



No. S1910538
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA.

PETITIONER

AND:

QUINSAM COAL CORPORATION, BARCLAYS CANADA
LEASING CORPORATION, BARCLAYS BANK OF CANADA,
ENCECO, INC. and GORD KNIGHT VENTURES LTD.

RESPONDENTS

ORDER MADE AFTER APPLICATION
(Approving Bidding Procedures)

BEFORE THE HONOURABLE) FRIDAY, THE 20TH DAY
MR./MADAM JUSTICE RUSSELL) OF DECEMBER, 2019

ON THE APPLICATION of The Bowra Group Inc., in its capacity as the Court-appointed receiver (the "Receiver") of all of the assets, undertakings and property of Quinsam Coal Corporation (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor pursuant to the receivership order issued on September 20, 2019, (the "Receivership Order") in the within proceedings, coming on for hearing before me this day; AND ON READING the Affidavit #1 of Gordon Brown, sworn on December 12, 2019; AND ON HEARING Colin D. Brousson, counsel for the Receiver, and other counsel as listed on **Schedule "A"** hereto, and no one else appearing, although duly served;

THIS COURT ORDERS AND DECLARES that:

Service

1. the time for service of the Notice of Application herein and supporting materials be and are hereby abridged and deemed good and sufficient such that the Notice of Application is properly returnable today, and service upon any interested party other than those parties on the service list maintained by the Receiver in this proceeding is hereby dispensed with;

Approval of bidding procedures

2. the sale procedures (the "**Sale Procedure**") for the sale of the Property (as defined in the Sale Procedure), substantially in the form attached as **Schedule "B"** to this Order, are hereby approved;
3. the Receiver is authorized and directed to implement the Sale Procedure and to do all such things as it considers necessary or desirable to conduct and give full effect to the Sale Procedure;
4. the Receiver, and its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of performing its obligations under the Sale Procedure, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Receiver in performing its obligations under the Sale Procedure (as determined by this Court);
5. in connection with the Sale Procedure and pursuant to clause 7(3)(c) of the *Personal Information and Electronic Documents Act* (Canada), the Receiver and the Debtor are authorized and permitted to disclose personal information of identifiable individuals to prospective purchasers or offerors and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more transactions (each, a "**Transaction**"). Each prospective purchaser or offeror to whom such information is disclosed shall maintain and protect the privacy of such information and shall limit the use

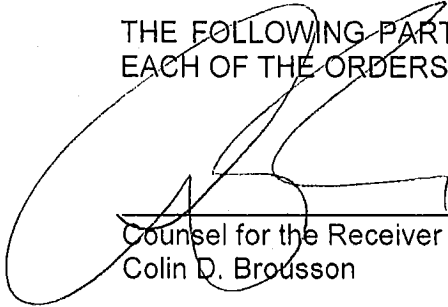
of such information to its evaluation of the Transaction, and if it does not complete a Transaction, shall: (i) return all such information to the Receiver; (ii) destroy all such information, or (iii) in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The transacting party with respect to any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Receiver, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed;

General

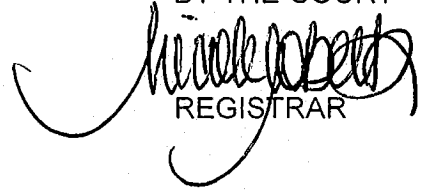
6. nothing in this order shall be construed as determining the distribution of the proceeds of the sale of the Property by the Receiver or the allocation of the proceeds as against the Property. Subject to the terms of the Receivership Order, the Receiver and all parties claiming an entitlement to a share of the proceeds of the Property are at liberty to apply for an order in regard to such allocation or distribution.
7. service of this Order shall be deemed good and sufficient by:
 - (a) serving the same in accordance with the Receivership Order on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;and
 - (b) posting a copy of this Order on the Receiver's website at www.bowragroup.com/quinsam-coal-corporationand service on any other person is hereby dispensed with;

8. endorsement of this Order by counsel appearing on this application other than counsel for the Receiver is hereby dispensed with;

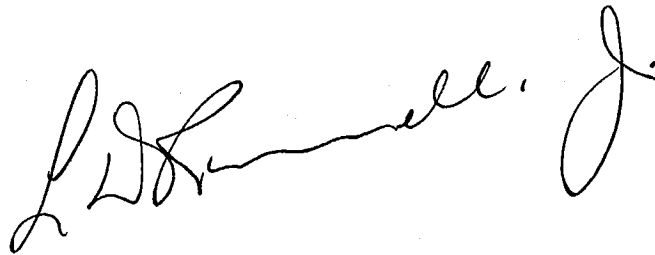
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS NOTED ABOVE:



Counsel for the Receiver
Colin D. Brousson

BY THE COURT

REGISTRAR





SCHEDULE "A"

LIST OF COUNSEL

NAME OF LAWYER	REPRESENTING
Lee Mauro	H.M.C. in Right of the Province of BC.
Elizabeth Fowbham	u "

Schedule "B"

SALE PROCEDURE

Pursuant to an Order (as may be amended from time to time, the "**Receivership Order**") of the Supreme Court of British Columbia (the "**Court**") dated September 20, 2019 in Action No. S1910538, Vancouver Registry (the "**Receivership Action**"), the Bowra Group Inc. was appointed as receiver and manager (in such capacity, the "**Receiver**") over all of the assets, undertakings, property of Quinsam Coal Corporation (the "**Property**").

On December 20, 2019, the Court made an order (the "**Sale Procedure Order**"), among other things, approving this Sale Procedure for the solicitation of offers for the acquisition of some or all of the Property.

Accordingly, the following Sale Procedure shall govern (a) the sales process relating to the solicitation by the Receiver of one or more Qualified Bids for the Property and (b) the proposed sale of all or substantially all of the Property pursuant to one or more Qualified Bids.

All denominations are in Canadian dollars.

1. **Definitions**

Capitalized terms used in this Sale Procedure shall have the definitions given to them in the preamble hereto and as follows:

"Acknowledgement of Sale Procedure" means an acknowledgement of the Sale Procedure in the form attached as **Schedule "A"** hereto;

"Acquisition Entity" means an entity specially formed for the purpose of effectuating the contemplated transaction;

"Bid" means an offer or proposal for the acquisition of the Property submitted by a Qualified Bidder. For clarity only a Qualified Bidder may submit a bid for consideration in this Sale Procedure;

"Bid Deadline" means 11:00 a.m. local time in Vancouver, B.C. Canada on April 1, 2020, or as extended by the Receiver on notice to all Participants and posted on the Receiver's Website;

"Bidder Qualification Requirements" has the meaning given to it in Section 6;

"Confidentiality Agreement" means an executed confidentiality agreement in form and substance acceptable to the Receiver and its counsel;

"Due Diligence Materials" means some or all of the following information regarding Quinsam and the Property to the extent that it is available to the Receiver:

- (a) Contracts and Permits, each as defined in the Form of APA; and
- (b) Equipment lists;

all of which will be made available to Participants by way of an electronic data room assembled and administered by the Receiver;

“Form of APA” means the Form of Asset Purchase Agreement attached as **Schedule “C”** hereto;

“Good Faith Deposit” means a cash deposit of \$500,000;

“Modified APA” means an executed mark-up of the Form of APA reflecting the applicable Qualified Bidder’s proposed changes to the Form of APA;

“Offer Termination Date” has the meaning given to it in Section 7(c);

“Participant” means any person who has delivered the Participant Requirements and had those Participant Requirements deemed satisfactory by the Receiver in accordance with Section 4;

“Participant Requirements” has the meaning given to it in Section 4;

“Principals” means, collectively, the equity holder(s) of any Acquisition Entity and any guarantor of any Bid made by such Acquisition Entity;

“Qualified Bidder” means a Participant that, (i) having satisfactorily met the Participant Requirements prior to the Bid Deadline, (ii) meets the Bidder Qualification Requirements prior to the Bid Deadline, and (iii) whom the Receiver, in accordance with Section 6, deems is reasonably likely to have the financial capacity to submit a binding bona fide offer and would be able to consummate a transaction if selected as the Successful Bidder.

