the CCAA, thereby preserving value for the benefit of the Applicants' stakeholders. As such, the Monitor supports the Applicants' requests set out in the proposed Amended and Restated Initial Order and respectfully recommends that the Court grant such relief on the terms sought.

All of which is respectfully submitted this 25th day of September, 2020.

KPMG Inc.
In its capacity as Monitor of
Hematite Group
And not in its personal or corporate capacity

Per:



Nick Brearton
CPA, CA, CIRP, LIT
President



Tim Montgomery
CIRP, LIT
Vice President

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: 20-00647824-00CL

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

Proceeding commenced at Toronto

**FIRST REPORT OF KPMG INC.,
IN ITS CAPACITY AS MONITOR OF THE
HEMATITE GROUP
SEPTEMBER 25, 2020**

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APPENDIX “B” – THE CLAIMS PROCEDURE ORDER



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

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

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
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.

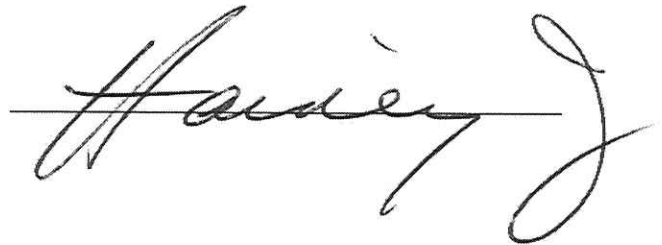
46. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Claims Procedure Order and for assistance in carrying out the terms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

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.**

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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

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

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")

PROOF OF CLAIM

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:¹

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.				

¹ 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”)

NOTICE OF REVISION OR DISALLOWANCE

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

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")

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

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:

Dated at _____ this _____ day of _____, 202__.

(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

Trevor Courtis LSO#: 67715A
Tel: 416-601-7643
Email: tcourtis@mccarthy.ca

Lawyers for the Applicants

DOC#: 20783419

APPENDIX “C” – THE MONITOR’S SECOND REPORT

Court File No.: 20-00647824-00CL

HEMATITE GROUP

**SECOND REPORT OF KPMG INC.,
IN ITS CAPACITY AS MONITOR**

October 9, 2020

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Court File No.: 20-00647824-00CL

**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 "Hematite Group")**

Applicants

**SECOND REPORT OF KPMG INC.
In its capacity as Monitor of the Applicants**

October 9, 2020

I. INTRODUCTION

1. On September 18, 2020, Hematite Holdings Inc. (“**Hematite Holdings**”) and the other Applicants (together, the “**Hematite Group**”, the “**Company**” or the “**Applicants**”) were granted relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) by Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). The relief granted under the Initial Order included a stay of proceedings in favour of the Applicants and a limited stay of proceedings in favour of their affiliate Hematite R.E. 1, Inc. for cross-defaults, from September 18, 2020 until September 28, 2020 (the “**Stay Period**”); the appointment of KPMG Inc. as Monitor (“**KPMG**” or the “**Monitor**”); and other related relief. The Applicants’ CCAA proceedings are referred to herein as the “**CCAA Proceedings**”.
2. On September 28, 2020, the Hematite Group was granted additional relief under the CCAA by Order (the “**Amended and Restated Initial Order**”) of the Court. The relief granted under the Amended and Restated Initial Order included, among other items; an extension of the Stay Period to November 27, 2020; an increase in the maximum borrowings permitted under the DIP Loan Agreement and secured under the DIP Lender’s Charge to \$6.0 million; an increase of the maximum amount of the Director’s Charge to \$500,000; and an increase of the maximum amount of the Administrative Charge to \$500,000. Capitalized terms used but not defined in this report are as defined in the Amended and Restated Initial Order.

II. PURPOSE OF REPORT

3. The purpose of this report (the “**Second Report**”) is to provide information to this Honourable Court pertaining to:
 - (a) the Applicants’ request for an order (the “**Claims Procedure Order**”) approving the Claims Procedure (as defined herein), including the establishment of a claims bar date for creditors to file proofs of claim;

- (b) the Applicants' proceedings under Chapter 15 of Title 11 of the United States Code (the "**Chapter 15 Proceedings**" and the "**Bankruptcy Code**", respectively); and
- (c) the Monitor's conclusions and recommendations.

III. TERMS OF REFERENCE

4. In preparing this Second Report, the Monitor has relied solely on information and documents provided by the Applicants and their advisors, including unaudited financial information, books and records and financial information prepared by the Applicants and discussions with management ("**Management**") (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in this Second Report, KPMG has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
5. Future orientated financial information contained in any Cash Flow Forecast or other statement is based on the Applicants' estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Monitor expresses no assurance as to whether any Cash Flow Forecast or other projection will be achieved
6. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.
7. Words and phrases not otherwise defined in this Second Report shall have the meaning ascribed to them in the draft Claims Procedure Order included in the Applicant's Motion Record.

