

NO. S-138873  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT  
OF ARTHON INDUSTRIES LIMITED, ARTHON CONTRACTORS INC.,  
ARTHON EQUIPMENT LTD., COALMONT ENERGY CORP.,  
ROBEKA PROJECTS INC. AND 0755049 B.C. LTD.

PETITIONERS

**ORDER MADE AFTER APPLICATION**

BEFORE THE HONOURABLE  
MR. JUSTICE SEWELL

)  
)  
)

THURSDAY, THE 29<sup>TH</sup> DAY OF  
JANUARY, 2015

THE APPLICATION of Coalmont Energy Corp. ("**Coalmont**") and Arthon Equipment Ltd. coming on for hearing at Vancouver, British Columbia, on the 29<sup>th</sup> day of January, 2015; AND ON HEARING H. Lance Williams, counsel for Coalmont, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the materials filed herein;

THIS COURT ORDERS AND DECLARES THAT:

**SERVICE**

1. Service of notice of this application and the supporting materials is deemed to be good and sufficient and the time for service is abridged to the time actually given.

**APPROVAL OF SALE AND VESTING**

2. The sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement dated January 23, 2015 (the "**Sale Agreement**") between Coalmont and Sandhill Materials

Inc. ("**Sandhill**"), a copy of which is attached as **Schedule "B"** hereto is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by Coalmont is hereby authorized and approved, and Coalmont is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the assets described in the Sale Agreement (the "**Purchased Assets**") to 1025194 B.C. Ltd. ("**102**").

3. Upon delivery of a letter from Davis LLP, in its capacity as Coalmont's solicitors authorizing use of this Order, all of Coalmont's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in 102, as set out above, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing those charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system (collectively referred to as the "**Encumbrances**"), but excepting those set out in **Schedule "C"** hereto (the "**Permitted Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances, other than the Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
4. The Insurance Corporation of British Columbia is directed to transfer the registration of any and all vehicles comprising the Purchased Assets to 102.
5. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the closing of the Transaction all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.

## CLOSING AND POSSESSION

6. Subject to the terms of the Sale Agreement, possession of the Purchased Assets shall be delivered by Coalmont to 102 at 12:00 noon on the Closing Date (as defined in the Sale Agreement), subject to the Permitted Encumbrances.
7. Coalmont, with the consent of Sandhill and 102, as applicable, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.

## ASSIGNMENT OF MINING AGREEMENT

8. Upon Davis LLP, in its capacity as Sandhill's solicitors ("**Sandhill's Solicitors**") confirming by letter to Pacific West Coal Ltd. as successor to Pacific West Coal (Holdings) Ltd. ("**PWC**") or its counsel that it holds the sum of \$60,974.85 in trust (the "**Claim Funds**"), the mining agreement between PWC and Coalmont dated April 28, 2011 (the "**PWC Agreement**") shall be assigned by Coalmont to 102 immediately without further order. Such assignment will be valid and binding upon PWC notwithstanding any restrictions contained therein.
9. Upon the assignment of the PWC Agreement, PWC shall be permanently prohibited from exercising any right or remedy under the PWC Agreement, including termination, by reason of any defaults thereunder arising from these proceeding, the insolvency of Coalmont, the assignment of the PWC Agreement to the 102, or any failure of Coalmont to perform a non-monetary obligation under the PWC Agreement. All notices of default and demands given in connection with any such defaults under, or non-compliance with the PWC Agreement, including any non-compliance with any covenant, warranty, representation, term, provision, condition, or obligation, expressed or implied in the PWC Agreement, shall be deemed to have been waived and/or rescinded as the case may be and shall be of no further force and effect.
10. The Claims Funds shall be held by Sandhill's Solicitors in trust as security for the claim of PWC made in accordance with the claims procedure order pronounced in these proceedings October 30, 2014. Sandhill's Solicitors shall hold the Claim Funds until:
  - (a) directed to pay them by both Sandhill and PWC; or
  - (b) further order of this Court.

11. Notwithstanding the foregoing, Sandhill's Solicitors may at any time pay the Claim Funds into court to the credit of this action, to be held pending further order.