“Qualified Bid” means a Bid submitted by a Qualified Bidder on or prior to the Bid Deadline that satisfies the conditions set out in Section 7.

“Receiver’s Website” means the website established by the Receiver in connection with the Receivership Action at: www.bowragroup.com/quinsam-coal-corporation

“Sale Procedure Order” means the Order authorizing this Sale Procedure;

“Successful Bid” means the highest and best Qualified Bid as determined by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale;

“Successful Bidder” means the Qualified Bidder who submitted the Successful Bid;

“**Vesting Order**” means the order of the Court that approves the sale of the Purchased Assets (as defined in the Successful Bid) to the Successful Bidder and vests title of the Purchased Assets to the Successful Bidder.

2. **Assets for Sale**

The Receiver is soliciting offers for all of the Property. For the purposes of this Sale Procedure, a Participant may exclude from its Bid any of the Property.

The sale of any of the Property pursuant to this Sale Procedure shall be on an “**as is, where is**” basis and without representations or warranties of any kind, nature or description by the Receiver, or its directors, officers, employees or agents except to the extent set forth in the Successful Bid. Each Participant and anyone submitting a Bid shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Property prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Property in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guarantees whatsoever, whether express, implied, by operation of law or otherwise, regarding the Property, or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Procedure.

3. **Marketing**

The Receiver will solicit Bids for the Property, including but not limited to the following:

- (a) preparing a teaser document (the “**Teaser**”) that outlines the Property for sale, includes this Sale Procedure and invites parties to satisfy the Participant Requirements to gain access to the Due Diligence Materials;
- (b) sending the Teaser to a list of potential interested parties based on the Receiver’s research as soon as practicable after the Sale Procedure is approved by the Court;
- (c) posting an advertisement in the Globe and Mail or similar national newspaper as soon as practicable and advisable after January 1, 2020, inviting parties to participate in the Sale Procedure;
- (d) arranging site visits for interested parties, as required; and
- (e) responding as appropriate at any time prior to the Bid Deadline to various questions and queries from interested parties, Participants and Qualified Bidders with the assistance of the Receiver’s consultants.

4. **Participant Requirements**

In order to participate in this Sale Procedure an interested party must first deliver each of the following to the Receiver:

- (a) an executed Confidentiality Agreement;
- (b) an executed Acknowledgement of Sale Procedure; and
- (c) identification of the Participant and any Principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction,

(collectively the “Participant Requirements”).

Any interested party who wishes to be a Participant in the Sale Procedure must deliver all of the Participant Requirements to the Receiver. The Receiver shall review all Participant Requirements received and if the Participant Requirements are deemed satisfactory by the Receiver at its reasonable discretion then the person shall be deemed a Participant in this Sale Procedure.

At any time after February 14, 2020, the Receiver may, if no parties are at that time deemed to be Participants, or if the Receiver otherwise determines in its business judgment that the Sales Procedure should be terminated, then the Receiver shall be at liberty to, without notice, immediately terminate the Sale Procedure and the Receiver shall post notice of such fact on the Receiver’s Website.

5. **Participant’s Access to Due Diligence Materials**

Only those persons deemed to be Participants in this Sale Procedure will be permitted access to the Due Diligence Materials. Participants will be permitted access to the Due Diligence Materials as soon as practicable after being deemed Participants. The Receiver may at its discretion furnish, but shall not be obliged to furnish, any due diligence information other than the Due Diligence Materials. The Receiver is not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Property.

6. **Bidder Qualification Requirements**

To have a Bid considered by the Receiver a Participant must establish itself as a Qualified Bidder. In order to be considered for qualification as a Qualified Bidder, each Participant must provide the Receiver with all of the relevant information and materials set out in the attached **Schedule “B”** (collectively the “**Bidder Qualification Requirements**”) by no later than the Bid Deadline.

The Receiver shall review all Bidder Qualification Requirements received from a Participant to determine, in its reasonable discretion, whether:

- (a) evidence of financial wherewithal provided by the Participant is reasonably acceptable;

- (b) it is reasonably likely that the Participant has the financial capacity to submit a binding bona fide offer; and
- (c) it is reasonably likely that the Participant will be able to consummate a transaction if selected as the Successful Bidder.

If the Receiver is satisfied that the Participant satisfies the requirements above, then the Participant shall be deemed a Qualified Bidder in this Sale Procedure. A Participant may amend or resubmit Bidder Qualification Requirements at any time prior to the Bid Deadline and the Receiver shall review such amended or resubmitted Bidder Qualification Requirements.

Each Participant shall comply with all reasonable requests for additional information by the Receiver regarding such Participant and its contemplated transaction (whether such requests are made before or after the Bid Deadline). Failure by a Participant to comply with requests for additional information will be a basis for the Receiver to determine that the Participant is not a Qualified Bidder.

7. **Bid Requirements**

Only Qualified Bidders shall have their Bids considered by the Receiver. In order to be considered a Qualified Bid a Bid must satisfy each of the following conditions:

- (a) Written Submission of Modified APA and Commitment to Close. A Qualified Bid must be submitted by the Bid Deadline in the form of an executed Modified APA (together with a blackline of the Modified APA against the Form of APA), and a written and binding commitment to close on the terms and conditions set forth therein;
- (b) Executive Approval. Written evidence of the Participant's chief executive officer, board of directors or other appropriate senior executive's approval of the Bid; provided, however, that, if the Participant is an Acquisition Entity, then the Participant must furnish written evidence reasonably acceptable to the Receiver of the approval of the Bid by the Acquisition Entity's Principals.
- (c) Irrevocable. A Qualified Bid must be open for acceptance and irrevocable until 5:00 pm local time in Vancouver on the 10th business day after the Bid Deadline (the "**Offer Termination Date**");
- (d) Contingencies. A Qualified Bid may not be conditional on or subject to obtaining financing or any internal approval or on the outcome or review of due diligence by the Qualified Bidder;
- (e) Financing Sources. A Qualified Bid must be accompanied by written evidence of a commitment for financing or other evidence of the ability to consummate the transaction satisfactory to the Receiver and appropriate contact information for such financing sources must be provided;

- (f) No Fees payable to Qualified Bidder. A Qualified Bid may not request or entitle the Qualified Bidder to any break-up fee, expense reimbursement or similar type of payment;
- (g) Good Faith Deposit. Each Qualified Bid must be accompanied by a Good Faith Deposit that shall be paid to the Receiver by certified cheque or bank draft, to be held by the Receiver in trust in accordance with this Sale Procedure;
- (h) Delivery. A Qualified Bid must be delivered to the Receiver in accordance with Section 14 at or prior to the Bid Deadline.

Participants should note that the Receiver's preference is that no significant modifications to the Form of APA be made in the Modified APA. Please note that the Receiver will consider the extent and nature of the revisions in the Modified APA in evaluating Qualified Bids.