8. Copies of the Monitor's Reports, including a copy of this Second Report, and all motion records and Orders in the CCAA Proceedings will be available on the Monitor's website at www.home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/hematite-group.html. The Monitor has also established a toll-free phone number that is referenced on the Monitor's website so that parties may contact the Monitor if they have questions with respect to the CCAA Proceedings.

IV. CLAIMS PROCEDURE

Overview

9. The Applicants are seeking this Court's approval of the Claims Procedure Order.
10. The Claims Procedure Order sets out the proposed claims procedure (the "**Claims Procedure**") allowing the creditors of the Applicants to formally file certain Claims (as defined in the Claims Procedure Order), including:
 - (a) 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) ("**Pre-Filing Claims**").

- (b) 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 ("**Restructuring Claims**");
- (c) claims 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 except Claims covered by subsection 5.1(2) of the CCAA. (“**D&O Claims**”);

- (d) 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 (“**D&O Restructuring Claims**”).
11. The Claims Procedure Order sets 5:00 p.m. (Toronto Time) on November 9, 2020 as the claims bar date (the “**Pre-Filing Claims Bar Date**”) with respect to the filing of any Pre-Filing Claims and D&O Claims (other than D&O Restructuring Claims).
 12. The Claims Procedure Order also provides for a claims bar date in respect of Restructuring Claims (the “**Restructuring Claims Bar Date**”). The Restructuring Claims Bar Date is set as the later of:
 - (a) 5:00 p.m. (Toronto Time) on November 9, 2020; and
 - (b) the date that is 21 days after the date on the Monitor sends a Claims Package with respect to a Restructuring Claim.
 13. The Monitor understands that the Applicants intend to make decisions about contract disclaimers in sufficient time to provide counterparties with an opportunity to file Proofs of Claim with respect to any related Restructuring Claims before any meeting of creditors is convened to consider a Plan.
 14. Certain Claims are not required to be proven at this stage of the CCAA Proceedings pursuant to the Claims Procedure (the “**Excluded Claims**”). The Excluded Claims include:

- (a) 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;
 - (b) any claim by Woodbridge Foam Corporation (“**Woodbridge**”) or its affiliates, including, without limitation, pursuant to, or related to:
 - (i) the Assignment and Assumption Agreement dated September 21, 2020 between The Toronto-Dominion Bank, Woodbridge and certain of the Applicants, among others;
 - (ii) the Plan Sponsor Agreement dated September 17, 2020 between Woodbridge and the Applicants, among others; or
 - (iii) the Revolving DIP Loan Agreement dated September 17, 2020 between Woodbridge and the Applicants;
 - (c) 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;
 - (d) claims secured by any of the Charges (as defined in the Amended and Restated Initial Order);
 - (e) any claim by any of the Applicants against one or more of the other Applicants; and
 - (f) 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.
15. The Plan Sponsor Agreement between Woodbridge and Hematite requires that the Applicants seek an Order calling a meeting of creditors and authorizing the filing of a Plan

by November 18, 2020. These timelines require that claims be determined in sufficient time to formulate a Plan and the Applicants have therefore proposed November 9, 2020 as the Pre-Filing Claims Bar Date.

16. In the circumstances, the Monitor believes the Pre-Filing Claims Bar Date and the Restructuring Claims Bar Date are reasonable in that they provide sufficient time during which potential claimants may evaluate and submit any Claim they may have against the Applicants and their Directors or Officers while adhering to the milestones in the Plan Sponsor Agreement.

Notice to Claimants

17. The Monitor shall send a Proof of Claim form, Notice to Claimants, the Instruction Letter, and any other documentation the Applicants, in consultation with the Monitor, deem appropriate (together the “**Claims Package**”), substantially in the forms attached as schedules to the Claims Procedure Order, 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 following the issuance of the Claims Procedure Order.
18. To the extent possible, documents delivered under the Claims Procedure will be sent electronically in order to expedite their receipt by Creditors.
19. The Monitor shall cause the Notice to Claimants to be placed in *The Globe and Mail* (National Edition) and USA Today (National Edition) for at least one business day no later than October 20, 2020 following the issuance of the Claims Procedure Order.
20. The Monitor will 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 Woodbridge, deem appropriate.
21. The Monitor shall cause the Claims Package, including the Notice to Claimants, and the Claims Procedure Order to be posted on the Monitor’s Website as soon as reasonably

possible after the Claims Procedure Order has been approved by this Court, should it see fit to do so. Upon request by a Claimant for a Claims Package 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 copy of the Claims Package, direct such person to the documents posted on the Monitor's website or otherwise respond to such request as the Monitor considers appropriate in the circumstances.

