

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-057716-199

SUPERIOR COURT

Commercial Division

IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT OF:

NMX RESIDUAL ASSETS INC.

- and -

NMX RESIDUAL LIABILITIES INC.

Debtors

- and -

PRICEWATERHOUSECOOPERS INC.

Monitor

APPLICATION FOR THE ISSUANCE OF
AN ORDER EXTENDING THE STAY PERIOD
(Sections 11.02(2) of the *Companies' Creditors Arrangement Act*)

TO ONE OF THE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, THE MONITOR, ACTING ON BEHALF OF THE DEBTORS RESPECTFULLY SUBMITS THE FOLLOWING:

1. ORDER SOUGHT

1. By the present application (the “**Application**”), the Monitor, acting on behalf of the Debtors, NMX Residual Assets Inc. and NMX Residual Liabilities Inc. (“**NMX**”), requests an extension of the Stay Period (as defined below) to March 14, 2025, in accordance with the terms of the proposed extension order (the “**Extension Order**”), communicated herewith as **Exhibit R-1**.
2. Capitalized terms not defined herein shall have the meanings ascribed thereto in the Initial Order (as defined below).

2. PROCEDURAL BACKGROUND AND UPDATE SINCE LAST EXTENSION

A. Initial Order

3. On December 23, 2019, the Court issued an Initial Order under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”), which was later amended and restated on January 7, 2020, February 13, 2020 and October 15, 2020 (the “**Initial Order**”).
4. Pursuant to the Initial Order, all claims against the Debtors and Nemaska Lithium Inc., Nemaska Lithium Shawinigan Transformation Inc., Nemaska Lithium P1P Inc., Nemaska Lithium Whabouchi Mine Inc. and/or Nemaska Lithium Innovation Inc. as those corporations existed prior to their amalgamation on November 26, 2020 and November 30, 2020 (the “**Former Debtors**” or

“**Nemaska**”) and their properties were stayed until January 7, 2020 (the “**Stay Period**”). Since then, the Stay Period has been extended on several occasions, and most recently, until September 11, 2024.

B. The SISP and RVO

5. On January 29, 2020, this Court granted the following orders:
 - a) an order approving a claims process (the “**Claims Process**”); and
 - b) an order approving the conduct of a sale and investment solicitation process in respect of the Debtors.
6. On August 23, 2020, the Debtors accepted a sale proposal submitted by (i) Investissement Québec (“**IQ**”), (ii) The Pallinghurst Group (acting through Quebec Lithium Partners (UK) Limited, and together with IQ, the “**Purchasers**”), (iii) OMF Fund II (K) Ltd. and OMF Fund II (N) Ltd. (and (iv) OMF (Cayman) Co-VII Ltd., which proposal was structured as a credit bid.
7. On October 15, 2020, the Court issued, what has been described in these proceedings, as a Reverse Approval and Vesting Order (the “**RVO**”), which, among other things approved the purchase and sale and other transactions contemplated in the share purchase agreement.

C. The Cantore Real Rights Application

8. As explained in detail in previous applications, in September 2020, Mr. Victor Cantore filed a *Real Rights Application* (as amended on several occasions, the “**RRA**”) in which he asserted the existence of a royalty (the “**Cantore Royalty**”) that attached to the Wabouchi property as a real right, that could not be purged by a CCAA vesting order, and in particular, the RVO.
9. On September 11, 2023, the Honourable David R. Collier, J.S.C. issued a judgment on the RRA which, among other things (i) dismissed the RRA, (ii) ruled that Mr. Cantore never had a real right, and (iii) declared that Nemaska owned and holds its property free and clear of the Cantore Royalty.
10. Mr. Cantore did not appeal this judgment.