The Receiver shall be entitled to, but is not obligated to, discuss or seek additional information and clarifications from any Participant or Qualified Bidder in respect of its Bidder Qualification Requirements or Bid at any time. Failure by a Participant to comply with requests for additional information or clarifications will be a basis for the Receiver to reject a Bid.

The Receiver may negotiate and request the amendment to any Bid and any Bid or amended Bid received as a result of such negotiations shall be deemed to have been received on or prior to the Bid Deadline. A Participant may not modify, amend or withdraw its Bid without the written consent of the Receiver. Any purported modification, amendment or withdrawal of a Bid by a Participant without the written consent of the Receiver prior to the Offer Termination Date shall result in a forfeiture of such Participant's Good Faith Deposit.

8. Selection of the Successful Bidder

After any clarifying discussions or negotiations the Receiver shall review all Qualified Bids and other documentation and information submitted by the Qualified Bidders and shall either (a) determine the Successful Bidder, or (b) reject all Bids and end the Sales Procedure.

If the Receiver determines the Successful Bid then the Receiver shall:

- (i) as soon as practicable post notice of the determination on the Receiver's Website; and
- (ii) as soon as practicable, seek Court approval of, and authority to consummate, the Successful Bid and the transactions provided for therein by Vesting Order.

9. Vesting Order and Closing of the Successful Bid

The Receiver shall complete the sale transaction or transactions with the Successful Bidder following the granting of a Vesting Order with regard to the Successful Bid. The Receiver will be deemed to have accepted a Successful Bid only when a Vesting Order has been

granted with regard to the Successful Bid. The Receiver shall apply for a Vesting Order as soon as practicable after the determination by the Receiver of the Successful Bidder.

10. **Return of Good Faith Deposits**

Good Faith Deposits of all Qualified Bidders shall be held in an account of the Receiver. Good Faith Deposits of all Qualified Bidders, other than the Successful Bidder, shall be returned to such Qualified Bidders within three (3) business days of the selection of the Successful Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder.

11. **Delivery of documents to the Receiver**

All documents or other materials to be delivered to the Receiver pursuant to this Sale Procedure, including the Participant Requirements, Bidder Qualification Requirements but excluding all Bids, must be submitted by email to gbrown@bowragroup.com so that they are actually received by the Receiver no later than the Bid Deadline.

Bids, including the Good Faith Deposit in the form of a certified cheque or bank draft must be delivered to the Receiver at [Receiver's Address], Vancouver, BC, Canada [POSTAL CODE] Attention: Gordon Brown, by hard copy by the Bid Deadline. A Bid that is not received by hard copy prior to the Bid Deadline shall not constitute a Qualified Bid and shall be disqualified.

12. **Modifications and Reservations**

The Receiver reserves the right in its reasonable discretion to: (a) waive strict compliance with any one or more provisions of this Sale Procedure; and (b) modify or amend this Sale Procedure provided that if such modification or amendment materially deviates from this Sale Procedure, such modification or amendment may only be made by order of the Court.

The Receiver may reject at any time before entry of an order of the Court approving a Successful Bid, any or all Bids that in the Receiver's business judgment (a) provide inadequate or insufficient consideration, (b) are not in conformity with the requirements of this Sale Procedure, or the terms and conditions of sale, or (c) are contrary to the best interests of the Receivership estate.

SCHEDULE "A"
to the Sale Procedure

ACKNOWLEDGEMENT OF SALE PROCEDURE

The undersigned hereby acknowledges receipt of the Sale Procedure approved by the Order of the Supreme Court of British Columbia on [DATE], 2019 in Action No. S1910538, Vancouver Registry and further acknowledges that compliance with the terms and provisions of the Sale Procedure is required in order to participate in the Sale Procedure and for any Bid to be considered by the Receiver.

The Participant and any Principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction are as follows:

Participant:

Principals:

Representatives (name/title/company):

This _____ day of _____, 2019.

[NAME]

By:

(Signing Officer)

SCHEDULE "B"
to the Sale Procedure

BIDDER QUALIFICATION REQUIREMENTS

1. PARTICIPANT DESCRIPTION

1.1 Participant Identity

- (a) For both the Participant, and if applicable, the Acquisition Entity, state the full legal name, form of organization (corporation, general partnership, limited partnership, joint venture, etc.), jurisdiction in which it is incorporated or formed, the date on which it was incorporated or formed and any incorporation or similar identifying number, the date and number of registration in British Columbia, if applicable, the street and mailing address(es) of the principal place of business, its general telephone and fax number and its website address, if any.
- (b) Except in the case of a limited partnership, if the Participant or Acquisition Entity is a general partnership, joint venture or otherwise consists of two or more legal entities, provide the information described in 1.1(a) for each such entity.
- (c) If the Participant or Acquisition Entity is a limited partnership, provide the information described in 1.1(a) for the partnership and the general partner only.
- (d) If the Participant or Acquisition Entity is a public company (i.e., its shares or other securities are listed on a recognized stock exchange), it may choose to include a copy of its latest Annual Report as an Exhibit to the Bidder Qualification Materials.

1.2 Ownership

- (a) If the common shares or similar ownership interests of the Participant or Acquisition Entity are listed on a stock exchange, state the name of the exchange and applicable trading symbol.
- (b) If the common shares or similar ownership interests of the Participant or Acquisition Entity are not listed on a stock exchange, state the full name and principal business or resident address of each public company or other person who holds, directly or indirectly, an equity ownership interest in it equal to or greater than 10%. Include an ownership chart where such a chart can best describe the Participant's and Acquisition Entity's ownership structure.

1.3 Bankers, Auditors and Advisors

- (a) State the name and address of the Participant's principal financial institution(s).
- (b) State the name of the Participant's auditors, or if financial statements are not subject to audit, state the name of the Participant's principal external accountant, if any.

- (c) State the name and address of the Participant's principal legal advisor. Include the name and location of the firm and/or in-house legal department and the lawyer primarily responsible for advising the Participant on the Modified APA.

2. **FINANCIAL CAPACITY AND CREDIT WORTHINESS**

- (a) Written evidence upon which the Receiver may reasonably conclude that the Participant has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction.

3. **SUPPLEMENTARY INFORMATION**

3.1 Evidence of experience in the industry.

3.2 Other Matters Affecting the Participant or Performance

- (a) To the extent not otherwise disclosed, describe any pending or threatened claims or legal actions, suits or proceedings before any arbitrator, court or regulatory body affecting the Participant that could reasonably be expected to have a material and adverse effect on the ability of the Participant to develop and operate a coal mine.
- (b) To the extent not otherwise disclosed, describe any pending or threatened strikes, lockouts or labour disturbances affecting the Participant that could reasonably be expected to have a material and adverse effect on the ability of the Participant to develop and operate a coal mine.

3.3 Other Data

The Participant is invited to provide any other information concerning the Participant and/or the project, (i) which is not addressed above, and (ii) which the Participant believes is relevant and may impact the Receiver's assessment of the Participant's Bid.

