NOTICE OF FILING

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Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 59
Rule 29.02(1)

Affidavit

No. of 2024

Federal Court of Australia

District Registry: Sydney

Division: General

IN THE MATTER IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

PRICEWATERHOUSECOOPERS INC. IN ITS CAPACITY AS FOREIGN REPRESENTATIVE OF IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

Plaintiff

IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

Defendants

Affidavit of:	**Michelle Anne Grant**
Address:	Suite 1400, 250 Howe Street, Vancouver, British Columbia V6C 3S7, Canada
Occupation:	Chartered Insolvency and Restructuring Professional, Licensed Insolvency Trustee
Date:	16 September 2024

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1	Affidavit of Michelle Anne Grant in support of the originating process for recognition of a foreign proceeding pursuant to article 17 of the United Nations Commission on International Trade Law Model Law on Cross-border Insolvency, being schedule 1 to the *Cross-Border Insolvency Act 2008* (Cth) and related relief affirmed on 16 September 2024	1 – 73	1 – 21
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I, Michelle Anne Grant, of Suite 1400, 250 Howe Street, Vancouver, British Columbia V6C 3S7, Canada, Senior Vice President of PricewaterhouseCoopers Inc., and Chartered Insolvency and Restructuring Professional, and Licensed Insolvency Trustee, affirm:

A. INTRODUCTION

1. I am a Senior Vice President, Corporate Advisory & Restructuring of PricewaterhouseCoopers Inc. (**PwC**).

2. Exhibited to me at the time of affirming this affidavit is a paginated bundle of documents labelled **"Exhibit MAG-1"**. Where I refer to documents by their page number, I am referring to their corresponding page in Exhibit MAG-1.

3. On 13 June 2023, the Supreme Court of British Columbia (**British Columbia Court**) granted an order (**13 June Order**) authorising PwC, in its capacity as receiver and manager (**Receiver**) of IE CA 3 Holdings Ltd (**IE CA 3**) and IE CA 4 Holdings Ltd (**IE CA 4**) (being the defendants in this proceeding), to assign the defendants into bankruptcy. A copy of the 13 June Order is at pages 23 to 96 of Exhibit MAG-1.

4. I explain the process of assignment into bankruptcy further at paragraph 5 below.

5. In accordance with the 13 June Order, on 28 June 2023, the defendants were assigned into bankruptcy by PwC, acting in its capacity as Receiver. On 27 June 2023, the bankruptcy assignment documents were filed in accordance with the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3 (**BIA**). On 28 June 2023, the bankruptcy assignment documents were accepted by the Office of the Superintendent of Bankruptcy and PwC was appointed as trustee (**Trustee**) of the bankrupt estates of the defendants (Vancouver Registry Action No. S230488) (**Bankruptcy Proceedings**). Copies of the Certificates of Appointment in respect of IE CA 3 and IE CA 4 are at pages 97 and 98 respectively of Exhibit MAG-1.

6. I, together with my colleague, Georgina Foster, manage the day-to-day carriage of the insolvency proceedings of the defendants, which includes the protection and realisation of the assets and undertakings of the defendants. Ms Foster is a Manager, Corporate Advisory and Restructuring, of PwC.

7. I am authorised to make this affidavit on behalf of the plaintiff in support of the originating process filed in this proceeding seeking recognition of foreign proceedings pursuant to article 17 of the United Nations Commission on International Trade Law

Model Law on Cross-border Insolvency (**Model Law**), being Schedule 1 to the *Cross-Border Insolvency Act 2008* (Cth) (**Act**), and related relief.

8. Unless otherwise stated, I make this affidavit based on my own knowledge and belief and from information that I and staff members at PwC have obtained through PwC's role as Receiver or Trustee. Where I depose to matters based on information received from others, I believe that information to be true and correct.

Qualifications and experience

9. I am a Chartered Insolvency and Restructuring Professional, and Licensed Insolvency Trustee. I have over 20 years of experience in insolvency, restructuring advisory, and distressed mergers and acquisition services. I have extensive experience in a wide variety of industries, including agriculture, food and beverage, manufacturing, mining and metals, real estate, technology and transportation. I am a member of the Insolvency Institute of Canada, the International Insolvency Institute and the Western Canada chapter of the International Women's Insolvency and Restructuring Confederation network.

10. I qualified as a Chartered Insolvency and Restructuring Professional in Canada in 2005 and qualified as a Licensed Insolvency Trustee in the District of Manitoba that same year, after completing my education at the Smith School of Business at Queens University.

11. I joined PwC in 2019 and have practised in corporate advisory and restructuring since 2001. Since 2012, I have taken the lead role in a number of cross-border insolvency proceedings in the jurisdictions of Canada, the United Kingdom and the United States, including those in the technology sector, and I am currently taking the lead role in the insolvency proceedings regarding the defendants.

The Iris Group

12. The defendants are wholly owned subsidiaries of Iris Energy Limited ACN 629 842 799 (**Iris Energy**). Iris Energy is a public company incorporated in Australia and listed on the NASDAQ (NASDAQ: IREN). A true copy of the Australian Securities and Investment Commission Current and Historical Search of Iris Energy obtained on 13 September 2024 is at pages 99 to 123 of Exhibit MAG-1 (**ASIC Search**). This application arises in the context of a substantial secured loan – exceeding USD$115 million – having been extended from NYDIG ABL LLC (**NYDIG**) to the defendants which, despite demand, remains unpaid.

13. The Iris Group is primarily in the business of owning and operating Bitcoin mining data centres and undertaking the process of Bitcoin mining.

14. The defendants are part of a group of companies known as the Iris Energy Group, with the parent company being Iris Energy (**Iris Group**). Iris Energy has approximately 27 subsidiaries in Canada, the United States and Australia. To the best of my knowledge, the defendants are the only entities in the Iris Group that are subject to any form of insolvency process. A copy of a corporate organisational structure chart as at September 2022 is at page 124 of Exhibit MAG-1.

15. The Iris Group maintains corporate offices in Vancouver, British Columbia. As at the date that PwC was appointed as Receiver to the defendants (as detailed further in paragraph 38 of this affidavit) nearly all the mining facilities owned or leased by the Iris Group, and all Bitcoin mining operations conducted by, or on behalf of, the Iris Group were based in British Columbia. Iris Group companies own and lease special purpose data mining facilities in Mackenzie, Canal Flats, and Prince George, British Columbia (collectively, the **Iris BC Sites**).

Defendants

16. Each defendant was incorporated under the laws of the Province of British Columbia in 2021. The registered office for each defendant is located at Suite 201 – 290 Wallinger Avenue, Kimberley, British Columbia, V1A 1Z1, Canada. A copy of the corporate profile reports obtained on 1 August 2024 for each defendant is at pages 125 to 128 of Exhibit MAG-1.

17. To the best of my knowledge, as at the date that PwC was appointed as Receiver to the defendants (as detailed further in paragraph 38 of this affidavit), each defendant:

    a. did not have any subsidiaries within or outside of Canada and does not have any presence outside of Canada;

    b. maintained bank accounts in Canada with the Royal Bank of Canada;

    c. did not have any employees;

    d. had no offices situated outside of Canada; and

    e. owned cryptocurrency mining equipment, being each defendant's predominant business undertaking, from facilities located in British Columbia and leased by the defendants from related parties in the Iris Group at the Iris BC Sites.

18. I am not aware of any other real property assets owned or leased by the defendants in or outside of Canada.

19. I otherwise confirm that the defendants are not:

    a. companies registered under the *Corporations Act 2001* (Cth) (**Corporations Act**);

    b. authorised deposit taking institutions within the meaning of the *Banking Act 1959* (Cth);

    c. general insurers within the meaning of the *Insurance Act 1973* (Cth); or

    d. life companies within the meaning of the *Life Insurance Act 1995* (Cth).

Business operations of the Iris Group

20. As observed above, the Iris Group is primarily in the business of owning and operating Bitcoin mining data centres and undertaking the process of Bitcoin mining (**Business**). Bitcoin mining involves the application of computational power to generate multiple guesses aimed at solving mathematical problems. When the guess is successful, the miner receives a "reward" in the form of Bitcoin.

21. The Iris Group has divided its own Bitcoin mining operations into three distinct components, namely:

    a. first, through Iris subsidiaries, owning mining servers, which are specialised computers called "application-specific integrated circuit miners";

    b. second, "hosting" the mining servers – a process whereby different subsidiaries acquire or lease the premises where the mining servers are operated, and provide the associated infrastructure; and

    c. third, selling Bitcoin derived from "mining pools" generated by the mining servers.

22. The Iris Group's operations in British Columbia included approximately 36,400 mining servers owned by the defendants and distributed across the Iris BC Sites (the **Mining Equipment**). The defendants obtained secured funding from NYDIG to finance the purchase of the Mining Equipment pursuant to two master equipment financing agreements (**MEFAs**). The defendants purchased the Mining Equipment from Bitmain Technologies Limited (**Bitmain**). In a press release issued by Iris Energy in November 2022 (**November 2022 Release**), Iris Energy described the defendants as special purpose vehicles incorporated for the purposes of owning the Mining Equipment. A copy of the November 2022 Release is at pages 129 to 134 of Exhibit MAG-1.

23. The structure of the Business as it relates to the defendants and Iris Energy can be summarised at a high level as follows:

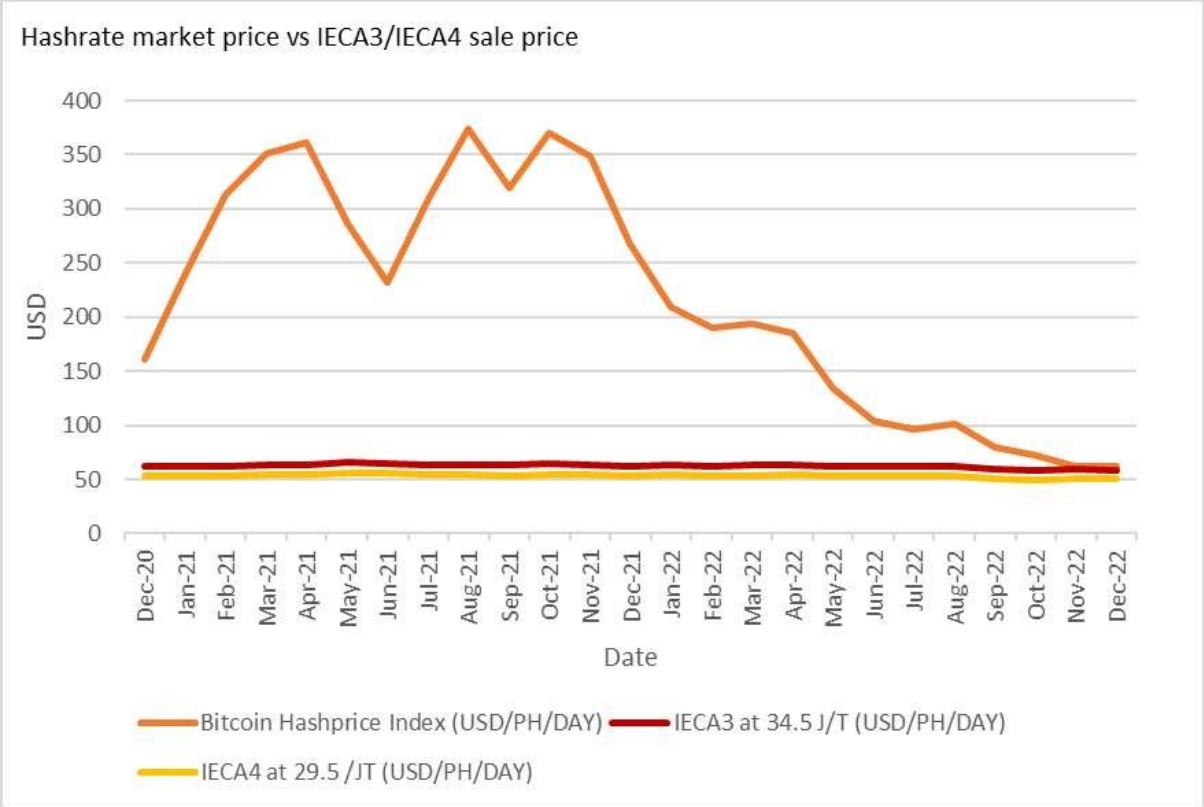
    a. the defendants purchased and operated the Mining Equipment, which produced hashpower (the **Hashpower**) which was ultimately used to generate Bitcoin;

    b. the defendants entered into "hosting agreements" (**Hosting Agreements**) with "hosts" (**Hosts**), being separate subsidiary entities within the Iris Group. The Hosts acquired or leased the premises where the Mining Equipment was operated, and provided the associated infrastructure in exchange for a fixed fee based on a cost per kilowatt hour of electricity usage of CAD$0.08/kWh;

    c. Iris Energy purchased the Hashpower from the defendants at a fixed rate of CAD$0.096/kWh under "hashpower agreements" (**Hashpower Agreements**), and submitted the Hashpower to a "mining pool" where it earned Bitcoin. Iris Energy then sold the Bitcoin for dollars on a daily basis; and

    d. the defendants' net income was the revenue generated by selling the Hashpower to Iris Energy pursuant to the Hashpower Agreements, less their expenses paid to the Hosts pursuant to the Hosting Agreements and other expenses including interest payments.

24. The chart below presents the average market daily price of hashrate to that of the sale price that Iris Energy had in place with IE CA 3 and IE CA 4 for their Hashpower contribution under the Hashpower Agreement. Based on this comparison to market data, it appears the compensation structure under the Hashpower Agreements was substantially below market price before December 2022 and the income received by the defendants compared to the Bitcoin attributed to the same Hashpower was significant.



25. The defendants did not have any employees. Rather IE CA 4 entered into a Hosting Agreement with other entities in the Iris Group and a Hashpower Agreement with Iris Energy. Based on the investigations undertaken by the Receiver, including an analysis of the books and records for IE CA 3 and the information received from Iris Energy, I understand that no Hashpower Agreement or Hosting Agreement was completed for IE CA 3, but the Iris Group operated as if these agreements were in place for IE CA 3 on terms equivalent to those of IE CA 4.

26. Based on the investigations undertaken by the Receiver, I understand that the defendants were not financially viable on their own from the beginning of these arrangements, and were dependant on Iris Energy supplementing their income so they could make payments required of them under the MEFAs. Specifically, the Receiver formed the following view in relation to the solvency of the defendants which is set out in section 5 of the Receiver's Second Report to Court dated 10 April 2023, a copy of which is at pages 135 to 178 of Exhibit MAG-1:

a. Iris Energy maintained that the defendants were only entitled to revenue pursuant to the Hashpower Agreements and were required to pay the expenses under the Hosting Agreements;

b. in addition to the hosting fees, the defendants were also responsible for repayments under the MEFAs, which initially required payments of interest and subsequently monthly principal and interest payments; and

c. based on Iris Energy's position that the only income to which the defendants were entitled was the small profit margin realised under the Hashpower Agreements, the defendants were not, and never would be, generating sufficient profits to fund the monthly loan payments under the MEFAs and were reliant on support from Iris Energy or other Iris Group companies to make ordinary course payments and provide top-up funding for the payments that were made under the MEFAs.

Directors and Officers of the Iris Group

27. The following individuals were directors of the defendants at all relevant times until 29 June 2023, when the Receiver filed an application to remove them as directors of each defendant given the Receiver had been advised by Iris Energy that the directors had resigned prior to the commencement of the receivership:

a. William Roberts, who I understand from the ASIC Search resides in Sydney, who I know to be the co-founder, co-CEO and a current director and officer of Iris Energy;

b. Michael Alfred, who I understand from the ASIC Search resides in the United States and who I know to be a current independent, non-executive director of Iris Energy; and

c. Christopher Guzowski, who I understand from the ASIC Search resides in the United Kingdom and who I know to be a current independent, non-executive director of Iris Energy.

28. In addition to the individuals identified above, the following individuals are directors of Iris Energy:

    a. Daniel Roberts, who I understand from the ASIC Search resides in Australia and who I know to be the co-founder of Iris Energy;

    b. David Bartholomew, who I understand from the ASIC Search resides in Australia and who I know to be an independent director of Iris Energy; and

    c. Sunita Parasuraman, who I understand from the ASIC Search resides in the United States and who I know to be an independent director of Iris Energy.

29. The basis for the knowledge described in paragraphs 28 and 29 above is the information that has been received by the Receiver and Trustee to date during the insolvency proceedings of the defendants and the publicly available information obtained from the ASIC Search.

30. I understand from my investigations into the operation of the defendants conducted to date and described further below that William and Daniel Roberts regularly travel to North America to conduct business on behalf of the Iris Group. In addition, I understand the following in relation to the roles that the directors and other key individuals played in the business operations of the Iris Group:

    a. William and Daniel Roberts, as co-founders of Iris Energy (and current co-CEO of Iris Energy in the case of William Roberts) were integral to the formation and structuring of the Iris Group (including the defendants), and have knowledge regarding the decisions made in respect of:

        i. the relationships between the defendants, NYDIG and Bitmain;

        ii. the intercompany relationships between the defendants and other entities within the Iris Group; and

        iii. the Hashpower Agreements and Hosting Agreements entered into by the defendants;

    b. David Bartholomew, Michael Alfred and Christopher Guzowski, as current directors of Iris Energy and, in the case of Mr Alfred and Mr Guzowski, former directors of the defendants, have information regarding the defendants' operations within the broader Iris Group, the decision-making process undertaken by Iris

Energy with respect to the defendants and their operations and finance, and the series of events which led to the defendants' respective insolvencies; and

c. Belinda Nucifora, who is the Chief Financial Officer of Iris Energy, has information regarding the financials and financial history of the defendants and the broader Iris Group, and payments between entities within the Iris Group.

31. In relation to the conduct of the Business, it appears to me from the investigations undertaken to date that Iris Energy, as the parent corporation of the defendants, conducted the business of the defendants with very little regard to the corporate identities or separateness of the defendants. In particular, I understand that Iris Energy:

a. completed all business with Bitmain though one account on behalf of the entire Iris Group (including the defendants);

b. applied coupons and other credits belonging to the defendants in the Bitmain account against liabilities of other entities within the Iris Group;

c. made payments of third-party invoices from one entity on behalf of other entities within the Iris Group. For example Podtech Data Centres Inc (a subsidiary of Iris Energy) was found to be making payments for a number of third-party invoices on behalf of other Iris Group members including the defendants;

d. conducted the majority of cash transactions in the defendants' bank accounts with other Iris Group members; and

e. completed various adjustments in the defendants' accounts without any corresponding intercompany cash receipts. For example, the Receiver identified a transfer pricing adjustment to increase hashpower income received by the defendants however this did not result in a corresponding intercompany cash receipt for this amount in the bank account and does not correspond to the amounts calculated as payable by the Receiver under the Hashpower Agreements.

The Canadian Insolvency Proceedings

Receivership

32. From May 2021 to October 2022, the defendants obtained secured funding from NYDIG pursuant to the MEFAs (amongst other agreements) to finance the acquisition of the Mining Equipment.

33. Following a drop in the Bitcoin market in late 2022, the defendants (who had historically relied on financial support provided by Iris Energy, including to service the debt obligations under the MEFAs) defaulted on their payment obligations under the MEFAs in early November 2022.

34. Following attempts by NYDIG to facilitate a consensual restructuring, the relationship between NYDIG and the defendants (and the Iris Group more generally) broke down and NYDIG issued demands for payment and notices of intention to enforce its security in respect of the Mining Equipment.

35. Iris Energy then announced in the November 2022 Release that certain subsidiaries of Iris Energy, including the defendants, had terminated their respective Hosting Agreements with the defendants and therefore the defendants had not generated any revenue since early November 2022.

36. NYDIG representatives attended the Iris BC Sites in November 2022 to inspect its collateral and found that the Mining Equipment remained on the racking at the sites but was unplugged and not operating.

37. On 3 February 2023, the British Columbia Court, on application by NYDIG, granted an Order (**3 February Order**) appointing PwC as receiver and manager of the assets, undertakings, and property of the defendants. A copy of the 3 February Order is at pages 179 to 193 of Exhibit MAG-1. On 3 February 2023, IE CA 3 owed NYDIG approximately **USD$36 million** and IE CA 4 owed NYDIG approximately **USD$79 million**, in each case excluding interest, fees and costs.

38. The Receiver process in British Columbia, included the following activities:

    a. requesting and reviewing books and records of the defendants received from Iris Energy and participating in numerous discussions with representatives of the Iris Energy Group in respect of the Receiver's requests for information;

    b. establishing a website at www.pwc.com/ca/ieca34 (**PwC Website**), on which all prescribed materials filed by the Receiver in relation to the insolvency proceedings have been made available to creditors and other interested parties in electronic format and where the Receiver (and now Trustee) makes regular updates to ensure

creditors and other interested parties are kept current on the status of the proceedings;

c. undertaking steps to identify, take possession, secure and insure the defendants' Mining Equipment;

d. undertaking analysis of the intercompany relationship between Iris Energy and certain of its subsidiaries (including the defendants);

e. completing all statutory requirements including distribution of a notice to creditors, an advertisement in the Province newspaper and the filing of all relevant documents with the Office of the Superintendent of Bankruptcy; and

f. undertaking an extensive sale and solicitation process (**SSP**) in respect of the defendant's secured assets and obtaining orders from the British Columbia Court in respect of the same. The SSP ultimately resulted in a Court approved acquisition by NYDIG of all the defendants' Mining Equipment on an "as is, where is" basis, the purchase price comprising (in part) a credit bid against NYDIG's secured claim in the amount of USD$21 million. It follows that the defendants remain indebted to NYDIG in an amount exceeding USD$94 million.

39. I have set out below a brief overview of the SSP:

a. the Receiver engaged an independent broker, Foundry, who specialises in the sale and marketing of Bitcoin, to assist the Receiver with the SSP including preparing a list of potential bidders, preparing and circulating marketing materials and responding to inquiries received from potential bidders;

b. a "stalking horse agreement" was entered into by NYDIG which provided for a purchase of the Mining Equipment owned by the defendants and the assignment of certain agreements (**Stalking Horse Agreement**);

c. if no bids were received in the SSP that were superior to the terms of the Stalking Horse Agreement, the Receiver was to seek approval from the British Columbia Court to implement the Stalking Horse Agreement;

d. as noted above, the consideration payable by NYDIG under the Stalking Horse Agreement comprised (in part) a credit bid against NYDIG's secured claim of USD$21 million. In effect, the credit bid would result in NYDIG partially offsetting its existing secured debt owed to it by the defendants in consideration for the acquisition of the Mining Equipment;

e. the SSP was advertised broadly and 15 parties ultimately signed non-disclosure agreements and were granted access to a virtual data room, however no bids were received that met the criteria required to be considered by the Receiver; and

f. accordingly, the Receiver obtained approval from the British Columbia Court to implement the Stalking Horse Agreement with NYDIG.

Bankruptcies

40. As detailed in paragraphs 3 and 5 of this affidavit, on 13 June 2023, the British Columbia Court granted the 13 June Order authorising the Receiver to assign the defendants into bankruptcy. Under Canadian law, to be "assigned into bankruptcy" simply means to become bankrupt.

41. In accordance with the 13 June Order, the defendants were assigned into bankruptcy on 28 June 2023 by PwC, acting in its capacity as Receiver, and PwC was appointed Trustee of the bankrupt estates. The Trustee's appointment was confirmed at the first meeting of creditors for both defendants held on 18 July 2023.

42. By way of overview, an assignment into bankruptcy is a proceeding under Section 49 of the BIA, where a licensed insolvency trustee is appointed to manage the bankruptcy process and take assignment of the debtor's assets for the general benefit of creditors. This typically includes investigating the affairs of the debtor, attending the debtor's premises, communicating with principals and staff, changing locks, completing an inventory of the assets, ensuring there is sufficient insurance in place, and generally securing and protecting the debtor's assets. Within 21 days of the date of bankruptcy, there is a first meeting of creditors where an inspector may be appointed (typically from the creditors in attendance) (**Inspector**). Inspectors act similar to a board of directors and provide direction to the trustee throughout the bankruptcy process. The trustee then runs a sales process to efficiently liquidate the debtor's assets. Once all assets are liquidated, the trustee will distribute proceeds to creditors based on their ranking set out in the BIA.

43. Pursuant to the analysis undertaken by the Receiver of the intercompany transactions between the defendants and Iris Energy, and various other subsidiaries in the Iris Group, the Receiver confirmed that the volume of intercompany transactions was substantial. Accordingly, the Receiver sought the 13 June Order to access the enhanced powers available to a trustee in bankruptcy, including the power to conduct examinations, to better investigate the pre-receivership transactions and dealings between the defendants and Iris Energy, and if necessary, avail itself of the remedies provided under the BIA.

44. More specifically, a trustee in bankruptcy is given broad powers under section 163(1) of the BIA to examine, on ordinary resolution passed by the creditors of the bankrupt or a resolution passed by the majority of the Inspectors (being Mr Chris Burr of Blakes, Cassells and Graydon LLP, in the case of the defendants), the bankrupt, any person who would be reasonably thought to know the affairs of the bankrupt, or any person who is or has been an agent, clerk, officer, director or employee with respect to the bankrupt or the bankrupt's dealings. A trustee does not require an order of the court to conduct an examination pursuant to section 163 and is entitled to examine as many persons as it considers necessary and for which it can obtain the requisite creditor or inspector approvals. However, a Court may set a limitation on the number and length of examinations that are undertaken pursuant to section 163.

45. Following the assignment of the defendants into bankruptcy, NYDIG (as the only third-party creditor of the defendants) passed resolutions at the respective creditors' meetings authorising the Trustee to examine Mr D Roberts; Ms Nucifora; Mr Alfred; Mr W Roberts; Mr Guzowski; and Mr Bartholomew (**Proposed Examinees**) in respect of a variety of matters, including transactions that took place between the defendants and their affiliates including Iris Energy (**Examinable Affairs**).

46. The Trustee's rationale for examining the Proposed Examinees is set out in section 4 of the Trustee's First Report to Court dated 28 September 2023. A copy of this report is at pages 194 to 240 of Exhibit MAG-1.

47. On 1 December 2023, the British Columbia Court allowed the Trustee's application (in part) and made orders (**1 December Order**) that:

    a. Iris Energy was to make each of Mr W Roberts, Ms Nucifora, Mr Alfred and Mr Guzowski (**Examinees**) available for examination by the Trustee; and

    b. permitted the Trustee to choose the sequence in which such examinations would occur; but

    c. the Trustee was limited to selecting two of the individuals to examine for up to one full day and the others for no longer than one half-day each.

48. A copy of the 1 December Order is at pages 241 to 255 of Exhibit MAG-1.

49. Between 23 January 2024 and 15 March 2024, the Trustee examined each of the Examinees (**Examinations**). A copy of the:

    a. transcript for the examination for discovery by video conference of Michael Alfred on 23 January 2024 is at pages 256 to 405 of Exhibit MAG-1;

b. transcript for the examination for discovery by video conference of William Roberts on 5 February 2024 is at pages 406 to 517 of Exhibit MAG-1;

c. transcript for the examination for discovery by video conference of Belinda Nucifora on 7 February 2024 is at pages 518 to 642 of Exhibit MAG-1; and

d. transcript for the examination for discovery by video conference of Christopher Guzowski on 15 March 2024 is at pages 643 to 735 of Exhibit MAG-1.

50. The Examinations did not produce the level of information that the plaintiff requires in order to finalise its investigations in respect of the affairs, property and dealings of the defendants (**Investigations**). A variety of factors resulted in the Examinations not being satisfactory from the Trustee's perspective, including the fact that the Trustee was not able to examine Mr Daniel Roberts and Mr Bartholomew, the limited time made available under the Orders for the Trustee to conduct the Examinations, and the number of questions submitted by the Trustee in the Examinations that were not answered by the Examinees (by way of objection or otherwise). For example, the Trustee did not obtain sufficient information from the Examinees during the Examinations in relation to the following matters which the Trustee considers would have assisted with progressing its Investigations:

a. the corporate structure of the Iris Group, including the rationale for incorporating 27 separate entities within the Iris Group;

b. the commercial rationale for causing the defendants to enter into the hashpower and hosting arrangements with Iris Energy and certain entities within the Iris Group, including the justification relied upon by the defendants and their directors for entering into the compensation structure set out in these arrangements;

c. the corporate governance protocols of the Iris Group, including the processes in place for the directors of the defendants to resolve and authorise the defendants to enter into commercial arrangements such as the hashpower and hosting arrangements; and

d. the various intercompany transactions between the defendants and certain entities within the Iris Group, including Iris Energy.

51. As at the date of this affidavit, the Trustee considers that there is limited utility in seeking to undertake further examinations in Canada pursuant to its powers under

section 163(1) of the BIA, particularly in circumstances where the defendants do not presently hold any assets within that jurisdiction.

Assets of the defendants

52. As at the date of this affidavit, to the best of my knowledge, the defendants do not hold any tangible assets in Australia or otherwise.

53. The Trustee intends to continue the Investigations, including to understand whether any claims or contingent claims may arise from the Examinable Affairs.

54. Based on the Receiver and Trustee's investigations undertaken to date and communications with, and information obtained from, Iris Energy (including redacted bank statements of Iris Energy), and based on information received from NYDIG, I understand that Iris Energy holds assets in Australia including cash at bank in an account held with the National Australia Bank in Australia.

Creditors

55. To the best of my knowledge as at the date of this affidavit, NYDIG is the only material third-party creditor in the insolvency proceedings of the defendants. As at the date of bankruptcy of the defendants, the estimated claims of NYDIG in the insolvency proceedings of the defendants, including contingent claims, totalled in excess of USD$115 million excluding interest, fees and costs (which is around AUD$174.4 million). A copy of the claims register for each defendant as at the date of bankruptcy setting out the secured and unsecured creditors of each defendant is at pages 726 to 737 of Exhibit MAG-1.

56. As at the date of this affidavit, based on the information presently available to me, I have not identified any Australian creditors of the defendants.

57. Based on the analysis undertaken by PwC of the intercompany transactions between Iris Energy and certain of its subsidiaries (including the defendants), the table below summarises the Trustee's understanding of the intercompany debt position of each defendant as it relates to Iris Energy and certain entities within the Iris Group:

Intercompany Debt

		IE CA 3	IE CA 4
Related Parties	Podtech Data Centers Inc	(12,887)	(23,118)
	IE CA 1 Holdings Ltd	(22,078)	(363,174)
	IE CA 2 Holdings Ltd		-
	IE CA 3 Holdings Ltd		694,564

IE CA 4 Holdings Ltd	(648,512)	
IE CA 5 Holdings Ltd		-
IE CA Development Holdings 2 Ltd	-	-
IE CA Development Holdings 4 Ltd	-	-
Iris Energy Limited - Sale, Equity, and Loan Agreement	(12,766,170)	(1,741,303)
Iris Energy Limited - Short Term Receivable Financing	(5,696,300)	(11,131,797)
Total Net Receivable/(Payable)	**(19,145,947)**	**(12,564,828)**

Other Insolvency Proceedings Against the Debtors

58. To the best of my knowledge as at the date of this affidavit, there are no insolvency proceedings, other than the BC Proceedings, which have been commenced against the Debtors in the world.

59. I also confirm that, as at the date of this affidavit, I am not aware of any proceedings under Chapter 5, section 601CL or Schedule 2 of the Corporations Act against the defendants.

Other Legal Proceedings Involving the Debtors

60. To the best of my knowledge as at the date of this affidavit, there are no other ongoing legal proceedings which have been commenced against the defendants in the world.

61. During the course of the receivership of the defendants, NYDIG brought an application (**NYDIG Application**) in the British Columbia Court seeking relief related to the Bitcoin mined by Iris Energy using the Hashpower produced by the defendants, namely (amongst other things) declarations that:

    a. the Bitcoin mined by Iris Energy, and proceeds thereof, was collateral for the debt owed by the Debtors to NYDIG under the MEFAs;

    b. the transactions carried out pursuant to the Hashpower Agreements were fraudulent conveyances and void as against NYDIG; and

    c. the affairs of the Debtors and Iris Energy had been conducted in a manner oppressive to NYDIG (**Oppressive Claim**).

62. A copy of the judgment and reasons for judgment of the British Columbia Court dated 10 August 2023 in respect of the NYDIG Application is at pages 738 to 782 of Exhibit MAG-1. In summary, the court at first instance:

    a. held that the Bitcoin was not collateral for the NYDIG debt;

b. found that the transactions were voidable conveyances; and

c. dismissed the oppression application.

63. Relevantly, the Receiver took no position in respect of the NYDIG Application, save for filing evidence in respect of the Iris Group's business model which suggested, amongst other things, that the Hashpower Agreements were not commercially reasonable agreements because, amongst other things, Iris Energy appeared to profit significantly more from the Hashpower used to mine Bitcoin than it was paying the Debtors for such Hashpower. Additionally, the defendants were not making enough revenue under the Hashpower Agreements to pay the hosting fees and service the interest on the debt owed to NYDIG under the MEFAs.

64. The decision in the NYDIG Application was subject to an appeal by the defendants and cross-appeal by NYDIG in the Court of Appeal for British Columbia, in which the Court:

a. allowed the Debtors' appeal and held that the British Columbia Court's declaration of fraudulent conveyances is set aside; and

b. allowed NYDIG's cross-appeal and ordered that NYDIG's application for relief in relation to the oppression claim be remitted to the trial court.

65. A copy of the judgment and reasons for judgment of the Court of Appeal for British Columbia dated 27 June 2024 is at pages 783 to 805 of Exhibit MAG-1.

66. As at the date of this affidavit, I am not aware of any further steps being taken in respect of the NYDIG Application following the decision of the Court of Appeal for British Columbia being handed down.

Relief

67. The plaintiff seeks interim orders that, until the determination of the application for relief under article 17 of the Model Law or further order of the Court:

a. any and all execution against the defendants' assets be stayed;

b. no person within Australia other than the plaintiff and representatives authorised by the plaintiff may transfer, encumber or otherwise dispose of, or take possession of or otherwise recover, any assets of the defendants; and

c. no proceeding against the defendants, or in relation to any of its property, may be begun or proceeded with.

68. The plaintiff also seeks orders that it is invested with all powers available to a liquidator of a corporation appointed under the provisions of the Corporations Act.

69. The relief described in paragraphs 68 and 69 is sought because:

a. the Trustee has a legal duty under Canadian law to safeguard, by getting in, managing and controlling, all assets of the defendants as best as possible and as quickly as possible. Section 71 of the BIA states that upon the commencement of a bankruptcy proceeding, the capacity to deal with or dispose of the debtor's property immediately vests in the Trustee. In addition, sections 16(3), 16(4), and 247 of the BIA provide (in effect) that the Trustee must take possession of the debtor's property as soon as possible, and must deal with the property honestly, in good faith, and in a commercially reasonable manner;

b. given the Investigations are still ongoing, the Trustee cannot yet be sure that it is aware of all claims the defendants may have in Australia (or elsewhere), and seeks assistance where necessary to enable the Trustee to ascertain this matter;

c. due to the complexities of the matter, the Trustee requires further time and assistance to ascertain and understand certain matters identified by the Trustee to date, including questions that it has concerning numerous operational and structural issues involving the defendants. The Trustee is of the view that such investigations may be more appropriately progressed in Australia, and result in claims against the defendants and certain of their related entities in the Australian jurisdiction. In this regard, the plaintiff notes:

i. based on the information received by the plaintiff, the compensation structure under the Hashpower Agreements and Hosting Agreements (in other words, the amounts payable to the defendants under the Hashpower Agreements and amounts payable by the defendants under the Hosting Agreements) was not commercially reasonable;

ii. under the compensation structure, the defendants were not (and never were) generating sufficient profit to fund their financial obligations under the MEFAs and were entirely reliant on support from Iris Energy to provide funding. In other words, and as detailed further in paragraph 27 above, the defendants appeared to have been insolvent from the time

the MEFAs were entered into (subject to the ongoing financial support of Iris Energy); and

iii. the plaintiff has duties pursuant to the BIA to provide full and frank disclosure to the court, maximise realisations on the debtor's estate, and not permit any conduct that is illegal or dishonest in respect of the bankruptcy process. As such, the plaintiff must further investigate the circumstances surrounding the entry into these arrangements by the defendants, including investigating the role of Iris Energy in such arrangements, and requires the relief being sought to progress these investigations.

d. for those purposes, among other things, the Trustee wishes to utilise the broader examination powers available under Australian law;

e. the Trustee is concerned that any assets of the defendants in Australia that the Trustee is not presently aware of may be seized, taken possession of, disposed of, dealt with, encumbered or otherwise diminished, including by Iris Energy or by reason or as a result of any third-party claims or actions, while it is in the process of investigating and ascertaining the assets and before the final orders sought in the present application are obtained;

f. the Trustee is not presently aware of the Debtors being subject to any third-party claims or actions; and

g. the Trustee understands that Bragar Eagel & Squire, P.C. (which is (as I understand it) a law firm based in the United States of America) issued a public alert on 29 July 2024 (**Alert**) stating that it is investigating potential claims against Iris Energy on behalf of Iris Energy stockholders. According to the Alert, the investigation "concerns whether Iris Energy has violated the federal securities laws and/or engaged in other unlawful business practices". A copy of the Alert is at pages 806 to 808 of Exhibit MAG-1.

Satisfaction of Model Law Requirements

70. Based on the matters set out in paragraphs 1 to 70 above:

a. the Bankruptcy Proceedings are foreign proceedings within the meaning of article 2(a) of the Model Law;

b. the Bankruptcy Proceedings are foreign main proceedings within the meaning of article 2(b) of the Model Law;

c. the plaintiff is a foreign representative pursuant within the meaning of article 2(d) of the Mode Law; and

d. recognition of the foreign proceedings would not be manifestly contrary to the public policy of Australia.

Publication and Notice Requirements

71. The Trustee intends to provide notice of this application substantially in the form of Forms 20 and 21 prescribed by the *Federal Court (Corporations) Rules 2000* (Cth) (**Notice**) by:

a. publishing the Notice on the PwC Website maintained by the Trustee;

b. sending the Notice by email to each defendant, NYDIG, and Iris Energy; and

c. where the plaintiff does not have an email address for the defendants, NYDIG, and/or Iris Energy, but has a postal address for such party, sending the Notice by posting a copy of it to the postal address for that party.

Conclusion

72. The plaintiff considers the orders sought in this application are in the best interests of the creditors of the defendants and consistent with the objectives of the Model Law and the Act.

Affirmed by the deponent)
at Vancouver, British Columbia)
in Canada)
on 16 September 2024)
Before me*:)

Signature of deponent

Signature of witness

Name of witness and qualification Valarie Rose Brewer, Solicitor
**Witnessed over audio visual link in accordance with section 14G of the Electronic Transactions Act 2000*

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1 I saw the face of the deponent.

2 I have confirmed the identity of the deponent using the following identity document: British Columbia Driver's Licence

Certificate Identifying Exhibit

No. of 2024

Federal Court of Australia

District Registry: Sydney

Division: General

PricewaterhouseCoopers Inc. in their capacity as Trustee in the Bankruptcies of IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd

Plaintiff

EXHIBIT MAG-1

This is the exhibit marked "**Exhibit MAG-1**" now produced and shown to Michelle Grant at the time of affirming her affidavit on 16 September 2024.

Before me:

Name: Valarie Rose Brewer

No. S230488
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

NYDIG ABL LLC

PETITIONER

And:

IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE JUSTICE MILMAN	)))	June 13, 2023

THE APPLICATION of PricewaterhouseCoopers Inc. as Receiver and Manager (the "**Receiver**") of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. (together, the "**Debtors**") coming on for hearing at Vancouver, British Columbia, on the 13th day of June, 2023; AND ON HEARING from Mary Buttery, K.C. counsel for the Receiver and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the Receiver's Third Report to the Court, dated June 7, 2023; AND UPON REVIEWING the Order made after Petition Appointment of Receiver of the Honourable Mr. Justice Milman, granted February 3, 2023 (the "**Receivership Order**"); THIS COURT ORDERS THAT:

SERVICE

1. The time for service of this Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof upon any interested party other than those parties on the Service List established in this proceeding is hereby dispensed with.

SSP PROCEDURES, STALKING HORSE BID AND BREAK FEE

2. The sale solicitation process attached as **Schedule "B"** hereto, subject to any amendments thereto that may be made in accordance therewith (the "**SSP**") be and is hereby approved.

3. The Receiver and its advisors (including Foundry Digital LLC as sales agent for and on behalf of the Receiver) is hereby authorized and directed to implement the SSP and do all things as are reasonably necessary to conduct and give full effect to the SSP and carry out its obligations thereunder.

4. The Receiver is hereby authorized and directed to execute and enter into the definitive "stalking horse" asset purchase agreement (the "**Stalking Horse APA**" and the transactions provided therein, the "**Stalking Horse Bid**") with NYDIG ABL LLC, or its designated nominee, as purchaser (the "**Stalking Horse Credit Bidder**"), substantially on the terms set out in the stalking horse asset purchase agreement attached as **Schedule "C"** hereto, subject to such amendments, additions and/or deletions permitted by the Stalking Horse APA and as may be negotiated between the Receiver and the Stalking Horse Credit Bidder.

5. The Stalking Horse Bid submitted by the Stalking Horse Credit Bidder is hereby approved as the Stalking Horse Bid pursuant to and for purposes of the SSP, provided that nothing herein approves the sale to and the vesting of any assets or property in the Stalking Horse Credit Bidder pursuant to the Stalking Horse Bid and that the approval of the sale and vesting of such assets and property shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Credit Bidder is the Successful Bidder (as defined in the SSP) pursuant to the SSP.

6. The Break Fee, as defined in the Stalking Horse APA is hereby approved and the Receiver is authorized and directed to pay the Break Fee in the manner and circumstances described therein.

FOUNDRY AGREEMENT

7. The Receiver is hereby authorized and empowered to enter into the engagement letter agreement with Foundry Digital LLC.

AUTHORITY TO ASSIGN THE DEBTORS INTO BANKRUPTCY

8. The Receiver is hereby authorized, if the Receiver deems advisable, to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended.

9. The Receiver shall not be disqualified from acting as Trustee in Bankruptcy by reason only of its role as Receiver.

BY THE COURT M. Inman, J.

REGISTRAR

CHECKED
ICV

SCHEDULE "A"

List of Counsel

NAME	APPEARING FOR
Mary Buttery, K.C. Emily Paplawski	Counsel for the Receiver, PricewaterhouseCoopers Inc.
Candace Formosa Kieran Siddall	Counsel for the Respondents, IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd.
Chris Burr Claire Hildebrand	Counsel for the Petitioner, NYDIG ABL LLC

SCHEDULE "B"

Sales Solicitation Process

SALE PROCESS

Introduction

By Order of the Honourable Mr. Justice Milman of the Supreme Court of British Columbia (the "**Court**") dated February 3, 2023 (the "**Receivership Order**"), PricewaterhouseCoopers Inc. was appointed receiver and manager (in such capacity, the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended, without security, of all the assets, undertakings and property (the "**Property**") of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. (the "**Debtors**"). The Property of the Debtors includes approximately 37,500 Antminer S19, Antminer S19 Pro, and Antminer S19j Pro bitcoin miners (the "**Miners**").

On June 13, 2023, the Court granted an Order (the "**Sale Process Approval Order**") approving the sale solicitation procedures set forth herein (the "**SSP Procedures**") together with an asset purchase agreement between NYDIG ABL LLC (the "**Stalking Horse Credit Bidder**") and the Receiver, dated June 7, 2023 (the "**Stalking Horse APA**"), defining the terms of a bid by the Stalking Horse Credit Bidder to purchase all of the Miners and take an assignment of certain Assigned Contracts (as defined in the Stalking Horse APA), if any (the "**Purchased Assets**"), for the Purchase Price (as defined below), subject to certain conditions, adjustments, and other terms defined therein. The Sale Process Approval Order and these SSP Procedures shall exclusively govern the process (the "**Sale Process**") for soliciting and selecting bids for the sale of all or substantially all of the Property of the Debtors.

All dollar amounts expressed herein, unless otherwise noted, are in United States currency. Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Stalking Horse APA.

Stalking Horse APA

The Stalking Horse APA has been approved as the stalking horse bid under paragraph 5 of the Sale Process Approval Order.

SSP Procedures

These SSP Procedures describe, among other things, the Property available for sale, the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Miners, the manner in which bidders and bids become Qualified Bidders and Qualified Bids, respectively, the receipt and negotiation of bids received, the ultimate selection of one or more Successful Bids, and the approval thereof by the Court.

The Receiver shall administer the SSP Procedure with the assistance of Foundry Digital LLC (the "**Sales Agent**"). In the event that there is disagreement as to the interpretation or application of this SSP Procedure, the Court will have jurisdiction to hear and resolve such dispute.

The Receiver will use reasonable efforts to complete the SSP Procedures in accordance with the timelines set out herein. The Receiver shall be permitted to make such adjustments to the timeline that it determines are reasonably necessary.

Opportunity

The SSP Procedures are intended to solicit interest in, and opportunities for, a sale of all, or substantially all, of the Miners (each, a "**Sale**"). Approximately 1,500 of the Miners are located at the supplier's warehouse in Malaysia. The remaining approximately 36,000 Miners are located in storage in Mackenzie and Cranbrook, British Columbia.

The Receiver has entered into the Stalking Horse APA which constitutes a Qualified Bid for all purposes and at all times under the SSP Procedures. The "Purchase Price" for the Purchased Assets under the Stalking Horse APA, exclusive of all applicable Transfer Taxes, is comprised of the aggregate of the following: (i) the amount of Priority Claims determined by the Receiver as of the Closing Date to be validly due and owing by either of the Debtors, if any (the "**Approved Priority Claim Amount**"); (ii) a credit bid of US$21 million, less the Approved Priority Claim Amount, if any (the "**Credit Bid Amount**"); and (iii) all liabilities and obligations listed on Schedule "G" to the Stalking Horse APA (collectively, the "**Assumed Liabilities**" and together with the Approved Priority Claim Amount and the Credit Bid Amount, the "**Purchase Price**").

Notwithstanding the Stalking Horse APA, all interested parties are encouraged to submit Qualified Bids based on any configuration of Miners they wish. As discussed further below, a "Qualified Bid" under these SSP Procedures may be comprised either of an *en bloc* bid for all or substantially all of the Miners, or a number of non-overlapping separate bids which collectively relate to all or substantially all of the Miners and: (a) which meet the requirements for a "Qualified Bid" under these SSP Procedures; and (b) in respect of which, and in discussions with the Receiver and the Sales Agent, the bidders have agreed to syndicate and appoint a representative for purposes of particating in the Sale Process including, if applicable, the Auction (as defined below).

Sale Process Timeline

The Receiver currently anticipates that the Sale Process will commence on or about June 21, 2023:

Milestone	Date	Day
Send Teaser Letter and Advertise SSP	Within 2 calendar days of Sale Process commencement	Friday, June 23, 2023
Due Diligence Period (NDAs signed, access to VDR granted and site visits organized)	2 calendar days after Sale Process commencement to 32 calendar days thereafter	Up to and including Tuesday, July 25, 2023
Final Bid Deadline	5 calendar days after the Due Diligence Period ends	Monday, July 31, 2023
Bid Assessment	Within 5 Business Days of Final Bid Deadline	Tuesday, August 8, 2023

Milestone	Date	Day
Notification of Auction Date (if applicable)	Within 5 Business Days of completion of Bid Assessment	Tuesday, August 15, 2023
Auction Date (if applicable)	2 Business Days after Notification of Auction Date	Thursday, August 17, 2023
Court Approval to implement Stalking Horse APA (if applicable)	Within 10 calendar days of the Auction Date (subject to Court availability)	Monday, August 28, 2023
Period of time to finalize definitive documents for Successful Bid (if applicable)	Within 10 calendar days of the Auction Date	Monday, August 28, 2023
Court Approval of Successful Bid (if applicable)	Within 22 calendar days of the Auction Date (subject to Court availability)	Friday, September 8, 2023

"As Is, Where Is"

The sale of the Miners will be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Receiver or any of its agents, except to the extent set forth in the relevant final sale agreement with a Successful Bidder.

Free of Any and All Claims and Interests

In the event of a Sale, all of the right, title and interest of the Debtors in and to all Miners sold or transferred will, at the time of such sale or transfer, be sold or transferred free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon and there against (collectively the "**Claims and Interests**") pursuant to one or more approval and vesting orders made by the Court. Contemporaneously with such approval and vesting orders being made, all such Claims and Interests shall attach to the net proceeds of the sale of such property (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant sale agreement with a Successful Bidder.

Solicitation of Interest

As soon as reasonably practicable and, in any event, by no later than two (2) calendar days after commencement of the Sale Process, the Receiver will:

a) cause a notice of the Sale Process contemplated by these SSP Procedures, and such other relevant information which the Receiver considers appropriate, to be published in applicable industry publications, websites and/or forums; and

b) in consultation with the Sales Agent, prepare a summary describing the Opportunity, outlining the SSP Procedures and inviting recipients to express their interest in making a Qualified Bid (a "**Teaser Letter**") for distribution to potential bidders.

Participation Requirements and Due Diligence

In order to participate in the Sale Process, an interested party must deliver to the Receiver at the address specified herein (including by email), and prior to the distribution of any confidential information by the Receiver and/or the Sales Agent to such interested party (including access to the confidential virtual data room (the "**VDR**")), an executed non-disclosure agreement in form and substance satisfactory to the Receiver (an "**NDA**"), which shall inure to the benefit of any Successful Bidder (as defined below) that closes a transaction contemplated by a Successful Bid (as defined below).

A potential bidder that has executed an NDA, as described above, and who the Receiver, in its sole discretion, determines has a reasonable prospect of completing a Sale contemplated herein, will be deemed a "**Qualified Bidder**" and will be promptly notified of such classification by the Receiver.

The Receiver shall provide any person deemed to be a Qualified Bidder with access to the VDR and the Receiver shall provide to Qualified Bidders further access to such reasonably required due diligence materials and information relating to the Miners as the Receiver deems appropriate. The Receiver makes no representation or warranty as to the information to be provided through the due diligence process or otherwise, regardless of whether such information is provided in written, oral or any other form, except to the extent otherwise contemplated under any definitive sale agreement with a Successful Bidder executed and delivered by the Receiver and approved by the Court.

Upon the reasonable request of a Qualified Bidder, on-site inspections of the Miners may be arranged by the Receiver in its sole discretion. As the Miners are currently stored in remote locations in British Columbia that are not readily accessible by the Receiver, only one site visit per storage location will be organized for each Qualified Bidder. No site visits to the supplier's warehouse in Malaysia will be organized or permitted.

Submission of Qualified Bids

A Qualified Bidder that desires to make a bid for some or all of the Miners must deliver either:

a) a final, written, binding offer (each, a "**Final Bid**") in the form of a fully executed purchase and sale agreement substantially in the form of the template purchase and sale agreement located in the VDR (the "**Template APA**"); or

b) a signed letter confirming that the Qualified Bidder wishes to assume and perform the obligations of the Stalking Horse Credit Bidder under the Stalking Horse APA, subject to the necessary adjustment to the Purchase Price to provide cash consideration and to include the Minimum Incremental Overbid (as defined below) and the Break Fee (as

defined below), and detailing any adjustments, revisions or other terms that the Qualified Bidder proposes be included in the Stalking Horse APA (a "**Confirmation of Assumption**"),

in each case to the Receiver at the address specified herein (including by email transmission) so as to be received by the Receiver not later than 4:00 p.m. PDT on July 31, 2023, or such later date as may be agreed by the Receiver and communicated in writing to all Qualified Bidders (the "**Final Bid Deadline**").

Requirements for Qualified Bid

A Final Bid will only be considered a Qualified Bid if it is submitted by a Qualified Bidder and complies with the following conditions (each, a "**Qualified Bid**"):

a) it has been received by the Final Bid Deadline;

b) it contains

   a. a duly executed purchase and sale agreement substantially in the form of the Template APA and a blackline of the executed purchase and sale agreement to the Template APA; or

   b. a Confirmation of Assumption compliant with the requirements above;

c) it includes a letter stating that the Final Bid is irrevocable until there is a Successful Bid (as defined below), provided that if such Qualified Bidder is selected as the Successful Bidder, its Final Bid shall remain an irrevocable offer until the earlier of (i) the completion of the sale to the Successful Bidder and (ii) the Outside Date;

d) it provides written evidence, satisfactory to the Receiver, of (a) a firm, irrevocable financial commitment for all required funding or financing or (b) evidence of the Qualified Bidder's financial wherewithal to close the bid using unencumbered funds on hand;

e) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;

f) it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer to a bank account specified by the Receiver, or such other form of payment acceptable to the Receiver, payable to the order of the Receiver, in trust, in an amount equal to 20% of the total consideration in the Qualified Bid to be held and dealt with in accordance with these SSP Procedures;

g) it is not conditional upon:

   a. the outcome of unperformed due diligence by the Qualified Bidder, and/or

   b. obtaining financing; and

h) it includes an acknowledgement and representation that the Qualified Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its Qualified Bid; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, including by the Receiver, or any of its advisors, except as expressly stated in the purchase and sale agreement submitted by it; (iii) is a sophisticated party capable of making its own assessments in respect of making its Qualified Bid; and (iv) has had the benefit of independent legal advice in connection with its Qualified;

i) it contains evidence of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body), if applicable: and

j) if:

   a. it is an *en bloc* bid, the aggregate consideration, as calculated and determined by the Receiver in its sole discretion, to be paid in cash by the Qualified Bidder under the Qualified Bid exceeds the aggregate of the Purchase Price under the Stalking Horse APA, plus the Break Fee and plus US$1 million (the "**Minimum Incremental Overbid")**; or

   b. it is for a select portion of the Miners comprising less than all or substantially all of the Miners (each, a "**Partial Bid**") then, upon receipt of such bid, the Receiver may, in consultation and with the assistance of the Sales Agent, engage with applicable Qualified Bidders that submitted a Partial Bid to confirm whether, in aggregate, all applicable Partial Bids collectively: (i) relate to all or substantially all of the Miners; and (ii) provide cash consideration in excess of the aggregate of the Purchase Price under the Stalking Horse APA, plus the Break Fee and the Minimum Incremental Overbid. In the event the Receiver identifies two or more Partial Bids which meet the foregoing requirements, the Receiver will seek the agreement of each applicable Qualified Bidder to syndicate its respective bid with the other applicable Partial Bids (the "**Syndicated Bid**") and appoint a representative (each, a "**Syndicated Bid Representative**") for purposes of advancing the Syndicated Bid through the remainder of the Sale Process including, if applicable, the Auction.

Both *en bloc* bids and Syndicated Bids which comply with the foregoing conditions shall be considered to be "Qualified Bids".

The Stalking Horse Credit Bidder shall be deemed to be a Qualified Bidder, and the Stalking Horse APA shall be deemed to be a Qualified Bid, for all purposes of these SSP Procedures, including for purposes of the Auction (if applicable). No deposit is required in connection with the Stalking Horse APA.

The Receiver may, in its reasonable discretion, waive compliance with any one or more of the Qualified Bid requirements specified herein, and deem such non-compliant bid to be a Qualified Bid in accordance with these SSP Procedures.

Assessment of Qualified Bids

The Receiver will assess the Qualified Bids received, if any, and will determine whether it is likely that the transactions contemplated by such Qualified Bids are likely to be consummated. Such assessments will be made as promptly as practicable but no later than five (5) Business Days after the Final Bid Deadline.

If the Receiver determines that (a) no Qualified Bids other than the Stalking Horse APA were received, or (b) at least one additional Qualified Bid was received but it is not likely that the transactions contemplated in any such Qualified Bids will be consummated, the Receiver shall (i) forthwith terminate these SSP Procedures, (ii) notify each Qualified Bidder (if any) that these SSP Procedures have been terminated, (iii) notify the Stalking Horse Credit Bidder that it is the Successful Bidder, and (iv) as soon as reasonable practicable after such termination, file an application with the Court seeking approval, after notice and hearing, to implement the Stalking Horse APA.

If the Receiver determines in its reasonable discretion that (a) one or more Qualified Bids were received, and (b) it is likely that the transactions contemplated by one or more of such Qualified Bids will be consummated, the Receiver may, in its sole discretion, advise all Qualified Bidders/ Syndicated Bid Representative, as applicable, that an auction (the "**Auction**") will be held and that such Qualified Bidders/Syndicated Bid Representative, as applicable, are entitled to participate in the Auction.

Auction

If an Auction is to be held, the Receiver will conduct the Auction commencing at 10:00 a.m. PDT on August 17, 2023 (the "**Auction Date**") at the offices of the Receiver's legal counsel, Osler Hoskin & Harcourt LLP, Guinness Tower, 1055 W Hastings St #1700, Vancouver, BC, or such other location as shall be timely communicated to all entities entitled to attend at the Auction, subject to such adjournments as the Receiver may consider appropriate.

The Auction shall run in accordance with the following procedures:

a) prior to 4:00 p.m. PDT on August 16, 2023, each Qualified Bidder or Syndicated Bid Representative, as applicable, that has made a Qualified Bid and the Stalking Horse Bidder, must inform the Receiver whether it intends to participate in the Auction (the parties who so inform the Receiver that they intend to participate are hereinafter referred to as the "**Auction Bidders**");

b) the identity of each Auction Bidder participating in the Auction will be disclosed, on a confidential basis, to each other Auction Bidder participating in the Auction;

c) only representatives of the Auction Bidders, the Receiver, the Sales Agent and such other persons as permitted by the Receiver (and the advisors to each of the foregoing entities)

are entitled to attend the Auction in person (and the Receiver shall have the discretion to allow such persons to attend by video- or tele-conference);

d) the Receiver may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances, for conducting the Auction, including with respect to the ability of multiple Auction Bidders to combine to present a single bid, provided that such rules are (i) not inconsistent with these SSP Procedures, general practice in insolvency proceedings, or the Receivership Order and (ii) disclosed to each Auction Bidder at the Auction;

e) all Auction Bidders must have at least one individual representative with authority to bind such Auction Bidder present in person at the Auction;

f) the Receiver shall arrange to have a court reporter attend at the Auction;

g) each Auction Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with any other person, without the express written consent of the Receiver, regarding the Sale Process, that has not been disclosed to all other Auction Bidders;

h) prior to the Auction, the Receiver will provide unredacted copies of the Qualified Bid(s) which the Receiver believes is/are (individually or in the aggregate) the highest or otherwise best Qualified Bid(s) (the "**Starting Bid**") to the Stalking Horse Credit Bidder and to all Qualified Bidders or Syndicated Bid Representatives, as applicable, that have made a Qualified Bid;

i) bidding at the Auction will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid is submitted by an Auction Bidder (a "**Subsequent Bid**") that the Receiver determines is (i) for the first round, a higher or otherwise better offer than the Starting Bid, and (ii) for subsequent rounds, a higher or otherwise better offer than the then current highest and best bid (the "**Leading Bid**"), in each case by at least US$500,000, or such amount as may be determined by the Receiver prior to, and announced at, the Auction;

j) the Stalking Horse Credit Bidder shall be permitted, in its sole discretion, to submit Subsequent Bids, which Subsequent Bids may be comprised of increased credit bids up to the full amount of the secured indebtedness owing by the applicable Debtor to the Stalking Horse Credit Bidder, provided, however, that such Subsequent Bids are made in accordance with these SSP Procedures;

k) to the extent not previously provided (which shall be determined by the Receiver), an Auction Bidder submitting a Subsequent Bid must submit, at the Receiver's discretion, as part of its Subsequent Bid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Receiver), demonstrating such Auction Bidder's ability to close the transaction proposed by the Subsequent Bid;

l) only the Auction Bidders will be entitled to make a Subsequent Bid at the Auction; provided, however, that in the event that any Qualified Bidder or Syndicated Bid Representative, as applicable, elects not to attend and/or participate in the Auction, such Qualified Bidder's Qualified Bid or Syndicated Bid Representative's Syndicated Bid, shall nevertheless remain fully enforceable against such Qualified Bidder or Syndicated Bid Representative, as applicable, if it is selected as the Successful Bid (as defined below);

m) all Auction Bidders shall have the right to, at any time, request that the Receiver announce the then-current Leading Bid and, to the extent requested by any Auction Bidder, use reasonable efforts to clarify any and all questions such Auction Bidder may have regarding the Leading Bid;

n) the Receiver reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction to, among other things (i) facilitate discussions between the Receiver and the Auction Bidders; (ii) allow the individual Auction Bidders to consider how they wish to proceed; (iii) consider and determine the current highest and best offer at any given time in the Auction; and (iv) give Auction Bidders the opportunity to provide the Receiver with such additional evidence as the Receiver, in its reasonable business judgment, may require that that Auction Bidder has sufficient internal resources to consummate the proposed transaction at the prevailing overbid amount;

o) if, in any round of bidding, no new Subsequent Bid is made, the Auction shall be closed; and

p) no bids (from Qualified Bidders, Syndicated Bid Representatives, or otherwise) shall be considered after the conclusion of the Auction.

At the end of the Auction, the Receiver shall select the successful bid (the "**Successful Bid**", with such bidder being the "**Successful Bidder**"). Upon selection of a Successful Bidder, the Successful Bidder shall deliver as soon as practicable an executed transaction document, which reflects its bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the application material for the hearing to consider the Approval Application (as defined below).

If an Auction is conducted, the Auction Bidder and/or Qualified Bidder/Syndicated Bid Representative (as applicable) with the next highest or otherwise best Qualified Bid at the Auction or, if such Qualified Bidder/Syndicated Bid Representative (as applicable) did not participate in the Auction, submitted in this Sale Process, as determined by the Receiver, will be designated as the backup bidder (the "**Backup Bidder**"). The Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submitted one or more overbids at the Auction, the Backup Bidder's final overbid) (the "**Backup Bid**") open until the earlier of (a) two business days after the date of closing of the Successful Bid; and (b) September 30, 2023 (the "**Outside Date**").

The Receiver shall have selected the final Successful Bid(s) and the Backup Bid(s) as soon as reasonably practicable after the Auction Date and the definitive documentation in respect of the Successful Bid must be finalized and executed no later than August 28, 2023, which definitive documentation shall be conditional only upon the receipt of the Approval Order and the express conditions set out therein and shall provide that the Successful Bidder shall use all reasonable efforts to close the proposed transaction by no later than September 8, 2023, or such longer period

as shall be agreed to by the Receiver in writing. In any event, the Successful Bid must be closed by no later than the Outside Date, or such other date as may be agreed to by the Receiver in writing.

Approval of Successful Bid

The Receiver shall apply to the Court (the "**Approval Application**") for an order approving the Successful Bid and the Backup Bid (as applicable) and vesting title to any purchased Miners in the name of the Successful Bidder or the Backup Bidder (as applicable) (the "**Approval Order**"). The Approval Application will be held on a date to be scheduled by the Receiver and confirmed by the Court. The Receiver shall use best efforts to schedule the Approval Application on or before September 8, 2023 subject to Court availability. The Approval Application may be adjourned or rescheduled by the Receiver on notice to the Service List prior to the Approval Application. The Receiver shall consult with the Successful Bidder and the Backup Bidder regarding the application material to be filed by the Receiver for the Approval Application, which material shall be acceptable to the Successful Bidder, acting reasonably.