D. Distribution to Secured Creditors

11. On December 9, 2022, the Monitor filed an *Application for the Issuance of an Order Approving a Distribution to Secured Creditors* (the “**Distribution Application**”), pursuant to which it requested an order approving a distribution by NMX, to the holders of a legal hypothec and to other secured creditors of NMX (collectively, the “**Secured Creditors**”).
12. Following the dismissal of the RRA, as described above, the Monitor immediately sought to schedule a hearing on the Distribution Application, however Mr. Cantore informed the Monitor’s counsel that it required additional information and documentation in order to determine whether or not he intended to contest the Distribution Application.
13. Mr. Cantore also insisted that the Monitor provide a legal opinion from its counsel regarding the validity of these claims, and filed a notice for a case management hearing, in order to seek the disclosure of a series of documents and information from the Monitor, including, without limitation, a copy of the legal opinion.
14. A case management conference was held February 28, 2024, at the request of Mr. Cantore, and it was ultimately determined that there was no need to proceed on the requests, since the Monitor was intending on filing a detailed report in anticipation of the hearing on the Distribution Application.

15. On March 26, 2024, the Monitor filed the *Twenty-Third Monitor's Report*, which outlined the analysis undertaken by the Monitor and its counsel of each of the claims filed by the Secured Creditors, and the basis on which these claims had been accepted as secured claims.
16. On April 22, 2024, Justice Collier wrote to the parties to confirm "*that a case management conference, or a decision of the Court, is not required in respect of the issues raised in Mtre Maniatis' April 15 letter*" and that the hearing on the Distribution Application would proceed, as planned, on June 6, 2024, before the Honourable Karen Rogers, J.SC.
17. On May 17, 2024, Mr. Cantore filed a formal Contestation and Cross-Application of the Distribution Application.
18. As a result of this contestation, Justice Rogers asked the parties to complete a joint declaration and to submit by May 27, 2024 written submissions on the issues raised as a result of Mr. Cantore's Contestation and Cross-Application.
19. On June 3, 2024, the Court held a case management hearing, the initial purpose of which was to discuss the joint declaration, which the parties could not agree on. During this hearing, it became clear that the Cantore Contestation and Cross-Application would take far more than the 1-day hearing that had been scheduled for several months now, such that certain of the Secured Creditors suggested that the parties start with their submissions that the Cantore Contestation and Cross-Application should be dismissed pursuant to Section 11 of the CCAA. The Court agreed and reserved the date of June 6, 2024 for these submissions.
20. The hearing of June 6, 2024 took the full day as expected, with the Court ultimately concluding, in its June 12, 2024 judgment, communicated herewith as **Exhibit R-2**, that Mr. Cantore's Contestation and Cross-Application should be dismissed.
21. On June 18, 2024, the Debtors and the Monitor proceeded with the hearing on the Distribution Application, which was granted, with the Court ordering and declaring, among other things, "*that the payment of the Distributions to the Recipients in accordance with this Order is hereby authorized and approved and that this Order shall constitute the only authorization or approval required by the Monitor to proceed with the Distributions.*" A copy of the Distribution Order dated June 19, 2024, is communicated herewith as **Exhibit R-3**.
22. Mr. Cantore sought leave to appeal from both judgments, which appeal application was dismissed on July 18, 2024, by the Honourable Stéphane Sansfaçon, J.A. A copy of the Court of Appeal judgment is attached hereto as **Exhibit R-4**.
23. As a result, and in accordance with the Distribution Order, the Monitor has now proceeded with a distribution of a total amount of \$8,129,010.63 to the Secured Creditors.
24. In addition to the foregoing, on July 19, 2024, certain of these Secured Creditors filed an application for payment of interest (*Requête conjointe en jugement déclaratoire des créanciers garantis visant à faire reconnaître leur droit de réclamer les intérêts accus sur leurs créances garantis*, the "**Application for the Payment of Interest**"), seeking the payment of interest totalling approximately \$2,385,974.67. The parties have agreed to the following next steps in the adjudication of this application:

Next Steps	Deadline
Notification and production of sworn affidavits by the applicants/secured creditors	September 16, 2024
Notification of the Monitor's contestation	September 30, 2024
Notification of a contestation by any other interested party	October 14, 2024
Notification and filing of the joint declaration	October 21, 2024

25. The parties will return to Court on October 21st, 2024, in order to fix a date for a hearing on the merits of this Application for the Payment of Interest.