## MISCELLANEOUS

12. Notwithstanding any other provision of this Order, the vesting in 102 of Coalmont's right, title and interest in and to the Purchased Assets does not exempt or relieve anyone, including, without limitation, Coalmont or 102, from any obligation or liability existing at the time of this Order which arises under or is associated with

- (a) an enactment of the Province of British Columbia (the "**Province**");
- (b) any agreement, licence, lease, permit, approval, certificate or other instrument (each an "**Instrument**") issued under the authority of an enactment of the Province; or
- (c) any order, instruction, command, directive, direction, demand or edict made pursuant to an enactment of the Province or an Instrument;

in relation to the Purchased Assets. Nothing in this paragraph will cause Sandhill, 102, or their interest in the Purchased Assets to be subject to any obligation or liability which would not arise from the sale of the Purchased Assets to an arms-length third party.

13. Notwithstanding any other provision of this Order, nothing in this Order exempts or relieves anyone, including, without limitation, Coalmont or 102, from obtaining any consents or approvals or giving any notices required under any enactment of the Province or under any Instrument issued under the authority of an enactment of the Province with respect to any transfer or assignment of any of the Purchased Assets or makes the Purchased Assets transferable or assignable if such Purchased Asset is not, by virtue of an enactment of the Province or the Instrument itself, transferable or assignable. The vesting in 102 of Coalmont's right, title and interest in and to the Purchased Assets that requires any such consent, approval or notice is not effective unless and until such consent or approval is obtained or notice is given.

14. Notwithstanding:

- (a) these proceedings;

(b) any applications for a bankruptcy order in respect of Coalmont hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and

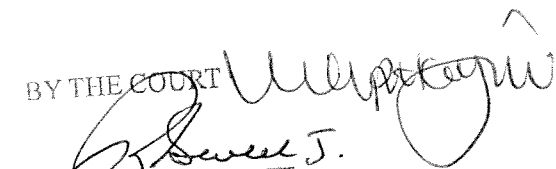
(c) any assignment in bankruptcy made by or in respect of Coalmont,

the vesting of the Purchased Assets in 102 pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Coalmont and shall not be void or voidable by the creditors of Coalmont, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

15. Coalmont or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
16. Endorsement of this Order by counsel appearing, other than counsel for Coalmont, is hereby dispensed with.

THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist Coalmont in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to Coalmont, as may be necessary or desirable to give effect to this Order or to assist Coalmont in carrying out the terms of this Order.

ENDORSEMENTS ATTACHED

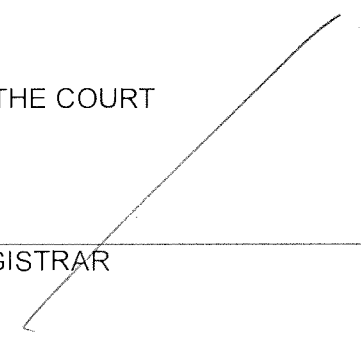
BY THE COURT   
REGISTRAR  
AS TO FORM  
RE

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Davis LLP (Mary I.A. Buttery/H. Lance Williams)  
Lawyer for Coalmont Energy Corp.

BY THE COURT



REGISTRAR

Schedule "A"

Counsel List	
Name	Party Represented
P. BYCHAWSKI	ADVANCE & MAREK (ADVANTAGE INC.)
M. VERBRUGGE	CAUCAS (CAPITAL CORPORATION)

**Schedule "B"**  
**Asset Purchase Agreement**  
**See Attached**



## ASSET PURCHASE AGREEMENT

THIS AGREEMENT is between:

**COALMONT ENERGY CORP.**, a body corporate pursuant to the laws of British Columbia,

(the "**Seller**")

AND

**SANDHILL MATERIALS INC.**, a body corporate pursuant to the laws of British Columbia,

(the "**Buyer**")

### BACKGROUND

- A. The Seller owns and operates the Business and owns or holds under valid license or lease the Assets.
- B. On November 29, 2013, the Seller, *inter alios*, obtained the protection of the Court pursuant to the CCAA, and remains subject to the Proceeding.
- C. The Seller has agreed to sell, and the Buyer has agreed to buy, the Assets on the terms set out in this Agreement.

### AGREEMENTS

For good and valuable consideration, the receipt and sufficiency of which each Party acknowledges, the Parties agree as follows:

#### PART 1 INTERPRETATION

##### 1.1 Defined Terms. In this Agreement:

- (a) "**Accounts**" means all of the Seller's deposit accounts (including those held as security for outstanding letters of credit, whether in the name of the Seller or to which the Seller is entitled to have transferred into its name), accounts receivable, income tax refunds and other tax refunds receivable by the Seller, any other duty or other refunds, and the full benefit of all security held by the Seller for such accounts, notes and debts;
- (b) "**Assets**" means collectively the Seller's right, title and interest in and to the equipment, machinery, parts, tools, accessories and other tangible personal property listed in **Schedule "A"** hereto, together with the Accounts, the Inventory, and the Seller's rights under the Licenses and the Mining Agreement;
- (c) "**Basin Mine Lands**" means those lands more particularly described in **Schedule "D"** hereto, the rights to which are held by the Seller under License of Occupation No. 340059, as modified;