If, following approval of the Successful Bid by the Court, the Successful Bidder fails to consummate the transaction for any reason, then such Successful Bidder will forfeit its Deposit and the Backup Bid, if there is one, will be deemed to be the Successful Bid hereunder and the Receiver shall effectuate a transaction with the Backup Bidder subject to the terms of the Backup Bid, without further order of the Court.

All Qualified Bids (other than the Successful Bid) shall be deemed rejected on and as of the date of the closing of the Successful Bid.

Deposits

All Deposits shall be retained by the Receiver in a bank account specified by the Receiver. If there is a Successful Bid, the Deposit paid by the Successful Bidder whose bid is approved at the Approval Application shall be applied to the purchase price to be paid by the Successful Bidder upon closing of the approved transaction and will be non-refundable. The Deposit paid by the Backup Bidder shall be retained by the Receiver until two business days after the date of closing of the Successful Bid or the Outside Date, whichever is later, or, if the Backup Bid becomes the Successful Bid, shall be released by the Receiver and applied to the purchase price to be paid upon closing of the Backup Bid.

All Deposits of all Qualified Bidders not selected as the Successful Bidder or Backup Bidder shall be returned to such bidders within five (5) business days of the date upon which the Successful Bid and any Backup Bid is approved by the Court. If the Auction does not take place or these SSP Procedures are terminated in accordance with the provisions hereof, all Deposits shall be returned to the Qualified Bidders within five (5) business days of the date upon which it is determined that the Auction will not take place or these SSP Procedures are terminated, as applicable.

If an entity selected as the Successful Bidder or Backup Bidder breaches its obligations to close the applicable transaction, it shall forfeit its Deposit to the Receiver; provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Receiver has against such breaching entity.

Approvals

For greater certainty, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by any other statute or are otherwise required at law in order to implement a Successful Bid or Backup Bid, as the case may be.

Notice

The addresses used for delivering documents to the Receiver as required by the terms and conditions of these SSP Procedures are set out below. A bid and all associated documentation shall be delivered to the Receiver by electronic mail, personal delivery or courier.

To the Receiver:

PricewaterhouseCoopers Inc.
Suite 1400, 250 Howe St.
Vancouver, BC V6C 3S7

Attention: Michelle Grant / Morag Cooper
Tel. No.: 604.806.7184 / 236.308.4439
Facsimile: 604.806.7806
Email: michelle.grant@pwc.com / morag.c.cooper@pwc.com

with a copy to:

Osler, Hoskin & Harcourt LLP
The Guinness Tower
1055 W Hastings St #1700
Vancouver, BC V6E 2E9

Attention: Mary Buttery, K.C. / Emily Paplawski
Tel. No.: 604.692.2752 / 403.260.7071
Facsimile: 778.785.2745
Email: mbuttery@osler.com / epaplawski@osler.com

Reservation of Rights

The Receiver: (a) may reject, at any time any bid (other than the Stalking Horse Credit Bid) that is (i) inadequate or insufficient, or (ii) not in conformity with the requirements of these SSP Procedures or any orders of the Court applicable to the Debtors: (b) in accordance with the terms hereof, may impose additional terms and conditions and otherwise seek to modify the SSP Procedures at any time in order to maximize the results obtained; and (c) in accordance with the terms hereof, may accept bids not in conformity with these SSP Procedures to the extent that the Receiver determines, in its reasonable business judgment, that doing so would benefit the Debtors' estates and their stakeholders.

The Receiver may, in its reasonable discretion, extend the Final Bid Deadline, the Outside Date, the date for selection of the final Successful Bid(s) and the Backup Bid(s), the date for finalization

and execution of definitive documentation in respect of the Successful Bid, and/or the date for the hearing of the Approval Application.

Prior to the conclusion of the Auction, the Receiver may impose such other terms and conditions, on notice to the relevant Auction Bidders, as the Receiver may determine to be in the best interests of the Debtors' estate and their stakeholders that are not inconsistent with any of the procedures in these SSP Procedures.

These SSP Procedures do not, and shall not be interpreted to, create any contractual or other legal relationship between the Receiver and any potential bidder, Qualified Bidder, Syndicated Bid Representative, Auction Bidder, Successful Bidder or Backup Bidder, other than as specifically set forth in definitive documentation that may be executed by the Receiver.

No Amendment

There shall be no amendments to these SSP Procedures without the prior written consent of the Receiver and the Stalking Horse Credit Bidder, or further order of the Court obtained on reasonable notice to the Receiver.

Further Orders

At any time during the Sale Process, the Receiver may apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

SCHEDULE "C"

Stalking Horse APA

Execution Version

PRICEWATERHOUSECOOPERS INC., solely in its capacity as court-appointed receiver and manager of certain IE CA 3 Holdings Ltd. & IE CA 4 Holdings Ltd.

- and -

NYDIG ABL LLC, or its designee(s)

STALKING HORSE ASSET PURCHASE AGREEMENT

June 7, 2023

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SCHEDULE I DEBTOR GST/HST NUMBERS

THIS ASSET PURCHASE AGREEMENT is made this 7th day of June, 2023

BETWEEN:

PRICEWATERHOUSECOOPERS INC., solely in its capacity as court-appointed receiver and manager of certain IE CA 3 Holdings Ltd. & IE CA 4 Holdings Ltd.

(the "**Receiver**")

- and -

NYDIG ABL LLC, or its designee(s)

(the "**Purchaser**")

RECITALS:

A. Pursuant to an order of the Supreme Court of British Columbia (the "**Court**") dated February 3, 2023 (as may in the future be supplemented, amended or restated from time to time, the "**Appointment Order**"), the Receiver was appointed as receiver and manager, without security, of the assets, undertakings and properties of IE CA 3 Holdings Ltd. ("**IE CA 3**") and IE CA 4 Holdings Ltd. ("**IE CA 4**", and together with IE CA 3, the "**Debtors**"), including all proceeds thereof (collectively, the "**Property**");

B. The Appointment Order authorizes the Receiver to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;

D. The Purchaser has agreed to act as a "stalking horse bidder" in connection with the sale of all of the right, title and interest of the Receiver and the Debtors, in and to the Purchased Assets (defined below) comprising the Property, meaning that, in the absence of the Receiver's acceptance of one or more bids for the Purchased Assets made in accordance with the Sale Procedure (as defined below) which is superior to this Agreement (as determined by the Receiver in accordance with the Sale Procedure), the Purchaser has agreed to purchase all of the right, title and interest of the Receiver and the Debtors in and to the Purchased Assets on the terms and subject to the conditions set forth in this Agreement, in accordance with the Sale Procedure and subject to obtaining the Vesting Order (as defined below);

E. The Receiver intends to seek the Sale Procedure Order (as defined below) authorizing and directing the Receiver to enter into this Agreement and carry out the Sale Procedure.

NOW THEREFORE for good and valuable consideration, the adequacy and receipt whereof is hereby acknowledged, the Parties covenant and agree as follows:

ARTICLE 1
DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, including the schedules to this Agreement, the following words and terms shall have the meanings set out below:

"**Agreement**" means this asset purchase agreement, including all schedules, and all amendments or restatements, and references to "**Article**", "**Section**" or "**Schedule**" mean the specified Article or Section of, or Schedule to, this Agreement;

"**Ancillary Agreements**" means, collectively, assignment and assumption agreements, and such other agreements, documents, assignments, or instruments of transfer and conveyance reasonably satisfactory in form and substance to the Purchaser and the Receiver;

"**Appointment Order**" has the meaning given in the Recitals;

"**Approved Priority Claim Amount**" means the amount of Priority Claims determined by the Receiver as of the Closing Date based on the best information available to the Receiver to be validly due and owing by either of the Debtors, if any, as set out in the Statement of Approved Priority Claims;

"**Assigned Contracts**" means those Contracts of either Debtor that are listed in Schedule "A", an amended list of which, subject to Section 2.4, may be delivered by the Purchaser to the Receiver no later than ten (10) Business Days before the Closing Date;

"**Assumed Liabilities**" has the meaning given in Section 2.3;

"**Backup Bid**" has the meaning given in the Sale Procedure;

"**Bill of Sale**" means one or more bills of sale duly executed by the Receiver in respect of the personal property forming part of the Purchased Assets;

"**Books and Records**" means, collectively, the books and records of the Debtors relating to the Purchased Assets, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, bills of sale, shipping records, business reports, plans and projections and all other documents, surveys, plans, files, records, assessments, correspondence and other data and information, financial or otherwise, including all data, information and databases stored on computer-related or other electronic media;

"**Break Fee**" has the meaning given in Section 4.3;

"**Business**" means the businesses of the Debtors conducted prior to the entry of the Appointment Order, including without limitation, the mining of Bitcoin;

"**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia;

"**Casualty**" has the meaning given in Section 8.4;

"**Claims**" includes claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions or other similar processes;

"**Closing**" **means** the completion of the Transaction;

"**Closing Certificate**" has the meaning given in Section 5.3;

"**Closing Date**" means the date on which the Closing occurs as set forth in Section 6.1(a);

"**Closing Time**" has the meaning given in Section 6.1(b);

"**Consent**" means any approval, authorization, consent, Order, license, permission, permit (including any environmental permit), qualification, exemption or waiver by any Governmental Authority or other Person;

"**Contract Notice Date**" has the meaning given in Section 2.4(a);

"**Contracts**" means the contracts, licences, leases, agreements, arrangements, documents, commitments, entitlements or engagements to which any or one or more of the Debtors is a party or by which any such Debtor or Debtors is bound;

"**Court**" has the meaning given in the Recitals;

"Credit Bid Amount" means (a) the MEFA Bid Amount of $21,000,000, less (a) the Approved Priority Claim Amount, if any;

"**Debtors**" has the meaning given to it in the Recitals;

"**Encumbrance**" means any mortgage, charge, the Receiver's Borrowings Charge, the Receiver's Charge, pledge, hypothec, security interest, lien (statutory or otherwise), title retention agreement, trust, deemed or statutory trust, judgment, execution, levy, financial or monetary claim, encumbrance, adverse claim or interest, exception, reservation, easement, encroachment, servitude, restrictions on use, any right of occupancy, any right or claim of specific performance, any matter capable of registration against title, option, right of first refusal or similar right, right of pre-emption or privilege or any contract creating any of the foregoing, but shall not include the Permitted Encumbrances;

"**Excluded Assets**" means any Purchased Assets which are identified by the Purchaser in writing to the Receiver as Excluded Assets in accordance with Section 2.2;

"**Final Order**" means, in respect of any Order, such Order after (i) the expiry of applicable appeal periods; or (ii) in the event of an appeal or application for leave to appeal or to stay, vary, supersede, set aside or vacate such Order, final determination of such appeal or application by the applicable court or appellate tribunal.

"**Governmental Authorities**" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state or other geographic or political subdivision thereof; or (b) exercising, or

entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**IE CA 3 MEFA**" means the British Columbia law governed Master Equipment Finance Agreement dated May 25, 2021 among NYDIG (via its predecessor Arctos Credit, LLC) and IE CA 3, and the 4 schedules thereto;

"**IE CA 3 MEFA Bid Amount**" means the portion of the MEFA Bid Amount to be allocated to the Purchased Assets that are owned by IE CA 3, to be determined in accordance with Section 2.9;

"**IE CA 4 MEFA**" means the New York law governed Master Equipment Finance Agreement dated March 24, 2022 among NYDIG and IE CA 4, and the 9 schedules thereto;

"**IE CA 4 Bid MEFA Amount**" means the portion of the MEFA Bid Amount to be allocated to the Purchased Assets that are owned by IE CA 4, to be determined in accordance with Section 2.9;

"**Laws**" means currently existing applicable statutes, by-laws, rules, regulations, Orders, ordinances or judgments, in each case of any Governmental Authority having the force of law;

"**Material Casualty**" means a Casualty in respect of all or substantially all of the Purchased Assets;

"**MEFA Bid Amount**" means the aggregate of the IE CA 3 MEFA Bid Amount and the IE CA 4 MEFA Bid Amount, which shall total $21,000,000;

"Order" means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority;

"**Outside Date**" means September 30, 2023, or such later date as agreed to by the Parties;

"**Parties**" means the Receiver and the Purchaser, collectively, and "**Party**" means any one of them;

"**Permitted Encumbrances**" means the Encumbrances identified in Schedule B;

"**Person**" means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;

"**Priority Claim Cap**" has the meaning given in Section 2.7;

"**Priority Claims**" means any valid statutory claims or portion thereof that are determined to rank in priority to the Senior Secured Debt, including without limitation, (a) any source deduction claim in favour of any Governmental Authority, including the Canada Revenue Agency, arising from the failure to deduct, withhold or remit any Taxes, (b) any claim in favour of an employee pursuant to section 81.4 of the *Bankruptcy and Insolvency Act* (Canada), and (c) any claim for amounts owing under the *Excise Tax Act* (Canada) (for greater certainty, solely to the extent any such claim is determined to rank in priority to the Senior Secured Debt);

"**Property**" has the meaning given in the Recitals;

"**Purchase Price**" has the meaning given in Section 2.5;

"**Purchased Assets**" means the bitcoin mining servers and other assets of the Debtors listed in Schedule "C" hereof, as such Schedule may be amended by excluding assets in accordance with Section 2.2 hereof, together with the Assigned Contracts, if any;

"**Purchaser**" means NYDIG ABL LLC and its successors and permitted assigns;

"**Qualified Bid**" has the meaning given in the Sale Procedure;

"**Receiver**" means PricewaterhouseCoopers Inc., in its capacity as court-appointed receiver of the Debtors and the Property and not in its personal or corporate capacity;

"**Receiver's Borrowings Charge**" has the meaning given in paragraph 24 of the Appointment Order;

"**Receiver's Charge**" has the meaning given in paragraph 21 of the Appointment Order;

"**Receiver's Website**" means https://www.pwc.com/ca/en/services/insolvency-assignments/ieca34.html;

"**Receivership Proceeding"** means the receivership proceeding with respect to the Debtors commenced by the Appointment Order;

"**Sale Approval Motion**" means an application by the Receiver seeking, *inter alia*, the Sale Procedure Order;

"**Sale Procedure**" means the sale procedure substantially in the form attached as Schedule "D" hereto, provided that such sale procedure is approved by the Court pursuant to the Sale Procedure Order;

"**Sale Procedure Order**" means an order of the Court substantially in the form attached as Schedule "E", with such amendments as are acceptable to the Receiver and the Purchaser, among other things, approving the (a) Sale Procedure, (b) this Agreement, solely for the purposes of acting as the "stalking horse bid" in the Sale Procedure, and (c) the Break Fee;

"**Senior Secured Debt**" means, collectively, the Senior Secured IE CA 3 Debt and the Senior Secured IE CA 4 Debt;

"**Senior Secured IE CA 3 Debt"** means as of May 18, 2023, $38,289,388.26, which represents the debt outstanding, 5% prepayment penalty, interest accrued under the IE CA 3 MEFA as of that date and a make-whole payment, plus all costs, expenses and charges and any other amounts recoverable by the Purchaser under the terms of the IE CA 3 MEFA;

"**Senior Secured IE CA 4 Debt"** means as of May 18, 2023, $83,356,233.02, which represents the debt outstanding, 5% prepayment penalty, interest accrued under the IE CA 4 MEFA as of that date and a make-whole payment, plus all costs, expenses and charges and any other amounts recoverable by the Purchaser under the terms of the IE CA 4 MEFA;

"**Statement of Approved Priority Claims**" means a written statement prepared by the Receiver based on the best information available to it of all Approved Priority Claims, to be delivered to the Purchaser in accordance with Section 2.7.

"**Successful Bid**" has the meaning given to it in the Sale Procedure;

"**Successful Bidder**" has the meaning given to it in the Sale Procedure;

"**Tax**" and "**Taxes**" includes any taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, excise, withholding, business, franchising, property, development, occupancy, payroll, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, and other government pension plan premiums or contributions;

"**Title Direction**" means a written direction from the Purchaser calling for and directing title to the Purchased Assets to be transferred to the Purchaser or one or more designees;

"**Transaction**" means the purchase and sale of the Purchased Assets in accordance with the terms of this Agreement;

"**Transfer Taxes**" has the meaning given in Section 8.2(c);

"**Vesting Order**" means the Order of the Court approving the sale by the Receiver to the Purchaser of the Purchased Assets, and vesting all right, title and interest of the Receiver and the Debtors in and to the Purchased Assets, free and clear of all Encumbrances (other than Permitted Encumbrances), to be agreed to in form and substance by the Purchaser and the Receiver no later than five (5) Business Days following the selection of this Agreement as the Successful Bid and then attached hereto as Schedule "F", with such amendments thereafter as are satisfactory to the Receiver and Purchaser acting reasonably.

"**Vesting Order Motion**" means a motion by the Receiver seeking the granting of the Vesting Order;

1.2 Certain Rules of Interpretation

In this Agreement:

(a) **Currency —** All references to money amounts are to lawful currency of the United States;

(b) **Governing Law —** This Agreement is a contract made under and shall be governed by and construed in accordance with the Laws of the Province of British Columbia and the federal Laws of Canada applicable in the Province of British Columbia;

(c) **Headings —** Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement;

(d) **Including —** Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”;

(e) **No Strict Construction** — The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party;

(f) **Number and Gender** — Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders;

(g) **Severability** — If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances; and

(h) **Time Periods** — Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

1.3 Entire Agreement

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the Parties relating to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and the Purchaser shall acquire all right, title and interest of the Receiver and the Debtors in and to the Purchased Assets on an as is and where is basis. Any cost estimates, projections or other predictions contained or referred to in any other material that has been provided to the Purchaser or any of its affiliates, subsidiaries, agents or representatives are not and shall not be deemed to be representations or warranties of the Receiver or any of its affiliates, subsidiaries, agents, employees or representatives.

1.4 Schedules

The schedules to this Agreement, listed below, are an integral part of this Agreement:

Schedule		Description
Schedule A	-	Assigned Contracts
Schedule B	-	Permitted Encumbrances
Schedule C	-	Purchased Assets
Schedule D	-	Sale Procedure
Schedule E	-	Form of Sale Procedure Order
Schedule F	-	Form of Vesting Order
Schedule G	-	Assumed Liabilities
Schedule H	-	Form of Purchase Price Allocation
Schedule I	-	Debtor GST/HST Numbers

ARTICLE 2
PURCHASE AND SALE

2.1 Purchase and Sale of Purchased Assets

On the Closing Date, as applicable, subject to the terms and conditions of this Agreement (which conditions, for greater certainty, include the issuance of the Sale Procedure Order, the determination by the Receiver that this Agreement is the Successful Bid, and the issuance of the Vesting Order), the Receiver shall transfer, sell, convey, and assign unto the Purchaser or its designee(s), all right, title and interest of the Receiver and the Debtors in and to, and the Purchaser or its designee(s) shall acquire and accept, the Purchased Assets pursuant to the Vesting Order, free and clear of all Encumbrances other than the Permitted Encumbrances.

2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any of the Excluded Assets and nothing herein shall be deemed to sell, transfer, assign or convey the Excluded Assets to the Purchaser. The Purchaser shall be entitled to designate any Purchased Assets as an "Excluded Asset" by notifying the Receiver in writing of its election to exclude from the Purchased Asset such Excluded Asset, at any time prior to the hearing of the Vesting Order Motion, and any Purchased Assets so designated shall be removed from Schedule "C". For greater certainty any designation of Excluded Assets pursuant to this Section 2.2 shall not affect the Purchase Price.

2.3 Assumed Liabilities

The Purchaser shall assume as of 12:01 a.m. (Toronto time) on the Closing Date, and shall pay, discharge and perform, as the case may be, the liabilities and obligations listed on Schedule "G" (collectively, the "**Assumed Liabilities**"). The Purchaser shall be entitled to amend Schedule "G" hereof by notifying the Receiver in writing of its election to add Assumed Liabilities, at any time

prior to the hearing of the Vesting Order Motion. For greater certainty any designation of additional Assumed Liabilities pursuant to this Section 2.3 shall not affect the Purchase Price.

Other than the Assumed Liabilities, the Transfer Taxes and the Permitted Encumbrances, the Purchaser shall not assume and shall not be liable for any liabilities or obligations of any Debtor of any nature whatsoever, whether present or future, known or unknown, absolute or contingent, and whether or not relating the Business, including without limitation, any Encumbrances and any liabilities related to any active or inactive litigation involving any of the Debtors.

2.4 Assignment and Assumption of Contracts

(a) The Purchaser covenants to the Receiver that, no later than ten (10) Business Days prior to the return date of the Vesting Order Motion, the Purchaser shall advise the Receiver in writing as to which Contracts shall be Assigned Contracts (the "**Contract Notice Date**"). At any time on or prior to the Contract Notice Date, the Purchaser may elect to exclude any Contracts from the Assigned Contracts by giving written notice to the Receiver of its intention to do so. For greater certainty any addition or deletion of Assigned Contracts pursuant to this Section 2.4 shall not affect the Purchase Price.

(b) The Assigned Contracts shall form part of the Purchased Assets assigned and transferred to the Purchaser or its designee(s) at or after Closing, the consideration for which is included in the Purchase Price. The Purchaser will assume and agree to perform and discharge the Assumed Liabilities under the Assigned Contracts pursuant to this Agreement and the applicable Ancillary Agreements.

(c) At or prior to Closing, the Receiver and the Purchaser shall use commercially reasonable efforts to obtain all necessary Consents to assign the Assigned Contracts to the Purchaser. In the event that any Consent is not obtained by the Closing, the Receiver will co-operate with the Purchaser in any reasonable and lawful arrangements designed to provide the benefits of such Contracts to the Purchaser, including assisting the Purchaser in attempting to obtain any such Consent after Closing for a period of four (4) weeks following Closing, or such further and other time period as may be agreed between the Receiver and the Purchaser, provided that pursuant to such arrangements the Purchaser agrees to pay and fully indemnifies the Receiver for all costs (including any fees and disbursements of the Receiver and its legal counsel), obligations or liabilities incurred thereunder or in connection therewith.

(d) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Contract, to the extent such Contract is not assignable under applicable Law without the consent of any other Person party thereto where the Consent of such Person has not been given or received.

(e) For greater certainty, if any necessary Consent is required to assign an Assigned Contract but not obtained, neither the Receiver nor the Purchaser shall be in breach of this Agreement nor shall the Purchase Price be adjusted or the Closing delayed.

2.5 Purchase Price

The purchase price for the Purchased Assets, exclusive of all applicable Transfer Taxes, shall be the aggregate of the following (the "**Purchase Price**"):

(a) the Approved Priority Claim Amount, if any;

(b) the Credit Bid Amount; and

(c) the Assumed Liabilities,

to be satisfied in the manner set forth in Section 2.6. All applicable Transfer Taxes shall be paid by the Purchaser, on the Closing Date, subject to the terms hereof and the availability of any exemptions, deferrals or elections under any applicable legislation for such applicable Transfer Taxes.

2.6 Satisfaction of Purchase Price

The Purchaser shall satisfy the Purchase Price on Closing by:

(a) providing a cash payment to the Receiver in an amount equal to any Approved Priority Claim Amount;

(b) providing a credit to IE CA 3 in the amount of the IE CA 3 MEFA Bid Amount against IE CA 3's obligations under the IE CA 3 MEFA;

(c) providing a credit to IE CA 4 in the amount of the IE CA 4 MEFA Bid Amount against IE CA 4's obligations under the IE CA 4 MEFA;

(d) delivering to the Receiver, for and on behalf of the Debtors, fully executed releases and waivers with respect of the amount outstanding under the IE CA 3 MEFA and IE CA 4 MEFA equal to IE CA 3 MEFA Bid Amount and the IE CA 4 MEFA Bid Amount, respectively; and

(e) the assumption by the Purchaser of the Assumed Liabilities, if any, subject to Section 2.3.

2.7 Statement of Approved Priority Claims

The Receiver shall deliver to the Purchaser the Statement of Approved Priority Claims no later than five (5) Business Days before the Closing Date. If the aggregate of the Approved Priority Claims exceeds $1,000,000 (the "**Priority Claim Cap**"), the Purchaser shall be entitled to elect, in its sole discretion, to terminate this Agreement.

2.8 *En Bloc* Bid

For the avoidance of doubt, and notwithstanding the MEFA Bid Amount is made up of the IE CA 3 MEFA Bid Amount and the IE CA 4 MEFA Bid Amount, the Purchaser is hereby agreeing to purchase all of the Purchased Assets for the Purchase Price, and shall under no circumstances be under any obligation to purchase fewer than all of the Purchased Assets.

2.9 Purchase Price Allocation

No later than June 16, 2023 the Purchaser shall prepare and deliver to the Receiver a written allocation of the Purchase Price in respect of each the Purchased Assets, in the form set out in Schedule "H" hereto. The Parties, acting reasonably, shall agree, prior to the Closing, on such allocation.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF THE PARTIES

3.1 Representations and Warranties of the Receiver

The Receiver hereby represents and warrants to the Purchaser, as of the date hereof and as of the Closing Date, the matters set out below.

(a) The Receiver has been appointed by the Court as receiver of the Property pursuant to the Appointment Order, a copy of which is available on the Receiver's Website.

(b) Subject to the issuance of the Sale Procedure Order, the Receiver has all necessary power and authority to enter into this Agreement.

(c) Subject to the issuance of the Vesting Order, this Agreement constitutes a valid and binding obligation of the Receiver enforceable against it in accordance with its terms subject to any limitations imposed by Law, and the Receiver has the necessary power and authority to carry out its obligations hereunder; and

(d) The Receiver has not authorized any Encumbrance affecting any of the Purchased Assets (other than any Permitted Encumbrances and any charge created by the Appointment Order).

3.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to the Receiver, as of the date hereof and as of the Closing Date, the matters set out below:

(a) The Purchaser has been duly incorporated and is validly subsisting under the Laws of the jurisdiction of its incorporation, and has all requisite corporate capacity, power and authority to carry on its business as now conducted by it and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business.

(b) The execution, delivery and performance of this Agreement by the Purchaser does not result in the violation of any of the provisions of its constating documents or by-laws;

(c) This Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with its terms subject only to any limitation under applicable Laws relating to: (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of

creditors' rights; and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.

(d) Except for the Vesting Order, no Consent and no declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement or the performance by the Purchaser of its obligations hereunder.

ARTICLE 4
PROCEDURES

4.1 Sale Procedure Order; Vesting Order

(a) The Receiver and the Purchaser acknowledge that (i) this Agreement is subject to Court approval, and (ii) Closing the Transaction is subject to this Agreement being determined by the Receiver to be the Successful Bid, and to the issuance of the Vesting Order.

(b) On or before June 9, 2023, the Receiver shall file and serve the Sale Approval Motion on notice to parties reasonably satisfactory to the Purchaser;

(c) The Receiver shall use its commercially reasonable efforts to obtain the Sale Procedure Order on or before June 15, 2023;

(d) If one or more Qualified Bids (other than this Agreement) are received pursuant to the Sale Procedure, the Receiver shall pursue such bid(s) in accordance with the Sale Procedure, provided that nothing in this Section 4.1(d) will prevent this Agreement from constituting the Backup Bid in accordance with the Sale Procedure;

(e) If this Agreement is determined to be the Successful Bid pursuant to the Sale Procedure, the Receiver shall use its commercially reasonable efforts to promptly thereafter file and serve the Vesting Order Motion, on notice to parties reasonably satisfactory to the Purchaser;

(f) The Purchaser shall provide all information, if any, and take such actions as may be reasonably requested by the Receiver to assist the Receiver in obtaining the Sale Procedure Order, and if the Purchaser is the Successful Bidder, the Vesting Order, and any other order of the Court reasonably necessary to consummate the Transaction; and

(g) From and after the date hereof, the Receiver shall (i) provide such prior notice as may be reasonable under the circumstances before filing any materials with the Court that relate, in whole or in part, to this Agreement, the Purchaser, the Sale Procedure or the Vesting Order (in the event this Agreement is selected as the Successful Bid), and shall consult in good faith with the Purchaser regarding the content of such materials prior to any such filing, and (ii) not take any action that is intended to result in, or fail to take any action that would result in, the reversal, voiding, modification or staying of the Sale Procedure Order or, if Purchaser is the Successful Bidder, the Vesting Order.

4.2 Pre-Closing Cooperation

(a) Prior to the completion of the Transaction, upon the terms, and subject to the conditions of this Agreement, each of the Parties shall use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and cooperate with each other in order to do, all things necessary, proper or advisable under applicable Law to consummate the Transaction, including the preparation and filing of all forms, registrations and notices required to be filed to consummate the Closing, and the taking of such actions as are necessary to obtain any requisite Consent, provided that the Receiver shall not be obligated to make any payment or deliver anything of value to any Person (other than filing with and payment of any application fees to Governmental Authorities, all of which shall be paid, funded or reimbursed by the Purchaser) in order to obtain any Consent.

(b) Each of the Receiver and the Purchaser shall promptly notify the other of the occurrence, to such Party's knowledge, of any event or condition, or the existence, to such Party's knowledge, of any fact, that would reasonably be expected to result in any of the conditions set forth in Section 5.1 or Section 5.2 not being satisfied.

4.3 Break Fee

If this Agreement is terminated pursuant to Sections 7.1(a)(ii) or 7.1(a)(iii) herein and the Purchased Assets are sold pursuant to either the Successful Bid or the Backup Bid, or by the Purchaser or the Receiver, as applicable, pursuant to Sections 7.1(c), 7.1(d), or 7.1(h), the Purchaser shall be entitled to a break fee in the amount of $630,000 (the "**Break Fee**"). The Break Fee, if payable, will be the sole and exclusive remedy as liquidated damages of the Purchaser, whether at Law or in equity, for any breach by the Receiver of the terms and conditions of this Agreement. For greater certainty, the Receiver's obligation to pay the Break Fee pursuant to this Section 4.3 is expressly subject to the Court's approval and the granting of the Sale Procedure Order.

4.4 Acquisition of Assets on "As Is, Where Is" Basis

The Purchaser hereby acknowledges and agrees as follows:

(a) the Purchased Assets are being purchased on an "as is, where is" basis as at the Closing Date;

(b) it has conducted or will conduct its own searches and investigations relating to the Purchased Assets;

(c) it has conducted such inspections of the Purchased Assets as it deemed appropriate, satisfied itself with respect to the Purchased Assets and all matters connected with or related to the Purchased Assets, and has relied entirely upon its own investigations and inspections in entering into this Agreement to acquire the Purchased Assets without regard to any information made available or provided by the Receiver or its officers, directors, employees or agents; and

(d) it will accept the Purchased Assets in their state, condition and location as at the Closing Time, and except as expressly set forth in this Agreement, the Receiver makes no representations, warranties, statements or promises on its own behalf

or on behalf of the Debtors' in favour of the Purchaser concerning the Purchased Assets, or the Receiver's or the Debtors' right, title or interest in or to the Purchased Assets, which the Purchaser acknowledges are being acquired on an as-is where-is basis, or the uses or applications of the Purchased Assets, whether express or implied, statutory or collateral, arising by operation of Law or otherwise, including express or implied warranties of merchantability, fitness for a particular purpose, title, description, quantity, condition or quality, and that any and all conditions and warranties expressed or implied by applicable Law do not apply to the sale of the Purchased Assets and are hereby waived by the Purchaser.

4.5 Title Transfer

Prior to Closing, the Purchaser shall deliver not later than three (3) Business Days prior to Closing, the Title Direction which direction shall call for and direct title to the Purchased Assets to be transferred to the Purchaser or one or more designees, and the Receiver shall transfer title on Closing in accordance with the Title Direction.

ARTICLE 5
CONDITIONS

5.1 Conditions of the Purchaser

The obligations of the Purchaser to complete the purchase of the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions (each of which is acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part):

(a) all of the representations and warranties of the Receiver made in or pursuant to this Agreement shall be true and correct at the Closing Time and with the same effect as if made at and as of the Closing Time and the Purchaser shall have received a certificate from a senior officer of the Receiver confirming to the knowledge of such senior officer, without personal liability, the truth and correctness of such representations and warranties;

(b) the Receiver shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;

(c) the Receiver shall have executed and delivered, or caused to be executed and delivered, to the Purchaser on or prior to the Closing Date the documents required to complete the Transaction as may reasonably be required by the Purchaser or its solicitors;

(d) there shall be no Order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such transactions is improper or would give rise to proceedings under any Laws;

(e) the Receiver shall have determined in accordance with the Sale Procedure that this Agreement is the Successful Bid; and

(f) the Appointment Order, the Sale Procedure Order and the Vesting Order shall be Final Orders and no order shall have been issued which restrains or prohibits the completion of the Transaction.

The Purchaser may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

The conditions set out in this Section 5.1 are conditions to completion of the Transaction but are not conditions to the enforceability of this Agreement.

5.2 Conditions of the Receiver

The obligations of the Receiver to complete the purchase of the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions (each of which is acknowledged to be inserted for the exclusive benefit of the Receiver and may be waived by it in whole or in part):

(a) all of the representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct as at the Closing Time and with the same effect as if made at and as at the Closing Time and the Receiver shall have received a certificate from a senior officer of the Purchaser confirming to his knowledge, without personal liability, the truth and correctness of such representations and warranties;

(b) the Purchaser shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;

(c) the Purchaser shall have executed and delivered or caused to be executed and delivered to the Receiver on or prior to the Closing Date the documents required to complete the Transaction as may reasonably be required by the Receiver or its solicitors;

(d) there shall be no Order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such Transaction is improper or would give rise to proceedings under any Laws;

(e) the Receiver shall have determined in accordance with the Sale Procedure that this Agreement is the Successful Bid; and

(f) the Appointment Order, the Sale Procedure Order and the Vesting Order shall be Final Orders and no Order shall have been issued which restrains or prohibits the completion of the Transaction.

The Receiver may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition,

in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

The conditions set out in this Section 5.2 are conditions to completion of the Transaction but are not conditions to the enforceability of this Agreement.

5.3 Closing Certificate

The Parties hereby acknowledge and agree that the Receiver shall be entitled to file with the Court a certificate, substantially in the form attached to the Vesting Order (the "**Closing Certificate**"), upon receiving written confirmation from the Purchaser that all conditions to Closing have been satisfied or waived. The Receiver shall have no liability to the Purchaser or any other person as a result of filing the Closing Certificate.

ARTICLE 6
CLOSING AND DELIVERIES

6.1 Closing

(a) Closing shall occur on a Business Day (the "**Closing Date**") to be designated by the Purchaser and reasonably acceptable to the Receiver after the satisfaction or waiver of all conditions set out in Sections 5.1 and 5.2 on notice of not less than ten (10) Business Days' unless otherwise agreed to by the parties.

(b) Closing shall take place at 10:00 a.m. Pacific Time (the "**Closing Time**") on the Closing Date and completed virtually by the exchange of electronic copies of the applicable deliverables, or such other time or method as the Parties may agree upon in writing. Any tender of documents hereunder may be made upon the Receiver or the Purchaser or upon the solicitors acting for the Party on whom tender is desired. Any tender of money hereunder shall be made to the Receiver. All proceedings to be taken and all documents to be executed and delivered by all parties at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

6.2 Receiver's Deliveries

At the Closing,

(a) the sale, transfer, assignment, and conveyance by the Receiver of the Purchased Assets to the Purchaser, free and clear of all Encumbrances other than Permitted Encumbrances, shall be effected by the issued and entered Vesting Order and by execution and delivery by the Receiver of the Bill(s) of Sale and Ancillary Agreements (completed in accordance with the Title Direction);

(b) the Purchaser shall receive delivery, pursuant to the Vesting Order, of free and clear title and possession of the Purchased Assets on an "as is, where is" basis in accordance with Section 4.4 subject to the Permitted Encumbrances, provided that delivery shall occur in situ wherever such Purchased Assets are located on the Closing Date;

(c) the Receiver shall deliver a true and complete copy of the Vesting Order and the Closing Certificate; and

(d) the Receiver shall deliver a bring-down certificate executed by the Receiver, in a form satisfactory to the Purchaser, acting reasonably, certifying that all of the representations and warranties of the Receiver hereunder remain true and correct in all material respects as of the Closing.

6.3 Purchaser's Deliveries

At the Closing,

(a) the Purchaser shall deliver the releases and waivers set out in Section 2.6(d) executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably;

(b) the Purchaser shall advance funds equal to the Approved Priority Claims, if any, to the Receiver;

(c) the Purchaser shall pay the applicable Transfer Taxes to the Receiver on the Purchased Assets;

(d) the Purchaser shall deliver the Ancillary Agreements to which it is party, executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably;

(e) the Purchaser shall deliver a bring-down certificate executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably, certifying that all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing;

(f) the Purchaser shall deliver a document setting out the allocation of the Purchase Price, in form and substance satisfactory to the Receiver, acting reasonably; and

(g) the Purchaser shall deliver the Title Direction, in form and substance satisfactory to the Receiver, acting reasonably.

6.4 Subsequent Deliveries

The Purchaser may from time to time at or after the Closing require that the Receiver execute and deliver to the Purchaser or as it may direct such further Ancillary Documents, Bill(s) of Sale and/or other necessary documents to allow the transfer of all or any part of the Purchased Assets not previously effectively transferred. The Receiver shall execute and deliver such additional documentation as soon as reasonably possible after request therefor.

ARTICLE 7
TERMINATION

7.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

(a) automatically and without any action or notice by either the Receiver to the Purchaser or the Purchaser to the Receiver, immediately (i) if the Sale Procedure Order is not granted by the Court by June 15, 2023, (ii) upon the selection by the Receiver of a Successful Bid if this Agreement is neither the Successful Bid nor the Backup Bid selected at such time, or (iii) upon the Closing of the Successful Bid(s) if this Agreement is the Backup Bid;

(b) subject to any approvals required from the Court, if any, by mutual written consent of the Receiver and the Purchaser;

(c) by notice from the Receiver to the Purchaser or from the Purchaser to the Receiver, following the issuance of an Order or any other action by a Governmental Authority to restrain, enjoin or otherwise prohibit the transfer of the Purchased Assets as contemplated hereby;

(d) automatically and without any action by either the Receiver or the Purchaser if Closing has not occurred on or before the Outside Date, provided that the reason for the Closing not having occurred is not due to any act or omission, or breach of this Agreement, by the Party proposing to terminate this Agreement;

(e) by the Purchaser, in accordance with Section 8.4, in the event of a Material Casualty;

(f) by the Purchaser, in accordance with Section 2.7, in the event that the Approved Priority Claim Amount exceeds the Priority Claim Cap;

(g) by the Receiver, if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.2 and such violation or breach has not been waived by the Receiver or cured by the Purchaser within five (5) Business Days of the Receiver providing notice to the Purchaser of such breach, unless the Receiver is in material breach of its obligations under this Agreement; and

(h) by the Purchaser, if there has been a material violation or breach by the Receiver of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.1 and such violation or breach has not been waived by the Purchaser or cured by the Receiver within five (5) Business Days of the Purchaser providing notice to the Receiver of such breach, unless the Purchaser is in material breach of its obligations under this Agreement.

7.2 Effects of Termination

If this Agreement is terminated pursuant to Section 7.1:

(a) all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other hereunder, except as contemplated by Sections 1.2(b) (*Governing Law*), 4.3 (*Break Fee*), 8.6 (*Receiver's Capacity*), 8.7 (*Public Announcements and Disclosure*), 8.8 (*Notices*), 8.10 (*Expenses*), 8.13 (*Waiver and Amendment*), 8.15 (*Residual Senior Secured*

Debt), 8.17 (*Dispute Resolution*), 8.18 (*Attornment*), 8.19 (*Damages*) and 8.20 (*Third Party Beneficiaries*), which shall survive termination.

(b) the Purchaser shall return to the Receiver all documents, work papers and other material of the Receiver and the Debtors, as the case may be, relating to the Transaction, whether obtained before or after the execution hereof.

ARTICLE 8
OTHER COVENANTS OF THE PARTIES; GENERAL

8.1 Access of the Receiver to Books and Records

The Receiver shall, for a period of six (6) years from the completion of the Transaction, have access to the Books and Records relating to the Purchased Assets and the Assumed Liabilities which are transferred and conveyed to the Purchaser pursuant to this Agreement, and the right to copy such material at its own cost, to the extent necessary or useful in connection with the completion of the administration of the Receivership Proceeding.

8.2 Tax Matters

(a) The Purchaser and the Receiver agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters.

(b) The Purchaser and the Receiver shall each be responsible for the preparation of their own statements, if any, required to be filed under the *Income Tax Act* (Canada) and other similar focus in accordance with applicable Tax Laws.

(c) All amounts payable by the Purchaser to the Receiver pursuant to this Agreement are exclusive of any, sale, goods and services, harmonized sales, value added, use, consumption, personal property, customs, import, excise, transfer, land transfer, or similar Taxes, duties, or charges, or any recording or filing fees or similar charges (collectively, "**Transfer Taxes**") and all Transfer Taxes are the responsibility of and for the account of the Purchaser. The Purchaser and the Receiver agree to cooperate to determine the amount of Transfer Taxes payable in connection with the Transaction. If the Receiver is required by applicable Law or by administration thereof to collect any applicable Transfer Taxes from the Purchaser, the Purchaser shall pay such Transfer Taxes to the Receiver on Closing, against a statement from the Receiver separately indicating the amount of Transfer Tax payable, unless the Purchaser qualifies for an exemption from any such applicable Transfer Taxes, in which case the Receiver shall not collect any such applicable Transfer Taxes from the Purchaser provided the Purchaser, in lieu of payment of such applicable Transfer Taxes to the Receiver, delivers to the Receiver such certificates, elections or other documentation required by applicable Law or the administration thereof to substantiate and affect the exemption claimed

by the Purchaser. The GST/HST registration numbers of the Debtors are set out in Schedule "H" hereto.

(d) The Purchaser shall indemnify and save the Receiver harmless from and against all claims and demands for payment of the Transfer Taxes referenced in this Section 8.2, including penalties and interest thereon and any liability or costs incurred as a result of any failure to pay such Taxes when due.

(e) The Purchaser and the Receiver shall also execute and deliver such other Tax elections and forms as they may mutually agree upon.

8.3 Insurance Matters

Until the Closing, the Receiver shall keep in full force and effect all of their applicable existing insurance policies and give any notice or present any claim under any such insurance policies.

8.4 Risk of Loss

The Purchased Assets shall be at the risk of the Receiver until Closing. If, between the date hereof and Closing, any of the Purchased Assets are destroyed, lost or materially damaged (each a "**Casualty**"), the Purchaser shall still complete the purchase of the Purchased Assets on an "as is, where is" basis without any adjustment to the Purchase Price payable hereunder, and take an assignment from the Receiver of all insurance proceeds payable in respect of the Casualty, provided that, in the event of a Material Casualty, the Purchaser shall have the option, in its discretion, to terminate this Agreement.

8.5 Removal of Purchased Assets

The Purchaser and the Receiver shall use commercially reasonable best efforts to remove the Purchased Assets from the locations at which they are situate following closing, in accordance with and consistent with the terms of any applicable storage agreements that may constitute Assigned Contracts.

8.6 Receiver's Capacity

The Purchaser acknowledges and agrees that in all matters pertaining to the Sale Procedure, this Agreement, including in its execution, PricewaterhouseCoopers Inc. has acted and is acting solely in its capacity as receiver of the Property pursuant to the Appointment Order and not in its personal, corporate, or any other capacity, and the Receiver and its agents, officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith.

8.7 Public Announcements and Disclosure

The Receiver shall be entitled to disclose this Agreement to the Court, to the parties in interest to the proceedings in connection with the receivership of the Debtors, and to any parties entitled to access in accordance with the Sale Procedure, and to publish this Agreement on the Receiver's Website. The Purchaser shall be entitled to issue any press release or public statement or public communication with respect to this Agreement or Transaction, in form and content at its sole discretion. Any press release or public statement or public communication with respect to this

Agreement or Transaction issued by the Receiver shall be subject to the Purchaser's approval as to form and content, acting reasonably.

8.8 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by e-mail:

(a) in the case of a notice to the Purchaser at:

NYDIG ABL LLC
One Vanderbilt Avenue
66th Floor
New York City, NY 10017
U.S.A

Attention: Emily Barron
Email emily.barron@nydig.com

with a copy (which shall not constitute notice) to:

Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Attention: Chris Burr
Email: chris.burr@blakes.com

(b) in the case of a notice to the Receiver at:

PricewaterhouseCoopers Inc.
250 Howe Street
Suite 1400
Vancouver, BC V6C 3S7

Attention: Michelle Grant
Email: michelle.grant@pwc.com

with a copy (which shall not constitute notice) to:

Osler, Hoskin & Harcourt LLP
The Guinness Tower
1055 W. Hastings St. #1700
Vancouver, BC V6E 2E9

Attention: Mary Buttery
Email: mbuttery@osler.com

Any notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. Pacific Time. However, if the notice is delivered or transmitted after 5:00 p.m. Pacific Time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving notice to the other Party in accordance with the provisions of this Section 8.8.

8.9 Assignment

The Purchaser may at any time assign all or any portion of its rights or obligations arising under this Agreement to an affiliate of the Purchaser; provided, however, that (a) any assignee of all or any portion of the Purchaser's rights under this Agreement that is not also an assignee of a sufficient portion of the applicable Senior Secured Debt to pay its portion of the assigned Purchase Price with a credit against such assigned Senior Secured Debt shall be required to pay its portion of the assigned Purchase Price in cash, and (b) in the event of any such assignment, the Purchaser shall be jointly and severally liable for the obligations it assigns and shall not be relieved of any liability or obligation hereunder. Subject to the foregoing, no Party may assign this Agreement or any rights or obligations arising under this Agreement without the prior written consent of the other Party. Nothing herein shall prevent the Purchaser from directing that title to all or any part of the Purchased Assets be transferred to one or more Persons.

8.10 Expenses

Each of the Parties shall pay their respective legal, accounting, and other professional advisory fees, costs and expenses incurred in connection with the Transaction, and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement, provided that nothing in this Section 8.10 shall affect the payment of the Break Fee in accordance with Section 4.3.

8.11 Time of the Essence

Time shall be of the essence in respect of the obligations of the Parties under this Agreement.

8.12 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

8.13 Waiver and Amendment

No amendment, supplement, modification or waiver of this Agreement and, unless otherwise specified, no consent or approval by any Party, shall be binding unless executed in writing by the Party to be bound thereby (email being sufficient).

8.14 Further Assurances

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the Transaction, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing provided that the reasonable costs and expenses of any actions taken after Closing at the request of a Party shall be the responsibility of the requesting Party.

8.15 Residual Senior Secured Debt

The execution, delivery and effectiveness of this Agreement shall not directly or indirectly: (a) be construed as a waiver or release of the Purchaser's right, title and interest in and to the Senior Secured Debt that does not form part of the MEFA Bid Amount, and such indebtedness will remaining owing by the Debtors and continue to accrue to the Purchaser from and after the Closing Date, (b) constitute a consent or waiver of any past, present or future violations of any provisions of any of the Other Agreements (as defined in the IE CA 3 MEFA) or the Loan Documents (as such term is defined in the IE CA 4 MEFA) or this Agreement, and (c) amend, modify or operate as a waiver of any provision of any of the Other Agreements (as defined in the IE CA 3 MEFA) or the Loan Documents (as such term is defined in the IE CA 4 MEFA) or any right, power or remedy of the Purchaser. Except as expressly set forth herein, the Purchaser reserves all of its rights, powers, and remedies under the Other Agreements (as defined in the IE CA 3 MEFA) or the Loan Documents (as such term is defined in the IE CA 4 MEFA), and applicable law.

8.16 Execution and Delivery

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by email in PDF format or other electronic means, and all such counterparts and facsimiles (or other electronic deliveries) shall together constitute one and the same agreement.

8.17 Dispute Resolution

If any dispute arises with respect to the interpretation or enforcement of this Agreement, including as to what constitutes a breach or material breach of this Agreement for the purposes of Article 7, such dispute shall be determined by the Court within the Receivership Proceedings, or by such other Person or in such other manner as the Court may direct.

8.18 Attornment

Each Party agrees: (a) that any legal proceeding relating to this Agreement shall be brought in the Court, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of the Court; (b) that it irrevocably waives any right to, and shall not, oppose any such legal proceeding in the Court on any jurisdictional basis, including *forum non conveniens*; and (c)

not to oppose the enforcement against it in any other jurisdiction of any Order duly obtained from the Court as contemplated by this Section 8.18.

8.19 Damages

Under no circumstance shall any of the Parties or their representatives be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the Transaction.

8.20 Third Party Beneficiaries

This Agreement is for the sole benefit of the Parties, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

8.21 Survival

No covenants, representations or warranties of any Party contained in this Agreement or any document delivered pursuant hereto will survive the completion of the sale and purchase and assumption of the Purchased Assets and the Assumed Liabilities hereunder, except for the covenants that by their terms are to be satisfied after the completion of the Transaction, which covenants will continue in full force and effect in accordance with their terms.

[Remainder of page intentionally left blank]

IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

PRICEWATERHOUSECOOPERS INC., solely in its capacity as court-appointed receiver and manager of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd.

By: _____
Name:
Title:

NYDIG ABL LLC

By: _____
Name: Emily Barron
Title: Head of Debt Financing

SCHEDULE A
ASSIGNED CONTRACTS

1.

2.

3.

SCHEDULE B
PERMITTED ENCUMBRANCES

Nil

SCHEDULE C
PURCHASED ASSETS

A. Mining Machines

Machine type	Origin of Manufacture China	Origin of Manufacture Non China	Machines to be Repaired	Total
Antminer S19 (82T, 86T, 90T, 92T, 95T)	5,133	9,634	145	14,912
Antminer S19 Pro (100T, 104T, 110T, 92T, 96T)	805	1,278	250	2,333
Antminer S19a (92T, 96T) and Antminer S19a Pro (110T)	817	19	17	853
Antminer S19j (82T, 86T), Antminer S19j L (86T, 90T)	56	11	0	67
Antminer S19j Pro (88T, 92T, 96T, 98T, 100T, 104T)	8,583	8,686	382	17,651
Machine type not confirmed	98	132	322	552
Malaysian Machines	**15,492**	**19,760**	**1,116**	**36,368**
Antiminer S19Js - Shipment currently held in Malaysia	0	1,520	0	1,520
Total	**15,492**	**21,280**	**1,116**	**37,888**

B. Other Assets

SCHEDULE D
SALE PROCEDURE

SALE PROCESS

Introduction

By Order of the Honourable Mr. Justice Milman of the Supreme Court of British Columbia (the "**Court**") dated February 3, 2023 (the "**Receivership Order**"), PricewaterhouseCoopers Inc. was appointed receiver and manager (in such capacity, the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended, without security, of all the assets, undertakings and property (the "**Property**") of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. (the "**Debtors**"). The Property of the Debtors includes approximately 37,500 Antminer S19, Antminer S19 Pro, and Antminer S19j Pro bitcoin miners (the "**Miners**").

On June 13, 2023, the Court granted an Order (the "**Sale Process Approval Order**") approving the sale solicitation procedures set forth herein (the "**SSP Procedures**") together with an asset purchase agreement between NYDIG ABL LLC (the "**Stalking Horse Credit Bidder**") and the Receiver, dated June 7, 2023 (the "**Stalking Horse APA**"), defining the terms of a bid by the Stalking Horse Credit Bidder to purchase all of the Miners and take an assignment of certain Assigned Contracts (as defined in the Stalking Horse APA), if any (the "**Purchased Assets**"), for the Purchase Price (as defined below), subject to certain conditions, adjustments, and other terms defined therein. The Sale Process Approval Order and these SSP Procedures shall exclusively govern the process (the "**Sale Process**") for soliciting and selecting bids for the sale of all or substantially all of the Property of the Debtors.

All dollar amounts expressed herein, unless otherwise noted, are in United States currency. Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Stalking Horse APA.

Stalking Horse APA

The Stalking Horse APA has been approved as the stalking horse bid under paragraph 5 of the Sale Process Approval Order.

SSP Procedures

These SSP Procedures describe, among other things, the Property available for sale, the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Miners, the manner in which bidders and bids become Qualified Bidders and Qualified Bids, respectively, the receipt and negotiation of bids received, the ultimate selection of one or more Successful Bids, and the approval thereof by the Court.

The Receiver shall administer the SSP Procedure with the assistance of Foundry Digital LLC (the "**Sales Agent**"). In the event that there is disagreement as to the interpretation or application of this SSP Procedure, the Court will have jurisdiction to hear and resolve such dispute.

The Receiver will use reasonable efforts to complete the SSP Procedures in accordance with the timelines set out herein. The Receiver shall be permitted to make such adjustments to the timeline that it determines are reasonably necessary.

Opportunity

The SSP Procedures are intended to solicit interest in, and opportunities for, a sale of all, or substantially all, of the Miners (each, a "**Sale**"). Approximately 1,500 of the Miners are located at the supplier's warehouse in Malaysia. The remaining approximately 36,000 Miners are located in storage in Mackenzie and Cranbrook, British Columbia.

The Receiver has entered into the Stalking Horse APA which constitutes a Qualified Bid for all purposes and at all times under the SSP Procedures. The "Purchase Price" for the Purchased Assets under the Stalking Horse APA, exclusive of all applicable Transfer Taxes, is comprised of the aggregate of the following: (i) the amount of Priority Claims determined by the Receiver as of the Closing Date to be validly due and owing by either of the Debtors, if any (the "**Approved Priority Claim Amount**"); (ii) a credit bid of US$21 million, less the Approved Priority Claim Amount, if any (the "**Credit Bid Amount**"); and (iii) all liabilities and obligations listed on Schedule "G" to the Stalking Horse APA (collectively, the "**Assumed Liabilities**" and together with the Approved Priority Claim Amount and the Credit Bid Amount, the "**Purchase Price**").

Notwithstanding the Stalking Horse APA, all interested parties are encouraged to submit Qualified Bids based on any configuration of Miners they wish. As discussed further below, a "Qualified Bid" under these SSP Procedures may be comprised either of an *en bloc* bid for all or substantially all of the Miners, or a number of non-overlapping separate bids which collectively relate to all or substantially all of the Miners and: (a) which meet the requirements for a "Qualified Bid" under these SSP Procedures; and (b) in respect of which, and in discussions with the Receiver and the Sales Agent, the bidders have agreed to syndicate and appoint a representative for purposes of particating in the Sale Process including, if applicable, the Auction (as defined below).

Sale Process Timeline

The Receiver currently anticipates that the Sale Process will commence on or about June 21, 2023:

Milestone	Date	Day
Send Teaser Letter and Advertise SSP	Within 2 calendar days of Sale Process commencement	Friday, June 23, 2023
Due Diligence Period (NDAs signed, access to VDR granted and site visits organized)	2 calendar days after Sale Process commencement to 32 calendar days thereafter	Up to and including Tuesday, July 25, 2023
Final Bid Deadline	5 calendar days after the Due Diligence Period ends	Monday, July 31, 2023
Bid Assessment	Within 5 Business Days of Final Bid Deadline	Tuesday, August 8, 2023

Milestone	Date	Day
Notification of Auction Date (if applicable)	Within 5 Business Days of completion of Bid Assessment	Tuesday, August 15, 2023
Auction Date (if applicable)	2 Business Days after Notification of Auction Date	Thursday, August 17, 2023
Court Approval to implement Stalking Horse APA (if applicable)	Within 10 calendar days of the Auction Date (subject to Court availability)	Monday, August 28, 2023
Period of time to finalize definitive documents for Successful Bid (if applicable)	Within 10 calendar days of the Auction Date	Monday, August 28, 2023
Court Approval of Successful Bid (if applicable)	Within 22 calendar days of the Auction Date (subject to Court availability)	Friday, September 8, 2023

"As Is, Where Is"

The sale of the Miners will be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Receiver or any of its agents, except to the extent set forth in the relevant final sale agreement with a Successful Bidder.

Free of Any and All Claims and Interests

In the event of a Sale, all of the right, title and interest of the Debtors in and to all Miners sold or transferred will, at the time of such sale or transfer, be sold or transferred free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon and there against (collectively the "**Claims and Interests**") pursuant to one or more approval and vesting orders made by the Court. Contemporaneously with such approval and vesting orders being made, all such Claims and Interests shall attach to the net proceeds of the sale of such property (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant sale agreement with a Successful Bidder.

Solicitation of Interest

As soon as reasonably practicable and, in any event, by no later than two (2) calendar days after commencement of the Sale Process, the Receiver will:

a) cause a notice of the Sale Process contemplated by these SSP Procedures, and such other relevant information which the Receiver considers appropriate, to be published in applicable industry publications, websites and/or forums; and

b) in consultation with the Sales Agent, prepare a summary describing the Opportunity, outlining the SSP Procedures and inviting recipients to express their interest in making a Qualified Bid (a "**Teaser Letter**") for distribution to potential bidders.

Participation Requirements and Due Diligence

In order to participate in the Sale Process, an interested party must deliver to the Receiver at the address specified herein (including by email), and prior to the distribution of any confidential information by the Receiver and/or the Sales Agent to such interested party (including access to the confidential virtual data room (the "**VDR**")), an executed non-disclosure agreement in form and substance satisfactory to the Receiver (an "**NDA**"), which shall inure to the benefit of any Successful Bidder (as defined below) that closes a transaction contemplated by a Successful Bid (as defined below).

A potential bidder that has executed an NDA, as described above, and who the Receiver, in its sole discretion, determines has a reasonable prospect of completing a Sale contemplated herein, will be deemed a "**Qualified Bidder**" and will be promptly notified of such classification by the Receiver.

The Receiver shall provide any person deemed to be a Qualified Bidder with access to the VDR and the Receiver shall provide to Qualified Bidders further access to such reasonably required due diligence materials and information relating to the Miners as the Receiver deems appropriate. The Receiver makes no representation or warranty as to the information to be provided through the due diligence process or otherwise, regardless of whether such information is provided in written, oral or any other form, except to the extent otherwise contemplated under any definitive sale agreement with a Successful Bidder executed and delivered by the Receiver and approved by the Court.

Upon the reasonable request of a Qualified Bidder, on-site inspections of the Miners may be arranged by the Receiver in its sole discretion. As the Miners are currently stored in remote locations in British Columbia that are not readily accessible by the Receiver, only one site visit per storage location will be organized for each Qualified Bidder. No site visits to the supplier's warehouse in Malaysia will be organized or permitted.

Submission of Qualified Bids

A Qualified Bidder that desires to make a bid for some or all of the Miners must deliver either:

a) a final, written, binding offer (each, a "**Final Bid**") in the form of a fully executed purchase and sale agreement substantially in the form of the template purchase and sale agreement located in the VDR (the "**Template APA**"); or

b) a signed letter confirming that the Qualified Bidder wishes to assume and perform the obligations of the Stalking Horse Credit Bidder under the Stalking Horse APA, subject to the necessary adjustment to the Purchase Price to provide cash consideration and to include the Minimum Incremental Overbid (as defined below) and the Break Fee (as

defined below), and detailing any adjustments, revisions or other terms that the Qualified Bidder proposes be included in the Stalking Horse APA (a "**Confirmation of Assumption**"),

in each case to the Receiver at the address specified herein (including by email transmission) so as to be received by the Receiver not later than 4:00 p.m. PDT on July 31, 2023, or such later date as may be agreed by the Receiver and communicated in writing to all Qualified Bidders (the "**Final Bid Deadline**").

Requirements for Qualified Bid

A Final Bid will only be considered a Qualified Bid if it is submitted by a Qualified Bidder and complies with the following conditions (each, a "**Qualified Bid**"):

a) it has been received by the Final Bid Deadline;

b) it contains

   a. a duly executed purchase and sale agreement substantially in the form of the Template APA and a blackline of the executed purchase and sale agreement to the Template APA; or

   b. a Confirmation of Assumption compliant with the requirements above;

c) it includes a letter stating that the Final Bid is irrevocable until there is a Successful Bid (as defined below), provided that if such Qualified Bidder is selected as the Successful Bidder, its Final Bid shall remain an irrevocable offer until the earlier of (i) the completion of the sale to the Successful Bidder and (ii) the Outside Date;

d) it provides written evidence, satisfactory to the Receiver, of (a) a firm, irrevocable financial commitment for all required funding or financing or (b) evidence of the Qualified Bidder's financial wherewithal to close the bid using unencumbered funds on hand;

e) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;

f) it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer to a bank account specified by the Receiver, or such other form of payment acceptable to the Receiver, payable to the order of the Receiver, in trust, in an amount equal to 20% of the total consideration in the Qualified Bid to be held and dealt with in accordance with these SSP Procedures;

g) it is not conditional upon:

   a. the outcome of unperformed due diligence by the Qualified Bidder, and/or

   b. obtaining financing; and

h) it includes an acknowledgement and representation that the Qualified Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its Qualified Bid; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, including by the Receiver, or any of its advisors, except as expressly stated in the purchase and sale agreement submitted by it; (iii) is a sophisticated party capable of making its own assessments in respect of making its Qualified Bid; and (iv) has had the benefit of independent legal advice in connection with its Qualified;

i) it contains evidence of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body), if applicable: and

j) if:

   a. it is an *en bloc* bid, the aggregate consideration, as calculated and determined by the Receiver in its sole discretion, to be paid in cash by the Qualified Bidder under the Qualified Bid exceeds the aggregate of the Purchase Price under the Stalking Horse APA, plus the Break Fee and plus US$1 million (the "**Minimum Incremental Overbid")**; or

   b. it is for a select portion of the Miners comprising less than all or substantially all of the Miners (each, a "**Partial Bid**") then, upon receipt of such bid, the Receiver may, in consultation and with the assistance of the Sales Agent, engage with applicable Qualified Bidders that submitted a Partial Bid to confirm whether, in aggregate, all applicable Partial Bids collectively: (i) relate to all or substantially all of the Miners; and (ii) provide cash consideration in excess of the aggregate of the Purchase Price under the Stalking Horse APA, plus the Break Fee and the Minimum Incremental Overbid. In the event the Receiver identifies two or more Partial Bids which meet the foregoing requirements, the Receiver will seek the agreement of each applicable Qualified Bidder to syndicate its respective bid with the other applicable Partial Bids (the "**Syndicated Bid**") and appoint a representative (each, a "**Syndicated Bid Representative**") for purposes of advancing the Syndicated Bid through the remainder of the Sale Process including, if applicable, the Auction.

Both *en bloc* bids and Syndicated Bids which comply with the foregoing conditions shall be considered to be "Qualified Bids".

The Stalking Horse Credit Bidder shall be deemed to be a Qualified Bidder, and the Stalking Horse APA shall be deemed to be a Qualified Bid, for all purposes of these SSP Procedures, including for purposes of the Auction (if applicable). No deposit is required in connection with the Stalking Horse APA.

The Receiver may, in its reasonable discretion, waive compliance with any one or more of the Qualified Bid requirements specified herein, and deem such non-compliant bid to be a Qualified Bid in accordance with these SSP Procedures.