E. Adjudication of Mr. Cantore's Claims

26. On March 18, 2024, the Monitor issued an Amended Notice of Revision or Disallowance of a Claim in regards to the five claims filed by Mr. Victor Cantore, which ranged from \$86,298,627 and \$103,995,846. Four of these claims had already been revised by the Monitor at \$0, and one claim, against Nemaska Lithium Whabouchi was revised at \$8,160,000.¹ The amendment now revises each of these claims to \$0.

27. In response, on March 28, 2024, Mr. Victor Cantore filed the following:

- a *De Bene Esse Application to Appeal from the Monitor's New Revision Notice* (the "**Cantore Appeal Application**"); and
- an *Application to Strike, Dismiss and Set Aside the Monitor's New Revision Notice and for Related Relief* (the "**Cantore Application to Strike**"), in which he sought (i) to set aside the Amended Revision Notice, (ii) a personal condemnation against the Monitor and the Debtors.

28. On April 8, 2024, the Monitor filed an *Application to Enforce the Stay of Proceedings and Partially Strike and Dismiss Victor Cantore's Application to Strike* (the "**Application to Enforce the Stay**"), in which the Monitor sought to dismiss the conclusions of the Cantore Application to Strike that sought to undermine the CCAA Initial Order notably, by requesting (i) a personal condemnation against the Monitor, and (ii) an order preventing the Debtors from paying any legal fees to the Monitor and its counsel.

29. In response, Mr. Cantore amended the Cantore Application to Strike on April 15, 2024 (the "**Modified Cantore Application to Strike**"), in order to contest that a lifting of the stay is necessary, while also asking permission to lift the stay of proceedings, in the event that it was required.

¹ On October 22, 2020, the Monitor sent an initial Notice of Revision and Disallowance to Mr. Cantore, valuing his royalty claim against Nemaska Lithium Whabouchi Mine Inc. (Claim No. 4), at \$8,160,000 (the "**Initial Notice of Revision**"). All other claims filed by Mr. Cantore against the other Former Debtors were valued at \$0.

30. A hearing took place on June 26 and 27, 2024, before the Honourable Martin F. Sheehan, J.S.C., who ultimately:
 - a) Dismissed the Modified Cantore Application to Strike, the whole with costs against Mr. Cantore, on a party-to-party basis; and
 - b) Ordered that Mr. Cantore's appeal of the Revision Notice may proceed as an appeal *de novo* and that both the Monitor and Mr. Cantore can file additional evidence.

A copy of the judgment dated July 11, 2024 is attached hereto as **Exhibit R-5**.

31. The Monitor intends to file a bill of costs shortly in connection with the July 11, 2024 judgment (Exhibit R-5).
32. On August 20, 2024, the Former D&Os filed a *De Bene Esse Declaration of Voluntary Intervention for Aggressive Purposes* in connection with the appeal of the Monitor's disallowance of Mr. Cantore's claim. On August 29, 2024, Mr. Cantore filed an opposition to this intervention.
33. The next step is for the parties to finalize a litigation schedule leading up to the hearing of Mr. Cantore's appeal of the revision notice, which timetable includes the following steps:
 - a) Filing by Mr. Cantore of an amended Appeal Application, with exhibits, including expert reports;
 - b) Filing of a Contestation by the Monitor/Debtors and the Former D&Os, with exhibits, including expert reports;
 - c) Document and information requests and responses thereto;
 - d) Filing of a joint declaration, which the parties expect will be done by December 13, 2024.