- (d) "**Business**" means the coal extraction and processing activities carried on by the Seller at the Basin Mine Lands;
- (e) "**Business Day**" means any day from Monday to Friday, inclusive, except for any day that is a statutory holiday in British Columbia;
- (f) "**Callidus**" means Callidus Capital Corporation;
- (g) "**CCAA**" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- (h) "**CCAA Charges**" means the Administration Charge and the DIP Lender's Charge as defined in the initial order granted in the Proceeding on November 29, 2013, as amended;
- (i) "**Closing Date**" has the meaning given in paragraph 9.1;
- (j) "**Claims Process**" means the process for determining claims against the Seller pursuant to the order of the Court in the Proceeding pronounced October 30, 2014;
- (k) "**Court**" means the Supreme Court of British Columbia;
- (l) "**Environmental Laws**" means any applicable federal, provincial, municipal or local laws, regulations, orders, governmental decrees or ordinances concerning environmental, health or safety matters;
- (m) "**Governmental Authority**" means any Canadian (whether federal, territorial, provincial, municipal or local), international or foreign government, governmental authority, quasi-governmental authority, court, self-regulatory organization, commission, tribunal or organization, or any agent, subdivision, department or branch of any of the foregoing;
- (n) "**Hazardous Substances**" means any pollutant, contaminant, waste, special or hazardous waste, toxic or hazardous substance or material which, when released into the natural environment is likely to cause harm or risk to the natural environment or to human or animal health, including without limitation, any substance considered hazardous under Environmental Laws;
- (o) "**Inventory**" means the stockpiled coal, raw materials, work in progress, and replacement parts of or relating to the Business;
- (p) "**Licenses**" means all licences, permits, registrations, consents and other rights entered into or obtained by the Seller from any Governmental Authority with respect to the Business or any of the Assets including, without limitation, those listed in **Schedule "C"** hereto;
- (q) "**Liens**" means valid and enforceable liens of Kal Tire registered against any of the Assets in the Personal Property Registry of British Columbia on November 29, 2013;
- (r) "**Material Damage**" means any damage to, or destruction of, a substantial portion of the Assets that cannot be repaired, or restored, in the opinion of the Buyer, acting reasonably, within 120 days after the occurrence of that damage or destruction;
- (s) "**Mining Agreement**" means the Mining Agreement between the Seller and Pacific West Coal (Holdings) Ltd. dated April 28, 2011, as amended and supplemented;

- (t) "**Parties**" means the Seller and the Buyer, and their respective successors and assigns, and "**Party**" means any one of the Parties;
- (u) "**Permitted Encumbrances**" means the encumbrances, if any, listed in **Schedule "B"**;
- (v) "**Person**" means an individual, a corporation, a society, a partnership, a government or any government department or agency, a trustee, any unincorporated organization, and includes the heirs and legal representatives of an individual;
- (w) "**Proceeding**" means the proceedings commenced by, *inter alios*, the Seller in the Court pursuant to the CCAA as British Columbia Supreme Court Action No. S-138873, Vancouver Registry;
- (x) "**Purchase Price**" has the meaning given in paragraph 2.2; and
- (y) "**Vesting Order**" has the meaning given in paragraph 8.1(a).

1.2 **Schedules.** The following attached Schedules form part of this Agreement:

<b>Schedule "A"</b>	Assets
<b>Schedule "B"</b>	Permitted Encumbrances
<b>Schedule "C"</b>	Licenses and Permits
<b>Schedule "D"</b>	Basin Mine Lands

## PART 2

### AGREEMENT TO SELL AND CONSIDERATION

2.1 **Agreement to Sell.** The Seller will sell, and the Buyer will buy, all of the Seller's rights, title and interest in and to the Assets on the terms set out in this Agreement.

