**2022 01G 0709**

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR**

**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF** an application of Grant Thornton Limited, as Court- Appointed Monitor of Canada Fluorspar (NL) Inc., Canada Fluorspar Inc., Newspar and CFI Newspar Holdings Inc., (collectively, "**CFI**" or the "**Company**");

**AND IN THE MATTER OF** the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C. c-36, as amended

**ORDER**

**(Monitor's Enhanced Powers)**

**THIS APPLICATION**, made by Grant Thornton Limited, in its capacity as Court- Appointed Monitor of Canada Fluorspar (NL) Inc., Canada Fluorspar Inc., Newspar, and CFI Newspar Holdings Inc., ("**GTL**" or the "**Monitor**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the **"CCAA"**) for an Order, among other things, expanding the Monitor's powers.

**ON READING** the application of the Monitor, including the affidavit of Phil Clarke sworn [x] (the "**Clarke Affidavit**") and the Exhibits thereto, the Monitor's Third Confidential Report (the "**Confidential Report**"), the Ninth Report (the "**Ninth Report**") of the Monitor, and on being advised that the DIP Lenders and senior secured creditors who are likely to be affected by this Order herein were given notice.

**UPON HEARING** Counsel for the Monitor and other counsel as they may appear;

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the within Notice of Motion and the Motion Record and materials filed, as set out in the affidavit of serve is hereby deemed adequate notice so that this Application is properly returnable today and hereby dispenses with further service thereof.

## DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Share Purchase Agreement, the Clarke Affidavit or the Amended and Restated Initial Order dated March 18th, 2022 (the "**ARIO**"), Amendment #1 of the ARIO dated June 10th, 2022 (the "**Amended ARIO**"), Amendment #2 to the ARIO dated August 30th, 2022 (" **2nd Amended ARIO** "), Amendment #3 to the ARIO dated October 12th 2022 (" **3rd Amended ARIO**"), Amendment #4 to the ARIO dated February 21, 2023 ("**4th Amended ARIO**") and Amendment #5 to the ARIO dated May 18, 2023 ("**5th Amended ARIO**"), as applicable (as may be further amended, restated, or otherwise modified, ARIO, Amended ARIO, 2nd Amended ARIO, 3rd Amended ARIO 4th Amended ARIO and 5th Amended ARIO collectively referred to as the **"ARIO"**).

## MONITOR'S ENHANCED POWERS

3. **THIS COURT ORDERS** that, in addition to the powers and duties of the Monitor set out in the ARIO or any other Order of this Court granted in these CCAA proceedings, and without altering in any way the obligations of ResidualCo, a company to be incorporated (hereinafter referred to as " **ResidualCo**"), as a result of these proceedings, effective upon ResidualCo being added as an applicant in these CCAA proceedings pursuant to the Approval and Reverse Vesting Order of this Court of even date herewith, the Monitor be and is hereby authorized and empowered, but not required, to:

(a) cause ResidualCo to take any and all actions and steps, and execute all agreements, documents and writings, on behalf of, and in the name of, ResidualCo, contemplated to be taken or executed by ResidualCo pursuant to or in connection with the Share Purchase Agreement or the transactions contemplated thereby (or as otherwise may be considered necessary or desirable in connection therewith) or any Order of this Court;

(b) cause ResidualCo to take any and all actions and steps, and execute all agreements, documents and writings, on behalf of, and in the name of, ResidualCo in order to facilitate the performance of any of its obligations, including, without limitation, as contemplated by the Share Purchase Agreement or any Order of this Court;

(c) cause ResidualCo to exercise any rights of ResidualCo under or in connection with the Share Purchase Agreement or any agreement or other document related thereto;

(d) exercise any powers which may be properly exercised by any board of directors of ResidualCo;

(e) cause ResidualCo to retain the services of any person as an employee, consultant or other similar capacity, all under the supervision and direction of the Monitor and on the terms as agreed with the Monitor;