Assessment of Qualified Bids

The Receiver will assess the Qualified Bids received, if any, and will determine whether it is likely that the transactions contemplated by such Qualified Bids are likely to be consummated. Such assessments will be made as promptly as practicable but no later than five (5) Business Days after the Final Bid Deadline.

If the Receiver determines that (a) no Qualified Bids other than the Stalking Horse APA were received, or (b) at least one additional Qualified Bid was received but it is not likely that the transactions contemplated in any such Qualified Bids will be consummated, the Receiver shall (i) forthwith terminate these SSP Procedures, (ii) notify each Qualified Bidder (if any) that these SSP Procedures have been terminated, (iii) notify the Stalking Horse Credit Bidder that it is the Successful Bidder, and (iv) as soon as reasonable practicable after such termination, file an application with the Court seeking approval, after notice and hearing, to implement the Stalking Horse APA.

If the Receiver determines in its reasonable discretion that (a) one or more Qualified Bids were received, and (b) it is likely that the transactions contemplated by one or more of such Qualified Bids will be consummated, the Receiver may, in its sole discretion, advise all Qualified Bidders/ Syndicated Bid Representative, as applicable, that an auction (the "**Auction**") will be held and that such Qualified Bidders/Syndicated Bid Representative, as applicable, are entitled to participate in the Auction.

Auction

If an Auction is to be held, the Receiver will conduct the Auction commencing at 10:00 a.m. PDT on August 17, 2023 (the "**Auction Date**") at the offices of the Receiver's legal counsel, Osler Hoskin & Harcourt LLP, Guinness Tower, 1055 W Hastings St #1700, Vancouver, BC, or such other location as shall be timely communicated to all entities entitled to attend at the Auction, subject to such adjournments as the Receiver may consider appropriate.

The Auction shall run in accordance with the following procedures:

a) prior to 4:00 p.m. PDT on August 16, 2023, each Qualified Bidder or Syndicated Bid Representative, as applicable, that has made a Qualified Bid and the Stalking Horse Bidder, must inform the Receiver whether it intends to participate in the Auction (the parties who so inform the Receiver that they intend to participate are hereinafter referred to as the "**Auction Bidders**");

b) the identity of each Auction Bidder participating in the Auction will be disclosed, on a confidential basis, to each other Auction Bidder participating in the Auction;

c) only representatives of the Auction Bidders, the Receiver, the Sales Agent and such other persons as permitted by the Receiver (and the advisors to each of the foregoing entities)

are entitled to attend the Auction in person (and the Receiver shall have the discretion to allow such persons to attend by video- or tele-conference);

d) the Receiver may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances, for conducting the Auction, including with respect to the ability of multiple Auction Bidders to combine to present a single bid, provided that such rules are (i) not inconsistent with these SSP Procedures, general practice in insolvency proceedings, or the Receivership Order and (ii) disclosed to each Auction Bidder at the Auction;

e) all Auction Bidders must have at least one individual representative with authority to bind such Auction Bidder present in person at the Auction;

f) the Receiver shall arrange to have a court reporter attend at the Auction;

g) each Auction Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with any other person, without the express written consent of the Receiver, regarding the Sale Process, that has not been disclosed to all other Auction Bidders;

h) prior to the Auction, the Receiver will provide unredacted copies of the Qualified Bid(s) which the Receiver believes is/are (individually or in the aggregate) the highest or otherwise best Qualified Bid(s) (the "**Starting Bid**") to the Stalking Horse Credit Bidder and to all Qualified Bidders or Syndicated Bid Representatives, as applicable, that have made a Qualified Bid;

i) bidding at the Auction will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid is submitted by an Auction Bidder (a "**Subsequent Bid**") that the Receiver determines is (i) for the first round, a higher or otherwise better offer than the Starting Bid, and (ii) for subsequent rounds, a higher or otherwise better offer than the then current highest and best bid (the "**Leading Bid**"), in each case by at least US$500,000, or such amount as may be determined by the Receiver prior to, and announced at, the Auction;

j) the Stalking Horse Credit Bidder shall be permitted, in its sole discretion, to submit Subsequent Bids, which Subsequent Bids may be comprised of increased credit bids up to the full amount of the secured indebtedness owing by the applicable Debtor to the Stalking Horse Credit Bidder, provided, however, that such Subsequent Bids are made in accordance with these SSP Procedures;

k) to the extent not previously provided (which shall be determined by the Receiver), an Auction Bidder submitting a Subsequent Bid must submit, at the Receiver's discretion, as part of its Subsequent Bid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Receiver), demonstrating such Auction Bidder's ability to close the transaction proposed by the Subsequent Bid;

l) only the Auction Bidders will be entitled to make a Subsequent Bid at the Auction; provided, however, that in the event that any Qualified Bidder or Syndicated Bid Representative, as applicable, elects not to attend and/or participate in the Auction, such Qualified Bidder's Qualified Bid or Syndicated Bid Representative's Syndicated Bid, shall nevertheless remain fully enforceable against such Qualified Bidder or Syndicated Bid Representative, as applicable, if it is selected as the Successful Bid (as defined below);

m) all Auction Bidders shall have the right to, at any time, request that the Receiver announce the then-current Leading Bid and, to the extent requested by any Auction Bidder, use reasonable efforts to clarify any and all questions such Auction Bidder may have regarding the Leading Bid;

n) the Receiver reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction to, among other things (i) facilitate discussions between the Receiver and the Auction Bidders; (ii) allow the individual Auction Bidders to consider how they wish to proceed; (iii) consider and determine the current highest and best offer at any given time in the Auction; and (iv) give Auction Bidders the opportunity to provide the Receiver with such additional evidence as the Receiver, in its reasonable business judgment, may require that that Auction Bidder has sufficient internal resources to consummate the proposed transaction at the prevailing overbid amount;

o) if, in any round of bidding, no new Subsequent Bid is made, the Auction shall be closed; and

p) no bids (from Qualified Bidders, Syndicated Bid Representatives, or otherwise) shall be considered after the conclusion of the Auction.

At the end of the Auction, the Receiver shall select the successful bid (the "**Successful Bid**", with such bidder being the "**Successful Bidder**"). Upon selection of a Successful Bidder, the Successful Bidder shall deliver as soon as practicable an executed transaction document, which reflects its bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the application material for the hearing to consider the Approval Application (as defined below).

If an Auction is conducted, the Auction Bidder and/or Qualified Bidder/Syndicated Bid Representative (as applicable) with the next highest or otherwise best Qualified Bid at the Auction or, if such Qualified Bidder/Syndicated Bid Representative (as applicable) did not participate in the Auction, submitted in this Sale Process, as determined by the Receiver, will be designated as the backup bidder (the "**Backup Bidder**"). The Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submitted one or more overbids at the Auction, the Backup Bidder's final overbid) (the "**Backup Bid**") open until the earlier of (a) two business days after the date of closing of the Successful Bid; and (b) September 30, 2023 (the "**Outside Date**").

The Receiver shall have selected the final Successful Bid(s) and the Backup Bid(s) as soon as reasonably practicable after the Auction Date and the definitive documentation in respect of the Successful Bid must be finalized and executed no later than August 28, 2023, which definitive documentation shall be conditional only upon the receipt of the Approval Order and the express conditions set out therein and shall provide that the Successful Bidder shall use all reasonable efforts to close the proposed transaction by no later than September 8, 2023, or such longer period

as shall be agreed to by the Receiver in writing. In any event, the Successful Bid must be closed by no later than the Outside Date, or such other date as may be agreed to by the Receiver in writing.

Approval of Successful Bid

The Receiver shall apply to the Court (the "**Approval Application**") for an order approving the Successful Bid and the Backup Bid (as applicable) and vesting title to any purchased Miners in the name of the Successful Bidder or the Backup Bidder (as applicable) (the "**Approval Order**"). The Approval Application will be held on a date to be scheduled by the Receiver and confirmed by the Court. The Receiver shall use best efforts to schedule the Approval Application on or before September 8, 2023 subject to Court availability. The Approval Application may be adjourned or rescheduled by the Receiver on notice to the Service List prior to the Approval Application. The Receiver shall consult with the Successful Bidder and the Backup Bidder regarding the application material to be filed by the Receiver for the Approval Application, which material shall be acceptable to the Successful Bidder, acting reasonably.

If, following approval of the Successful Bid by the Court, the Successful Bidder fails to consummate the transaction for any reason, then such Successful Bidder will forfeit its Deposit and the Backup Bid, if there is one, will be deemed to be the Successful Bid hereunder and the Receiver shall effectuate a transaction with the Backup Bidder subject to the terms of the Backup Bid, without further order of the Court.

All Qualified Bids (other than the Successful Bid) shall be deemed rejected on and as of the date of the closing of the Successful Bid.

Deposits

All Deposits shall be retained by the Receiver in a bank account specified by the Receiver. If there is a Successful Bid, the Deposit paid by the Successful Bidder whose bid is approved at the Approval Application shall be applied to the purchase price to be paid by the Successful Bidder upon closing of the approved transaction and will be non-refundable. The Deposit paid by the Backup Bidder shall be retained by the Receiver until two business days after the date of closing of the Successful Bid or the Outside Date, whichever is later, or, if the Backup Bid becomes the Successful Bid, shall be released by the Receiver and applied to the purchase price to be paid upon closing of the Backup Bid.

All Deposits of all Qualified Bidders not selected as the Successful Bidder or Backup Bidder shall be returned to such bidders within five (5) business days of the date upon which the Successful Bid and any Backup Bid is approved by the Court. If the Auction does not take place or these SSP Procedures are terminated in accordance with the provisions hereof, all Deposits shall be returned to the Qualified Bidders within five (5) business days of the date upon which it is determined that the Auction will not take place or these SSP Procedures are terminated, as applicable.

If an entity selected as the Successful Bidder or Backup Bidder breaches its obligations to close the applicable transaction, it shall forfeit its Deposit to the Receiver; provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Receiver has against such breaching entity.

Approvals

For greater certainty, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by any other statute or are otherwise required at law in order to implement a Successful Bid or Backup Bid, as the case may be.

Notice

The addresses used for delivering documents to the Receiver as required by the terms and conditions of these SSP Procedures are set out below. A bid and all associated documentation shall be delivered to the Receiver by electronic mail, personal delivery or courier.

To the Receiver:

PricewaterhouseCoopers Inc.
Suite 1400, 250 Howe St.
Vancouver, BC V6C 3S7

Attention: Michelle Grant / Morag Cooper
Tel. No.: 604.806.7184 / 236.308.4439
Facsimile: 604.806.7806
Email: michelle.grant@pwc.com / morag.c.cooper@pwc.com

with a copy to:

Osler, Hoskin & Harcourt LLP
The Guinness Tower
1055 W Hastings St #1700
Vancouver, BC V6E 2E9

Attention: Mary Buttery, K.C. / Emily Paplawski
Tel. No.: 604.692.2752 / 403.260.7071
Facsimile: 778.785.2745
Email: mbuttery@osler.com / epaplawski@osler.com

Reservation of Rights

The Receiver: (a) may reject, at any time any bid (other than the Stalking Horse Credit Bid) that is (i) inadequate or insufficient, or (ii) not in conformity with the requirements of these SSP Procedures or any orders of the Court applicable to the Debtors: (b) in accordance with the terms hereof, may impose additional terms and conditions and otherwise seek to modify the SSP Procedures at any time in order to maximize the results obtained; and (c) in accordance with the terms hereof, may accept bids not in conformity with these SSP Procedures to the extent that the Receiver determines, in its reasonable business judgment, that doing so would benefit the Debtors' estates and their stakeholders.

The Receiver may, in its reasonable discretion, extend the Final Bid Deadline, the Outside Date, the date for selection of the final Successful Bid(s) and the Backup Bid(s), the date for finalization

and execution of definitive documentation in respect of the Successful Bid, and/or the date for the hearing of the Approval Application.

Prior to the conclusion of the Auction, the Receiver may impose such other terms and conditions, on notice to the relevant Auction Bidders, as the Receiver may determine to be in the best interests of the Debtors' estate and their stakeholders that are not inconsistent with any of the procedures in these SSP Procedures.

These SSP Procedures do not, and shall not be interpreted to, create any contractual or other legal relationship between the Receiver and any potential bidder, Qualified Bidder, Syndicated Bid Representative, Auction Bidder, Successful Bidder or Backup Bidder, other than as specifically set forth in definitive documentation that may be executed by the Receiver.

No Amendment

There shall be no amendments to these SSP Procedures without the prior written consent of the Receiver and the Stalking Horse Credit Bidder, or further order of the Court obtained on reasonable notice to the Receiver.

Further Orders

At any time during the Sale Process, the Receiver may apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

SCHEDULE E
FORM OF SALE PROCEDURE ORDER

No. S230488
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

NYDIG ABL LLC

PETITIONER

And:

IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE JUSTICE MILMAN	)))	June 13, 2023

THE APPLICATION of PricewaterhouseCoopers Inc. as Receiver and Manager (the "**Receiver**") of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. (together, the "**Debtors**") coming on for hearing at Vancouver, British Columbia, on the 13th day of June, 2023; AND ON HEARING from Mary Buttery, K.C. counsel for the Receiver and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the Receiver's Third Report to the Court, dated June 7, 2023; AND UPON REVIEWING the Order made after Petition Appointment of Receiver of the Honourable Mr. Justice Milman, granted February 3, 2023 (the "**Receivership Order**"); THIS COURT ORDERS THAT:

SERVICE

1. The time for service of this Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof upon any interested party other than those parties on the Service List established in this proceeding is hereby dispensed with.

SSP PROCEDURES, STALKING HORSE BID AND BREAK FEE

2. The sale solicitation process attached as **Schedule "B"** hereto, subject to any amendments thereto that may be made in accordance therewith (the "**SSP**") be and is hereby approved.

3. The Receiver and its advisors (including Foundry Digital LLC as sales agent for and on behalf of the Receiver) is hereby authorized and directed to implement the SSP and do all things as are reasonably necessary to conduct and give full effect to the SSP and carry out its obligations thereunder.

4. The Receiver is hereby authorized and directed to execute and enter into the definitive "stalking horse" asset purchase agreement (the "**Stalking Horse APA**" and the transactions provided therein, the "**Stalking Horse Bid**") with NYDIG ABL LLC, or its designated nominee, as purchaser (the "**Stalking Horse Credit Bidder**"), substantially on the terms set out in the stalking horse asset purchase agreement attached as **Schedule "C"** hereto, subject to such amendments, additions and/or deletions permitted by the Stalking Horse APA and as may be negotiated between the Receiver and the Stalking Horse Credit Bidder.

5. The Stalking Horse Bid submitted by the Stalking Horse Credit Bidder is hereby approved as the Stalking Horse Bid pursuant to and for purposes of the SSP, provided that nothing herein approves the sale to and the vesting of any assets or property in the Stalking Horse Credit Bidder pursuant to the Stalking Horse Bid and that the approval of the sale and vesting of such assets and property shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Credit Bidder is the Successful Bidder (as defined in the SSP) pursuant to the SSP.

6. The Break Fee, as defined in the Stalking Horse APA is hereby approved and the Receiver is authorized and directed to pay the Break Fee in the manner and circumstances described therein.

FOUNDRY AGREEMENT

7. The Receiver is hereby authorized and empowered to enter into the engagement letter agreement with Foundry Digital LLC.

AUTHORITY TO ASSIGN THE DEBTORS INTO BANKRUPTCY

8. The Receiver is hereby authorized, if the Receiver deems advisable, to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended.

9. The Receiver shall not be disqualified from acting as Trustee in Bankruptcy by reason only of its role as Receiver.

BY THE COURT

_____

REGISTRAR

SCHEDULE "A"

List of Counsel

SCHEDULE "B"

Sales Solicitation Process

SCHEDULE "C"

Stalking Horse APA

SCHEDULE F
FORM OF VESTING ORDER

SCHEDULE G
ASSUMED LIABILITIES

The Assumed Liabilities shall comprise:

(a) ***Obligations under Assigned Contracts*** - all of the Debtors' liabilities and obligations arising on or after the Closing Date under the Assigned Contracts, and all payments or obligations required to be paid, performed or discharged in connection with the assignment of such Assigned Contracts; and

(b) ***Obligations after Closing*** - all liabilities and obligations arising on or after the Closing Date, but only to the extent that they relate to or arise out of the Purchaser's ownership of the Purchased Assets on or after the Closing Date.

SCHEDULE H

PURCHASE PRICE ALLOCATION

IE CA 3 Purchased Assets

	S19 Pro series		S19 series		
	# of Machines	Purchase Price Allocation	# of Machines	Purchase Price Allocation	Sub-total
Non-China Origin	[#]	$[#]	[#]	$[#]	$[#]
China Origin	[#]	$[#]	[#]	$[#]	$[#]
Machines to be Repaired	[#]	$[#]			$[#]
Unknown Type	[#]	$[#]			$[#]
Malaysian Machines	[#]	$[#]			$[#]
TOTAL					**$[#]**

IE CA 4 Purchased Assets

	S19 Pro series		S19 series		
	# of Machines	Purchase Price Allocation	# of Machines	Purchase Price Allocation	Sub-total
Non-China Origin	[#]	$[#]	[#]	$[#]	$[#]
China Origin	[#]	$[#]	[#]	$[#]	$[#]
Machines to be Repaired	[#]	$[#]			$[#]
Unknown Type	[#]	$[#]			$[#]
Malaysian Machines	[#]	$[#]			$[#]
TOTAL					**$[#]**

SCHEDULE I

GST/HST NUMBERS OF DEBTORS

Debtor	GST/HST Numbers
IE CA 3 Holdings Ltd.	773179262RT0001
IE CA 4 Holdings Ltd.	773158068RT0001

Industry Canada | Industrie Canada
Office of the Superintendent of Bankruptcy Canada | Bureau du surintendant des faillites Canada

District of: British Columbia
Division No.: 03 - Vancouver
Court No.: 11-2959932
Estate No.: 11-2959932

In the Matter of the Bankruptcy of:

IE CA 3 Holdings Ltd.

Debtor

PRICEWATERHOUSECOOPERS INC.

Licensed Insolvency Trustee

Ordinary Administration

Date and time of bankruptcy:	June 28, 2023, 10:51	Security:	$0.00
Date of trustee appointment:	June 28, 2023		
Meeting of creditors:	July 18, 2023, 15:30 Via Virtual Meeting meet.google.com/vkn-ucjc-job Vancouver, British Columbia Canada,		
Chair:	Official Receiver		

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

-- AMENDED --

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforenamed debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforenamed trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 29, 2023, 17:57

E-File/Dépôt Electronique

Official Receiver

300 Georgia Street W, Suite 2000, Vancouver, British Columbia, Canada, V6B6E1, (877)376-9902

Canada

Industry Canada | Industrie Canada
Office of the Superintendent of Bankruptcy Canada | Bureau du surintendant des faillites Canada

District of: British Columbia
Division No.: 03 - Vancouver
Court No.: 11-2959909
Estate No.: 11-2959909

In the Matter of the Bankruptcy of:

IE CA 4 Holdings Ltd.

Debtor

PRICEWATERHOUSECOOPERS INC.

Licensed Insolvency Trustee

Ordinary Administration

Date and time of bankruptcy:	June 28, 2023, 10:27	Security:	$0.00
Date of trustee appointment:	June 28, 2023		
Meeting of creditors:	July 18, 2023, 16:00 Via Video Conference meet.google.com/acd-fofy-ghy Vancouver, British Columbia Canada,		
Chair:	Official Receiver		

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

-- AMENDED --

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforenamed debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforenamed trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 29, 2023, 16:00

E-File/Dépôt Electronique

Official Receiver

300 Georgia Street W, Suite 2000, Vancouver, British Columbia, Canada, V6B6E1, (877)376-9902

Canada

IRIS ENERGY LIMITED

ACN 629 842 799

InfoTrack

ASIC EXTRACT SNAPSHOT

Date Extracted	13/09/2024
Extract Order Date	13/09/2024
ACN	629 842 799
ABN	60 629 842 799
Current Name	IRIS ENERGY LIMITED
Registered In	New South Wales
Registration Date	06/11/2018
Review Date	06/11/2024
Company Type	ACN (Australian Company Number)
Current Directors	6
Current Secretaries	1

CURRENT ORGANISATION DETAILS

Start Date	07/10/2021
Name	IRIS ENERGY LIMITED
Name Start Date	07/10/2021
Status	Registered
Type	Australian Public Company
Class	Limited By Shares
Sub Class	Unlisted Public Company
Disclosing Entity	No

Share Structure (Displaying Top 4 Only)

Go to Full ASIC Results

Class	Class Type	Shares Issued	Amount Paid
B	B CLASS	2	$2.00
ORD	ORDINARY	189346079	$1,923,952,887.49

(creditor)watch - Credit Score (586)

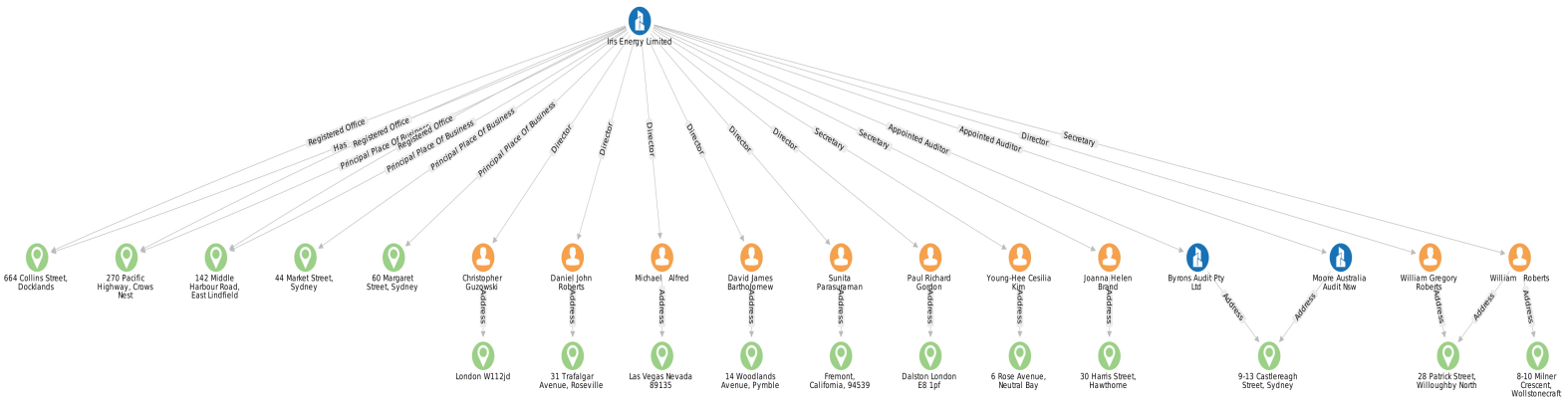
Go to Full Credit Report

Risk Data Summary

Court Judgments	0	Payment Defaults	0	Insolvency Notices	0	Mercantile Enquiries	0	Credit Enquiries	83

REVEAL - Company Visualisation

Go to full workspace



InfoTrack
www.infotrack.com.au
1800 738 524

ASIC
Current & Historical Organisation Extract

ASIC Data Extracted 13/09/2024 at 15:20

This extract contains information derived from the AustralianSecurities and Investment Commission's (ASIC) database undersection 1274A of the Corporations Act 2001.Please advise ASIC of any error or omission which you may identify.

- 629 842 799 IRIS ENERGY LIMITED -

		Document No.
ACN (Australian Company Number):	629 842 799	
ABN:	60 629 842 799	
Current Name:	IRIS ENERGY LIMITED	
Registered in:	New South Wales	
Registration Date:	06/11/2018	
Review Date:	06/11/2024	
Company Bounded By:	Constitution	

- Current Organisation Details -

Name:	IRIS ENERGY LIMITED	029562834
Name Start Date:	07/10/2021	
Status:	Registered	
Type:	Australian Public Company	
Class:	Limited By Shares	
Sub Class:	Unlisted Public Company	

- Former Organisation Details from 06/11/2018 to 06/10/2021 -

Name:	IRIS ENERGY PTY LTD
Name Start Date:	06/11/2018
Status:	Registered
Type:	Australian Proprietary Company
Class:	Limited By Shares
Sub Class:	Proprietary Company

- Company Addresses -

- Registered Office 7EAN60690

Address:	PITCHER PARTNERS LEVEL 13 664 COLLINS STREET DOCKLANDS VIC 3008
Start Date:	29/07/2019

- Previous Registered Office 7EAJ63092

Address:	UNIT 203 270 PACIFIC HIGHWAY CROWS NEST NSW 2065
Start Date:	27/03/2019

Cease Date: 28/07/2019

- Previous Registered Office 0EEE55496
Address: DANIEL ROBERTS 142 MIDDLE HARBOUR ROAD EAST LINDFIELD NSW 2070
Start Date: 06/11/2018
Cease Date: 26/03/2019

- Principal Place of Business 7EBS84988
Address: LEVEL 12 44 MARKET STREET SYDNEY NSW 2000
Start Date: 09/05/2022

- Previous Principal Place of Business 7EAR27846
Address: LEVEL 21 60 MARGARET STREET SYDNEY NSW 2000
Start Date: 13/11/2019
Cease Date: 08/05/2022

- Previous Principal Place of Business 7EAJ63092
Address: UNIT 203 270 PACIFIC HIGHWAY CROWS NEST NSW 2065
Start Date: 20/03/2019
Cease Date: 12/11/2019

- Previous Principal Place of Business 0EEE55496
Address: DANIEL ROBERTS 142 MIDDLE HARBOUR ROAD EAST LINDFIELD NSW 2070
Start Date: 06/11/2018
Cease Date: 19/03/2019

- Company Officers -

Note:
A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.
* Check documents listed under ASIC Documents Received for recent changes.

Director

Name: DANIEL JOHN ROBERTS 030733207
Address: 31 TRAFALGAR AVENUE ROSEVILLE NSW 2069
Birth Details: 07/05/1984 SYDNEY NSW
Appointment Date: 06/11/2018
Cease Date: //

Name: CHRISTOPHER GUZOWSKI 7EBN87275
Address: 27C ELGIN CRESCENT LONDON W112JD UNITED KINGDOM
Birth Details: 04/12/1984 WESTMEAD NSW
Appointment Date: 19/12/2019
Cease Date: //

Name: MICHAEL ALFRED 7EBN87275
Address: 11513 GLOWING SUNSET LANE LAS VEGAS NEVADA 89135 UNITED STATES
Birth Details: 21/06/1981 SAN DIEGO CALIFORNIA UNITED STATES

Appointment Date: 21/10/2021
Cease Date: //

Name: DAVID JAMES BARTHOLOMEW 7EBM16686
Address: 14 WOODLANDS AVENUE PYMBLE NSW 2073
Birth Details: 10/11/1960 ADELAIDE SA
Appointment Date: 24/09/2021
Cease Date: //

Name: WILLIAM GREGORY ROBERTS 7ECR64672
Address: 28 PATRICK STREET WILLOUGHBY NORTH NSW 2068
Birth Details: 16/04/1990 CHELMSFORD UNITED KINGDOM
Appointment Date: 06/11/2018
Cease Date: //

Name: SUNITA PARASURAMAN 7ECR64672
Address: 2049 WAYCROSS ROAD FREMONT, CALIFORNIA 94539 UNITED STATES
Birth Details: 16/12/1972 CHENNAI, TAMILNADU INDIA
Appointment Date: 18/07/2023
Cease Date: //

Previous Director

Name: PAUL RICHARD GORDON 7EAT46053
Address: FLAT 18 26 RITSON ROAD DALSTON LONDON E8 1PF UNITED KINGDOM
Birth Details: 08/04/1971 WANSTEAD UNITED KINGDOM
Appointment Date: 19/12/2019
Cease Date: 02/12/2021

Secretary

Name: YOUNG-HEE CESILIA KIM 7ECA92224
Address: 6 ROSE AVENUE NEUTRAL BAY NSW 2089
Birth Details: 05/02/1975 SEOUL KOREA, REPUBLIC OF
Appointment Date: 02/02/2023
Cease Date: //

Previous Secretary

Name: WILLIAM ROBERTS 7ECA07751
Address: 28 PATRICK STREET WILLOUGHBY NORTH NSW 2068
Birth Details: 16/04/1990 CHELMSFORD UNITED KINGDOM
Appointment Date: 14/12/2022

Cease Date:	02/02/2023	

Name:	JOANNA HELEN BRAND	7EBM16686
Address:	30 HARRIS STREET HAWTHORNE QLD 4171	
Birth Details:	02/11/1971 RIO DE JANEIRO BRAZIL	
Appointment Date:	17/09/2021	
Cease Date:	14/12/2022	

Name:	WILLIAM ROBERTS	031099682
Address:	UNIT 22 8-10 MILNER CRESCENT WOLLSTONECRAFT NSW 2065	
Birth Details:	16/04/1990 CHELMSFORD UNITED KINGDOM	
Appointment Date:	06/11/2018	
Cease Date:	17/09/2021	

Appointed Auditor

Name:	623 126 376 BYRONS AUDIT PTY LTD	7ECX87515
Address:	SUITE 2 LEVEL 14 9-13 CASTLEREAGH STREET SYDNEY NSW 2000	(FR 2024)
Appointment Date:	30/05/2024	
Cease Date:	//	
Abn:	19 623 126 376	

Previous Appointed Auditor

Name:	644 573 320 MOORE AUSTRALIA AUDIT NSW	7EBW63926
Address:	LEVEL 14 9-13 CASTLEREAGH STREET SYDNEY NSW 2000	(FR 2022)
Appointment Date:	22/10/2021	
Cease Date:	30/05/2024	

- Share Structure -

Current

Class:	B CLASS	7EBO44310
Number of Shares Issued:	2	
Total Amount Paid / Taken to be Paid:	$2.00	
Total Amount Due and Payable:	$0.00	

Class:	ORDINARY	032064904
Number of Shares Issued:	189346079	

Total Amount Paid / Taken to be Paid:	$1,923,952,887.49
Total Amount Due and Payable:	$0.00

Note:
For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

- Share/Interest Holding -

- External Administration Documents -

There are no external administration documents held for this organisation.

- Charges -

There are no charges held for this organisation.

Notes:
On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced.
At that time ASIC transferred all details of current charges to the PPS Registrar.
ASIC can only provide details of satisfied charges prior to that date.
Details of current charges, or charge satisfied since 30 January 2012 can be found on the PPS Register, www.ppsr.gov.au.
InfoTrack may cap documents for on-file searches to 250.

- Document List -

Notes:
* Documents already listed under Registered Charges are not repeated here.
* Data from Documents with no Date Processed are not included in this Extract.
* Documents with '0' pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
* The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.
* In certain circumstances documents may be capped at 250.

Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
388	04/09/2024	04/09/2024	67	30/06/2024	7ECX87515
388	Financial Report				
388A	Financial Report - Public Company or Disclosing Entity				
388E	Company - Appoint Change Name/address of Auditor				
410	01/08/2024	01/08/2024	2	01/08/2024	7ECW32654
410F	Application For Extension of a Name Reservation				
	Alters 7EC T38 423				

484	19/07/2024	23/07/2024	0	23/07/2024	032064904
484	Change to Company Details				
484G	Notification of Share Issue				
484O	Changes to Share Structure				
484	18/06/2024	18/06/2024	0	18/06/2024	1M0059122
484	Change to Company Details				
484G	Notification of Share Issue				
484O	Changes to Share Structure				
315	14/06/2024	12/07/2024	1	30/05/2024	031924461
315A	Notice of Resignation or Removal of Auditor Resignation Of Auditor				
484	06/06/2024	06/06/2024	0	06/06/2024	032057003
484	Change to Company Details				
484G	Notification of Share Issue				
484O	Changes to Share Structure				
410	04/06/2024	04/06/2024	2	04/06/2024	7ECT38423
410B	Application For Reservation of a New Name Upon Change Of Name Altered by 7EC W32 654				
484	29/04/2024	29/04/2024	2	29/04/2024	7ECR64672
484	Change to Company Details				
484A1	Change Officeholder Name or Address				
484E	Appointment or Cessation of a Company Officeholder				
388	05/10/2023	05/10/2023	54	30/06/2023	7ECJ52456
388A	Financial Report Financial Report - Public Company Or Disclosing Entity				
484	04/10/2023	05/10/2023	0	05/10/2023	1M0059429
484	Change to Company Details				
484G	Notification of Share Issue				
484O	Changes to Share Structure				
484	29/05/2023	29/05/2023	13	29/05/2023	1M0040993
484	Change to Company Details				
484G	Notification of Share Issue				
484O	Changes to Share Structure				
484	08/02/2023	08/02/2023	2	08/02/2023	7ECA92224
484E	Change to Company Details Appointment or Cessation of A Company Officeholder				
484	23/01/2023	23/01/2023	2	23/01/2023	7ECA45032
484	Change to Company Details				
484O	Changes to Share Structure				
484J	Notification of Share Cancellation - Company Buy-Back				

484	23/01/2023	23/01/2023	2	23/01/2023	7ECA45025
484	Change to Company Details				
484O	Changes to Share Structure				
484J	Notification of Share Cancellation - Company Buy-Back				
484	23/01/2023	23/01/2023	2	23/01/2023	7ECA45005
484	Change to Company Details				
484O	Changes to Share Structure				
484G	Notification of Share Issue				
484	10/01/2023	10/01/2023	2	10/01/2023	7ECA07751
484E	Change to Company Details Appointment or Cessation of A Company Officeholder				
902	15/12/2022	19/12/2022	2	11/10/2021	031788542
902	Supplementary Document Alters 7EB M16 686				
388	21/09/2022	21/09/2022	55	30/06/2022	7EBW63926
388	Financial Report				
388A	Financial Report - Public Company or Disclosing Entity				
388E	Company - Appoint Change Name/address of Auditor				
484	13/07/2022	13/07/2022	2	13/07/2022	7EBU39294
484	Change to Company Details				
484O	Changes to Share Structure				
484G	Notification of Share Issue				
484	31/05/2022	31/05/2022	2	31/05/2022	7EBS84988
484C	Change to Company Details Change of Principal Place Of Business (Address)				
281	19/04/2022	03/05/2022	2	19/04/2022	031531762
281	Notice That Company Intends to Carry Out Buy-Back				
484	04/04/2022	04/04/2022	2	04/04/2022	7EBR23263
484	Change to Company Details				
484O	Changes to Share Structure				
484G	Notification of Share Issue				
484	04/04/2022	04/04/2022	2	04/04/2022	7EBR23214
484	Change to Company Details				
484O	Changes to Share Structure				
484G	Notification of Share Issue				
484	04/04/2022	04/04/2022	2	04/04/2022	7EBR23154
484	Change to Company Details				
484O	Changes to Share Structure				
484G	Notification of Share Issue				
281	14/02/2022	21/02/2022	2	14/02/2022	031511630

281 Notice That Company Intends to Carry Out Buy-Back

2205 04/01/2022 07/01/2022 6 04/11/2021 031157237
2205B NOTIFICATION OF RESOLUTION RELATING TO SHARES CONVERT SHARES INTO LARGER OR SMALLER NUMBER

484 21/12/2021 21/12/2021 2 21/12/2021 7EBO44310
484 CHANGE TO COMPANY DETAILS
484O CHANGES TO SHARE STRUCTURE
484G NOTIFICATION OF SHARE ISSUE

484 02/12/2021 02/12/2021 3 02/12/2021 7EBN87275
484 CHANGE TO COMPANY DETAILS
484A1 CHANGE OFFICEHOLDER NAME OR ADDRESS
484E APPOINTMENT OR CESSATION OF A COMPANY OFFICEHOLDER
484E1 CESSATION OF COMPANY DIRECTOR LATER THAN 28 DAYS

484 22/10/2021 22/10/2021 2 22/10/2021 7EBM54371
484 CHANGE TO COMPANY DETAILS
484O CHANGES TO SHARE STRUCTURE
484J NOTIFICATION OF SHARE CANCELLATION - COMPANY BUY-BACK

484 19/10/2021 19/10/2021 2 19/10/2021 7EBM38966
484A1 CHANGE TO COMPANY DETAILS CHANGE OFFICEHOLDER NAME OR ADDRESS

484 11/10/2021 11/10/2021 3 11/10/2021 7EBM16686
484E CHANGE TO COMPANY DETAILS APPOINTMENT OR CESSATION OF A COMPANY OFFICEHOLDER
Altered by 031 788 542

281 30/09/2021 14/10/2021 2 30/09/2021 031434035
281 NOTICE THAT COMPANY INTENDS TO CARRY OUT BUY-BACK

484 14/09/2021 14/09/2021 15 14/09/2021 1M0040358
484 CHANGE TO COMPANY DETAILS
484A2 CHANGE MEMBER NAME OR ADDRESS
484N CHANGES TO (MEMBERS) SHARE HOLDINGS

218 27/08/2021 01/09/2021 65 27/08/2021 029562836
218 CONSTITUTION OF COMPANY

206 27/08/2021 01/09/2021 2 27/08/2021 029562835
206C APPLICATION FOR CHANGE OF COMPANY STATUS CONVERSION OF COMPANY FROM PTY TO PUBLIC

205 27/08/2021 01/09/2021 6 19/08/2021 029562834
205 NOTIFICATION OF RESOLUTION
205C CONVERTING TO A PUBLIC COMPANY
205J ALTERING THE CONSTITUTION

484 26/07/2021 26/07/2021 2 26/07/2021 7EBJ81273

484 CHANGE TO COMPANY DETAILS
484O CHANGES TO SHARE STRUCTURE
484J NOTIFICATION OF SHARE CANCELLATION - COMPANY BUY-BACK
484N CHANGES TO (MEMBERS) SHARE HOLDINGS

281 05/07/2021 16/07/2021 2 05/07/2021 031333580
281 NOTICE THAT COMPANY INTENDS TO CARRY OUT BUY-BACK

484 02/07/2021 02/07/2021 2 02/07/2021 7EBJ05058
484N CHANGE TO COMPANY DETAILS CHANGES TO (MEMBERS) SHARE HOLDINGS

2602 04/06/2021 29/06/2021 15 04/06/2021 031294615
2602A NOTIFICATION OF FINANCIAL ASSISTANCE DETAILS APPROVAL BY COMPANY'S OWN MEMBERS

484 02/06/2021 02/06/2021 3 02/06/2021 7EBI01433
484 CHANGE TO COMPANY DETAILS
484O CHANGES TO SHARE STRUCTURE
484G NOTIFICATION OF SHARE ISSUE
484A2 CHANGE MEMBER NAME OR ADDRESS

902 21/01/2021 03/02/2021 2 06/11/2018 031099682
902 SUPPLEMENTARY DOCUMENT
Alters 0EE E55 496

484 27/11/2020 30/11/2020 3 30/11/2020 1M0030296
484 CHANGE TO COMPANY DETAILS
484G NOTIFICATION OF SHARE ISSUE
484O CHANGES TO SHARE STRUCTURE
484N CHANGES TO (MEMBERS) SHARE HOLDINGS

484 11/11/2020 11/11/2020 2 11/11/2020 7EBC16715
484N CHANGE TO COMPANY DETAILS CHANGES TO (MEMBERS) SHARE HOLDINGS

484 28/10/2020 28/10/2020 2 28/10/2020 7EBB72318
484A1 CHANGE TO COMPANY DETAILS CHANGE OFFICEHOLDER NAME OR ADDRESS

484 28/09/2020 28/09/2020 2 28/09/2020 7EBA85896
484 CHANGE TO COMPANY DETAILS
484O CHANGES TO SHARE STRUCTURE
484J NOTIFICATION OF SHARE CANCELLATION - COMPANY BUY-BACK
484N CHANGES TO (MEMBERS) SHARE HOLDINGS

281 03/09/2020 14/09/2020 2 03/09/2020 030993145
281 NOTICE THAT COMPANY INTENDS TO CARRY OUT BUY-BACK

484 21/05/2020 21/05/2020 3 21/05/2020 7EAW72789
484 CHANGE TO COMPANY DETAILS
484O CHANGES TO SHARE STRUCTURE

484G NOTIFICATION OF SHARE ISSUE
484N CHANGES TO (MEMBERS) SHARE HOLDINGS

484 09/04/2020 09/04/2020 3 09/04/2020 7EAV50981
484 CHANGE TO COMPANY DETAILS
484O CHANGES TO SHARE STRUCTURE
484G NOTIFICATION OF SHARE ISSUE
484N CHANGES TO (MEMBERS) SHARE HOLDINGS

484 03/02/2020 03/02/2020 2 03/02/2020 7EAT46053
484E CHANGE TO COMPANY DETAILS APPOINTMENT OR CESSATION OF A COMPANY OFFICEHOLDER

2601 31/01/2020 19/02/2020 2 18/02/2020 030830275
2601 NOTIFICATION OF INTENTION TO GIVE FINANCIAL ASSISTANCE

2205 31/01/2020 19/02/2020 4 24/01/2020 030830274
2205F NOTIFICATION OF RESOLUTION RELATING TO SHARES FINANCIAL ASSISTANCE - APPROVAL BY COMPANY'S OWN SHAREHOLD

902 15/01/2020 16/01/2020 2 06/11/2018 030733207
902 SUPPLEMENTARY DOCUMENT
Alters 0EE E55 496

2602 02/01/2020 09/01/2020 14 02/01/2020 030784599
2602A NOTIFICATION OF FINANCIAL ASSISTANCE DETAILS APPROVAL BY COMPANY'S OWN MEMBERS

484 26/11/2019 26/11/2019 2 26/11/2019 7EAR64843
484 CHANGE TO COMPANY DETAILS
484A1 CHANGE OFFICEHOLDER NAME OR ADDRESS
484A2 CHANGE MEMBER NAME OR ADDRESS

484 14/11/2019 14/11/2019 2 14/11/2019 7EAR27846
484C CHANGE TO COMPANY DETAILS CHANGE OF PRINCIPAL PLACE OF BUSINESS (ADDRESS)

484 24/09/2019 24/09/2019 2 24/09/2019 7EAP66117
484N CHANGE TO COMPANY DETAILS CHANGES TO (MEMBERS) SHARE HOLDINGS

484 22/07/2019 22/07/2019 2 22/07/2019 7EAN60690
484B CHANGE TO COMPANY DETAILS CHANGE OF REGISTERED ADDRESS

484 08/07/2019 08/07/2019 2 08/07/2019 1M0027352
484N CHANGE TO COMPANY DETAILS CHANGES TO (MEMBERS) SHARE HOLDINGS

484 08/07/2019 08/07/2019 2 08/07/2019 7EAN16802
484N CHANGE TO COMPANY DETAILS CHANGES TO (MEMBERS) SHARE HOLDINGS

484	07/06/2019	11/06/2019	44	11/06/2019	1M0032137
484	CHANGE TO COMPANY DETAILS				
484G	NOTIFICATION OF SHARE ISSUE				
484O	CHANGES TO SHARE STRUCTURE				
484N	CHANGES TO (MEMBERS) SHARE HOLDINGS				
484	20/05/2019	21/05/2019	22	21/05/2019	1M0032106
484	CHANGE TO COMPANY DETAILS				
484G	NOTIFICATION OF SHARE ISSUE				
484O	CHANGES TO SHARE STRUCTURE				
484N	CHANGES TO (MEMBERS) SHARE HOLDINGS				
484	11/05/2019	11/05/2019	2	11/05/2019	7EAL19470
484N	CHANGE TO COMPANY DETAILS CHANGES TO (MEMBERS) SHARE HOLDINGS				
484	11/05/2019	11/05/2019	2	11/05/2019	7EAL19331
484	CHANGE TO COMPANY DETAILS				
484A1	CHANGE OFFICEHOLDER NAME OR ADDRESS				
484A2	CHANGE MEMBER NAME OR ADDRESS				
2205	11/04/2019	16/04/2019	7	25/03/2019	030569641
2205B	NOTIFICATION OF RESOLUTION RELATING TO SHARES CONVERT SHARES INTO LARGER OR SMALLER NUMBER				
484	20/03/2019	20/03/2019	2	20/03/2019	7EAJ63092
484	CHANGE TO COMPANY DETAILS				
484B	CHANGE OF REGISTERED ADDRESS				
484C	CHANGE OF PRINCIPAL PLACE OF BUSINESS (ADDRESS)				
201	06/11/2018	06/11/2018	3	06/11/2018	0EEE55496
201C	APPLICATION FOR REGISTRATION AS A PROPRIETARY COMPANY Altered by 030 733 207 Altered by 031 099 682				

- Financial Reports -

Document No.	Balance Date	Report Due	AGM Due	Extended AGM Due	AGM Held	Outstanding
7EBW63926	30/06/2022	31/10/2022	//	//	//	No
7ECJ52456	30/06/2023	31/10/2023	//	//	//	No
7ECX87515	30/06/2024	31/10/2024	//	//	//	No

- Company Contact Addresses -

- Contact Address for ASIC use only

Address: LEVEL 13 664 COLLINS STREET DOCKLANDS VIC 3008

Start Date: 17/05/2019

*** End of Document ***

(creditor)watch

Credit Report

Name	IRIS ENERGY LIMITED
ABN	60629842799
ACN	629842799
Document Type	Credit Report
Report Generated	13-09-2024 at 15:20
ASIC Extract	Not Included
ASIC Extract Status	Not Included

Credit Report	✔ Included
RiskScore	✔ Included
Payment Rating	✘ Not Included
CW Bankruptcy Check (PIRS)	✘ Not Included
ASIC Data (On File)	✘ Not Included
ASIC Current Extract	✘ Not Included
ASIC Current & Historical	✘ Not Included
PPSR ACN	✘ Not Included
PPSR ABN	✘ Not Included
PPSR Business Name	✘ Not Included
Append Docs Lodged	✔ Included
Append Business Names	✔ Included
Append Credit Enquiries	✔ Included

Summary

C1 / 586
Neutral Risk

83
Credit Enquiries

Registered

No Registered Defaults

No Court Actions

No Mercantile Enquiries

No ASIC Published Notices

No Critical ASIC Documents

Important Cross Directorships Not Available

Adverse

Risk Category	Risk Level	Risk Overview

No Adverse Information Found

ABR Data

Main Name	IRIS ENERGY LIMITED
ABN	60 629 842 799
Registered Date	06-11-2018
Entity Status	Active
Entity Type	Australian Public Company
GST Status	Registered for GST (from 06-11-2018)
Main Physical Address	NSW 2000 (from 31-05-2021)
ABN Last Updated	20-10-2023

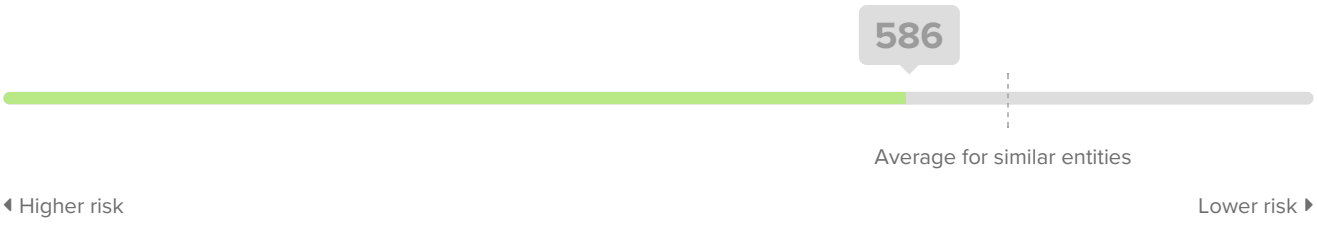
ASIC Data

Name	IRIS ENERGY LIMITED
Registered Office Address	LEVEL 13 664 COLLINS STREET DOCKLANDS VIC 3008
ACN	629 842 799
Registered Date	06-11-2018
Next Review Date	06-11-2024
Status	Registered
Company Type	Australian Public Company
Class	Limited By Shares
Subclass	Unlisted Public Company
Locality	DOCKLANDS VIC 3008
Regulator	Australian Securities & Investments Commission

RiskScore

RiskScore Information

- **C1** credit rating
- **586** out of 850 points
- Risk level **Neutral**



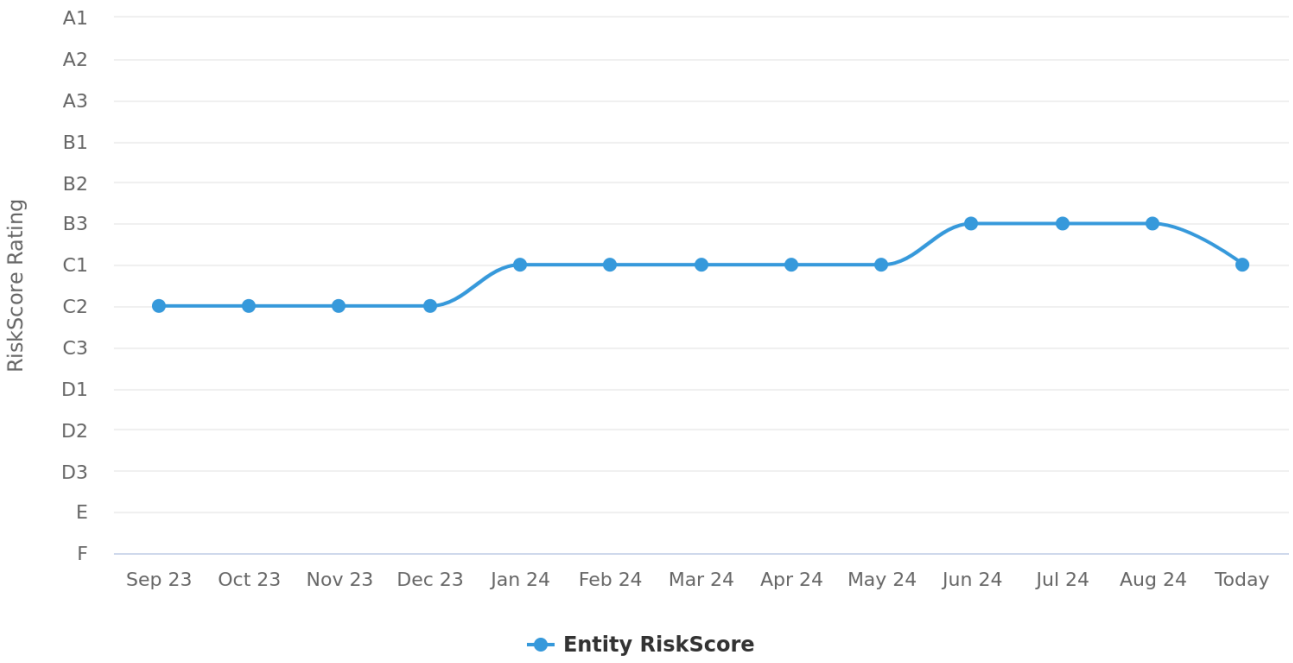
C1
Rating

RiskScore advice for the C1 Range

Entity currently has the aptitude to meet credit commitments. Unfavourable business, financial, or economic conditions may impair ability to meet financial commitments. Extend terms and monitor ongoing payment behaviour.

Entity has a **3.0% to 4.0% chance of default** within the next 12 months.

RiskScore Historical Information
Within the last 12 Months



The CreditorWatch RiskScore is the most advanced algorithm in the market and is designed to ensure you make the right decision. The RiskScore has been developed using the latest machine learning techniques in combination with CreditorWatch's extensive data. The CreditorWatch RiskScore should be used in partnership with your internal credit procedures and policies.

What is "probability of default"?
This is the likelihood that an entity will NOT be able to meet their financial commitments in the next 12 months eg: pay an invoice.

Score Recommendations

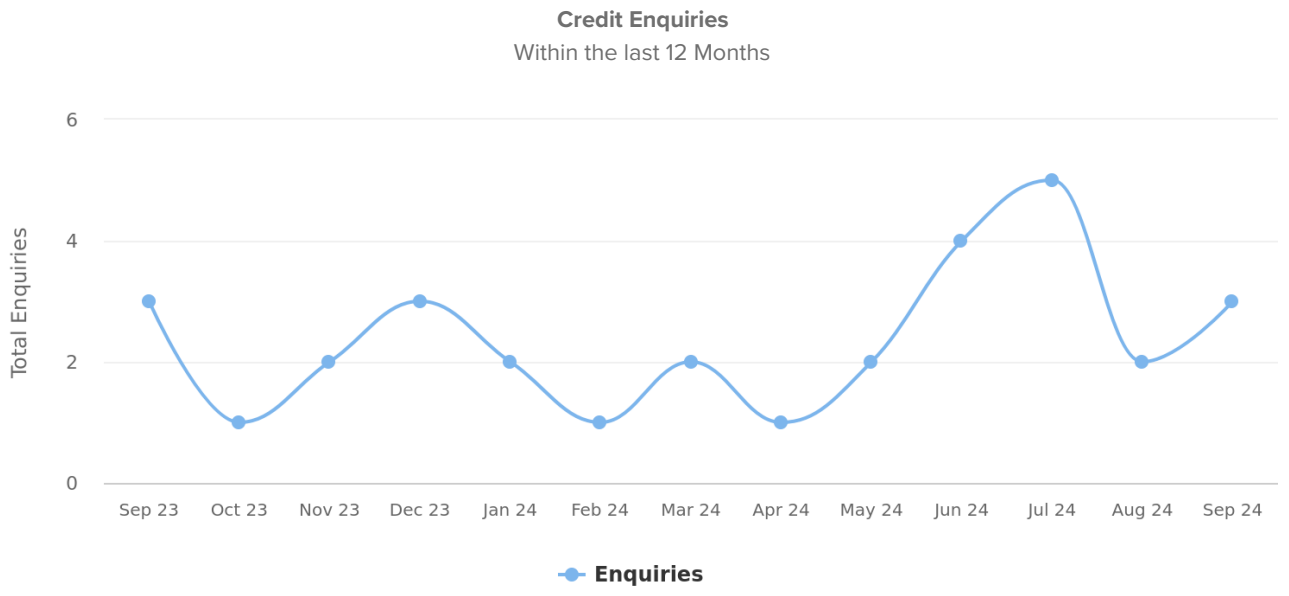
RiskScore Rating	Risk Level	Recommendation
A1, A2, A3	Very Low	Very strong credit quality based on behavioural and business demographics. Likelihood of default or insolvency is considered very low. Extend terms within consideration.
B1, B2	Low	Strong credit quality based on behavioural and business demographics. Likelihood of default or insolvency is considered very low. Extend terms within consideration.
B3, C1	Neutral	Lower than average default risk for an Australian business. Business demographics and behaviours indicative of low likelihood of default or insolvency in the short to medium term. Extend terms and monitor ongoing payment behaviour.
C2	Acceptable	Average default risk for an Australian business. Standard underwriting criteria and due diligence recommended prior to extending credit. Extend terms, closely monitor ongoing payment behaviour.
C3	Potential Risk	Behaviours and business demographics may indicate increased risk for some businesses in this group. Assessment of the entity's financial position and cashflow is recommended prior to extending material unsecured credit.
D1, D2, D3	High	Risk of default or insolvency is significantly higher than the average for Australian businesses. COD trading highly recommended.
E	Impaired	Entity is highly vulnerable to default or insolvency in the short term.
F	Defaulted	One or more creditors has initiated legal proceedings or other significant actions in response to unpaid debt obligations, or the entity is entering or has entered insolvency.

Please note that the rating and recommendation should be used in partnership with your company's internal credit procedures and policies. The rating should not be used as the sole reason in making decision about the entity.

Credit Enquiries

83
Last 5 Years

31
Last 12 Months



Enquiries Ordered by Industry

Industry (ANZSIC Division)	No of Enquiries
Construction (E)	12
Information Media and Telecommunications (J)	9
Financial and Insurance Services (K)	4
Other Services (S)	3
Rental, Hiring and Real Estate Services (L)	2
Administrative and Support Services (N)	1
Total Enquiries (within the last 12 months)	**31**

Enquiries Ordered by Date

Industry (ANZSIC Division)	Date
Information Media and Telecommunications (J)	13-09-2024
Other Services (S)	12-09-2024
Other Services (S)	11-09-2024
Information Media and Telecommunications (J)	20-08-2024

Industry (ANZSIC Division)	Date
Construction (E)	16-08-2024
Administrative and Support Services (N)	25-07-2024
Construction (E)	17-07-2024
Financial and Insurance Services (K)	05-07-2024
Financial and Insurance Services (K)	03-07-2024
Financial and Insurance Services (K)	02-07-2024
Rental, Hiring and Real Estate Services (L)	26-06-2024
Rental, Hiring and Real Estate Services (L)	25-06-2024
Information Media and Telecommunications (J)	24-06-2024
Construction (E)	18-06-2024
Information Media and Telecommunications (J)	17-05-2024
Construction (E)	16-05-2024
Construction (E)	16-04-2024
Information Media and Telecommunications (J)	20-03-2024
Construction (E)	18-03-2024
Construction (E)	19-02-2024
Information Media and Telecommunications (J)	18-01-2024
Construction (E)	17-01-2024
Financial and Insurance Services (K)	27-12-2023
Construction (E)	20-12-2023
Information Media and Telecommunications (J)	20-12-2023
Other Services (S)	29-11-2023
Construction (E)	16-11-2023
Construction (E)	24-10-2023
Information Media and Telecommunications (J)	26-09-2023
Information Media and Telecommunications (J)	22-09-2023
Construction (E)	21-09-2023

Credit enquiries provide an indication of the number of times an entity's credit file has been accessed. For credit enquiries performed in the last 12 months, the date of the enquiry and the industry of the business, sole trader or individual performing the credit enquiry is detailed in the graph and table.

Risk Data

Court Actions

Court Details	Plaintiff	Action	Nature of the Claim	Amount

No Court Actions

CreditorWatch aggregate data from courts around Australia to provide a summary of court actions against an entity. When available, details of the action include location, case number, state, plaintiff, nature of the claim, action type and dollar amount.

Payment Defaults

Added	Invoice Due	Submitted By	Amount	Status

No Payment Defaults Lodged

A default indicates that the debtor has failed to make a payment for goods or services. Payment Defaults are unique to CreditorWatch and can have one of three statuses: outstanding, partial payment or settled.

Tax Defaults

Date Added	Date Updated	Submitted By	Status	Amount

No Tax Defaults Lodged

A tax default indicates that a business has overdue tax payments and has failed to respond to a notice of disclosure by The Australian Taxation Office (ATO). Tax defaults are only lodged on debts that are over 90 days overdue and are over a value of $100,000.

Mercantile Enquiries

Enquiry Date	Mercantile Agent

No Mercantile Enquiries Lodged

A Mercantile enquiry is an indication that a mercantile agency (or debt collection agency) has conducted an enquiry on this entity for the purpose of debt collection.

Status Changes

ASIC Entity Status Changes

Change Date	ASIC Status
06-11-2018	Registered (Current status)

The most common ASIC entity statuses are: registered, deregistered, external administration and strike-off action in progress. This section identifies if there have any been changes to the status of the entity's ACN, and the date the changes have occurred.

Business Names

Registered Business Index

Business Name	Status	Registered Number	Address
Iris Energy	Registered	NNI: 651940144 ACN: 629842799 ASIC: 60629842799	Sydney 2000 NSW
IREN	Registered	NNI: 672330844 ACN: 629842799 ASIC: 60629842799	Sydney 2000 NSW

Registered Business Names

Name	Business Name Type	Source
IREN	Business Name	ABR
Iris Energy	Business Name	ABR
IRIS ENERGY LIMITED	Main Name	ABR
IRIS ENERGY PTY LTD	Former Name	ASIC
IRIS ENERGY PTY LTD	Main Name	ABR

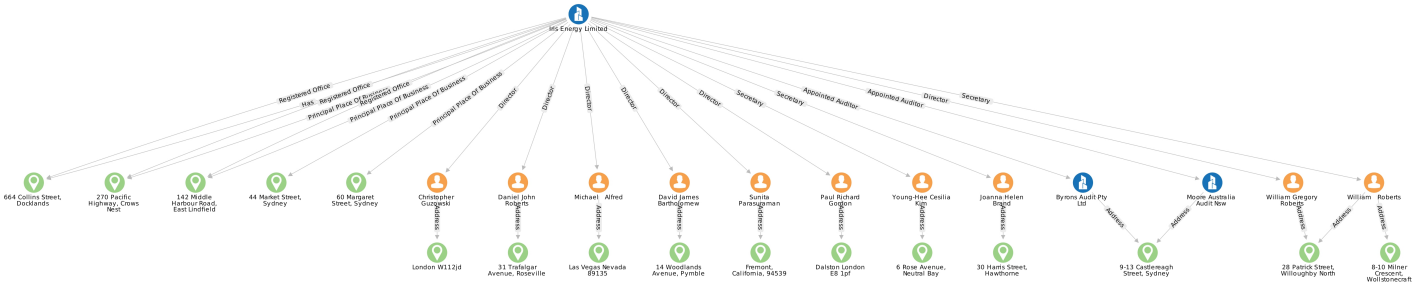
Business names are derived from two data sources, one of which is basic information provided by ABR. The other comes from the business names extract index which, when available, includes the owner of the business name and registered business address.

Appendix

Disclaimer

CreditorWatch is committed to ensuring that the information provided is accurate and comprehensive however due to data being received from sources not controlled by CreditorWatch we cannot guarantee that it is complete, verified or free of errors. To the extent permitted by law, CreditorWatch will not be held responsible for any errors or omissions therein concerning the information sourced and published in its publications, websites, API or emails.

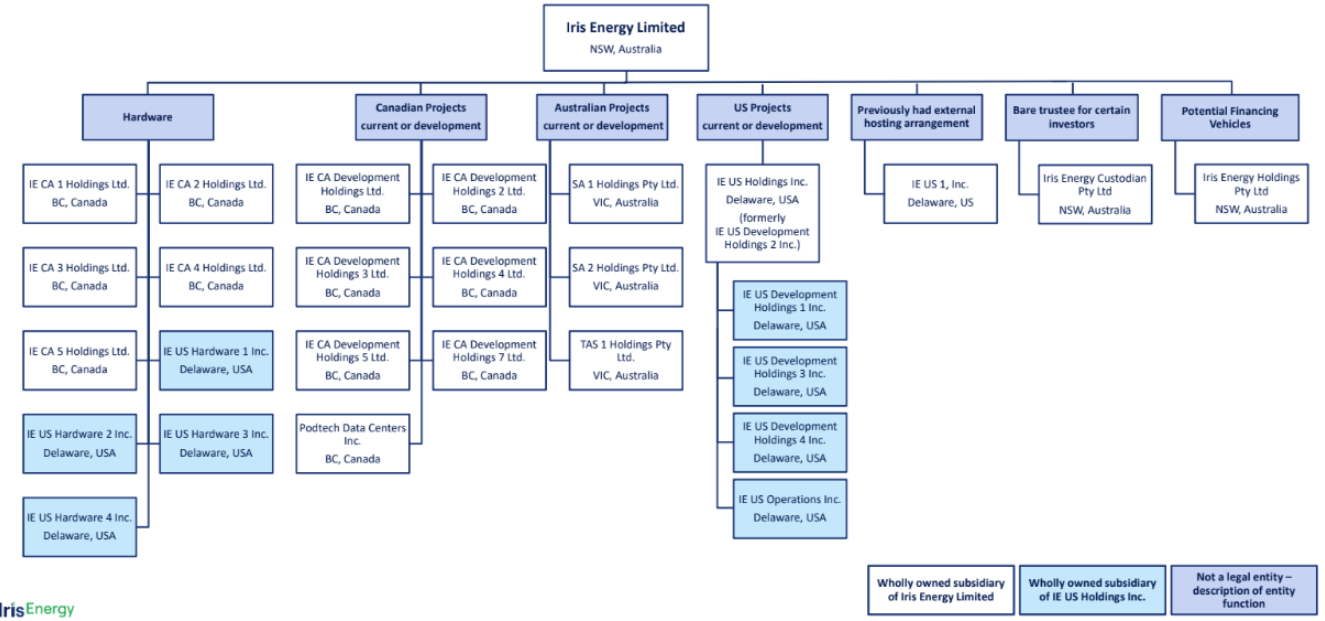
REVEAL



InfoTrack

Corporate legal structure

As of September 2022



IrisEnergy

1

BC Registry Services

Mailing Address:
PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3
www.corporateonline.gov.bc.ca

Location:
2nd Floor - 940 Blanshard Street
Victoria BC
1 877 526-1526

BC Company Summary

For

IE CA 3 HOLDINGS LTD.