2.2 **Purchase Price.** The Purchase Price will be \$12,361,501.00 (the "**Purchase Price**") and will be satisfied as follows:

- (a) the Buyer assuming the obligations of the Seller pursuant to: (i) the CCAA Charges; (ii) its proportionate share of the professional fees in the Proceeding; and (iii) its proportionate share of the interest accrued or paid to Callidus from December 23, 2013 to December 31, 2014, having an estimated value of \$7,488,986.00;
- (b) the Buyer assuming the obligations of the Seller pursuant to the Liens, which are estimated to be \$0.00. For each respective Lien, the total obligation assumed will be the lesser of the amount of the Lien and the portion of the Purchase Price allocated to the Equipment subject to the Lien by the Buyer and the Seller;
- (c) the Buyer paying to Pacific West Coal Ltd. the amounts owing to it by the Seller prior to the commencement of the Proceeding as determined by the Claims Process;
- (d) the Buyer crediting the balance against the debts owing by the Seller to the Buyer, up to \$1,500,000.00; and
- (e) the Buyer assuming the obligation for the primary debts owing by the Seller to Callidus in an amount equal to the balance, if any.

2.3 **Allocation.** The Purchase Price will be allocated as follows:

- (a) to the Mining Agreement: \$50,000.00;

- (b) to Inventory: \$136,418.00; and
- (c) the balance to all other Assets.

### **PART 3 TAXES**

3.1 **Taxes.** The Buyer will pay all taxes payable upon the purchase of the Assets. Each of the Buyer and Seller will make the election provided for by section 167 of the *Excise Tax Act* (Canada) in the prescribed form, and the Buyer will file such election within the prescribed time. If the Buyer is not a registrant under the *Excise Tax Act* (Canada) it will pay all goods and services tax payable in respect of the purchase of the Assets to the Seller on the Closing Date.

### **PART 4 REPRESENTATIONS**

4.1 **Representations of the Seller.** The Seller represents and warrants to the Buyer as follows:

- (a) **Status of Seller.** The Seller is an existing corporation under the laws of British Columbia, is in good standing with respect to the filing of annual returns with the Registrar of Companies, has the power and capacity to dispose of the Assets and to enter into this Agreement and carry out its terms.
- (b) **Canadian Residency.** The Seller is a resident in Canada within the meaning of the *Income Tax Act* (Canada) and on the Closing Date shall not be a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

4.2 **Representations of the Buyer.** The Buyer represents and warrants to the Seller as follows:

- (a) **Status of the Buyer.** The Buyer is an existing corporation under the laws of British Columbia and is in good standing with the Registrar of Companies.
- (b) **Capacity.** The Buyer has the right and authority to enter into this Agreement on the terms and conditions set out herein and has duly passed all corporate resolutions necessary to authorize the transactions contemplated by this Agreement. This Agreement constitutes a valid and binding obligation of the Buyer.
- (c) **Governmental Authorization.** Except as expressly referred to in this Agreement, the execution, delivery and performance of this Agreement by the Buyer requires no action by, consent or approval of, or filing with, any Governmental Authority.
- (d) **GST Registrant.** The Buyer is a registrant for purposes of the *Excise Tax Act* (Canada) and the Buyer's registration number is 89158-7214-RT0001.

### **PART 5 RESPONSIBILITY FOR LIABILITIES AND OBLIGATIONS**

5.1 **Assumed Liabilities and Obligations.** With effect from the Closing Date, the party to which the Assets are vested, shall assume and be solely responsible for all obligations and liabilities which are to be observed, performed or paid from and after the Closing Date under:

- (a) the Mining Agreement;
- (b) the Licences; and

- (c) any other contract, agreement or obligation specifically agreed to be assumed by the Buyer in this Agreement or subsequently between the Buyer and the Seller in writing.

## **PART 6 TITLE TO THE ASSETS**

6.1 **Title to the Assets.** As more particularly described in this Agreement, title to the Assets will be transferred to the Buyer, or to the Buyer's nominee (in whole or in part) by way of the Vesting Order in the Proceeding, free and clear of any financial encumbrances but subject to the Permitted Encumbrances.

6.2 **Acknowledgement.** The Buyer acknowledges that:

- (a) the Seller is selling the Assets strictly on an "as is, where is" basis as they exist on the Closing Date, and that the Buyer's completion of the transaction contemplated herein constitutes the Buyer's acknowledgment that it has satisfied itself as to all matters relating to the physical condition of the Assets. No representation, warranty or condition by the Seller is expressed or implied as to title, encumbrances, environmental liabilities, description, fitness for purpose, merchantability, assignability, condition, quantity or quality or in any respect of any other matter or thing whatsoever concerning the Assets or the right of the Seller to sell the Assets. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to any applicable statute, including without limitation, the *Sale of Goods Act* (British Columbia) or other similar legislation, do not apply hereto and are hereby waived by the Buyer. The description of the Assets set out herein is for the purpose of identification only and no representation, warranty or condition has or will be given by the Seller concerning the completeness or accuracy of such descriptions; and
- (b) the Assets have been used for the Business, and that such use can be expected to have resulted in environmental liabilities including, without limitation, the presence of contamination and/or Hazardous Substances at, on or under the Basin Mine Lands or such contamination and/or Hazardous Substances potentially affecting neighbouring properties, water bodies or other areas.

