

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL

No: 500-11-048114-157

**SUPERIOR COURT**

(Commercial Division)

(Sitting as a court designated pursuant to  
the *Companies' Creditors Arrangement Act*,  
R.S.C., c. 36, as amended)

**IN THE MATTER OF THE PLAN OF  
COMPROMISE OR ARRANGEMENT OF:**

**BLOOM LAKE GENERAL PARTNER  
LIMITED,  
QUINTO MINING CORPORATION,  
8568391 CANADA LIMITED, CLIFFS  
QUEBEC IRON MINING ULC, WABUSH  
IRON CO. LIMITED AND WABUSH  
RESOURCES INC.**

Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE  
LIMITED PARTNERSHIP, BLOOM LAKE  
RAILWAY COMPANY LIMITED, WABUSH  
MINES, ARNAUD RAILWAY COMPANY  
AND WABUSH LAKE RAILWAY  
COMPANY, LIMITED**

Mises-en-cause

-and-

**HER MAJESTY IN RIGHT OF  
NEWFOUNDLAND & LABRADOR, AS  
REPRESENTED BY THE  
SUPERINTENDENT OF PENSIONS**

**THE ATTORNEY GENERAL OF CANADA,  
ACTING ON BEHALF OF THE OFFICE OF  
THE SUPERINTENDENT OF FINANCIAL  
INSTITUTIONS**

**MICHAEL KEEPER, TERENCE WATT,  
DAMIEN LEBEL AND NEIL JOHNSON**

**UNITED STEEL WORKERS, LOCALS  
6254 AND 6285**

**RÉGIE DES RENTES DU QUÉBEC**

**MORNEAU SHEPELL LTD., IN ITS  
CAPACITY AS REPLACEMENT PENSION  
PLAN ADMINISTRATOR**

Mis-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

**BOOK OF AUTHORITIES AND REPORTS OF THE  
SUPERINTENDENT OF PENSIONS OF NEWFOUNDLAND & LABRADOR**

<b><u>Doctrine</u></b>	<b>TAB</b>
<i>Barron's Canadian Law Dictionary</i> .....	1
DOLKAR, K., "Re-Thinking Rescue: a Critical Examination of CCAA Liquidating Plans" (2011) 27 Banking & Finance Law Review 111 .....	2
GARNER, B., <i>Black's Law Dictionary</i> , (7 <sup>th</sup> ed.: 1999).....	3
HOGG, P., <i>Constitutional Law of Canada</i> (5 <sup>th</sup> ed., supplemented) .....	4
KAPLAN, A. and FRAZER, M., <i>Pension Law</i> (2 <sup>nd</sup> ed.: 2013) .....	5
NOCILLA, A., "Asset Sales Under the Companies' Creditors Arrangement Act and the Failure of Section 36", (2012) 52 CBLJ 226 .....	6
NOCILLA, A., "Is 'Corporate Rescue' Working in Canada", (2013) 53 CBLJ 382 .....	7
NOCILLA, A., "The History of the Companies' Creditors Arrangement Act and the Future of Re-Structuring Law in Canada" (2014) 56 CBLJ 73, at p. 8.....	8
PRÉVOST, A., "Pension deemed trust: what's left?" (2017) 59 CBLJ 30.....	9

REID, H., Ad.E., <i>Dictionnaire de Droit Québécois et Canadien</i> (4 <sup>th</sup> ed.: 2010).....	10
SULLIVAN, R., <i>Sullivan on the Construction of Statutes</i> (6 <sup>th</sup> ed.: 2014).....	11
WOOD, R., “Rescue and Liquidation in Restructuring Law” (2013) 53 CBLJ 407 .....	12

**Jurisprudence**

<i>114957 Canada Ltée (Spraytech, Société d’arrosage) v. Hudson (Town)</i> , [2001] 2 S.C.R. 241, 2001 SCC 40 .....	13
<i>Alberta (Attorney General) v. Moloney</i> , 2015 SCC 51, [2015] 3 S.C.R. 327 .....	14
<i>Aveos Fleet Performance Inc. (Re)</i> , 2013 QCCS 5762.....	15
<i>Bank of Montreal v. Marcotte</i> , [2014] 2 SCR 725, 2014 SCC 55.....	16
<i>Bloom Lake (Re)</i> , 2017 QCCS 284 .....	17
<i>Buschau v. Rogers Communications Inc.</i> , [2006] 1 S.C.R. 973, 2006 SCC 28.....	18
<i>Canadian Western Bank v. Alberta</i> , [2007] 2 S.C.R. 3, 2007 SCC 22 .....	19
<i>Century Services Inc. v. Canada (Attorney General)</i> , 2010 SCC 60, [2010] 3 S.C.R. 379.....	20
<i>Construction Montcalm Inc. v. Min. Wage Com.</i> , [1979] 1 S.C.R. 754 .....	21
<i>Crystalline Investments Ltd. v. Domgroup Ltd.</i> , [2004] 1 SCR 60, 2004 SCC 3.....	22
<i>Globe-X Management Ltd. (Proposition de)</i> , 2006 QCCA 290.....	23
<i>Grant Forest Products Inc. (Re)</i> , 2013 ONSC 5933 .....	24
<i>Husky Oil Operations Ltd. v. Minister of National Revenue</i> , [1995] 3 S.C.R. 453 .....	25
<i>Indalex Limited (Re)</i> , 2011 ONCA 265 .....	26

<i>Indalex Limited (Re)</i> , 2010 ONSC 1114.....	27
<i>Monsanto Canada Inc. v. Ontario (Superintendent of Financial Services)</i> , [2004] 3 SCR 152, 2004 SCC 54 .....	28
<i>Puratone et al.</i> , 2013 MBQB 171 .....	29
<i>Quebec (Attorney General) v. Canadian Owners and Pilots Association</i> , 2010 SCC 39, [2010] 2 S.C.R. 536 .....	30
<i>Rizzo &amp; Rizzo Shoes Ltd. (Re)</i> , [1998] 1 S.C.R. 27 .....	31
<i>Rothmans, Benson &amp; Hedges Inc. v. Saskatchewan</i> , [2005] 1 S.C.R. 188, 2005 SCC 13.....	32
<i>Saskatchewan (Attorney General) v. Lemare Lake Logging Ltd.</i> , 2015 SCC 53, [2015] 3 S.C.R. 419 .....	33
<i>Schmidt v. Air Products Canada Ltd.</i> , [1994] 2 S.C.R. 611 .....	34
<i>Sun Indalex Finance, LLC v. United Steelworkers</i> , 2013 SCC 6, [2013] 1 S.C.R. 271.....	35
<i>Target Canada Co. (Re)</i> , 2015 ONSC 303.....	36
<i>Timminco Ltée (Arrangement relative à)</i> , 2014 QCCS 174 .....	37
<b><u>Monitor's Reports</u></b>	
Monitor's Report (17 <sup>th</sup> ).....	38
Monitor's Report (18 <sup>th</sup> ).....	39
Monitor's Report (19 <sup>th</sup> ).....	40
Monitor's Report (21 <sup>st</sup> ).....	41
Monitor's Report (22 <sup>nd</sup> ) .....	42
Monitor's Report (23 <sup>rd</sup> ) .....	43
Monitor's Report (25 <sup>th</sup> ).....	44
Monitor's Report (26 <sup>th</sup> ).....	45

Monitor's Report (27<sup>th</sup>)..... 46  
Monitor's Report (28<sup>th</sup>)..... 47  
Monitor's Report (34<sup>th</sup>)..... 48

**MONTREAL**, May 19, 2017

*(S) IRVING MITCHELL KALICHMAN LLP*

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CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
Commercial Division

File: No: 500-11-048114-157

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

**BLOOM LAKE GENERAL PARTNER  
LIMITED, QUINTO MINING  
CORPORATION, 8568391 CANADA  
LIMITED, CLIFFS QUÉBEC IRON  
MINING ULC, WABUSH IRON CO.  
LIMITED AND WABUSH RESOURCES  
INC.**

Petitioners

- and -

**THE BLOOM LAKE IRON ORE MINE  
LIMITED PARTNERSHIP, BLOOM LAKE  
RAILWAY COMPANY LIMITED,  
WABUSH MINES, ARNAUD RAILWAY  
COMPANY AND WABUSH LAKE  
RAILWAY COMPANY LIMITED**

Mises-en-cause

- and -

**FTI CONSULTING CANADA INC.**

Monitor

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**EIGHTEENTH REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

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## INTRODUCTION

1. On January 27, 2015, Bloom Lake General Partner Limited (“**Bloom Lake GP**”), Quinto Mining Corporation, 8568391 Canada Limited and Cliffs Québec Iron Mining ULC (“**CQIM**”) (collectively, the “**Bloom Lake Petitioners**”) sought and obtained an initial order (as amended, restated or rectified from time to time, the “**Bloom Lake Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) from the Superior Court of Quebec (the “**Court**”), providing for, *inter alia*, a stay of proceedings against the Bloom Lake Petitioners until February 26, 2015, (the “**Bloom Lake Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The relief granted in the Bloom Lake Initial Order was also extended to The Bloom Lake Iron Ore Mine Limited Partnership (“**Bloom Lake LP**”) and Bloom Lake Railway Company Limited (together with Bloom Lake LP, the “**Bloom Lake Mises-en-Cause**” and together with the Bloom Lake Petitioners, the “**Bloom Lake CCAA Parties**”). The proceedings commenced under the CCAA by the Bloom Lake CCAA Parties will be referred to herein as the “**CCAA Proceedings**”.

2. On May 20, 2015, the CCAA Proceedings were extended to include Wabush Iron Co. Limited (“**WICL**”), Wabush Resources Inc. (“**WRI**” and together with WICL, the “**Wabush Petitioners**”), Wabush Mines, Arnaud Railway Company (“**Arnaud**”) and Wabush Lake Railway Company Limited (collectively the “**Wabush Mises-en-Cause**” and together with the Wabush Petitioners, the “**Wabush CCAA Parties**”) pursuant to an initial order (as amended, restated or rectified from time to time, the “**Wabush Initial Order**”) providing for, *inter alia*, a stay of proceedings against the Wabush CCAA Parties until June 19, 2015, (the “**Wabush Stay Period**”) and approving an interim financing term sheet dated May 19, 2015 (the “**Interim Financing Term Sheet**”), providing an interim facility of up to US\$10 million (the “**Interim Financing**”). The Bloom Lake CCAA Parties and the Wabush CCAA Parties will be referred to collectively herein as the “**CCAA Parties**”.
3. The Bloom Lake Stay Period and the Wabush Stay Period (together, the “**Stay Period**”) have been extended from time to time and currently expire on January 29, 2016.
4. On April 17, 2015, Mr. Justice Hamilton J.S.C. granted an Order approving, as it relates to the Bloom Lake CCAA Parties, a sale and investor solicitation process (as may be amended from time to time, the “**SISP**”) involving the business and assets of the Bloom Lake CCAA Parties. The SISP was subsequently amended and restated to reflect the inclusion of the Wabush CCAA Parties in the CCAA Proceedings and was approved *nunc pro tunc* as it relates to the Wabush CCAA Parties pursuant to an Order granted June 9, 2015 (together with the April 17, 2015 Order, the “**SISP Order**”).
5. To date, the Monitor has filed seventeen reports in respect of various aspects of the CCAA Proceedings. The purpose of this, the Monitor’s Eighteenth Report (this “**Report**”), is to provide information to the Court with respect to:



- (a) The exercise by the Block Z Vendors of the Block Z Option, as defined in the Block Z APA and described in the Monitor's Seventeenth Report;
- (b) The request by certain of the CCAA Parties for the approval and vesting order (the "**Block Z AVO**") contemplated in the agreement dated as of January 26, 2016 (the "**Block Z APA**") by and between WICL and WRI as vendors (collectively, the "**Block Z Vendors**") and Administration Portuaire De Sept-Îles/Sept-Îles Port Authority as purchaser (the "**Block Z Purchaser**"), pursuant to which the Block Z Purchaser will acquire the Block Z Vendors' right, title and interest in certain assets related to the Block Z Lands<sup>1</sup> (the "**Block Z Transaction**") and to provide the Monitor's recommendation thereon.