(f) open one or more new accounts in the name of the Monitor for and on behalf of ResidualCo (the **"ResidualCo Accounts"**) into which all funds, monies, cheques, instruments and other forms of payment payable to ResidualCo may be deposited from and after the making of this Order from any source whatsoever and to operate and control, as applicable, on behalf of ResidualCo, the ResidualCo Accounts in such manner as the Monitor, in its sole discretion, deems necessary or appropriate to assist with the exercise of the Monitor's powers and duties, including paying the fees and expenses of the Monitor, counsel to the Monitor and counsel to the Company in accordance with the terms of the Initial Order;

(g) cause ResidualCo to perform such other functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the winding-down of ResidualCo, the distribution of the proceeds of ResidualCo's Property, or any other related activities, including in connection with bringing these CCAA proceedings to an end;

(h) engage, deal, communicate, negotiate, agree and settle with any creditor or other stakeholder of ResidualCo (including any governmental authority) in the name of or on behalf of ResidualCo;

(i) claim or cause ResidualCo to claim any and all insurance refunds or tax refunds to which ResidualCo is entitled;

(j) assign ResidualCo, or cause ResidualCo to be assigned, into bankruptcy, and the Monitor shall hereby be entitled but not obligated to act as a trustee of ResidualCo in any such bankruptcy;

(k) cause the dissolution or winding-up of ResidualCo;

(l) act as an authorized representative of ResidualCo in respect of dealings with the Canada Revenue Agency (the **"CRA"**), and the Monitor shall hereby be entitled to execute any appointment or authorization form on behalf of ResidualCo that the CRA may require in order to confirm the Monitor's appointment as an authorized representative of ResidualCo for such purposes; and

(m) apply to this Court for advice and directions or any further orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court, including for advice and directions with respect to any matter.

4. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order, the Monitor is not and shall not be or be deemed to be, a director, officer or employee of ResidualCo.

5. **THIS COURT ORDERS** that, without limiting the provisions of the ARIO, ResidualCo shall remain in possession and control of its Property and the Monitor shall not take, or be deemed to have taken, possession or control of such Property, or any part thereof.

6. **THIS COURT ORDERS** that the Monitor shall not be liable for any employee-related liabilities of ResidualCo, including any successor employer liabilities as provided for in Section 11.8(1) of the CCAA, other than amounts the Monitor may specifically agree in writing to pay. Nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee related liabilities of ResidualCo, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts.

7. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor and its legal counsel shall continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the ARIO and any other Order of this Court and all such indemnities, charges, protections and priorities shall apply and extend to the Monitor in carrying out of the provisions of this Order and exercising any powers granted to it hereunder. Without limiting the generality of the foregoing: (i) in exercising any powers granted to it hereunder, the Monitor shall not be deemed to have taken or maintained possession or control of the Business or Property of ResidualCo, or any part

thereof; and (ii) the Monitor shall incur no liability or obligation as a result of exercising any powers granted to it hereunder, save and except for any gross negligence or wilful misconduct on its part.

8. **THIS COURT ORDERS** that nothing in this Order shall constitute or be deemed to constitute the Monitor as receiver, assignee, liquidator, administrator, receiver-manager, agent of the creditors or legal representative of ResidualCo within the meaning of any relevant legislation and that any distributions to creditors of ResidualCo by the Monitor will be deemed to have been made by ResidualCo.

9. **THIS COURT ORDERS** that the powers and authority granted to the Monitor by virtue of this Order shall, if exercised in any case, be paramount to the power and authority of ResidualCo with respect to such matters and, in the event of a conflict between the terms of this Order and those of the ARIO or any other Order of this Court, the provisions of this Order shall govern.

**GENERAL**

10. **THIS COURT ORDERS** that, for the avoidance of doubt, all of the powers, rights and protections of the Monitor specified herein shall be construed so as to refer to powers, rights and protections in respect of ResidualCo.

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

12. **THIS COURT ORDERS** that ResidualCo and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

13. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Newfoundland Time on the date of this Order.