6.3 **Inability to Transfer.** If any of the Assets are incapable of being transferred to the Buyer including, without limitation, any tax refunds to be issued by any Governmental Authority, the Seller shall hold the Asset in trust for the Buyer and shall immediately deliver to the Buyer all moneys, goods or other benefits received therefrom. Any funds received by the Seller pursuant to this section shall be segregated and held in a separate account from the Seller's other funds, and shall be designated as a trust account.

6.4 **Letters of Credit.** The Seller has provided certain letters of credit drawn on financial institutions with various parties in relation to the Business. The collateral held by those financial institutions as security for these letters of credit is included in the Assets being sold to the Buyer. The Seller agrees to work with the Buyer, at the Buyer's request, to facilitate:

- (a) the replacement of these letters of credit; and
- (b) the release and delivery to the Buyer of the collateral held as security therefore.

6.5 **Insurance.** The Seller and the Buyer will use commercially reasonable efforts to transfer the liability and all-risk insurance policies held by the Seller in relation to the Business and the Assets, to the Buyer.

## **PART 7 COURT APPROVAL**

7.1 **Court Approval.** The Buyer acknowledges and agrees that until this Agreement is approved by the Court in the Proceeding, the Seller's obligation in connection with this Agreement is limited to considering it and, if accepted by the Seller, putting the Agreement before the Court for approval.

## **PART 8 CONDITIONS PRECEDENT**

8.1 **Conditions Precedent to the Parties' Obligations.** The obligations of each of the Parties under this Agreement are subject to the fulfilment, prior to or on the Closing Date, of the following conditions:

- (a) the Seller obtaining and receiving from the Court a vesting order in a form acceptable to the Buyer in a form acceptable to the Parties (the "**Vesting Order**") which:
  - (i) approves this Agreement and the sale of the Assets to the Buyer in accordance with this Agreement;
  - (ii) vests title in the Assets in the Buyer or a party designated by the Buyer free and clear of all liens, security interests and other encumbrances save and except for the Permitted Encumbrances; and
  - (iii) contains such other terms and conditions as may ordinarily be contained in a vesting order;
- (b) the Seller not being restrained or enjoined from completing the sale of the Assets by a court of competent jurisdiction or the filing or registration of any document preventing the Seller from transferring title to the Assets to the Buyer;
- (c) the Vesting Order not being stayed, varied or vacated and all appeal periods having expired; and
- (d) the Parties each being able to complete unconditionally the sale contemplated by this Agreement pursuant to the Vesting Order.

8.2 **Waiver of Conditions.** Each of the conditions set out in paragraph 8.1 may be waived, in whole or in part, by the Parties at or prior to the Closing Date, by a written waiver to that effect signed by the Parties.

8.3 **Binding Agreement.** The Seller and the Buyer acknowledge and agree that although their respective obligations to complete the sale and purchase contemplated by this Agreement is subject to the satisfaction or waiver of the conditions precedent set forth in paragraph 8.1:

- (a) those conditions precedent are not conditions to there being a binding agreement between the Seller and the Buyer with respect to the Assets; and
- (b) this Agreement is not void, voidable, revocable or, except for default, otherwise capable of being terminated by any of the Parties until the time limited for the satisfaction or waiver of such conditions precedent has expired.

## **PART 9 CLOSING**

9.1 **Completion.** The sale will be completed two (2) days following the satisfactory completion or waiver of the conditions precedent set out in paragraph 8.1, subject to the Parties agreeing to an earlier date or any extension under paragraph 11.10 (the "**Closing Date**").

9.2 **Closing.** The closing will take place at the offices of Davis LLP, at 2800 - 666 Burrard Street, Vancouver, BC on the Closing Date, or on such other date or at such other place as may be mutually agreed upon in writing by the Parties.