#### **TERMS OF REFERENCE**

- 6. In preparing this Report, the Monitor has relied upon unaudited financial information of the CCAA Parties, the CCAA Parties' books and records, certain financial information prepared by the CCAA Parties and discussions with various parties (the "**Information**").
- 7. Except as described in this Report:
  - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and

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<sup>1</sup> As defined in the Pointe-Noire APA.

- (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
  
- 8. The Monitor has prepared this Report in connection with the motion for the granting of the Block Z AVO as described in the Amended Motion for the Issuance of Approval and Vesting Orders dated January 26, 2016, scheduled to be heard February 1, 2016 (the “**Block Z Approval Hearing**”). The Report should not be relied on for other purposes.
  
- 9. Future oriented financial information reported or relied on in preparing this Report is based on management’s assumptions regarding future events; actual results may vary from forecast and such variations may be material.
  
- 10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the Bloom Lake Initial Order, the Wabush Initial Order or previous reports of the Monitor.

#### **EXECUTIVE SUMMARY**

- 11. Capitalized terms used in the Executive Summary are as defined in the relevant section of the Report.
  
- 12. The Monitor is of the view that:
  - (a) The marketing process was carried out in accordance with the SISP Order and that the process that resulted in the execution of the Block Z APA was fair, transparent and reasonable in the circumstances;

- (b) The Block Z Transaction is the highest and best transaction resulting from the SISP in respect of the Block Z Lands and the consideration appears to be fair and reasonable in the circumstances;
  - (c) The approval of the Block Z Transaction is in the best interests of the Block Z Vendors' stakeholders generally.
13. Accordingly, the Monitor supports the Block Z Vendors' request for approval of the Block Z Transaction and the granting of the Block Z AVO.

#### **EXERCISE OF THE BLOCK Z OPTION**

14. As described in the Monitor's Seventeenth Report, the Block Z APA provides that the Block Z Lands will be an Excluded Asset if the Block Z Option is exercised by the Block Z Vendors.
15. The Block Z Option is an option in favour of the Block Z Vendors that allows for the sale of the Block Z Lands to the Block Z Purchaser, which option had to be exercised prior to the date of the Pointe-Noire Approval Hearing.
16. On January 26, 2016, the Block Z Option was exercised and the Block Z APA was executed.
17. The effect of the exercise of the Block Z Option and the execution of the Block Z APA is to remove the Block Z Lands from the Pointe-Noire Transaction and to sell them to the Block Z Purchaser for the same consideration as would have been realized had the Block Z Lands been sold as part of the Pointe-Noire Transaction.

#### **REQUEST FOR THE BLOCK Z AVO**

18. Capitalized terms used in this section of this Report not otherwise defined are as defined in the Block Z APA, a copy of which is attached hereto as **Appendix A**.

## **THE BLOCK Z APA**

19. Pursuant to the Block Z APA, the Block Z Purchaser will purchase the Block Z Lands for consideration of \$1.25 million in cash. In addition, the Block Z Purchaser will assume responsibility for all Environmental Liabilities related to the Block Z Lands.
20. The obligation of the Block Z Purchaser to complete the Block Z Transaction is subject to the following conditions being fulfilled or waived by the Block Z Purchaser:
  - (a) The Block Z AVO shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed;
  - (b) The Block Z Vendors shall have executed and delivered or caused to have been executed and delivered to the Block Z Purchaser at the Closing all the documents contemplated in Section 6.2 of the Block Z APA;
  - (c) During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of:
    - (i) Making any of the transactions contemplated by the Block Z APA illegal; or
    - (ii) Otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by the Block Z APA.
  - (d) Each of the representations and warranties contained in Section 4.2 of the Block Z APA shall be materially true and correct:
    - (i) As of the Closing Date as if made on and as of such date; or

- (ii) If made as of a date specified therein, as of such date; and
  - (e) The Block Z Vendors shall each have performed in all material respects all material covenants, obligations and agreements contained in the Block Z APA required to be performed by the Block Z Vendors on or before the Closing.
21. The obligation of the Block Z Vendors to complete the Block Z Transaction is subject to the following conditions being fulfilled or waived by the Block Z Vendors:
- (a) The Block Z AVO shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed;
  - (b) The Block Z Purchaser shall have executed and delivered or caused to have been executed and delivered to the Block Z Vendors at the Closing all the documents and payments contemplated in Section 6.3 of the Block Z APA;
  - (c) During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of:
    - (i) Making any of the transactions contemplated by the Block Z APA illegal;
    - (ii) Otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by the Block Z APA;
  - (d) Each of the representations and warranties contained in Section 4.1 of the Block Z APA shall be materially true and correct:
    - (i) As of the Closing Date as if made on and as of such date; or

- (ii) If made as of a date specified therein, as of such date; and
  - (e) The Block Z Purchaser shall have performed in all material respects all material covenants, obligations and agreements contained in the Block Z APA required to be performed by the Block Z Purchaser on or before the Closing.
22. The Block Z APA may be terminated on or prior to the Closing Date as set out in section 8.1 of the Block Z APA, including:
- (a) If the Block Z AVO has not been granted by February 15, 2016; or
  - (b) If Closing has not occurred by the Outside Date, being March 11, 2016.

#### **THE MONITOR'S COMMENTS AND RECOMMENDATION**

23. Section 36(1) of the CCAA states:

**“36(1) Restriction on disposition of business assets** - A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.”

24. Section 36(3) of the CCAA states:

**“(3) Factors to be considered** - In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.”

***Reasonableness of the Process Leading to the Proposed Sale***

- 25. The SISP was approved by the Court pursuant to the SISP Order. Capitalized terms used in this section of this Report not otherwise defined are as defined in the SISP.
- 26. The Monitor is satisfied that the marketing process was carried out in accordance with the SISP Order, that the opportunity to acquire the Block Z Lands was widely known and that the process that resulted in the execution of the Block Z APA was fair, transparent and reasonable in the circumstances.

***Monitor’s Approval of the Process***

- 27. The Monitor in its Third Report recommended approval of the SISP. The Monitor was consulted by the CCAA Parties throughout the SISP.

***Comparison with Sale in Bankruptcy***

28. The Monitor has considered whether the Block Z Transaction would be more beneficial to the creditors of the Block Z Vendors than a sale or disposition of the Block Z Lands under a bankruptcy.
29. It is the Monitor's view that the options for sale or disposition are the same regardless of whether such sale or disposition is carried out in the CCAA Proceedings or in a bankruptcy. The Monitor is also of the view that the purchase price for the Block Z Lands would be the same in either scenario.
30. The Monitor believes that the approval and completion of the Block Z Transaction is in the best interests of the Block Z Vendors' stakeholders generally. It is the Monitor's view that the process to obtain the Block Z AVO, which is a condition of the Block Z APA, and close the Block Z Transaction would be the same in both the CCAA Proceedings and a bankruptcy and that the costs associated with obtaining the AVO and closing the Block Z Transaction would be essentially the same whether the sale was completed in the CCAA Proceedings or a bankruptcy.
31. The Monitor also notes that a sale in bankruptcy would delay the approval and closing of the Block Z Transaction as it would be necessary to first assign the Block Z Vendors into bankruptcy or obtain a Bankruptcy Order, convene a meeting of creditors, appoint inspectors and obtain the approval of the inspectors for the Block Z Transaction<sup>2</sup>.
32. Certain claims exist that may have statutory "deemed trust" status that could potentially be removed by a bankruptcy proceeding. However, that issue would only become relevant in connection with a potential distribution of proceeds to creditors and is not relevant in respect of the approval of the Block Z Transaction.

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<sup>2</sup> Given the nature of the Block Z Lands, the Monitor does not believe that sections 18 or 19 of the *Bankruptcy and Insolvency Act* would apply to allow the sale of assets prior to the first meeting of creditors.



33. Accordingly, it is the Monitor's view that a sale or disposition of the Block Z Lands in a bankruptcy would not be more beneficial than the closing of the Block Z Transaction in the CCAA Proceedings.

***Consultation with Creditors***

34. Cliffs Mining Company ("CMC"), which is the Interim Lender, was consulted on the Block Z Transaction. The Monitor has been informed that CMC supports the Block Z Transaction.
35. Claims of related parties represent approximately 88% of total unsecured claims filed against the Block Z Vendors pursuant to the Claims Procedure Order. The related parties were consulted on the Block Z Transaction. The Monitor has been informed that the related parties support the Block Z Transaction.
36. To preserve the integrity of the SISP, the CCAA Parties did not consult with third-party unsecured creditors specifically with respect to the Block Z Transaction.
37. The Monitor is of the view that the degree of creditor consultation was appropriate in the circumstances. The Monitor does not consider that any material change in the outcome of the SISP as it relates to the Block Z Lands would have resulted from additional creditor consultation.

***The Effect of the Proposed Sale on Creditors and Other Interested Parties***

38. The Block Z Transaction would realize proceeds of \$1.25 million, the same amount by which the Cash Purchase Price of the Pointe-Noire APA is reduced as a result of the exercise of the Block Z Option. Accordingly, there is no adverse impact on creditors from the exercise of the Block Z Option and the Block Z Transaction.

***Fairness of Consideration***

39. As noted above, the Block Z Transaction would realize proceeds of \$1.25 million, the same amount by which the Cash Purchase Price of the Pointe-Noire APA is reduced as a result of the exercise of the Block Z Option.
40. No proposal was received in the SISP that could generate higher proceeds from the sale of the Block Z Lands.
41. Based on the foregoing, the Monitor is of the view that the consideration provided for in the Block Z APA is fair and reasonable in the circumstances.