SCHEDULE "C"
to the Sale Procedure

ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of the ____ day of _____, 2019,

BETWEEN:

THE BOWRA GROUP INC., in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of Quinsam Coal Corporation, and not in its personal or corporate capacity, having an office at Bentall One 505 Burrard Street, Suite 430 Vancouver, B.C. Canada V7X 1M3

(the "**Vendor**")

AND:

◇ (the "**Purchaser**")

BACKGROUND

- A. Quinsam Coal Corporation ("**Quinsam**") was in the business of operating the Quinsam coal mine near Campbell River, B.C. (the "**Mine**"), the mining, processing and refining of the coal mined therefrom, and transporting coal to storage and shipping points for its delivery to market.
- B. Pursuant to an Order (as may be amended from time to time, the "**Receivership Order**") of the Supreme Court of British Columbia (the "**Court**") dated September 20, 2019 in Action No. S1910538, Vancouver Registry (the "**Receivership Action**"), the Bowra Group Inc. was appointed as receiver and manager over all of the assets, undertakings, property of Quinsam (the "**Property**"), with the power and authority to, among other things, sell the Purchased Assets (as defined below); and
- C. Subject to the issuing of the Vesting Order (as defined below) and other terms and conditions of this Agreement, the Vendor wishes to sell, and the Purchaser wishes to purchase, all of Quinsam's right, title, and interest in and to the Purchased Assets.

TERMS OF AGREEMENT

In consideration of the premises and the covenants, agreements, representations, warranties and payments contained in this Agreement, the Parties agree with one another as follows:

1. Definitions

The following terms have the following meanings:

(a) “**Adjustments**” means the adjustment to the Purchase Price for any amounts due or accruing from and after the date of this Agreement, in respect of expenses incurred in the ordinary course, including but not limited to insurance premiums, utilities, property taxes, and water licence rentals/fees, and as determined pursuant to Section 8, such that:

(i) any such expenses accruing for the period prior to the Closing Date shall be for the account of the Vendor and to the extent paid by the Purchaser shall result in a decrease to the Purchase Price; and

(ii) any such expenses accruing for the period from and after the Closing Date shall be for the account of the Purchaser, and to the extent paid by the Vendor shall result in an increase to the Purchase Price.

(b) “**Agreement**” means this asset purchase agreement, including all Schedules, as made as of the date first written above;

(c) “**Applicable Law**” means, in relation to any Person, property or circumstance, all laws, statutes, rules, regulations, official directors and orders of Governmental Entities, including judgments, orders and decrees of courts, commissions or bodies exercising similar functions, as amended, and includes the provisions and conditions of any permit, licence or other governmental or regulatory authorization, that are in effect as at the relevant time and are applicable to such Person, property or circumstance;

(d) “**Assumed Obligations**” means:

(i) the obligations and liabilities of Quinsam or the Vendor under a Permit, in connection with the Permit or arising from an activity under the Permit, whether accrued prior to or from and after the Closing Date; and

(ii) any other obligations and liabilities of Quinsam or the Vendor in connection with the Purchased Assets to the extent such other obligations and liabilities accrue from and after the Closing Date,

but, for the avoidance of doubt, shall not include the Excluded Obligations.

(e) “**Business Day**” means any day other than a Saturday, a Sunday or any other statutory holiday in British Columbia;

(f) “**Closing**” means the successful completion of the transactions contemplated in this Agreement;

(g) “**Closing Date**” means the tenth (10th) Business Day following the date on which the last of the Conditions Precedent are fulfilled or waived, or as otherwise agreed upon in writing by the Vendor and the Purchaser;

(h) “**Closing Time**” means 10:00 am, Vancouver, British Columbia time on the Closing Date;

- (i) **“Coal Inventory”** means all Quinsam coal inventories located at the Mine, Middlepoint and Texada Island, B.C.;
- (j) **“Conditions Precedent”** means the conditions precedent set forth in Sections 1616 to 18 of this Agreement;
- (k) **“Contracts”** means the agreements listed in Schedule “A”;
- (l) **“Court”** has the meaning ascribed thereto in Recital B;
- (m) **“Deposit”** has the meaning ascribed thereto in Section 7.3(a);
- (n) **“Deposit Return Event”** means the occurrence of any of the following:
 - (i) the Parties mutually agree in writing that any of the conditions set forth in Section 18.1 have not been satisfied or are incapable of being satisfied on or prior to the Closing Date;
 - (ii) this Agreement is validly terminated by mutual agreement;
 - (iii) this Agreement is validly terminated by the Vendor pursuant to Section 17.3, provided that, at the time of such termination, the Vendor is not in material breach of any of its covenants under this Agreement; and
 - (iv) this Agreement is validly terminated by the Purchaser pursuant to Section 16.3, provided that, at the time of such termination, the Purchaser is not in material breach of any of its covenants under this Agreement; and
- (o) **“Encumbrance”** means any encumbrance or interest against or in the Purchased Assets of any kind whatsoever and includes, without limitation, a security interest, mortgage, lien, hypothec, pledge, assignment, charge, title retention agreement, option, trust or deemed trust (whether contractual, statutory or otherwise arising), licence and any covenant or other agreement, restriction or limitation relating to the Purchased Assets or the transfer of the Purchased Assets to the Purchaser pursuant to this Agreement;
- (p) **“Equipment”** means all the machinery, equipment spare parts, and control systems owned by Quinsam and used in the business of Quinsam, including the Equipment listed in Schedule “B”;
- (q) **“Excluded Assets”** means, notwithstanding anything to the contrary contained in Section 1(jj) or elsewhere in this Agreement, all property and assets of Quinsam other than the Purchased Assets, including the following property and assets of Quinsam pertaining to its business and all documents, books, accounts, records and other information relating to those assets:
 - (i) all cash currently held by the Vendor, bank balances, money in possession of banks and other depositories, term or time deposits and similar cash or cash equivalents of, owned or held by or for the account of Quinsam;

- (ii) all accounts receivable;
 - (iii) all Coal Inventory;
 - (iv) all the corporate, financial and other records of Quinsam not pertaining to the operation of its business; and
 - (v) all tax credits receivable by or refundable to the Vendor or Quinsam, income tax installments paid by the Vendor or Quinsam and the right to receive any refund of taxes paid by the Vendor or Quinsam; and
 - (vi) all Contracts that are not expressly listed in "Schedule "A";
- (r) "**Excluded Obligations**" means the obligations and liabilities of Quinsam or the Vendor that are not Assumed Obligations;
- (s) "**ETA**" means the *Excise Tax Act* (Canada);
- (t) "**Final Adjustment**" has the meaning ascribed thereto in Section 8.1;
- (u) "**Final Adjustment Date**" has the meaning ascribed thereto in Section 8.1;
- (v) "**Governmental Entity**" means any Canadian, foreign, domestic, federal, territorial, provincial, state, municipal or local governmental authority, quasi-governmental authority, instrumentality, court, government or self-regulatory organization, bureau, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing having jurisdiction under or for the account of the foregoing, the Purchased Assets or any other matter that is the subject of this Agreement;
- (w) "**GST**" means the goods and services or harmonized sales tax payable pursuant to the ETA, and any applicable federal or provincial regulations associated therewith, as may be amended from time to time;
- (x) "**Initial Adjustment**" has the meaning ascribed thereto in Section 8.1;
- (y) "**Intangibles**" means the choses in action and other similar rights or claims directly related to the Purchased Assets;
- (z) "**Intellectual Property**" means all of Quinsam's Canadian and foreign intellectual and industrial property rights of any kind, listed and as described in Schedule "C" hereto;
- (aa) "**Middlepoint**" means the Quinsam operation at Barge Terminal Rd., Vancouver Island, B.C.
- (bb) "**Notice**" has the meaning ascribed thereto in Section 5;
- (cc) "**Party**" means either the Vendor or the Purchaser, as applicable, and "**Parties**" means both the Vendor and the Purchaser;