9.3 **Documents and Assets to be Delivered by the Seller.** At the closing the Seller will deliver, or cause to be delivered, to the Buyer:

- (a) the Vesting Order;
- (b) the Seller's election under section 167 of the *Excise Tax Act* in the prescribed form;
- (c) letters to the appropriate Government Authorities, jointly executed by the Buyer, authorizing the transfer of the Licenses hereunder; and
- (d) all deeds of conveyance, bills of sale, transfers, and assignments reasonably required by the Buyer, and in form and content satisfactory to each of the Parties' solicitors, appropriate to effect the assignment, transfer and sale of the Assets as contemplated in this Agreement.

9.4 **Documents to be Delivered by the Buyer.** On the Closing Date the Buyer will deliver, or cause to be delivered, to the Seller:

- (a) letters to the appropriate Government Authorities, jointly executed by the Seller, authorizing the transfer of the Licenses hereunder;
- (b) the Buyer's election under section 167 of the *Excise Tax Act* in the prescribed form; and
- (c) such other documents reasonably required by the Seller, and in a form and content satisfactory to each of the Parties' solicitors, to evidence the payment of the Purchase Price.

9.5 **Terms of Closing.** Closing shall not be completed, nor shall the documents tabled for delivery on the Closing Date be delivered, until all conditions of closing (including the deliveries contemplated by this Part 9) have been fulfilled or waived.

9.6 **Transfer Fees and Taxes.** In addition to the Purchase Price, all taxes, fees or costs payable with respect to transfer of title to the Assets to the Buyer and to registration of such transfer shall be for the account of the Buyer. All costs of clearing any charges or encumbrances affecting the Assets, other than the Permitted Encumbrances, shall be for the account of the Seller.

## **PART 10 RISK AND DAMAGE**

10.1 **Risk.** Up to the Closing Date, any risk of loss or damage by fire or other cause to the Assets will remain with the Seller. The Seller is not required to maintain any insurance relating to the Assets, but if there is such insurance the Seller will hold any insurance policies or compensation policies, if any, and any proceeds of any insurance policies or compensation, in trust for the Seller and the Buyer.

10.2 **Buyer's Election.** If, prior to the Closing Date, there occurs any Material Damage by fire or other cause to any of the Assets, then the Buyer may, at its option:

- (a) terminate this Agreement; or
- (b) reduce the Purchase Price, by notice to the Seller, by an amount equal to the cost of repair, or, if the Assets are destroyed or damaged beyond repair, by an amount equal to

the replacement cost of the assets forming part of the Assets that have been damaged or destroyed, and complete the purchase, provided that the Seller must agree to the amount of any reduction of the Purchase Price; or

- (c) elect to complete the purchase and sale of the Assets, in which case any insurance proceeds or other compensation proceeds paid or payable with respect to the Assets will be assigned or paid by the Seller to the Buyer.

10.3 **Non-Material Damage.** In the event of damage to the Assets that is not Material Damage, the Buyer will complete the purchase and sale of the Assets, in which event any insurance proceeds or other compensation proceeds paid or payable with respect to the Assets will be assigned or paid by the Seller to the Buyer, and the Purchase Price will be reduced to the extent that any such proceeds do not compensate for the repair or replacement cost of the Assets damaged or destroyed, provided that the Seller must agree to the amount of any reduction to the Purchase Price.

## **PART 11 GENERAL**

11.1 **Further Assurances.** The Parties will execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary, to give full effect to this Agreement, and to make this Agreement legally effective, binding, and enforceable as between them, and as against third parties.

11.2 **Binding Agreement.** This Agreement will bind and benefit each of the Parties including their respective successors and permitted assigns.

11.3 **Expenses.** Each Party will pay any expense it incurs in authorizing, executing, and performing this Agreement and any transaction contemplated by it, whether or not that transaction is completed, including any fee and expense of its legal counsel, banker, investment banker, broker, accountant, or other consultant.

11.4 **Assignment.** The Seller may not assign this Agreement without the prior consent of the Buyer. The Buyer may assign this Agreement, in whole or in part, to an affiliate (as defined in the *Business Corporations Act* (British Columbia)) on written notice to the Seller. The Buyer may not otherwise assign this Agreement without the prior consent of the Seller.

11.5 **Counterparts.** This Agreement may be signed by original or by facsimile and executed in any number of counterparts, and each executed counterpart will be considered to be an original. All executed counterparts taken together will constitute one agreement.

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

11.7 **Gender and Number.** Words in one gender include all genders, and words in the singular include the plural and vice versa.

11.8 **Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with British Columbia law and applicable Canadian law and will be treated in all respects as a British Columbia contract. The Parties agree to the non-exclusive jurisdiction of the courts of the Province of British Columbia.

11.9 **Time.** Time will be of the essence.