***Monitor's Recommendation***

42. The consideration for the Block Z Transaction appears to be fair and reasonable in the circumstances. There is no evidence to suggest that viable alternatives exist that would deliver a better realization from the Block Z Lands.
43. Accordingly, and based on the foregoing, the Monitor is of the view that the approval of the Block Z Transaction is in the best interests of the Block Z Vendors' stakeholders generally and the Monitor supports the Block Z Vendors' request for approval of the Block Z Transaction and the granting of the Block Z AVO.

The Monitor respectfully submits to the Court this, its Eighteenth Report.

Dated this 27<sup>th</sup> day of January, 2016.

FTI Consulting Canada Inc.

In its capacity as Monitor of

Bloom Lake General Partner Limited, Quinto Mining Corporation,

8568391 Canada Limited, Cliffs Québec Iron Mining ULC,

Wabush Iron Co. Limited, Wabush Resources Inc.,

The Bloom Lake Iron Ore Mine Limited Partnership,

Bloom Lake Railway Company Limited, Wabush Mines,

Arnaud Railway Company and Wabush Lake Railway Company Limited



Nigel D. Meakin  
Senior Managing Director



Steven Bissell  
Managing Director

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# **Appendix A**

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**The Block Z APA**

**WABUSH IRON CO. LIMITED**

**WABUSH RESOURCES INC.**

**- and -**

**ADMINISTRATION PORTUAIRE DE SEPT-ÎLES / SEPT-ÎLES PORT AUTHORITY**

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**ASSET PURCHASE AGREEMENT**

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**DATED AS OF JANUARY 26, 2016**

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement dated as of January 26, 2016 is made by and between:

**WABUSH IRON CO. LIMITED**

**WABUSH RESOURCES INC.**

(collectively, the “**Vendors**”)

- and -

**ADMINISTRATION PORTUAIRE DE SEPT-ÎLES / SEPT-ÎLES PORT AUTHORITY**

(the “**Purchaser**”)

### RECITALS:

A. Pursuant to an initial order of the Québec Superior Court [Commercial Division] (the “**Court**”) dated January 27, 2015 (as the same may be amended and restated from time to time) in the proceedings bearing Court File No. 500-11-048114-157 (the “**CCAA Proceedings**”), Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, 8568391 Canada Limited, The Bloom Lake General Partner Limited, the Bloom Lake Railway Company Limited and the Bloom Lake Iron Ore Mine Limited Partnership (collectively, the “**Bloom Lake CCAA Parties**”) obtained protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) and FTI Consulting Canada Inc. was appointed as monitor in the CCAA Proceedings (in such capacity and not in its personal or corporate capacity, the “**Monitor**”).

B. By Order of the Court dated May 20, 2015 in the CCAA Proceedings, Wabush Iron Co. Limited (“**Wabush Iron**”) and Wabush Resources Inc. (“**Wabush Resources**”), Arnaud Railway Company (“**Arnaud**”), Wabush Lake Railway Company Limited and Wabush Mines, (collectively, the “**Wabush CCAA Parties**”) were added to the CCAA Proceedings and obtained protection from their creditors under the CCAA.

C. Pursuant to Orders of the Court dated April 17, 2015 and June 9, 2015 (as each may be amended, restated, supplemented or modified from time to time, the “**SISP Orders**”), the Vendors, were authorized to conduct the sale and investor solicitation process for the property and business of, among others, each of the Vendors, in accordance with the sale and investor solicitation procedures approved by the Court in the SISP Orders (the “**SISP**”).

D. The Vendors therefore desire to sell, transfer and assign to the Purchaser, and the Purchaser desires to acquire and assume from the Vendors, all of the Vendors’ right, title and interest in and to the Purchased Assets, on the terms and subject to the conditions contained in this Agreement.

E. The transactions contemplated by this Agreement are subject to the approval of the Court and will be consummated pursuant to the Approval and Vesting Order to be entered by the Court in the CCAA Proceedings.

**NOW THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions. In this Agreement:

**“1097 Property”** means such portion of the Purchased Assets owned by Wabush Iron that consists of “taxable Québec property” other than (a) property described in section 1102.1 of the TAQ and (b) “excluded property” as defined for purposes of sections 1097, 1102 and 1102.1 of the TAQ.

**“116(2) Property”** means such portion of the Purchased Assets owned by Wabush Iron that consists of “taxable Canadian property (other than property described in subsection (5.2) and excluded property)” as defined for purposes of section 116 of the ITA.

**“Action”** means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity and by or before a Governmental Authority.

**“Affiliate”** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to “control” another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term “controlled” shall have a similar meaning.

**“Agreement”** means this Asset Purchase Agreement and all the Schedules attached hereto, as they may be amended, restated or supplemented from time to time in accordance with the terms hereof.

**“Applicable Law”** means, with respect to any Person, property, transaction, event or other matter, (a) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order or other requirement having the force of law, (b) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively, in the foregoing clauses (a) and (b), “Law”), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

**“Approval and Vesting Order”** means an order of the Court issued in the CCAA Proceedings, substantially in the form of Schedule “A”, approving the transactions contemplated by this Agreement and vesting in the Purchaser all of the Vendors’ right, title and interest in and to the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances).

**“Bloom Lake CCAA Parties”** has the meaning set out in Recital A.

**“Books and Records”** means all books, records, files, papers, books of account and other financial data related to the Purchased Assets in the possession of and reasonably

available to the Vendors, including drawings, engineering information, geologic data, production records, technical reports and environmental studies and reports including (in each case, if applicable), research and development records, and all records, data and information stored electronically, digitally or on computer-related media.

**“Business Day”** means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Montréal, Québec, the City of St. John’s, Newfoundland and Labrador, the City of Toronto, Ontario, or the City of Cleveland, Ohio.

**“CAA”** has the meaning set out in Recital A.

**“CAA Parties”** means collectively the Bloom Lake CAA Parties and the Wabush CAA Parties.

**“CAA Proceedings”** has the meaning set out in Recital A.

**“Certificate of Compliance”** has the meaning set out in Section 3.4(1).

**“Closing”** means the completion of the purchase and sale of the Vendors' right, title and interest in and to the Purchased Assets by the Purchaser in accordance with the provisions of this Agreement.

**“Closing Date”** means the date on which Closing occurs, which date is intended to be the Target Closing Date.

**“Closing Time”** has the meaning set out in Section 6.1.

**“Conditions Certificates”** has the meaning set out in Section 7.3.

**“Contracts”** means all pending and executory contracts, agreements, leases, understandings and arrangements (whether oral or written) related to the Purchased Assets.

**“Court”** has the meaning set out in Recital A.

**“CRA”** means the Canada Revenue Agency or any successor agency.

**“Damages”** means any loss, cost, liability, claim, interest, fine, penalty, assessment, Taxes, damages available at law or in equity (including incidental, consequential, special, aggravated, exemplary or punitive damages), expense (including consultant's and expert's fees and expenses and reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation, defense or settlement) or diminution in value.

**“Deed of Sale”** means a deed of sale, in form and substance satisfactory to the Parties, acting reasonably, evidencing the conveyance to the Purchaser of the Vendors' right, title and interest in and to the Purchased Assets.

**“Deposit”** has the meaning set out in Section 3.2(1).



**“Encumbrances”** means all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, liens, security interests, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights), encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

**“Environment”** means any of the following: the water (whether surface or groundwater), atmosphere and soil or generally the ambient milieu with which living species have dynamic relations, and includes, “water”, “atmosphere” and “soil” as such terms are defined pursuant to Environmental Laws.

**“Environmental Claim”** means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom whether incurred or arising before or after Closing by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources Damages, property Damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

**“Environmental Law”** means any Applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the investigation or cleanup thereof), the management or protection of natural resources, endangered or threatened species, human health or safety, or the protection or quality of the Environment; or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials.

**“Environmental Liabilities”** means all past, all present and all future obligations and Liabilities of whatsoever nature or kind arising from or relating to, directly or indirectly:

- (i) any Environmental Matter; or
- (ii) any Environmental Claim, Environmental Notice or Environmental Permit applicable to (or otherwise involving) the Purchased Assets or any past, any present or any future non-compliance with, violation of or Liability under Environmental Laws or any Environmental Permit applicable to (or otherwise involving) the Purchased Assets,

whenever occurring or arising.

**“Environmental Matters”** means any activity, event or circumstance in respect of or relating to:

- (i) the storage, use, holding, collection, containment, recycling, reclamation, remediation, accumulation, assessment, generation, manufacture, processing, treatment, stabilization, disposition, handling, transportation, management, presence, exposure to or Release of Hazardous Materials;

- (ii) the protection, condition or quality of the Environment;
- (iii) pollution, reclamation, remediation or restoration of the Environment; or
- (iv) any Reclamation Obligation,

in each case relating to the Purchased Assets or the Business or that has or have arisen or hereafter arise from or in respect of past, present or future operations, activities or omissions in or on the Purchased Assets or in respect of or otherwise involving the Purchased Assets, including obligations to compensate third Persons for any Environmental Liabilities.

**“Environmental Notice”** means any written directive, notice of violation, notice of non-compliance or notice of infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law issued by a Governmental Authority or any term or condition of any Environmental Permit.

**“Environmental Permit”** means any permit, license, authorization, approval, letter, clearance, consent, waiver, exemption, decision, evidence of authority or action required under or issued, granted, given or authorized by a Governmental Authority pursuant to any Environmental Law.

**“Excluded Assets”** means the properties and assets of the Vendors not forming part of the Purchased Assets, including, for greater certainty, any equipment or vehicles located upon the Purchased Assets.

**“Filing Date”** means January 27, 2015 for the Bloom Lake CCAA Parties, and May 20, 2015 for the Wabush CCAA Parties.

**“Governmental Authority”** means:

- (1) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);
- (2) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
- (3) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (4) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association.

**“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

**“GST/HST”** means the goods and services tax and the harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada).

**“Hazardous Materials”** means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral, gas, odour, heat, sound, vibration, radiation or combination of them that may impair the Environment, injure or damage property or animal life or harm or impair the health of any individual and includes any contaminant, waste or substance or material defined, prohibited, regulated or reportable pursuant to any Environmental Law in each case, whether naturally occurring or manmade; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

**“ICA”** means the *Investment Canada Act, R.S.C. 1985, c. 28 (1<sup>st</sup> Supp.)*

**“Intercompany Claims”** means all present and future claims of any nature or kind whatsoever of any of the Vendors against an Affiliate of such Vendor, whether such Affiliate is a party to this Agreement or otherwise.

**“Interim Period”** means the period from the date that this Agreement is entered into by the Parties to the Closing Time.

**“ITA”** means the *Income Tax Act, R.S.C., 1985, c. 1 (5th Supplement)*.

**“Law”** has the meaning set out in the definition of **“Applicable Law”**.

**“Legal Proceeding”** means any litigation, Action, application, suit, investigation, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review.

**“Liability”** means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, including any monetary default, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

**“Monitor”** has the meaning set out in Recital A.

**“Monitor’s Certificate”** means the certificate, substantially in the form attached as Schedule “A” to the Approval and Vesting Order, to be delivered by the Monitor to the Vendors and the Purchaser on Closing and thereafter filed by the Monitor with the Court certifying that it has received the Conditions Certificates.