F. Shenker and Cantore Claims

34. As previously mentioned in the last extension stay applications, the following claims and motions have also been filed, among others:
 - a) On January 28, 2021, the Shenker Group filed an application entitled *Application seeking a declaration that the Applicants' Claims against the Former Directors and Officer of Nemaska Lithium Inc. Shall not be Adjudicated in the Claims Process, to Confirm such Claims are not Stayed, and Subsidiarily to Lift the Stay* (the "**Shenker Stay Application**").
 - b) On June 22, 2021, Cantore filed an Application for declaratory relief requesting that his action against the Former D&Os be adjudicated outside of the CCAA proceedings (the "**Cantore Stay Application**", together with the Shenker Stay Application, the "**Stay Applications**").
 - c) On March 21, 2024, counsel to the Former D&Os filed an *Modified Application to Enforce a Court-Ordered Release which Forms Integral Part of the Approval and Vesting Order dated October 15, 2022* (the "**Former D&Os Release Application**").
 - d) On March 21, 2024, the Former D&Os filed a *Modified Application to Dismiss the Respondent's [Cantore] Originating Application and his Application to Appeal from the Monitor's revision or Disallowance of a Claim* (the "**Former D&Os Application to Dismiss the Cantore Claim**").

- e) On November 15, 2023, Intact filed an application entitled *Application to Dismiss Victor Cantore's Originating Application dated April 20, 2021*² (the “**Intact Application to Dismiss the Cantore Claim**”, together with the Former D&Os Application to Dismiss the Cantore Claim, the “**Applications to Dismiss the Cantore Claim**”).
- 35. On April 18, 2024, a case management hearing took place before the Honourable Michel A. Pinsonnault, J.C.S., following which the following declarations and recommendations were made, among others:
 - a) The parties will proceed initially with a hearing on the Stay Applications and the Former D&Os Release Application.
 - b) Recommendation that the judge who presides over the Stay Applications and the Former D&Os Release Application, also hear in a second and subsequent phase, the Applications to Dismiss the Cantore Claim.
- 36. The hearing on the Stay Applications and the Former D&Os Release Application was ultimately scheduled for August 27th and 28th, 2024.
- 37. On August 2, 2024, counsel to the Former D&Os filed a Re-Modified Release Application, and on August 20, 2024, an application entitled *Demande des anciens administrateurs et dirigeants pour permission de modifier la Modified Application to Enforce a Court-Ordered Release Which Forms Integral Part of the Approval and Vesting Order dated October 15, 2020*. This application to amend is contested by Mr. Cantore.
- 38. On August 22, 2024, a case management conference took place before the Honourable Martin Castonguay, J.S.C., during which time it was determined that: (i) the contestation of the modifications to the Former D&Os Release Application would be heard on August 26th, 2024, and (ii) the hearing originally scheduled on the Stay Applications and the Former D&Os Release Application, would be postponed to November 6, 7 and 8th, 2024.
- 39. The request to modify the Former D&Os Release Application is currently under advisement.

3. OVERVIEW OF NEXT STEPS

- 40. The Monitor has continued working on the determination of the quantum of certain unliquidated claims filed by creditors of the Former Debtors, including as follows:
 - a) There are ongoing settlement discussions with Eurodia, although it is anticipated that this claim will be fully and finally resolved shortly. This being said, the rights to proceed before a claims officer remain reserved by Eurodia.
 - b) On June 10, 2024, the Monitor and Technologie Anti-Corrosive T.A.C. Inc. entered into a settlement agreement, in which it was agreed that the proof of claim filed by TAC would be reduced from \$1,253,646 to \$150,000.
 - c) On August 8, 2024, the Monitor issued a Notice of Revision or Disallowance of a Claim to Metso Minerals Canada Inc. in connection with its restructuring claim filed in the amount of

² On April 20, 2021, Cantore filed an Originating Application against the Former D&Os for alleged damages amounting to \$81,298,627. This application was then amended, when Mr. Cantore filed on February 1, 2024, a First Modified Originating Application, notably, to remove allegations of wrongdoing by the Former D&Os of Nemaska for a breach of an undertaking to register an alleged real right and to remove allegations relating to any conduct of the Former D&Os during the CCAA proceedings.