11.10 **Expiry of Time Period.** In this Agreement, if any period ends on a day other than a Business Day, that period will be extended to the next following Business Day.

11.11 **Notices.** In this Agreement:

(a) any notice or communication required or permitted to be given under the Agreement will be in writing and will be considered to have been given if delivered by hand, transmitted by facsimile transmission or mailed by prepaid registered post in Canada, to the address or facsimile transmission number of each Party set out below:

(i) if to the Seller:

Coalmont Energy Corp.  
Unit 9 - 1790 KLO Road  
Kelowna, BC V1W 3P6

Attention: Kerry Leong

and to:

Davis LLP  
2800 - 666 Burrard Street  
Vancouver, BC V6C 2Z7

Attention: Mark Schmidt  
Fax No.: 604-605-3514

(ii) if to the Buyer:

Sandhill Materials Inc.  
Unit 9 - 1790 KLO Road  
Kelowna, BC V1W 3P6

Attention: Kerry Leong

and to:

Davis LLP  
2800 - 666 Burrard Street  
Vancouver, BC V6C 2Z7

Attention: Mark Schmidt  
Fax No.: 604-605-3514

or to such other address or facsimile transmission number as any Party may designate in the manner set out above;

(b) any notice or communication will be considered to have been received:

(i) if delivered by hand during business hours on a Business Day, upon receipt by a responsible representative of the Seller, and if not delivered during business hours, upon the commencement of business on the next Business Day;

(ii) if sent by facsimile transmission during business hours on a Business Day, upon the sender receiving confirmation of the transmission, and if not transmitted

during business hours, upon the commencement of business on the next Business Day; and

- (iii) if mailed by prepaid registered post in Canada, upon the fifth Business Day following posting; except that in the case of a disruption or an impending or threatened disruption in postal services every notice or communication will be delivered by hand or sent by facsimile transmission.

11.12 **Confidentiality.** Neither the Seller nor the Buyer will, without the prior written consent of the other, disclose the Purchase Price or any of the other terms and conditions of this Agreement to any other Person other than to its respective bankers, solicitors and financial advisors, or otherwise as required to carry out its obligations under this Agreement or by law.

**[Signature Page Follows]**

TO EVIDENCE THEIR AGREEMENT each of the Parties has executed this Agreement on the date appearing below.

**COALMONT ENERGY CORP.**

By: 

Authorized Signatory

Dated: January 23, 2015

**SANDHILL MATERIALS INC.**

By: 

Authorized Signatory

Dated: January 23, 2015

**SCHEDULE "A"**  
**ASSETS**

Code	Description	Year	Make	Model	Serial No.
BU1235	Site Shop	0000			
CH1250	Lenovo ThinkStation PC	2012	Lenovo	M81 7518	PXGRC
CH1251	Lenovo ThinkPad T530	2012	Lenovo	T530	CND2392219
CH1252	Lenovo ThinkCentre PC	2012	Lenovo	M81 7518	
CH1253	Lenovo ThinkCentre PC	2012	Lenovo	M81 7518	
CH1254	Panasonic Toughbook C1 Convertible	2013	PANASONIC	Toughbook C1	
CH1255	Lenovo ThinkPad	2013	Lenovo		
ED1201	2012 DCS 25000 gal Tidy Tank/Skid	2012	TIDY	DCS25000	57853
ED1202	10' Container - CEC Electrical	2012	BIG	TROU	TROU 7155652-7432
ED1260	Steel Rack	0000			
ED1262	10' x 22' Washroom Trailer	0000			
ED1263	2012 CTB500 Clean Burn Multi Oil Furnace w/Chimney	2012	CTB 500		
ED1264	2012 500 Gallon WB Tank (for ED1263 Furnace)	2012	500 G WB		
ED1265	Franklin 90JS5S4-PE 575V Pump & parts	2012	FRANKLIN	90JS5S4-PE	
ED1266	2012 DCS 25000 L Tidy Tank / Generator Skid	2012	TIDY	DCS25000	52038
ED1267	Boiler for Wash Plant - used	0000			
ED1268	2012 DCS 2250 L Tidy Tank	2012	TIDY	DCS2250	
ED1269	2012 DCS 45000 L Tidy Tank/Skid	2012	TIDY	DCS45000	
ED1270	VEGA SHLD1 / MINITRAC 31 Nuclear Density Detector	0000	VEGA	SHLD1 / MINITRAC 31	
ED1272	Franklin 25JS30 3HP 575V Submersible Pump	2013	FRANKLIN		93772534 / 2343362604
ED1273	Arctic Raptor Electrofusion Pro 220V w/on/off, 20'	2013	ARCTIC		A30671
ES1222	DVSystems G25TD 25HP 575V WP Gen Cmprssr	2013	DVSYSTEMS	G25TD	37976
ES1223	95' x 11' Multi Deck Eliminator MTS Truck Scale	2013			392500213-V
GE1226	Mitsubishi S16R 1650KW Diesel Generator	2005	MITSUBISHI	S16R	10025
GE1227	Mitsubishi S16R 1650KW Diesel Generator	2005	MITSUBISHI	S16R	10026
ME1202	1998 JD 4.5L Powertech Generator	1998	JDR	POWERTECH	T04045D750400
ME1230	2012 SIEMENS TiaStar 600V Motor Control Centerr	2012	SIEMENS	TIASTAR	
RD1200	CEC Hwy Access Road	0000			
WASH12	Parnaby 250 TPH Capacity Cyclone Coal Rewash Plant	2012	PARNABY	250 TPH	