**“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

**“Outside Date”** means March 11, 2016.

**“Party”** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **“Parties”** means more than one of them.

**“Permitted Encumbrances”** means the Encumbrances related to the Purchased Assets listed on Schedule “B”.

**“Person”** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

**“Personal Information”** means information about an identifiable individual as defined in Privacy Law.

**“Privacy Law”** means the *Personal Information Protection and Electronic Documents Act* (Canada), the *Personal Information Protection Act* (British Columbia), the *Act respecting the protection of personal information in the private sector* (Québec) and any comparable Law of any other province or territory of Canada.

**“Purchase Price”** has the meaning set out in Section 3.1.

**“Purchased Assets”** means the immovable property known as “Block Z” as further described in Schedule “C”, which the Parties agree consists of vacant land only. For greater certainty, Purchased Assets does not include the Excluded Assets.

**“Purchaser”** has the meaning set out in the preamble hereto, and includes any successor or permitted assignee thereof in accordance with Section 10.16.

**“QST”** means the Québec sales tax imposed pursuant to the *Act respecting the Québec sales tax*, R.S.Q. c. T-0.1, as amended.

**“Québec Certificate of Compliance”** has the meaning set out in Section 3.5(1).

**“Reclamation Obligation”** means the obligations and commitments of any Vendor of any nature whatsoever under Applicable Law whether asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise for the reclamation, rehabilitation, restoration or remediation of the Purchased Assets.

**“Release”** includes any actual or potential release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the Environment, including, indoor air or within any building, structure, facility or fixture.

**“Remittance Date”** has the meaning set out in Section 3.4(3).

**“Representative”** when used with respect to a Person means each director, officer, employee, consultant, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

**“Sale Advisor”** means Moelis & Company LLC.

**“SISP”** has the meaning set out in Recital C.

**“SISP Order”** has the meaning set out in Recital C.

**“SISP Team”** means the CCAA Parties, the Sale Advisor and the Monitor.

**“TAQ”** means the *Taxation Act* (Québec), C.Q.L.R. c. I-3.

**“Target Closing Date”** means the date that is thirty (30) days following the date of this Agreement.

**“Taxes”** means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, social security premiums, workers' compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, QST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties.

**“Tax Returns”** means all returns, reports, declarations, elections, notices, filings, information returns, and statements in respect of Taxes that are required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

**“Transaction Personal Information”** means any Personal Information in the possession, custody or control of the Vendor at the Closing Time, including Personal Information about Employees, suppliers, customers, directors, officers or shareholders that is:

- (1) disclosed to the Purchaser or any Representative of the Purchaser prior to the Closing Time by any member of the SISP Team or any of the SISP Team's Representatives or otherwise; or
- (2) collected by the Purchaser or any Representative of the Purchaser prior to the Closing Time from any member of the SISP Team or any of the SISP Team's Representatives or otherwise,

in either case in connection with the transactions contemplated by the Agreement.

**“Transfer Taxes”** means all applicable Taxes, including where applicable, GST/HST and QST payable upon or in connection with the transactions contemplated by this Agreement and any filing, registration, recording or transfer fees payable in connection with the instruments of transfer provided for in this Agreement.

**“Vendors”** has the meaning set out in the preamble hereto.

**“Wabush CCAA Parties”** has the meaning set out in Recital B.

**“Wabush Iron”** has the meaning set out in Recital B.

**“Wabush Mines”** means an unincorporated contractual joint venture called “Wabush Mines” pursuant to which Wabush Resources and Wabush Iron have, respectively, undivided 73.17% and 26.83% co-ownership interests in the underlying assets and liabilities of the joint venture.

“**Wabush Resources**” has the meaning set out in Recital B.

**1.2 Actions on Non-Business Days.** If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

**1.3 Currency and Payment Obligations.** Except as otherwise expressly provided in this Agreement: (a) all dollar amounts referred to in this Agreement are stated in the lawful currency of Canada; and (b) any payment contemplated by this Agreement shall be made by wire transfer of immediately available funds to an account of the Monitor specified by the payee, by cash, by certified cheque or by any other method that provides immediately available funds as agreed to between the Parties, with the consent of the Monitor.

**1.4 Calculation of Time.** In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Eastern on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Eastern on the next succeeding Business Day.

**1.5 Tender.** Any tender of documents or money hereunder may be made upon the Parties or, if so indicated, the Monitor, or their respective counsel.

**1.6 Additional Rules of Interpretation.**

(1) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.

(2) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.

(3) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, and Schedules to this Agreement.

(4) *Words of Inclusion.* Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.

(5) *References to this Agreement.* The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.

(6) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include,

unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(7) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules attached thereto.

**1.7 Schedules.** The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

### **SCHEDULES**

<u>Schedule "A"</u>	Form of Approval and Vesting Order
<u>Schedule "B"</u>	Permitted Encumbrances
<u>Schedule "C"</u>	Purchased Assets

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Schedules and the interpretation provisions set out in this Agreement apply to the Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

## **ARTICLE 2 PURCHASE OF ASSETS**

**2.1 Purchase and Sale of Purchased Assets.** At the Closing Time, on and subject to the terms and conditions of this Agreement and the Approval and Vesting Order, the Vendors shall sell to the Purchaser, and the Purchaser shall purchase from the Vendors, all of the Vendors' right, title and interest in and to the Purchased Assets, which shall be free and clear of all Encumbrances other than Permitted Encumbrances, to the extent and as provided for in the Approval and Vesting Order. For greater certainty, notwithstanding any other provision of this Agreement, this Agreement does not constitute an agreement by the Purchaser to purchase, or by the Vendors to sell any Excluded Asset. The Purchaser shall be responsible for all expenses and Liabilities accruing in respect of the Purchased Assets as of and from the Closing Date.

## **ARTICLE 3 PURCHASE PRICE & TAXES**

**3.1 Purchase Price.** The consideration payable by the Purchaser to the Vendors for the Vendors' right, title and interest in and to the Purchased Assets (the "**Purchase Price**") shall be \$1,250,000.

**3.2 Satisfaction of Purchase Price.** The Purchase Price shall be paid and satisfied at Closing as follows:

- (1) the deposit in the amount of \$62,500, representing five percent (5%) of the Purchase Price, which was remitted by the Purchaser to the Monitor, in trust, in accordance with the SISP (the "**Deposit**"), shall be applied against the Purchase Price, in reduction thereto; and

- (2) the balance of the Purchase Price shall be paid by the Purchaser to the Vendors by remitting same to the Monitor.

**3.3 Taxes.** In addition to the Purchase Price, the Purchaser shall be liable for and shall pay all applicable Transfer Taxes as follows:

- (1) all Transfer Taxes applicable to the Purchased Assets that are immovable property shall be self-assessed by the Purchaser in accordance with subsections 221(2) and 228(4) of the *Excise Tax Act* (Canada) and subsections 423(2) and 438(1) of *an Act respecting the Québec sales tax*; and

- (2) For all purposes, including for purposes of calculating the applicable Transfer Taxes to be paid by the Purchaser on Closing and remitted by the Vendors (if any), the Parties agree to allocate \$335,000 of the Purchase Price to Wabush Iron (being 26.8% of the Purchase Price) and \$915,000 of the Purchase Price to Wabush Resources (being 73.2% of the Purchase Price). For greater certainty, the Parties agree that the portion of the Purchase Price allocated to any Purchased Assets other than vacant land is nil.

**3.4 Section 116 of ITA.**

- (1) Wabush Iron shall take all reasonable steps to obtain and deliver to the Purchaser on or before Closing a certificate of compliance issued by the Minister of National Revenue (Canada) under subsection 116(2) or 116(4) of the *ITA* in respect of its disposition of the 116(2) Property. A certificate issued by the Minister of National Revenue (Canada) under subsection 116(2) or 116(4) of the *ITA* in respect of the 116(2) Property is hereinafter referred to as a "**Certificate of Compliance**".

- (2) If a Certificate of Compliance in respect of the 116(2) Property is delivered to the Purchaser on or before the Closing, the Purchaser shall be entitled to withhold from the portion of the Purchase Price allocable to the 116(2) Property and payable to Wabush Iron at Closing twenty-five percent (25%) of the amount, if any, by which such portion of the Purchase Price exceeds the certificate limit specified in such certificate. If a Certificate of Compliance in respect of the 116(2) Property is not delivered to the Purchaser on or before the Closing, the Purchaser shall be entitled to withhold from the portion of the Purchase Price allocable to the 116(2) Property and payable to Wabush Iron at Closing twenty-five percent (25%) of such portion of the Purchase Price.

- (3) Where the Purchaser has withheld any amount under Section 3.4(2) and Wabush Iron delivers a Certificate of Compliance to the Purchaser after Closing and on or before the twenty-eighth day of the calendar month following the calendar month in which the Closing occurs (the "**Remittance Date**"), the Purchaser shall, where the certificate is delivered under subsection 116(2) or (4) of the *ITA*, remit forthwith to the Receiver General for Canada for the account of Wabush Iron twenty-five percent (25%) of the amount, if any, by which the portion of the Purchase Price allocable to the 116(2) Property and payable to Wabush Iron exceeds the certificate limit fixed in such certificate, and pay forthwith to Wabush Iron any amount that the Purchaser has withheld in respect of the 116(2) Property in excess of such amount.

- (4) Where the Purchaser has withheld any amount under Section 3.4(2) and no Certificate of Compliance has been delivered to the Purchaser in respect of the 116(2) Property on or prior to the Remittance Date, such amount shall be remitted by the Purchaser to the



Receiver General for Canada for the account of Wabush Iron in accordance with section 116 of the *ITA*.

(5) For the avoidance of doubt, the Purchaser shall not remit any amount referred to in Section 3.4(4) to the Receiver General for Canada before the Remittance Date, as such date may be extended pursuant to Section 3.4(6).

(6) Notwithstanding anything to the contrary in this Section 3.4, if prior to the Remittance Date, the Purchaser has received a comfort letter issued by the CRA in form and substance satisfactory to the Purchaser, acting reasonably, extending the time period under which the Purchaser is required to remit an amount in respect of the Purchase Price for the account of Wabush Iron without being subject to interest or penalties, the Purchaser shall not make any remittance to the Receiver General for Canada on the date that would otherwise be the Remittance Date and the Remittance Date shall be extended indefinitely, or until the Purchaser receives notification from the CRA that such comfort letter is no longer in effect.

(7) Where the Purchaser has withheld any amount under Section (2) such amount shall be paid to and held by the Purchaser's solicitors, in trust and invested by them for the benefit of Wabush Iron in Canadian dollar-denominated interest bearing instruments in such manner as Wabush Iron shall from time to time direct in writing (such ability of Wabush Iron to direct the Purchaser to be limited to instructions pertaining to the investment of the amounts withheld under Section 3.4(2)) until paid to the Monitor on behalf of Wabush Iron (together with the interest earned thereon) or remitted to the Receiver General for Canada for the account of Wabush Iron in accordance with this Section 3.4. For the avoidance of doubt, the Purchaser's solicitors shall be entitled to withhold and remit from interest earned on such amounts any and all amounts required to be withheld and remitted under the *ITA*.