\$461,312.95. It was agreed that Metso would have till September 6, 2024, to file its appeal application, if applicable, to this revision notice. Once this delay has passed, the parties will agree on a timetable for the adjudication of the claims currently under dispute.

41. Otherwise, the Monitor will also need to adjudicate the claims of Johnson Matthew Battery Materials, and as mentioned above, Mr. Victor Cantore.

4. GROUNDS FOR THIS APPLICATION

42. The Monitor, acting on behalf of the Debtors, hereby requests an extension of the Stay Period to March 14, 2025, in order to allow the Monitor to continue with the restructuring steps outlined above, the whole in an effort to maximize and proceed with the eventual distribution to the Former Debtors' creditors.

43. It is respectfully submitted that, at this stage, the continuation of the above-outlined process in the context of these proceedings constitutes the best option for the Former Debtors' stakeholders.

44. The Monitor is of the view that no creditor will suffer any undue prejudice by the extension of the Stay Period and that the extension sought is appropriate in the present circumstances.

45. This application is well-founded in fact and law.

WHEREFORE, MAY THIS COURT:

GRANT this Application for the Issuance of an Order Extending the Stay Period (the "**Application**");

ISSUE an order substantially in the form of the draft Order communicated in support of the Application as Exhibit R-1;

WITHOUT COSTS, save and except in case of contestation.

MONTRÉAL, September 4, 2024

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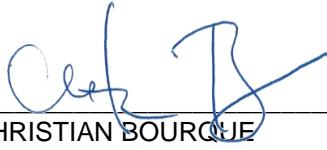
Attorneys for the Monitor
PRICEWATERHOUSECOOPERS INC.

SWORN STATEMENT

I, the undersigned, Christian Bourque, having my principal place of business at 1250 René-Lévesque Blvd. West, Suite 2500, in the city of Montreal, Province of Quebec, solemnly declare the following:

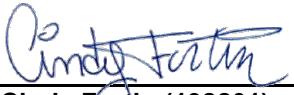
1. I am a partner at PricewaterhouseCoopers Inc.;
2. All the facts alleged in the *Application for the Issuance of an Order Extending the Stay Period* are, to the best of my knowledge, true.

AND I HAVE SIGNED



CHRISTIAN BOURQUE

Solemnly declared before me by video conference, at Montreal, on the 4th day of September 2024



Cindy Fortin (198201)
Commissioner for the taking of oaths for
the province of Québec and outside of
Québec

NOTICE OF PRESENTATION

TAKE NOTICE that (i) the *Application for the issuance of an order extending the stay period* will be presented for adjudication before the Superior Court of Québec, sitting in the commercial division for the district of Montréal, at the Montréal Courthouse, 1 Notre-Dame Street East, **on September 11, 2024 at a time to be determined**, and (ii) the Monitor, acting on behalf of the Debtors, requests that any person wishing to object to the relief sought by the application must serve a detailed written contestation stating the objection to the application and the grounds for such objection in writing to the Monitor, with a copy to all persons on the service list, **no later than September 9, 2024 at 10am Montréal Time**.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, September 4, 2024

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**LIST OF EXHIBITS IN SUPPORT OF THE APPLICATION FOR THE ISSUANCE OF
AN ORDER EXTENDING THE STAY PERIOD**

Exhibit R-1: Draft Extension Order
Exhibit R-2: A copy of the Judgment dated June 12, 2024
Exhibit R-3: A copy of the Distribution Order dated June 19, 2024
Exhibit R-4: A copy of the Judgment from the Court of Appeal of Quebec dated July 18, 2024
Exhibit R-5: A copy of the Judgment dated July 11, 2024

MONTRÉAL, September 4, 2024

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