Date and Time of Search: **August 01, 2024 03:48 PM Pacific Time**

Currency Date: April 19, 2024

ACTIVE

Incorporation Number: BC1294160

Name of Company: IE CA 3 HOLDINGS LTD.

Business Number: 773179262 BC0001

Recognition Date and Time: Incorporated on March 12, 2021 11:17 AM Pacific Time

In Liquidation: No

Last Annual Report Filed: March 12, 2023

Receiver: Yes

REGISTERED OFFICE INFORMATION

Mailing Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

Delivery Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

RECORDS OFFICE INFORMATION

Mailing Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

Delivery Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

RECEIVER INFORMATION

Corporation or Firm Name:
PRICEWATERHOUSECOOPERS INC.

Mailing Address:
250 HOWE STREET, SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

Delivery Address:
250 HOWE STREET, SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

DIRECTOR INFORMATION

No director information to display.

NO OFFICER INFORMATION FILED AS AT March 12, 2023.

BC Registry Services

Mailing Address:
PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3
www.corporateonline.gov.bc.ca

Location:
2nd Floor - 940 Blanshard Street
Victoria BC
1 877 526-1526

BC Company Summary

For

IE CA 4 HOLDINGS LTD.

Date and Time of Search: **August 01, 2024 03:51 PM Pacific Time**

Currency Date: April 19, 2024

ACTIVE

Incorporation Number: BC1294181

Name of Company: IE CA 4 HOLDINGS LTD.

Business Number: 773158068 BC0001

Recognition Date and Time: Incorporated on March 12, 2021 11:51 AM Pacific Time

In Liquidation: No

Last Annual Report Filed: March 12, 2023

Receiver: Yes

REGISTERED OFFICE INFORMATION

Mailing Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

Delivery Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

RECORDS OFFICE INFORMATION

Mailing Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

Delivery Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET
SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

RECEIVER INFORMATION

Corporation or Firm Name:
PRICEWATERHOUSECOOPERS INC.

Mailing Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET, SUITE 1400
VANCOUVER BC V6C 3S7
CANADA

Delivery Address:
PRICEWATERHOUSECOOPERS INC.
250 HOWE STREET, SUITE 1400
VANCOUVER BC V6C 3S7
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No director information to display.

NO OFFICER INFORMATION FILED AS AT March 12, 2023.

Financing and Bitmain Prepayment Update

SYDNEY, AUSTRALIA, November 2, 2022 (GLOBE NEWSWIRE) -- Iris Energy Limited (NASDAQ: IREN) ("Iris Energy" or "the Company", and together with its subsidiaries "the Group"), a leading owner and operator of institutional-grade, highly efficient proprietary Bitcoin mining data centers powered by 100% renewable energy, today announced an update on its financing arrangements as well as a recent opportunity to utilize prepayments made to Bitmain Technologies Limited ("Bitmain").

Highlights

- The Group has limited recourse equipment financing arrangements in wholly-owned special purpose vehicles, which have no parent company guarantee or recourse to any other Group entities. There is no other debt in the Group.
- The Group has $53 million of cash in the bank as at October 31, 2022.[1]
- These financing arrangements were intentionally structured for prudent risk management to protect the underlying business and data center infrastructure the Group has built.
- Certain equipment (i.e., Bitcoin miners) owned by the special purpose vehicles currently produce insufficient cash flow to service their respective debt financing obligations, and have a current market value well below the principal amount of the relevant loans. Restructuring discussions with the lender remain ongoing.
- 2.4 EH/s of miners[2] and all of the Group's data center capacity & development pipeline are unaffected by these financing arrangements.
- The Group is exploring opportunities to utilize data center capacity that may become available, recognizing:
    - Current scarcity of industry hosting data center capacity
    - Prospect of utilizing $75 million of prepayments already made to Bitmain in respect of an additional 7.5 EH/s of contracted miners for further self-mining.
- In addition to this financing update, the Company is pleased to announce that it has utilized an additional portion of its prepayments with Bitmain, further reducing unutilized prepayments made to Bitmain from $83 million to $75 million.

Limited Recourse Equipment Financing

The Group has no debt other than the limited recourse equipment financing arrangements described below.

The Company has three wholly-owned special purpose vehicles (referred to as "Non-Recourse SPV 1", "Non-Recourse SPV 2", "Non-Recourse SPV 3" and together, "Non-Recourse SPVs"), which were each incorporated for the specific purpose of financing certain miners. As at September 30, 2022, the Non-Recourse SPVs had the following principal amounts outstanding under their respective limited recourse equipment financing facilities:

- Non-Recourse SPV 1 – $1 million, secured against 0.2 EH/s of miners.
- Non-Recourse SPV 2 – $32 million, secured against 1.6 EH/s of miners.
- Non-Recourse SPV 3 – $71 million, secured against 2.0 EH/s of miners.

The lender to each Non-Recourse SPV has no recourse to, and no cross collateralization with respect to, assets of the Company or any other Group entity, including other Non-Recourse SPVs.

Non-Recourse SPVs and their limited recourse equipment financing arrangements were intentionally structured for prudent risk management to protect the underlying business and data center infrastructure the Group has built.

[1] USD equivalent, unaudited preliminary balance.
[2] Includes 0.2 EH/s of miners owned by Non-Recourse SPV 1 which secure its equipment financing arrangements.

The secured miners owned by each of Non-Recourse SPV 2 and Non-Recourse SPV 3 currently produce insufficient cash flow to service their respective debt financing obligations and, in aggregate:

- Are currently capable of generating an indicative $2 million of Bitcoin mining monthly gross profit[3], compared to aggregate required monthly principal and interest payment obligations of $7 million.
- Have a market value which the Company currently estimates to be approximately $65 to $70 million[4], relative to an aggregate $103 million principal amount of loans outstanding as at September 30, 2022.

Non-Recourse SPV 2 and Non-Recourse SPV 3 are engaged in discussions with their lender and reached an agreement for a two-week deferral of scheduled principal payments originally due under both equipment financing arrangements on October 25, 2022, to November 8, 2022.

Unless a suitable agreement is reached with the lender on modified terms for both equipment financing arrangements, the Group does not intend to provide further financial support to Non-Recourse SPV 2 and Non-Recourse SPV 3.

In this case, the Company expects that neither of those Non-Recourse SPVs will be able to make the scheduled principal payment on November 8, 2022, which would result in a default for those Non-Recourse SPVs under their respective limited recourse equipment financing arrangements.[5]

2.4 EH/s of miners[2] and all of the Group's data centers & development pipeline are unaffected. The Group is exploring opportunities to utilize its data center capacity that may become available in the event the Group elects to no longer provide financial support to these financing arrangements and the lender forecloses on the equipment owned by the relevant special purpose vehicles. Such opportunities include third-party hosting and self-mining, recognizing:

- Current scarcity of industry hosting data center capacity.
- Prospect of utilizing $75 million of prepayments already made to Bitmain in respect of an additional 7.5 EH/s of contracted miners for additional self-mining (see below).

Bitmain Prepayments

On August 1, 2022, the Company announced it had purchased an additional 1.7 EH/s of S19j Pro miners, reducing prepayments made to Bitmain from $130 million to $83 million.

The Company is pleased to announce today that it has utilized an additional portion of its prepayments with Bitmain to purchase additional miners, further reducing unutilized prepayments made to Bitmain from $83 million to $75 million in respect of additional contracted miners.

The Company simultaneously sold the same purchased miners to a third party, resulting in net cash proceeds of $8.6 million, which have been received in full by the Company.[6]

[3] Please see the Coinwarz Bitcoin Mining Calculator (https://www.coinwarz.com/mining/bitcoin/calculator). Assumptions: 3,600 PH/s (hashrate), 118MW (power consumption), $0.065/kWh (assuming observed indicative market hosting rates), 0.50% (pool fees), $20,000 (Bitcoin price), ~264 EH/s (difficulty-implied global hashrate) and 6.35 (Bitcoin Block Reward) – prefilled link here.
[4] Based on recent observed Bitmain pricing of $19/TH for S19j Pro miners, noting ~45% of the relevant financed miners are lower efficiency S19j miners.
[5] Such default would permit the lender to declare the entire $103 million aggregate principal amount of the relevant equipment financing facilities to be immediately due and payable by Non-Recourse SPV 2 and Non-Recourse SPV 3. We expect that Non-Recourse SPV 2 and Non-Recourse SPV 3 will not have sufficient funds to repay such equipment financing facilities, in which case such lender could enforce its security interest and foreclose on the Bitcoin miners owned by Non-Recourse SPV 2 and Non-Recourse SPV 3, respectively, which could result in the loss of such miners and materially reduce the Company's operating capacity, and could also lead to bankruptcy or liquidation of the relevant Non-Recourse SPVs.
[6] Net cash proceeds is after additional payments to Bitmain in connection with the purchase of such miners. The difference between net cash proceeds to Iris Energy of $8.6 million and the reduction in prepayments made to Bitmain of $8.3 million relates to additional cash benefits received by Iris Energy as part of the transaction.

The remaining $75 million of prepayments the Company has made to Bitmain relate to an additional 7.5 EH/s of S19j Pro miners, which is separate and incremental to the Company's previously announced 6.0 EH/s of capacity.[7]

Iris Energy's Co-Founder & Co-CEO, Daniel Roberts, said:

"The limited recourse equipment financing arrangements have been a recent focus for us. We remain committed to exploring a way in which we may be able to allow the lender to recover its capital investment, however, we are also mindful of the current market and that these arrangements were deliberately structured to minimize any potential impact on the broader Group during a protracted market downturn."

"With respect to the latest utilization of the Bitmain deposits, this is a testament to the creativity and effort of our team. We look forward to working with Bitmain to secure further mutually beneficial outcomes for both parties on the remaining $75 million of prepayments we have previously paid to them. The receipt of an additional $8.6 million in cash is also helpful in the context of current market conditions and our ongoing planning."

About Iris Energy

Iris Energy is a sustainable Bitcoin mining company that supports the decarbonization of energy markets and the global Bitcoin network.

- 100% renewables: Iris Energy targets markets with low-cost, under-utilized renewable energy, and where the Company can support local communities
- Long-term security over infrastructure, land and power supply: Iris Energy builds, owns and operates its electrical infrastructure and proprietary data centers, providing long-term security and operational control over its assets
- Seasoned management team: Iris Energy's team has an impressive track record of success across energy, infrastructure, renewables, finance, digital assets and data centers with cumulative experience in delivering >$25bn in energy and infrastructure projects globally

[7] Excludes any discount arrangements under the agreement, which may include potential additional miners. The timing and volume of any additional future deliveries under the separate $400 million hardware purchase contract for miners are subject to ongoing discussions with Bitmain. The Company has not made all recent payments under that contract and does not currently expect to make upcoming payments in respect of any such additional future deliveries under that contract. The Company can make no assurances as to the outcome of these discussions (including any impact on the Company's expansion plans or payments made under that contract).

Forward-Looking Statements

This press release includes "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements generally relate to future events or Iris Energy's future financial or operating performance. For example, forward-looking statements include but are not limited to the expected increase in the Company's power capacity and operating capacity, the Company's business plan, the Company's capital raising plans, the ability of the Company's special purpose vehicles to service their debt and the consequences of a failure to make required payments on such debt when due, the impact of discussions with the lender under limited recourse equipment financing arrangements in the Company's special purpose vehicles, the Company's anticipated capital expenditures and additional borrowings, the impact of discussions with Bitmain regarding the Company's hardware purchase contract for additional miners, and the expected schedule for hardware deliveries and for commencing and/or expanding operations at the Company's sites. In some cases, you can identify forward-looking statements by terminology such as "anticipate," "believe," "may," "can," "should," "could," "might," "plan," "possible," "project," "strive," "budget," "forecast," "expect," "intend," "target", "will," "estimate," "predict," "potential," "continue," "scheduled" or the negatives of these terms or variations of them or similar terminology, but the absence of these words does not mean that statement is not forward-looking. Such forward-looking statements are subject to risks, uncertainties, and other factors which could cause actual results to differ materially from those expressed or implied by such forward looking statements. In addition, any statements or information that refer to expectations, beliefs, plans, projections, objectives, performance or other characterizations of future events or circumstances, including any underlying assumptions, are forward-looking.

These forward-looking statements are based on management's current expectations and beliefs. These statements are neither promises nor guarantees, but involve known and unknown risks, uncertainties and other important factors that may cause Iris Energy's actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements, including, but not limited to: Iris Energy's limited operating history with operating losses; electricity outage, limitation of electricity supply or increase in electricity costs; long term outage or limitation of the internet connection at Iris Energy's sites; any critical failure of key electrical or data center equipment; serial defects or underperformance with respect to Iris Energy's equipment; failure of suppliers to perform under the relevant supply contracts for equipment that has already been procured which may delay Iris Energy's expansion plans; supply chain and logistics issues for Iris Energy or Iris Energy's suppliers; cancellation or withdrawal of required operating and other permits and licenses; customary risks in developing greenfield infrastructure projects; Iris Energy's evolving business model and strategy; Iris Energy's ability to successfully manage its growth; Iris Energy's ability to raise additional financing (whether because of the conditions of the markets, Iris Energy's financial condition or otherwise) on a timely basis, or at all, which could adversely impact the Company's ability to meet its capital commitments (including payments due under its hardware purchase contracts with Bitmain) and the Company's growth plans; Iris Energy's failure to make certain payments due under any one of its hardware purchase contracts with Bitmain on a timely basis could result in liquidated damages, claims for specific performance or other claims against Iris Energy, any of which could result in a loss of all or a portion of any prepayments or deposits made under the relevant contract or other liabilities in respect of the relevant contract, and could also result in Iris Energy not receiving certain discounts under the relevant contract or receiving the relevant hardware at all, any of which could adversely impact its business, operating expansion plans, financial condition, cash flows and results of operations; the failure of Iris Energy's wholly-owned special purpose vehicles to make required payments of principal and/or interest under their limited recourse equipment financing arrangements when due, which would constitute a default and, if not cured within the applicable cure period (if any), would permit the lender thereunder to declare the entire principal amount of the relevant loans to be immediately due and payable, in which case we expect that those entities will not have sufficient funds to repay such facilities absent a refinancing, restructuring or modification of the terms of the relevant facility or other relief or waiver from the lender (which those entities may not be able to obtain on commercially reasonable terms or without significant additional cost) and as a result such lender could seek to foreclose on the Bitcoin miners and any other assets securing the relevant loans and would have recourse to the assets of the relevant special purpose vehicle, any of which could result in the loss of such Bitcoin miners, materially reduce the Company's operating capacity, lead to bankruptcy or

liquidation of the relevant special purpose vehicles, and materially and adversely impact the Company's business, operating expansion plans, financial condition, cash flows and results of operations; the terms of any additional financing or any refinancing, restructuring or modification to the terms of any existing financing, which could be less favorable or require Iris Energy to comply with more onerous covenants or restrictions, any of which could restrict its business operations and adversely impact its financial condition, cash flows and results of operations; competition; Bitcoin prices and global hashrate, which could adversely impact the Company's financial condition, cash flows and results of operations, as well as its ability to raise additional financing and the ability of its wholly-owned special purpose vehicles to make required payments of principal and/or interest on their equipment financing facilities; risks related to health pandemics including those of COVID-19; changes in regulation of digital assets; and other important factors discussed under the caption "Risk Factors" in Iris Energy's annual report on Form 20-F filed with the SEC on September 13, 2022, as such factors may be updated from time to time in its other filings with the SEC, accessible on the SEC's website at www.sec.gov and the Investor Relations section of Iris Energy's website at https://investors.irisenergy.co.

These and other important factors could cause actual results to differ materially from those indicated by the forward-looking statements made in this press release. Any forward-looking statement that Iris Energy makes in this press release speaks only as of the date of such statement. Except as required by law, Iris Energy disclaims any obligation to update or revise, or to publicly announce any update or revision to, any of the forward-looking statements, whether as a result of new information, future events or otherwise.

Preliminary Financial Information

The preliminary financial information for the month of October 2022 included in this investor update is not subject to the same closing procedures as our unaudited quarterly financial results and has not been reviewed by our independent registered public accounting firm. The preliminary financial information included in this investor update does not represent a comprehensive statement of our financial results or financial position and should not be viewed as a substitute for unaudited financial statements prepared in accordance with International Financial Reporting Standards. Accordingly, you should not place undue reliance on the preliminary financial information included in this investor update.

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To keep updated on Iris Energy's news releases and SEC filings, please subscribe to email alerts at https://investors.irisenergy.co/ir-resources/email-alerts.

No. S 230488
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

NYDIG ABL LLC
Petitioners

and

IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.
Respondent

RECEIVER'S SECOND REPORT TO COURT
(Prepared for the April 13, 2023 Court Hearing)

April 10, 2023

pwc

IN THE MATTER OF THE RECEIVERSHIP OF
IE CA 3 HOLDINGS LTD. & IE CA 4 HOLDINGS LTD.
RECEIVER'S SECOND REPORT TO COURT

April 10, 2023

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1. Introduction

1.1 On February 3, 2023, the Supreme Court of British Columbia (the "**Court**"), on application by NYDIG ABL LLC ("**NYDIG**"), granted an Order (the "**Receivership Order**"), appointing PricewaterhouseCoopers Inc. ("**PwC**") as Receiver (the "**Receiver**") of the assets, undertakings, and property (together, the "**Property**") of IE CA 3 Holdings Ltd ("**IE CA 3**") and IE CA 4 Holdings Ltd ("**IE CA 4**") (together, the "**Debtors**").

1.2 The Receiver issued its first report dated March 10, 2023 (the "**First Report**"), which provided the Court with background information on Iris Energy, the Debtors and other subsidiaries in the Iris Energy Group, the Receiver's activities to date, the Receiver's request for information including, the Bitcoin Information (defined below) and the urgent requirement to test the Mining Equipment to enable the Receiver to relocate the equipment to alternative warehouse locations.

1.3 The First Report was prepared for a court hearing on March 15, 2023, that was ultimately adjourned on the following conditions:

1.3.1 That Iris Energy and the Receiver would agree to a trial run of a testing protocol to take place on March 17, 2023, that would inform the Receiver's proposal to Iris Energy for a complete testing program of the Mining Equipment;

1.3.2 The Receiver would adjourn the application to an agreed upon date in the event Iris Energy failed to furnish the outstanding information required by the Receiver; and,

1.3.3 Iris Energy and NYDIG would work to have the Bitcoin collateral issue determined as soon as possible.

1.4 This is the Receiver's second report to the Court (the "**Second Report"**). The purpose of this Second Report is to provide the Court with an update regarding:

1.4.1 The Receiver's activities since the First Report;

1.4.2 The testing protocol agreed to by the Host Entities (subsidiaries of Iris Energy) and the Receiver;

1.4.3 The tracing exercises undertaken by the Receiver to facilitate the identification of NYDIG's collateral and its location;

1.4.4 The Receiver's efforts to monetize certain Bitmain coupons that were scheduled to expire in April and May 2023;

1.4.5 Additional information relevant to the nature and extent of NYDIG's collateral; and,

1.4.6 The Receiver's conclusions.

1.5 The Receiver is seeking an order from the Court directing Iris Energy or the relevant subsidiary to provide:

1.5.1 Evidence of the hashpower generated by the NYDIG Mining Equipment at the BC Iris Sites and the quantum of hashpower produced by the Debtors' Mining Equipment on an output/hashpower basis;

1.5.2 The name of the mining pool the ("**Mining Pool**") that Iris Energy or the relevant subsidiary used to pool the Mining Equipment's hashpower with the hashpower of other Bitcoin miners in an effort to increase their chances of earning Bitcoin;

1.5.3 The Iris Energy public wallet key address or addresses to determine the total number of Bitcoin paid to Iris Energy by the Mining Pool in consideration of the proportionate amount of hashpower generated by the Mining Equipment relative to the total amount of hashpower generated by all miners in the Mining pool;

1.5.4 An accounting of Iris Energy's sale of Bitcoin and the revenue received from same, including all relevant supporting documentation; and,

1.5.5 Iris Energy's bank statements showing its receipt of USD or other currency resulting from the Bitcoin sales (the information in 1.5.1 through 1.5.5 is collectively the "**Bitcoin Information**").

1.6 The Receiver is also seeking an order from this Court directing Norton Rose (counsel to Iris Energy) to release USD$404,040.67 currently held in trust to the Receiver. These proceeds relate to the sale of the Bitmain coupons belonging to IE CA 4 that were scheduled to expire in April and May 2023 and are discussed in more detail below.

1.7 Capitalized terms not otherwise defined herein are defined in the Notice of Application of the Receiver, dated March 10, 2023, the Notice of the Application of the Receiver dated April 10, 2023, or the First Report. A Glossary of defined terms is attached as **Appendix A**.

1.8 Unless otherwise stated, all monetary amounts contained herein shall be expressed in Canadian dollars ("**CAD**").

1.9 The Receiver has set up a website at www.pwc.com/ca/ieca34 (the "**Receiver's Website**"). All prescribed materials filed by the Receiver in relation to these proceedings are available to creditors and other interested parties in electronic format on the Receiver's Website. The Receiver will make regular updates to the website to ensure creditors and other interested parties are kept current on the status of these proceedings.

2. Receiver's activities since the First Report

2.1 Since the First Report, the Receiver has undertaken, *inter alia*, the following activities:

2.1.1 Held numerous calls with Iris Energy representatives and its legal counsel and sent/received numerous emails regarding a formal proposal for the Host Entities to facilitate the testing of all the Mining Equipment (the "**Testing Protocol**"), information received from Iris Energy, information required to respond to queries from the PST and CRA auditors and miscellaneous additional information requests;

2.1.2 Worked with Iris Energy's existing insurance broker Axis and a new broker to find insurance coverage for the Mining Equipment during both the Testing Protocol and following its relocation to alternative warehouse sites;

2.1.3 Signed contracts with third party warehouse providers to move and store the Mining Equipment upon completion of the Testing Protocol, as described in more detail below;

2.1.4 Developed a robust Testing Protocol for the Mining Equipment to enable the Receiver to confirm the existence and condition of the Mining Equipment that forms part of NYDIG's collateral, including sourcing third party labour to undertake the process of unwrapping, racking, testing and repacking the Mining Equipment;

2.1.5 Continued liaising with the B.C. Ministry of Finance, to preserve an application for a PST rebate and in respect of an on-going PST audit;

2.1.6 Continued liaising with the CRA with respect to an on-going GST audit. Met with a CRA auditor who attended at the Receiver's office on April 4, 2023, as part of the audit process;

2.1.7 Undertook extensive steps to trace NYDIG's funding and identify its collateral as more fully described below;

2.1.8 Liaised with Bitmain on several occasions to obtain information on the Iris Energy account relevant to the Debtors, including payments made to Bitmain, the miners invoiced and shipped by Bitmain, and coupons, credits and discounts issued by Bitmain;

2.1.9 Provided regular updates to representatives of NYDIG and its legal counsel; and,

2.1.10 Prepared this Second Report to the Court.

Insurance

2.2 As outlined in the First Report, the Receiver was added as an additional insured to the Iris Energy Group's existing property policy. This policy does not provide sufficient coverage for the Mining Equipment that is subject to these Receivership proceedings. The Receiver explored several options to increase coverage for the period in which the Mining Equipment is located at the Iris BC Sites, however those efforts were unsuccessful. As a result, the Receiver focused its efforts on securing additional coverage for the Mining Equipment once it is relocated from the Iris BC Sites. The availability of additional insurance coverage once the Mining Equipment is relocated was a main driver behind the Receiver's desire to commence the Testing Protocol several weeks ago.

2.3 The Receiver engaged IMA Financial Group ("**IMA**") as its broker to obtain property insurance for the Mining Equipment at the new warehouse locations once the Mining Equipment is relocated following completion of the Testing Protocol. IMA advised the Receiver that it wasn't able to begin sourcing new coverage for the Mining Equipment until the Receiver could confirm the third-party locations to which the Mining Equipment would be relocated.

2.4 In late March the warehouse locations were confirmed, and the Receiver provided IMA with the information necessary to source cargo and storage insurance for the Mining Equipment from the point of collection at the Iris BC Sites and for the duration of its movement and storage. IMA received quotes on April 5, 2023, and the Receiver is working with IMA and Axis to finalize this coverage as soon as possible. Until this coverage is in place, the Mining Equipment will remain at the Iris BC Sites.

2.5 In addition, for the Testing Protocol, the Receiver has obtained general liability insurance in the amount of USD$5m to support the work performed at the Iris BC Sites.

Alternative warehouse locations

2.6 The Receiver spent several weeks identifying options for alternative locations to store the approximately 36,400 miners at warehousing locations that would meet the specifications necessary to enable proper insurance coverage and maintenance of the Mining Equipment once relocated from the Iris BC Sites.

2.7 In the First Report the Receiver provided the Court with a list of factors contributing to the difficulty in sourcing third party warehouse space. The Receiver considered several options, but ultimately selected the two warehouses below in consultation with NYDIG.

2.8 The first location is in Mackenzie B.C. and will be used to store approximately 30,300 miners currently located in the Mackenzie and Prince George Iris BC Sites. This space is owned by Conifex Mackenzie Forest Products Ltd. ("**Conifex**"). On April 6, 2023, the Receiver entered a six-month ("**Initial Term**") storage and transportation agreement with Conifex (the "**Conifex Storage and Transportation Agreement**") pursuant to which Conifex agreed to, among other things, securely store the applicable Mining Equipment for the Receiver during the Initial Term. In addition to providing a secure facility for the Mining Equipment, Conifex has agreed in the Conifex Storage

and Transport Agreement to arrange all transportation services necessary to move the Mining Equipment to its facility. The Conifex Storage and Transportation Agreement has an option for the Receiver to continue storing the Mining Equipment on a monthly basis after the Initial Term. The monthly storage fee is $60,000 for more than 20,000 sq ft of space, including full-time security and other features critical to securing insurance for the Mining Equipment. The facility will provide ample access to potential purchases to view the Mining Equipment during any sales process undertaken by the Receiver at a later date.

2.9 The second location is in Cranbrook B.C. and will hold the approximately 6,060 miners that are currently located at the Canal Flats Iris BC Site. This space is owned by Bid Air Aviation ("**Bid Air**"). The Receiver is currently finalizing a 6-month contract with Bid Air pursuant to which Bid Air agreed to store the applicable Mining Equipment for the Receiver during the term of the agreement. The monthly storage fee is $5,786 plus GST. This fee does not include full-time security. The Bid Air warehouse is guarded by Airport Security from the Rockies International Airport except for the hours between 1am and 4am. The Receiver is reviewing options to cover the security risk during this time. The Receiver has hired Overland West Freight to transport the Mining Equipment from Canal Flats to the Bid Air warehouse.

Testing Protocol

2.10 As discussed in the First Report, the Receiver has been working with Iris Energy since March 10, 2023, to develop a robust Testing Protocol for the Mining Equipment.

2.11 On March 13, 2023, the Receiver and the Host Entities agreed to undertake a trial run of the testing protocol, so that the Receiver could develop a formal proposal for the Host entities to facilitate the Testing Protocol. There were extensive negotiations to enable the Receiver to complete a trial run on March 17, 2023. Based on the trial run and in consultation with NYDIG and third-party labor contractors, the Receiver provided a formal proposal to Iris Energy for the Testing Protocol on March 24, 2023.

2.12 Following negotiations, the Receiver, the Host Entities and Iris Energy finalized the Testing Protocol on or about April 5, 2023, a copy of which is attached as **Appendix B** to this report. A summary of the key features of the Testing Protocol are as follows:

2.12.1 Each Host Entity is providing one 2.5MW section of rack space that can test approximately 780 miners at a time. For efficiency and to reduce health and safety risk of the laborers, the Testing Protocol is only using the bottom half of the rack space which does not require ladders and overhead work, therefore 390 can be tested at any one time.

2.12.2 The schedule currently assumes multiple pallets (holding 64 miners each) can be tested at any one time: 4 teams can be working on 4 pallets concurrently at Prince George, 5 teams can be working on 5 pallets concurrently at Mackenzie; and 3 teams can be working on 3 pallets concurrently at Canal Flats. Even though there will be an initial ramp-up period, productivity will increase over time, the schedule as presented assumes productivity is flat.

2.12.3 An orientation meeting for staff was held at Prince George on Thursday March 30, 2023, and at Mackenzie on Friday March 31, 2023. The orientation meeting at Canal Flats is scheduled for Monday April 10, 2023.

2.12.4 The Receiver has sourced contract laborers to assist in completing the Testing Protocol at all three sites. In addition, representatives of the Receiver will be on site at each location to supervise the testing process.

2.12.5 While the process is not overly complex, it is relatively time consuming, labour intensive and involves numerous steps in order to permit the Receiver to:

2.12.5.1 Confirm the existence of the collateral;

2.12.5.2 Confirm whether the equipment operates properly; and,

2.12.5.3 Enable the Receiver to segregate the equipment in a specific manner.

2.12.6 Testing commenced in Prince George and Mackenzie on April 4, 2023, and will commence in Canal Flats on April 10, 2023.

2.12.7 Once the testing is complete the Mining Equipment will be transported to the storage facilities in batches as a trucking trailer that is on-site is loaded. It is expected that all Mining Equipment will be relocated to the storage facilities by the end of April or the first week of May 2023.

2.13 The Testing Protocol requires a significant amount of third-party contract labour. The Receiver has entered into contracts with Conifex and Peak Industries Ltd. for this purpose. Conifex is subcontracting to Irwin's Safety & Industrial Labour Services Ltd. The Receiver and the contractors have agreed to the schedule contained in the Testing Protocol and the contracts include incentives for productivity to enable the process to be completed earlier at a lower cost to the Receiver, if possible.

3. Identification of NYDIG's collateral

3.1 As described in the First Shah Affidavit at paragraphs 42 and 47, the Debtors granted NYDIG a first priority security interest over the Mining Equipment, any cryptocurrency mined or otherwise generated in connection with the Mining Equipment, and such other collateral set out in the MEFAs.

3.2 As outlined in its First Report, the Receiver has spent considerable time and resources in its efforts to trace NYDIG's funding and to verify the Debtor's revenues and expenses in order to identify and trace NYDIG's collateral. The Receiver's investigation has, to date, focused on the following key areas:

3.2.1 Identifying the Mining Equipment subject to NYDIG's security by tracing NYDIG's funding to purchases from Bitmain;

3.2.2 Identifying coupons, credits or discounts issued by Bitmain related to the USD$62m Bitmain Contract and the USD$132m Bitmain Contract;

3.2.3 Quantifying amounts paid under the Hashpower Agreement and the Hosting Agreement; and,

3.2.4 Quantifying the number and value of Bitcoins generated by the Debtors while the Mining Equipment was in operation.

3.3 The Receiver's analysis to date includes the following:

3.3.1 Determining whether NYDIG's funding was used to acquire Mining Equipment from Bitmain pursuant to both the USD$62m Bitmain Contract and the USD$132m Bitmain Contract (the "**NYDIG Flow of Funds Analysis**");

3.3.2 Reconciling the serial numbers of machines from the lists of Mining Equipment provided separately by NYDIG and Iris Energy in order to confirm the Mining Equipment that forms part of NYDIG's collateral ("**Physical Collateral Reconciliation**");

3.3.3 Analyzing the coupons, credits and discounts issued by Bitmain to Iris Energy to identify those that relate to the Debtors (the "**Bitmain Coupon Analysis**");

3.3.4 Analyzing the intercompany accounts between the Debtors and the Iris Energy Group ("**Intercompany Analysis**"); and,

3.3.5 Analyzing the income and expenses recorded in the financial records of IE CA 3 and IE CA 4 to determine whether they reflect the contractual arrangements with Iris Energy through the Hashpower Agreement and Hosting Agreement (the "**Amounts paid under the Hashpower Agreement and Hosting Agreement**").

3.4 The analysis conducted by the Receiver in these areas has been substantial and complex given the volume of transactions reviewed, the different sources of information and the organizational structure of the Energy Group. This second report sets out the results of this analysis to date.

3.5 The Receiver's investigation to confirm the number and value of Bitcoin paid to Iris Energy by the Mining Pool as a direct result of the hashpower generated by the Debtors Mining Equipment has not commenced as Iris Energy has not provided the Receiver with the Bitcoin information.

NYDIG Flow of Funds Analysis

3.6 The NYDIG Flow of Funds Analysis had the objective of determining whether:

3.6.1 NYDIG's funding was used for the purpose of acquiring miners under the USD$62m Contract and the USD$132m Contract (collectively the "**Debtor Bitmain Contracts**") and not for other corporate purposes; and,

3.6.2 The Debtor's fulfilled their obligations to Bitmain under the Debtor Bitmain Contracts.

3.7 The Receiver used the following source documentation for this analysis:

3.7.1 The executed Debtor Bitmain Contracts;

3.7.2 The expected contractual payment schedule forecast for IE CA 3 and IE CA 4 and their respective loan schedules provided by NYDIG pursuant to the MEFAs;

3.7.3 Redacted bank statements from Iris Energy's bank, NAB, detailing the relevant actual payments made by Iris Energy to Bitmain pursuant to both contracts; and,

3.7.4 Information extracted from Bitmain's ERP system which confirmed the actual amounts received under the Debtor Bitmain Contracts.

3.8 The USD$62m Bitmain Contract is a fixed price contract and is therefore not subject to pricing adjustments. The initial payments in March and May 2021 of USD$12.4m and USD$1.8m, respectively, were funded directly by Iris Energy to Bitmain. On May 26, 2021, NYDIG advanced USD$11.4m to Iris Energy to reimburse Iris Energy for a portion of the initial payments. Thereafter, contractual payments to Bitmain consisted of 80% funding from NYDIG, with the remaining 20% contributed by Iris Energy. Attached as **Appendix C** is a diagram that sets out the flow of funds to Bitmain from NYDIG and Iris Energy.

3.9 The USD$132m Bitmain Contract is a non-fixed price contract which includes an estimate of the price per machine at the contract execution date. The actual price per machine is determined and communicated one month before each batch of machines is shipped and is set based on prevailing market conditions. Attached as **Appendix C** is a diagram that sets out the flow of funds to Bitmain from NYDIG and Iris Energy.

3.10 The analysis conducted on the USD$132m contract uncovered a USD$1,778,338 balance of cash prepayments with Bitmain. The Receiver has requested a refund of this amount from Bitmain.

3.11 Based on the documentation reviewed the Receiver is satisfied that:

3.11.1 NYDIG's funding under the MEFAs went to Bitmain to fulfill payment obligations under the Debtor Bitmain Contracts; and,

3.11.2 The Debtors fulfilled their obligations under the Debtor Bitmain Contracts and as a result the Debtors should have received the miners specified in the Debtor Bitmain Contracts.

Physical Collateral Reconciliation

3.12 The objectives of the Physical Collateral Reconciliation were to confirm that the Debtors received all of the Mining Equipment from Bitmain at the Iris BC Sites and generate a master list of machines, their serial numbers and their location.

3.13 The Receiver used the following information sources for this analysis:

3.13.1 A list of machines including serial numbers provided by NYDIG;

3.13.2 Two separate list of machines including serial numbers provided by Iris Energy, one from their system report and one from their physical scanning process;

3.13.3 Information from Bitmain's ERP system with respect to number of units shipped; and,

3.13.4 Shipping documentation provided by Iris Energy.

3.14 The Receiver notes that Bitmain is not able to provide a list of machines including serial numbers, as this information is not stored in their ERP system. Bitmain's information does provide the number of units shipped.

3.15 Through a review of the above information, discussions with NYDIG, Iris Energy and Bitmain the Receiver determined that the final shipment under the USD$62m Contract was not completed; therefore 1,520 units are currently sitting in Bitmain's warehouse in Malaysia. The Receiver is in discussions with Bitmain with respect to this remaining shipment and Bitmain has confirmed they will take instructions exclusively from the Receiver with respect to these units.

3.16 As noted in the First Report, during the Receiver's initial visits to the Iris BC Sites in early February, the Receiver was not able to complete a Physical Collateral Reconciliation of the Mining Equipment at any of the Iris BC Sites due to the equipment being wrapped and palleted prior to the Receivership.

3.17 The reconciliation exercise performed using the sources above showed discrepancies between the lists of machines. The Receiver is unable to complete the Physical Collateral Reconciliation without unwrapping all of the pallets and physically confirming which Mining Equipment is located at the Iris BC Sites. This physical confirmation will be completed as part of the Testing Protocol described above in order to develop a complete list of the Mining Equipment subject to NYDIG's collateral.

Bitmain Coupon Analysis

General overview

3.18 The objective of the Bitmain Coupon Analysis was to enable the Receiver to understand what coupons and credits were attributed by Bitmain to the Mining Equipment purchased under the Debtor Bitmain Contracts.

3.19 As noted in the First Report, Iris Energy only maintained one Bitmain account for the purposes of conducting business on behalf of the entire Iris Energy Group, including the Debtors. As a result, all coupons and credits were/are co-mingled with coupons and credits that were issued in respect of purchases made by other Iris Energy Group entities. The criteria and calculations used by Bitmain in issuing coupons is discussed below. Credits are issued as a result of variable price contracts and represent the difference between the estimated machine pricing and actual machine pricing.

3.20 In response to numerous inquiries from the Receiver, Iris Energy repeatedly advised the Receiver that it did not know the basis on which Bitmain issues coupons. The Receiver therefore asked Bitmain to explain the coupon program and identify the coupons and their values that were issued as a result of the Debtor Bitmain Contracts, even if issued to the Iris Energy Bitmain account. Bitmain provided this information to the Receiver and, subsequent to this, the Receiver had several follow-up calls with representatives of Bitmain to allow the Receiver to ask questions and gain a better understanding of the information provided in respect of the coupons. Generally, Bitmain issued coupons as incentives for purchasers to acquire further machines and coupons were typically, but not exclusively, issued based on the value of previous purchases.

3.21 The Receiver notes that Bitmain only provided the Receiver with information pertaining to the coupons, credits and discounts related to the Debtor Bitmain Contracts. On March 15, 2023, Iris Energy provided the Receiver with a schedule it sourced from Bitmain which listed the coupons, credits and discounts issued for the entire Bitmain account maintained by Iris Energy.

3.22 On April 5, 2023, the Receiver and Iris Energy representatives reviewed the Bitmain schedule which indicated that approximately USD$30m of coupons that were issued by Bitmain to the Iris Energy account. The Receiver confirms that some of these coupons were expired, some were issued prior to the Debtor Bitmain Contracts, some were used to IE CA 4, some were used to other entities in the Iris Energy Group, some were still outstanding and some were monetized by Iris Energy.

Receiver's analysis

3.23 Based on the information provided by Bitmain, the Receiver confirmed that Bitmain issued six coupons to the Debtors from June 2, 2022, to February 22, 2023, which they state relate to the Debtors. Five coupons, totaling USD$9,508,438.76, were issued in connection with the Debtor Bitmain Contracts. A sixth coupon valued at USD$623,060 was issued to Iris Energy's Bitmain account in recognition of Iris Energy representatives attending a Bitmain conference in February 2023. Bitmain allocated a portion of this coupon's value to the Debtor's based on the value of the Debtor's Bitmain Contracts (USD$174m at the time) as compared to the total purchases by Iris Energy (USD$262m at the time). In total, Bitmain issued coupons with a face value of USD$9,919,658.36 that it related to the Debtors Bitmain Contracts.

3.24 The Receiver continues to review and work with Bitmain to understand the full extent of the coupons issued to Iris Energy and the extent of appropriate allocation to the Debtors. Only one third of the coupons issued were allocated to the Debtors by Bitmain, whereas the value of the Debtors purchases with Bitmain at the commencement of the proceedings as compared to the total value of purchases from the Iris Energy Group was two thirds.

3.25 The table below summarizes the coupons issued to IE CA 4:

#	Coupon	Coupon amount issued (USD)	Coupon amount issued to IE CA 4 (USD)
1	Coupon 1	440,000.00	440,000.00
2	Coupon 2	5,955,938.76	5,955,938.76
3	Coupon 3	660,000.00	660,000.00
4	Coupon 4	32,500.00	32,500.00
5	Coupon 5	2,420,000.00	2,420,000.00
6	Coupon 6	623,060.00	411,219.60
7	**Total**	**10,131,498.76**	**9,919,658.36**

3.26 The information provided by Bitmain and reviewed by the Receiver references "Belonging Subjects" for these coupons. Coupon one to five list IE CA 4 as the "Belonging Subject". Bitmain confirmed to the Receiver that this reference indicates that the coupons were issued to IE CA 4. Bitmain has provided no details of any coupons issued to IE CA 3.

3.27 Based on the forgoing, the Receiver reviewed how the coupons allocated to the Debtors were used. The value of Coupon 1 and a portion of the value from Coupon 3 were used as partial consideration under the Debtor's Bitmain Contracts as detailed in the table below:

Coupon	Cumulative coupon amount (USD)	Coupon amount used by IE CA 4 (USD)	Order ID (note 1)
Coupon 1	440,000.00	440,000.00	12022060601005
Coupon 3	660,000.00	227,353.00	12022101001034
		122,919.00	12022101001035
		77,282.00	12022101001036
Total	**1,100,000**	**867,554.00**	

Note 1: Order IDs linked to IE CA 4's two contracts and where the coupons were used by IE CA 4.

3.28 Based on the information provided by Bitmain, the Receiver noted that Coupon 2 and 4 (valued at approximately USD$6m) were applied, at face value to purchases of machines by IE CA 6 Holdings Ltd.

3.29 The Receiver asked Iris Energy whether the Debtors received any consideration from IE CA 6 Holdings Ltd or any other entity in the Iris Energy Group for the use of Coupon 2 and 4. On April 6, 2023 Iris Energy advised that the Debtors had not received any consideration for these coupons as in their view, the coupons were the property of the parent company as they were issued to the Iris Energy account and the parent company maintained the relationship with Bitmain.

3.30 Based on the information provided by Bitmain, a review of the intercompany accounts and the response from Iris Energy above regarding consideration it is clear to the Receiver that IE CA 6 Holdings Ltd. has not compensated the Debtors for the use of these coupons valued at approximately USD$6m. As a result, IE CA 6 Holdings Ltd. is indebted to IE CA 4 for the full value of these coupons. The Receiver is of the view that it is appropriate to complete the Bitmain Coupon Analysis before pursuing this matter further with IE CA 6 Holdings Ltd., as the analysis may uncover additional coupons that were improperly used by IE CA 6 Holdings Ltd or other Iris Energy subsidiaries.

3.31 The Receiver will continue to work with Bitmain to confirm the value of the coupons attributed to the Debtor Bitmain Contracts, the value used by the Debtors and the value used by other Iris Energy Group entities. Based on the information provided to date, the Receiver understands that approximately USD$30m of coupons were issued by Bitmain to the Iris Energy account, only USD$10m have been allocated by Bitmain the Debtors Bitmain Contracts and only $868k of these coupons were used by the Debtors in their Mining Equipment purchases.

Coupons set to expire

3.32 As part of the Receiver's review of the Bitmain Coupons, the Receiver noted that Coupons 5 and 6 were set to expire on April 23, 2023, and May 22, 2023. These coupons had a face value of USD$2.42m and USD$623k respectively.

3.33 Iris Energy has advised that all coupons issued by Bitmain are the property of the parent company as the coupons are issued based on relationships and it is the parent company that has a relationship with Bitmain.

3.34 Bitmain has provided the Receiver with documentation which indicates that the coupons in question relate in whole or in part to the Debtors. Based on the information available to the Receiver, the Receiver shares this view.

3.35 The Receiver was concerned that the coupons would expire or diminish in value if they were not monetized promptly, notwithstanding the current disagreement between Iris Energy and the Receiver regarding ownership of the same. The Receiver accordingly contacted Bitmain to confirm how these coupons could best be monetized. Bitmain confirmed to the Receiver that the coupons were tradeable and could be sold to a third party. However, this would only be possible through Iris Energy's Bitmain account. While the Receiver initially requested that Iris Energy transfer the coupons to a new Bitmain account controlled by the Receiver. Iris Energy rejected this request and claimed that the coupons were its property. Given the pending expiry dates, the fact that Iris Energy had a Bitmain account and the ability to facilitate the sale, and the entitlement to the coupons was in dispute, the Receiver and Iris Energy agreed that Iris Energy would monetize the coupons and the proceeds would be held in trust.

3.36 Iris Energy contacted six potential bidders to source bids for the expiring coupons. Iris Energy then presented these offers to the Receiver with a recommendation to proceed with a particular bid. The Receiver discussed the offers with NYDIG and the Receiver requested that Iris Energy try to increase the bid. Iris Energy was able to slightly improve the bid so, while the offers were much lower than expected, the Receiver ultimately agreed to a sale to the highest bid.

3.37 Iris Energy sold the coupons on March 23, 2023, for the total proceeds of USD$433,636. Coupon 5 with value of USD$2.42m was sold for USD$344,850 and Coupon 6 with value of USDt$623k was sold for USD$88,786. The cash received by Iris Energy for this sale was sent to Norton Rose in trust pending an agreement on the release of funds or a court order. The Receiver's position is that all of Coupon 5's realized value (USD$344,850) and two thirds of Coupon 6 realized value (USD$59,190.67) are owned by the Debtors. This is a total of USD$404,040.67.

3.38 The Receiver outlined its position on its entitlement to the coupon proceeds to Iris Energy in an email dated April 3, 2023. On April 6, 2023, Iris Energy responded as follows:

"In respect of the coupon sales, we have not seen the information you received from Bitmain and therefore are not sure how you reached the conclusion you have on this issue. As noted previously, these coupons were not provided for in any borrower hardware contract and issued to

Iris Energy Limited who owned the coupons. We ask that you share the information you have received from Bitmain and we expect we may need to discuss certain inconsistencies or issues after reviewing your materials.

As you know, the sale proceeds are held securely in trust, so there does not appear to be any urgent need for an application while this further information is sought from Bitmain."

3.39 On April 5, 2023, the Receiver requested that Bitmain authorize the release of the information to Iris Energy. On April 7, 2023, the Receiver followed up with Bitmain on this request. On April 8, 2023, Bitmain provided consent. The Receiver provided the Bitmain information to Iris Energy on April 10, 2023.

3.40 The Receiver is seeking an order requiring Norton Rose to release USD$404,040.67 from its trust account to the Receiver forthwith.

Intercompany Analysis

3.41 The objective of the Intercompany Analysis was to verify the appropriateness of each intercompany transaction and the resulting presentation in the financial statements. The Intercompany Analysis was undertaken using the Debtors general ledgers, intercompany statements and financial statements.

3.42 The Intercompany Analysis discloses that the Debtors transacted with several Iris Energy Group entities, including Iris Energy, the Host Entities, IE CA 1 Holdings Ltd., IE CA 5 Holdings Ltd. and IE CA Development Holdings 4 Ltd.

3.43 All funding from NYDIG that was paid to the Iris Energy Group went to Iris Energy and was then recorded in the Debtor accounts as intercompany transactions. In addition, Iris Energy paid the interest and principal payments to NYDIG under the MEFAs and these payments were recorded in the Debtor accounts as intercompany transactions. The Receiver noted that these payments were recorded in accordance with the loan and equity agreement that IE CA 3 and IE CA 4 entered into with Iris Energy on February 23, 2022 (the "**Loan and Equity Agreements**"), which specified that funding to the Debtors would be treated 50% as debt and 50% as equity.

3.44 The intercompany analysis is not yet complete. The Receiver estimates that there are approximately 340 intercompany transactions in IE CA 3 and 490 intercompany transactions in IE CA 4 between the Debtors and the Iris Energy Group which require review. As part of its review, the Receiver is seeking affirmation that the Debtor's revenue and expenses, which are based on the Hashpower Agreement and Hosting Agreements which are discussed further below.

Amounts paid under the Hashpower Agreement and the Hosting Agreement

3.45 The objective of this analysis was to confirm that the revenue received by the Debtors (and associated costs) were equal to the amounts prescribed under the Hashpower Agreement and the Hosting Agreement.

3.46 As described in the First Report, only IE CA 4 has a Hashpower Agreement and a Hosting Agreement, IE CA 3 does not. The Receiver was advised by the Iris Energy Group that they intended to enter into agreements with IE CA 3 identical to the Hashpower and Hosting Agreements with IE CA 4, but such agreements were never finalized or executed. Accordingly, IE CA 3 had allocated revenue and expenses to on the same basis, notwithstanding the absence of such agreements.

3.47 The Debtors' revenue and expenses pursuant to the Hashpower Agreement and Hosting Agreements are calculated based on the energy used by the Mining Equipment. The Receiver recalculated the revenues and expenses based on the IE CA 4 agreements and completed a similar reconciliation for IE CA 3 based on using the same provisions of the IE CA 4 Hashpower Agreement and schedule of energy usage. These amounts were agreed to entries made in the Debtor's general ledgers and bank statements. Iris Energy has provided the Receiver with source documentation in the form of BC Hydro statement screenshots which the Receiver is still to reconcile. The Receiver currently has no outstanding queries with Iris Energy in relation to this work.

4. Bitcoin collateral dispute

4.1 As outlined in the First Report, the Receiver requested from Iris Energy a significant amount of information related to the Bitcoin generated by the Mining Equipment. This information is described above in section 1.5 and is referred to as the Bitcoin Information. As further outlined in the First Report (at section 2.16), the majority of the Bitcoin Information would have formed part of an arm's length Hashpower Agreement. The Hashpower Agreement is not arm's length and IE CA 3 does not have a Hashpower Agreement. None of the Bitcoin Information is contained or provided for in the Hashpower Agreement.

4.2 Without the Bitcoin Information the Receiver is unable to determine how much Bitcoin was generated by the Mining Equipment, trace such Bitcoin or determine the amount of proceeds that were realized from the sale of such Bitcoin. Iris Energy has declined to provide this information to the Receiver, on the basis that the Bitcoin Information is not relevant to NYDIG's collateral. The Receiver has been advised by NYDIG and its counsel that NYDIG disagrees with this position and is firmly of the view that all Bitcoin generated by the Mining Equipment (and proceeds realized from the sale of such Bitcoin) form part of NYDIG's collateral.

4.3 The Receiver advised NYDIG and its legal counsel of Iris Energy's position with respect to the Bitcoin as collateral and requested that NYDIG's legal counsel speak to legal counsel for Iris Energy to discuss the matter further. The Receiver is advised by legal counsel to both parties that

some discussions have taken place but that, to date, no resolution has been reached regarding the scope of NYDIG's collateral over the Bitcoin and associated proceeds

4.4 On April 6, 2023, the Receiver was copied on correspondence from NYDIG's legal counsel to Iris Energy's legal counsel explaining NYDIG's position on why the Bitcoin mined using the hashpower generated by the NYDIG financed Mining Equipment as well as any proceeds resulting from the sale of such Bitcoin is NYDIG's collateral (the "**April 6 NYDIG letter**"). A summary of NYDIG's position as outlined in the April 6 NYDIG letter is provided below:

4.4.1 NYDIG fundamentally disagrees with Iris Energy's position that the Debtor's did not, at any point, own, possess or control any cryptocurrency including Bitcoin mined by the Mining Equipment (the "**Digital Assets**") owned by the Debtors and financed by NYDIG under the MEFAs, and therefore that no Digital Assets, or proceeds thereof, form part of NYDIG's collateral package;

4.4.2 In NYDIG's view, the Debtors did own and/or control the Digital Assets mined using the NYDIG financed Mining Equipment. Those Digital Assets form part of NYDIG's collateral and are subject to NYDIG's security interest. NYDIG views Iris Energy's position as "fundamentally inconsistent with the economics of NYDIG's financing and the reasonable expectations of any third- party lender";

4.4.3 Due to the depreciating nature of the Mining Equipment, the financing agreed by NYDIG made commercial sense as the Digital Assets formed part of the collateral. When Iris Energy approached NYDIG for financing there was no representation made at any time that the Digital Assets were omitted from NYDIG's collateral;

4.4.4 Based on NYDIG's analysis, the digital wallet(s) containing the proceeds of the Digital Assets that NYDIG claims as part of its collateral has a market value of approximately USD$100m at today's prevailing prices;

4.4.5 In NYDIG's view, the information requested by the Receiver relating to the Digital Assets is relevant for NYDIG to enforce its secured creditor rights, and subject to the terms of the Receivership Order;

4.4.6 NYDIG's views are consistent with the language of the MEFAs, its schedules 1-9 (the **"Schedules**"). The Digital Account Control Agreement, dated September 8, 2022 (the "**DAACA**") and the Digital Asset Custodial Agreement (the "**DACA**") between the Debtors and NYDIG;

4.4.7 In addition to the agreements above, NYDIG and Iris Energy entered into a parental letter agreement (the "**Parent Letter Agreement**") in which Iris Energy acknowledged and consented to the collateral assignment of the Borrower's rights in the Hashpower Agreement to NYDIG ABL LLC in its capacity as collateral agent, acting on behalf of NYDIG; and,

4.4.8 The Hashpower Agreement, on which Iris Energy bases its entitlement to Bitcoin ownership, does not provide that proceeds of Digital Assets mined by IE CA 4 are not NYDIG's collateral and no Hashpower Agreement exists for IE CA 3.

4.5 In its First Report the Receiver provided the Court with several pieces of correspondence between the Receiver and Iris Energy with respect to the Bitcoin Information and the Receiver understands that those letters contain Iris Energy's position on the matter. This was also set out by Iris Energy's Legal Counsel, Norton Rose, in its letter of March 2, 2023, attached at **Appendix D** (the "**Norton Rose March 2 letter**"). For completeness the Receiver summarizes Iris Energy's position on the matters as follows:

4.5.1 At no time has IE CA 3 or IE CA 4 ever mined, owned or possessed Bitcoin. Instead, they provided hashpower services to Iris Energy;

4.5.2 Under the Hashpower Agreement between IE CA 4 and Iris Energy, IE CA 4 sold hashpower services to Iris Energy who was entitled to use hashpower for whatever purposes it desired;

4.5.3 Under the MEFA the Debtors are expressly permitted to dispose of collateral, including in the ordinary course of business or under a Hashpower Agreement. The collateral is limited to only property possessed or controlled by the respective Debtor and not to any other affiliated entity; and,

4.5.4 The DACA and DAACA do not apply to this matter as these agreements were entered into in case the miners continued to operate after delivery of a Hashpower Agreement termination notice which did not occur.

4.6 As noted previously, the Receiver adjourned its application scheduled for March 15, 2023, on three conditions, one of which was that Iris Energy work with legal counsel for NYDIG to have the Bitcoin security issue determined as soon as possible.

4.7 The issue has not been resolved between the parties and as a result the Receiver has brought back on its application directing Iris Energy or the relevant subsidiary to provide the Bitcoin Information.

5. Solvency of the Debtors

5.1 As described in the First Report, Iris Energy maintains that the Debtors were only entitled to revenue pursuant to the Hashpower Agreement and were required to pay the expenses under the Hosting Agreement. As noted in the First Report, the Receiver has confirmed that a Hosting Agreement and Hashpower Agreement was not documented for IE CA 3. Iris Energy maintains that the set-up for IE CA 3 was the same notwithstanding the absence of any agreements and this is reflected in the financial statements.

5.2 In addition to the Hosting Agreement fees the Debtors were also responsible for repayment of the NYDIG loans, which initially required payments of interest only and subsequently monthly principal and interest payments of USD$2.9m for IE CA 3 from March 2022 and USD$4.1m for IE CA 4 from October 2022.

5.3 The Receiver was provided with financial statements for the Debtors on a standalone basis for the period January 2022 to December 2022. Attached at **Appendix E** are two schedules that include a summary of relevant information from the profit and loss statement for each Debtor until the Debtors defaulted on the loans with NYDIG.

5.4 The Receiver notes that the Mining Equipment was shipped over a period of time and therefore the Receiver would have expected a ramp-up period whereby the Debtors would potentially be operating at a loss before being able to generate sufficient cash flow to pay the NYDIG loan payments. To illustrate this point, the schedules include the number of miners financed by NYDIG that were delivered in a given month.

5.5 However, based on Iris Energy's position that the only income to which the Debtors were entitled was the small profit margin realized under the Hashpower Agreement (and, with respect to IE CA 3, the informal arrangement) the Debtors were not, and never would be, generating sufficient profits to fund the monthly loan payments of USD$2.9m and USD$4.1m to NYDIG or repay any intercompany debt from Iris Energy.

5.6 In June 2022, IE CA 4 recorded two material transfer pricing adjustments which increased the hashpower income and hosting expense by $12.0m and $1.3m, respectively. This was a non-cash year end adjustment which contributed $10.7m to IE 4's gross profit in June. However, even with this adjustment, (which requires further investigation by the Receiver) IE CA 4 only generated income of $12m in their 2022 financial year. If these adjustments were not made, IE CA 4 would not have generated any gross profit. IE CA 3 has one material adjustment of an intercompany recharge receivable from Iris Energy's subsidiary, Podtech Data Centres Inc. Even with this adjustment, IE CA 3 was loss making in its 2022 financial year.

5.1 It is not clear to the Receiver how the Debtors were ever going to be able to make the payments under the MEFA or repay the intercompany loans with Iris Energy. If, as Iris Energy submits, the Debtors were never in possession of or had any entitlement to Bitcoin generated from the Mining Equipment, then the Debtors were insolvent from the moment NYDIG advanced the NYDIG loans.

Neither Debtor had any gross profit if their only income was, as Iris Energy alleges, the amounts payable under the Hashpower Agreement (or, with respect to IE CA 3, the informal arrangement). The Receiver continues to request information from Iris Energy on this issue in order to permit the Receiver to understand and assess the matter.

6. Communications with Iris Energy

6.1 The Receiver has requested a variety of information from Iris Energy. Since the First Report, Iris Energy has been timelier in responding to the Receiver's queries and providing information. While some information requests remain unanswered, Iris Energy did address the following since the First Report:

6.1.1 Provided information to support the PST rebate claim;

6.1.2 Provided general ledgers and financial statements for the Debtors up to January 2023;

6.1.3 Responded to further questions to support the Physical Collateral Reconciliation;

6.1.4 Provided details of the Bitmain Coupons issued by Bitmain;

6.1.5 Monetized the expiring coupons; and,

6.1.6 Assisted with the logistical planning and support for the Testing Protocol.

6.2 Iris Energy continues to refuse to provide the information below or respond the Receiver's questions relating to the following information:

6.2.1 Evidence of the hashpower generated by the NYDIG funded Mining Equipment at the Iris BC Sites and the quantum of hashpower produced by the Debtors' Mining Equipment on an output/hashpower basis;

6.2.2 The name of the mining pool the ("**Mining Pool**") that Iris Energy or the relevant subsidiary used to pool the Mining Equipment's hashpower with the hashpower of other Bitcoin miners in an effort to increase their chances of earning Bitcoin;

6.2.3 The Iris Energy public wallet key address or addresses to determine the total number of Bitcoin paid to Iris Energy by the Mining Pool in consideration of the proportionate amount of hashpower generated by the Mining Equipment relative to the total amount of hashpower generated by all miners in the Mining pool;

6.2.4 An accounting of Iris Energy's sale of Bitcoin and the revenue received from same, including all relevant supporting documentation; and,

6.2.5 Provide Iris Energy's bank statements showing its receipt of USD or other currency resulting from the Bitcoin sales.

7. Conclusions

7.1 The Receiver has been diligently working to perform its duties and identify the Debtors assets and the nature and quantum of NYDIG's collateral. A significant amount of work has been done to perform the reconciliations and analysis described in this Report. There is still significant work to be done to complete the reconciliations that remain in progress.

7.2 As described above, the Receiver has not received any of the Bitcoin Information. As outlined in the First Report (at section 2.16), the majority of the Bitcoin Information is information that the Receiver's legal counsel advises would have formed part of an arm's length Hashpower Agreement. The agreement in question is not arm's length and does not contain this information. As a result, the Receiver has requested this information to allow it to perform the Bitcoin Analysis.

7.3 The Receiver remains concerned that NYDIG's collateral is dissipating or being sold to third parties. This concern is magnified by the fact that the price of Bitcoin has been steadily increasing since the beginning of 2023. For example, on January 1, 2023, the price of a single Bitcoin was USD$16,625.08 and on April 9, 2023, the price was USD$28,191.71. The Receiver understands that legal counsel for NYDIG and legal counsel for Iris Energy have had several discussions about NYDIG's collateral and in particular whether NYDIG's collateral includes Bitcoin that was generated by the Mining Equipment and that Iris Energy have explained was liquidated on a daily basis. The Receiver advised both parties that the Receiver is not taking a position on this issue, but simply wants an agreement or a determination by the Court on this matter so that it can complete its duties.

7.4 The Receiver advised this Court in its First Report that in light of the information it had reviewed to that date, the Receiver was increasingly concerned that while the Iris Energy Group is comprised of several entities, it was operating as one homogenous group and as a result, the Receiver would need to obtain access to information at the parent company level to complete its reconciliation and tracing of the assets owned by the Debtors and the collateral that forms part of the NYDIG security package.

7.5 The concerns raised by the Receiver in its First Report have only grown more accurate based on the information it has reviewed to date and the analyses described in this report. As a result, the Receiver is seeking an order from this Court directing the release of the Bitcoin Information to the Receiver.

7.6 In addition, for the reasons outlined in the Second Report, the Receiver believes that it is entitled to USD$404,040.67 of proceeds from the sale of the coupons which Bitmain has indicated relate to the Debtors.

7.7 The Receiver submits this Second Report to the Court in support of its application for:

7.7.1 an Order directing Iris Energy or the relevant subsidiary in the Iris Energy Group to provide the Bitcoin Information; and,

7.7.2 an Order directing Norton Rose to release the proceeds from the sale of the two coupons USD$404,040.67 to the Receiver.

All of which is respectfully submitted on this 10th day of April 2023.

PricewaterhouseCoopers Inc., LIT
In its capacity as Court-Appointed Receiver-Manager of IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd. and not in its personal capacity.