(8) A copy of any Certificate of Compliance, other certificates, notices, comfort letters, correspondence or any other document sent by any Vendor or the Purchaser, or received by any Vendor or the Purchaser, pursuant to this Section 3.4 shall be sent promptly to the Monitor by the applicable Vendor or the Purchaser.

(9) The Parties recognize and acknowledge that Sections 1102.1 of the TAQ and 116 (5.2) of the *ITA* are not applicable to the transactions contemplated pursuant to this Agreement.

### **3.5 Taxable Québec Property**

(1) Wabush Iron shall take all reasonable steps to obtain and deliver to the Purchaser on or before Closing a certificate of compliance issued by the Ministère du Revenu (Québec) under section 1098 or 1100 of the TAQ in respect of its disposition of the 1097 Property. A certificate issued by the Ministère du Revenu (Québec) under section 1098 or 1100 of the TAQ in respect of the 1097 Property is hereinafter referred to as a "**Québec Certificate of Compliance**".

(2) If a Québec Certificate of Compliance in respect of the 1097 Property is delivered to the Purchaser on or before the Closing, the Purchaser shall be entitled to withhold from the portion of the Purchase Price allocable to the 1097 Property and payable to Wabush Iron at Closing twelve percent (12%) of the amount, if any, by which such portion of the Purchase Price exceeds the certificate limit specified in such certificate. If a Québec Certificate of Compliance in respect of the 1097 Property is not delivered to the Purchaser on or before the Closing, the Purchaser shall be entitled to withhold from the portion of the Purchase Price allocable to the

1097 Property and payable to Wabush Iron at Closing twelve percent (12%) of such portion of the Purchase Price.

(3) Where the Purchaser has withheld any amount under Section 3.5(2) and Wabush Iron delivers a Québec Certificate of Compliance to the Purchaser after Closing and on or before the Remittance Date, the Purchaser shall where the Québec Certificate of Compliance is delivered under section 1098 or 1100 of the TAQ, remit forthwith to the Ministère du Revenu (Québec) for the account of Wabush Iron twelve percent (12%) of the amount, if any, by which the portion of the Purchase Price allocable to the 1097 Property and payable to Wabush Iron exceeds the certificate limit fixed in such certificate and pay forthwith to Wabush Iron any amount that the Purchaser has withheld in respect of the 1097 Property in excess of such amount.

(4) Where the Purchaser has withheld any amount under Section 3.5(2) and no Québec Certificate of Compliance has been delivered to the Purchaser in respect of the 1097 Property on or prior to the Remittance Date, such amount shall be remitted by the Purchaser to the Ministère du Revenu (Québec) for the account of Wabush Iron in accordance with section 1101 or 1102.2 as the case may be of the TAQ.

(5) For the avoidance of doubt, the Purchaser shall not remit any amount referred to in Section 3.5(4) to the Ministère du Revenu (Québec) before the Remittance Date, as such date may be extended pursuant to Section 3.5(6).

(6) Notwithstanding anything to the contrary in this Section 3.5, if prior to the Remittance Date, the Purchaser has received a comfort letter issued by the Ministère du Revenu (Québec) in form and substance satisfactory to the Purchaser, acting reasonably, extending the time period under which the Purchaser is required to remit an amount in respect of the Purchase Price for the account of Wabush Iron without being subject to interest or penalties, the Purchaser shall not make any remittance to the Ministère du Revenu (Québec) on the date that would otherwise be the Remittance Date and the Remittance Date shall be extended indefinitely, or until the Purchaser receives notification from the Ministère du Revenu (Québec) that such comfort letter is no longer in effect.

(7) Where the Purchaser has withheld any amount under Section 3.5(2) such amount shall be paid to and held by the Purchaser's solicitors, in trust and invested by them for the benefit of Wabush Iron in Canadian dollar-denominated interest bearing instruments in such manner as Wabush Iron shall from time to time direct in writing (such ability of Wabush Iron to direct the Purchaser to be limited to instructions pertaining to the investment of the amounts withheld under Section under Section 3.5(2)) until paid to the Monitor on behalf of Wabush Iron (together with the interest earned thereon) or remitted to the Ministère du Revenu (Québec) for the account of Wabush Iron in accordance with this Section 3.5. For the avoidance of doubt, the Purchaser's solicitors shall be entitled to withhold and remit from interest earned on such amounts any and all amounts required to be withheld and remitted under the ITA.

(8) A copy of any Québec Certificate of Compliance, other certificates, notices, comfort letters, correspondence or any other document sent by any Vendor or the Purchaser, or received by any Vendor or the Purchaser, pursuant to this Section 3.5 shall promptly be sent to the Monitor by the applicable Vendor or the Purchaser.

## ARTICLE 4 REPRESENTATIONS AND WARRANTIES

**4.1 Representations and Warranties of the Purchaser.** As a material inducement to the Vendors entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Vendors are entering into this Agreement in reliance upon the representations and warranties of the Purchaser set out in this Section 4.1, the Purchaser represents and warrants to the Vendors as follows:

(1) *Incorporation and Corporate Power.* The Purchaser is a Crown corporation created pursuant to the Canada Marine Act, S.C. (1998) ch.10. The Purchaser has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform its obligations under this Agreement and under all such other agreements and instruments.

(2) *Authorization by Purchaser.* The execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated by this Agreement and all such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.

(3) *Approvals.* No consent, waiver, authorization or approval of any Person 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 all other agreements and instruments to be executed by the Purchaser or the performance by the Purchaser of its obligations hereunder or thereunder.

(4) *Enforceability of Obligations.* This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms. There is no Legal Proceeding in progress, pending, or threatened against or affecting the Purchaser, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting the Purchaser which, in any such case, affects adversely or might affect adversely the ability of the Purchaser to enter into this Agreement or to perform its obligations hereunder.

(5) *ICA.* The Purchaser either is not a “non-Canadian” within the meaning of the *ICA*, or, if the Purchaser is a “non-Canadian”, the Purchaser is a “WTO investor” within the meaning of the *ICA*.

(6) *Excise Tax Act.* The Purchaser is registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada) and for QST purposes pursuant to the *Act respecting the Québec sales tax*, and its registration numbers are:

- (a) GST/HST - 866792757
- (b) QST - 1022337200TQ0001

(7) *Commissions.* The Vendors will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Purchaser.

(8) *Sufficient Funds.* The Purchaser has sufficient financial resources or has arranged sufficient financing for it to pay on Closing the Purchase Price and the Transfer Taxes and any and all other amounts payable by the Purchaser hereunder.

**4.2 Representations and Warranties of the Vendors.** As a material inducement to the Purchaser's entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon the representations and warranties of the Vendors set out in this Section 4.2, the Vendors severally represent and warrant to the Purchaser as follows:

(1) *Incorporation and Corporate Power.* Wabush Iron is a corporation incorporated, organized and subsisting under the laws of the State of Ohio. Wabush Resources is a corporation incorporated, organized and subsisting under the federal laws of Canada. Subject to the granting of the Approval and Vesting Order, the Vendors have the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform their other obligations under this Agreement and under all such other agreements and instruments.

(2) *Authorization by Vendors.* Subject to the granting of the Approval and Vesting Order, the execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated by this Agreement and all such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Vendors.

(3) *Enforceability of Obligations.* Subject to the granting of the Approval and Vesting Order, this Agreement constitutes a valid and binding obligation of the Vendors enforceable against the Vendors in accordance with its terms.

(4) *ITA and TAQ.* Wabush Resources is not a non-resident of Canada for purposes of the ITA and the TAQ, whereas Wabush Iron is a non-resident of Canada for purposes of the ITA and the TAQ.

(5) *Excise Tax Act.* The Vendors are registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada) and for QST purposes pursuant to the *Act respecting the Québec sales tax* and their GST/HST and QST numbers are:

**Wabush Iron:**

- (a) GST/HST - 105566251
- (b) QST – 1000549114

**Wabush Resources:**

- (a) GST/HST - 881498307
- (b) QST – 1205018022

(6) *Commissions.* The Purchaser will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Vendors. The Vendors will be responsible for payment of any fees and other amounts charged by the Sale Advisor.

**4.3 As is, Where is.** Notwithstanding any other provision of this Agreement, the Purchaser acknowledges, agrees and confirms that:

(1) except for the representations and warranties of the Vendors set forth in Section 4.2, it is entering into this Agreement, acquiring the Purchased Assets on an “as is, where is” basis as they exist as of the Closing Time and will accept the Purchased Assets in their state, condition and location as of the Closing Time except as expressly set forth in this Agreement and the sale of the Purchased Assets is made without legal warranty and at the risk and peril of the Purchaser;

(2) it has conducted to its satisfaction such independent searches, investigations and inspections of the Purchased Assets as it deemed appropriate, and based solely thereon, has determined to proceed with the transactions contemplated by this Agreement;

(3) except as expressly stated in Section 4.2, neither the Vendors nor any other Person is making, and the Purchaser is not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Purchased Assets, the Environmental Liabilities or the Vendors’ right, title or interest in or to the Purchased Assets, including with respect to merchantability, physical or financial condition, description, fitness for a particular purposes, suitability for development, title, description, use or zoning, environmental condition, existence of latent defects, quality, quantity or any other thing affecting any of the Purchased Assets or the Environmental Liabilities or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or representations expressed or implied pursuant to any Applicable Law in any jurisdiction, which the Purchaser confirms do not apply to this Agreement and are hereby waived in their entirety by the Purchaser;

(4) without limiting the generality of the foregoing, no representation, warranty or covenant is given by any member of the SISP Team or any of the SISP Team’s Representatives that Purchased Assets are or can be made operational within a specified time frame or will achieve any particular level of service, use, production capacity or actual production if made operational;

(5) without limiting the generality of the foregoing, except as expressly stated in Section 4.2, the Vendors have made no representation or warranty as to any regulatory approvals, consents or authorizations that may be needed to complete the transactions contemplated by this Agreement and the Purchaser is relying entirely on its own investigation, due diligence and inquiries in connection with such matters;

(6) all written and oral information obtained from any member of the SISP Team or any of the SISP Team’s Representatives, including in any teaser letter, asset listing, confidential information memorandum or other document made available to the Purchaser (including in certain “data rooms”, management presentations, site visits and diligence meetings or telephone calls), with respect to the Purchased Assets and the Environmental Liabilities has been obtained for the convenience of the Purchaser only, and no member of the SISP Team nor any of the SISP Team’s Representatives have made any representation or warranty, express or implied, statutory or otherwise as to the accuracy or completeness of any such information;

(7) any information regarding or describing the Purchased Assets and the Environmental Liabilities in this Agreement (including the Schedules hereto), or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by any member of the SISP Team or any of the SISP Team’s Representatives, or

any other Person concerning the completeness or accuracy of such information or descriptions; and

(8) except as otherwise expressly provided in this Agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or claims the Purchaser might have against the Vendors, any member of the SISP Team or any of the SISP Team's Representatives pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those representations and warranties expressly set forth in Section 4.2. Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties contained in the *Civil Code of Québec*, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights.