22. With respect to the Restructuring Claims, the Monitor shall send a Claims Package to the counterparty(ies) to any lease, contract, other agreement or obligation 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 or other agreement or obligation.

Proofs of Claim

23. Any Claimant wishing to assert a Claim must deliver to the Monitor a completed Proof of Claim, including all relevant supporting documentation, on or before the Pre-Filing Claims Bar Date or the Restructuring Claims Bar Date, as applicable.
24. Any Claimant who does not file a completed Proof of Claim in accordance with the Claims Procedure shall be forever barred from asserting or enforcing such Claims against any of the Applicants and/or their Directors and Officers and not be permitted to vote at any Meeting or participate in any distribution under any Plan relating to such Claims.

Adjudication of Claims

25. Any Claims denominated in a currency other than Canadian dollars shall be converted to and shall constitute obligations in Canadian dollars, such conversion to be affected using the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Filing Date.
26. 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 and shall accept, revise or disallow the amount of each Claim for voting and/or distribution

purposes. If the Monitor, determines to revise or disallow a Claim, the Monitor shall deliver to the Claimant a Notice of Revision or Disallowance, substantially in the form attached as a schedule to the Claims Procedure Order.

27. Any Claimant who intends to dispute a Notice of Revision or Disallowance 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.
28. 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. In the event that the disputed Claim cannot be resolved, the Monitor will either submit the dispute to a Claims Officer or the Court for determination. A Claims Officer may be appointed by mutual agreement between the affected Claimant and the Applicants, in consultation with the Monitor, or the Court.
29. If a disputed Claim is referred to a Claims Officer, the Claims Officer will be empowered to determine all procedural matters which may arise in connection with his determination of the validity, amount and/or Status of the disputed Claim.

Appeals from Claims Officer Determination

30. Either the Applicants or the Claimant may, within 10 business days of notification of a Claims Officer's determination with respect to a disputed Claim, appeal such determination to the Court by filing a notice of motion.

Notice to Transferees

31. If after the Filing Date a Claim is transferred or assigned, 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.

32. If a Claim is transferred or assigned to more than one party, 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.
33. Overall, the Monitor is of the view that the Claims Procedure will afford a fair and reasonable opportunity for all Creditors with Claims against the Hematite Group to file and prove their Claims while adhering to the necessary milestones required by the Plan Sponsor Agreement.

V. CHAPTER 15 PROCEEDINGS

34. Following the issuance of the Amended and Restated Initial Order by this Court, on September 29, 2020, Hematite filed a motion seeking certain further provisional relief, including provisional recognition and enforcement of the Amended and Restated Initial Order in the United States pending the final recognition hearing, and a motion seeking to shorten the usual notice and objection periods for that motion.
35. On October 1, 2020, the Honourable Judge Walrath of the U.S. Court issued an Order Granting Additional Provisional Relief which (a) authorized the Debtor to obtain credit under the DIP Facility in the amount of CAD \$6,000,000 and granting to the DIP Lender and the DIP Lender Charge to authorize the Debtors to enter into, perform and borrow under the DIP Facility, (b) stayed the commencement or continuation of any actions against the Debtors and their assets, (c) imposed a stay with respect to Claims or actions against the Debtors’ Directors and Officers or their assets and (d) granted the Directors’ Charge and Administration Charge. No objections were raised with respect to the provisional relief sought by Hematite.

36. A final hearing on the petitions for recognition has been scheduled for October 19, 2020 before the U.S. Court. The Applicants are required to provide 21 days' notice of the hearing to all known creditors. On September 25, 2020, the Notice of Filing and Hearing on Verified Petition of Foreign Main Proceeding and Related Relief was sent to all known creditors of Hematite in the United States.
37. Given the timing and the notice requirements under the Bankruptcy Code, the Applicants do not intend to seek specific recognition of the Claims Procedure Order made by this Court in advance of the Pre-Filing Claims Bar Date. The Applicants intend to file a notice of the Claims Procedure Order with the U.S. Court as soon as practicable following its issuance by this Court. Based on the advice of the Applicants' U.S. counsel, the Monitor understands that the Applicants intend to seek recognition of the Claims Procedure Order at the same time as they seek recognition of any plan sanction order issued by the Court in these proceedings, assuming a Plan is accepted by the requisite creditors and approved by this Court.
38. Copies of the materials filed and orders made in the Chapter 15 Proceedings are available on the Monitor's Website.