Michelle Grant, CIRP, LIT
Senior Vice President

Morag Cooper
Vice President

Appendix A
Glossary of defined terms

Defined Term	Defined Meaning
"Amounts paid under the Hashpower Agreement and Hosting Agreement"	Analyzing the income and expenses recorded in the financial records of IE CA 3 and IE CA 4 to determine whether they reflect the contractual arrangements with Iris Energy through the Hashpower Agreement and Hosting Agreement
"April 6 NYDIG letter"	Correspondence from NYDIG's legal counsel to Iris Energy's legal counsel explaining NYDIG's position on why the Bitcoin generated from the hashpower produced by Mining Equipment forms part of NYDIG's collateral
"Axis"	Iris's Energy's insurance brokers (Axis Insurance Group)
"Bid Air"	Bid Air Aviation
"Bitcoin information"	Information the Receiver is seeking Iris Energy to provide, listed in sections 1.5.1 through 1.5.5 of the Second Report
"Bitmain"	Bitmain Technologies Limited
"Bitmain Coupon Analysis"	Analyzing the coupons, credits and discounts issued by Bitmain to Iris Energy to identify those that relate to the Debtors
"CAD"	Canadian dollars
"Conifex"	Conifex Mackenzie Forest Products Ltd
"Conifex Storage and Transportation Agreement"	The Receiver's contract with Conifex signed April 6, 2023
"Court"	The Supreme Court of British Columbia
"CRA"	Canada Revenue Agency
"DAACA"	Digital Account Control Agreement
"DACA"	Digital Asset Custodial Agreement
"Debtors"	IE CA 3 and IE CA 4
"Debtor Bitmain Contracts"	USD$62m Bitmain Contract and USD$132m Bitmain Contract
"Digital Assets"	Cryptocurrency including Bitcoin mined by the Mining Equipment
"EH/s"	A commonly used denomination of a hashrate is exahash per second which is equal to one quintillion hashes per second.
"February 13 Osler Letter"	Letter sent by Receiver's counsel to communicate concerns by letter to Iris's Energy's counsel.
"February 13 Press Release"	Market announcement by Iris Energy on February 13, 2023
"February 14 Norton Letter"	Letter sent by Iris Energy's counsel to Receiver's counsel.
"February 23 Osler Letter"	Letter sent by Receiver's counsel to communicate continued concerns by letter to Iris Energy's counsel.
"February 24 Norton Letter"	Letter sent by Iris Energy's counsel to Receiver's counsel stating the $67m purchase no relation to the debtors.
"February 28 Osler Letter"	Letter sent by Receiver's counsel to Iris Energy's counsel to request cash funds relating to Counterparty D transaction to be held in a trust.
"February 28 Norton Email"	Email from Iris Energy's counsel to confirm outstanding requests were being worked on.
"First Report"	Receiver's First Report to Court, issued on March 10, 2023
"First Shah Affidavit"	The Affidavit of NYDIG CEO Mr. Tejas Shah sworn on January 17, 2023

Defined Term	Defined Meaning
“Group Insurance”	Axis confirmed that the insurance underwriters agreed to add the Receiver to the Iris Energy Group’s existing property insurance policy
“Hashpower Agreements”	Debtors entered an agreement with Iris Energy for the sale of the machinery output measured by hashrate from the Mining Equipment
“Host Entities”	Iris Energy subsidiaries acting as hosts to the Debtors.IE CA Development Holdings 2 Ltd at the Mackenzie site, Podtech Data Centres Inc at the Canal Flats site and IE CA Development Holdings 4 Ltd at the Prince George site.
“Hosting Agreements”	Subsidiary entities that may act as “hosts” to the Debtors which supply all services by way of a hosting agreement
“IE CA 3”	IE CA 3 Holdings Ltd (Debtor)
“IE CA 4”	IE CA 4 Holdings Ltd (Debtor)
“IE CA 3 Equity and Loan Agreement”	IE CA 3’s intercompany loan agreement with Iris Energy Ltd
“IE CA 4 Equity and Loan Agreement”	IE CA 4’s intercompany loan agreement with Iris Energy Ltd
“IMA”	IMA Financial Group (insurance brokers)
“Initial Term”	First six months of storage agreement with Conifex
“Intercompany Analysis”	Analysing the intercompany accounts between the Debtors and the Iris Energy Group
“Iris Energy”	Parent company of the Debtors
“Iris Energy Group”	Additional subsidiaries of the parent company
“kWh”	Kilowatt hour of electricity usage
“Loan and Equity Agreements”	Loan and equity agreement that IE CA 3 and IE CA 4 entered into with Iris Energy on February 23, 2022
“Malaysia Shipment”	1,500 units of Mining Equipment initially intended to be shipped from Malaysia in October 2022 to IE CA 3 which the Receiver ordered not to be shipped.
“March 2 Norton Email”	Letter from Iris Energy’s counsel informing the Receiver that Iris Energy were creating a counter-proposal to unpacking and testing all the Mining Equipment.
“March 3 Osler Letter”	Letter sent by Receivers’ counsel to outline outstanding requests and queries regarding Bitcoin and hashpower.
“March 5 Norton Rose Letter”	Letter from Iris Energy’s counsel declining to unpack and test the Mining Equipment.
“March 6 Norton Rose Email”	Email from Iris Energy’s counsel declining to provide hashpower and Bitcoin information.
“March 7 Osler Letter”	Letter sent by Receivers’ counsel to Iris Energy’s counsel informing of their intention to bring an application to the Court compelling the production of all outstanding information and process for testing the Mining Equipment.
“MEFAs”	Master Equipment Financing Agreements
“Mining Equipment”	Security interest of NYDIG which consist of mining servers distributed across the three sites
“Mining Pool”	The name of the mining pool that Iris Energy or the relevant subsidiary used to pool the Mining Equipment’s hashpower with the hashpower of other Bitcoin miners
“NAB”	National Australia Bank
“Norton Rose”	Norton Rose Fulbright Canada LLP
“Norton Rose March 2 Letter”	The Receiver provided the Court with several pieces of correspondence between the Receiver and Iris Energy with respect to the Bitcoin Information and the Receiver understands that those letters contain Iris Energy’s position on the matter. This was also

Defined Term	Defined Meaning
	set out by Iris Energy's Legal Counsel, Norton Rose, in its letter of March 2, 2023
"NYDIG"	NYDIG ABL LLC
"NYDIG Flow of Funds Analysis"	Determining whether NYDIG's funding was used to acquire Mining Equipment from Bitmain pursuant to both the USD$62m Bitmain Contract and the USD$132m Bitmain Contract
"Osler"	Osler, Hoskin & Harcourt LLP
"Paladin"	Paladin Security
"Parent Letter Agreement"	NYDIG and Iris Energy entered into a parental letter agreement
"Physical Collateral Reconciliation"	Reconciling the serial numbers of machines from the lists of Mining Equipment provided separately by NYDIG and Iris Energy in order to confirm the Mining Equipment that forms part of NYDIG's collateral
"Property "	Assets, undertakings, and property of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd.
"PwC"	PricewaterhouseCoopers Inc.
"RBC"	Royal Bank of Canada
"Receiver"	PwC, in its capacity as Court-Appointed Receiver and Manager of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd, appointed pursuant to Order of the Supreme Court of British Columbia on February 3rd, 2023.
"Receiver's Website"	A website created and maintained by the Receiver that contains certain materials filed by the Receiver and other stakeholders in relation to the receivership proceedings at the URL: www.pwc.com/ca/ieca34
"Receivership Order"	The Receivership Order granted on February 3rd, 2023 appointing PwC as receiver and manager of the assets, undertakings, and property of the Company
"Reporting Deadline"	The Receiver cut-off the information on which it is reporting as of noon PST on March 7, 2023.
"Schedules"	Schedules agreed with the NYDIG Master Equipment Finance Agreement
"Second Report"	Receiver's Second Report to Court, issued on April 10, 2023
"Testing Protocol"	A formal proposal for the Host Entities to facilitate the testing of all the Mining Equipment
"USA"	United States of America
"USD"	US dollars
"USD$62m Bitmain Contract"	The purchase price was set at $62.1m with 1,500 machines to be shipped each month from November 2021 to October 2022
"USD$132m Bitmain Contract"	The purchase price was set at $132m with 2,200 machines to be shipped each month from November 2021 to July 2022
"USD$400m Bitmain Contract"	Relates to a Bitmain contract with IE CA Development Holdings 6 Ltd with a total value of USD$400m

Appendix B
Testing Protocol

Hardware Equipment Testing Protocol

Overview

On February 3, 2023, PricewaterhouseCoopers Inc. ("PwC") was appointed by the Supreme Court of British Columbia as Receiver of IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd (the "Debtors"). The Debtors assets include approximately 36,400 units of computing hardware (the “Hardware Equipment”) across three sites in British Columbia: Prince George, Mackenzie and Canal Flats owned by IE CA Development Holdings 4 Ltd, IE CA Development Holdings 2 Ltd and Podtech Data Centers Inc., respectively (each a “Host Entity”, and collectively the “Host Entities”).

Currently the Hardware Equipment is packed in approximately 580 pallets, which packing was conducted prior to PWC’s appointment. PwC has determined they are unable to confirm the operational status or serial number of each machine and therefore cannot confirm that the Hardware Equipment in the ~580 pallets is the equipment owned by the Debtors. This document sets out a process and schedule for PwC and the third party labour that it is intending to contract with to unpack, check, test and repack the collateral across the three sites. PwC and the Host Entities agree that the Hardware Equipment must be removed from the sites as soon as possible.

Assumptions

The schedule included assumes the following:

1. That 4 people are required to unpack, scan, plug in, scan, test, unplug and repack on each pallet;
2. That the full testing process for each pallet takes less or equal to 2 hours;
3. That the third party labour engaged by PwC is available for a 7 days on 3 days off schedule at Prince George and Mackenzie and a 5 days a week schedule at Canal Flats. The labour figures will be confirmed once the testing process is underway and it can be determined how many people can be on site to perform the tasks. The labour figures will not exceed the following: 16 staff at Prince George; 20 at Mackenzie; and 12 at Canal Flats. There will also be 1 to 2 additional staff from PwC and other third party specialists to allow for supervision of the testing process and Foreman testing specialism. PwC staff will train the third party labour teams on the testing process;
4. That each Host Entity provide one 2.5MW section of rack space (that can test ~780 units of hardware, 34 bays) to allow multiple pallet testing to occur at the same time. The schedule currently assumes:
    a. 4 teams can be working on 4 pallets concurrently at Prince George;
    b. 5 teams can be working on 5 pallets concurrently at Mackenzie; and
    c. 3 teams can be working on 3 pallets concurrently at Canal Flats;
5. That only one day is required for the team’s orientation and preparation;
6. A total "effective" time of 6 hours per day (assuming this also compensates for delays with Foreman, breaks and pallet movements);
7. That trucks can collect 20 pallets at a time and can logistically manage pick-ups on dates assigned as soon as practical after the Hardware Equipment has been re-packed and is ready to move off-site;
8. That total pallets to be tested at each site are 192 at Prince George, 294 at Mackenzie and 96 at Canal Flats; and

9. Assumes orientation at Prince George on Thursday Mar 30, orientation at Mackenzie Friday March 31 and orientation at Canal Flats on Monday April 10.

With the assumptions above it is assumed that the following number of pallets can be tested at each location each day:

- 12 pallets per day at Prince George;
- 15 pallets per day at Mackenzie; and
- 9 pallets per day at Canal Flats

Caveats and support required from the Host Entities

1. The dates and assumptions provided in this schedule are all subject to change based on labour availability, travel schedules, pallet lifting equipment rental availability, the ramp-up period for the testing process, availability of space and assistance (as outlined below) from the Host Entities. The schedule attached indicates a start date of April 3, 2023, it is acknowledged that work commenced at Mackenzie and Prince George on April 4, 2023.
2. The Host Entities will be required to support PwC with the following:
    a. Access to site locations and access to all pallets, acknowledging that there will not be exclusive access to the site locations and that reasonable efforts will be made to coordinate work with onsite personnel;
    b. Access to Wifi generally and all required logins for the relevant Host Entity's network/Foreman system;
    c. A finalized sitemap in the Foreman system for each testing location (this had been completed for Prince George only during the run through phase);
    d. Include testing batch ID in the Foreman system reporting (as multiple batches will be tested on the same locations in any one day – this will help reconcile if required);
    e. Reasonable support with any Foreman system issues during testing, noting that it is generally Foreman that effects any required activities;
    f. Access to Host Entities equipment to support the testing: power and ethernet cables, ladders, pallet jackets, pallet wrapping/unwrapping tools. PwC will arrange for the rental of pallet lifting equipment capable of lifting at least 5,000 lbs for each site;
    g. Each Host Entity to confirm a site supervisor contact responsible for the site on days of testing; and
    h. Costs to be treated as outlined below and tracked separately for reporting purposes. All costs are required to be allocated by the Host Entities to each of the Debtors;
3. The Host Entities will order the required wrapping materials and also provide waste disposal receptacles; and
4. All PwC and third party representatives on site are responsible for their own transport and meals during the testing.

Costs

PwC will be responsible for all reasonable costs associated with testing of the Hardware Equipment.

PwC will cover all costs associated with its officers, employees, contractors, agents, subcontractors and professional advisors ("Representatives"), as well as all materials and equipment it procures directly for the testing.

The following will apply to the facilities, equipment, labour and any other support provided by the Host Entities during the testing:

1. Use of Facility
    - $2/miner/month equal to $72,800 per month, calculated pro-rata based on actual use days, plus actual electricity consumed through the testing process as measured by the onsite meters multiplied by the BC Hydro rates passed through at no markup. In the event the testing stretches beyond April 2023, the monthly facility use fee for May will be calculated based on the number of miners remaining on site as at May 1, 2023 (i.e., $2 x number of miners remaining), charged pro-rata based on actual use days until all miners are removed from site.
2. Materials
    - Cost plus 15%
3. Labour
    - Full-time supervisor at each site during the testing
        i. 8 hours per day at C$50/hr
        ii. Saturdays at 1.5x standard rates
        iii. Sundays at 2.0x standard rates
        iv. Any overtime up to 4 hours at 1.5x standard rates
        v. Any overtime above 4 hours at 2.0x standard rates
    - Any other labour requested by PwC and agreed to by the Host Entities to be charged at C$40/hr
    - Any reasonable travel, accommodation, and other out-of-pocket expenses, if required, to be passed through at cost
4. Equipment Usage
    - No charge for any equipment that is already owned by the Host Entities and able to be provided for use by PwC
    - Any equipment that has to be bought or rented to facilitate the testing process will be charged at cost plus 15%
5. Storage
    - Not applicable

Other

PwC and its Representatives must at all times during the testing:

- comply with all applicable laws and not cause the Host Entities to be in breach of applicable laws;
- perform the testing with the degree of professional skill, care and diligence expected of a competent professional contractor experienced in carrying out the same services or services of a similar size, scope and nature;
- perform the testing in a manner that minimizes, to the extent possible, disruptions or delays to the Host Entities' operations and business;
- be responsible for their own PPE and comply with all onsite instructions, protocols, and health and safety regulations;
- ensure that the testing areas and their surrounds are kept clean and tidy;
- keep the sites and any assets of the Host Entities free of any liens, security interests, and/or any encumbrance of any kind;
- ensure that they are appropriately accredited, qualified and trained and undertake and complete all appropriate and necessary training in relation to work, safety and health, noting that at all times, PwC is responsible for the control and management of its Representatives; and
- third party labour to have insurance policies with a reputable and financially sound insurer, with coverage limits as set out below, for a period that covers the testing, with policies written on a "claims made" basis:
    - public liability insurance in an amount of not less than C$5 million per claim with a request to add PwC and the Host Entities' as additional insureds under the policy (evidenced by certificate of insurance);
    - automobile insurance; and
    - insurance against any liability which may arise under law, including any relevant workers or accident compensation legislation; and
- PwC to use commercially reasonable efforts to obtain insurance policies for the Receiver with the same requirements as listed immediately above.

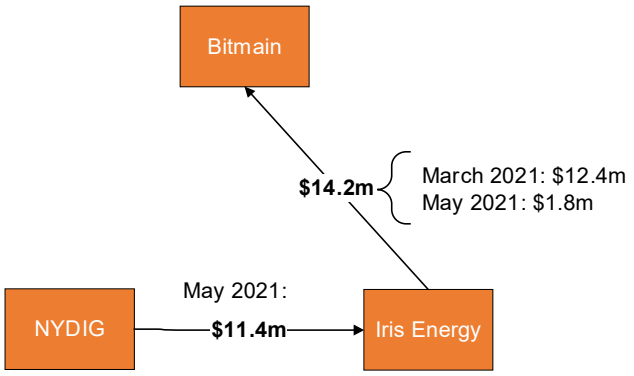
PwC undertakes testing at its full and sole risk and will be fully and solely responsible for all liability, cost, damage and/or personal injury resulting from the testing. PwC acknowledges that the Host Entities and their related entities, and their Representatives, do not provide any representations or warranties, and will not have any liability whatsoever (except for matters involving gross negligence or wilful misconduct) in connection with such testing including PwC's and the Representatives' presence on site and any damage to property or equipment (whether belonging to the Host Entities or otherwise) including the Hardware Equipment resulting from the testing. The Host Entities and their related entities will not be responsible for any repairs to the Hardware Equipment resulting from the testing, or to any unplanned outages or downtime howsoever caused.

	Week 0			Week 1							Week 2							Week 3							Week 4				
	Thur	Fri	Sa Su	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Mon	Tues	Wed	Thur	Fri
	30-Mar	31-Mar		3-Apr	4-Apr	5-Apr	6-Apr	7-Apr	8-Apr	9-Apr	10-Apr	11-Apr	12-Apr	13-Apr	14-Apr	15-Apr	16-Apr	17-Apr	18-Apr	19-Apr	20-Apr	21-Apr	22-Apr	23-Apr	24-Apr	25-Apr	26-Apr	27-Apr	28-Apr
PG site	**Kick off**																												
Number of pallets tested				12	12	12	12	12	12	12	0	0	0	12	12	12	12	12	12	12	0	0	0	12	12				
Total Pallets tested				**12**	**24**	**36**	**48**	**60**	**72**	**84**	**84**	**84**	**84**	**96**	**108**	**120**	**132**	**144**	**156**	**168**	**168**	**168**	**168**	**180**	**192**				
Pallets shipped				0	0	0	0	0	0	0	0	0	0	80	0	0	0	0	0	80	0	0	0	0	0	32			
Total pallets shipped				0	0	0	0	0	0	0	0	0	0	80	80	80	80	80	80	160	160	160	160	160	160	192			
Number of trucks required				0	0	0	0	0	0	0	0	0	0	4	0	0	0	0	0	4	0	0	0	0	0	2			
Total pallets remaining				**192**	**192**	**192**	**192**	**192**	**0**	**0**	**192**	**192**	**192**	**112**	**112**	**0**	**0**	**112**	**112**	**32**	**32**	**32**	**0**	**0**	**32**	**0**			
Mackenzie site		**Kick off**																											
Number of pallets tested				15	15	15	15	15	15	15	0	0	0	15	15	15	15	15	15	15	0	0	0	15	15	15	15	15	9
Total Pallets tested				**15**	**30**	**45**	**60**	**75**	**90**	**105**	**105**	**105**	**105**	**120**	**135**	**150**	**165**	**180**	**195**	**210**	**210**	**210**	**210**	**225**	**240**	**255**	**270**	**285**	**294**
Pallets shipped				0	0	0	0	0	0	0	0	0	0	100	0	0	0	0	0	100	0	0	0	0	0	0	0	0	94
Total pallets shipped				0	0	0	0	0	0	0	0	0	0	100	100	100	100	100	100	200	200	200	0	0	200	200	200	200	294
Number of trucks required				0	0	0	0	0	0	0	0	0	0	5	0	0	0	0	0	5	0	0	0	0	0	0	0	0	0
Total pallets remaining				**294**	**294**	**294**	**294**	**294**	**0**	**0**	**294**	**294**	**294**	**194**	**194**	**0**	**0**	**194**	**194**	**94**	**94**	**94**	**0**	**0**	**94**	**94**	**94**	**94**	**0**
Canal Flats							**Kick off**																						
Number of pallets tested							0	0	0	0	9	9	9	9	9	0	0	9	9	9	9	9	0	0	6				
Total Pallets tested							**0**	**0**	**0**	**0**	**9**	**18**	**27**	**36**	**45**	0	**0**	**54**	**63**	**72**	**81**	**90**	**90**	**90**	**96**				
Pallets shipped							0	0	0	0	0	0	0	20	0	0	0	20	0	0	40	0	0	0	16				
Total pallets shipped							0	0	0	0	0	0	0	20	20	20	20	40	40	40	80	80	80	80	96				
Number of trucks required							0	0	0	0	0	0	0	1	0	0	0	0	0	0	2	0	0	0	0				
Total pallets remaining							**96**	**96**	**0**	**0**	**96**	**96**	**96**	**76**	**76**	**76**	**76**	**56**	**56**	**56**	**16**	**16**	**16**	**16**	**0**				

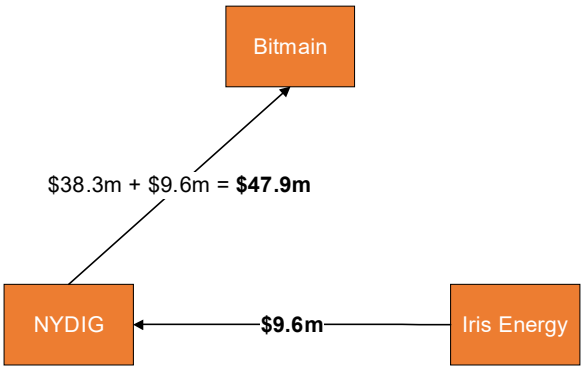
Appendix C
NYDIG flow of funds analysis

USD$62m Bitmain Contract

March 2021 to May 2021



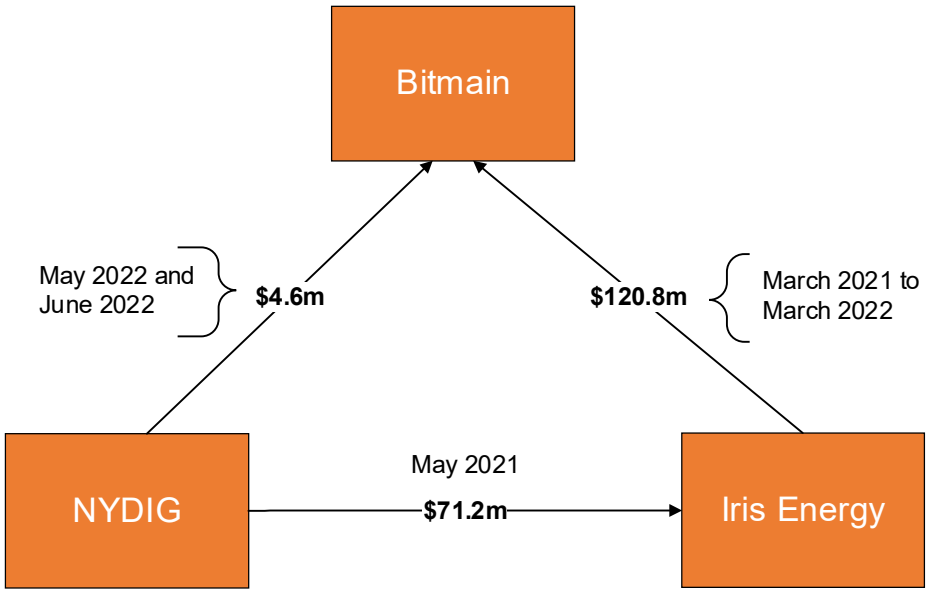
June 2021 to August 2022



Bitmain receipt = $14.2m + $47.9m = **$62.1m**
NYDIG funding = $11.4m + $38.3m = **$49.7m**
Iris funding = ($14.2m - $11.4m) + $9.6m = **$12.4m**

USD$132m Bitmain Contract

March 2021 to June 2022



Bitmain receipt = $120.8m + $4.6m = **$125.4m**
NYDIG funding = $71.2m + $4.6m = **$75.8m**
Iris funding = $120.8m - $71.2m = **$49.6m**

Appendix D
March 2 Norton Rose Letter

March 2, 2023

Sent By E-mail (MButtery@osler.com)

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 – 6th Avenue, SW
Calgary, AB T2P 1N2

Attention: Mary Buttery, KC

Norton Rose Fulbright Canada LLP
510 West Georgia Street, Suite 1800
Vancouver, BC V6B 0M3 CANADA

F: +1 604.641.4949
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Scott Boucher
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Assistant
+1 604.641.4578
krystal.shayler@nortonrosefulbright.com

Your reference	Our reference
1239988	1001149364

Dear Sir/Madam:

In the Matter of the Receivership of IE CA 3 Holdings Ltd. and IE CA 4 Holding Ltd. SCBC No. S230488, Vancouver Registry

We refer to:

(1) your correspondence dated February 23, 2023 (the "**February 23 Correspondence"**);

(2) our correspondence dated February 24, 2023 (the "**NRF February 24 Correspondence**");

(3) the emails between counsel on the morning of February 24, 2023 and the telephone discussion between counsel on Saturday, February 25, 2023, immediately subsequent to receipt of the February 23 Correspondence;

(4) your correspondence dated February 28, 2023 (the "**February 28 Correspondence"**);

(5) our correspondence dated 28 February (the "**NRF February 28 Correspondence"**);

(6) your email dated March 1, 2023 (the "**March 1 Email"**); and

(7) our response to your email dated March 1, 2023, dated March 2, 2023 (the "**NRF Email Response"**).

The Debtors reiterate their commitment to assisting the Receiver, including providing information in a prompt manner and cooperating as required. We note that the NRF Email Response provided an immediate response addressing key priority issues as advised by the Receiver, including flow of funds, information about the transaction announced by way of public press release on February 13, 2023 (the "**February Bitmain Transaction"**) and the nature of the Debtors' business as it related to hashpower services. The Debtors also committed to providing further evidence in the form of payment confirmations.

Further to the NRF Email Response, in which the Debtors addressed the priority issues identified in the March 1 Email, this letter:

(a) addresses a number of factual errors and misunderstandings in both the February 23 Correspondence and February 28 Correspondence;

(b) provides further information and context about the Debtors' operations, which may be of assistance to the Receiver; and

(c) confirms the Debtor's position in relation to outstanding issues.

Errors/Misunderstandings in February 23 Correspondence

Bank accounts

The February 23 Correspondence states that it is the Receiver's understanding that "all, or a majority, of transactions with Bitmain completed by [Iris Energy Limited ("**IEL**")] and its various subsidiaries, including the Debtors, were (and are) co-mingled in a single bank account held by [IEL] at Royal Bank of Canada".

First, as already discussed, IEL does not have a bank account with Royal Bank of Canada.

Second, and more importantly, it is not true that *any* bank accounts involving IEL or a subsidiary of IEL, are "co-mingled" in any way. It is not clear how the Receiver has formed this view. We presume this view has resulted from an incorrect assumption related to certain payments made by IEL to Bitmain on behalf of each Debtor.

Any payment made by IEL to Bitmain was funded in accordance with an intercompany equity and loan agreement between IEL and the relevant Debtor. Copies of intercompany equity and loan agreements between IEL and each of the Debtors were provided to the Receiver on February 15, 2023 (by way of email from Mr. Emre Bildirici to Ms. Morag Cooper).

We note that NYDIG also made payments directly to Bitmain on behalf of each Debtor from time to time, in accordance with each Master Equipment Finance Agreement ("**MEFA**") between NYDIG and each Debtor. All such transactions are accounted for by the Debtors and appropriate journal entries recorded corresponding to such funding and payments made by either IEL or NYDIG to Bitmain on each Debtor's behalf. Suggesting that such an arrangement is evidence of "co-mingling" is simply not accurate.

It is important that this misunderstanding as to flow of payments is clarified as soon as possible, because the February 23 Correspondence subsequently states that the purported "co-mingling" of finances necessitates the Receiver be given access to a wide range of financial information of entities that are not part of the receivership. We trust that the information provided in this letter, the NRF Email Response and today's meeting with the Receiver will rectify any remaining uncertainty regarding this issue.

Cryptocurrency and bitcoin mining

The February 23 Correspondence also suggests the Debtors' property may consist of "cryptocurrency" and the Receiver requires "a reconciliation of the bitcoin mined from NYDIG-funded machines". As outlined in the NRF Email Response and has been confirmed several times in discussions and in writing including since the February 23 Correspondence, the Debtors did not mine Bitcoin (or any other cryptocurrency). Instead, they provided hashpower services to IEL. At no time have the Debtors ever possessed, owned or mined any bitcoin or other cryptocurrency.

It is also important to note that under each of the MEFAs between each Debtor and NYDIG, the Debtors are expressly permitted to dispose of collateral, including in the ordinary course of business or under a hashpower agreement. "Hashpower Agreement" is defined to mean an agreement entered into between the respective Debtor an affiliated entity which is not party to the financing, in which the Debtor will provide hashrate services to such affiliated entity.

Although the collateral description in each of the MEFAs includes reference to cryptocurrency and digital currency or digital assets (including Bitcoin) this is limited only to any such property *possessed or controlled by the respective Debtor*. In this case the Debtors did not ever mine, own, possess or control any such Bitcoin or other cryptocurrency, digital currency or digital assets because they sold the hashpower services to IEL under the respective hashpower arrangements.

Tripartite agreement

Your correspondence further noted that the Receiver was put "into a difficult situation with respect to the $US67 million tripartite agreement between IEL, Bitmain and Cleanspark". Given neither the Debtors nor IEL have ever entered into an agreement with "Cleanspark", the Debtors do not understand the basis on which the Receiver formed the view that it was an agreement involving "Cleanspark". Subsequent to receipt of the February 23 Correspondence, and notwithstanding that any tripartite transaction was unrelated to the Debtors, the Debtors continued to provide a range of information which clarified this issue and provided additional comfort about the nature of the arrangement.

Nonetheless, given the existing open lines of communication between the Receiver and representatives of the Debtors, it was disappointing to receive formal correspondence containing such an error, particularly when the assertions were coupled with the Receiver's intent to seek urgent and extraordinary judicial relief consisting of a *Mareva* injunction if further information was not provided in less than 24 hours. We also note that the February 23 Correspondence was not received until Saturday, February 25 in Sydney, Australia where IEL is headquartered.

Nonetheless, we endeavoured to respond to issues that had been identified as being urgent in the February 23 Correspondence by the same day upon receipt on Saturday, February 25 (Sydney time) and made efforts to be available for a call immediately on that weekend.

Errors/Misunderstandings in February 28 Correspondence

Bank accounts

The February 28 Correspondence again included incorrect claims of "co-mingling" of bank accounts by IEL and its subsidiaries. As stated above, it is not clear to the Debtors on what basis the Receiver has formed this view. We hope that the explanation above, the presentation enclosed with the NRF February 28 Correspondence and the NRF Email Response will continue to provide some clarity for the Receiver. We reiterate that the Debtors are committed to working with the Receiver so that this misunderstanding can be resolved, and to continue to provide any necessary supporting information to show the relevant transactions involved in the NYDIG financing.

Bitmain account

The correspondence also claims that there has been an "absolute lack of access" to the Bitmain account. This is despite the correspondence immediately acknowledging that a videoconference had been held on February 22, 2023 for the purpose of providing access to the Bitmain account, which is commercially sensitive and does not allow for shared access. For the record, that call was agreed to as an appropriate initial arrangement by the Receiver. The Debtor made sure that the key internal user of the Bitmain account was in attendance and the Receiver was given opportunities to ask as many questions as desired at that time. The Receiver was also able to direct the Debtor as to which parts of the account it would like to view.

During the videoconference, the Receiver acknowledged that the Bitmain account could not deliver the information the Receiver was looking for. The Debtors explained that the Bitmain account was essentially an administrative step required by Bitmain and the Debtors had no control over the structure or layout of the Bitmain account. At the conclusion of the videoconference, the Receiver appeared to accept this point and did not make it clear that further information in relation to the Bitmain account was required. The Debtors did not receive any subsequent requests in connection with the Bitmain account following the videoconference, prior to receipt of the February 28 Correspondence.

Notwithstanding the above, as communicated in the NRF February 28 Correspondence and the NRF Email Response, the Debtors continue to be willing to provide further access to the Bitmain account, as requested by the Receiver. We trust this issue has been resolved.

February Bitmain Transaction

The February 28 Correspondence acknowledges receipt of the underlying documents in connection with the February Bitmain Transaction. Despite having direct access to the documents, the February 28 Correspondence makes numerous incorrect assertions, both about the underlying documents provided and more generally.

First, IEL is not a party to the relevant Novation Agreement provided (the "**Novation Agreement**"). The parties to that agreement are Bitmain, IE CA 5 Holdings Ltd ("**IE CA 5"**) and Tomax Technology ("**Tomax**").

Second, as is clear on the face of the terms of the Novation Agreement, IE CA 5 did not receive payment of $27.6 million from Tomax. Pursuant to the express terms of that agreement, payment was made by Tomax directly to Bitmain. The February 28 Correspondence demanded IE CA 5 confirm that it would agree to hold the $27.6 million in trust, resulting in our clients spending time and effort to have to immediately address this issue.

The correspondence then states that "[a]nother concern is that because of the enquiry regarding the press-released transaction, [IEL] has only now informed the Receiver of the pending nature of other transactions that may be relevant or informative to the receivership." On this point, on a good faith basis IEL provided a wide range of information in connection with a transaction involving IE CA 5 and unrelated to the Debtors, consistent with IEL's ongoing, transparent, and prompt engagement with the Receiver. This information, which included all relevant contractual documentation and relevant invoices again demonstrated that the transactions were separate from the Debtors.

As noted in the NRF Email Response, we trust the proposal we made in the NRF February 24 Correspondence, which was adopted in the February 28 Correspondence, remains satisfactory to the Receiver.

IEL bank account information

As set out above and in the NRF Email Response, IEL's bank account has not been "co-mingled" with the Debtors, nor would providing complete access to IEL's bank account, which includes numerous transactions completely unrelated to the Debtors, be reasonable in the circumstances.

The Debtors are of the view that the information provided in the NRF Email Response, together with the additional information the Debtors committed to providing in the NRF Email Response, all previously supplied information and discussions at our meeting today, in addition to the supporting documentation of the transfers to Bitmain that IEL is expecting from its bank, will be sufficient to answer the questions raised by the Receiver on this point.

Of course, the Debtors and IEL remain committed to ongoing engagement with Receiver in relation to explaining or providing supporting documentation in respect of certain transactions involving the Debtors that the Receiver needs to review. If, after reviewing the documents and explanations provided and after our meeting to discuss the same, the Receiver has further questions regarding any particular transaction, the Debtors will work with the Receiver to address any remaining questions regarding particular transactions. However, simply providing complete and unfettered access to the private bank accounts of a public company that is not party to the receivership proceeding is not a reasonable mechanism to complete a review of specific transactions.

The Receiver's requests in relation to bitcoin and cryptocurrency related to the Debtors

You have made a number of assertions and asked for information related to bitcoin and cryptocurrency related to the Debtors across the February 23 Correspondence, the February 28 Correspondence and the March 1 Email. We hope that the explanation provided above and the information contained in the NRF Email Response

sufficiently clarify this issue for the Receiver. The Debtors note that there is no further information to provide in connection with bitcoin or cryptocurrency so far as it relates to the Debtors.

Discounts, credits and coupons from Bitmain

With respect to this issue, we refer to the information on Bitmain discounts, credits and coupons in the NRF Email Response. We further expect to discuss this issue with the Receiver in our meeting today.

Process for the Receiver's retrieval of collateral

As outlined in the NRF Email Response, the Debtors acknowledge the Receiver's proposal for its collection and testing of the collateral. As previously communicated, for weeks and months, NYDIG delayed in bringing a receivership application or otherwise enforcing its security, leaving the collateral at the host entities' (namely Podtech Data Centers Inc., IE CA Development Holdings 2 Ltd and IE CA Development Holdings 4 Ltd) premises and causing interference with the host entities' business. The host entities would like to have this collateral removed off its sites as quickly as possible, noting the safety and operational risks it currently poses, as they do not have any legal or other obligation to continue to allow the collateral to remain on site. In addition, any use of the host entities' infrastructure for testing of the collateral results in significant cost, including lost profits.

Having said this, in the interests of assisting the Receiver in a cooperative manner, the host entities may be prepared to make available a portion of the infrastructure and some staff at each site for the testing of the machines. The host entities are finalizing the proposed key terms of such arrangement for discussion with the Board of Directors of each host entity, following which they will be provided to the Receiver.

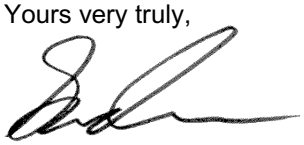
Outstanding general information requests

We note there are only two very minor information requests from the Receiver that remain outstanding that relate to the "Asset Reconciliation Spreadsheet" and the CRA's audit of the Debtors. These matters will be responded to shortly.

Meeting between the Debtor and the Receiver

As discussed above and proposed in the NRF February 28 Correspondence, and as per subsequent discussions between counsel, the Receiver, the Debtors and their counsel are scheduled to meet on 3 March 2023 (Sydney time) / 2 March 2023 (Vancouver time). At this meeting, the Debtors would like to take the Receiver and its counsel through the presentation enclosed in the NRF February 28 Correspondence as well as discuss key outstanding issues. We thank you and the Receiver for making yourselves available to discuss these issues with us.

Yours very truly,



Scott Boucher
Partner

SB/ks

Appendix E
Debtors' financial information

IE CA 3's financial information

IE CA 3	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Total
Hashpower income	$0	$0	$0	$0	$0	$0	$0	$0	$554,509	$1,908,083	$715,889	$3,178,481
Interco. recharge	$0	$0	$0	$0	$0	$6,630,921	$0	$0	$0	$0	$0	$6,630,921
Interest income	$0	$0	$0	$117	$139	$184	$213	$47	$37	$103	$221	$1,061
Total income	**$0**	**$0**	**$0**	**$117**	**$139**	**$6,631,105**	**$213**	**$47**	**$554,546**	**$1,908,186**	**$716,110**	**$9,810,463**
Hosting fee expenses	$0	$0	$0	$0	$0	$0	$0	$0	$462,091	$1,590,069	$596,574	$2,648,734
Non-refund sales tax	$0	$0	$0	$0	$0	$0	$0	$0	$27,725	$95,404	$35,794	$158,923
Total cost of sales	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$489,816**	**$1,685,473**	**$632,368**	**$2,807,657**
Gross profit	**$0**	**$0**	**$0**	**$117**	**$139**	**$6,631,105**	**$213**	**$47**	**$64,730**	**$222,713**	**$83,742**	**$7,002,806**
NYDIG Loan payments	$300,720	$334,320	$2,861,123	$2,861,123	$2,861,123	$2,861,123	$2,861,123	$2,861,123	$2,861,123	$2,861,123	$2,861,123	**$26,385,147**
Cumulative no. of miners delivered per Bitmain	4,559	6,035	7,537	9,031	10,563	12,049	13,583	15,118	16,644	16,644	16,644	**16,644**

IE CA 4's financial information

IE CA 4	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Total
Hashpower income	$462,028	$485,532	$437,993	$487,649	$465,233	$2,162,386	$1,090,963	$718,486	$6,423,788	$4,034,484	$957,456	$17,725,998
Hashpower Transfer Pricing FY22	$0	$0	$0	$0	$0	$12,014,632	$0	$0	$0	$0	$0	$12,014,632
Interest income	$0	$0	$0	$248	$417	$461	$297	$224	$217	$1,458	$1,148	$4,470
Total income	**$462,028**	**$485,532**	**$437,993**	**$487,897**	**$465,650**	**$14,177,479**	**$1,091,260**	**$718,710**	**$6,424,005**	**$4,035,942**	**$958,604**	**$29,745,100**
Hosting fee expenses	$385,023	$404,610	$364,994	$406,374	$387,694	$1,801,988	$909,136	$598,738	$5,353,157	$3,362,070	$797,880	$14,771,664
Hosting Fee Transfer Pricing FY22	$0	$0	$0	$0	$0	$1,331,832	$0	$0	$0	$0	$0	$1,331,832
Non-refund sales tax	$0	$0	$0	$0	$0	$825,773	$54,548	$35,924	$321,189	$201,724	$47,873	$1,487,031
Total cost of sales	**$385,023**	**$404,610**	**$364,994**	**$406,374**	**$387,694**	**$3,959,593**	**$963,684**	**$634,662**	**$5,674,346**	**$3,563,794**	**$845,753**	**$17,590,527**
Gross profit	**$77,005**	**$80,922**	**$72,999**	**$81,523**	**$77,956**	**$10,217,886**	**$127,576**	**$84,048**	**$749,659**	**$472,148**	**$112,851**	**$12,154,573**
NYDIG Loan payments	$0	$0	$0	$435,086	$507,600	$580,114	$652,629	$652,629	$652,629	$4,100,037	$4,100,037	**$11,680,761**
Cumulative no. of miners delivered per Bitmain	6,602	8,777	10,960	13,137	15,315	17,516	19,723	19,723	19,723	19,723	19,723	**19,723**

No. S 230488
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

NYDIG ABL LLC

Petitioner

- and -

IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

Respondents

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

ORDER MADE AFTER PETITION
APPOINTMENT OF RECEIVER

BEFORE THE HONOURABLE)
)
MR. JUSTICE MILMAN) February 3, 2023
)

ON THE PETITION of NYDIG ABL LLC for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "**LEA**") appointing PricewaterhouseCoopers Inc. as Receiver and Manager (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and property of IE CA 3 HOLDINGS LTD. and IE CA 4 HOLDINGS LTD. (collectively, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, coming on for hearing this day at Vancouver, British Columbia.

AND ON READING the Affidavit #1 of Tejas Shah sworn January 17, 2023, the Affidavit #1 of William Roberts sworn February 1, 2023, and the consent of PricewaterhouseCoopers Inc. to act

as the Receiver; AND ON HEARING Christopher Burr, Counsel for NYDIG ABL LLC and Scott Boucher, counsel to the Debtors, and Mary Buttery, K.C., counsel for PricewaterhouseCoopers, and no one else appearing.

THIS COURT ORDERS AND DECLARES that:

APPOINTMENT

1. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA PricewaterhouseCoopers Inc. is appointed Receiver, without security, of all of the assets, undertakings and property of the Debtors, including all proceeds (the "**Property**").

RECEIVER'S POWERS

2. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

   (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;

   (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing insurance coverage;

   (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

   (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;

   (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;

   (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting these amounts, including, without limitation, enforcement of any security held by the Debtor;

   (g) to settle, extend or compromise any indebtedness owing to the Debtor;

(h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;

(i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;

(j) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Debtor, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings;

(k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;

(l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:

(i) without the approval of this Court in respect of a single transaction for consideration up to $150,000, provided that the aggregate consideration for all such transactions does not exceed $500,000; and

(ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,

and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;

(m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;

(n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;

(o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of the Debtor;

(p) to enter into agreements with any trustee in bankruptcy appointed in respect of either Debtor, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by such Debtor;

(q) to exercise any shareholder, partnership, joint venture or other rights which either Debtor may have; and

(r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. Each of (i) the Debtors; (ii) all of each Debtor's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (iii) IE CA Development Holdings 2 Ltd., Podtech Data Centres Inc., IE CA Development Holdings 4 Ltd., 0724317 B.C. Ltd., 18 Wheels Warehousing and Trucking Limited, Heartland Steel Structures Ltd., and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, including without limitation access to the premises municipally known as 9006 Grainger Road, Canal Flats, British Columbia, 1022 Pickering Road, Prince George, British Columbia, and 4900 Coquawaldie Road, Mackenzie, British Columbia, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.

4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.

5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.

6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies

of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. No Proceeding against or in respect of either Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of either Debtor or the Property are stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on the applicable Debtor and the Receiver.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies (including, without limitation, set-off rights) against either Debtor, the Receiver, or affecting the Property, are stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or either Debtor to carry on any business which such Debtor is not lawfully entitled to carry on, (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the BIA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. This stay and suspension shall not apply in respect of any "eligible financial contract" as defined in the BIA.

NO INTERFERENCE WITH THE RECEIVER

10. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by either Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

11. All Persons having oral or written agreements with either Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to such Debtor are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and the Receiver shall be entitled to the continued use of such Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of such Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable, in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post-Receivership Accounts**") and the monies standing to the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

RECEIVER TO SEPARATELY ACCOUNT FOR DEBTOR ASSETS AND LIABILITIES

13. The Receiver shall separately account for the assets, liabilities, receipts and disbursements in respect of each Debtor, provided that the Receiver shall be entitled to comingle any Debtor cash and any proceeds of Debtor assets in a single Post-Receivership Account, in its sole discretion. Nothing in this Order shall have the effect, or be construed as having the effect, of substantively consolidating the assets or liabilities of the Debtors.

EMPLOYEES

14. Subject to the employees' right to terminate their employment, all employees of each Debtor shall remain the employees of such Debtor until such time as the Receiver, on the applicable Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities of any Debtor, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay or in respect of obligations imposed specifically on receivers by applicable legislation, including sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts

relating to any employees that the Receiver may hire in accordance with the terms and conditions of such employment by the Receiver.

PERSONAL INFORMATION

15. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of 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 applicable Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.

17. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.

18. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:

    (a) before the Receiver's appointment; or,

    (b) after the Receiver's appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.

19. Notwithstanding anything in federal or provincial law, but subject to paragraph 18 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

LIMITATION ON THE RECEIVER'S LIABILITY

20. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:

    (a) any gross negligence or wilful misconduct on its part; or

    (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

    Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

21. The Receiver and its legal counsel, if any, are granted a charge (the "**Receiver's Charge**") on the Property as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of this Order. The Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis. If requested by the Court, or in writing by any creditor of the Debtors, the Receiver and its legal counsel shall separately account for their fees and disbursements as they relate to each Debtor.

23. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

24. The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed $2,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of

interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

25. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

26. The Receiver is authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

27. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ALLOCATION

28. Any interested party may apply to this Court on notice to any other party likely to be affected for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the Property.

SERVICE AND NOTICE OF MATERIALS

29. The Receiver shall establish and maintain a website in respect of these proceedings at: www.pwc.com/ca/iriscaholdings (the "**Website**") and shall post there as soon as practicable:

    (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,

    (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.

30. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must provide to counsel for each of the Receiver and the Petitioner a demand for notice in the form attached as Schedule B (the "**Demand for Notice**"). The Receiver and the Petitioner need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice. The failure of any Person to provide a properly completed Demand

for Notice releases the Receiver and the Petitioner from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice.

31. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice (the "**Service List**"). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.

32. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.

33. Notwithstanding paragraph 32 of this Order, service of the Petition and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, R.S.B.C. 1996 c.89 in respect of the British Columbia Crown.

34. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies by facsimile or by email to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

GENERAL

35. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.

36. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

37. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

38. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are 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 or to assist the Receiver and its agents in carrying out the terms of this Order.

39. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver 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.

40. The Petitioner shall have its costs of this motion, up to and including entry and service of this Order, as provided for by the terms of the Petitioner's security or, if not so provided by the Petitioner's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

41. The time for service of the Petition filed January 20, 2023 and supporting materials is hereby abridged such that the Petition is properly returnable today.

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:

Signature of Christopher Burr
Lawyer for NYDIG ABL LLC

Signature of Scott Boucher
Lawyer for the Debtors

Signature of Mary Buttery, K.C
Lawyer for PricewaterhouseCoopers

BY THE COURT.

Digitally signed by
Milman, J

Registrar

Certified a true copy according to the records of the Supreme Court at Vancouver, B.C.
DATED: FEB 17 2023

Authorized Signing Officer

PETER TUPPER

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT $ _____

1. THIS IS TO CERTIFY that PricewaterhouseCoopers Inc., the Receiver and Manager (the "**Receiver**") of all of the assets, undertakings and properties of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Supreme Court of British Columbia and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency) (the "**Court**") dated the _____ day of January, 2023 (the "**Order**") made in SCBC Action No. _____ and/or SCBC Action No. _____/Estate No. _____ has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of $_____, being part of the total principal sum of $_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly] not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 202__.

PricewaterhouseCoopers Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per:
Name:
Title:

Schedule "B"

Demand for Notice

TO: **NYDIG ABL LLC**
c/o Blake, Cassels & Graydon LLP
Attention: Chris Burr
Email: chris.burr@blakes.com

AND TO: **PricewaterhouseCoopers Inc.**
c/o Osler, Hoskin & Harcourt LLP
Attention: Mary Buttery
Email: mbuttery@osler.com

Re: In the matter of the Receivership of IE CA 3 HOLDINGS LTD. & IE CA 4 HOLDINGS LTD.

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

1. By email, at the following address (or addresses):

   _____

   OR

2. By facsimile, at the following facsimile number (or numbers):

   _____

   OR

3. By mail, at the following address:

   _____

Name of Creditor: _____

Name of Counsel (if any): _____

Creditor's Contact Address: _____

_____

_____

Creditor's Contact Phone Number: _____

Action No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NYDIG ABL LLC

Petitioner

- and -

IE CA 3 HOLDINGS LTD. & IE CA 4 HOLDINGS LTD.

Respondents

RECEIVERSHIP ORDER

BLAKE, CASSELS & GRAYDON LLP
Barristers & Solicitors
2600, 595 Burrard Street
Vancouver, BC V7X 1L3
1.604.631.3300

Counsel: Christopher Burr
Matter No. 00030380.000001

Estate Nos. 11-2959932 and 11-2959909
Court No. B-230284 and B-230298
District of British Columbia
Division No. 03 - Vancouver

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE BANKRUPTCY OF
IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

TRUSTEE'S FIRST REPORT TO COURT

September 28, 2023

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1. Introduction

1.1 On February 3, 2023, the Supreme Court of British Columbia (the "**Court**"), on application by NYDIG ABL LLC ("**NYDIG**"), granted an Order (the "**Receivership Order**"), appointing PricewaterhouseCoopers Inc. ("**PwC**") as Receiver (the "**Receiver**") of the assets, undertakings, and property (together, the "**Property**") of IE CA 3 Holdings Ltd ("**IE CA 3**") and IE CA 4 Holdings Ltd ("**IE CA 4**") (together, the "**Debtors**"). The parent company of the Debtors is Iris Energy. Iris Energy has 27 subsidiaries, which are collectively referred to as the Iris Energy Group.

1.2 On June 13, 2023, the Court granted an order ("the **June 13 Order**") authorizing the Receiver to assign the Debtors into bankruptcy. A copy of the Court Order is attached as **Appendix A.**

1.3 In accordance with the June 13 Order, the Debtors were assigned into bankruptcy on June 28, 2023, by PwC, acting in its capacity as Receiver, Vancouver Registry Action No. S230488.

1.4 In accordance with the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3 (the "**BIA**"), the bankruptcy assignment documents were filed on June 27, 2023, and were accepted by the Office of the Superintendent of Bankruptcy ("**OSB**") on June 28, 2023. PwC was appointed Trustee of the bankrupt estates (in such capacity, the "**Trustee**"), subject to confirmation at the first meeting of creditors. A copy of the Certificates of Appointment is attached as **Appendix B.**

1.5 The purpose of the Trustee's first report (the "**Trustee's First Report**") is to provide information to the Court in support of the Trustee's application for an order:

1.5.1 Declaring that in accordance with section 163(1) of the BIA, the Trustee may: (a) examine any person reasonably thought to have knowledge of the affairs of the Debtors or any person who is or has been an agent or a mandatary, or a clerk, a servant, an officer, a director or an employee of the Debtors (or either one of them), respecting the Debtors or the Debtors' dealings or property, and (b) require any person liable to be so examined to produce any books, documents, correspondence or papers in that person's possession or power relating in all or in part to the Debtors or the Debtors' dealings or property;

1.5.2 Directing the individuals already identified by the Trustee, namely, William Roberts, Daniel Roberts, Chris Guzowski, Michael Alfred, David Bartholomew and Belinda Nucifora (the "**First Set of Individuals**") to attend for examination within 30 days of the date of the order at the date, place and time specified by the Trustee, and to produce such books, documents, correspondence or papers in their possession or power relating in all or in part to the Debtors or the Debtors' dealings or property, in all cases as requested by the Trustee;

1.5.3 In the alternative, directing Iris Energy to require and direct the First Set of Individuals to attend for such examinations and produce such books, documents, correspondence or papers in their possession as specified by the Trustee;

1.5.4 Directing such further or other individuals as may be requested by the Trustee following completion of the Trustee's examination of the First Set of Individuals in accordance with section 163(1) of the BIA to attend for examination within 30 days of receipt of the Trustee's request to examine, at the date, place and time specified by the Trustee, and to produce such books, documents, correspondence or papers in their possession or power relating in all of in part to the Debtors or the Debtors' dealings or property, in all cases as requested by the Trustee; and,

1.5.5 Directing that all examinations shall proceed in person in Vancouver, British Columbia unless otherwise agreed in writing by the Trustee or ordered by the Court.

1.6 A glossary of defined terms is attached as **Appendix C**.

1.7 Unless otherwise stated, all monetary amounts contained herein shall be expressed in Canadian dollars ("**CAD**").

1.8 Relevant documents are posted on the following website **www.pwc.com/ca/ieca34** (the "**Website**").

2. Activities of the Trustee since the date of its appointment

2.1 The Trustee has completed its statutory duties as follows:

2.1.1 On June 28, 2023, the Trustee advertised its appointment;

2.1.2 On June 29, 2023, the Trustee sent the notice to creditors pursuant to subsection 50.4(6) of the BIA. A copy of the materials are available on the Website;

2.1.3 On July 18, 2023 the Trustee held the first meeting of creditors for both Debtors. IE CA 3's meeting was held at 3.30pm Pacific Time (the "**IE CA 3 First Meeting of Creditors**") and IE CA 4's meeting was held at 4.00pm Pacific Time (the "**IE CA 4 First Meeting of Creditors**"). The OSB acted as chairperson for both meetings. During these meetings the Trustee presented its preliminary report to Creditors which was dated July 17, 2023, as attached at **Appendix D**;

2.1.4 On August 3, 2023, the Trustee held a subsequent meeting of creditors in the bankruptcy of IE CA 4 for the reasons discussed below; and,

2.1.5 On August 3, 2023, the Trustee issued six letters to current or former officers and/or directors of Iris Energy and/or the Debtors requesting their presence in Vancouver on or before September 15, 2023 for examination regarding the Debtor's financial affairs, property, dealings and causes of insolvency (the "**Initial Requests for Examination**").

3. Meeting of creditors and directions provided to the Trustee

3.1 At the IE CA 3 First Meeting of Creditors, one inspector was appointed. At the IE CA 4 First Meeting of Creditors, no inspectors were appointed as Iris Energy's counsel objected to the appointment of Mr. Chris Burr, legal counsel to NYDIG, as the potential inspector for the estate. PwC's appointment as Trustee of the estates of the Debtors was confirmed at each of the IE CA 3 First Meeting of Creditors and the IE CA 4 First Meeting of Creditors.

3.2 On July 20, 2023, the Trustee submitted and served a request to appear canvassing Mr. Justice Milman's availability for a hearing in late July or early August for advice and directions regarding the appointment of an inspector in IE CA 4's bankruptcy estate. In response to the Request to Appear, Iris Energy's counsel advised counsel for the Trustee and NYDIG that:

> "With respect to the issue of the appointment of an inspector in the bankruptcies, in order to expedite the bankruptcy proceeding and to avoid further court time and expense, Iris Energy is willing to withdraw its objection to NYDIG acting as an inspector in the proceeding. Our client of course reserves its rights to seek to remove NYDIG as an inspector later in the proceeding if circumstances warrant the same. Hopefully this allows the bankruptcy proceeding to proceed without delay."

3.3 Based on the foregoing assurances, the Trustee withdrew the request to appear and called a second meeting of creditors of IE CA 4 (the "**IE CA 4 Second Meeting of Creditors**") for the purpose of appointing Mr. Chris Burr as inspector in IE CA 4's bankruptcy estate.

3.4 On August 3, 2023, the Trustee notified those creditors who had filed a proof of claim in the IE CA 4 bankruptcy of the IE CA 4 Second Meeting of Creditors.

3.5 On August 11, 2023, the IE CA 4 Second Meeting of Creditors was held. At the meeting, Mr. Chris Burr stood for nomination as inspector. Notwithstanding his prior assurances to the contrary, legal counsel for Iris Energy opposed the resolution for the appointment of Mr. Burr as inspector a second time. Mr. Burr as proxyholder for NYDIG voted in favor of the resolution. Following the meeting, the Trustee confirmed via email to all parties in attendance at the meeting that pursuant to section 109(6) of the BIA, since Iris Energy is a related party to IE CA 4, the vote cast by Iris Energy regarding the appointment of Mr. Burr as an inspector was set aside for the purposes of determining the vote. Accordingly, the resolution to appoint Mr. Burr as inspector was passed.

3.6 The creditors in the IE CA 3 estate and the inspector in the IE CA 4 estate have passed resolutions to authorize the Trustee to:

> "examine under oath any person reasonably thought to have knowledge of the affairs of the bankrupt or any person who is or has been an agent or a mandatary, or a clerk, a servant, an officer, a director or an employee of the bankrupt which, at the present time, is expected to include, but is not limited to, the following persons: William Roberts, Daniel Roberts, Chris Guzowski, Michael Alfred, David Bartholomew and Belinda Nucifora. In addition, the Trustee requested and the inspector approved the ability to seek relief from

the Court, and to take all necessary steps incidental to such Court process(es), to compel all persons to be examined under oath to attend their respective examinations in-person in Vancouver, British Columbia, at such date and time as may be agreed by the Trustee or ordered by the Court."

3.7 In accordance with the resolutions, the Trustee served each of the above noted individuals with the Initial Requests for Examination, however the Trustee has been unable to examine any of the requested individuals for the reasons outlined in more detail in section 5 below.

4. Brief background on rationale for examinations

4.1 In the second report of the Receiver dated April 10, 2023 (the "**Second Receiver Report**") and the third report of the Receiver dated June 7, 2023 (the "**Third Receiver Report**"), the Receiver provided the Court with an analysis of the intercompany transactions between the Debtors and other Iris Energy Group entities. As outlined in the Third Receiver Report, the volume of intercompany transactions is substantial. The Receiver's notice of application dated June 7, 2023 sought authorization to assign the Debtors into bankruptcy so that the Receiver could access the "enhanced powers available to a trustee in bankruptcy" to better investigate the pre-receivership transactions and dealings between the Debtors and Iris Energy (or other subsidiaries and affiliates of Iris Energy) and, if necessary, avail itself of the remedies provided under Part IV of the BIA.

4.2 Since the assignments into bankruptcy were accepted by the OSB, the court has rendered a decision on the application that NYDIG brought forward in the Receivership proceedings in May 2023 (referred to as the NYDIG May Application). The Court concluded that:

4.2.1.1 NYDIG's collateral under the MEFA's does not extend to Bitcoin that Iris Energy received through mining pools using hashpower that it acquired from the Debtors pursuant to the Hashpower Agreements or proceeds thereof; and,

4.2.1.2 The transactions carried out by the Debtors pursuant to the Hashpower Agreements are declared to be, as against NYDIG, void as fraudulent conveyances.

4.3 The Receiver has also issued a Fourth Report which includes additional observations in respect of intercompany transactions and the Bitcoin revenue that could have been earned by the Debtors pre and post Receivership.

4.4 In addition, despite numerous requests, the Receiver has not been provided with full access to the bank statements of Iris Energy, only redacted copies of bank statements. The Receiver does not have access to bank statements for the other entities that the Receiver identified as being party to several intercompany transactions with the Debtors.

4.5 In addition to the outstanding financial issues identified by the Receiver in the foregoing Receiver's Reports, the Trustee has questions concerning numerous operational and structural issues involving the Debtors which require further information. These operational and structural issues have also been identified in the Receiver's Reports. Such issues and questions include, *inter alia*:

4.5.1 the Debtors' and/or Iris Energy's decision to delay plugging in the Mining Equipment, notwithstanding the capacity in the Iris BC Sites to bring them online;

4.5.2 the decision to unplug and package up the Mining Equipment in early November 2022;

4.5.3 questions with respect to the corporate structure of the Iris Energy Group, including the rationale for 27 separate entities;

4.5.4 questions with respect to each of the Iris BC Sites, including questions relating to capacity, storage and other matters;

4.5.5 questions with respect to Bitmain, including the account, the relationship with Bitmain, the contracts with Bitmain and various other matters relevant to the selection of Bitmain as the supplier of the Mining Equipment;

4.5.6 questions relating to the operational reporting available for each of the machines NYDIG financed and other machines, including information available from the Foreman reports;

4.5.7 questions about the Hashpower Agreement and the Hosting Agreement;

4.5.8 questions about the relationship with NYDIG and its predecessor firm, including questions about the MEFAs and other documentation in respect of the loans; and,

4.5.9 various other matters that have been described in the reports filed by the Receiver in the receivership proceedings.

4.6 As the Debtors have now been assigned into bankruptcy, the Trustee intends to complete its investigation regarding the affairs, property and dealings of the Debtors. The next step in such investigation is the examination of the First Set of Individuals.

5. Request to examine various directors and officers of the Debtors

5.1 On August 3, 2023, the Trustee issued the Initial Requests for Examination to current or former officers and/or directors of the Debtors and/or Iris Energy requesting their presence in Vancouver on or before September 15, 2023 for examination regarding the Debtor's financial affairs, property, dealings and causes of insolvency. A copy of the Initial Requests for Examination are attached at **Appendix E.** The six individuals are:

5.1.1 Mr. William Roberts, the co-founder and current co-CEO of Iris Energy, who has sworn three affidavits in the Receivership proceedings, who is a current director and officer of Iris Energy and who was a director of each of the Debtors until June 29, 2023 when the Receiver filed a notice of change of director (the "**Notice of Change**") removing him as a director as the Receiver had been advised by Iris Energy that the directors had resigned prior to the commencement of the receivership proceeding;

5.1.2 Mr. Daniel Roberts, the co-founder and current co-CEO of Iris Energy and who is a director and officer of Iris Energy;

5.1.3 Mr. Christopher Guzowski and Mr. Michael Alfred, both of whom were independent non-executive directors of each Debtor until the Notice of Change was filed by the Receiver. Both individuals are current directors of Iris Energy;

5.1.4 Mr. David Bartholomew, the independent chair of Iris Energy's board of directors; and,

5.1.5 Ms. Belinda Nucifora, the Chief Financial Officer of the Iris Energy Group.

5.2 On August 14, 2023, Norton Rose contacted the Trustee on behalf of four of the six individuals (Mr. William Roberts, Mr. Daniel Roberts, Ms. Belinda Nucifora and Mr. David Bartholomew) (the "**August 14 Norton Rose letter**"), a copy of which is attached at **Appendix F.** Norton Rose advised that Mr. William Roberts would make himself available for an examination to take place virtually, or in Sydney, Australia on a date to be agreed. Norton Rose further advised that as none of Mr. Daniel Roberts, Ms. Belinda Nucifora or Mr. David Bartholomew were former directors, officers, employees or agents of the Debtors or residents of Canada, examination under section 163 of the BIA was not available.