For greater certainty and without limiting the generality of the foregoing, the Parties hereby agree to exclude altogether the effect of the legal warranty provided for by article 1716 of the *Civil Code of Québec* and that the Purchaser is purchasing the Purchased Assets at its own risk within the meaning of article 1733 of the *Civil Code of Québec*. This Section 4.3 shall not merge on Closing and is deemed incorporated by reference in all closing documents and deliveries. The Purchaser shall have no recourse or claim of any kind against the proceeds of the transactions contemplated by this Agreement following Closing.

## **ARTICLE 5 COVENANTS**

**5.1 Target Closing Date.** The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on the Target Closing Date.

**5.2 Motion for Approval and Vesting Order.** Pursuant to and subject to the terms of the SISP, the Vendors shall file with the Court, as soon as practicable after its execution and delivery of this Agreement, a motion seeking the Court's issuance of the Approval and Vesting Order. The Vendors shall diligently use their commercially reasonable efforts to seek the issuance and entry of the Approval and Vesting Order. The Purchaser shall cooperate with the Vendors in their efforts to obtain the issuance and entry of the Approval and Vesting Order. The Purchaser, at its own expense, will promptly provide to the Vendors and the Monitor all such information within its possession or under its control as the Vendors or the Monitor may reasonably require to obtain the Approval and Vesting Order.

**5.3 Access During Interim Period.** During the Interim Period, the Vendors shall, subject to any confidentiality or safety restrictions, give, or cause to be given, to the Purchaser and its Representatives reasonable access during normal business hours to the Purchased Assets, including the Books and Records, to conduct such investigations, inspections, surveys or tests thereof and of the financial and legal condition of the Purchased Assets as the Purchaser deems reasonably necessary or desirable to further familiarize itself with the Purchased Assets. Without limiting the generality of the foregoing, the Purchaser shall be permitted reasonable access during normal business hours to all documents relating to information scheduled or required to be disclosed under this Agreement. Such investigations, inspections, surveys and tests shall be carried out at the Purchaser's sole and exclusive risk, during normal business hours and the Vendors shall co-operate reasonably in facilitating such investigations, inspections, surveys and tests and shall furnish copies of all such documents and materials relating to such matters as may be reasonably requested by or on behalf of the Purchaser.

**5.4 Transaction Personal Information.** Each Party shall comply with Privacy Law in the course of collecting, using and disclosing Transaction Personal Information. The Purchaser shall collect Transaction Personal Information prior to Closing only for purposes related to the transactions contemplated by this Agreement. Following the Closing, the Purchaser shall not, without the consent of the individuals to whom such Personal Information relates or as permitted or required by Applicable Law, use or disclose Transaction Personal Information:

- (1) for purposes other than those for which such Transaction Personal Information was collected by the Vendor prior to the Closing; and
- (2) which does not relate directly to the carrying out of the purposes for which the transactions contemplated by this Agreement were implemented.

The Purchaser shall protect and safeguard the Transaction Personal Information against unauthorized collection, use or disclosure, as provided by Privacy Law. The Purchaser shall cause its Representatives to observe the terms of this Section 5.4 and to protect and safeguard Transaction Personal Information in their possession in accordance with Privacy Law.

**5.5 Risk of Loss.** The Purchased Assets shall be at the risk of the Vendors until Closing. If before the Closing all or substantially all of the Purchased Assets are lost, damaged or destroyed or are expropriated or seized by any Governmental Authority or any other Person in accordance with Applicable Law or if notice of any such expropriation or seizure shall have been given in accordance with Applicable Law, the Purchaser, in its discretion, acting reasonably, shall have the option, exercisable by notice to the Vendors given prior to the Closing Time to terminate this Agreement, as provided in Section 8.1.

**5.6 Care and Maintenance During Interim Period.** During the Interim Period, the Vendors shall continue to maintain the Purchased Assets, in substantially the same state as it was on the date of this Agreement.

**5.7 Indemnity.** The Purchaser hereby indemnifies the Vendors, the Vendors' Affiliates and their respective Representatives, and save them fully harmless against, and will reimburse or compensate them for, any Damages arising from, in connection with or related in any manner whatsoever to:

- (1) Any Taxes including Transfer Taxes (including penalties and interest) which may be assessed against any Vendor;
- (2) the Purchaser's access in accordance with Section 5.3; and
- (3) any Environmental Liabilities.

**5.8 Books and Records.** The Purchaser shall preserve and keep the Books and Records acquired by it pursuant to this Agreement for a period of six (6) years after Closing, or for any longer periods as may be required by any Laws applicable to such Books and Records. The Purchaser shall make such Books and Records, as well as electronic copies of such books and records (to the extent reasonably feasible), available to the Monitor and the Vendors, its successors, and any trustee in bankruptcy or receiver of the Vendors, and shall, at such party's expense, permit any of the foregoing persons to take copies of such Books and Records as they may require.

**5.9 Environmental Liabilities.** The Purchaser acknowledges and agrees that upon Closing, the Purchaser shall become responsible for the payment, performance and discharge of all Environmental Liabilities related to the Purchased Assets, including, as applicable, all obligations of any kind whatsoever under Environmental Laws relating to the Purchased Assets whether arising before, at or after the Closing.

**5.10 Cooperation.** Each Party shall, as promptly as possible, use commercially reasonable efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement (including for purpose of clarity any additional letters patent that may be required to fully effect the transaction contemplated pursuant hereto). Each Party shall cooperate reasonably with the other Party and its Affiliates in promptly seeking to obtain all such consents, authorizations, orders and approvals. The Parties shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals. Without limiting the generality of the foregoing, the Vendors undertakes to execute any document to effect any cadastral modification that may be necessary as a result of the transactions contemplated pursuant hereto, it being understood that the costs and fees associated to such cadastral modification shall be borne solely by the Purchaser.

**5.11 Cooperation and Consultation with Governmental Authorities.** All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of either Party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the consummation of the transactions contemplated hereunder (but, for the avoidance of doubt, not including any interactions between the Vendors or the Purchaser with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Law or any disclosure containing confidential information) shall be disclosed to the other Party hereunder in advance of any filing, submission or attendance, it being the intent that the Parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each Party shall give notice to the other Party with respect to any meeting, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other Party with the opportunity to attend and participate in such meeting, discussion, appearance or contact.

## **ARTICLE 6 CLOSING ARRANGEMENTS**

**6.1 Closing.** The Closing shall take place at 10:00 a.m. Eastern time (the "**Closing Time**") on the Closing Date at the offices of the Vendors' counsel in Montréal, Québec, or at such other



time on the Closing Date or such other place as may be agreed orally or in writing by the Vendors and the Purchaser.

**6.2 Vendors' Closing Deliveries.** At the Closing, the Vendors shall deliver or cause to be delivered to the Purchaser the following:

- (1) the Purchased Assets, provided that delivery shall occur *in situ* wheresoever such Purchased Assets are located at the Closing Time;
- (2) a true copy of the Approval and Vesting Order;
- (3) the Deed of Sale, duly executed by the Vendors;
- (4) a bring-down certificate executed by a senior officer of the Vendors dated as of the Closing Date, in form and substance satisfactory to the Purchaser, acting reasonably, certifying that (i) all of the representations and warranties of the Vendors hereunder remain true and correct in all material respects as of the Closing Date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or performed by the Vendors at or prior to Closing have been complied with or performed by the Vendors in all material respects; and
- (5) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

**6.3 Purchaser's Closing Deliveries.** At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendors (or to the Monitor, if so indicated below), the following:

- (1) the payment referred to in Section 3.2(2), which shall be remitted to the Monitor;
- (2) a bring-down certificate executed by a senior officer of the Purchaser dated as of the Closing Date, in form and substance satisfactory to the Vendors, acting reasonably, certifying that (a) all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing Date, and (b) all of the terms and conditions set out in this Agreement to be complied with or performed by the Purchaser at or prior to Closing have been complied with or performed by the Purchaser in all material respects;
- (3) the Deed of Sale, duly executed by the Purchaser; and
- (4) such other agreements, documents and instruments and Deeds of Sale as may be reasonably required by the Vendors to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## **ARTICLE 7 CONDITIONS OF CLOSING**

**7.1 Purchaser's Conditions.** The Purchaser shall not be obligated to complete the transactions contemplated by this Agreement, unless, at or before the Closing Time, each of the conditions listed below in this Section 7.1 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Purchaser, and may be waived by the

Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. The Vendors shall take all such actions, steps and proceedings as are reasonably within their control as may be necessary to ensure that the conditions listed below in this Section 7.1 are fulfilled at or before the Closing Time.

(1) *Court Approval.* The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.

(2) *Vendors' Deliverables.* The Vendors shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 6.2.

(3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of (a) making any of the transactions contemplated by this Agreement illegal, or (b) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.

(4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 4.2 shall be materially true and correct (i) as of the Closing Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.

(5) *No Breach of Covenants.* The Vendor shall have performed in all material respects all material covenants, obligations and agreements contained in this Agreement required to be performed by the Vendor on or before the Closing.

**7.2 Vendors' Conditions.** The Vendors shall not be obligated to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the conditions listed below in this Section 7.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendors, and may be waived by the Vendors in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. The Purchaser shall take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the conditions listed below in this Section 7.2 are fulfilled at or before the Closing Time.

(1) *Court Approval.* The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.

(2) *Purchaser's Deliverables.* The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendors at the Closing all the documents and payments contemplated in Section 6.3.

(3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of (a) making any of the transactions contemplated by this Agreement illegal, or (b) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.

(4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 4.1, shall be materially true and correct (i) as of the Closing

Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.