- (dd) **“Permitted Encumbrances”** means the permitted Encumbrances listed and described in Schedule “D”, which shall be accepted and/or assumed on Closing by the Purchaser;
- (ee) **“Person”** means any individual, corporation, partnership, limited partnership, limited liability company, joint venture, association, joint-stock company, trust, society, incorporated organization, Governmental Entity or any other similar entity;
- (ff) **“Permits”** means the authorizations, registrations, permits, certificates of approval, approvals, grants, licences, quotas, consents, commitments, rights or privileges issued or granted by a Governmental Entity to Quinsam in respect of the Purchased Assets, described in Schedule “E” hereto;
- (gg) **“PST”** means any provincial retail sales tax payable under the PST Act and its regulations, as amended from time to time;
- (hh) **“PST Act”** means the *Provincial Sales Tax Act*
- (ii) **“Purchase Price”** has the meaning ascribed thereto in Section 7.1;
- (jj) **“Purchased Assets”** means all of the right, title, and interest of Quinsam in the Contracts, Equipment, Intangibles, Real Property Interests, Permits, and Intellectual Property, but specifically excluding the Excluded Assets;
- (kk) **“Real Property Interests”** means all of Quinsam’s interest in real property including those fee simple interests, mineral claims, contracts, grants, options, leases, mineral leases, licences, easements, statutory rights of way, and other like interests which grant real property interests to Quinsam or the Vendor including, if applicable, those interests listed and as described in Schedule “F”;
- (ll) **“Receivership Action”** has the meaning ascribed thereto in Recital B;
- (mm) **“Receivership Order”** has the meaning ascribed thereto in Recital B;
- (nn) **“Regulatory Approvals”** means any approval, consent, ruling, authorization notice or acknowledgement from any Governmental Entity pursuant to Applicable Law or required to convey, assign and transfer the right, title and interest of Quinsam in and to the Purchased Assets to the Purchaser;
- (oo) **“Sale Procedure”** means the sale procedure for marketing and selling the Purchased Assets as materially set out in Schedule “G”;
- (pp) **“Sale Procedure Order”** means the order of the Court approving the Sale Procedure in all material respects and approving the Vendor entering into this Agreement as materially set out (without schedules) in Schedule “H”;
- (qq) **“Sales Taxes”** means all transfer, sales, excise, stamp, license, production, value-added and other like taxes, assessments, charges, duties, fees, levies or other governmental

charges of any kind, and includes without limitation additions by way of penalties, interest and other amounts with respect thereto, including PST and GST;

(rr) **“Statement of Adjustments”** has the meaning ascribed thereto in Section 8.1;

(ss) **“Vendor’s Certificate”** means a certificate executed by an officer of the Vendor in substantially the form attached hereto as Schedule “I”;

(tt) **“Vendor’s Solicitors”** means the firm of Gowling WLG (Canada) LLP; and

(uu) **“Vesting Order”** means an order of the Court in the Receivership Action, approving the entry into this Agreement by the Vendor and the consummation of the transactions contemplated hereby, and vesting in the Purchaser or its nominee(s) all right, title and interest in and to the Purchased Assets free and clear of all Encumbrances, except for the Permitted Encumbrances upon payment of the Purchase Price, which order shall be substantially agreed to by the parties acting reasonably.

2. Currency and Form of Payment

2.1 All references to currency shall mean Canadian Dollars unless otherwise expressly provided.

2.2 All payments to be made by the Purchaser to the Vendor to effect the transactions set out in this Agreement are to be payable by certified cheque, bank draft or wire transfer to the Vendor’s Solicitors, “In Trust”.

3. Purchase and Sale of Purchased Assets

3.1 Subject to the timely fulfillment or waiver of all of the conditions precedent herein, including the granting of the Vesting Order, the Vendor agrees to sell, assign and transfer to the Purchaser, and the Purchaser agrees to purchase from the Vendor, all right, title and interest in and to the Purchased Assets upon the terms hereof.

4. “As is, Where is”

4.1 The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an “as is, where is” basis as they exist on the Closing Date. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets and that the Purchaser has conducted or will have conducted such inspections of the condition of and title to the Purchased Assets as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality, assignability or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell them save and except as expressly represented or warranted in this Agreement. The description of the Purchased Assets contained in this Agreement is for purposes of identification only.

4.2 The Purchaser hereby agrees to assume and comply with all of the Assumed Obligations and all responsibilities arising from and in connection with the Purchased Assets, without any recourse whatsoever against the Vendor therefor. Without limiting the generality of this Section, the Purchaser acknowledges and agrees with the Vendor that:

(a) the Purchaser is entering into this Agreement relying entirely upon its own inspections and there are no representations, warranties or covenants or conditions, whether direct or collateral, or express or implied, which induced the Purchaser to enter into this Agreement or on which reliance is placed by the Purchaser, or which affect this Agreement or the Purchased Assets, other than as expressly set out in this Agreement; and

(b) the Purchaser is relying on its own due diligence in reviewing the documents and other materials in respect of the Purchased Assets made available to it by the Vendor and that such documents and other materials are not intended to constitute a representation or warranty as to any of the contents thereon of the part of the Vendor.

4.3 The Vendor shall have no obligations or responsibility to the Purchaser after Closing with respect to any matter relating to the Purchased Assets or the condition thereof, save as otherwise expressly provided in or contemplated by this Agreement.

4.4 This Section 4 shall survive Closing and shall be restated or incorporated by reference, where applicable, in the closing documents.

5. No Liabilities Assumed by Purchaser other than Assumed Obligations

5.1 In connection with its acquisition of the Purchased Assets, the Purchaser covenants and agrees to assume all of the Vendor's and Quinsam's right, title and interest in and to the Purchased Assets, as well as the Assumed Obligations, but no other obligations or liabilities. For greater certainty, the Purchaser shall not be responsible for any of the Excluded Obligations.

5.2 The Purchaser acknowledges that the Vendor will have no responsibility whatsoever for curing any defaults, paying any arrears, or performing any obligations under or with respect to the Assumed Obligations, save and except as otherwise specified herein.

6. Excluded Assets

6.1 Notwithstanding anything to the contrary in this Agreement, the Excluded Assets shall not form part of the purchase and sale contemplated in this Agreement and the Purchaser shall not assume or be responsible for any claim, liability or obligation in relation to or arising out of the Excluded Assets.

7. Purchase Price and Payment

7.1 The aggregate cash consideration payable by the Purchaser to the Vendor for the Purchased Assets is \$< > (the "**Purchase Price**"), plus all applicable Sales Taxes.

7.2 The Parties acknowledge and agree that the Purchase Price shall be allocated among the Purchased Assets in accordance with Schedule "J" and the Vendor and the Purchaser will report

the sale and purchase of the Purchased Assets for all tax purposes in a manner consistent with such allocation and shall not file any return that is inconsistent with such allocation.

7.3 Subject to the terms and conditions of this Agreement, the Purchase Price shall be paid as follows:

(a) by the Purchaser delivering to the Vendor's Solicitors, in trust, within five (5) Business Days of the execution of this Agreement by the Parties, a deposit of \$500,000 (the "**Deposit**"), to be held in trust and released only in accordance with the terms of this Agreement; and

(b) the balance of the Purchase Price, after crediting the Deposit, by payment at or prior to the Closing Time to the Vendor or as it may otherwise direct.