5.3 On August 25, 2023, Osler responded to the August 14 Norton Rose letter on behalf of the Trustee (the "**August 25 Osler letter**"), a copy of which is attached at **Appendix G.** Osler advised that the Trustee disagreed with Iris Energy's position as there was nothing in section 163 of the BIA which limited the Trustee's examination rights only to former directors, officers, employees, or agents of the Debtors, nor was there any residency limitation. The August 25 Osler letter requested confirmation regarding the availability of the requested individuals to attend for examination by no later than August 31, 2023.

5.4 On August 31, 2023, Norton Rose contacted the Trustee on behalf of all six individuals identified in the Initial Request for Examination (the "**August 31 Norton Rose letter**"), a copy of which is

attached at **Appendix H**. Norton Rose advised that the individuals residing outside of Canada could not be compelled to attend a section 163 examination and that multiple examinations would inevitably involve overlapping evidence and wasted time. The August 31 Norton Rose letter repeated Iris Energy's proposal that Mr. William Roberts should be examined first and, following that examination, the Trustee could assess whether an application for further examinations was necessary.

5.5 In addition to the First Set of Individuals, already identified by the Trustee for examination, the Trustee has identified certain other individuals that it may need to examine, in the event that the First Set of Individuals is unable to answer some of the Trustee's questions that are relevant to its investigation. These individuals include, *inter alia*:

5.5.1 Mr. Kent Draper, Chief Commercial Officer of Iris Energy. Mr. Draper has been the main point of contact for the Receiver and has sworn one affidavit in the Receivership proceedings;

5.5.2 Ms. Anne Hayes, the Vice President – Finance for the Iris Energy Group from January 2022 through September 2022. Some of the transactions subject to the Trustee's investigation took place during this period and, as a result, Ms. Nucifora the current Chief Financial Officer of Iris Energy may be unable to answer these questions; and,

5.5.3 Mr. Gregoire Mauve, Senior Manager – Operations for Iris Energy, may be integral to the Trustee's investigation into the relationship with Bitmain, the capacity questions, the Foreman reports and other matters relating to the Mining Equipment. Mr. Mauve was the individual that provided on screen viewing of the Bitmain account to the Receiver.

5.6 At this juncture, the Trustee is unable to produce an exhaustive list of individuals that may need to be examined as the necessity of such examinations will be dictated in large part by whether the First Set of Individuals are able to answer all of the Trustee's questions and whether any issues require further investigation following completion of the examinations of the First Set of Individuals. The Trustee only intends to examine individuals that are deemed relevant to its ongoing investigation into the Debtors financial and business affairs (and which comply with the requirements of section 163(1) of the BIA). The basis for the requirement to examination various former and current employees and/or directors of the Debtors and Iris Energy is well documented in the reports filed by the Receiver.

5.7 The Trustee's position is as follows:

5.7.1 Section 163(1) provides the Trustee with authorization to examine all of the individuals identified by the Trustee in the Initial Requests for Examination as well as additional individuals relevant to the Trustee's investigation. All of the individuals already identified are either former directors of the Debtors or have knowledge regarding the affairs of the Debtors. Any additional individuals will also meet this criteria;

5.7.2 The Trustee is best placed to determine the sequence of the individuals to be examined and Iris Energy's proposal to present the individual (Mr. William Roberts) that has already

sworn affidavits in the Receivership proceedings is not helpful to the Trustee at this juncture; and,

5.7.3 The Iris Energy Group maintains corporate offices in Vancouver, British Columbia. Nearly all mining facilities owned by, and all bitcoin mining operations conducted on behalf of, the Iris Energy Group are based in British Columbia. The Iris Energy Group owns data centers in each of Prince George, Canal Flats and Mackenzie, British Columbia. In addition, the locality of the Debtors is British Columbia. It is both reasonable and convenient for the requested individuals to attend in Vancouver, British Columbia for the examinations.

5.8 In addition, the Trustee has consulted with the OSB regarding the Debtors as the Trustee referred this matter to the OSB's debtor compliance unit. The OSB has confirmed that the appropriate party to examine all individuals is the Trustee as the Trustee has significant knowledge that would be beneficial to the examinations. The OSB does not intend to conduct its own examinations pursuant to section 162(1) of the BIA.

6. Conclusions and recommendations

6.1 The examinations were authorized by the creditors of IE CA 3 in mid-July 2023. The Trustee has been working to secure these examinations since the beginning of August 2023. The inspector of IE CA 4 authorized the examinations in mid-August 2023. The investigation of the business and financial affairs and dealings of the Debtors is a critical component of the bankruptcies. Iris Energy is impeding the Trustee's ability to complete its investigations.

6.2 As a result, the Trustee is requesting an order:

6.2.1 authorizing the Trustee to examine the First Set of Individuals and any other individuals determined by the Trustee to fit within the scope of section 163(1) of the BIA;

6.2.2 declaring that such examinations must take place within 30 days of the date of the order, or within 30 days of the Trustee requesting an examination of a new individual; and,

6.2.3 declaring that such examinations will take place in Vancouver, British Columbia at either the offices of the Iris Energy Group, the offices of the Trustee, the offices of the Trustee's legal counsel or such other place in Vancouver, British Columbia as agreed by the Trustee and the applicable individual.

All of which is respectfully submitted on this 28th day of September, 2023.

PricewaterhouseCoopers Inc., LIT
In its capacity as Court-Appointed Receiver-Manager of IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd. and not in its personal capacity.

Michelle Grant, CIRP, LIT
Senior Vice President

Morag Cooper
Vice President

Appendix A
June 13, 2023 Court Order

No. S230488
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

NYDIG ABL LLC

PETITIONER

And:

IE CA 3 HOLDINGS LTD. AND IE CA 4 HOLDINGS LTD.

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE JUSTICE MILMAN	)))	June 13, 2023

THE APPLICATION of PricewaterhouseCoopers Inc. as Receiver and Manager (the "**Receiver**") of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. (together, the "**Debtors**") coming on for hearing at Vancouver, British Columbia, on the 13th day of June, 2023; AND ON HEARING from Mary Buttery, K.C. counsel for the Receiver and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the Receiver's Third Report to the Court, dated June 7, 2023; AND UPON REVIEWING the Order made after Petition Appointment of Receiver of the Honourable Mr. Justice Milman, granted February 3, 2023 (the "**Receivership Order**"); THIS COURT ORDERS THAT:

SERVICE

1. The time for service of this Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof upon any interested party other than those parties on the Service List established in this proceeding is hereby dispensed with.

SSP PROCEDURES, STALKING HORSE BID AND BREAK FEE

2. The sale solicitation process attached as **Schedule "B"** hereto, subject to any amendments thereto that may be made in accordance therewith (the "**SSP**") be and is hereby approved.

3. The Receiver and its advisors (including Foundry Digital LLC as sales agent for and on behalf of the Receiver) is hereby authorized and directed to implement the SSP and do all things as are reasonably necessary to conduct and give full effect to the SSP and carry out its obligations thereunder.

4. The Receiver is hereby authorized and directed to execute and enter into the definitive "stalking horse" asset purchase agreement (the "**Stalking Horse APA**" and the transactions provided therein, the "**Stalking Horse Bid**") with NYDIG ABL LLC, or its designated nominee, as purchaser (the "**Stalking Horse Credit Bidder**"), substantially on the terms set out in the stalking horse asset purchase agreement attached as **Schedule "C"** hereto, subject to such amendments, additions and/or deletions permitted by the Stalking Horse APA and as may be negotiated between the Receiver and the Stalking Horse Credit Bidder.

5. The Stalking Horse Bid submitted by the Stalking Horse Credit Bidder is hereby approved as the Stalking Horse Bid pursuant to and for purposes of the SSP, provided that nothing herein approves the sale to and the vesting of any assets or property in the Stalking Horse Credit Bidder pursuant to the Stalking Horse Bid and that the approval of the sale and vesting of such assets and property shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Credit Bidder is the Successful Bidder (as defined in the SSP) pursuant to the SSP.

6. The Break Fee, as defined in the Stalking Horse APA is hereby approved and the Receiver is authorized and directed to pay the Break Fee in the manner and circumstances described therein.

FOUNDRY AGREEMENT

7. The Receiver is hereby authorized and empowered to enter into the engagement letter agreement with Foundry Digital LLC.

AUTHORITY TO ASSIGN THE DEBTORS INTO BANKRUPTCY

8. The Receiver is hereby authorized, if the Receiver deems advisable, to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended.

9. The Receiver shall not be disqualified from acting as Trustee in Bankruptcy by reason only of its role as Receiver.

BY THE COURT M. Inman, J.

REGISTRAR

CHECKED
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Appendix B
Certificate of Appointment

Industry Canada
Office of the Superintendent of Bankruptcy Canada

Industrie Canada
Bureau du surintendant des faillites Canada

District of: British Columbia
Division No.: 03 - Vancouver
Court No.: 11-2959932
Estate No.: 11-2959932

In the Matter of the Bankruptcy of:

IE CA 3 Holdings Ltd.

Debtor

PRICEWATERHOUSECOOPERS INC.

Licensed Insolvency Trustee

Ordinary Administration

Date and time of bankruptcy:	June 28, 2023, 10:51	Security:	$0.00
Date of trustee appointment:	June 28, 2023		
Meeting of creditors:	July 18, 2023, 15:30 Via Video Conference meet.google.com/vkn-ucjc-job Vancouver, British Columbia Canada,		
Chair:	Trustee		

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforenamed debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforenamed trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 28, 2023, 13:55

E-File/Dépôt Electronique

Official Receiver

300 Georgia Street W, Suite 2000, Vancouver, British Columbia, Canada, V6B6E1, (877)376-9902

Canada

Industry Canada
Office of the Superintendent of Bankruptcy Canada

Industrie Canada
Bureau du surintendant des faillites Canada

District of: British Columbia
Division No.: 03 - Vancouver
Court No.: 11-2959909
Estate No.: 11-2959909

In the Matter of the Bankruptcy of:

IE CA 4 Holdings Ltd.

Debtor

PRICEWATERHOUSECOOPERS INC.

Licensed Insolvency Trustee

Ordinary Administration

Date and time of bankruptcy:	June 28, 2023, 10:27	Security:	$0.00
Date of trustee appointment:	June 28, 2023		
Meeting of creditors:	July 18, 2023, 15:30 Via Video Conference meet.google.com/vkn-ucjc-job Vancouver, British Columbia Canada,		
Chair:	Trustee		

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforenamed debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforenamed trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: June 28, 2023, 13:37

E-File/Dépôt Electronique

Official Receiver

300 Georgia Street W, Suite 2000, Vancouver, British Columbia, Canada, V6B6E1, (877)376-9902

Canada

Appendix C
Glossary of defined terms

Defined Term	Defined Meaning
“August 14 Norton Rose Letter”	Letter from Iris Energy’s counsel advising the availability of William Roberts for examination and declining examination of Daniel Robert, Belinda Nucifora and David Bartholomew
“August 31 Norton Rose Letter”	Letter from Iris Energy’s counsel reiterating Iris Energy’s examination proposal
“August 25 Osler Letter”	Letter sent by Trustees’ counsel in response to the August 14 letter to disagree with the position taken by Iris Energy and its counsel
“BIA”	Bankruptcy and Insolvency Act
“CAD”	Canadian dollars
“Court”	The Supreme Court of British Columbia
“Debtors”	IE CA 3 and IE CA 4
“IE CA 3”	IE CA 3 Holdings Ltd (Debtor)
“IE CA 3 First Meeting of Creditors”	The first meeting of the creditors of IE CA 3 Holdings Ltd
“IE CA 4”	IE CA 4 Holdings Ltd (Debtor)
“IE CA 4 First Meeting of Creditors”	The first meeting of the creditors of IE CA 4 Holdings Ltd
“IE CA 4 Second Meeting of Creditors”	The second meeting of the creditors of IE CA 4 Holdings Ltd
“June 13 Order”	The Court Order authorizing the Receiver to assign the Debtors into bankruptcy
“Notice of Change”	Notice of Change of director filed by the Receiver on June 29, 2023
“NYDIG”	NYDIG ABL LLC
“OSB”	Office of the Superintendent of Bankruptcy
“Property”	The assets, undertakings, and property of the debtors
“PwC”	PricewaterhouseCoopers Inc.
“Receiver”	PwC, in its capacity as Court-Appointed Receiver and Manager of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd, appointed pursuant to Order of the Supreme Court of British Columbia on February 3rd, 2023
“Receivership Order”	The Receivership Order granted on February 3rd, 2023 appointing PwC as receiver and manager of the assets, undertakings, and property of the Company
“Second Report”	Receiver’s Second Report to Court, issued on April 10, 2023
“Third Report”	Receiver’s Third Report to Court, issued on June 7, 2023
“Trustee”	PwC appointed Trustee of the bankrupt estates of the Debtors pursuant to the BIA
“Website”	A website created and maintained by the Receiver that contains certain materials filed by the Receiver and other stakeholders in relation to the receivership proceedings at the URL: www.pwc.com/ca/ieca34

Appendix D
July 17, 2023 Preliminary Report to Creditors

District of: British Columbia
Division No. 03 – Vancouver
Court No. B-230284
Estate No. 11-2959932

IN THE MATTER OF THE BANKRUPTCY OF

IE CA 3 HOLDINGS LTD.

TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

JULY 17, 2023

This report has been prepared by PricewaterhouseCoopers Inc. ("**PwC**") in its capacity as Trustee (the "**Trustee**") based on information available as of July 17th, 2023. All monetary amounts noted herein are expressed in Canadian Dollars, unless otherwise stated.

BACKGROUND

IE CA 3 Holdings Ltd. ("**IE CA 3**") was incorporated in the Province of British Columbia on March 12, 2021. It is a wholly owned subsidiary of Iris Energy Ltd. ("**Iris Energy**"), based in New South Wales, Australia. Iris Energy has several subsidiaries that own and operate three bitcoin mining centres in British Columbia and a fourth in Texas, USA. Iris Energy went public in November 2021 on the NASDAQ Global Select Market and trades under the symbol IREN. IE CA 3 is an entity described by Iris Energy as a special purpose vehicle incorporated for the purpose of owning bitcoin mining equipment. Only two entities in the broader Iris Energy group are in Receivership, with one being IE CA 3 Holdings Ltd and the other being IE CA 4 Holdings Ltd ("**IE CA 4**").

Iris Energy's operations in British Columbia included approximately 36,400 bitcoin mining machines, owned by either IE CA 3 or IE CA 4. The machines were financed by, and subject to, the security interests of NYDIG ABL LLC ("**NYDIG**").

From May 2021 to October 2022, NYDIG provided a loan to IE CA 3 under a Master Equipment Financing Agreement ("**MEFA**"). IE CA3 defaulted under the MEFA in early November 2022. Demands for repayment and notices of intention to enforce security were issued by NYDIG in mid-November 2022.

On February 3, 2023, the Supreme Court of British Columbia (the "**Court**"), on application by NYDIG, granted an Order, appointing PricewaterhouseCoopers Inc. ("**PwC Inc.**") Receiver (the "**Receiver**") of the assets, undertakings, and property of IE CA 3. On February 3, 2023, IE CA 3 owed USD$36,093,618.31 (CAD$46,841,769) to NYDIG under its respective MEFA.

After its appointment the Receiver attended the three locations in BC where the equipment was stored to view the assets, the Receiver ascertained during these site visits that prior to the onset of the receivership, the mining servers were unplugged, packaged and palleted at the various locations Iris Energy. In addition to the mining equipment, the Receiver took possession of the cash in IE CA 3's bank account and electronic copies of the books and records of the Company.

On June 13, 2023, the Court granted an order authorizing the Receiver to assign IE CA 3 into bankruptcy. On June 28th, 2023, the Receiver filed an assignment in bankruptcy on behalf of IE CA 3 Holdings Ltd.

PwC was appointed as Licensed Insolvency Trustee, of the estate of the Company. A Notice of the Bankruptcy and the First Meeting of Creditors and materials relating to the bankruptcy proceedings was sent by the Trustee on June 29th, 2023, to all known creditors of the Company, pursuant to the provisions of the BIA.

PwC Inc. maintains a website, where documents related to the Receivership and Bankruptcy proceedings are posted. The website address is: https://www.pwc.com/ca/en/services/insolvency-assignments/ieca34.html

ASSETS AND LIABLITIES

The assets and liabilities of IE CA 3 as at June 28, 2023 are shown in the tables below.

Assets	Book Value (CA$)
Cash	1,044,315.87
Machinery, Equipment, Plant	5,694,500.00
Other Property	59,891.00
Total Assets	6,798,706.87

Liabilities	Book Value (CA$)
Unsecured Creditors	60,184,735.53
Secured Creditors	6,798,706.87
Total Liabilities	66,983,442.40

These balances have been updated from the amounts included in the Receiver's notice and statement dated February 3rd, 2023, to reflect current values (as applicable)

ACTIVITIES TO DATE

The Trustee has called the first meeting of creditors and provided each creditor with copies of the following:

- Notice of Bankruptcy and First Meeting of Creditors
- Proof of Claim and Proxy Form
- Statement of Affairs
- Assignment for the General Benefit of Creditors
- Certificate of Appointment

REVIEWABLE TRANSACTIONS AND TRANSFERS UNDER VALUE

The Receiver gained access to limited books and records up to January 2023. As such, the Receiver has been examining the books and records for preference payments and transfers under value for the year proceeding its appointment. Some of this analysis has been presented to the Court in the second and third reports of the Receiver. This review is still in progress and will be further developed by the Trustee in the coming weeks and reported to the Inspectors in the bankruptcy proceedings.

PRELIMINARY ESTIMATES OF DISTRIBUTION

The Receiver is currently seeking buyers for the sale of the assets as a going concern transaction. If a going concern transaction cannot be achieved in a timely fashion, the assets will be liquidated. In either a going concern sale, or a liquidation, the Trustee does not expect any proceeds will be available for distribution to unsecured creditors.

CONFLICT OF INTEREST AND PAYMENT OF TRUSTEE FEES

PwC is acting as Trustee and Receiver of the Company. To address the potential conflict of interest, the Receiver obtained a legal opinion on the validity and enforceability of NYDIG's security from Osler, Hoskin & Harcourt LLP which indicated that NYDIG's security is valid and enforceable against the bankruptcy estate.

Dated at Vancouver, British Columbia, this July 17, 2023.

PricewaterhouseCoopers Inc., LIT
Trustee of the Estate of
IE CA 3 Holdings Ltd.

Michelle Grant, CIRP, LIT
Senior Vice President

District of: British Columbia
Division No. 03 – Vancouver
Court No. B- 230298
Estate No. 11- 2959909

IN THE MATTER OF THE BANKRUPTCIES OF

IE CA 4 HOLDINGS LTD.

TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

JULY 17, 2023

This report has been prepared by PricewaterhouseCoopers Inc. ("**PwC**") in its capacity as Trustee (the "**Trustee**") based on information available as of July 17th, 2023. All monetary amounts noted herein are expressed in Canadian Dollars, unless otherwise stated.

BACKGROUND

IE CA 4 Holdings Ltd. ("**IE CA 4**") was incorporated in the Province of British Columbia on March 12, 2021. It is a wholly owned subsidiary of Iris Energy Ltd. ("**Iris Energy**"), based in New South Wales, Australia. Iris Energy has several subsidiaries that own and operate three bitcoin mining centres in British Columbia and a fourth in Texas, USA. Iris Energy went public in November 2021 on the NASDAQ Global Select Market and trades under the symbol IREN. IE CA 4 is an entity described by Iris Energy as a special purpose vehicle incorporated for the purpose of owning bitcoin mining equipment. Only two entities in the broader Iris Energy group are in Receivership, with one being IE CA 3 Holdings Ltd and the other being IE CA 4 Holdings Ltd ("**IE CA 4**").

Iris Energy's operations in British Columbia included approximately 36,400 bitcoin mining machines, owned by either IE CA 3 or IE CA 4. The server machines were financed by, and subject to, the security interests of NYDIG ABL LLC ("**NYDIG**").

From May 2021 to October 2022, NYDIG provided a loan to IE CA 4 under a Master Equipment Financing Agreement ("**MEFA**"). IE CA 4 defaulted under the MEFA in early November 2022. Demands for repayment and notices of intention to enforce security were issued by NYDIG in mid-November 2022.

On February 3, 2023, the Supreme Court of British Columbia (the "**Court**"), on application by NYDIG, granted an Order, appointing PricewaterhouseCoopers Inc. Receiver (the "**Receiver**") of the assets, undertakings, and property of IE CA 4. On February 3, 2023, IE CA 4 owed USD$79,138,307.41 (CAD$103,327,711) to NYDIG under its respective MEFA.

After its appointment the Receiver attended the three locations in BC where the equipment was stored to view the assets, the Receiver ascertained during these site visits that prior to the onset of the receivership, the mining servers were unplugged, packaged and palleted at the various locations Iris Energy. In addition to the mining equipment, the Receiver took possession of the cash in IE CA 4's bank account and electronic copies of the books and records of the Company.

On June 13, 2023, the Court granted an order authorizing the Receiver to assign IE CA 4 into bankruptcy. On June 28th, 2023, the Receiver filed an assignment in bankruptcy on behalf of IE CA 4 Holdings Ltd.

PwC was appointed as Licensed Insolvency Trustee, of the estate of the Company. A Notice of the Bankruptcy and the First Meeting of Creditors and materials relating to the bankruptcy proceedings was sent by the Trustee on June 29th, 2023, to all known creditors of the Company, pursuant to the provisions of the BIA.

PwC Inc. maintains a website, where documents related to the Receivership and Bankruptcy proceedings are posted. The website address is: https://www.pwc.com/ca/en/services/insolvency-assignments/ieca34.html

ASSETS AND LIABILITIES

The assets and liabilities of IE CA 4 as at June 28, 2023 are shown in the tables below.

Assets	**Book Value (CA$)**
Cash	4,220,446.06
Machinery, Equipment, Plant	15,305,500.00
Other Property	48,804.00
Total Assets	19,574,750.06

Liabilities	**Book Value (CA$)**
Unsecured Creditors	97,256,966.29
Secured Creditors	19,574,750.06
Total Liabilities	116,831,716.35

These balances have been updated from the amounts included in the Receiver's notice and statement dated February 3rd, 2023, to reflect current values (as applicable)

ACTIVITIES TO DATE

The Trustee has called the first meeting of creditors and provided each creditor with copies of the following:

- Notice of Bankruptcy and First Meeting of Creditors
- Proof of Claim and Proxy Form
- Statement of Affairs
- Assignment for the General Benefit of Creditors
- Certificate of Appointment

REVIEWABLE TRANSACTIONS AND TRANSFERS UNDER VALUE

The Receiver gained access to limited books and records up to January 2023. As such, the Receiver has been examining the books and records for preference payments and transfers under value for the year proceeding its appointment. Some of this analysis has been presented to the Court in the second and third reports of the Receiver. This review is still in progress and will be further developed by the Trustee in the coming weeks and reported to the Inspectors in the bankruptcy proceedings.

PRELIMINARY ESTIMATES OF DISTRIBUTION

The Receiver is currently seeking buyers for the sale of the assets as a going concern transaction. If a going concern transaction cannot be achieved in a timely fashion, the assets will be liquidated. In either a going concern sale, or a liquidation, the Trustee does not expect any proceeds will be available for distribution to unsecured creditors.

CONFLICT OF INTEREST AND PAYMENT OF TRUSTEE FEES

PwC is acting as Trustee and Receiver of the Company. To address the potential conflict of interest, the Receiver obtained a legal opinion on the validity and enforceability of NYDIG's security from Osler, Hoskin & Harcourt LLP which indicated that NYDIG's security is valid and enforceable against the bankruptcy estate.

Dated at Vancouver, British Columbia, this July 17, 2023.

PricewaterhouseCoopers Inc., LIT
Trustee of the Estate of
IE CA 4 Holdings Ltd.

Michelle Grant, CIRP, LIT

Senior Vice President

Appendix E
Initial request for Examinations

VIA COURIER

August 21, 2023

Michael Alfred
11513 Glowing Sunset Lane
Las Vegas, NV 89135
United States

Subject: In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

In accordance with the court order issued by the Supreme Court of British Columbia on June 13, 2023, PricewaterhouseCoopers Inc. in its capacity as Court Appointed Receiver of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. filed an assignment in bankruptcy on behalf of the Debtors on June 28, 2023. Pursuant to the Bankruptcy and Insolvency Act ("**BIA**"), PricewaterhouseCoopers Inc. was appointed as trustee ("**Trustee**") of the Debtors' estates on June 28, 2023 and this appointment was affirmed at the meeting of creditors held on July 18, 2023.

The BC Corporate registry for IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. indicates that you are a former director of each of these companies. In accordance with section 163(1) of the BIA the Trustee requests your presence at an examination hearing at the Vancouver offices of either Iris Energy Ltd. or the Trustee to discuss the Debtors' financial affairs, property, dealings and causes of insolvency. The Trustee currently has a resolution to proceed with your examination in respect of IE CA 3 Holdings Ltd. We anticipate conducting an examination with respect to IE CA 4 Holdings Ltd. at the same time once the proper resolution for that company is obtained. Confirmation that both Debtors will be included in the examination will be provided to you prior to the examination date.

On August 3, 2023, we scheduled delivery of a letter (the "**August 3rd Letter**") which requested confirmation of your availability for an examination taking place on or before September 15, 2023. The letter requested this confirmation on or before August 14, 2023. Delivery was attempted numerous times and our records indicate that this was successfully delivered on August 17, 2023 at 10:49am. Due to the delays in delivering the August 3rd letter we are sending this subsequent letter with revised dates.

PricewaterhouseCoopers Inc., LIT
PricewaterhouseCoopers Place, 250 Howe Street, Suite 1400, Vancouver, British Columbia, Canada V6C 3S7
T: +1 604 806 7000, F: +1 604 806 7806, www.pwc.com/ca

The examination is to take place on or before September 29, 2023. The Trustee is prepared to work with you to find a convenient date and time for your examination. We currently anticipate that your examination will take approximately 1 to 2 days.

The Trustee will provide a list of documents (if any) which we request that you bring with you to the examination within five business days of confirming the date and time of the examination.

We require confirmation of the dates and times that you are available for this purpose on or before September 1, 2023 to allow sufficient time to plan for the examination.

Yours Truly,

PricewaterhouseCoopers Inc.
In its capacity as Trustee of the estates of
IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd
and not in its personal capacity

Per: 

Michelle Grant, CIRP, LIT

Encl. Section 163(1) of the BIA

VIA EMAIL to: david.bartholomew@irisenergy.co

August 3, 2023

David Bartholomew
Suite 1202
Level 12
44 Market Street
Sydney, NSW 2000
Australia

Subject: In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

In accordance with the court order issued by the Supreme Court of British Columbia on June 13, 2023, PricewaterhouseCoopers Inc. in its capacity as Court Appointed Receiver of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. filed an assignment in bankruptcy on behalf of the Debtors on June 28, 2023. Pursuant to the Bankruptcy and Insolvency Act ("**BIA**"), PricewaterhouseCoopers Inc. was appointed as trustee ("**Trustee**") of the Debtors' estates on June 28, 2023 and this appointment was affirmed at the meeting of creditors held on July 18, 2023.

We understand you are a Director of Iris Energy Ltd., parent company to the Debtors. In accordance with section 163(1) of the BIA the Trustee requests your presence at an examination hearing at the Vancouver offices of either Iris Energy Ltd. or the Trustee to discuss the Debtors' financial affairs, property, dealings and causes of insolvency. The Trustee currently has a resolution to proceed with your examination in respect of IE CA 3 Holdings Ltd. We anticipate conducting an examination with respect to IE CA 4 Holdings Ltd. at the same time once the proper resolution for that company is obtained. Confirmation that both Debtors will be included in the examination will be provided to you prior to the examination date.

The examination is to take place on or before September 15, 2023. The Trustee is prepared to work with you to find a convenient date and time for your examination. We currently anticipate that your examination will take approximately 1 to 2 days.

The Trustee will provide a list of documents (if any) which we request that you bring with you to the examination within five business days of confirming the date and time of the examination.

We require confirmation of the dates and times that you are available for this purpose on or before August 14, 2023 to allow sufficient time to plan for the examination.

Yours Truly,

PricewaterhouseCoopers Inc.
In its capacity as Trustee of the estates of
IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd
and not in its personal capacity

Per: 

Michelle Grant, CIRP, LIT

CC – Emily Paplawski, Oslers LLP (via email)

Encl. Section 163(1) of the BIA

VIA COURIER

August 3, 2023

Christopher Guzowski
27c Elgin Crescent
London
W11 2JD
United Kingdom

Subject: In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

In accordance with the court order issued by the Supreme Court of British Columbia on June 13, 2023, PricewaterhouseCoopers Inc. in its capacity as Court Appointed Receiver of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. filed an assignment in bankruptcy on behalf of the Debtors on June 28, 2023. Pursuant to the Bankruptcy and Insolvency Act ("**BIA**"), PricewaterhouseCoopers Inc. was appointed as trustee ("**Trustee**") of the Debtors' estates on June 28, 2023 and this appointment was affirmed at the meeting of creditors held on July 18, 2023.

The BC Corporate registry for IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. indicates that you are a former director of each of these companies. In accordance with section 163(1) of the BIA the Trustee requests your presence at an examination hearing at the Vancouver offices of either Iris Energy Ltd. or the Trustee to discuss the Debtors' financial affairs, property, dealings and causes of insolvency. The Trustee currently has a resolution to proceed with your examination in respect of IE CA 3 Holdings Ltd. We anticipate conducting an examination with respect to IE CA 4 Holdings Ltd. at the same time once the proper resolution for that company is obtained. Confirmation that both Debtors will be included in the examination will be provided to you prior to the examination date.

The examination is to take place on or before September 15, 2023. The Trustee is prepared to work with you to find a convenient date and time for your examination. We currently anticipate that your examination will take approximately 1 to 2 days.

The Trustee will provide a list of documents (if any) which we request that you bring with you to the examination within five business days of confirming the date and time of the examination.

We require confirmation of the dates and times that you are available for this purpose on or before August 14, 2023 to allow sufficient time to plan for the examination.

Yours Truly,

PricewaterhouseCoopers Inc.
In its capacity as Trustee of the estates of
IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd
and not in its personal capacity

Per: 

Michelle Grant, CIRP, LIT

CC – Emily Paplawski, Oslers LLP (via email)

Encl. Section 163(1) of the BIA

VIA EMAIL to: belinda.nucifora@irisenergy.co

August 3, 2023

Belinda Nucifora
Suite 1202
Level 12
44 Market Street
Sydney, NSW 2000
Australia

Subject: In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

In accordance with the court order issued by the Supreme Court of British Columbia on June 13, 2023, PricewaterhouseCoopers Inc. in its capacity as Court Appointed Receiver of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. filed an assignment in bankruptcy on behalf of the Debtors on June 28, 2023. Pursuant to the Bankruptcy and Insolvency Act ("**BIA**"), PricewaterhouseCoopers Inc. was appointed as trustee ("**Trustee**") of the Debtors' estates on June 28, 2023 and this appointment was affirmed at the meeting of creditors held on July 18, 2023.

In your capacity as Chief Financial Officer of Iris Energy Ltd., parent company to the Debtors and in accordance with section 163(1) of the BIA the Trustee requests your presence at an examination hearing at the Vancouver offices of either Iris Energy Ltd. or the Trustee to discuss the Debtors' financial affairs, property, dealings and causes of insolvency. The Trustee currently has a resolution to proceed with your examination in respect of IE CA 3 Holdings Ltd. We anticipate conducting an examination with respect to IE CA 4 Holdings Ltd. at the same time once the proper resolution for that company is obtained. Confirmation that both Debtors will be included in the examination will be provided to you prior to the examination date.

The examination is to take place on or before September 15, 2023. The Trustee is prepared to work with you to find a convenient date and time for your examination. We currently anticipate that your examination will take approximately 1 to 2 days.

The Trustee will provide a list of documents (if any) which we request that you bring with you to the examination within five business days of confirming the date and time of the examination.

PricewaterhouseCoopers Inc., LIT
PricewaterhouseCoopers Place, 250 Howe Street, Suite 1400, Vancouver, British Columbia, Canada V6C 3S7
T: +1 604 806 7000, F: +1 604 806 7806, www.pwc.com/ca

We require confirmation of the dates and times that you are available for this purpose on or before August 14, 2023 to allow sufficient time to plan for the examination.

Yours Truly,

PricewaterhouseCoopers Inc.
In its capacity as Trustee of the estates of
IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd
and not in its personal capacity

Per: 

Michelle Grant, CIRP, LIT

CC – Emily Paplawski, Oslers LLP (via email)

Encl. Section 163(1) of the BIA

VIA EMAIL to: daniel.roberts@irisenergy.co

August 3, 2023

Daniel Roberts
Suite 1202
Level 12
44 Market Street
Sydney, NSW 2000
Australia

Subject: In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

In accordance with the court order issued by the Supreme Court of British Columbia on June 13, 2023, PricewaterhouseCoopers Inc. in its capacity as Court Appointed Receiver of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. filed an assignment in bankruptcy on behalf of the Debtors on June 28, 2023. Pursuant to the Bankruptcy and Insolvency Act ("**BIA**"), PricewaterhouseCoopers Inc. was appointed as trustee ("**Trustee**") of the Debtors' estates on June 28, 2023 and this appointment was affirmed at the meeting of creditors held on July 18, 2023.

As the Co-Founder and Co-CEO of Iris Energy Ltd., parent company of the Debtors, the Trustee is requesting your presence at an examination hearing in accordance with section 163(1) of the BIA. The Trustee requests your presence at an examination hearing at the Vancouver offices of either Iris Energy Ltd. or the Trustee to discuss the Debtors' financial affairs, property, dealings and causes of insolvency. The Trustee currently has a resolution to proceed with your examination in respect of IE CA 3 Holdings Ltd. We anticipate conducting an examination with respect to IE CA 4 Holdings Ltd. at the same time once the proper resolution for that company is obtained. Confirmation that both Debtors will be included in the examination will be provided to you prior to the examination date.

The examination is to take place on or before September 15, 2023. The Trustee is prepared to work with you to find a convenient date and time for your examination. We currently anticipate that your examination will take approximately 1 to 2 days.

The Trustee will provide a list of documents (if any) which we request that you bring with you to the examination within five business days of confirming the date and time of the examination.

We require confirmation of the dates and times that you are available for this purpose on or before August 14, 2023 to allow sufficient time to plan for the examination.

Yours Truly,

PricewaterhouseCoopers Inc.
In its capacity as Trustee of the estates of
IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd
and not in its personal capacity

Per: 

Michelle Grant, CIRP, LIT

CC – Emily Paplawski, Oslers LLP (via email)

Encl. Section 163(1) of the BIA

VIA EMAIL to: will.roberts@irisenergy.co

August 3, 2023

William Roberts
28 Patrick Street
North Willoughby NSW 2068
Australia

Subject: In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

In accordance with the court order issued by the Supreme Court of British Columbia on June 13, 2023, PricewaterhouseCoopers Inc. in its capacity as Court Appointed Receiver of IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. filed an assignment in bankruptcy on behalf of the Debtors on June 28, 2023. Pursuant to the Bankruptcy and Insolvency Act ("**BIA**"), PricewaterhouseCoopers Inc. was appointed as trustee ("**Trustee**") of the Debtors' estates on June 28, 2023 and this appointment was affirmed at the meeting of creditors held on July 18, 2023.

The BC Corporate registry for IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. indicates that you are a former director of each of these companies. In addition you are the Co-Founder and Co-CEO of Iris Energy Ltd. parent company of the Debtors. In accordance with section 163(1) of the BIA the Trustee requests your presence at an examination hearing at the Vancouver offices of either Iris Energy Ltd. or the Trustee to discuss the Debtors' financial affairs, property, dealings and causes of insolvency. The Trustee currently has a resolution to proceed with your examination in respect of IE CA 3 Holdings Ltd. We anticipate conducting an examination with respect to IE CA 4 Holdings Ltd. at the same time once the proper resolution for that company is obtained. Confirmation that both Debtors will be included in the examination will be provided to you prior to the examination date.

The examination is to take place on or before September 15, 2023. The Trustee is prepared to work with you to find a convenient date and time for your examination. We currently anticipate that your examination will take approximately 1 to 2 days.

The Trustee will provide a list of documents (if any) which we request that you bring with you to the examination within five business days of confirming the date and time of the examination.

PricewaterhouseCoopers Inc., LIT
PricewaterhouseCoopers Place, 250 Howe Street, Suite 1400, Vancouver, British Columbia, Canada V6C 3S7
T: +1 604 806 7000, F: +1 604 806 7806, www.pwc.com/ca

We require confirmation of the dates and times that you are available for this purpose on or before August 14, 2023 to allow sufficient time to plan for the examination.

Yours Truly,

PricewaterhouseCoopers Inc.
In its capacity as Trustee of the estates of
IE CA 3 Holdings Ltd and IE CA 4 Holdings Ltd
and not in its personal capacity

Per: 

Michelle Grant, CIRP, LIT

CC – Emily Paplawski, Oslers LLP (via email)

Encl. Section 163(1) of the BIA

Appendix F
August 14 Norton Rose letter

August 14, 2023

Sent By E-mail (MButtery@osler.com)

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 – 6th Avenue, SW
Calgary, AB T2P 1N2

Attention: Mary Buttery, KC

NORTON ROSE FULBRIGHT

Norton Rose Fulbright Canada LLP
510 West Georgia Street, Suite 1800
Vancouver, BC V6B 0M3 Canada

F: +1 604.641.4949
nortonrosefulbright.com

Kieran E. Siddall*
+1 604.641.4868
kieran.siddall@nortonrosefulbright.com

Assistant
+1 604.641.4556
nadine.abram@nortonrosefulbright.com

Our reference
1001149364

Your reference

Dear Sir/Madam:

In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd. and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

We have been provided for reply copies of the Trustee's letters to William Roberts, Daniel Roberts, Belinda Nucifora and David Bartholomew requesting that each attend an examination by the Trustee on or before September 15, 2023 in Vancouver for one to two days, pursuant to section 163(1) of the Bankruptcy & Insolvency Act.

As you are aware, the Debtors have fully cooperated, and continue to cooperate, in responding to what can be fairly described as an extensive number of document and information requests directed to them over the past six months, including what the Debtors estimate is over a thousand emails exchanged, numerous telephone and video conference discussions, and the sharing of over a thousand documents. As you are also aware, William Roberts, has affirmed two lengthy affidavits in the receivership proceedings in which he extensively outlines the Debtors' financial affairs, property, dealings, and causes of insolvency.

In these circumstances, if the Trustee still wishes to proceed with an examination, we are instructed that William Roberts, as a former director of the Debtors, will make himself available for an examination to take place in Sydney, Australia, his place of residence, either in person or by MS Teams on a date and time to be agreed. Mr. Roberts is unable to travel to Vancouver for an examination. Among other things, he has investor relations meetings that require his presence in Sydney, and extensive work commitments ahead of the filing of Iris Energy Limited's annual report with the US Securities Exchange Commission in mid-September.

With respect to the Trustee's requests to examine Daniel Roberts, Belinda Nucifora and David Bartholomew, none of these individuals are resident in Canada, and none are former directors, officers, employees, or agents of the Debtors. As such, an examination of these individuals pursuant to section 163(1) or otherwise is not available.

Yours very truly,

KE Siddall.

Kieran E. Siddall*

KES/na

**Law Corporation*

CAN_DMS: \1000613711

Appendix G
August 25 Osler letter

Osler, Hoskin & Harcourt LLP
Suite 3000, Bentall Four
1055 Dunsmuir Street
Vancouver, British Columbia, Canada V7X 1K8
778.785.3000 MAIN
778.785.2745 FACSIMILE

OSLER

Calgary
Toronto
Montréal
Ottawa
Vancouver
New York

August 25, 2023

Mary Buttery, K.C.
Direct Dial: 604.692.2752
MButtery@osler.com
Our Matter Number: 1239988

BY ELECTRONIC MAIL (Kieran.Siddall@nortonrosefulbright.com)

Norton Rose Fulbright Canada LLP
510 West Georgia Street, Suite 1800
Vancouver, BC V6B 0M3

Attention: Kieran Siddall

Dear Kieran:

Re: ***In the matter of the Bankruptcies of IE CA 3 Holdings Ltd. and IE CA 4 Holding Ltd.*** **(the "Debtors"), Estate Nos. 11-2959932 and 11-2959909**

We write in response to your letter of August 14, 2023 regarding the Requests for Examination of PricewaterhouseCoopers Inc., in its capacity as trustee in bankruptcy of the Debtors' estates (the "**Trustee**"), sent to Mr. William Roberts, Mr. Daniel Roberts, Ms. Belinda Nucifora and Mr. David Bartholomew on August 3, 2023.

The Trustee disagrees that, other than Mr. William Roberts, an examination of the foregoing individuals is not available to the Trustee pursuant to section 163 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("**BIA**"). Contrary to your letter, there is nothing in section 163 which limits the Trustee's examination rights only to former directors, officers, employees, or agents of the Debtors, nor is their any residency limitation.

Instead, section 163 of the BIA permits the Trustee to examine under oath "any person reasonably thought to have knowledge of the affairs of the bankrupt." Each of the foregoing individuals meets this requirement. Among other things:

1. *Mr. William Roberts* is a co-founder of the Iris Energy Group and has, according to your letter and the affidavits he has sworn in the related receivership proceedings of the Debtors, extensive information regarding "the Debtors' financial affairs, property, dealings, and causes of insolvency";

2. *Mr. Daniel Roberts* is a co-founder of the Iris Energy Group and was integral to the formation and structuring of the Iris Energy Group (including the Debtors). The information regarding the decisions made with respect to the relationships between the Debtors, NYDIG ABL LCC and Bitmain Technologies Limited, the intercompany relationships between the Debtors and the other entities within the Iris Energy Group, and the Hashpower Agreements and Hosting Agreements

executed by the Debtors, all of which materially impacted the Debtors' finances and operations;

3. *Ms. Belinda Nucifora* is Chief Financial Officer of Iris Energy Limited ("**IEL**") and has information regarding the flow of funds as between the Debtors and the broader Iris Energy Group, the Debtors' finances prior to commencement of the receivership and bankruptcy proceedings, and the intercompany and third-party transactions to which one or both of the Debtors were party and pursuant to which funds were sent and received by the Debtors; and

4. *Mr. David Bartholomew* is an independent director of IEL and has information regarding the Debtors' operations within the broader Iris Energy Group, the decision-making process undertaken by IEL with respect to the Debtors and their operations and finances, and the series of events which led to the Debtors' respective insolvencies.

As "person[s] reasonably thought to have knowledge of the affairs of the bankrupt", the Trustee requires that each of the foregoing individuals confirm their availability to attend at examinations pursuant to section 163 of the BIA in September. In accordance with the *Bankruptcy and Insolvency Rules* and applicable jurisprudence, the Trustee requires that the examinations proceed in person, in Vancouver, Canada. Please confirm the availability of each individual as soon as possible and, in any event, by no later than August 31, 2023, so that the necessary arrangements can be finalized, failing which, the Trustee will seek time before Justice Milman in September for an order compelling their attendance.

The Trustee also notes that in addition to the four individuals referenced in this letter, the Trustee also provided Requests for Examination to Mr. Michael Alfred and Mr. Christopher Guzowski. Delivery of such Requests for Examination were delayed and so the Receiver continues to await their respective responses.

Yours truly,

Mary Buttery, K.C.
Partner

cc: E. Paplawski, *Osler*
Client
MB:ep

Appendix H
August 31 Norton Rose letter

August 31, 2023

Sent By E-mail (MButtery@osler.com)

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 – 6th Avenue, SW
Calgary, AB T2P 1N2

Attention: Mary Buttery, KC

Norton Rose Fulbright Canada LLP
510 West Georgia Street, Suite 1800
Vancouver, BC V6B 0M3 Canada

F: +1 604.641.4949
nortonrosefulbright.com

Kieran E. Siddall*
+1 604.641.4868
kieran.siddall@nortonrosefulbright.com

Assistant
+1 604.641.4556
nadine.abram@nortonrosefulbright.com

Our reference 1001149364 Your reference

Dear Sir/Madam:

In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd. and the Bankruptcy of IE CA 4 Holdings (the "Debtors")

Thank you for your letter of August 25, 2023. We respectfully disagree with your assertion that persons not domiciled in this jurisdiction can be compelled to attend a section 163 examination. We also disagree that it is necessary or appropriate to seek to examine all the directors of a bankrupt entity at the same time, which will inevitably involve overlapping evidence and wasted time and costs for all involved.

Regarding your request to examine Messrs. Alfred and Guzowski, you should now have our letter of August 25, 2023, which crossed with yours.

We repeat our proposal to you that William Roberts, in his capacity as a former director of the Debtors, be examined on the terms set out in our August 14, 2023 letter. In our view a reasonable course would be to proceed first with an examination of Mr. Roberts, following which the trustee can assess whether an application for further examinations is necessary. In any event, we would ask that you please consult with us on the scheduling of any application you intend to make so we may provide you with our available dates.

Yours very truly,

KE Siddall.

Kieran E. Siddall*

KES/na

**Law Corporation*

CAN_DMS: \1000969861\1

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *IE CA 3 Holdings Ltd. (Re),* 2023 BCSC 2120

Date: 20231201
Estate No. 11-2959909
Docket: B230284
Registry: Vancouver

In Bankruptcy

In the Matter of the Bankruptcy of IE CA 3 Holdings Ltd.

- and -

Estate No.: 11-2959909
Docket: B230298
Registry: Vancouver

In Bankruptcy

In the Matter of the Bankruptcy of IE CA 4 Holdings Ltd.

Before: The Honourable Mr. Justice Milman

Reasons for Judgment

Counsel for the Trustee, PricewaterhouseCoopers Inc.:	M. Buttery, K.C. E. Paplawski
Counsel for the Debtors, IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd.:	K. Siddall C. Formosa
Counsel for Daniel Roberts, William Roberts, Michael Alfred, David Bartholomew, Belinda Nucifora and Chris Guzowski:	T. Curry B. Greenaway
Counsel for NYDIG ABL LLC:	C. Burr C. Hildebrand
Place and Date of Hearing:	Vancouver, B.C. November 17, 2023
Place and Date of Judgment:	Vancouver, B.C. December 1, 2023

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I. Introduction

[1] This is an application by PricewaterhouseCoopers Inc. ("PWC" or the "Trustee"), in its capacity as trustee in bankruptcy of the debtors, IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. (collectively, the "Debtors"), for an order to compel six individuals to attend for an examination under oath pursuant to s. 163(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 [*BIA*], respecting the Debtors and their dealings or property.

[2] The proposed examinees, all of whom reside outside Canada, are or were directors or officers of the Debtors or their Australian parent company, Iris Energy Limited ("IEL"). The Trustee wishes to examine them about a variety of matters, including transactions that took place between the Debtors and their affiliates, including IEL, prior to the date of the Debtors' assignment into bankruptcy.

[3] One of the proposed examinees, William Roberts, is a director and co-CEO of IEL and a former director of both of the Debtors. He has agreed to be examined by the Trustee on certain conditions. IEL, the Debtors and the proposed examinees otherwise oppose the application on the basis that:

a) this court lacks the jurisdiction to compel the proposed examinees, as foreign residents, to submit to the proposed examinations; and

b) the proposed examinations, except for that of William Roberts, would be unnecessary and abusive, particularly because he can answer whatever questions the Trustee may have.

[4] For the reasons that follow, I have concluded that the application should be allowed in part.

II. The Factual Background

[5] PWC, then acting as receiver, assigned the Debtors into bankruptcy on June 27, 2023. PWC had previously been appointed receiver over the Debtors' property, business and undertakings by my order made February 3, 2023 (the

"Receivership Order"). The Receivership Order was made on the application of the Debtors' only secured creditor, NYDIG ABL LLC ("NYDIG").

[6] The Debtors, between them, owe NYDIG more than US $100 million pursuant to two Master Equipment Financing Agreements ("MEFAs"), through which NYDIG financed the Debtors' purchase of certain cryptocurrency mining equipment. The history of and background to the receivership were canvassed at length in my earlier decision, indexed as *NYDIG ABL LLC v. IE CA 3 Holdings Ltd*., 2023 BCSC 1383 (the "Fraudulent Conveyance Decision") and need not be repeated here.

[7] In the Fraudulent Conveyance Decision, I granted, in part, NYDIG's application seeking, among other things, a declaration that the Debtors and IEL had engaged in a series of fraudulent conveyances prior to the receivership. NYDIG's application for that relief was opposed by the Debtors and IEL. Their appeal from my order granting it remains outstanding.

[8] On June 13, 2023, I granted an application by PWC, then acting in its capacity as receiver, seeking to expand its powers as receiver to permit it to assign the Debtors into bankruptcy. PWC sought that order so that it could exercise the additional powers of a trustee in bankruptcy, including the power to conduct examinations under s. 163 and, if necessary, to take advantage of the remedies available under Part IV of the *BIA*.

[9] Following the assignment of the Debtors into bankruptcy, NYDIG, as the only voting creditor, passed resolutions at their respective creditors' meetings authorizing the Trustee to examine the proposed examinees. To that end, the Trustee wrote to each of them in August 2023 requesting that they attend in Vancouver for the proposed examinations.

[10] Counsel for the Debtors and IEL responded to those requests by letter dated August 14, 2023. That letter questioned the need for the examinations, having regard to the copious amounts of information and documents that they had already provided in response to PWC's questions. The letter noted further that the proposed

examinees were not residents of Canada and were not available to travel to Vancouver and be examined in the timeframe proposed. Nevertheless, the letter offered to make one of the proposed examinees, William Roberts, available to be examined in Sydney, Australia, either in person or remotely by videoconference.

[11] This application followed.

[12] The proposed examinees include the following individuals (listed here in the order in which the Trustee wishes to examine them, along with their current or former positions with the Debtors or IEL, and their current place of residence):

a) Daniel Roberts (co-founder and co-CEO and a director and officer of IEL, who resides in Sydney, Australia);

b) Belinda Nucifora (CFO of IEL, who resides in Sydney, Australia);

c) Michael Alfred (a director of the Debtors until June 29, 2023 and currently an independent, non-executive director of IEL, who resides in Las Vegas, Nevada, U.S.A.);

d) William Roberts (co-founder and co-CEO and a director and officer of IEL, as well as a director of both Debtors until June 29, 2023, who resides in Sydney, Australia);

e) Christopher Guzowski (a director of the Debtors until June 29, 2023 and currently an independent, non-executive director of IEL, who resides in London, England); and

f) David Bartholomew (an independent director of IEL, who resides in Sydney, Australia).

[13] The Trustee proposes to examine the first two of those individuals for one full day each, and the others for a half-day each. During the hearing before me, the Trustee agreed to conduct all of the proposed examinations remotely by

videoconference, thereby avoiding the need for the examinees to travel to Vancouver.

III. The Parties' Arguments

A. The Argument of the Trustee

[14] The Trustee submits that this court may properly order the proposed examinees to submit to the proposed examinations either directly or, alternatively, indirectly, by requiring IEL to make them available for that purpose.

[15] First, the Trustee notes that three of the proposed examinees (namely, Michael Alfred, William Roberts and Christopher Guzowski), are former directors of the Debtors, making them persons who are expressly subject to examination under s. 163.

[16] Further, the Trustee notes that s. 163 contains no language restricting the persons who may be examined according to their place of residence. Nor, it is argued, can such a restriction reasonably be implied, given the "reality of global business", that Canadian companies will often have directors and officers who reside in other places. The Trustee submits that it would effectively "gut" s. 163 of its intended effect if it were to be interpreted to apply only to locally resident examinees.

[17] The Trustee cites *Re SHS Services Management Inc*., 2015 ONSC 2674 and *Nishiyama (Re)*, 2020 BCSC 224 as examples of cases in which non-resident examinees were ordered to submit to examinations under s. 163.

[18] Even if this court lacked the requisite jurisdiction to order the proposed examinees to submit to the proposed examinations, it is argued, they have, in any event, now attorned to the jurisdiction through the response that they filed to this application. In that response, they assert that the application should be refused not only for want of jurisdiction, but also because the Trustee is said to have acted unreasonably in refusing William Roberts' offer that the Trustee examine him alone in the first instance.

[19] The Trustee argues that this amounts to an attornment, citing *Imagis Technologies Inc. v. Red Herring Communications, Inc*., 2003 BCSC 366 and *Mid-Ohio Imported Car CO. v. Tri-K Investments Ltd*. (1995), 13 B.C.L.R. (3d) 41, 1995 CanLII 2084 (S.C.). In *Barer v. Knight Brothers LLC*, 2019 SCC 13, Gascon J., writing for the majority, stated (at paras. 69-70) that a defendant who advances substantive arguments which, if accepted, would resolve the dispute, or part of it, on the merits, has thereby attorned to the jurisdiction of the court, even if "begrudgingly."

[20] In the alternative, the Trustee argues that, to the extent there is a jurisdictional impediment to ordering the proposed examinees to submit to the proposed examinations directly, the court can achieve the same result indirectly by invoking its *in personam* jurisdiction over IEL. In particular, the court can require IEL, as a "person" with knowledge of the Debtors' affairs, to be examined in its own right, through the proposed examinees. Pursuant to s. 35(1) of *Interpretation Act*, R.S.C. 1985, c. I-21, the term "person" is expressly stated to include a corporation. Accordingly, it is argued, the court may properly compel IEL, as a foreign corporation over which it has *in personam* jurisdiction, to produce a witness for examination, on the same basis that it may compel such a corporation to produce other forms of information stored outside Canada (see: *Equustek Solutions Inc. v. Google Inc*., 2015 BCCA 265, aff'd 2017 SCC 34 and *British Columbia (Attorney General) v. Brecknell*, 2018 BCCA 5).

[21] The Trustee cites *CRS Forestal v. Boise Cascade Corp*., 2001 BCSC 1521 as an example where this occurred. There, in the context of a civil lawsuit, this court ordered the defendant, a Chilean corporation, to produce one of its officers and directors, who resided in Chile, to be examined for discovery on behalf of the corporation. In rejecting the defendant corporation's argument that no such order could properly be made because this court had no ability to enforce it, L.P. Williamson J., stated as follows:

> [9] The second question is whether it is practical to make the order sought. [The corporate defendant] submits that it is not practical to make an order in circumstances where this court has no jurisdiction to enforce the order.

> Whatever this means, it cannot mean that the court cannot make an order compelling a person residing outside of British Columbia (outside of the jurisdiction of the court) to attend an examination for discovery. To so rule would render Rule 27(26) completely ineffective.
>
> [10] The real issue is whether the defendant …, a company which has attorned to the jurisdiction of this court, can exert any pressure on [the proposed examinee] to attend an examination for discovery. In this regard, it is helpful to consider *United Services Fund (Trustees of) v. Richardson* 23 B.C.L.R. (2d) 1 at para. 6 in which Esson J.A., writing for the Court, stated:
>
> > The attendance of present officers outside the jurisdiction could, of course, be compelled by sanctions directed against the corporate party.
>
> [11] Is there, then, a practical method of compelling the attendance of a person living outside the province? In my view there is. [The corporate defendant] is a party. [The proposed examinee] is a general manager of, as well as a director of and shareholder in the company. On the face of it, the company can direct him to attend for examination for discovery.

B. The Argument of the Proposed Examinees

[22] The response of the proposed examinees begins with the assertion that they do not submit to the jurisdiction of this court. They dispute that the response contains any substantive argument on the merits, so as to amount to an attornment.

[23] In their submission, the only proper way for the Trustee to obtain their testimony would be by way of letters of request directed to the foreign courts having jurisdiction over them. In support of that submission, they cite the following authorities: *McGuire v. McGuire*, [1953] O.R. 328; *Adler v. Deloitte Touche Tohamtsu*, 2022 ONCA 855; *Lido Industrial Products Ltd. v. Teledyne Industries, Inc.*, [1979] 1 F.C. 310; *R. v. Robertson* (1982), 42 B.C.L.R. 24 (C.A.); *United Services Fund (Trustee of) v. Richardson Greenshields of Canada Ltd.* (1988), 23 B.C.L.R. (2d) 1 (C.A.); *Ontario Securities Commission v. Bennett* (1991), 77 D.L.R. (4th) 576 (Ont. C.A.) and *Re Tucker*, [1988] 1 All E.R. 603, [1990] Ch. 148 (C.A.).

C. The Argument of the Debtors and IEL

[24] The Debtors and IEL join with the proposed examinees in arguing that this court lacks the requisite jurisdiction to make the order sought. They add that the court cannot acquire a jurisdiction it does not have by directing that order at IEL.

[25] In particular, they submit that IEL is not a “person” who can properly be ordered to be examined under s. 163. In their submission, the word “person” in that context can only mean an “individual”. Although it is acknowledged that s. 35(1) of the *Interpretation Act* (Canada) states that the term “person” generally includes a corporation, that provision must, they say, be read in light of s. 15(2), which allows for an exception if a “contrary intention” appears in the legislation. They say that a contrary intention is implicit in s. 163, insofar as only an individual, not a corporation, can have knowledge capable of being gathered by a trustee through examination. In any event, they say, the resolutions authorising the Trustee to proceed with the proposed examinations name the individuals, not IEL, as the persons to be examined.

[26] In addition, they submit that even if the Trustee is correct in arguing that the court has the requisite jurisdiction to direct IEL to make the proposed examinees available for examination, as was done for the purpose of arranging for an examination for discovery in *CRS Forestal*, the Trustee should be limited by the same constraints that apply under the *Supreme Court Civil Rules* [*SCCR*] to examinations for discovery, particularly the rule that the examining party is generally entitled to examine only one corporate representative, at least in the first instance. Here, it is argued, the Trustee’s request for six examinations is abusive, particularly when the most knowledgeable of the proposed examinees, William Roberts, has already agreed to be examined first.

[27] The Debtors and IEL cite *MacDonald (Re)*, 2014 BCSC 2076 and *McDonough, Re* (2001), 27 C.B.R. (4th) 279 (Ont. S.C.J.) for the proposition that the trustee’s right to examine witnesses under s. 163 is not infinite, and cannot justify a fishing expedition. In this case, they say, they have already provided PWC with fulsome answers to its many questions to date. In his affidavit made in opposition to the application, William Roberts has deposed that he is not aware of any outstanding question that has not already received a response.

[28] Finally, the Debtors and IEL are concerned that, if the proposed order is granted, the information gathered by the Trustee may be used for an extraneous purpose, namely, to bolster NYDIG's response to their appeal of the Fraudulent Conveyance Decision. To prevent that from occurring, they seek an order as in *Re St Anne-Nackawic Pulp Co.*, 2005 NBQB 74, restricting the use of the information so obtained to this proceeding alone.

IV. Discussion

A. Does the court have the jurisdiction to make the order sought?

[29] Sub-section 163(1) of the *BIA* states as follows:

> Examination of bankrupt and others by trustee
>
> **163 (1)** The trustee, on ordinary resolution passed by the creditors or on the written request or resolution of a majority of the inspectors, may, without an order, examine under oath before the registrar of the court or other authorized person, the bankrupt, any person reasonably thought to have knowledge of the affairs of the bankrupt or any person who is or has been an agent or a mandatary, or a clerk, a servant, an officer, a director or an employee of the bankrupt, respecting the bankrupt or the bankrupt's dealings or property and may order any person liable to be so examined to produce any books, documents, correspondence or papers in that person's possession or power relating in all or in part to the bankrupt or the bankrupt's dealings or property.

[30] The provision is broadly worded. As the Trustee notes, there is no geographical limitation placed on the classes of persons who may be examined. Moreover, the provision empowers the Trustee to examine such persons "without an order." An order will therefore only become necessary if, as here, a proposed examinee refuses to comply.

[31] The authorities cited by the proposed examinees generally support their argument that, ordinarily, non-resident examinees who refuse to comply can only be compelled to do so by means of letters of request directed to the foreign courts having jurisdiction over them. Although examinations of non-residents under s. 163 were ordered in *Nishiyama* and *SHS* without recourse to letters of request, the court's jurisdiction to grant those orders was not contested.

[32] There are, however, exceptions to the need for letters of request. Two of them apply here.

[33] First, the court will acquire the requisite *in personam* jurisdiction over non-resident examinees who have attorned to the court's jurisdiction, such as by advancing substantive arguments on the merits of the dispute before the court: *Barer*. I agree with the Trustee that that is what has occurred here. By seeking to have the application resolved, even if only in part, on the basis that the Trustee has acted unreasonably in refusing to examine only William Roberts in the first instance, the proposed examinees have, albeit "begrudgingly", attorned to this court's jurisdiction.

[34] Second, the proposed examinees are directors and officers of IEL, a foreign corporation that has, without question, already attorned to this court's jurisdiction. This bankruptcy action is closely related to, and indeed, arises directly out of the receivership proceeding. IEL cannot properly seek to advance its interests in this litigation before this court and the Court of Appeal, while refusing to make its directors and officers available for examination as the law requires. I therefore agree with the Trustee that this court can, to the extent required, also invoke its *in personam* jurisdiction over IEL by ordering it to make the proposed examinees available for the proposed examinations.

[35] The jurisdictional footing for such an order is similar, but not identical, to that in *CRS Forestal*. Just as the foreign defendant in that case had a duty under the *SCCR* to make a representative available for discovery, IEL is likewise obliged, as a litigant in this forum, to ensure that that the rules of the forum that are engaged in this litigation, including s. 163 of the *BIA*, are followed by its directors and officers. However, the source of the court's jurisdiction to make the order sought here does not lie in the discovery provisions of the *SCCR*, as in *CRS Forestal*, but rather the inherent jurisdiction of the court to control its own process.

B. Should limits be placed on the number of examinations and the use of the information obtained through them?

[36] As the Debtors and IEL argue, this court may, where appropriate, properly set limits on the number and length of s. 163 examinations, to ensure that they do not become abusive: *Chiang (Re)*, 2008 CanLII 25717 (O.N.S.C.). In that case, the trustee was left with unanswered questions following a first round of examinations and sought to conduct a second round with the same two examinees. The court granted the order sought, rejecting the examinees' submission that the examination of one should be restricted to matters not within the knowledge of the other.

[37] A similar issue is raised here. The Debtors and IEL argue that the Trustee should be required to begin with William Roberts, with a view to examining one or more of the others thereafter only if satisfactory answers are not forthcoming from him.

[38] In support of its request to examine six individuals in the first instance, the Trustee has alleged that IEL and its affiliates have, to date, been less than entirely forthcoming in responding to questions about the Debtors' and their affairs. IEL and the Debtors deny this. However, the evidence adduced on this application supports the Trustee's contention that, despite the documents and information already received, many questions remain unanswered.