**SCHEDULE "B"**  
**PERMITTED ENCUMBRANCES**

1. liens in favour of Callidus Capital Corporation;
2. liens in favour of the Buyer; and
3. the CCAA Charges.

**SCHEDULE "C"**  
**LICENSES**

1. Licence of Occupation No. 340059 dated February 11, 2004
2. Modification Agreement dated November 1, 2004 Modifying Licence of Occupation No. 340059 to Include an Additional Area in the Tenure
3. Modification Agreement dated May 4, 2005 Modifying Licence of Occupation No. 340059 to Include an Additional Area in the Tenure
4. Assignment/Assumption Agreement dated April 20, 2011 Assigning Licence of Occupation No. 340059
5. Modification of Permit 1-8919-11 dated August 30, 2011 Authorizing Use of Forest Services Roads
6. Modification of Permit CX-4-006 dated September 18, 2013 Amending *Mines Act* Exploration Permit due to Name Change
7. Modification of Permit C-217 dated August 10, 2001 Approving Work System and Reclamation Program and Including Amendment Approving New Owner
8. Modification of Permit C-217 dated April 25, 2002 Approving Work System and Reclamation Program, and Including Amendment Approving Construction of Wash Plant and Increasing Production to 250,000 TPY
9. Modification of Permit C-217 dated October 1, 2002 Approving Work System and Reclamation Program, and Including Amendment Approving Relocation of Wash Plant
10. Modification of Permit C-217 dated April 17, 2003 Approving Work System and Reclamation Program and Including Amendment to ML/Ard Mitigation Plan and Reclamation Security
11. Modification of Permit C-217 dated May 27, 2004 Approving Work System and Reclamation Program and Including Amendment concerning Acid Rock Drainage and Metal Leaching Mitigation Plan
12. Modification of Permit C-217 dated June 22, 2005 Approving Work System and Reclamation Program for Basin Coal Mine, and Coal Wash Plant Relocation
13. Modification of Permit C-217 dated June 29, 2006 Approving Work System and Reclamation Program and Including Amendment Approving Construction of Waste Rock Dump
14. Modification of Permit C-217 dated August 2, 2011 Approving a Name Change
15. Modification of Permit C-217 dated August 10, 2011 Amending Holder of Permit C-217 from Pacific West Coal (UK) Ltd. to Compliance Coal Corporation
16. Modification of Permit C-217 dated February 19, 2013 Authorizing Production Increase to 350,000 TPY
17. Modification of Permit C-217 dated November 4, 2013 Approving Construction of Coal Rejects Spill Containment Berm

## BASIN MINE LANDS

## **Schedule "C"**

### **Permitted Encumbrances**

1. liens in favour of Callidus Capital Corporation;
2. liens in favour of Sandhill; and
3. the CCAA Charges (as defined in the Sale Agreement)



NO. S-138873  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF ARTHON INDUSTRIES LIMITED, ARTHON  
CONTRACTORS INC., ARTHON EQUIPMENT LTD., COALMONT  
ENERGY CORP., ROBEKA PROJECTS INC.  
AND 0755049 B.C. LTD.

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**ORDER MADE AFTER APPLICATION**

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DAVIS LLP  
Barristers & Solicitors  
2800 Park Place  
666 Burrard Street  
Vancouver, BC V6C 2Z7

Tel. No. 604.687.9444  
Fax No. 604.687.1612

Client Matter No. 72497-00007

TAG/mlf