(5) *No Breach of Covenants.* The Purchaser shall each have performed in all material respects all material covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

**7.3 Monitor's Certificate.** When the conditions to Closing set out in Section 7.1 and Section 7.2, have been satisfied and/or waived by the Vendors or the Purchaser, as applicable, the Vendors and the Purchaser will each deliver to the Monitor written confirmation that such conditions of Closing, as applicable, have been satisfied and/or waived (the "**Conditions Certificates**"). Upon receipt of payment in full of the Purchase Price and of each of the Conditions Certificates, the Monitor shall (i) issue forthwith its Monitor's Certificate concurrently to the Vendors and the Purchaser, at which time the Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the Court (and shall provide a true copy of such filed certificate to the Vendors and the Purchaser). In the case of (i) and (ii), above, the Monitor will be relying exclusively on the basis of the Conditions Certificates and without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

## **ARTICLE 8 TERMINATION**

**8.1 Grounds for Termination.** This Agreement may be terminated on or prior to the Closing Date:

- (1) by the mutual written agreement of the Vendors and the Purchaser, provided however that if this Agreement has been approved by the Court, any such termination shall require either the consent of the Monitor, or approval of the Court;
- (2) by written notice from the Purchaser to the Vendors in accordance with Section 5.5;
- (3) by the Purchaser, on the one hand, or by the Vendors, on the other hand, upon written notice to the other Parties if (i) the Approval and Vesting Order has not been obtained by February 15, 2016 or (ii) the Court declines at any time to grant the Approval and Vesting Order, in each case for reasons other than a breach of this Agreement by either the Purchaser, on the one hand, or the Vendors, on the other hand;
- (4) by written notice from the Purchaser to the Vendors if there has been a material breach by the Vendors of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser, and (i) such breach is not curable and has rendered the satisfaction of any condition in Section 7.1 impossible by the Outside Date, or (ii) if such breach is curable, the Purchaser has provided prior written notice of such breach to the Vendors, and such breach has not been cured within ten (10) days following the date upon which the Vendors received such notice;
- (5) by written notice from the Purchaser to the Vendors any time after the Outside Date, if the Closing has not occurred by the Outside Date for reasons other than

as set out in Section 8.1(3), and such failure to close was not caused by or as a result of the Purchaser's breach of this Agreement;

- (6) by written notice from the Vendors to the Purchaser if there has been a material breach by the Purchaser of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendors, and (i) such breach is not curable and has rendered the satisfaction of any condition in Section 7.2 impossible by the Outside Date, or (ii) if such breach is curable, the Vendors have provided prior written notice of such breach to the Purchaser, and such breach has not been cured within ten (10) days following the date upon which the Purchaser received such notice; or
- (7) by written notice from the Vendors to the Purchaser any time after the Outside Date, if the Closing has not occurred by the Outside Date for reasons other than as set out in Section 8.1(3), and such failure to close is not caused by or as a result of the Vendors' breach of this Agreement.

**8.2 Effect of Termination.** If this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder, except as contemplated in Sections, 5.4 (*Transaction Personal Information*), 8.3 (*Treatment of Deposit*), 9.2 (*Expenses*), 9.3 (*Public Announcements*), 9.4 (*Notices*), 9.8 (*Amendment*), 9.12 (*Governing Law*), 9.13 (*Dispute Resolution*), 9.14 (*Attornment*), 10.15 (*Successors and Assigns*), 9.16 (*Assignment*), 9.17 (*Monitor's Capacity*), 9.18 (*Third Party Beneficiaries*) and 9.20 (*Language*), which shall survive such termination. For the avoidance of doubt, any Liability incurred by a Party prior to the termination of this Agreement shall survive such termination.

### **8.3 Treatment of Deposit.**

(1) *Retention of Deposit.* In the event that this Agreement is terminated by the Vendors pursuant to Section 8.1(6) or 8.1(7), the Deposit shall be forfeited by the Purchaser and retained by the Monitor on behalf of the Vendors as a genuine estimate of liquidated damages, and not as a penalty. The retention of the Deposit by the Vendors shall be the Vendors' sole and exclusive remedy for any termination of this Agreement.

(2) *Return of Deposit.* In the event that this Agreement is terminated pursuant to Section 8.1(1), 8.1(2), 8.1(3), 8.1(4) or 8.1(5) the Deposit shall be returned to the Purchaser. The return of the Deposit shall be the Purchaser's sole and exclusive remedy for any termination of this Agreement.

(3) *GST/HST Gross Up.* In the event that any payment or forfeiture under this Agreement is deemed by the *Excise Tax Act* (Canada) to include GST/HST, or is deemed by the *Act respecting the Québec Sales Tax* to include QST, the amount of such payment or forfeiture shall be increased accordingly.

## **ARTICLE 9 GENERAL**

**9.1 Survival.** All representations, warranties, covenants and agreements of the Vendors or the Purchaser made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement shall not survive the Closing except where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or

obligations extending after the Closing, or as otherwise expressly provided in this Agreement. For greater certainty, Sections 3.3 (*Taxes*), 4.3 (*As is, Where is*), 5.4 (*Transaction Personal Information*), 5.7 (*Indemnity*), 5.8 (*Books and Records*), 6.9 (*Environmental Liabilities*), 10.1 (*Survival*), 9.2 (*Expenses*), 9.3 (*Public Announcements*), 9.4 (*Notices*), 9.8 (*Amendment*), 9.12 (*Governing Law*), 9.13 (*Dispute Resolution*), 9.14 (*Attornment*), 9.15 (*Successors and Assigns*), 9.16 (*Assignment*), 9.17 (*Monitor's Capacity*), 9.18 (*Third Party Beneficiaries*) and 9.20 (*Language*), shall survive Closing.

**9.2 Expenses.** Except as otherwise expressly provided herein, each Party shall be responsible for all costs and expenses (including any Taxes imposed on such expenses) incurred by it in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisers). Notwithstanding the foregoing, the cost of retaining a notary and a land surveyor, if deemed necessary by the Purchaser, in connection with the preparation of the Deed of Sale and its registration in the appropriate land registry, shall be borne by the Purchaser.

**9.3 Public Announcements.** The Vendors shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court and parties in interest in the CCAA Proceedings, and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Other than as provided in the preceding sentence or statements made in Court (or in pleadings filed therein), the Vendors and the Purchaser shall not issue (prior to or after the Closing) any press release or make any public statement or public communication with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, provided, however, that a Party may, without the prior consent of the other Party, issue such press release or make such public statement as may, upon the advice of counsel, be required by Applicable Law or by any Governmental Authority with competent jurisdiction including any applicable securities Laws. Notwithstanding any other provision of this Agreement, the Purchaser shall not disclose the quantum of the Purchase Price or Deposit to any Person prior to the Closing without the prior written consent of the Vendors and the Monitor.

**9.4 Notices.**

(1) *Mode of Giving Notice.* Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service, or (iii) sent by e-mail or other similar means of electronic communication, in each case to the applicable address set out below:

(1) if to the Vendors, to:

c/o Cliffs Québec Iron Mining ULC.  
1155 Robert Bourassa Boul (formerly University Street)  
Suite 508, Montréal, QC H3B 3A7

Attention: James Graham, Executive Vice President  
General Counsel and Secretary AND  
Clifford T. Smith, Executive Vice President

Email: [James.Graham@CliffsNR.com](mailto:James.Graham@CliffsNR.com) / [Clifford.Smith@CliffsNR.com](mailto:Clifford.Smith@CliffsNR.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: Thomas A. McKee/ Milly Chow  
Email: [tom.mckee@blakes.com](mailto:tom.mckee@blakes.com) / [milly.chow@blakes.com](mailto:milly.chow@blakes.com)

(2) if to the Purchaser, to:

Administration Portuaire de Sept-Îles/Sept-Îles Port Authority  
1, Quai Mgr-Blanche  
Sept-Îles (Québec) G4R 5P3  
Attention: Mr. Pierre Gagnon, President & CEO  
Email: [pgagnon@portsi.com](mailto:pgagnon@portsi.com)

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

Fasken Martineau DuMoulin LLP  
Stock Exchange Tower  
Suite 3700, P.O. Box 242  
800, Place Victoria  
Montréal, Québec, H4Z 1E9  
Attention: Luc Morin / Guillaume-Pierre Michaud  
Email: [lmorin@fasken.com](mailto:lmorin@fasken.com) / [gmichaud@fasken.com](mailto:gmichaud@fasken.com)

(3) and in either case, with a copy to the Monitor, to:

FTI Consulting Canada Inc.  
TD South Tower, 790 Wellington Street West  
Toronto Dominion Centre, Suite 2010, P.O. Box 104  
Toronto, ON M5K 1G8  
Attention: Nigel Meakin  
Email: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

and

Norton Rose Fullbright Canada LLP  
1 Place Ville Marie, Suite 2500  
Montréal, QC H3B1R1  
Attention: Sylvain Rigaud  
Email: [sylvain.rigaud@nortonrosefulbright.com](mailto:sylvain.rigaud@nortonrosefulbright.com)

(2) *Deemed Delivery of Notice.* Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 5:00 p.m. Eastern on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

(3) *Change of Address.* Any Party may from time to time change its address under this Section 9.4 by notice to the other Party given in the manner provided by this Section 9.4.

**9.5 Time of Essence.** Time shall be of the essence of this Agreement in all respects.

**9.6 Further Assurances.** The Vendors and the Purchaser shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Party may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

**9.7 Entire Agreement.** Other than any confidentiality agreement, non-disclosure agreement or similar undertaking or agreement signed by the Purchaser in favour of the CCAA Parties, or any of them, which remain in full force and effect, unamended by this Agreement, this Agreement and the agreements contemplated hereby constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, (including the letter of intent submitted by the Purchaser pursuant to the SISP dated May 19, 2015. There are no conditions, representations, warranties, obligations or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.

**9.8 Amendment.** No amendment of this Agreement shall be effective unless made in writing and signed by the Parties.

**9.9 Waiver.** A waiver of any default, breach or non-compliance under this Agreement shall not be effective unless in writing and signed by the Party to be bound by the waiver and then only in the specific instance and for the specific purpose for which it has been given. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).

**9.10 Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

**9.11 Remedies Cumulative.** The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

**9.12 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein.

**9.13 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 8, such dispute shall be determined by the Court within the CCAA Proceedings, or by such other Person or in such other manner as the Court may direct. Without prejudice to the ability of the Vendors to enforce this Agreement in any other proper jurisdiction, the Purchaser and the Vendors irrevocably submit and attorn to the non-exclusive jurisdiction of the courts of Québec.

**9.14 Attornment.** Each Party agrees (a) that any Legal Proceeding relating to this Agreement may (but need not) 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 9.14. Each Party agrees that service of process on such Party as provided in Section 9.4 shall be deemed effective service of process on such Party.

**9.15 Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

**9.16 Assignment.** Prior to the issuance of the Approval and Vesting Order, the Purchaser may assign all of its rights and obligations under this Agreement to an Affiliate, provided that (a) the Purchaser shall remain liable to perform all of its obligations hereunder, and (b) the Purchaser and its assignee execute and deliver to the Vendors an assignment and assumption agreement, in form and substance satisfactory to the Vendors, acting reasonably, evidencing such assignment. Other than in accordance with the preceding sentence, neither the Purchaser nor the Vendors may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement.

**9.17 Monitor's Capacity.** The Purchaser acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of the Vendors and the other CCAA Parties in the CCAA Proceedings, will have no Liability in connection with this Agreement whatsoever in its capacity as Monitor, in its personal capacity or otherwise.

**9.18 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.

**9.19 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

**9.20 Language.** The Parties have required that this Agreement and all deeds, documents and notices relating to this Agreement be drawn up in the English language. Les parties aux présentes ont exigé que le présent contrat et tous autres contrats, documents ou avis afférents aux présentes soient rédigés en langue anglaise.