[39] In the Fraudulent Conveyance Decision, I concluded that the hashpower agreements between IEL and the Debtors should be set aside as fraudulent conveyances. Among the reasons for that conclusion was my finding that the price that IEL paid the Debtors for their hashpower pursuant to those agreements was substantially less than its real value, as reflected in:

a) the cost to the Debtors of producing it; and

b) the proceeds ultimately received by IEL in disposing of it.

[40] Another factor in my analysis was that the flow of funds among the Debtors and their affiliates was complex and, in some cases, undocumented. I noted that the

receiver was still in the process of reconstructing how funds had flowed in and out of the Debtors' accounts prior to the receivership.

[41] Since then, PWC has delivered its fourth report as receiver, dated August 17, 2023. That report updated the receiver's earlier analysis on those and other matters in light of the information and documents that had been provided by IEL to that point.

[42] The report identified seven material intercompany transactions involving the Debtors that the receiver believed to be outside the ordinary course of business. The report noted further that the Debtors had transacted with as many as six different corporate affiliates, for reasons that remain obscure. The receiver has expressed dissatisfaction with the explanations provided by IEL for those transactions and wishes to investigate further, armed with the powers of a trustee in bankruptcy.

[43] In addition, the receiver has reported that IEL has refused to produce complete and unredacted copies of its bank statements. In response, William Roberts has deposed that IEL has offered to provide further information pertaining to specific transactions, but that offer has not been taken up by the receiver.

[44] Calculating the value of the bitcoin rewards that IEL received using the Debtors' hashpower has proven to be complicated for a variety of reasons. One of them is that IEL directed the hashpower generated by numerous rigs, including those of the Debtors, into a mining pool. The receiver wishes to investigate the basis for IEL's allocation of the resulting bitcoin rewards among the contributing rigs.

[45] The report also raises concerns with respect to the duration of the period during which the Debtors operated the equipment. According to the receiver, IEL has not explained why it took as long as it did for the Debtors' equipment to begin operating after it was delivered. Moreover, the receiver wishes to investigate why the Debtors' equipment was unplugged, wrapped and palleted soon after NYDIG gave notice of its intention to enforce its security, thereby rendering the equipment unusable and depriving the receiver of revenue that could have gone to reduce the indebtedness.

[46] IEL's explanation for that conduct is that NYDIG failed to exercise its rights under the Landlord Waiver Agreements with the hosts, which would have allowed NYDIG to continue to operate the equipment following an event of default. They add that, because of that failure, the hosts were left with no assurance that the associated hosting fees would continue to be paid. However, the receiver has reported that it offered to enter into short-term hosting agreements with the hosts for this purpose, but this was refused.

[47] Having considered the evidence adduced on this application in light of the parties' submissions, I am satisfied that the matters canvassed in the preceding paragraphs are worthy of further investigation by the Trustee, including by way of one or more examinations under s. 163.

[48] However, the Trustee has not demonstrated that all six of the proposed examinees fall within at least one of the categories of examinable persons listed in s. 163. I accept that Michael Alfred, William Roberts and Christopher Guzowski, as former directors of the Debtors, as well as Belinda Nucifora, as CFO of IEL (and, as such, a person "reasonably thought to have knowledge of the affairs of the bankrupt") meet that description. On other hand, the Trustee has not presented a sufficient evidentiary basis to justify including Daniel Roberts and David Bartholomew on that list. Accordingly, my order will, for now, be restricted to the other four.

[49] Finally, I am not persuaded that it is necessary or appropriate to place any restriction on the use of the information that may be provided to the Trustee through the examinations I am ordering. This is not a case like *Re St Anne-Nackawic Pulp Co*., where there was a risk that information derived from a s. 163 examination will be used in unrelated litigation. Here, the concern raised is that the information may be used in proceedings that I have already found to be closely connected to the bankruptcy. It will be for the Court of Appeal to decide if it should receive fresh evidence of that kind if it is tendered.

V. Summary and Disposition

[50] The application is allowed in part.

[51] Within the next 60 days, IEL is to make available the following individuals for examination by the Trustee by way of videoconference:

a) William Roberts;

b) Belinda Nucifora;

c) Michael Alfred; and

d) Christopher Guzowski.

[52] The Trustee may choose the sequence in which those examinations will occur and may examine two of those individuals, to be selected by the Trustee, for up to one full day and others for no longer than one half-day each.

[53] The parties have leave to seek further directions following the completion of those examinations if they are unable to agree on whether others are required.

"Milman J."

PricewaterhouseCoopers Inc.

Claims Register

In the Matter of the Bankruptcy of
IE CA 3 Holdings Ltd.
of the City of Vancouver, in the Province of British Columbia

Insolvency Date: 28-Jun-2023
Estate Number: 11-2959932

Creditor Name		*Proof of Claim?*	*Claim Status*	*Rank / Class*	*SOA Amount*	*Amount Filed*	*Admitted for Dividend*
Secured creditors							
1.	NYDIG ABL LLC	No	Not proved		6,798,706.87		
	Total :	Secured creditors			6,798,706.87		
Unsecured creditors							
1.	Columbia Valley Freight Attn: Sue Ruault	No	Not proved		5,913.00		
2.	EY LLP	No	Not proved		2,730.00		
3.	IE CA 1 Holdings Ltd.	No	Not proved		22,078.00		
4.	IE CA 4 Holdings Ltd.	No	Not proved		694,564.00		
5.	IEPL - Iris Energy Pty Ltd.	No	Not proved		12,766,171.00		
6.	Iris Energy Ltd.	No	Not proved		6,056,300.00		
7.	Minister of Finance PST	No	Not proved		580,466.40		
8.	NYDIG ABL LLC	No	Not proved		40,043,062.13		
9.	Podtech Data Centres	No	Not proved		12,888.00		
10.	Rockies Law Corporation Attn: Montana Barrett	Yes	Not proved		563.00	1,098.01	
	Total :	Unsecured creditors			60,184,735.53	1,098.01	
				Grand Total:	66,983,442.40	1,098.01	

PricewaterhouseCoopers Inc.

Claims Register

In the Matter of the Bankruptcy of
IE CA 4 Holdings Ltd.
of the City of Vancouver, in the Province of British Columbia

Insolvency Date: 28-Jun-2023
Estate Number: 11-2959909

Creditor Name		*Proof of Claim?*	*Claim Status*	*Rank / Class*	*SOA Amount*	*Amount Filed*	*Admitted for Dividend*
Secured creditors							
1.	NYDIG ABL LLC	No	Not proved		19,574,750.06		
	Total : Secured creditors				19,574,750.06		
Unsecured creditors							
1.	CA1 - IE CA 1 Holdings	No	Not proved		363,174.00		
2.	EY LLP	No	Not proved		2,730.00		
3.	Iris Energy Ltd.	No	Not proved		11,131,797.00		
4.	Iris Energy Pty Ltd.	No	Not proved		1,741,303.00		
5.	Livingston International Attn: Alona Bilevich	No	Not proved		141.00		
6.	Minister of Finance PST	No	Not proved		241,179.35		
7.	NYDIG ABL LLC	No	Not proved		83,752,960.94		
8.	Podtech Data Centres	No	Not proved		23,118.00		
9.	Rockies Law Corporation Attn: Montana Barrett	Yes	Not proved		563.00	1,098.01	
	Total : Unsecured creditors				97,256,966.29	1,098.01	
				Grand Total:	116,831,716.35	1,098.01	

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *NYDIG ABL LLC v. IE CA 3 Holdings Ltd.,* 2023 BCSC 1383

Date: 20230810
Docket: S230488
Registry: Vancouver

Between:

NYDIG ABL LLC

Petitioner

And

IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd.

Respondents

Before: The Honourable Mr. Justice Milman

Reasons for Judgment

Counsel for the Petitioner:	C. Burr C. Hildebrand
Counsel for the Respondents:	K. Siddall S. Boucher C. Formosa
Counsel for the Receiver, PricewaterhouseCoopers Inc.:	M. Buttery, K.C. E. Paplawski
Place and Dates of Hearing:	Vancouver, B.C. June 13-15, 2023
Place and Date of Judgment:	Vancouver, B.C. August 10, 2023

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I. Introduction

[1] In these proceedings, the petitioner, NYDIG ABL LLC ("NYDIG"), is seeking to recover on debts owed to it by the respondents, IE CA 3 Holdings Ltd. ("IE CA 3") and IE CA 4 Holdings Ltd. ("IE CA 4", and together with IE CA 3, the "Debtors"). IE CA 3 owes NYDIG in excess of US $36 million and IE CA 4, in excess of US $77 million.

[2] That indebtedness arises from loans that NYDIG made to the Debtors pursuant to two Master Equipment Financing Agreements (the "MEFAs" and each a "MEFA"). The first of these was a MEFA dated as of May 25, 2021 between IE CA 3 and a predecessor of NYDIG (the "IE CA 3 MEFA") and the second, a MEFA dated as of March 24, 2022 between IE CA 4 and NYDIG (the "IE CA 4 MEFA"). The Debtors used the borrowed funds to purchase approximately 37,800 pieces of specialized computer equipment (the "Equipment") that generates "hashpower" that is used to mine for Bitcoin, a type of cryptocurrency.

[3] NYDIG commenced these proceedings after the Debtors failed to make the payments required of them under the MEFAs. On February 3, 2023, I granted NYDIG an order appointing PricewaterhouseCoopers Inc. (the "Receiver") as receiver over the Debtors. The Receiver is in the process of, among other things, realising on the Equipment, which was pledged to NYDIG as collateral under the MEFAs. The Receiver expects that a significant shortfall will remain after selling the Equipment.

[4] In the meantime, a dispute has arisen between NYDIG, on the one hand, and the Debtors and their parent company, Iris Energy Limited ("IEL") on the other, about whether NYDIG's collateral under the MEFAs also includes the proceeds derived from the sale of Bitcoin that was mined using the hashpower generated by the Equipment. NYDIG contends that it does.

[5] IEL and the Debtors (the "Respondents") disagree. They say that although the MEFAs notionally granted NYDIG a security interest in Bitcoin mined using the Equipment, that was so *only to the extent that the Bitcoin was, at some stage, either*

owned by or in the possession of the Debtors. The Debtors never actually owned or possessed any Bitcoin, they say, because IEL paid the Debtors a fixed fee in exchange for the hashpower generated by the Equipment pursuant to two inter-company agreements (one written and one not), known as the "Hashpower Agreements." IEL then directed that hashpower into a mining pool, through which IEL received rewards in the form of Bitcoin that it then sold daily on the open market.

[6] NYDIG brings this application with a view to resolving that dispute. The primary relief NYDIG seeks is a declaration to the effect that the MEFAs granted NYDIG a security interest in *all* Bitcoin mined using the Equipment and the proceeds derived from the sale of it, regardless of how IEL and its subsidiaries may have structured their affairs internally. However, if the court finds that the MEFAs did not have that effect, then NYDIG says that IEL has improperly appropriated for its own benefit most of the Debtors' assets, while leaving them burdened with the associated debt, the effect of which was to render them insolvent from the outset. To remedy that situation, NYDIG seeks at least one of the following declarations in the alternative:

a) that the transactions carried out by the Respondents pursuant to the Hashpower Agreements are, as against NYDIG, void as fraudulent conveyances, and should be reversed;

b) that the Respondents have conducted their affairs in a manner that is oppressive to NYDIG, thereby entitling NYDIG to a remedy under s. 227 of the British Columbia *Business Corporations Act,* S.B.C. 2002, c. 57 [*BCA*]; and

c) that the IEL and its subsidiaries should be treated, as against NYDIG, as a single debtor entity, pursuant to the doctrine of substantive consolidation.

[7] The Respondents oppose the application. They submit that their interpretation of the MEFAs is the correct one and that NYDIG is merely seeking to rewrite the original bargains in light of changed economic circumstances. They also deny that

the impugned transactions were improper. On the contrary, they say, when the MEFAs were being finalised, NYDIG and its predecessor were aware of and specifically agreed to all of the inter-company arrangements about which NYDIG now complains.

[8] The Receiver takes no position on the application.

[9] For the reasons that follow, I have concluded that the application should be allowed to the extent that the impugned transactions should be declared to be, as against NYDIG, void as fraudulent conveyances.

II. Background Facts

A. The Iris Group and its Business Model

[10] IEL was founded in 2018 by two of its current directors, William and Daniel Roberts, under the laws of New South Wales, Australia. On October 27, 2021, it became a public company under the laws of Australia and its shares are now traded on NASDAQ. It has 27 subsidiaries in Canada, the United States and Australia, including the Debtors, which I will refer to collectively, along with IEL itself, as the "Iris Group". The Debtors are the only entities in the Iris Group that are in receivership.

[11] The Respondents describe the Iris Group as a leading owner and operator of Bitcoin mining data centres. Bitcoin mining involves the application of computational power to generate multiple guesses aimed at solving a mathematical problem. When the guess is successful, the miner receives a "reward" in the form of Bitcoin. In one of my earlier decisions in this proceeding, indexed as 2023 BCSC 638, I described the Bitcoin mining process this way:

> [6] Bitcoin mining is not like mining in the conventional sense. New Bitcoin is created by Bitcoin software as a reward for a process that involves creating new blocks and appending transactions in Bitcoin's blockchain. The creation of new blocks requires repeated trial and error computations conducted by specialised computers called "application-specific integrated circuit miners" also known informally as mining rigs. The goal of the process is to guess the inputs to a mathematical formula known as a hash algorithm.

> If successful, the process results in a so-called "valid hash". The speed at which the computers produce such solutions is called the "hashrate."
>
> [7] Mining rigs demand a great deal of computational power and the process is therefore energy-intensive. …

[12] The Iris Group has divided its own Bitcoin mining operations into three distinct components, mediated through a web of non-arm's length inter-company agreements.

[13] First, the Iris Group purchases its mining equipment primarily from a manufacturer known as Bitmain Technologies Limited ("Bitmain"). The Iris Group maintains one account with Bitmain for all of its equipment purchases, although each purchase is generally carried out by a subsidiary that is incorporated for that purpose. The Debtors are examples of subsidiaries that were formed in that manner.

[14] Second, the Iris Group includes another set of subsidiaries that act as "hosts" for the equipment. The hosts acquire or lease the premises where the equipment is operated and provide the associated infrastructure (such as electrical power, cables, shelving, internet connection, heat and ventilation), in exchange for a fixed fee that is set on a per kWh basis, pursuant to a "hosting agreement" between the host, as "Supplier", and the equipment-owning subsidiary as "Client."

[15] Third, IEL earns its own income by purchasing "hashpower services" from its equipment-owning subsidiaries, such as the Debtors, in exchange for a fixed fee that is set on a per kWh basis, pursuant to a "Hashpower Agreement" between itself, as "Customer", and the equipment-owning subsidiary, as "Supplier," and then directing that hashpower into a mining pool to yield Bitcoin that IEL then sells for a profit.

[16] Mining pools allow their participants to aggregate hashpower and share the resulting returns, with a view to securing a more consistent stream of Bitcoin rewards. The pool allocates Bitcoin on a daily basis into each participant's digital "wallet" in proportion to the amount of hashpower each has contributed. IEL began participating in mining pools around the time that the IE CA 4 MEFA was being negotiated. After trying various alternatives, its preferred pool since about April 2021

has been “Antpool”, which is affiliated with Bitmain. IEL does not maintain a digital wallet there, but opts instead to have the Bitcoin it receives transferred directly to an exchange, usually “Kraken”, where it is sold on a daily basis for conventional, or “fiat” currencies, such as American or Canadian dollars.

[17] The Respondents have described the purpose of this tripartite structure, to NYDIG and others, as a means to minimise sales tax.

[18] In 2019, before going public, IEL found its first hosting location in upstate New York, on the site of a decommissioned factory with easy access to electrical power. IEL had a subsidiary incorporated under the laws of Delaware, using the name IE US 1 Holdings Ltd. (“IE US 1”), for the purpose of entering into a hosting agreement with a lessee of those premises and owning and operating Bitcoin mining equipment there. The site proved to be less than entirely suitable for this purpose, however, so IEL began to look elsewhere for its expansion plans.

[19] Later in 2019, IEL found its next promising location at the site of a former sawmill in Canal Flats, British Columbia, which was then owned by an entity known as Podtech Innovation. IEL arranged for a new British Columbia company to be formed under the name IE CA 1 Holdings Ltd. (“IE CA 1”), for the purpose of entering into a hosting agreement with Podtech Innovation and acquiring and operating Bitcoin mining equipment on the site.

[20] IEL later agreed to purchase from the owners of Podtech Innovation its interest in the Canal Flats site and other related assets. IEL caused another company to be incorporated for this purpose, this time under the name Podtech Data Centers Inc. (“Podtech”). Once it was formed, Podtech purchased those assets in exchange for equity in IEL, as well as a vendor loan that was later repaid. Podtech then entered into a new hosting agreement with IE CA 1.

B. Equipment Purchases Funded by Arctos and NYDIG

[21] With Bitcoin prices rising dramatically, IEL was eager to expand its operations to other sites in British Columbia. During 2020 and 2021, it arranged for the

incorporation in British Columbia of IE CA Developments Holdings 2 Ltd. and IE CA Development Holdings 4 Ltd. (together with Podtech, the "Hosts") for the purpose of acquiring or leasing sites in the Mackenzie and Prince George areas of British Columbia. The Hosts constructed and operated data centres and associated infrastructure at their respective sites, which eventually became operational in 2022. In early 2021, IEL caused the Debtors to be incorporated in British Columbia for the purpose of purchasing and operating mining equipment at those sites, following the same model that was used for, IE US 1, IE CA 1 and IE CA 2.

[22] The Respondents say that in 2020, as part of that effort, William and Daniel Roberts met with the then managing partner of Arctos Credit, LLC ("Arctos"), Trevor Smyth, to discuss the provision by Arctos of equipment financing to the Iris Group. In one of his affidavits, William Roberts has deposed that these discussions proceeded on the basis that Arctos would provide "limited recourse" financing to a special purpose vehicle that IEL would cause to be incorporated in order to receive that financing and take title to the newly-purchased equipment, and that Arctos would not require a guarantee from IEL or its other subsidiaries. Mr. Roberts has deposed further that Mr. Smyth agreed that the new IEL subsidiary to be created for this purpose, IE CA 2, was to provide hashpower to IEL on the same terms that had been arranged for IE US 1 and IE CA 1. To that end, IEL had IE CA 2 incorporated in British Columbia in late 2020.

[23] In the course of drafting the MEFA between Arctos and IE CA 2 (the "IE CA2 MEFA"), the parties specifically discussed whether, prior to an event of default, Arctos' security would include Bitcoin mined using IE CA 2's equipment. In one of the earlier drafts, IEL removed the language that was intended to have that effect. In the next draft, Arctos and its lawyers put it back in. In an email sent December 12, 2020, Mr. Smyth explained why this had been done, stating as follows:

> ... On the Remedies – counsel won't negotiate any of these - I know there was some concern about us not having security in BTC that was mined prior to the event of default - your edits weren't accepted but, from a commercial perspective, we understand that there won't actually be any BTC as the hashpower will have already been sold to [IEL] ...

[24] In the same email, Mr. Smyth asked to be provided with executed copies of the following agreements:

a) the hashpower agreement to be entered into between IEL and IE CA 2; and

b) the hosting agreement to be entered into between the Iris Group hosts and IE CA 2.

[25] It appears from subsequent emails that both were later provided.

[26] Mr. Roberts has deposed further that, to clarify the parties' understanding that Arctos' collateral was not going to include Bitcoin mined using the financed equipment, they agreed to add the words "in the Borrower's possession" into the various definitions of "Collateral" in the IE CA 2 MEFA and related documents. According to Mr. Roberts:

> This was done to provide additional clarity that any security over cryptocurrency would be limited to any theoretical cryptocurrency (like Bitcoin) only in the possession of IE CA 2 and not IEL or any other entity, given that Arctos wanted the theoretical concept to remain in the MEFA notwithstanding they recognised it was superfluous.

[27] NYDIG has not adduced an affidavit from Mr. Smyth, leaving these assertions essentially unanswered.

[28] The IE CA 2 MEFA, as executed, was dated as of December 15, 2020. Two financing schedules were executed at the same time, providing for the advance of US $4,232,025 to fund the purchase by IE CA 2 of 2,459 pieces of mining equipment. From March 2021 onward, NYDIG received financial statements of IE CA 2 identifying the sources and amounts of its revenue and expenses. IE CA 2's equipment became operational in June 2021.

[29] Mr. Roberts has deposed that the rising price of Bitcoin during this period made the acquisition of new mining equipment increasingly difficult and expensive. The Iris Group managed to secure two contracts with Bitmain to supply two further

tranches of equipment worth approximately US $62 million and US $132 million to IE CA 4. Mr. Roberts says that he approached Mr. Smyth with the request that Arctos finance these purchases but that Arctos was willing, at least initially, to provide financing only for the smaller of the two. It appears that negotiations for that second round of financing began in February 2021.

[30] The plan was for IE CA 4 to purchase the equipment for US $62 million and then sell it to IE CA 3. The purchase was to be funded by Arctos through a MEFA that Arctos would enter into with IE CA 3. As the IE CA 2 MEFA had recently been completed, the parties agreed to use the same, or substantially similar terms, for the IE CA 3 MEFA.

[31] It was at this point that NYDIG first became involved. NYDIG is based in New York, New York. Its Chief Executive Officer, Tejas Shah, has deposed that NYDIG offers financial services to North American Bitcoin miners, including the provision of financing for those that need capital. He describes NYDIG as “an industry leader and significant market participant in Bitcoin mining financing,” and “one of the largest lenders and service providers to Bitcoin miners, having commercial relationships with the vast majority of publicly-traded companies in the industry.” NYDIG had recently raised US $1 billion in December 2021 and was looking to expand its business, including by syndicating loans for profit. NYDIG announced its acquisition of Arctos in April 2021.

[32] Following the acquisition, Mr. Smyth, now NYDIG’s Head of Structured Financing, continued to serve as NYDIG’s primary contact with the Iris Group, although Mr. Shah has deposed that Mr. Smyth reported directly to him, and that Mr. Shah was “closely involved” with the IE CA 4 financing and was “acutely aware” of the details of the IE CA 3 financing. The IE CA 3 MEFA, with its four schedules, closed on May 25, 2021 with Arctos, now owned by NYDIG, as the lender.

[33] In November 2021, the Iris Group’s principals approached NYDIG, through Mr. Smyth, seeking a third round of equipment financing. The amount requested this time was considerably larger than any sum previously financed through Arctos.

Mr. Roberts says that the initial request was for a loan in the US $150-250 million range.

[34] Despite Mr. Smyth's continued involvement, the process of settling on terms for this third round of financing proved to be more challenging than before. First, NYDIG's template MEFA, with its associated schedules and adjunct agreements, was considerably longer and more complicated than that used by Arctos for the IE CA 2 and IE CA 3 MEFAs. In addition, NYDIG was willing to grant a loan of the size requested only if IEL was added as a covenantor and guaranteed payment of the debt at the parent level. To that end, NYDIG also insisted that its security include, among other things, IEL's digital wallet or a wallet to be held with NYDIG that IEL would use to collect the Bitcoin mined using the hashpower generated by IE CA 4's Equipment. This was to be achieved by means of an "Account Control Agreement", or "ACA".

[35] In response to one of NYDIG's early drafts of the IE CA 4 MEFA containing those terms, Mr. Roberts sent an email to Mr. Smyth on January 31, 2022, enclosing a revised draft and explaining some of the proposed changes he had made, as follows:

> …
>
> 2. Re-inserting all the Iris relevant items that appeared to be missing, e.g.:
>
> ° Hashpower and Hosting Agreements
>
> ° As you know we liquidate bitcoin daily and don't hold any coins, so we've removed the new language around setting up ACA Wallets etc. which wouldn't be applicable. We have accommodated the new arrangement that Iris will direct its Equipment hashrate to NYDIG pool
>
> 3. Reverting security/collateral/default/enforcement structure back to previous agreements.
>
> …

[36] After several more drafting turns, discussions and revisions, on February 21, 2022, Mr. Smyth circulated a revised draft retaining the ACA Wallet concept but with revisions intended to reflect his understanding of the Iris Group's business model, which he explained as follows:

> "ACA Wallet" language re-inserted - this concept is something that we need for syndication purposes. The language was amended to allow the ACA Wallet to sit with the topco/parent, so that we were not preventing your hashpower sale structure. Mined BTC is allowed to be liquidated or transferred out of this wallet until [an] EOD, and there are not minimum balance or reserve requirements. The ACA between NYDIG and the Iris parent is the only collateral - we will not have any other collateral at the parent level. In practice, of course, there will not be any BTC in this wallet at the point of a potential EOD occurring.

[37] In the same email, Mr. Smyth said this:

> "Guaranty Agreement" – since the Borrower is not a bankruptcy remote SPV, it is relying on the parent to make loan payments in any case. Again, there would not be collateral outside of the ACA Wallet at the parent level …

[38] Under the heading "security", Mr. Smyth stated as follows:

> The Borrower will only own the financed equipment, so hopefully this change isn't seen as different in practice, it helps us keep our forms more uniform …

[39] All of this changed in March 2022, when NYDIG unilaterally reduced the size of the financing that it was willing to provide. Mr. Smyth sent Mr. Roberts an email on March 8, 2022 informing him of NYDIG's new position, stating as follows:

> … There has been a very significant tightening in the capital markets generally, which has added additional complexity. What I'd like to see if you'd be okay to proceed with is sizing down the initial commitment to a funding of $60,924,600.00 in June (IO period running through end of 2022). This covers the April '21 contract, and we could look to work towards additional Schedules thereafter. Sizing down will provide more leeway on the legal front. With this in mind:
>
> …
>
> 3. At this initial size (and funding date vs. equip delivery date), I can get the whole concept of the guaranty dropped. At an EOD, the requirement for mined BTC to be directed to an ACA Wallet would spring in.
>
> Hopefully, the removal of the parent being a loan party/guaranty will alleviate the concerns here …

[40] In his response two days later, on March 10, 2022, Mr. Roberts sent Mr. Smyth the next draft. Among other things, the emails explained certain revisions that he and his team had made in response to Mr. Smyth's email of March 8, 2022, including the following:

> 1.Reverted back from "Loan Parties" to "Borrower", and removed Parent Collateral, Parent Guaranty Agreement etc.
>
> 2. Inserted a new EOD remedy for Collateral Agent to request termination of Hashpower Agreement and a new ACA Wallet to be opened in the name of the Borrower for NYDIG to then have control of the Equipment output.
>
> …

[41] The IE CA 4 MEFA, with its accompanying nine schedules, was finalized and made as of March 22, 2022, incorporating those suggested changes and others.

[42] On the same day, IE CA 4 entered into written hosting agreements with the Hosts, namely, IE CA Development Holdings 2 Ltd. (Mackenzie), IE CA Development Holdings 4 Ltd. (Prince George) and Podtech (Canal Flats).

[43] Just before closing, on March 16, 2022, the Iris Group sent NYDIG a copy of the hosting and hashpower agreements that were used for IE CA 1. Executed copies of the IE CA 4 hosting and hashpower agreements were provided to NYDIG on March 22, 2022, the day they were signed. By mid-2022, the Debtors were also providing NYDIG with monthly financial statements.

[44] In lieu of a parent guarantee, NYDIG and IEL entered into a Parent Letter Agreement dated March 24, 2022, two days after the closing of the IE CA 4 MEFA. The letter stated, among other things, that:

a) IEL acknowledges the terms of the IE CA 4 MEFA and its adjunct agreements;

b) IEL agrees that its rights to NYDIG's collateral under the IE CA 4 MEFA (including an acknowledged security interest in all of IE CA 4's personal property, including the Equipment and IE CA 4's rights under the IE CA 4 Hashpower Agreement), are subordinate to those of NYDIG;

c) IEL agrees that despite IEL's right to terminate the Hashpower Agreement, NYDIG or its agent may give notice to terminate it (as contemplated by the IE CA 4 MEFA), at which point the Hashpower Agreement shall terminate, and all of IEL's right in the "Hashpower" (as

that term is defined in the Hashpower Agreement) will revert to IE CA 4; and

d) NYDIG and its agent acknowledge and agree that IEL will not be liable or responsible for any of IE CA 4's obligations under the IE CA 4 MEFA and related agreements and does not act as a guarantor thereunder or otherwise.

[45] The advances that NYDIG made under the IE CA 3 and IE CA 4 MEFAs were sent directly to Bitmain or to an Iris Group bank account at the direction of the Debtors, pursuant to pay proceeds letters dated May 25, 2021 and April 22, 2022, respectively.

C. Default, Forbearance and Realisation

[46] The Bitcoin mining business is young and notoriously volatile. In January 2020 (just before the Iris Group first initiated financing discussions with Arctos), the price of Bitcoin was approximately US $7,300. By the end of March 2021 (just before the IE CA 3 MEFA closed), it had risen nearly eightfold, to US $57,000. In late 2022, however, the price dropped precipitously, from US $45,000 in March 2022 (when the IE CA 4 MEFA closed) to approximately US $20,000 by October 2022 (around the time of the Debtors' defaults). As a result, an increasing number of mining operations were failing and defaulting on their financial commitments.

[47] As this was occurring, IE CA 4 and NYDIG completed a piece of unfinished business left over from the IE CA 4 MEFA negotiations. On September 8, 2022, the parties executed two adjunct agreements, known as the Digital Asset Account Control Agreement (the "DAACA") and the Digital Asset Custodial Agreement (the "DACA"), which required IE CA 4 to deposit the Bitcoin mined with the Equipment into a digital wallet, the contents of which were to be pledged to secure IE CA 4's performance of its obligations under the IE CA 4 MEFA.

[48] Although such agreements are commonly used by NYDIG as part of its standard equipment financing package, in this case their terms were altered to

reflect the parties' agreement that this kind of security would be given only after an event of a default. In an email to Mr. Roberts and others dated May 2, 2022, Mr. Smyth confirmed as much, stating as follows:

> Iris has negotiated that the ACA wallet is only required to be utilized during an EOD, which is outside of our standard structure.

[49] In the end, the Debtors operated only for a few weeks after signing the DACA and the DAACA. In July 2022, members of IEL's board had already asked to meet with NYDIG with a view to exploring potential refinancing scenarios.

[50] From the beginning, the Debtors were not financially viable on their own, but depended heavily on IEL to make the loan payments owing to NYDIG. Apart from the revenue received from IEL under the Hashpower Agreements, less that owing to the Hosts under the Hosting Agreements, IEL was required to supplement the Debtors' income so they could make the payments required of them under the MEFAs. IEL caused those payments to be made only for the brief period between the closing of the MEFAs and the defaults. According to the Respondents, by the time IEL stopped doing so, it had advanced, for this purpose, over CDN $130 million to the Debtors in the form of subordinated inter-company loans that also remain outstanding and unpaid.

[51] In early October 2022, NYDIG agreed to extend the upcoming payment deadline for two weeks, from October 25 to November 8. In its letter doing so, NYDIG permitted the Debtors, in the meantime, to continue to make and receive the payments contemplated by their respective hosting agreements and hashpower agreements.

[52] Since late October or early November, 2022, the Debtors have been in default under their respective MEFAs. IE CA 2 was also in default at the same time, but its debt to NYDIG has since been paid in full, although partly under protest.

[53] On November 2, 2022, IEL issued a press release addressing the Debtors' defaults under their respective MEFAs, which included the following assertions:

a) NYDIG's collateral was not material to the Iris Group's business;

b) NYDIG's collateral was worth less than the amount owed; and

c) the loans had been intentionally structured as limited-recourse equipment financings, with a view to protecting the underlying business and data center infrastructure that the Iris Group had built.

[54] NYDIG was offended by the tone and content of the press release and formed the view that the Debtors were not negotiating in good faith. It sent them an acceleration letter on November 4, 2022, complaining of a lack of good faith in the refinancing discussions as well as a failure to take out adequate insurance on the Equipment, in breach of the MEFAs. The Debtors made no further payments thereafter.

[55] Shortly after receiving NYDIG's November 4, 2022 letter, the Hosts terminated their respective hosting agreements with the Debtors. The Hosts then shut down the Equipment, disconnected it from a power source, put it on pallets and wrapped it in plastic for shipping. NYDIG and the Receiver have complained that this conduct by the Hosts has complicated their realisation efforts and prevented them from using the Equipment to continue mining for Bitcoin and thereby reducing the outstanding debt.

[56] The Respondents say that the Hosts took that step due to their concerns about the Debtors' ability to continue paying hosting fees under their hosting agreements. They also say that NYDIG could have exercised its rights under the "Landlord Waiver Agreements" that it had entered into with the Hosts in conjunction with the IE CA 4 MEFA. Pursuant to those agreements, if a Host terminates a hosting agreement with IE CA 4 (as the hosting agreements permitted them to do at any time), then NYDIG became entitled to access and operate the Equipment, which was not to be removed for a period of up to 90 days to allow NYDIG to do so. The Respondents say that the Hosts were willing to make the same provision for IE CA 3, although there is no comparable agreement in place in relation to the IE CA 3

MEFA. Rather than exercise those rights, NYDIG applied for the appointment of a receiver on the 91st day.

[57] On November 15, 2022, NYDIG sent the Debtors notices of default. On November 18, 2022, it sent them demand letters, demanding payment in full by November 29, 2022 and enclosing notices of its intention to enforce its security, including, among other things, its charge over all Bitcoin mined with the Equipment.

[58] In a responding letter dated November 26, 2022, the Debtors disputed NYDIG's calculation of the balance owing and the particulars of the defaults alleged.

[59] On February 3, 2023, NYDIG applied to this court for the appointment of receiver over the Debtors. I granted that order on February 3, 2023, essentially in the model form. On June 13, 2023, the first day of the hearing of this application, I also granted the Receiver's unopposed applications seeking orders:

a) approving its proposed sales process for the Equipment; and

b) expanding its powers so as to enable it to assign the Debtors into bankruptcy.

III. Agreement Terms Bearing on the Scope of NYDIG's Security

A. The IE CA 3 MEFA

[60] The scope of NYDIG's security under the IE CA 3 MEFA is set out in s. 3(d), which states, in relevant part, as follows:

> As security for Borrower's Obligations under each Agreement and all Other Agreements (as defined in Section 11), Borrower grants to Lender a first priority security interest in: (i) all Equipment financed pursuant to each Schedule and Proceeds (including any insurance proceeds) thereof; (ii) to the extent arising solely from any Equipment, all Accounts, Contract Rights, Chattel Paper, General Intangibles, Payment Intangibles, leases, subleases, security deposits or other cash deposits and proceeds; (iii) all cryptocurrency and digital currency, including Bitcoin (BTC) mined or otherwise generated by the Equipment and in Borrower's possession (sometimes herein called "Mined Currency") and any and all other cryptocurrency and digital currency related thereto or derived therefrom whether arising from hard fork, airdrop or otherwise and in Borrower's possession (provided that such security interest shall not prohibit Borrower's use, conversion, sale or spending of the Mined

> Currency until such time as Lender declares an Event of Default); and (iv) all other collateral as to which a security interest has been or is hereinafter granted by Borrower to Lender or any Affiliate of Lender to the extent arising from or relating to any Equipment, of Lender in connection with any Other Agreement and all proceeds thereof (collectively, the "Collateral").
>
> [Emphasis added.]

[61] Clause 8(b) contains a covenant by IE CA 3 that it shall not, among other things:

> …
>
> (v) assign, sell, transfer, sublease, rent or in any way transfer or dispose of all or any part of the rights or obligations under any Agreement or as to any rights, title or interest in the Equipment or other Collateral, in whole or in part to anyone unless in the ordinary course of business or in accordance with a Hosting Agreement or Hashpower Agreement.
>
> [Emphasis added.]

[62] The term "Hashpower Agreement" is defined as follows:

> "Hashpower Agreement" shall mean the hashpower agreement entered into between Iris Energy Pty Ltd and Borrower, in which Borrower will sell Equipment's hashrate to Iris Energy Pty Ltd.
>
> [Emphasis added.]

[63] Section 12 (Remedies) states in relevant part as follows:

> If an Event of Default shall have occurred, Lender may exercise any of the following remedies with respect to any or all Equipment, other Collateral and Agreements:
>
> …
>
> (g) enforce its security interest in all Collateral, including all Bitcoin or other digital currency or cryptocurrency mined using the Equipment and in Borrower's possession …
>
> …
>
> [Emphasis added.]

B. The IE CA 4 MEFA

[64] The scope of NYDIG's security under the IE CA 4 MEFA is set out in, among other places, s. 3(l), which is entitled "Mined Cryptocurrency" and states in relevant part as follows:

> Solely to the extent of any rights of Borrower in or to any Mined Cryptocurrency or any other Digital Asset:
>
> (i) Borrower shall (both before and after an Event of Default, subject only to Collateral Agent's ability to designate an alternative account or wallet for Digital Assets) immediately deposit or cause to be deposited all Mined Cryptocurrency and any other Digital Asset owned by the Borrower into the ACA Wallet (and in accordance with establishing the ACA Wallet and entering in the ACA Wallet Agreement in accordance with Section 7(b), the Borrower shall establish a custodial account with NYDIG Trust Company LLC or a different NYDIG Affiliate as NYDIG may select, and establish and execution account with NYDIG Execution LLC).
>
> (ii) Unless an Event of Default is existing and continuing and subject to Section 8(d), Borrower may sell, trade and otherwise dispose of any Mined Cryptocurrency from the Equipment in the ordinary course.
>
> (iii) If an Event of Default is existing and continuing, all rights of Borrower pursuant to Subsection 3(l)(ii) shall cease, without any requirement for any notice from Lender or Collateral Agent, and Borrower may not Dispose of any Mined Cryptocurrency (or any other Digital Asset owned by the Borrower) without Collateral Agent's written consent, which consent may be withheld in Collateral Agent's sole and absolute discretion.
>
> (iv) If, following the Collateral Agent's delivery of a Hashpower Agreement Termination Notice in accordance with Section 9(c)(vii), any Mined Cryptocurrency from the Equipment or other Digital Asset is not deposited into the ACA Wallet for any reason, Borrower shall segregate and hold in trust on behalf of Collateral Agent, such Mined Cryptocurrency or other Digital Asset and shall deliver it to Collateral Agent as soon as possible.
>
> (v) Following the Collateral Agent's delivery of a Hashpower Agreement Termination Notice in accordance with Section 9(c)(vii), all Digital Assts and Mined Cryptocurrency shall at all times be kept stored in the ACA Wallet, or in such other accounts or wallets as Collateral Agent may consent to from time to time, which consent may be withheld in Collateral Agent's sole and absolute discretion.
>
> [Emphasis added.]

[65] The term "Digital Asset" is defined in s. 1 to mean "a digital asset that is recorded on a decentralized distribution ledger, including, without limitation, Bitcoin."

[66] The term "Mined Cryptocurrency" is defined in s. 1 as follows:

> All Digital Assets produced by or derived from the Equipment and possessed or controlled by the Borrower, however such process is structured or described, including Digital Assets mined, merge-mined, earned, harvested, created, manufactured, awarded, rewarded, received, airdropped, purchased, paid out or otherwise generated in connection with the Equipment and possessed or controlled by the Borrower, and, solely to the extent Borrower continues to possess or control the same, any Digital Assets generated by hashpower sold under a Hashpower Agreement. Mined Cryptocurrency

> includes any Digital Asset network fee amounts greater than zero that are produced by or derived from the Equipment and possessed or controlled by the Borrower, howsoever such fees are structured or described, including transaction fees, channel fees, validator reward fees, staking reward fees, node operator reward fees or other Digital Asset network participant fees.
>
> [Emphasis added.]

[67] The term "Hashpower Agreement" is defined in s. 1 as follows:

> "Hashpower Agreement" means any hashpower agreement entered into between Borrower and [IEL] from time to time, in which Borrower will sell Equipment's hashrate to [IEL].
>
> [Emphasis added.]

[68] The scope of NYDIG's security is also described in s. 5(a), which states as follows:

> As security for the due payment and performance of Borrower's Obligations under the Loan Documents, Borrower hereby pledges, assigns and grants to Collateral Agent, for the benefit of the Lenders under each Loan Schedule, a first priority security interest in all of its right, title and interest in and to the following, whether now owned by or owing to, or hereafter acquired by or arising in favor of Borrower and wherever located (collectively, the "Borrower Collateral"): (i) all Accounts; (ii) all Chattel Paper; (iii) all Documents; (iv) all equipment (as such term is defined in the UCC), including without limitation, the Equipment and any Replacement Equipment; (v) all Fixtures; (vi) all General Intangibles, including, without limitation, all Intellectual Property; (vii) all Goods; (viii) all Instruments; (ix) all Inventory; (x) all Investment Property; (xi) all cash or cash equivalents; (xii) all letters of credit, Letter-of-Credit Rights and Supporting Obligations; (xiii) all Deposit Accounts with any bank or other financial institution including, without limitation, each ACA Account; (xiv) all Commercial Tort Claims; (xv) all Digital Assets and all Digital Asset wallets or wallet accounts and other Digital Asset accounts, including, without limitation, each ACA Wallet and any Bitcoin, Dollars and other assets credited thereto, and general intangibles related to any of the foregoing; (xvi) all property of Borrower in the possession of Collateral Agent or Lender; (xvii) all Money; (xviii) without limiting the generality of the foregoing subclauses (i) through (xvii), all agreements, contracts, warranties, invoices, purchase orders and other agreements, instruments and documents with the Supplier of the Equipment or service provider with respect thereto (including under any Supplier Contract or any Acknowledgement of Rights Agreement in connection with any Supplier Contract); and (xix) all accessions to, substitutions for and replacements, proceeds, insurance proceeds, products, rents, offspring, or profits of any and all of the foregoing, together with all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related to any and all of the foregoing and any General Intangibles at any time evidencing or relating to any of the foregoing; provided however, that notwithstanding the foregoing,

> with respect to the application of proceeds of any Collateral constituting Specified Collateral in which a security interest is granted under any Loan Schedule, the Borrower, Collateral Agent and the Lender agree that any proceeds of Specified Collateral shall first be applied to the Specified Loan in accordance with Section 3. Title to the Borrower Collateral shall at all times be either in Borrower's name, subject to the security interest of the Collateral Agent, or in the name of the Collateral Agent and any certificate of title for the applicable Borrower Collateral (to the extent applicable) shale designate Borrower as owner and Collateral Agent as lien holder.
>
> [Emphasis added.]

[69] Subsection 7(b) imposes the following "Affirmative Post-Closing Covenants", among others, on IE CA 4:

> (i) To the extent not provided on the Closing Date, Borrower shall, no later than the later of (x) the date that Borrower is eligible to open an ACA Wallet with the Wallet Custodian, and (y) that date that is thirty (30) days following the Closing Date (or such later date as may be agreed by Lender in its sole discretion) have entered into an ACA Wallet Agreement with the Collateral Agent and Wallet Custodian in form reasonably satisfactory to Collateral Agent, with respect to the ACA Wallet.
>
> (ii) To the extent not provided on the Closing Date, Borrower shall, no later than the date that is thirty (30) days following the Closing Date (or such later date as may be agreed by Lender in its sole discretion) have caused [IEL] to enter into the Parent Letter Agreement with Collateral Agent, in form reasonably satisfactory to Collateral Agent.
>
> …

[70] Subsection 8(d) imposes the following negative covenants, among others, on IE CA 4:

> (d) Dispositions of Collateral. Borrower shall not Dispose of all or any part of the rights of Borrower in the Equipment or any other Collateral, in whole or in part, to anyone, other than in the ordinary course of business or in accordance with a Hashpower Agreement or Hosting Agreement. Borrower will not move or allow any Item of Equipment to be moved to a location different from the location specified in the applicable Loan Schedule unless consented to in writing by the Lender (such consent not to be unreasonably withheld, conditioned or delayed).
>
> [Emphasis added.]

[71] Some of the remedies made available to NYDIG or its agent on default are set out in s. 9(c), which states in relevant part as follows:

> If an Event of Default shall have occurred and is continuing, Collateral Agent may, at its option, and shall, as directed by the Required Lenders, exercise any of the following remedies with respect to any or all Collateral, Specified Collateral, and Loan Documents:
>
> …
>
> (ii) in conjunction with promptly exercising Collateral Agent's rights pursuant to this Section 9(c), require Borrower to immediately assemble, make available and if requested by Collateral Agent, deliver all Mined Cryptocurrency related to the Equipment and all other Collateral and Specified Collateral in Borrower's possession to Collateral Agent at a time and place, within the United States or Canada, designated by Collateral Agent; and take such actions as Collateral Agent may request to grant Collateral Agent exclusive access and control over any Digital Asset wallet or other Digital Asset platforms where Borrower stores or houses any Digital Assets that are Collateral hereunder;
>
> …
>
> (v) Dispose of Mined Cryptocurrency, any other Digital Asset, and other Collateral or Specified Collateral at private or public sale …
>
> (vi) at Collateral Agent's sole discretion, apply from time to time, in whole or in part, any proceeds following Disposition of Mined Cryptocurrency, or any other Digital Asset included in the Collateral or in Lender's (or it's Affiliate's) possession or control, to reduce the Obligations of Borrower;
>
> (vii) require that the Borrower and [IEL] terminate any or all Hashpower Agreements pursuant to a notice delivered to the Borrower and [IEL] directing the same (any such notice, a "Hashpower Agreement Termination Notice");
>
> …
>
> (ix) give notice of sole control or any other instruction under any ACA Wallet Agreement with any Wallet Custodian and take any action therein with respect to such Collateral, including, without limitation, immediately blocking Borrower's access to the ACA Wallet and Disposing of the Digital Assets in such ACA Wallet in the enforcement of Collateral Agent's right under this Master Agreement;
>
> (x) in conjunction with promptly exercising Collateral Agent's rights pursuant to this Section 9(c), direct any Mined Cryptocurrency from the Equipment to a wallet or address for Digital Assets that is not the ACA Wallet; and
>
> …

[72] The term "Collateral" is defined in s. 1 to mean, collectively, the Borrower Collateral and the Specified Collateral. The term "Borrower Collateral" is defined with reference to s. 5(a). The term "Specified Collateral" is defined with reference to the schedules. One of the schedules states at s. 3 in relevant part as follows:

> **Grant of Security**. As security for the due payment and performance of Borrower's Obligations to the Lender under this Loan Schedule (the "Specified Lender") with respect to the Loan advanced pursuant to this Loan Schedule (the "Specified Loan"), Borrower hereby pledges, assigns and

> grants to Collateral Agent a first priority security interest in all of its right, title and interest, whether nor owned or owing to, or hereafter acquired or arising, in (collectively, the "Specified Collateral"): (i) all Equipment and, if applicable, Replacement Equipment; (ii) to the extent arising from or solely relating to any Equipment, all Accounts, Contract Rights, Chattel Paper, leases, subleases, security deposits or other cash deposits; (iii) without limiting the generality of the foregoing clause (ii), all agreements, contracts, warranties, invoices, purchase orders and other agreements, instruments and documents with the Supplier of the Equipment, if any, or service provider with respect thereto including, without limitation, the Supplier Contract, in each case to the extent relating to the Equipment; and (iv) all accessions to, substitutions and replacements for, and insurance proceeds of, the foregoing, together with all books and records, credit files, computer files, programs, printouts and other computer materials and records related to any of the foregoing. Title to the Specified Collateral shall at all times be in Borrower's name, subject to Collateral Agent's security interest, or in the Collateral Agent's name and any certificate of title for the applicable Specified Collateral (to the extent applicable) shall designate Borrower as owner and Collateral Agent as lien holder. The parties hereto acknowledge and agree that the Obligations under this Loan Schedule shall also be secured by the Collateral Agent's Lien in the Borrower Collateral as defined in Section 5 of the Master Agreement (and that the Borrower Collateral thereunder includes Digital Assets and Mined Cryptocurrency, neither of which constitute Specified Collateral hereunder), together with all other obligations owing to other Lenders with respect to other Loan Schedules under the Master Agreement. …
>
> [Emphasis added.]

C. The DAACA

[73] The DAACA begins with a series of recitals. In them, IECA 4 is identified as the "Pledgor", NYDIG as the "Secured Party" and a NYDIG affiliate as the "Custodian". The IE CA 4 MEFA, and its associated schedules and related agreements, are identified as the "Loan Agreement." One of the other recitals states as follows:

> WHEREAS, pursuant to the Loan Agreement, Pledgor will from time to time pledge to, and grant security interests in, its personal property assets including, but not limited to, the Account described below, certain unencumbered Digital Assets (as described below), including Mined Cryptocurrency (as described in the Loan Agreement), and cash deposits (if any) to secure Pledgor's obligations under the Loan Agreement.
>
> [Emphasis added.]

[74] Section 1 states in relevant part as follows:

> Account. (a) Custodian, in its capacity as "securities intermediary" as defined in Article 8 of the UCC ("Article 8") to the extent same may be applicable, shall hold within the Account for the benefit of Pledgor but subject to the security interest and control of Secured Party as pledgee in accordance with the terms of this Agreement, all cash, securities, financial assets, digital units of exchange, Digital Assets (including Mined Cryptocurrency) and other property and amounts credited thereto and any rights or proceeds derived therefrom (the "Account Collateral"), which have been pledged by Pledgor to Secured Party pursuant to the Loan Agreement …

[75] Section 2 states in relevant part as follows:

> Security Interest; Secured Party's Authority over Account. Pledgor has granted a security interest in the Account to Secured Party. Pledgor hereby confirms the security interest granted by Pledgor to Secured Party in all of Pledgor's right, title and interest in and to the Account and the Account Collateral.

D. The DACA

[76] The recitals to the DACA state that its purpose is to set forth "the terms and conditions pursuant to which the Custodian [a NYDIG affiliate] is to act as a custodian for digital assets for Client [IE CA 4]."

[77] The agreement contains a number of representations, warranties and covenants by IE CA 4, including the following at ss. 6(b)(iv):

> Client represents, warrants and covenants that:
>
> …
>
> (iv) it has all rights, title and interest in and to the Custodied Assets as necessary for Custodian to perform its obligations under this Agreement.

[78] The term "Custodied Assets" is defined to mean "Custodied Digital Assets and Custodied Cash." The term "Custodied Digital Assets" is defined as follows:

> (i) Eligible Assets property sent to Custodian in accordance with Section 4(g) and held by Custodian in custody for the benefit of Client in the Digital Asset Account pursuant to the Agreement; and
>
> (ii) any digital assets received and held by the Custodian on behalf of and for the benefit of Client through air drops, forks or other similar mechanisms, but only to the extent and in the amount such assets have been deemed to be included in Client's Digital Asset Account as shown on at least one customer account statement sent to Client. For the avoidance of doubt, forked or air dropped assets shown as potentially being included in the Digital Asset Account are not Custodied Digital Assets.

E. The Parent Letter Agreement

[79] The Parent Letter Agreement takes the form of a letter from NYDIG, as Lender and Collateral Agent, to IEL, that is signed by Mr. Smyth, on behalf of NYDIG, and counter-signed by William and Daniel Roberts, on behalf of both IEL and IE CA 4, to indicate their acceptance of its terms.

[80] The letter begins by referencing the recently concluded IE CA 4 MEFA and identifies IEL as "the direct owner of 100% of the equity in [IE CA 4]", adding that IEL is "financially interested in [IE CA 4]'s affairs and business, and expects to derive substantial direct and indirect financial benefits from the financial accommodations to be provided by [NYDIG] to [IE CA 4] under or in connection with the [IE CA 4 MEFA]."

[81] The letter goes on to state that its purpose is to:

> … among other things, clarify [IEL's] rights under any Hashpower Agreement entered into between [IEL] and [IE CA 4] … in relation to [NYDIG]'s rights in [IE CA 4]'s equipment and other Collateral subject to such Hashpower Agreement.

[82] In the substantive provisions that follow, IEL indicates its agreement to various terms, including the following:

> 1) [IEL] acknowledges (a) that it has received and is familiar with the terms of the [IE CA 4 MEFA] and the other Loan Documents, (b) that [NYDIG] has financed or intends to finance equipment pursuant to which the "Hashpower" under the Hashpower Agreement is generated (the "Equipment") and (c) that [IE CA 4] has granted to [NYDIG], a Lien and security interest on all personal property assets of the [IE CA 4], including without limitation the Equipment and rights under the Hashpower Agreement (collectively, the "Collateral"). [IEL] hereby acknowledges and consents to the Lien in [IE CA 4]'s Collateral on behalf of [NYDIG] (including the collateral assignment of [IE CA 4]'s rights in the Hashpower Agreement to [NYDIG]).
>
> 2) [IEL] agrees that any rights and interests [IEL] may have whatsoever in and to the Collateral, whether such right or interest, if any, arises under the Hashpower Agreement or arises at law, whether statutory or otherwise, including any right to distrain against or to take ownership of the Equipment or any other Collateral, and whether or not such right or interest is presently vested in [IEL] or is contingent on a future event, shall be subordinate in all respects to the Lien of [NYDIG] in the Collateral and the payment in full of all Obligations under the Loan Documents.

> 3) [IEL] agrees that, notwithstanding the applicable termination provisions of the Hashpower Agreement, including without limitation, the provision of Section 5 of the Existing Hashpower Agreement, upon the [NYDIG]'s delivery of a Hashpower Agreement Termination Notice to [IEL] and [IE CA 4] in accordance with Section 9(c)(vii) of the [IE CA 4 MEFA], the Hashpower Agreement shall automatically terminate without any further action of any party thereto, and all rights in the "Hashpower" as defined under the Hashpower Agreement shall revert to [IE CA 4] upon such termination.

[83] In a subsequent paragraph, NYDIG:

> … acknowledges and agrees that, notwithstanding any other provision of any Loan Document (including this Parent Letter Agreement), [IEL] will not be liable or responsible for any of [IE CA 4]'s obligations under the Loan Documents and does not act [as] a guarantor in respect of any such obligations under the Loan Documents or otherwise in relation to [IE CA 4].

F. The Hashpower Agreements

[84] The IE CA 4 Hashpower Agreement was executed on March 22, 2022 and made effective retroactively as of December 1, 2021. In it, IE CA 4 is identified as the "Supplier" and IEL as the "Customer."

[85] Section 1.1 states that "[t]he Supplier will provide the Customer with access to and use of the Services." The term "Services" is defined in the last of the recitals as follows:

> This Agreement governs the Customer's access to and use of the exported computational power and hash rate ("**Hashpower**") and other services offered by the Supplier (together, the "**Services**").

[86] Section 1.2 states as follows:

> This Agreement is for the provision of Hashpower from the Supplier to the Customer. The Hashpower may be employed for whatever purposes the Customer so desires and as described in Section 3 (Customer obligations) below, the Customer acknowledges the risks associated with generating and providing Hashpower and acknowledges that significant variations may occur with the Services.
>
> The Supplier will use reasonable efforts to provide the Customer the Hashpower using the Supplier's hardware (as selected and agreed between the Parties from time to tome), subject to Section 1.3 (Service Level Agreement and Variances).

[87] Under the heading "FEES", s. 2.1 states as follows:

> In consideration for the Services provide by the Supplier, the Customer shall pay and owe the Supplier the hashpower fee ("**Hashpower Fee**").
>
> The Hashpower Fee shall be calculated by multiplying the actual kilowatt hour power consumption of the Supplier's hardware used in the provision of the Serves under this Agreement by the Hashpower Unit Fee. The "**Hashpower Unit Fee**" is C$0.096/kWh.

[88] Pursuant to s. 5.1, the Hashpower Agreement was to remain in effect for a term commencing on December 1, 2021 and ending on a "date set by mutual agreement in writing."

[89] IE CA 3 never entered into a written hashpower agreement with IEL, but the Respondents say that IE CA 3 and IEL operated according to those same terms.

G. The Hosting Agreements

[90] The three IE CA 4 Hosting Agreements were executed on March 22, 2022 and made effective retroactively as of December 1, 2021. In them, IE CA 4 is identified as the "Client" and the respective Host as the "Supplier."

[91] Pursuant to s. 2.1, the Supplier promises to supply "Electricity" to the Client. Pursuant to s. 3.1, the Supplier promises to supply "Facility Infrastructure", "Services" and "Electricity" to the Client.

[92] The term "Facility Infrastructure" is defined in s. 1 to mean:

> … all land, substations, transformers, Metering System, electrical, power distribution units, network, connectivity, filtration, cooling, heating, facilities, ventilation, racks, shelves, Data Centres, and ethernet cables, and any other infrastructure required to provide the Electricity to, and support and operate, the Client Equipment …

[93] The term "Services" is defined in s. 1 to mean the services to be provided by the Supplier under the Hosting Agreement.

[94] The term "Electricity" is defined in s. 1 to mean "the net usable and reliable electricity available for consumption by the Client Equipment and Ancillary Equipment, as approved by the Client."

[95] Pursuant to s. 6, the Client promises to pay, in exchange for the Services provided by the Supplier, a fee calculated by multiplying the amount of electricity consumed (as measured in kWh) by $0.08/kWh.

[96] Pursuant to s. 8.1, either party may terminate the Hosting Agreement at any time by providing written notice of the intended termination date.

[97] IE CA 3 never entered into written hosting agreements with the Hosts, but the Respondents say that IE CA 3 and the Hosts operated according to those same terms.

IV. Discussion

A. Does NYDIG's collateral under the MEFAs include all Bitcoin mined using the Equipment, and the proceeds derived from the sale of it?

[98] The parties agree that the scope of NYDIG's collateral under the MEFAs is a matter of contractual interpretation. They also agree on the applicable principles of interpretation, which were conveniently and authoritatively set out by the Supreme Court of Canada in *Sattva Capital Corp. v. Creston Moly Corp*., 2014 SCC 53.

[99] There, Rothstein J., writing for the Court, summarized those principles in the following terms:

> [47] … the interpretation of contracts has evolved towards a practical, common-sense approach not dominated by technical rules of construction. The overriding concern is to determine "the intent of the parties and the scope of their understanding" … To do so, a decision-maker must read the contract as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances known to the parties at the time of formation of the contract. Consideration of the surrounding circumstances recognizes that ascertaining contractual intention can be difficult when looking at words on their own, because words alone do not have an immutable or absolute meaning:
>
> > No contracts are made in a vacuum: there is always a setting in which they have to be placed. . . . In a commercial contract it is certainly right that the court should know the commercial purpose of the contract and this in turn presupposes knowledge of the genesis of the transaction, the background, the context, the market in which the parties are operating.
> >
> > …

> [48] The meaning of words is often derived from a number of contextual factors, including the purpose of the agreement and the nature of the relationship created by the agreement …. As stated by Lord Hoffmann in *Investors Compensation Scheme Ltd. v. West Bromwich Building Society*, [1998] 1 All E.R. 98 (H.L.):
>
> > The meaning which a document (or any other utterance) would convey to a reasonable man is not the same thing as the meaning of its words. The meaning of words is a matter of dictionaries and grammars; the meaning of the document is what the parties using those words against the relevant background would reasonably have been understood to mean. [p. 115]
>
> [Citations omitted.]

[100] Justice Rothstein went on to describe how the surrounding circumstances may be considered as part of the interpretive exercise, stating as follows:

> [57] While the surrounding circumstances will be considered in interpreting the terms of a contract, they must never be allowed to overwhelm the words of that agreement … The goal of examining such evidence is to deepen a decision-maker's understanding of the mutual and objective intentions of the parties as expressed in the words of the contract. The interpretation of a written contractual provision must always be grounded in the text and read in light of the entire contract …. While the surrounding circumstances are relied upon in the interpretive process, courts cannot use them to deviate from the text such that the court effectively creates a new agreement …
>
> [58] The nature of the evidence that can be relied upon under the rubric of "surrounding circumstances" will necessarily vary from case to case. It does, however, have its limits. It should consist only of objective evidence of the background facts at the time of the execution of the contract …, that is, knowledge that was or reasonably ought to have been within the knowledge of both parties at or before the date of contracting. Subject to these requirements and the parol evidence rule discussed below, this includes, in the words of Lord Hoffmann, "absolutely anything which would have affected the way in which the language of the document would have been understood by a reasonable man" … Whether something was or reasonably ought to have been within the common knowledge of the parties at the time of execution of the contract is a question of fact.
>
> [Citations omitted.]

[101] In this case, both sides argue that the language of the MEFAs clearly and unambiguously supports their respective positions. Of course, they cannot both be right about that and, in my view, neither of them is. In fact, both the IE CA 3 MEFA and the IE CA 4 MEFA contain seemingly contradictory terms, making the task of

discerning the parties' common intention as to the intended scope of the collateral particularly challenging.

[102] Complicating matters further is the fact that the parties themselves have made, or allowed to be made, public pronouncements that appear, at least to some extent, to be at odds with their respective positions on this application.

[103] For example, after the execution of the IE CA 4 MEFA, NYDIG reviewed and approved a press release that IEL issued on March 27, 2022, describing the terms of IE CA 4 MEFA in the following manner:

a) US $71 million limited recourse equipment financing facility;

b) secured by 19,800 Bitmain S19j Pro miners (1.98 EH/s); and

c) 25-month term, 11% p.a. interest rate…

with no mention of security in the Bitcoin mined using the Equipment.

[104] On the other hand, after the IE CA 4 MEFA closed, IEL, in a filing with the U.S. Securities and Exchange Commission, appears to have acknowledged that NYDIG's collateral did in fact include Bitcoin mined with the Equipment:

> On March 24, 2022, a wholly-owned subsidiary of Iris Energy Limited entered into a $71.2 million limited recourse equipment finance and security agreement with NYDIG ABL LLC (the "NYDIG Agreement"). The facility established pursuant to this agreement (the "NYDIG Facility") has a contractual term of 25 months and is secured by 19,800 Bitmain S19j Pro miners (1.98 EH/s), as well as the digital assets mined therewith, with an applicable interest rate of 11% per annum. The NYDIG Facility is repaid through blended monthly payments of principal and interest with the final payment due April 2024. As of June 30, 2022, the facility was fully utilized with $71.2 million of borrowings outstanding.
>
> [Emphasis added.]

[105] Ultimately, however, the answer to this question must turn essentially on the language of the MEFAs and associated agreements themselves.

[106] In that regard, I agree with NYDIG that those agreements devote a great deal of attention to specifying the rights and obligations of the parties in connection with Bitcoin contemplated to be in the hands of the Debtors. NYDIG's position finds especially compelling support in s. 3 of the schedule to the IE CA 4 MEFA in which the parties specifically acknowledge and agree that the security granted by IE CA 4 in s. 5 of the IE CA 4 MEFA includes Digital Assets and Mined Cryptocurrency. In the absence of any contradictory terms, the intent conveyed by that provision would appear, at first blush, to be dispositive in favour of NYDIG.

[107] The Respondents argue in response that much of the text relied on by NYDIG was indeed acknowledged by NYDIG to be surplusage, because the parties understood that the Debtors would never actually hold any Bitcoin, at least not before an event of default. They point in particular to Mr. Smyth's email of February 21, 2022, in which he acknowledged that such language had to be included "for syndication purposes" but would not affect the actual scope of the security being provided. According to Mr. Roberts, NYDIG "wanted the theoretical concept to remain in the MEFA notwithstanding they recognised it was superfluous." The bargain that was eventually struck in relation to IE CA 4 was that such security would indeed be given, but only in respect of Bitcoin mined by IE CA 4 after NYDIG terminated the Hashpower Agreement in response to an event of default.