8. Purchase Price Adjustment

8.1 Adjustments to the Purchase Price shall be made as of the Closing Date pursuant to a statement of adjustments (the "**Statement of Adjustments**") to be prepared by the Vendor and agreed to by the Purchaser. If the final cost or amount of any item which is to be adjusted cannot be determined at the Closing Date, then an initial estimated adjustment for such item shall be made at the Closing Date (the "**Initial Adjustment**"), such amount to be estimated by the Vendor and agreed to by the Purchaser, as of the Closing Date on the basis of the best evidence available and being commercially reasonable at Closing as to what the final cost or amount of such item will be. The Initial Adjustment shall be finally adjusted on a final post-closing basis within 30 days from the Closing Date (the "**Final Adjustment Date**") upon mutual agreement by the Parties (the "**Final Adjustment**"). If the Parties are unable to come to a mutual agreement regarding the Statement of Adjustments, the Initial Adjustment or the Final Adjustment, then the dispute shall be submitted to a mutually appointed independent accountant for final determination, the costs, charges and expenses for which shall be paid equally by each of the Parties.

9. Deposit

9.1 The Deposit shall be non-refundable and shall not be returned to the Purchaser under any circumstances unless a Deposit Return Event has occurred, in which case the Vendor, by written direction to the Vendor's Solicitors, shall cause the Vendor's Solicitors to transfer the Deposit and any interest earned thereon to the Purchaser within three (3) Business Days of the occurrence of the Deposit Return Event.

9.2 If this Agreement is terminated by either the Vendor or the Purchaser, but a Deposit Return Event has not occurred, the Vendor shall be entitled to cause the Vendor's solicitors, by written direction to the Vendor's Solicitors, to transfer the Deposit and any interest earned thereon to the Vendor and the Vendor shall be entitled to keep the Deposit and any interest earned on the basis that such amount is a genuine pre-estimate of damages suffered by the Vendor and is not a penalty.

9.3 The Parties acknowledge that the Vendor's Solicitors shall transfer the Deposit and any interest earned thereon to the Vendor or the Purchaser, as applicable, in accordance with the

terms of this Agreement and the Vendor's Solicitors shall have no obligation to independently determine or verify whether a Deposit Return Event has or has not occurred.

9.4 The Parties agree that at the Closing Time, the Vendor's Solicitors shall release the Deposit and any interest earned thereon to the Vendor to be applied against payment of the Purchase Price upon written confirmation by the Parties that the Closing has occurred.

10. Taxes

10.1 The Parties acknowledge that the Purchase Price is exclusive of all Sales Taxes. The Purchaser will be solely liable for and shall pay all Sales Taxes, including, without limitation, PST and GST payable upon and in connection with the sale and transfer of the Purchased Assets by the Vendor to the Purchaser, and will file all necessary documentation with respect to such Sales Taxes when due. If the Vendor is required under any Applicable Law to pay or remit any such Sales Taxes, the Purchaser shall promptly reimburse the Vendor the full amount of such Sales Taxes upon delivery to the Purchaser of copies of receipts showing payment or remittance of such Sales Taxes. In any event, the reimbursement shall be made within three Business Days of delivery of the receipts.

10.2 The Parties will, on the Closing Date, elect jointly under Subsection 167(1)(b) of the ETA, in the prescribed form and containing the prescribed information to permit the Purchased Assets to be conveyed without GST being payable in respect of the purchase and sale thereof hereunder, and the Parties will jointly complete the election forms in respect of such election. The Purchaser shall file the joint election with the Canada Revenue Agency on or before the due date for filing its GST return for its reporting period in which, in the absence of making this joint election, would be the earliest date on which GST would become payable on the sale of the Purchased Assets under this Agreement. The Parties agree that they will cooperate and use commercially reasonable efforts, as may be advisable under Applicable Laws, to mitigate, reduce or eliminate any PST that may be applicable or imposed in respect of the sale of the Purchased Assets under this Agreement, including the Purchaser providing to the Vendor, at or before the time of Closing, a duly completed, signed and dated Certificate of Exemption - Production Machinery and Equipment (FIN 492) for any production machinery and equipment eligible for exemption under Part 5 in the Provincial Sales Tax Exemption and Refund Regulation under the PST Act, and a duly completed, signed and dated Certificate of Exemption - General (FIN 490) for any penstock machinery, equipment, apparatus and parts eligible for exemption under section 31 of the said Regulation. To the extent that no exemption from PST is available on the sale of the Purchased Assets, the Vendor shall charge and collect the PST from the Purchaser on or before the Closing for reporting and remitting to the BC Ministry of Finance in a timely manner. Notwithstanding the foregoing or anything else in this Agreement, the Purchaser shall indemnify the Vendor, and save the Vendor harmless from, any GST, PST, interest, penalties and any other amounts assessed by the Canada Revenue Agency, BC Ministry of Finance or any other applicable Governmental Entity in respect of the sale of the Purchased Assets under this Agreement, except to the extent arising from the late reporting and remittance by the Vendor of any PST collected on Closing. This indemnity shall extend to any costs of investigating and/or disputing any such assessment or proposed assessment of Sales Taxes. The indemnification shall be paid by the Purchaser to the Vendor within three Business Days of the Purchaser receiving delivery from the Vendor of a copy of any such assessment, or as applicable, evidence of such

reasonable costs (such as a copy of a supplier's invoice). This indemnity shall survive the completion of the transactions under this Agreement and the Closing indefinitely.

11. Representations and Warranties of the Vendor

11.1 The Vendor represents and warrants to the Purchaser that:

- (a) subject to the Vesting Order being granted, the Vendor has the power, authority and capacity to enter into this Agreement and to complete the transactions contemplated therein, subject to its terms;
- (b) Quinsam is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (c) Quinsam is registered for purposes of the GST under Part IX of the ETA and the Vendor will provide the registration numbers for Quinsam prior to the Closing Date.

11.2 Except as expressly warranted by the Vendor in this Agreement, the Purchaser shall be deemed to have relied solely and entirely upon its own investigations and inspections of and with respect to the Purchased Assets and to the extent that any information which the Vendor has provided to the Purchaser, the Vendor makes no representation whatsoever with respect to the accuracy of any such information.

11.3 Notwithstanding anything to the contrary herein, the Purchaser hereby expressly acknowledges that: (i) if any consents of any Person are required to effect the transfer of any of the Purchased Assets to the Purchaser pursuant to this Agreement, then it is the sole responsibility of the Purchaser to obtain any such consents, and the granting of any such consents shall not be a condition precedent to the Purchaser's obligations under this Agreement, including the payment of the Purchase Price; and (ii) all out of pocket expenses associated with such consents are the sole obligation of the Purchaser.

11.4 The Purchaser hereby acknowledges that: (i) another prospective purchaser may make an offer for the Purchased Assets including, without limitation, pursuant to the Sale Procedure; (ii) the Vendor is duty bound to consider any such offers; and (iii) the Vendor may have a duty to recommend that the Court approve such other offer and not this Agreement.

12. Representations and Warranties of the Purchaser

12.1 The Purchaser represents and warrants to the Vendor as follows, with the intent that the Vendor will rely on these representations and warranties in entering into this Agreement, and in concluding the purchase and sale contemplated by this Agreement:

- (a) the Purchaser is a <> duly established, validly existing and in good standing under the jurisdiction of its establishment and in accordance with applicable legislation governing <> in the jurisdiction of its establishment, and has the power and capacity to enter into this Agreement and carry out its terms;

(b) the execution and delivery of this Agreement and the completion of the transactions contemplated by this Agreement have been duly and validly authorized by all necessary corporate action on the part of the Purchaser, and this Agreement constitutes a legal, valid and binding obligation of the Purchaser;

(c) except for the Vesting Order, no authorization or approval or any other action by, and not notice to or filing with, any Governmental Entity or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Purchaser of this Agreement;

(d) the Purchaser is not a party to, bound or affected by or subject to any indenture, agreement, instrument, charter or by-law provision, order, judgment or decree which would be violated, contravened or breached by the execution and delivery by it of this Agreement or the performance by it of any of the terms contained in this Agreement;

(e) the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada) and is not a non-Canadian person for the purposes of the *Investment Canada Act* (Canada);

(f) the Purchaser is registered for GST under Part IX of the ETA; and

(g) the Purchaser is not a person who is excluded under section 115 of the Provincial Sales Tax Exemption and Refund Regulation from purchasing or acquiring production machinery and equipment exempt from PST under Part 5 of the said Regulation.

