

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**THE HONOURABLE
JUSTICE NEWBOULD**

)
)
)

**FRIDAY, THE 16TH
DAY OF DECEMBER, 2016**

BETWEEN:

GLOBAL RESOURCE FUND

Applicant

- and -

TAMERLANE VENTURES INC. and PINE POINT HOLDING CORP.

Respondents

APPLICATION UNDER section 243 of *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c. C-43.

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Kofman Inc., in its capacity as receiver (the “**Receiver**”) of the assets, properties and undertakings of Tamerlane Ventures Inc. and Pine Point Holding Corp. (collectively, the “**Company**”) appointed pursuant to an Order of this Court dated January 30, 2014 (the “**Receivership Order**”), for an order (i) approving the sale transaction (the “**Transaction**”) contemplated by an Asset Purchase Agreement dated as of December 9, 2016 between the Receiver and Darnley Bay Resources Limited (“**DBL**”) and appended to the Third Report of the Receiver dated December 9, 2016 (the “**Third Report**”), and (ii) vesting in DBL or such other person as DBL may designate with the consent of the Receiver (the “**Purchaser**”)

all of Receiver's and the Company's right, title and interest in and to the Purchased Assets was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, filed, the Third Report, filed, and on hearing the submissions of counsel for the Receiver and such other counsel as were present and wished to be heard, and on reading the affidavit of service of Bradley Wiffen, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Third Report and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meanings given to them in the Purchase Agreement.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution and delivery of the Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments to the Purchase Agreement as the Receiver and the Purchaser may agree. The Receiver is hereby authorized and directed to take such additional steps and to execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Receiver's and the Company's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, 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: (i) any encumbrances or charges created by the Order of this Court dated August 23, 2013 granted in the proceedings under the *Companies' Creditors Arrangement Act* in respect of the Company (the "**Initial Order**"); (ii) any encumbrances or charges created by the Receivership Order; and (iii) all charges,

security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”), provided that the Claims and Encumbrances referred to herein shall not include the encumbrances listed on Schedule “B” hereto (the “**Permitted Encumbrances**”); and, for greater certainty, this Court orders that all of the Encumbrances (except, for greater certainty, the Permitted Encumbrances) affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon registration of a certified copy of the Receivership Order and a certified copy of this Order in the Mining Recorder’s Office of the Northwest Territories and the Department of Lands, Government of the Northwest Territories, the registrar is hereby directed to:

- (a) transfer to and register in the name of the Purchaser all of the Company’s and the Receiver’s right, title and interest in and to the Mining Claims and the Mining Leases; and
- (b) discharge, release, delete and expunge all Encumbrances (except, for greater certainty, the Permitted Encumbrances) against title to the Mining Claims and the Mining Leases.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate, 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 that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) in respect of the Company and any bankruptcy order issued pursuant to any such applications; or
- (c) any assignment in bankruptcy made in respect of the Company,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Company and shall not be void or voidable by creditors of the Company, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

9. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

10. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to:

- (a) distribute the net Cash Consideration to Global Resource Fund (“**GRF**”) as soon as possible after the filing of the Receiver’s Certificate with the Court;
- (b) distribute the DBL Shares to GRF during the Holding Period pursuant to the terms of the Purchase Agreement; and
- (c) sell, in such manner as the Receiver considers appropriate, any DBL Shares in the possession of the Receiver following the expiry of the Holding Period and to distribute the net proceeds thereof to GRF,

which distributions to GRF shall be applied to repay in full the amounts owing to GRF pursuant to the DIP Term Sheet (as defined in the Initial Order) and thereafter to reduce other secured

amounts owing to GRF under Receiver's Certificates and the Credit Agreement dated as of December 16, 2010, as amended, in accordance with their respective priorities. The Receiver shall have no liability in connection with the possession, distribution, sale or realization of the DBL Shares except for any liability arising from its gross negligence or wilful misconduct.

11. **THIS COURT ORDERS** that the Third Report and the actions, conduct and activities of the Receiver as reported therein are hereby approved.

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, Peru, or in any other foreign jurisdiction, to give effect to this Order and to assist the Receiver and its 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 the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that the Receiver be at liberty and is 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.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

DEC 16 2016

PER / PAR:



Schedule A – Form of Receiver’s Certificate

Court File No. CV-14-10417-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

GLOBAL RESOURCE FUND

Applicant

- and -

TAMERLANE VENTURES INC. and PINE POINT HOLDING CORP.

Respondents

APPLICATION UNDER section 243 of *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c. C-43.

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 30, 2014, KSV Kofman Inc. was appointed as the receiver (the “**Receiver**”) of the assets, properties and undertakings of Tamerlane Ventures Inc. and Pine Point Holding Corp. (collectively, the “**Company**”).

B. Pursuant to an Order of the Court dated December 16, 2016 (the “**Approval and Vesting Order**”), the Court approved the Asset Purchase Agreement made as of December 9, 2016 (the “**Purchase Agreement**”) between the Receiver and Darnley Bay Resources Limited (“**DBL**”) and provided for the vesting in DBL or such other person as DBL may designate with the consent of the Receiver (the “**Purchaser**”) all of the Receiver’s and the Company’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming

(i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to closing as set out in the Purchase Agreement have been satisfied or waived; and (iii) that the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated or defined herein, capitalized terms used in this Receiver's Certificate shall have the meanings given to them in the Approval and Vesting Order.

THE RECEIVER HEREBY CERTIFIES the following:

1. The Purchaser has satisfied the Purchase Price for the Purchased Assets in accordance with the Purchase Agreement;
2. The conditions to closing as set out in the Purchase Agreement have been satisfied or waived; and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at **[time]** on **[date]**.

KSV KOFMAN INC., solely in its capacity as Receiver of the assets, properties and undertakings of Tamerlane Ventures Inc. and Pine Point Holding Corp., and not in its personal or corporate capacity

Per: _____

Name:

Title:

Schedule B – Permitted Encumbrances

The following shall constitute Permitted Encumbrances:

- (a) Any covenants, conditions, restrictions, easements and other imperfections or irregularities or similar matters affecting title to the Purchased Assets;
- (b) Any subsisting reservations, limitations, provisions and conditions contained in any original grants from the Crown of any land or interests therein, reservations of undersurface rights to mines and minerals of any kind, including rights to enter, prospect and remove the same, and statutory exceptions, qualifications or limitations to title;
- (c) Any permits, licenses, zoning, entitlement and other land use regulations, agreements, arrangements, easements, restrictions, reservations, restrictive covenants, conditions, rights-of-way, public ways, rights in the nature of an easement and other similar rights in land of, granted to or reserved by other persons; and
- (d) Any amendment, supplement, replacement, extension or renewal of any of the foregoing from time to time.

GLOBAL RESOURCE FUND

and

TAMERLANE VENTURES INC. and
PINE POINT HOLDING CORP.

Court File No. CV-14-10417-00CL

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

GOODMANS LLP

Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Melaney Wagner LSUC#: 44063B
mwagner@goodmans.ca

Bradley Wiffen LSUC#: 64279L
bwiffen@goodmans.ca

Tel: (416) 979-4258
Fax: (416) 979-1234

Lawyers for KSV Kofman Inc., in its
capacity as Receiver.