[108] That this was not just Mr. Roberts' subjective view, but rather a commonly held understanding acknowledged by both sides, as he has deposed, is borne out not only by the written emails exchanged between the parties during the negotiations, but also by other, more specific terms of the MEFAs themselves.

[109] For example, if NYDIG's interpretation were correct, then the following words added into the text of the MEFAs would likewise serve no apparent purpose:

a) "and in Borrower's possession" in ss. 3(d) and 12 of the IE CA 3 MEFA;

b) "Solely to the extent of any rights of Borrower in or to any Mined Cryptocurrency or any other Digital Asset" at the beginning of s. 3(l) of the IE CA 4 MEFA;

c) "owned by the Borrower" in s. 3(l) of the IE CA 4 MEFA;

d) "possessed or controlled by the Borrower" and "solely to the extent Borrower continues to possess or control the same" in the definition of the term "Mined Cryptocurrency" in s. 1 of the IE CA 4 MEFA; and

e) The granting of specific permission under s. 3(d) of the IE CA 3 MEFA and s. 8(d) of the IE CA 4 MEFA for the Debtors to sell, transfer or dispose of their property, not just in the ordinary course, but also pursuant to a hashpower agreement.

[110] NYDIG's explanation for these insertions is that they were merely intended to reflect the understanding that the Debtors would be permitted to sell the Bitcoin generated by the Equipment in the ordinary course. One of the difficulties I have with that suggestion is that the permission to sell assets, including Bitcoin, in the ordinary course is already provided for separately, elsewhere in the agreements.

[111] NYDIG also argues that whatever effect the Hashpower Agreements may have had, they did not result in an alienation of any of the Debtors' property. I disagree. That the parties understood the Hashpower Agreements to have resulted in an alienation to IEL of the hashpower generated by the Equipment (hashpower that would otherwise belong to the Debtors), is clear from, among other things, the definitions of the term "Hashpower Agreement" in s. 8(b) of the IE CA 3 MEFA and s. 1 of the IE CA 4 MEFA.

[112] Another compelling factor favouring the Respondents' interpretation is that, when the size of the proposed IE CA 4 financing was reduced, NYDIG abandoned its demand that IEL be added as a party to the IE CA 4 MEFA for the purposes of:

a) guaranteeing IE CA 4's obligations; and

b) pledging the Bitcoin obtained by IEL using the hashpower generated by the Equipment.

[113] NYDIG wanted that additional measure of protection precisely because it has known all along that only IEL would receive the Bitcoin in which NYDIG now claims a security interest. In the end, NYDIG agreed to do without those things and settled instead for a weaker right to redirect the hashpower away from IEL and back to IE CA 4 after an event of default. This is clear from, among other things, the Parent Letter Agreement, which describes how the right to use the Equipment's hashpower to generate Bitcoin will "revert" from IEL to IE CA 4 only with the termination of the IE CA 4 Hashpower Agreement by NYDIG in the wake of a default. NYDIG's actual security in mined cryptocurrency under the DAACA, the DACA and through the digital wallet that IE CA 4 was required to open with NYDIG or its agent, was evidently intended to "spring in" only after that occurred.

[114] Finally, NYDIG also argues that the Respondents' interpretation makes no commercial sense, because no prudent lender would finance the acquisition of equipment that depreciated as quickly as this equipment did, without taking additional security beyond the equipment itself. That is, however, far from clear.

[115] The parties have presented conflicting estimates of the degree to which the Equipment's value was financed by NYDIG, but neither estimate leads inexorably to the conclusion that NYDIG must have considered itself under-secured at the time without an accompanying pledge of the mined Bitcoin.

[116] The value of Bitcoin mining equipment is conventionally measured in US dollars per "terahash" (1 trillion hashes per second), commonly abbreviated as "TH." That value appears to fluctuate with the price of Bitcoin. According to Mr. Roberts, the IE CA 3 MEFA was financed at approximately US $30.7/TH, and the IE CA 4 MEFA at US $36.0/TH. At an early stage of the negotiations of the IE CA 4 MEFA, NYDIG produced a worksheet showing that it had calculated the Equipment's orderly liquidation value at US $56.39/TH. On May 24, 2021, at the time the IE CA 3 MEFA closed, the Equipment was said to be worth approximately US $115/TH. On March

24, 2022, the date the IE CA 4 MEFA closed, the Equipment was said to be worth approximately US $85/TH. Using those figures, Mr. Roberts says that the purchases were financed at a rate of approximately 27-42%. As a result of the steep drop in the price of Bitcoin in late 2022, however, by October 1, 2022, the Equipment was worth only US $23.67/TH.

[117] Mr. Shah presents a different set of figures. According to him, the total purchase price of IE CA 3's Equipment was US $62,100,000, of which NYDIG advanced a total of US $49,680,000, yielding a financed rate of 80%. The total purchase price of IE CA 4's Equipment was US $117,393,100, of which NYDIG advanced a total of US $71,195,850, yielding a financed rate of over 60%. The latter rate does not include two Bitmain credits totaling US $14,580,500. After accounting for those, the total cash and credit consideration for the IE CA 4 Equipment would have been US $131,973,600, of which NYDIG financed 54%.

[118] Regardless of which set of figures is to be preferred, I am satisfied that NYDIG could well have believed its security to be adequate without an additional pledge of the mined Bitcoin, at least before the steep drop in the price of Bitcoin that occurred later in 2022.

[119] In summary, I have concluded that NYDIG's collateral under the MEFAs does not extend to Bitcoin that IEL received through mining pools using hashpower that it acquired from the Debtors pursuant to the Hashpower Agreements, written or unwritten, let alone to the proceeds derived from IEL's sale of such Bitcoin.

B. Should the transactions carried out by the Respondents pursuant to the Hashpower Agreements be declared, as against NYDIG, void as fraudulent conveyances?

[120] If, as I have now found, NYDIG's collateral does not include any of the proceeds derived from IEL's Bitcoin sales, then NYDIG seeks a variety of relief in the alternative, including, first, a declaration that the transactions carried out by the Respondents pursuant to the Hashpower Agreements are void and should be reversed as fraudulent conveyances.

[121] The Respondents raise a preliminary objection to the granting of that relief in this context, arguing that such a claim can properly be advanced only as an action, commenced with a notice of civil claim. NYDIG argues in response that nothing in the *Fraudulent Conveyance Act*, R.S.B.C. 1996, c.163 [*FCA*] or the *Supreme Court Civil Rules,* B.C. Reg. 168/2009 [*Rules*], precludes such relief being granted by way of an application in this proceeding, referring in particular to Rule 8-1(2), which allows for applications to be brought at the hearing of a petition.

[122] This court has previously held that relief under the *FCA* should ordinarily be sought by way of an action commenced with a notice of civil claim. That was the conclusion of Harvey J. in *Nagra v. Janif*, 2009 BCSC 700. There, a judgment creditor had commenced a proceeding by way of petition, seeking to set aside a pair of transactions as fraudulent conveyances. Although Harvey J. was of the view that the claim should have been advanced as an action, he chose nevertheless to treat the procedural defect as a mere irregularity, rather than a nullity, and to resolve the issue on the merits, relying on the predecessor to Rule 22-7, the so-called “slip rule”.

[123] That Rule states, in relevant part, as follows:

> Non-compliance with rules
>
> (1) Unless the court otherwise orders, a failure to comply with these Supreme Court Civil Rules must be treated as an irregularity and does not nullify
>
> (a) a proceeding,
>
> (b) a step taken in the proceeding, or
>
> (c) any document or order made in the proceeding.
>
> Powers of court
>
> (2) Subject to subrules (3) and (4), if there has been a failure to comply with these Supreme Court Civil Rules, the court may
>
> (a) set aside a proceeding, either wholly or in part,
>
> (b) set aside any step taken in the proceeding, or a document or order made in the proceeding,
>
> (c) allow an amendment to be made under Rule 6-1,
>
> (d) dismiss the proceeding or strike out the response to civil claim and pronounce judgment, or
>
> (e) make any other order it considers will further the object of these Supreme Court Civil Rules.

> Proceeding must not be set aside for incorrect originating pleading
>
> (3) The court must not wholly set aside a proceeding on the ground that the proceeding was required to be started by an originating pleading other than the one employed.
>
> …

[124] More recently, in *Fu v. Lai*, 2014 BCSC 2286, Savage J. (as he then was) allowed a claim seeking relief under the *FCA*, although commenced by petition, to proceed to a hearing on the merits, after directing the parties to conduct cross-examinations on their respective affidavits. However, Savage J. did not specifically address whether the proceeding had properly been commenced by petition in the first place.

[125] In light of these authorities, the better view appears to be that NYDIG's claim under the *FCA* should have been advanced as an action. However, like Harvey J., I have concluded that any such procedural defect gives rise to an irregularity, rather than a nullity. Rule 22-7(3), states that the court must not wholly set aside a proceeding on the ground that the proceeding was required to be started by an originating pleading other than the one employed. In *Tomic v. Tough*, 2013 BCCA 355, Saunders J.A., writing for the Court in upholding the decision under appeal, relied on a number of authorities for the proposition that "commencing a proceeding using the wrong form constitutes an irregularity, not a nullity" (at para. 19).

[126] That being so, I am also satisfied that, to the extent required, I can and should invoke the discretion I have under Rule 22-7(2)(e) to allow NYDIG's application for relief under the *FCA* to be addressed in this context, even if the claim should properly have been advanced as an action.

[127] There are a number of reasons that lead me to that conclusion. First, there is extensive overlap between that aspect of the relief sought and the other matters that are, without dispute, properly before me on this application. Second, there is no real dispute between the parties as to the underlying facts, or any suggestion by either side that the issues raised do not lend themselves to summary disposition on affidavit evidence. No one has sought to cross-examine any of the affiants. Finally,

if, as NYDIG alleges, the receivership estate was improperly diminished by means of a series of fraudulent conveyances, then it should be open to NYDIG, as the petitioning creditor, to apply for the appropriate relief here rather than being forced to commence a separate action, with the attendant risks of delay, duplication, increased expense and inconsistent rulings: *Cepuran v. Carlton*, 2022 BCCA 76.

[128] Turning then to the substance of the issue, the elements of the test to be applied in determining whether a transaction should be declared void as a fraudulent conveyance under the *FCA* were recently set out by Voith J.A. in *0848052 B.C. Ltd. v. 0782484 B.C. Ltd*., 2023 BCCA 95, as follows:

> [57] … The elements of a fraudulent conveyance are that i) "a disposition of property" be ii) made with the "intent to delay, hinder or defraud creditors and others" and iii) that the transaction has that effect. In relation to the second element, this Court has held "[t]he only intent now necessary to avoid a transaction under the modern version of the [*Fraudulent Conveyance Act*] is the intent to "put one's assets out of the reach of one's creditors' (per *RBC v. Clarke*). No further dishonest or moral blameworthy intent is required": *Abakhan* at para. 73; *Mawdsley v. Meshen*, 2012 BCCA 91 (leave to appeal to SCC ref'd, 34798 (27 April 2012) at paras. 69–70.

[129] In *Zhu v. Zhang*, 2021 BCSC 2524, Adair J. helpfully summarised the applicable test in the following terms:

> [117] *Abakhan & Associates Inc. v. Braydon Investments Ltd.*, 2009 BCCA 521, is one of the leading cases interpreting the *Fraudulent Conveyance Act*. The principles from that case can be summarized as follows:
>
> (a) the *Fraudulent Conveyance Act* is to be construed liberally (para. 62);
>
> (b) an intent to put one's assets beyond the reach of creditors is all that is required to void a transaction (paras. 64, 73);
>
> (c) a dishonest intent or bad faith is not a necessary element to avoid a transaction under s.1 of the Act (para. 65);
>
> (d) intent is a state of mind and a question of fact (para. 74);
>
> (e) intent can be proven by direct evidence of the transferor's intent as well as by inferences from the transferor's conduct, the effect of the transfer and other circumstances (para. 80);

> (f) where a transfer of property has the effect of delaying, hindering or defeating creditors, the necessary intent is presumed (paras. 58-59 and 75);
>
> (g) inadequate consideration paid for the transferred property may be indicative of fraudulent intent (para. 76);
>
> (h) it is not necessary to show the transferor was insolvent at the time of the transfer (para. 60);
>
> (i) it is not necessary for an applicant to show the applicant was a creditor at the time of the transfer, and future creditors are also protected (paras. 60, 78 and 87); and
>
> (j) it is no defence that the transfer was also in furtherance of a legitimate business objective (paras. 84-85).

[118] An intent to put assets beyond the reach of creditors can be inferred from what have been described as the "badges of fraud." As MacNaughton J. wrote in *Wu v. Gu*, at para. 84:

> [84] The intent to put assets out of the reach of creditors must often be inferred from the "badges of fraud". The cases repeatedly consider the following indicia or badges of fraud:
>
> (a) the state of the debtor's financial affairs;
>
> (b) the relationship between the parties to the transfer;
>
> (c) whether the disposition effectively divests the debtor of assets;
>
> (d) evidence of haste in making the disposition;
>
> (e) timing of the transfer relative to notice of the debts;
>
> (f) the presence of valuable consideration; and
>
> (g) whether the transferor continued in possession after the transfer.
>
> [citations omitted [in *Zhu.*]]

[130] In *Trans Canada Insurance Marketing Inc. v. Fransen Insurance Services Ltd.* 2019 BCSC 1250, Forth J. added the following observations about the requisite element of intent:

> [90] Where the impugned transaction is made for no consideration, a presumption arises that it was carried out fraudulently: *Mawdsley* at para. 53. This presumption may be rebutted by evidence that the transferor did not dispose of the assets in furtherance of an improper purpose: *Mawdsley* at para. 53. If the consideration paid is inadequate or nominal, the plaintiff need

> only show that the transferor intended to delay, hinder or defraud the creditors of its remedies. If valuable consideration has passed, the plaintiff must show that the transferee actively participated in the fraud: *Sutton v. Oshoway*, 2011 BCCA 245, at para. 4, citing *Chan v. Stanwood*, 2002 BCCA 474 at para. 20.
>
> [91] A voluntary transfer that renders the debtor unable to meet his or her then existing liabilities will furnish strong evidence of an intent to defraud creditors: *Hawkeye Power Corporation v. Sigma Engineering Ltd*., 2014 BCSC 1444 at para. 110, aff'd 2015 BCCA 451.

[131] In this case, I have already found that the Hashpower Agreements resulted in a "disposition of property", namely, a transfer from the Debtors to IEL of the hashpower generated by the Equipment, so as to satisfy the first element of the test.

[132] Likewise, I am satisfied that the third element (that the *effect* of the transfer has been to put a valuable asset of the Debtors beyond the reach of their main creditor) is also satisfied on the basis that, had the impugned transfers not occurred, the hashpower generated by the Equipment would have remained with the Debtors, in which case the Bitcoin mined with it would have formed part of the collateral charged by the MEFAs.

[133] The main issue in dispute between the parties in this regard is whether the second element (intent) can fairly be inferred on the facts of this case. In arguing that it can and should, NYDIG submits that most of the badges of fraud (with the possible exception of haste) are present and weigh in favour of that result.

[134] I agree with NYDIG that the following factors, present here, are tantamount to "badges of fraud", supporting the relief that NYDIG seeks:

a) the impugned transactions were not at arm's length;

b) IEL directed the flow of funds within the Iris Group in a manner that caused IEL to reap most of the financial benefit generated by the Equipment, while leaving the Debtors carrying most of the associated burden; and

c) the effect of that structure was to leave the Debtors in need of ongoing subsidies from IEL in order to meet their financial obligations.

[135] In the words of Forth J. in *Trans Canada Insurance Marketing*, the Hashpower Agreements brought about "[a] voluntary transfer that renders the debtor unable to meet his or her then existing liabilities," which serves as "strong evidence of an intent to defraud creditors."

[136] I am also satisfied that the price that IEL paid the Debtors for the transferred hashpower under the Hashpower Agreements was substantially less than its actual value, as reflected in:

a) the cost to the Debtors of producing it (particularly, the purchase of the Equipment and assumption of the associated debt and hosting fees); and

b) the consideration ultimately received by IEL in disposing of it.

[137] On April 17, 2023, I granted the Receiver's application for an order to compel IEL or its relevant subsidiary to provide the information demanded by the Receiver regarding the Bitcoin proceeds generated with the Equipment (my earlier decision in that regard is indexed as 2023 BCSC 638). IEL has since responded with information suggesting that it received proceeds of approximately CDN $37 million through those Bitcoin sales. The Receiver is still reviewing that information and was not yet in a position to comment on its accuracy at the time of the hearing of this application.

[138] As they have on other matters, the parties have presented conflicting tallies of the consideration paid to the Debtors in exchange for that same hashpower. According to the Receiver, whose work and analysis in this regard too is still ongoing, the Debtors received net income of CDN $2.2 million during the relevant period. They should have earned, by the Receiver's calculation, revenue of CDN $20.9 million pursuant to the Hashpower Agreements.

[139] The Respondents calculate that latter figure at closer to CDN $33 million, the difference being attributable to approximately CDN $12 million in transfer pricing adjustments, which, in the opinion of the Receiver, are not properly included in the calculation.

[140] The discrepancy between the value that IEL received for the hashpower, and the consideration that it paid the Debtors for it, therefore lies somewhere between CDN $4 million and CDN $16 million. I have been given no reason to question the correctness of the Receiver's calculation, which is based simply on the formula for determining the fees payable to the Debtors under the IE CA 4 Hashpower Agreement, having regard to the quantity of electricity actually consumed during the relevant period.

[141] The Respondents argue in response that, regardless of these factors, the impugned transactions were carried out solely for a legitimate business purpose, namely, to minimise sales tax, and without any fraudulent intent. The proof of this, they say, lies in the fact that NYDIG was made aware of and specifically agreed to everything, including the terms of the hashpower and hosting agreements and their impact on the Debtors' finances, before advancing the loans and without raising any complaint at the time. I do not find that argument persuasive.

[142] I accept that the Iris Group's interest in minimising sales tax forms part of the rationale for its corporate structure. However, I also agree with NYDIG that another purpose it serves is to allow for otherwise exigible corporate assets to be sheltered from creditors like NYDIG. In addition to the badges of fraud identified above, further support for this conclusion can be found in the press release issued by IEL on November 2, 2022, where one of the goals of that structure was described as follows:

> Non-Recourse SPV's and their limited recourse equipment financing arrangements were intentionally structured for prudent risk management to protect the underlying business and data center infrastructure that the [Iris] Group has built.

[143] I also appreciate that, as the Respondents argue, NYDIG was generally aware of, and specifically agreed to, the Iris Group's use of that corporate structure. However, the same cannot be said about the inter-company flow of funds, which the Receiver is only now in the process of reconstructing. In particular, NYDIG did not agree to any particular price being paid for the Debtors' hashpower. Although NYDIG was provided with the executed hashpower and hosting agreements of IE CA 4 (but not those of IE CA 3, which never existed in written form) and monthly financial statements showing the flow of funds in and out of the Debtors, the underlying financial arrangements were complex, and, in the case of IE CA 3, essentially undocumented. They also included, until the Debtors defaulted, IEL's apparent subsidy of their loan payments, which was booked internally as a series of subordinated inter-company loans.

[144] NYDIG was aware that the Debtors would be unable, on their own, to meet the obligations they were taking on under the MEFAs, if their sole source of revenue was the fees payable to them by IEL under their respective hashpower agreements. In Mr. Smyth's email of February 21, 2022, sent when the concept of a parent guarantee was still on the table, he noted that IE CA 4 would be "relying on the parent to make loan payments" and that IE CA 4 "is not a bankruptcy remote SPV."

[145] However, NYDIG also had reason to believe that the consideration paid to the Debtors in exchange for their hashpower was not confined to the fees payable to them under their respective hashpower agreements. In addition, it would have appeared to NYDIG that the Debtors were also receiving a subsidy from IEL in order to put them in a position to meet their financial obligations to NYDIG. That was the apparent pattern that began with IE CA 2 and continued with the Debtors. NYDIG never agreed, and was never told, that IEL would treat its supplemental cash transfers to the Debtors not as a subsidy, but rather as a series of subordinated loans – loans that, moreover, IEL would consider itself at liberty to cease advancing whenever IEL unilaterally determined that its own interest was no longer served by doing so.

[146] Although NYDIG ultimately abandoned its demand for a formal parent guarantee, it does not follow that IEL was left free thereafter to direct the inter-company flow of funds in any manner it pleased. IEL's commitment not to conduct itself as it did arises implicitly from the language of the Parent Letter Agreement, which must be interpreted in light of IEL's implied duty of good faith in its implementation. The scope of that duty was explained by Masuhara J. in *Govorcin Fisheries Ltd. v. Medanic Fisheries Ltd.*, 2022 BCSC 1201, in the following terms:

> [194] The duty of good faith and honest performance were discussed in a series of decisions: *Bhasin v. Hrynew*, 2014 SCC 71; *C.M. Callow Inc. v. Zollinger,* 2020 SCC 45; and *Wastech Services Ltd. v. Greater Vancouver Sewerage and Drainage District*, 2021 SCC 7. The principles from these cases are identified and summarized in the decision of *2343680 Ontario Inc. v. Bazargan*, 2021 ONSC 6752 at para. 28::
>
> > (a) Canadian common law has a long history of respecting private ordering and the freedom of contracting parties to pursue their own self-interest. The principle of good faith must be applied in a manner consistent with this history. The pursuit of economic self-interest, often at the expense of others, is not necessarily contrary to the principle of good faith. (*Bhasin*, para. 70; *Wastech*, para. 73);
> >
> > (b) The principle of good faith performance simply requires that parties generally perform their contractual duties honestly and reasonably and not capriciously or arbitrarily. (*Bhasin*, para. 63);
> >
> > (c) While the duty of honest performance does not require parties to act "angelically", they must refrain from lying or knowingly misleading another contracting party (*Bhasin*, para. 86).
> >
> > (d) A duty of honest contractual performance does not impose obligations of loyalty or trust. It is not a fiduciary duty. It does not mean that parties cannot legitimately take advantage of bargains they have reached. But it does mean that parties must not lie or knowingly mislead each other (*Bhasin*, paras. 60 and 65);
> >
> > (e) The duty of honest performance is not an obligation of honesty at large. It is directly linked to performance of the contract. Absent a linkage requirement, the duty would be to simply not tell a lie, which would broaden the scope of liability beyond acceptable limits (*Callow*, para. 49);
> >
> > (f) Tethering the good faith analysis to a consideration of what was reasonable according to the parties' own bargain tends to prevent the analysis from "veering into a form of ad hoc judicial moralism or 'palm tree' justice." (*Wastech*, para. 74.);

> (g) The duty of honest performance "constrains the manner in which all contractual rights and obligations are exercised or performed, as a matter of contractual doctrine." (*Callow*, para. 54). By extension, exercising a discretionary power dishonestly is a breach of contract; and,
>
> (h) Honest performance requires that the exercise of contractual discretion be carried out in a manner consistent with the purposes for which it was granted. Said another way, that it be carried out reasonably. The assessment of reasonableness may be expressed in the following question: was the exercise of discretion unconnected to the purpose for which the contract granted discretion? If the answer is yes, then the exercise of discretion has not been carried out in good faith. (*Wastech*, para. 69).

[147] In the Parent Letter Agreement, IEL acknowledged the commitments it had caused IE CA 4 to make to NYDIG and confirmed that it was "financially interested in [IE CA 4]'s affairs and business, and expects to derive substantial direct and indirect financial benefits from the financial accommodations to be provided by [NYDIG] to [IE CA 4] under or in connection with the [IE CA 4 MEFA]."

[148] Viewed in that light, the Respondents' assertion that NYDIG alone, with its eyes wide open, assumed the risk of the steep drop in Bitcoin prices that occurred in the second half of 2022, is not supported by the evidence. Although I have rejected NYDIG's argument that the MEFAs contained a pledge of all Bitcoin mined with the Equipment, it does not follow that these were "limited recourse" loans, in the sense that they were secured only by the pledge of the Equipment, as the Respondents have sought to characterise them. Rather, NYDIG took security in *all* property of the Debtors, including all proceeds from the sale of the hashpower generated by the Equipment, with the attendant right to expect fair consideration to be paid for it.

[149] Finally, I am not persuaded that the declaration NYDIG seeks here is the back-door equivalent of the parent guarantee that it was initially demanding in relation to the IE CA 4 MEFA, but ultimately abandoned when the loan amount was reduced. If that declaration is made, NYDIG will be in a position to recover for the receivership estate the full value of the hashpower that was transferred (less the

consideration that IEL paid for it), which is not necessarily the same as a sum sufficient to make NYDIG whole on the debt it is owed.

[150] Having considered all of these circumstances, I have concluded that the transactions carried out by the Respondents pursuant to the Hashpower Agreements should be declared, as against NYDIG, void as fraudulent conveyances.

C. Other Relief Sought

[151] In view of that conclusion, it is unnecessary to consider the appropriateness of the relief sought under s. 227 of the *BCA*, which takes the form of a similar declaration.

[152] With respect to NYDIG's request for a declaration that IEL and the Debtors be treated as a single consolidated entity, such relief has previously been said to be available, "[i]n a liquidation or reorganization of a corporate group": *Nortel Networks Corporation (Re)*, 2015 ONSC 2987, leave to appeal refused, 2016 ONCA 332, at para. 213. As counsel for NYDIG candidly acknowledged during the hearing, the doctrine has never been applied in Canada to bring about the substantive consolidation of a *solvent* company like IEL with its insolvent affiliates. Given that NYDIG has been successful in obtaining other declaratory relief, this is not a case in which it is necessary to consider expanding the ambit of the doctrine in the manner urged. A second reason for refusing that relief is that it more closely resembles the parent guarantee that NYDIG abandoned at the bargaining table.

V. Summary and Conclusion

[153] The application is allowed to the extent that the impugned transactions are declared to be, as against NYDIG, void as fraudulent conveyances.

"Milman J."

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *IE CA 3 Holdings Ltd. v. NYDIG ABL LLC*, 2024 BCCA 244

Date: 20240627
Docket: CA49297

Between:

IE CA 3 Holdings Ltd., IE CA 4 Holdings Ltd., and Iris Energy Ltd.

Appellants/
Respondents on Cross Appeal
(Respondents)

And

NYDIG ABL LLC

Respondent/
Appellant on Cross Appeal
(Petitioner)

And

PricewaterhouseCoopers Inc. in its capacity as receiver and manager over IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd.

Respondent
(Receiver)

Before: The Honourable Mr. Justice Harris
The Honourable Justice Dickson
The Honourable Justice Griffin

On appeal from: An order of the Supreme Court of British Columbia, dated August 10, 2023 (*NYDIG ABL LLC v. IE CA 3 Holdings Ltd.*, 2023 BCSC 1383, Vancouver Docket S230488).

Counsel for the Appellants/Respondents on Cross Appeal:	K.E. Siddall C.L. Formosa
Counsel for the Respondent/Appellant on Cross Appeal:	C. Bur C.I. Hildebrand
Counsel for the Respondent, Pricewaterhouse Coopers Inc. in its capacity as receiver and manager over IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd.:	M. Buttery, K.C.

Place and Date of Hearing:	Vancouver, British Columbia March 12, 2024
Place and Date of Judgment:	Vancouver, British Columbia June 27, 2024

Written Reasons by:
The Honourable Justice Griffin

Concurred in by:
The Honourable Mr. Justice Harris
The Honourable Justice Dickson

Summary:

The appellants IE CA 3 Holdings Ltd. and IE CA 4 Holdings Ltd. are related companies involved in the Bitcoin mining industry. They borrowed funds from the respondent NYDIG ABL LLC to purchase sophisticated computers that, to NYDIG's knowledge, would generate hashpower purchased at a fixed price and used by their parent company Iris Energy Ltd. to mine Bitcoin. When the price of Bitcoin dropped, the debtors defaulted. NYDIG had a receiver appointed, and then brought an application seeking relief against the debtors and Iris. The appellants appeal from the judge's declaration that the hashpower agreements were fraudulent conveyances. The respondent cross appeals from dismissal of its application based on the oppression remedy, and the doctrine of substantive consolidation.

Held: Appeal allowed; cross appeal allowed in part.

The judge erred in concluding that the hashpower agreements were fraudulent conveyances, as any presumed intent was rebutted by the facts of the disclosure of the inter-company arrangements and NYDIG's acceptance of those arrangements prior to it loaning funds. The judge's findings that Iris did not pledge any collateral in the Bitcoin, and that NYDIG knew of the inter-company arrangements, rebuts any presumed fraudulent intent. Since NYDIG knew that it had not negotiated for a remedy in relation to the hashpower sold to Iris, it cannot be said that the debtors intended to deprive it of a just and lawful remedy within the meaning of the Fraudulent Conveyance Act.

The judge did not analyze the alternative claim seeking an oppression remedy. The dismissal of this aspect of the application does not permit appellate review and should be remitted to the trial court for determination. The judge's findings of fact supported his conclusion that the doctrine of substantive consolidation did not apply.

Reasons for Judgment of the Honourable Justice Griffin:

Introduction

[1] This appeal raises the question of whether a sophisticated lender can later challenge some of the debtors' transactions with a parent company as fraudulent conveyances and have those transactions set aside, when, before the loan was advanced, the fact of those transactions was disclosed by the debtors. A significant part of the context is the fact the lender asked for, and was refused, recourse to the parent company prior to agreeing to advance the loan to the debtors.

[2] In other words, the central question on this appeal, is whether it can be said in the circumstances of this case, that the debtors made a "disposition of property" "to

delay, hinder or defraud creditors and others of their just and lawful remedies", within the meaning of s. 1 of the *Fraudulent Conveyance Act*, R.S.B.C. 1996, c. 163 [*FCA*].

[3] The judge below held that the debtor's transactions with the parent company were void as fraudulent transactions. The appellants submit that the judge erred.

[4] For the reasons that follow, I agree with the appellants that the judge erred. In my view, it cannot be said that the transactions with the parent company were made to deprive the creditor of its just and lawful remedies, when the creditor knew, before the loan was advanced, that the transactions were intended as part of the inter-company business model and that the creditor would have no remedy against the parent company in relation to the transactions.

[5] However, I also agree with the respondent, on cross appeal, that the judge did not provide sufficient reasons for dismissal of the alternative ground for relief sought by the creditor based on the oppression remedy. That aspect of the application must be remitted to the trial court for determination.

Background

[6] While the commercial arrangements were somewhat complex, a simplified version of the facts is all that is necessary for the purposes of the issue on appeal.

[7] The creditor, and respondent on this appeal advancing a cross appeal, is NYDIG ABL LLC ("NYDIG" or the "creditor"). NYDIG acquired a company called Arctos Capital ("Arctos") in 2021. A director of Arctos, Trevor Smyth, became an employee of NYDIG. It is undisputed that the knowledge of Arctos became the knowledge of NYDIG. NYDIG is one of the largest financiers of the Bitcoin industry.

[8] The appellants are IE CA 3 Holdings Ltd. ("IE CA 3") and IE CA 4 Holdings Ltd. ("IE CA 4"), and their parent company Iris Energy Limited ("Iris"). IE CA 3 and IE CA 4 are the entities (the "debtors") that borrowed money from NYDIG (or its predecessor Arctos) to finance the purchase of specialized computers.

[9] Iris structures its business, with its subsidiaries, as follows:

a) Iris is an Australian public company. It owns and operates Bitcoin mining data centres.

b) The debtors are subsidiaries of Iris. They purchase and operate specialized computers called “application-specific integrated circuit miners”, known in this proceeding as the “Mining Equipment”. They produce what is described as “hashpower” which is the computing power used to solve algorithms and ultimately to generate Bitcoin.

c) Iris purchases the hashpower from its subsidiaries, and submits it to a mining pool, where it earns Bitcoin through a combination of block rewards and transaction fees, and then it exchanges Bitcoin for dollars on a daily basis.

[10] More specifically, the business model as between Iris and the debtors, is:

a) the debtors purchase Mining Equipment;

b) the debtors enter into hosting agreements with “host” entities that provide data centre facilities to host the Mining Equipment. The debtors pay the host to operate the Mining Equipment for a fixed fee (CAD $0.08/kWh);

c) the debtors sell the generated hashpower at a fixed rate to Iris under hashpower agreements at CAD$0.096/kWh;

d) the debtors’ net income is generated by selling the hashpower to Iris pursuant to the hashpower agreements; but less their expenses paid to the host entities pursuant to the hosting agreements; and

e) Iris has all rights to the Bitcoin it generates from the hashpower, and the proceeds of sale of the Bitcoin.

[11] The host entities are also subsidiaries of Iris. They lease the premises where the equipment is operated and provide the associated infrastructure such as electricity.

[12] The purpose of NYDIG's loans to the debtors was to finance the purchase of the Mining Equipment.

[13] Crucially, the above business model and inter-company relationships were disclosed to and known to NYDIG prior to it entering into any agreements to loan funds to the debtors.

[14] Indeed, Arctos provided financing to another subsidiary of Iris, IE CA 2 Holdings Ltd. ("IE CA 2"), in late 2020 pursuant to this business model. IE CA 2 entered into a limited recourse equipment financing loan with Arctos, pursuant to a Master Equipment Financing Agreement (the "IE CA 2 MEFA"). The IE CA 2 MEFA expressly references hashpower agreements and hosting agreements, and executed copies of these agreements were provided to Arctos.

[15] Furthermore, over the years, IE CA 2 provided financial statements to Arctos, and later NYDIG, which reference the hashpower revenue and hosting fees.

[16] IE CA 2 repaid NYDIG the full amount due and owing under the IE CA 2 MEFA.

[17] IE CA 3 entered into a Master Equipment Finance Agreement ("the IE CA 3 MEFA") with Arctos on substantially the same terms as the IE CA 2 MEFA, on May 25, 2021.

[18] IE CA 4 entered into a Master Equipment Finance Agreement with NYDIG on March 22, 2022 (the "IE CA 4 MEFA").

[19] Before that date, IE CA 4 provided NYDIG with copies of hashpower agreements and hosting agreements in respect of the IE CA 2 MEFA. As well, IE CA 4 provided NYDIG with an executed copy of the hashpower agreement which provided for the fees that IE CA 4 would receive from Iris in return for the

hashpower. IE CA 4 also provided NYDIG with an executed copy of the hosting agreements setting out the fees that IE CA 4 agreed to pay to the host entities for use of their data centre facilities.

[20] As with the earlier MEFAs, the IE CA 4 MEFA also expressly references hashpower agreements and hosting agreements.

[21] IE CA 3 did not have written hosting agreements or a written hashpower agreement, but operated on the same basis and same terms and pursuant to the same business model as IE CA 2 and IE CA 4. This was understood by Arctos (later NYDIG) as the IE CA 3 MEFA expressly references hashpower agreements and hosting agreements.

[22] Prior to the IE CA 4 MEFA, NYDIG requested Iris to provide a guarantee of the loan, and to pledge the Bitcoin obtained by Iris using the hashpower, as collateral. Iris expressly declined and NYDIG removed the requirements.

[23] The evidence supported the conclusion that NYDIG believed that its security in the Mining Equipment was adequate security for its loan. The value of Mining Equipment fluctuates with the value of Bitcoin.

[24] Instead of a guarantee or pledge of Bitcoin as collateral by Iris, NYDIG and Iris signed a parent letter agreement dated March 24, 2022 in relation to the loan to IE CA 4 (the “Parent Letter Agreement”). The Parent Letter Agreement, in summary, expressly:

a) confirmed that Iris would not be responsible or liable for IE CA 4’s obligations under the loan and was not a guarantor of the loan to IE CA 4;

b) identified that Iris acknowledged that IE CA 4 granted NYDIG a lien and security interests on all personal property assets of IE CA 4, including the Mining Equipment and its rights under the hashpower agreement;

c) confirmed that any rights of Iris in this collateral would be subordinate to NYDIG’s rights; and

d) provided that upon NYDIG giving notice of termination of the hashpower agreement (upon IE CA 4's default), the hashpower agreement would terminate and all rights in the untransferred hashpower would revert to IE CA 4.

[25] The hashpower agreement between IE CA 4 and Iris was attached to the Parent Letter Agreement.

[26] Through the respective MEFAs, NYDIG financed approximately 37,800 pieces of Bitcoin mining equipment purchased by IE CA 3 and IE CA 4. These were held in facilities in smaller communities in the interior of BC.

[27] The market for Bitcoin dramatically fell in late 2022. The drop of the market also dramatically negatively affected the market value of the Mining Equipment serving as collateral for the debt owed to NYDIG.

[28] On November 4, 2022 the host entities terminated the respective hosting agreements with the debtors, pursuant to the terms of those agreements. This was because there was no assurance from the debtors that they could continue to pay the hosting fees.

[29] Pursuant to terms that had been agreed upon, NYDIG had 90 days to collect or sell the Mining Equipment, however it took no steps to do so. Rather, it brought a petition to appoint a receiver over the property of the debtors.

[30] The debtors did not oppose this relief and a receiver was appointed on February 3, 2023.

[31] In the course of the receivership petition proceeding, NYDIG brought an application seeking to obtain some relief related to the Bitcoin mined by Iris using the hashpower, namely:

a) a declaration that the Bitcoin mined by Iris, and the proceeds thereof, were collateral for the debt owed by the debtors to NYDIG;

or, in the alternative:

b) a declaration that the transactions carried out pursuant to the hashpower agreements between the debtors and Iris were fraudulent conveyances and void as against NYDIG;

c) a declaration that the affairs of the debtors and Iris had been conducted in a manner oppressive to NYDIG, pursuant to s. 227 of the *Business Corporations Act*, S.B.C. 2002, c. 57; and

d) a declaration that the debtors and Iris be treated, as against NYDIG, as a single debtor entity, by consolidating all of their assets and liabilities pursuant to the doctrine of "substantive consolidation".

[32] The respondents opposed the application.

[33] The receiver ostensibly took no position. However, the receiver filed evidence of its own analysis of the business model of Iris and the debtors, which in summary, suggested that the hashpower agreements were not commercially reasonable agreements, because, among other things, Iris appeared able to profit significantly more from the hashpower through Bitcoin mining than it was paying the debtors for that hashpower. Further, the debtors were not making enough revenue, after paying the hosting fees, to service the interest on the debt. However, all of this was known to NYDIG or knowable based on disclosure to it, prior to it advancing the loans.

[34] No expert opinion evidence was provided as to the fair market value of the hashpower and how that related to the fixed fees being charged under the hashpower agreements.

[35] At present, IE CA 3 owes NYDIG in excess of US $36 million and IE CA 4 owes in excess of US $77 million.

Chambers Judgment

[36] The chambers judge dismissed parts of NYDIG's application but granted other relief, in reasons indexed at 2023 BCSC 1383 (the "Reasons").

[37] In particular, the judge:

a) dismissed NYDIG's application for a declaration that its collateral included the Bitcoin and proceeds derived from the Bitcoin mined pursuant to the hashpower agreements;

b) dismissed NYDIG's application for a declaration that the affairs of the debtors and Iris were conducted in a manner oppressive to NYDIG;

c) dismissed NYDIG's application for substantive consolidation of the debtors' and Iris's assets and liabilities; and

d) granted NYDIG's application for declaration that the hashpower agreements between Iris and IE CA 4 and IE CA 3, were void as against NYDIG, as fraudulent conveyances.

[38] The judge relied on *0848052 B.C. Ltd. v. 0782484 B.C. Ltd.*, 2023 BCCA 95 at para. 57, for the three elements of a fraudulent conveyance, namely:

a) A disposition of property;

b) Made with the "intent to delay, hinder or defraud creditors and others"; and

c) That the transaction has that effect.

[39] The dispute over whether the transfer of hashpower to NYDIG was a fraudulent conveyance turned on the second element, intent.

[40] The judge cited various authorities for the approach to intent under the *FCA*, noting that it does not require dishonesty and can be inferred from "badges of fraud":

> [129] In *Zhu v. Zhang*, 2021 BCSC 2524, Adair J. helpfully summarised the applicable test in the following terms:

[117] *Abakhan & Associates Inc. v. Braydon Investments Ltd.*, 2009 BCCA 521, is one of the leading cases interpreting the *Fraudulent Conveyance Act*. The principles from that case can be summarized as follows:

> (a) the *Fraudulent Conveyance Act* is to be construed liberally (para. 62);
>
> (b) an intent to put one's assets beyond the reach of creditors is all that is required to void a transaction (paras. 64, 73);
>
> (c) a dishonest intent or bad faith is not a necessary element to avoid a transaction under s.1 of the Act (para. 65);
>
> (d) intent is a state of mind and a question of fact (para. 74);
>
> (e) intent can be proven by direct evidence of the transferor's intent as well as by inferences from the transferor's conduct, the effect of the transfer and other circumstances (para. 80);
>
> (f) where a transfer of property has the effect of delaying, hindering or defeating creditors, the necessary intent is presumed (paras. 58-59 and 75);
>
> (g) inadequate consideration paid for the transferred property may be indicative of fraudulent intent (para. 76);
>
> (h) it is not necessary to show the transferor was insolvent at the time of the transfer (para. 60);
>
> (i) it is not necessary for an applicant to show the applicant was a creditor at the time of the transfer, and future creditors are also protected (paras. 60, 78 and 87); and
>
> (j) it is no defence that the transfer was also in furtherance of a legitimate business objective (paras. 84-85).

[118] An intent to put assets beyond the reach of creditors can be inferred from what have been described as the "badges of fraud." As MacNaughton J. wrote in [*Wu v. Gu*, 2020 BCSC 396], at para. 84:

> [84] The intent to put assets out of the reach of creditors must often be inferred from the "badges of fraud". The cases repeatedly consider the following indicia or badges of fraud:
>
> (a) the state of the debtor's financial affairs;
>
> (b) the relationship between the parties to the transfer;
>
> (c) whether the disposition effectively divests the debtor of assets;
>
> (d) evidence of haste in making the disposition;
>
> (e) timing of the transfer relative to notice of the debts;
>
> (f) the presence of valuable consideration; and

(g) whether the transferor continued in possession after the transfer.

[citations omitted [in *Zhu.*]]

[130] In *Trans Canada Insurance Marketing Inc. v. Fransen Insurance Services Ltd.* 2019 BCSC 1250, Forth J. added the following observations about the requisite element of intent:

> [90] Where the impugned transaction is made for no consideration, a presumption arises that it was carried out fraudulently: [*Mawdsley v. Meshen*, 2012 BCCA 91] at para. 53. This presumption may be rebutted by evidence that the transferor did not dispose of the assets in furtherance of an improper purpose: *Mawdsley* at para. 53. If the consideration paid is inadequate or nominal, the plaintiff need only show that the transferor intended to delay, hinder or defraud the creditors of its remedies. If valuable consideration has passed, the plaintiff must show that the transferee actively participated in the fraud: *Sutton v. Oshoway*, 2011 BCCA 245, at para. 4, citing *Chan v. Stanwood*, 2002 BCCA 474 at para. 20.
>
> [91] A voluntary transfer that renders the debtor unable to meet his or her then existing liabilities will furnish strong evidence of an intent to defraud creditors: *Hawkeye Power Corporation v. Sigma Engineering Ltd.*, 2014 BCSC 1444 at para. 110, aff'd 2015 BCCA 451.

[41] The judge did not make an express finding as to the actual intent of the debtors but found that there were "badges of fraud". The judge held:

> [133] The main issue in dispute between the parties in this regard is whether the second element (intent) can fairly be inferred on the facts of this case. In arguing that it can and should, NYDIG submits that most of the badges of fraud (with the possible exception of haste) are present and weigh in favour of that result.
>
> [134] I agree with NYDIG that the following factors, present here, are tantamount to "badges of fraud", supporting the relief that NYDIG seeks:
>
> a) the impugned transactions were not at arm's length;
>
> b) IEL directed the flow of funds within the Iris Group in a manner that caused IEL to reap most of the financial benefit generated by the Equipment, while leaving the Debtors carrying most of the associated burden; and
>
> c) the effect of that structure was to leave the Debtors in need of ongoing subsidies from IEL in order to meet their financial obligations.
>
> [135] In the words of Forth J. in [*Trans Canada Insurance Marketing Inc. v. Fransen Insurance Services Ltd.*, 2019 BCSC 1250], the Hashpower Agreements brought about "[a] voluntary transfer that renders the debtor unable to meet his or her then existing liabilities," which serves as "strong evidence of an intent to defraud creditors."

> [136] I am also satisfied that the price that IEL paid the Debtors for the transferred hashpower under the Hashpower Agreements was substantially less than its actual value, as reflected in:
>
> a) the cost to the Debtors of producing it (particularly, the purchase of the Equipment and assumption of the associated debt and hosting fees); and
>
> b) the consideration ultimately received by IEL in disposing of it.
>
> [Emphasis added.]

[42] The crux of the chambers judge's reasoning in granting the fraudulent conveyance declarations turned on the receiver's opinion that there is a large discrepancy between the value that Iris received for the hashpower when it used it to mine Bitcoin, and the consideration it paid to the debtors for the hashpower under the hashpower agreements, such that Iris received millions more in selling Bitcoin than it paid the debtors: paras. 136–140.

[43] Further, the judge concluded that Iris had made additional payments to the debtors, in addition to the payments under the hashpower agreements, whether as loans or otherwise. According to the judge, this meant that it "would have appeared" to NYDIG that Iris would subsidize the debtors so that they could meet their debt obligations.

[44] The debtors and Iris argued that their transactions could not be fraudulent conveyances when the business model had been fully disclosed to NYDIG before it made the loans. The judge did not accept this argument, holding:

> [143] I also appreciate that, as the Respondents argue, NYDIG was generally aware of, and specifically agreed to, the Iris Group's use of that corporate structure. However, the same cannot be said about the inter-company flow of funds, which the Receiver is only now in the process of reconstructing. In particular, NYDIG did not agree to any particular price being paid for the Debtors' hashpower. Although NYDIG was provided with the executed hashpower and hosting agreements of IE CA 4 (but not those of IE CA 3, which never existed in written form) and monthly financial statements showing the flow of funds in and out of the Debtors, the underlying financial arrangements were complex, and, in the case of IE CA 3, essentially undocumented. They also included, until the Debtors defaulted, [Iris]'s apparent subsidy of their loan payments, which was booked internally as a series of subordinated inter-company loans.

[144] NYDIG was aware that the Debtors would be unable, on their own, to meet the obligations they were taking on under the MEFAs, if their sole source of revenue was the fees payable to them by Iris under their respective hashpower agreements. In Mr. Smyth's email of February 21, 2022, sent when the concept of a parent guarantee was still on the table, he noted that IE CA 4 would be "relying on the parent to make loan payments" and that IE CA 4 "is not a bankruptcy remote SPV."

[145] However, NYDIG also had reason to believe that the consideration paid to the Debtors in exchange for their hashpower was not confined to the fees payable to them under their respective hashpower agreements. In addition, it would have appeared to NYDIG that the Debtors were also receiving a subsidy from [Iris] in order to put them in a position to meet their financial obligations to NYDIG. That was the apparent pattern that began with IE CA 2 and continued with the Debtors. NYDIG never agreed, and was never told, that [Iris] would treat its supplemental cash transfers to the Debtors not as a subsidy, but rather as a series of subordinated loans – loans that, moreover, [Iris] would consider itself at liberty to cease advancing whenever [Iris] unilaterally determined that its own interest was no longer served by doing so.

[146] Although NYDIG ultimately abandoned its demand for a formal parent guarantee, it does not follow that [Iris] was left free thereafter to direct the inter-company flow of funds in any manner it pleased. [Iris]'s commitment not to conduct itself as it did arises implicitly from the language of the Parent Letter Agreement, which must be interpreted in light of [Iris]'s implied duty of good faith in its implementation….

[147] In the Parent Letter Agreement, [Iris] acknowledged the commitments it had caused IE CA 4 to make to NYDIG and confirmed that it was "financially interested in [IE CA 4]'s affairs and business, and expects to derive substantial direct and indirect financial benefits from the financial accommodations to be provided by [NYDIG] to [IE CA 4] under or in connection with the [IE CA 4 MEFA]."

[148] Viewed in that light, the Respondents' assertion that NYDIG alone, with its eyes wide open, assumed the risk of the steep drop in Bitcoin prices that occurred in the second half of 2022, is not supported by the evidence. Although I have rejected NYDIG's argument that the MEFAs contained a pledge of all Bitcoin mined with the Equipment, it does not follow that these were "limited recourse" loans, in the sense that they were secured only by the pledge of the Equipment, as the Respondents have sought to characterise them. Rather, NYDIG took security in *all* property of the Debtors, including all proceeds from the sale of the hashpower generated by the Equipment, with the attendant right to expect fair consideration to be paid for it.

[149] Finally, I am not persuaded that the declaration NYDIG seeks here is the back-door equivalent of the parent guarantee that it was initially demanding in relation to the IE CA 4 MEFA, but ultimately abandoned when the loan amount was reduced. If that declaration is made, NYDIG will be in a position to recover for the receivership estate the full value of the hashpower that was transferred (less the consideration that [Iris] paid for it), which is not

> necessarily the same as a sum sufficient to make NYDIG whole on the debt it is owed.
>
> [Emphasis added.]

[45] In light of his findings, the judge found it unnecessary to consider the appropriateness of the oppression remedy sought by NYDIG pursuant to s. 227 of the *Business Corporations Act*: para. 151.

[46] The judge further held that it would expand the doctrine of "substantive consolidation" to combine a solvent company's assets with its insolvent affiliates, and this was not a case where it was necessary to do so. Furthermore, the judge found that this form of relief "more closely resembles the parent guarantee that NYDIG abandoned at the bargaining table": para. 152.

Grounds of Appeal and Cross Appeal

[47] The appellants submit that the chambers judge made errors of law and palpable and overriding errors of fact in his analysis of the claim of fraudulent conveyance.

[48] On cross appeal, NYDIG submits that the chambers judge erred in dismissing the application for oppression relief or in relation to substantive consolidation, by not providing adequate reasons, and not considering or applying the relevant legal test.

Analysis

[49] I will address the main appeal before turning to the cross appeal.

Appeal: Did the Judge Err in Determining that the Hashpower Agreements were Fraudulent Conveyances?

[50] The analysis must start with the *FCA* which consists of two sections:

> 1 If made to delay, hinder or defraud creditors and others of their just and lawful remedies
>
> (a) a disposition of property, by writing or otherwise,
>
> (b) a bond,
>
> (c) a proceeding, or

(d) an order

is void and of no effect against a person or the person's assignee or personal representative whose rights and obligations are or might be disturbed, hindered, delayed or defrauded, despite a pretence or other matter to the contrary.

2 This Act does not apply to a disposition of property for good consideration and in good faith lawfully transferred to a person who, at the time of the transfer, has no notice or knowledge of collusion or fraud.

[Emphasis added.]

[51] The disposition of property was the hashpower sold by the debtors to Iris under the hashpower agreements.

[52] The application below turned on the question of whether the debtors had the necessary intent under the *FCA*.

[53] In summary, the appellants submit that the judge made a combination of errors that led to the wrong conclusion that the hashpower agreements were fraudulent conveyances and therefore void as against NYDIG.

[54] Respectfully, I agree that the judge made a combination of errors:

a) He assumed fraudulent intent from "badges of fraud" without recognizing that these were rebutted by NYDIG's agreement to the business model; and

b) He buttressed his finding of fraudulent intent by making findings as to NYDIG's subjective expectations and implied contractual terms that were unsupported by evidence and directly inconsistent with the express terms of the contract.

[55] In my view, at its heart, the judge's findings that the hashpower agreements were fraudulent conveyances are internally inconsistent with the judge's findings as to the parties' negotiations and express agreements.

[56] The necessary intent has long been held to not require a subjectively dishonest state of mind, but it does require something more than simply proving that

the effect of the transfer is to hinder or delay creditors. The claimant must still prove as a matter of fact that there was an intention to "delay, hinder or defraud creditors… of their just and lawful remedies": *Mawdsley v. Meshen*, 2012 BCCA 91 at para. 7, leave to appeal to SCC ref'd, [2012] S.C.C.A. No. 182.

[57] The law is well established that intent may be inferred from all the circumstances, and that "badges of fraud" can create a presumption of the necessary fraudulent intent. However, that presumption is rebuttable: *Mawdsley* at para. 70.

[58] The judge agreed with NYDIG that there were certain badges of fraud, namely: the transfer of hashpower was between parties that were not at arm's length; the business model allowed Iris to reap most of the financial benefit generated by the Mining Equipment, leaving the debtors with most of the burden; and the effect of the business model meant that the debtors would need ongoing "subsidies" from Iris in order to meet their financial obligations: at para. 134. In addition, the judge found that Iris paid the debtors for the hashpower substantially less than it was actually worth: para. 135.

[59] What is missing in the judge's analysis is recognition of the implications that all of this was disclosed or available to NYDIG before it entered into the loan transactions, and this disclosure rebutted any presumption of fraudulent intent.

[60] On the judge's own findings, NYDIG's collateral under the MEFAs did not extend to Bitcoin mined by Iris using the hashpower it acquired under the hashpower agreements, nor did it extend to proceeds of sale of Bitcoin: para. 119. NYDIG understood that the hashpower agreements meant that hashpower that would have otherwise belonged to the debtors, was transferred to Iris: para. 111. NYDIG knew that only Iris would receive Bitcoin from mining the hashpower, and NYDIG agreed it would have no interest in that Bitcoin. NYDIG instead agreed to the lesser remedy of a right to terminate the hashpower agreement so that the hashpower would remain with IE CA 4 after an event of default: para. 113.

[61] The evidence was clear that prior to entering into the loan transactions, NYDIG had disclosed to it and understood: the fact that the debtors were subsidiaries of Iris; the amount of the fixed hashpower rates being paid by Iris to the debtors; the fees that the debtors had to pay under the hosting agreements with related parties; that Iris would use the hashpower to mine Bitcoin; that the debtors, and NYDIG, would have no recourse against the Bitcoin mined by Iris or the proceeds of sale of the Bitcoin; the debtors' only assets were the Mining Equipment; and the debtors' only revenue came from the hashpower rates.

[62] The judge had also rejected NYDIG's argument that it would make no commercial sense for it to agree to finance the acquisition of equipment that depreciated as quickly as this equipment did, without taking additional security: para. 114. The judge was not persuaded that NYDIG considered itself under-secured without additional security: para. 115. NYDIG could well have believed its security in the Mining Equipment to be adequate: para. 118.

[63] The judge failed to grapple with the significance of his own findings regarding what NYDIG knew and agreed to, which rebutted any presumption of fraud.

[64] In *Mawdsley*, certain estate planning by the deceased common law wife, which deprived her surviving third husband of some of her assets, was found not to be a fraudulent conveyance because the wife believed she had an agreement with the claimant that he would not make a claim to the assets: para. 56. This was despite the fact that her intention was clearly to put her assets out of his reach so that her children would benefit from them after her death. The estate planning was conducted with the husband's knowledge and he did not object to it.

[65] I see *Mawdsley* as an application of the words of the *FCA* in the full context of what was known to the claimant at the time of the transactions being challenged, an analysis missing in the present case.

[66] If it was disclosed to the creditor, prior to the transaction being challenged, and the creditor agreed and understood that the creditor would have no remedy

against the assets being transferred, it cannot be said the transfer was depriving the creditor of a “just and lawful remedy”. The creditor knows it has no remedy against those assets, and agrees with the arrangement, so it is not being deprived of anything.

[67] In my view, the judge erred in not appreciating that NYDIG agreed not to have any remedy in relation to the inter-company transfer of hashpower, other than that which it expressly negotiated would occur if the debtors went into default. Given the debtors’ disclosure to NYDIG and NYDIG’s agreement to the entire business model, the debtors could not have intended to deprive NYDIG of any “just and lawful” remedy when they transferred hashpower to Iris under the hashpower agreements. This is a complete answer to the claim under the *FCA*.

[68] The flaw in the chambers judge’s analysis under the *FCA* is not only due to his failure to consider that the presumption of fraudulent intent was rebutted, but was exacerbated by the judge drawing inferences regarding NYDIG’s expectations and implying terms of its contract with Iris, findings that are plainly unsupported by the loan agreements and evidence, namely:

a) that NYDIG had reason to believe that the consideration paid to the debtors for their hashpower was not confined to the fees payable under the respective hashpower agreements: para. 145;

b) that when NYDIG took security in all the property of the debtors, including proceeds from sale of the hashpower, it had a “right to expect fair consideration to be paid for it”: para. 148;

c) that NYDIG did not know that Iris would consider itself free to cease advancing supplemental funds to the debtors without obligation to NYDIG (implied by findings at para. 145); and

d) under the Parent Letter Agreement, Iris had an implied good faith obligation to fund the debtors (paras. 146–147).

[69] The above findings of fact are inferences that are unsupported by direct evidence and inconsistent with the actual business negotiations and contracts entered into by the parties, and do not make sense given the disclosure to NYDIG prior to the transactions. NYDIG was a sophisticated lender and given the arrangements disclosed to it, Iris's refusal to be responsible for the debt, and the lack of any promise by Iris to subsidize the debtors, NYDIG had no basis for an expectation that Iris would pay the debtors more than what the hashpower agreements provided.

[70] The business model disclosed to NYDIG was that it was the parent company, Iris, that would benefit from the Bitcoin mined using the hashpower, not the debtors. NYDIG knew that Iris was unwilling to provide a guarantee or to provide the Bitcoin as collateral. All forms of security for NYDIG were negotiated and dealt with by express terms. In all the circumstances, NYDIG had no reason to believe that Iris had any legal obligation to support the debtors beyond paying for the hashpower pursuant to the hashpower agreements.

[71] Further, the appellants submit that the finding by the chambers judge, that the Parent Letter Agreement meant that Iris had an implied duty of good faith to fund the debtors, was not pleaded or argued. The appellants contend that it is contrary to the negotiations and express content of the Parent Letter Agreement to imply that Iris had an obligation to pay the debtors something more than what was provided for under the hashpower agreements, if the debtors were struggling with repaying the debt to NYDIG.

[72] I agree with the appellants that the chambers judge's finding of such an implied duty is unsupported and contrary to the express terms of the Parent Letter Agreement.

[73] The judge appeared to ground the implied duty in the Parent Letter Agreement, as follows:

> [147] In the Parent Letter Agreement, IEL acknowledged the commitments it had caused IE CA 4 to make to NYDIG and confirmed that it was

> "financially interested in [IE CA 4]'s affairs and business, and expects to derive substantial direct and indirect financial benefits from the financial accommodations to be provided by [NYDIG] to [IE CA 4] under or in connection with the [IE CA 4 MEFA]."

[74] However, the passage quoted from the Parent Letter Agreement is simply the recital that explains the consideration flowing from NYDIG to Iris, consideration that supports holding Iris to the limited contractual commitments it makes in the Parent Letter Agreement. It does not expand the commitments made by Iris beyond that expressly stated in the Parent Letter Agreement.

[75] The fact that Iris might voluntarily pay more to the debtors from time to time was not in any way a commitment that it was bound to do so. Further, NYDIG was a sophisticated commercial lender, and there was no finding that Iris or the debtors made any misrepresentations to it about the business model.

[76] Importantly, the Parent Letter Agreement makes it quite clear that NYDIG will have no recourse against Iris. As noted by the judge earlier in his reasons at para. 83, in that agreement, NYDIG:

> … acknowledges and agrees that, notwithstanding any other provision of any Loan Document (including this Parent Letter Agreement), [Iris] will not be liable or responsible for any of [IE CA 4]'s obligations under the Loan Documents and does not act [as] a guarantor in respect of any such obligations under the Loan Documents or otherwise in relation to [IE CA 4]. [Emphasis added.]

[77] Nor was there any promise made by Iris in respect of the loan to IE CA 3.

[78] In short, the judge appears to have implied an obligation on the part of Iris to pay more for hashpower than what the hashpower agreements provided for, or to subsidize the debtors, if the debtors were unable on their own to service the debt to NYDIG, and in order that the debtors could service the debt. This is despite express language that indicates a contrary contractual intent: Iris was going to purchase hashpower in a non-arm's length transaction at a fixed rate and without agreeing to be in any way responsible for the debt. In my view, the judge's finding of an implied obligation was a palpable and overriding error.

[79] For these reasons, I conclude that the judge erred in treating as fraudulent conveyances, debtor-related-company transactions that were part of a known business model, disclosed to the creditor prior to the loans. These debtor-related companies structured their affairs in part to maximize profit to the parent company and minimize the parent company's exposure to liability, but NYDIG was a sophisticated lender that knew of this before it entered into the transactions. NYDIG knew, and accepted as part of its loan arrangements, that it would have no recourse against the parent company Iris, and accepted that the debtors would transfer hashpower to Iris at fixed rates. It cannot be said that the debtors had the necessary intent under the *FCA* when they carried out the transfer of hashpower pursuant to the hashpower agreements.

[80] I would set aside the judge's declaration that the hashpower transfers to NYDIG were void as fraudulent conveyances.

Cross Appeal: Did the Judge Err in Disposing of Other Grounds Advanced in NYDIG's Application?

[81] Because the judge granted relief pursuant to the *FCA*, the judge clearly felt it unnecessary to analyze the legal principles, factors and relevant evidence in respect of NYDIG's claims for relief pursuant to the statutory oppression remedy. The judge devoted only a single paragraph to this claim, and his reasons do not permit appellate review. In my view, it is not appropriate that we act as a court of first instance in analyzing this alternative basis for relief: *M. McIsaac Family Holdings Ltd. v. Tolam Holdings Ltd.,* 2020 BCCA 371 at para. 109. I will not comment on whether, as the appellants assert, this basis for relief will in any event be precluded by the findings of fact made by the judge. Given my conclusion that the judge erred in granting relief pursuant to the *FCA*, this ground for NYDIG's application should be remitted to the trial court for consideration.

[82] Although the judge's reasons in relation to the doctrine of substantive consolidation are also brief, in my view, they do permit appellate review. In short, the judge concluded that it was inappropriate on the facts to expand the doctrine to

apply to a solvent parent company in the circumstances, and it too closely resembled the parent company guarantee that was precluded by his findings of fact. I agree with the judge in this regard and see no basis for appellate interference in this conclusion.

Disposition

[83] The appeal is allowed, and the judge's declaration of fraudulent conveyances is set aside.

[84] The cross appeal is allowed in part. The respondent's application for relief in relation to the oppression remedy is remitted to the trial court.

"The Honourable Justice Griffin"

I AGREE:

"The Honourable Mr. Justice Harris"

I AGREE:

"The Honourable Justice Dickson"

Iris Energy ALERT: Bragar Eagel & Squire, P.C. is Investigating Iris Energy Limited on Behalf of Iris Energy Stockholders and Encourages Investors to Contact the Firm

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Click here to participate in the action.

On July 11, 2024, *Culper Research* published a report alleging that Iris Energy "has always, and will continue to be – a non-player in the HPC space because its facilities were built for BTC mining and are ill-equipped for HPC workloads without billions in additional costs."

Following this news, the price of the Company's stock dropped.

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