13. Survival of Representations

All representations and warranties made by the Vendor and the Purchaser in Sections 1 and 2, respectively, shall survive the Closing and shall continue for a period of six months after the Closing and after such period neither Party shall have any further liability hereunder with respect to such representations and warranties except with respect to any claims made by the other Party within such period or in the case of fraud.

14. Covenants of the Vendor

14.1 Upon payment of the Purchase Price by the Purchaser at the Closing Time, and subject to the terms of this Agreement, the Vendor will transfer and assign to the Purchaser all of Quinsam's right, title and interest in and to the Purchased Assets in accordance with the terms of this Agreement and the Vesting Order.

14.2 Subject to Section 11.4 and other terms of this Agreement, the Vendor will use all reasonable efforts to take or cause to be taken all other actions, and do or cause to be done all other things, necessary or appropriate to obtain the Vesting Order and to consummate the transactions contemplated by this Agreement.

14.3 From the date of this Agreement until the completion of the transaction contemplated herein:

- (a) the Vendor covenants to maintain the Purchased Assets in a reasonable manner;
- (b) except as contemplated by this Agreement or the Sale Procedure, the Vendor will not sell, transfer or otherwise dispose of, or agree to sell, transfer, pledge, lease, encumber or otherwise dispose of, any Purchased Assets, or enter into any agreement or transaction which would result in the creation of any Encumbrance on any of the Purchased Assets other than such Encumbrances that shall be removed from the Purchased Assets by the Vesting Order; and
- (c) the Vendor covenants to promptly disclose to the Purchaser prior to Closing the occurrence of any material adverse event or change relating to the Purchased Assets.

14.4 The Vendor will provide reasonable assistance to the Purchaser to facilitate the transfer (if possible) of all Permits. The Vendor's obligation under this section 14.4 shall terminate on the 30th day after Closing.

15. Covenants of the Purchaser

15.1 On the Closing Date, the Purchaser will assume all obligations and liabilities arising from and in connection with the Purchased Assets but only to the extent such obligations and liabilities accrue from and after the Closing Date.

16. Conditions Precedent in favour of the Purchaser

16.1 The obligations of the Purchaser to complete the transactions contemplated under this Agreement are subject to the fulfillment of all of the following conditions precedent:

- (a) each of the representations and warranties of the Vendor set forth in Section 11.1 shall be true and correct as if restated on and as of the Closing Date;
- (b) the covenants and obligations contained in this Agreement to be complied with by the Vendor on or before the Closing Date shall have been complied with to the extent required and not been breached in any material respect;
- (c) on or before the Closing Date, the Vendor will have delivered all items which it is required to deliver to the Purchaser pursuant to Section 22.3;

16.2 The Purchaser may, in its sole discretion, waive any of the foregoing conditions. Any waiver by the Purchaser must be in writing and delivered to the Vendor's Solicitors.

16.3 If any one of the conditions precedent contained in Section 16.1 has not been satisfied or waived by the Purchaser on or before the Closing Date, the Purchaser may terminate this Agreement by written notice to the Vendor.

17. Conditions Precedent in favour of the Vendor

17.1 The obligations of the Vendor to complete the transactions contemplated under this Agreement are subject to the fulfillment of all of the following conditions precedent:

- (a) each of the representations and warranties of the Purchaser set forth in Section 12.1 shall be true and correct as if restated on and as of the Closing Date;
- (b) the covenants and obligations contained in this Agreement to be complied with by the Purchaser on or before the Closing Date shall have been complied with to the extent required and not been breached in any material respect; and
- (c) on or before the Closing Date, the Purchaser will have delivered all items which it is required to deliver to the Vendor pursuant to Section 22.2.

17.2 The Vendor may, in its sole discretion, waive any of the foregoing conditions. Any waiver by the Vendor must be in writing and delivered to the Purchaser.

17.3 If any one of the conditions precedent contained in Section 17.1 has not been satisfied or waived by the Vendor on or before the Closing Date, the Vendor may terminate this Agreement by written notice to the Purchaser.

18. Mutual Conditions Precedent

18.1 Notwithstanding anything herein contained, the obligations of the Parties under this Agreement are subject to the fulfilment of all the following mutual conditions precedent:

- (a) the Sale Procedure Order approving all material terms of the Sale Procedure having been granted by the Court;
- (b) the Vesting Order having been granted by the Court and not having been stayed or set aside on appeal; and
- (c) there shall be in effect no order, injunction, judgment, decree, ruling, writ, assessment or arbitration award of the Court or other court of competent jurisdiction or of a relevant Governmental Entity prohibiting the consummation of the transactions contemplated hereby and which has not been withdrawn or terminated.

18.2 The Parties may agree to amend or waive any the foregoing conditions. Any amendment or waiver by the Parties must be in writing and delivered to one another in accordance with Section 5.

19. Efforts to Fulfill Conditions Precedent

19.1 Subject to Section 11.4 and other terms of this Agreement, each Party shall proceed diligently and in good faith and use reasonable efforts to satisfy and comply with and assist in the satisfaction of and compliance with their respective conditions precedent contained herein as soon as possible after the date of this Agreement and in any event.

20. Termination

20.1 This Agreement may be terminated prior to or at the Closing Time as follows:

- (a) by mutual written agreement of the Parties;
- (b) by the Vendor in accordance with Section 17.3; or
- (c) by the Purchaser in accordance with Section 16.3.

20.2 Each Party's right of termination under this Section 20 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. Nothing in this Section 20 limits or affects any other rights or causes of action any Party may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement. If a Party waives compliance with any of the conditions, obligations or covenants contained in this Agreement, the waiver will be without prejudice to any of its rights of termination in the event of non-fulfilment, non-observance or non-performance of any other condition, obligation or covenant in whole or in part.

21. Risk

21.1 The Purchased Assets will be at the Vendor's risk until the completion of the transaction contemplated herein on the Closing Date and thereafter at the Purchaser's risk.

22. Closing

22.1 Subject to the terms and conditions of this Agreement, and the satisfaction or the waiver of the conditions precedent in Sections 166 through 188, the purchase and sale of the Purchased Assets will be completed at the Closing Time at the offices of the Vendor's Solicitors.

22.2 At the Closing Time the Purchaser will deliver, or cause to be delivered to the Vendor:

- (a) the Purchase Price, less the Deposit, plus all applicable Sales Taxes;
- (b) a certificate of a senior officer of the Purchaser dated the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
- (c) an undertaking to readjust and pay the amount of any Final Adjustments, in accordance with Section 8.1; and
- (d) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

22.3 At the Closing Time the Vendor shall deliver, or cause to be delivered to the Purchaser:

- (a) all of Quinsam's right, title and interest in and to the Purchased Assets in accordance with the Vesting Order;

- (b) a Court-certified copy of the Vesting Order;
- (c) an executed copy of the Vendor's Certificate;
- (d) a receipt for the Purchase Price and all applicable Sale Taxes;
- (e) a duly executed General Conveyance;
- (f) the undertaking to readjust and pay the amount of any Final Adjustments in accordance with Section 8.1; and
- (g) all such assignments, instruments of transfer, deeds, assurances, consents, registrations and other documents executed by the Vendor as requested by the Purchaser in respect of transferring the Purchased Assets to the Purchaser and registrations in connection therewith, and the Purchaser shall be entitled to possession of the Purchased Assets, in accordance with the Vesting Order, upon payment of the Purchase Price in accordance with this Agreement.