VI. MONITOR'S CONCLUSION AND RECOMMENDATIONS

39. The Applicants are seeking this Court's approval of the Claims Procedure Order setting out the Claims Procedure.
40. In the Monitor's view, the Claims Procedure balances the need to fairly ascertain and quantify the Claims against the Applicants with the need to meet the timelines prescribed in the Plan Sponsor Agreement and expeditiously determine the relevant Claims. The Monitor is of the view that the Claims Procedure, as set out herein, is fair and reasonable in the circumstances.

All of which is respectfully submitted this 9th day of October 2020.

KPMG Inc.
In its capacity as Monitor of
Hematite Group
And not in its personal or corporate capacity

Per:



Nick Brearton
CPA, CA, CIRP, LIT
President



Tim Montgomery
CIRP, LIT
Vice President

Court File No: 20-00647824-00CL

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.
(collectively "**Hematite Group**")

Applicants

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

Proceeding commenced at Toronto

**SECOND REPORT OF KPMG INC.,
IN ITS CAPACITY AS MONITOR OF
THE HEMATITE GROUP**

OCTOBER 9, 2020

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Lawyers for the Monitor, KPMG Inc.

APPENDIX “D” – UPDATED CASH FLOW FORECAST

Hematite Group										
Weekly Cash Flow Forecast for the 8-week period November 7, 2020 to January 1, 2021										
in \$CAD										
	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	
	1	2	3	4	5	6	7	8		
Week Ending	13-Nov-20	20-Nov-20	27-Nov-20	4-Dec-20	11-Dec-20	18-Dec-20	25-Dec-20	1-Jan-21		Total
Cash Receipts										
Accounts receivable	3,604,317	808,341	1,085,541	2,270,129	1,663,803	4,004,656	1,116,776	1,074,615		15,628,178
Other Receipts	-	-	35,000	-	-	-	-	-		35,000
Total Receipts	3,604,317	808,341	1,120,541	2,270,129	1,663,803	4,004,656	1,116,776	1,074,615		15,663,178
Cash Disbursements										
Inventory purchases	1,080,726	1,080,726	971,908	971,908	971,908	109,546	109,546	926,977		6,223,243
Other operating expenses	362,075	245,967	137,095	393,019	110,335	190,903	122,652	166,374		1,728,420
Tooling expense	94,250	94,250	190,438	-	-	-	-	-		378,938
Payroll and benefits	297,346	475,768	388,243	471,548	319,568	899,577	336,136	387,348		3,575,534
Equipment and auto leases	40,667	140,223	62,774	317,448	33,486	154,287	63,900	289,178		1,101,963
Tax remittances	168,726	6,329	52,018	80,048	15,917	169,212	4,000	215,917		712,168
Capital expenditures	30,000	182,000	446,083	106,920	89,760	667,852	257,000	-		1,779,615
Other expenses	5,000	5,000	5,000	10,000	5,000	55,000	5,000	5,000		95,000
Interest and other bank charges	-	-	-	73,973	-	-	-	76,438		150,411
Professional fees	116,309	121,758	180,071	167,786	25,000	351,805	290,000	296,143		1,548,873
Total Disbursements	2,195,098	2,352,021	2,433,631	2,592,650	1,570,974	2,598,182	1,188,233	2,363,375		17,294,164
Net Cash Flow	1,409,218	(1,543,680)	(1,313,090)	(322,521)	92,829	1,406,475	(71,457)	(1,288,760)		(1,630,986)
Opening Cash	575,945	2,940,163	1,396,483	411,288	88,767	181,596	1,588,070	1,516,613		575,945
Net Cash Flow	1,409,218	(1,543,680)	(1,313,090)	(322,521)	92,829	1,406,475	(71,457)	(1,288,760)		(1,630,986)
DIP Loan Draw (Repayment)	955,000	-	327,895	-	-	-	-	-		1,282,895
Closing Cash	2,940,163	1,396,483	411,288	88,767	181,596	1,588,070	1,516,613	227,853		227,853
Opening DIP Loan Balance	(4,717,105)	(5,672,105)	(5,672,105)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)		(4,717,105)
DIP Draw	(955,000)	-	(327,895)	-	-	-	-	-		(1,282,895)
Closing DIP Loan Balance	(5,672,105)	(5,672,105)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)		(6,000,000)

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:

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

Proceeding commenced at Toronto

**THIRD REPORT OF THE MONITOR
KPMG INC.
DATED NOVEMBER 16, 2020**

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CERTIFICATE OF SERVICE

I, Christopher A. Lewis, certify that I am not less than 18 years of age, and that on December 1, 2020, a copy of the foregoing document was electronically filed via CM/ECF and served via CM/ECF upon all parties registered to receive CM/ECF notices in these cases, and I caused copies to be served upon the persons listed on the attached service list via overnight courier and/or electronic mail, as indicated thereon.

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: December 1, 2020

/s/ Christopher A. Lewis

Christopher A. Lewis

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