23. Vendor Liability

23.1 The Purchaser hereby expressly acknowledges and agrees that the Vendor is acting only in its representative capacity as court-appointed receiver and manager of the assets, undertakings and properties of Quinsam and shall have no personal liability under or as a result of entering into or carrying out the transaction which is the subject of this Agreement except in such capacity and without limitation to the generality of the foregoing the Vendor shall have no liability under or as a result of entering into or carrying out of such transaction in its personal capacity, other than in the case of gross negligence or wilful misconduct.

24. Further Assurances

24.1 The Parties will execute such further and other documents, do such further and other things, and deliver up any keys, passcodes or information that are in the possession of the Vendor as may be necessary to carry out and give effect to the intent of this Agreement and give possession of the Purchased Assets to the Purchaser.

25. Notice

25.1 Any notice, direction or other communication (each a "Notice") given regarding the matters contemplated by this Agreement must be in writing and:

- (a) sent by personal delivery or by courier;
- (b) sent by prepaid registered mail; or
- (c) transmitted by facsimile, e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid;

and addressed:

to the Vendor at:

The Bowra Group Inc. in its capacity as receiver and manager
of Quinsam Coal Corporation

Attention: Maria Mainella and Gordon Brown

Bentall One 505 Burrard Street, Suite 430

Vancouver, B.C. Canada V7X 1M3

Email: mmainella@bowragroup.com and gbrown@bowragroup.com

with a copy to:

Gowling WLG (Canada) LLP

Attention: Colin D. Brousson and Jonathan B. Ross

Suite 2300 – 550 Burrard Street

Vancouver, B.C., Canada V6C 2B5

Email: colin.brousson@gowlingwlg.com and jonathan.ross@gowlingwlg.com

to the Purchaser at:

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◇

Attention: ◇

or at any other address as any Party may at any time advise the other by Notice given or made in accordance with this Section 25. Any Notice delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Notice will be deemed to have been given or made and received on the next Business Day. Any Notice sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Notice must be delivered personally or by courier or transmitted by facsimile, e-mail or functionally equivalent electronic means of transmission. Any Notice transmitted by facsimile, e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if the Notice is transmitted on a day which is not a Business Day or after 4:00 p.m. (local time of the recipient), the Notice will be deemed to have been given or made and received on the next Business Day.

Legal Advice

25.2 The Purchaser has consulted with and been advised by its own legal, tax and other professional advisors before entering into this Agreement, has read same and understands the contents thereof.

26. Entire Agreement

26.1 This Agreement constitutes the entire agreement between the Parties and there are no representations or warranties, express or implied, statutory or otherwise and no collateral agreements other than as expressly set forth or referred to in this Agreement.

27. Amendment

27.1 No supplement, modification, amendment, waiver, discharge or termination of this Agreement will be binding unless made in writing and signed by both Parties. No waiver of, failure to exercise or delay in exercising, any provision of this Agreement constitutes a waiver of any other provision (whether or not similar) nor does such waiver constitute a continuing waiver unless otherwise expressly provided.

28. Assignment

28.1 This Agreement may not be assigned by any Party hereto without the prior written consent of the other Party hereto.

29. Time of the Essence

29.1 Time is of the essence of this Agreement.

30. Applicable Law and Court Jurisdiction

30.1 This Agreement shall be governed by, and construed in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable therein, and the Parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of British Columbia in relation to any matter relating to this Agreement.

31. Successors and Assigns

31.1 This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

32. Headings

32.1 The headings appearing in this Agreement are inserted for convenience of reference only and will not affect the interpretation of this Agreement.

33. Severability

33.1 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof and each provision is hereby declared to be separate, severable and distinct. To the extent that any provision is found to be invalid, illegal or unenforceable, the Parties shall act in good faith to substitute for

such provision, to the extent possible, a new provision with content and purpose as close as possible to the provision so determined to be invalid, illegal or unenforceable.

34. Counterparts

34.1 This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which will be an original, and each of which may be delivered by facsimile, e-mail or other functionally equivalent electronic means of transmission and those counterparts will together constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK]

AS EVIDENCE OF THEIR AGREEMENT the Parties have executed this Agreement as of the day and year first above written.

THE BOWRA GROUP INC., in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of Quinsam Coal Corporation, and not in its personal or corporate capacity

Per: _____

Name:

Title:

<>

Per: _____

Name:

Title:

SCHEDULE "A"

CONTRACTS

SCHEDULE "B"
EQUIPMENT

SCHEDULE "C"
INTELLECTUAL PROPERTY

SCHEDULE "D"
PERMITTED ENCUMBRANCES

SCHEDULE "E"

PERMITS

SCHEDULE "F"
REAL PROPERTY INTERESTS

SCHEDULE "G"
SALE PROCEDURE

SCHEDULE "H"
SALE PROCEDURE ORDER

SCHEDULE "I"
VENDOR'S CERTIFICATE

TO: <> (the "**Purchaser**")

RE: Asset Purchase Agreement dated ●, 2019 (the "**Agreement**") between **THE BOWRA GROUP INC.**, in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of Quinsam Coal Corporation, and not in its personal or corporate capacity, (the "**Vendor**") and the Purchaser.

Unless otherwise defined herein, the definitions provided for in the Agreement are adopted in this certificate (the "**Certificate**").

I, ●, a <> of The Bowra Group Inc., hereby certify that as of the date of this Certificate:

1. I am personally familiar with the matters hereinafter mentioned.
2. Each of the representations and warranties of the Vendor contained in Section 11 of the Agreement were true and correct in all material respects when made and are true and correct in all material respects as of the Closing Date.
3. All obligations of the Vendor contained in the Agreement to be performed prior to or at the Closing Time have been timely performed in all material respects.
4. This Certificate is made by The Bowra Group Inc. solely in its capacity as the receiver and manager of the assets, undertakings and properties of Quinsam not in its personal or corporate capacity, and is binding upon the Vendor.
5. This Certificate is made with full knowledge that the Purchaser is relying on the same for the closing of the transactions contemplated by the Agreement.

IN WITNESS WHEREOF I have executed this Certificate this ____ day of _____, 2019.

THE BOWRA GROUP INC., in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of Quinsam Coal Corporation, and not in its personal or corporate capacity,

Per: _____
Name:
Title:

SCHEDULE "J"
PURCHASE PRICE ALLOCATION

1. Equipment	CA\$[●]
2. Real Property Interests	CA\$[●]
3. Other Purchased Assets	CA\$[●]
Total (Purchase Price):	CA\$[●]

No. S1811330
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ROYAL BANK OF CANADA

PETITIONER

AND:

502489 B.C. LTD., LESLIE ALLAN RIDLEY, TRAVELERS
LEASING LTD., FT. NELSON TIRE LTD., MAYNBRIDGE
CAPITAL INC., G.D. CORNISH TRUCKING LTD., AND
HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA

RESPONDENTS

ORDER

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
Bentall 5, Suite 2300,
550 Burrard Street
Vancouver, BC V6C 2B5

Tel: 604.683.6498 Fax: 604.683.3558

File No. V49241

CDB/msh