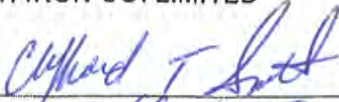


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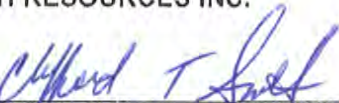
IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

**WABUSH IRON CO. LIMITED**

By:   
Name: Clifford Smith  
Title: President

I have authority to bind the corporation

**WABUSH RESOURCES INC.**

By:   
Name: Clifford Smith  
Title: President

I have authority to bind the corporation

**ADMINISTRATION PORTUAIRE DE SEPT-ÎLES /  
SEPT-ÎLES PORT AUTHORITY**

By:   
Name: Pierre Gagnon  
Title: President & CEO

I have authority to bind the corporation.

**Schedule "A"**

**Form of Approval and Vesting Order**

**SUPERIOR COURT**  
(Commercial Division)

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

N°: 500-11-048114-157

DATE: [DATE]\_\_, 2016

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**PRESIDING: [THE HONOURABLE STEPHEN W. HAMILTON J.S.C.]**

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

**WABUSH IRON CO. LIMITED**

**WABUSH RESOURCES INC.**

Petitioners

-and-

**WABUSH MINES**

Mise-en-cause

-and-

**ADMINISTRATION PORTUAIRE DE SEPT-ÎLES / SEPT-ÎLES PORT AUTHORITY**

Mise-en-cause

-and-

**THE LAND REGISTRAR FOR THE REGISTRY OFFICE FOR THE REGISTRATION DIVISION  
OF SEPT-ÎLES**

Mise-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

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## APPROVAL AND VESTING ORDER

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- [1] **ON READING** the Petitioners' *Motion for the Issuance of an Approval and Vesting Order* (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the [NUMBER] Report of the Monitor dated <\*>, 2016(the "**Report**");
- [2] **SEEING** the service of the Motion;
- [3] **SEEING** the submissions of the Petitioners' and the Monitor's attorneys and the submissions of <\*>;
- [4] **SEEING** that it is appropriate to issue an order approving the transaction (the "**Transaction**") contemplated by the agreement entitled Asset Purchase Agreement (the "**Purchase Agreement**") dated as of January 26, 2016 by and among the Petitioners *Wabush Iron Co. Limited* and *Wabush Resources Inc.*, as vendors (collectively, the "**Vendors**"), and *Administration Portuaire de Sept-Îles / Sept-Îles Port Authority* as purchaser (the "**Purchaser**"), a copy of which was filed as Exhibit R-[●] to the Motion, and vesting in the Purchaser all of the Vendors' right, title and interest in and to all of the Purchased Assets (as defined in the Purchase Agreement).

### FOR THESE REASONS, THE COURT HEREBY:

- [5] **GRANTS** the Motion.
- [6] **ORDERS** that all capitalized terms in this Order shall have the meaning given to them in the Purchase Agreement unless otherwise indicated herein.

### SERVICE

- [7] **ORDERS** that any prior time period for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
- [8] **PERMITS** service of this Order at any time and place and by any means whatsoever.

### SALE APPROVAL

- [9] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Vendors is hereby authorized and approved, *nunc pro tunc*.
- [10] **AUTHORIZES AND DIRECTS** the Monitor to hold the Deposit, *nunc pro tunc*, and to apply, disburse and/or deliver the Deposit or the applicable portions thereof in accordance with the provisions of the Purchase Agreement and this Order.

### EXECUTION OF DOCUMENTATION

- [11] **AUTHORIZES AND DIRECTS** the Vendors, the Purchaser and the Monitor to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in or contemplated by the Purchase Agreement (Exhibit R-[●]), with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Monitor, and any other ancillary document which could be required or useful to give full and complete effect thereto.

## **AUTHORIZATION**

- [12] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Vendors to proceed with the Transaction and that no shareholder approval, if applicable, shall be required in connection therewith.

## **VESTING OF THE PURCHASED ASSETS**

- [13] **ORDERS and DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest free and clear, absolutely and exclusively in and with the Purchaser, from any and all right, title, benefits, priorities, claims (including claims provable in bankruptcy in the event that the Vendors should be adjudged bankrupt), liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, trusts, deemed trusts (whether contractual, statutory, or otherwise), assignments, judgments, executions, writs of seizure or execution, notices of sale, options, agreements, rights of distress, legal, equitable or contractual setoff, adverse claims, levies, taxes, disputes, debts, charges, options to purchase, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**" ), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, security interests or charges evidenced by registration, publication or filing pursuant to the Civil Code of Québec, or any other applicable legislation providing for a security interest in personal or movable property, excluding however, the permitted encumbrances, easements and restrictive covenants listed on **Schedule "B"** hereto (the "**Permitted Encumbrances**") and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be expunged and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.
- [14] **ORDERS and DIRECTS** the Monitor, upon receipt of payment in full of the Purchase Price and of each of the Conditions Certificates, to (i) issue forthwith the Certificate concurrently to the Vendors and the Purchaser; and (ii) file forthwith after issuance thereof a copy of the Certificate with the Court.
- [15] **DECLARES** that the Monitor shall be at liberty to rely exclusively on the Conditions Certificates in issuing the Certificate, without any obligation to independently confirm or verify the waiver or satisfaction of the applicable conditions.
- [16] **AUTHORIZES and DIRECTS** the Monitor to receive and hold the Purchase Price and to remit the Purchase Price in accordance with the provisions of this Order.

## **CANCELLATION OF SECURITY REGISTRATIONS**

- [17] **ORDERS** the Land Registrar of the Registry Office for the Registration Division of Sept-Îles, upon presentation of the Certificate in the form appended as Schedule "A" and a certified copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order and (i) to make an entry on the Land Register showing the Purchaser as the owner of the immovable property identified in **Schedule "C"** hereto (the "**Immovable Property**") and (ii) to cancel any and all Encumbrances on the Immovable Property (other than Permitted Encumbrances), including, without limitation, the registrations published at the said Registry Office listed on **Schedule "D"** hereto.

**NET PROCEEDS**

- [18] **ORDERS** that the Purchase Price payable to the Vendors in accordance with the Purchase Agreement (the “**Net Proceeds**”) shall be remitted to the Monitor and shall, subject to the provisions of this Order, be held by the Monitor on behalf of the Vendors pending further order of the Court.
- [19] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Net Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon issuance of the Certificate, all Encumbrances except for the Permitted Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the Closing, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the Closing.
- [20] **ORDERS** that upon the issuance of the Certificate, the Purchaser shall have no recourse or claim of any kind against the Net Proceeds.

**RELEASE OF FUNDS TO FUND COSTS AND EXPENSES OF THE WABUSH CCAA PARTIES**

- [21] **AUTHORIZES and DIRECTS** the Monitor to fund the costs and expenses of the Wabush CCAA Parties (the “**Expense Payments**”) by way of weekly draws against the Net Proceeds, on the basis of cash flow projections to be prepared by the Wabush CCAA Parties from time to time and as approved by the Monitor and subject to the Monitor holding such reserves as it considers necessary to secure the CCAA Charges (as defined in the initial order rendered by this Court dated May 20, 2015, as amended, rectified, restated or otherwise modified from time to time).
- [22] **ORDERS** that notwithstanding:
- a) the pendency of these proceedings;
  - b) any assignment in bankruptcy;
  - c) any application for a bankruptcy or receivership order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act (the “**BIA**”) or otherwise and any order issued pursuant to any such application; or
  - d) the provisions of any federal or provincial legislation;

the remittance of the Expense Payments in accordance with this Order is to be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Vendors, the Purchaser or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

- [23] **AUTHORIZES** the Monitor to take any and all steps which the Monitor, in its sole discretion and in consultation with the Vendors, may deem necessary in order to give effect to the above order for the Expense Payments. Any such payments made by the Monitor will be made without prejudice to any arguments concerning the allocation of such payments amongst the Vendors and the Vendors will subsequently bring a motion on notice to the service list for an order allocating the payments amongst the Vendors.

## **PROTECTION OF PERSONAL INFORMATION**

- [24] **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or any similar provision of any applicable provincial legislation, the Vendors are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendors' records pertaining to the Vendors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendors.

## **VALIDITY OF THE TRANSACTION**

- [25] **ORDERS** that notwithstanding:
- a) the pendency of these proceedings;
  - b) any assignment in bankruptcy;
  - c) any application for a bankruptcy or receivership order now or hereafter issued pursuant to the BIA or otherwise and any order issued pursuant to any such application; or
  - d) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Vendors, the Purchaser or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

## **LIMITATION OF LIABILITY**

- [26] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Monitor to take control, or to otherwise manage all or any part of the Purchased Assets. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.
- [27] **DECLARES** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.

## **GENERAL**

- [28] **DECLARES** that the Vendors and the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
- [29] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [30] **DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order. All



courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

- [31] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
- [32] **ORDERS** the provisional execution of the present Order, including without limiting the general application of the foregoing, the Interim Lender Repayment and the Sales Advisor Fee, notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

**THE WHOLE WITHOUT COSTS**, save in case of contestation.

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**[STEPHEN W. HAMILTON J.S.C.]**

**SCHEDULE "A" TO APPROVAL AND VESTING ORDER  
FORM OF CERTIFICATE OF THE MONITOR**

**SUPERIOR COURT  
(Commercial Division)**

**C A N A D A**

**PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**File: No:** 500-11-048114-157

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

**WABUSH IRON CO. LIMITED**

**WABUSH RESOURCES INC.**

Petitioners

-and-

**WABUSH MINES**

Mise-en-cause

-and-

**ADMINISTRATION PORTUAIRE DE SEPT-ÎLES / SEPT-ÎLES PORT AUTHORITY**

Mise-en-cause

-and-

**THE LAND REGISTRAR FOR THE REGISTRY OFFICE FOR THE REGISTRATION DIVISION  
OF SEPT-ÎLES**

Mise-en-cause

-and-


**FTI CONSULTING CANADA INC.**

Monitor

**CERTIFICATE OF THE MONITOR**

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## RECITALS

- A.** Pursuant to an initial order rendered by the Honourable Mr. Justice Martin Catonguay, J.S.C., of the Superior Court of Québec, [Commercial Division] (the “**Court**”) on January 27, 2015 (as amended on February 20, 2015 and as may be further amended from time to time, the “**Initial Order**”), FTI Consulting Canada Inc. (the “**Monitor**”) was appointed to monitor the business and financial affairs of Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, 8568391 Canada Limited, Bloom Lake General Partner Limited, the Bloom Lake Railway Company Limited and The Bloom Lake Iron Ore Mine Limited Partnership (collectively, the “**Bloom Lake CCAA Parties**”).
- B.** Pursuant to an order of the Court granted May 20, 2015, the Monitor was appointed to monitor the business and financial affairs of Wabush Iron Co. Limited, Wabush Resources Inc., Arnaud Railway Company, Wabush Lake Railway Company Limited and Wabush Mines (collectively, the “**Wabush CCAA Parties**”). The Wabush CCAA Parties and the Bloom Lake CCAA parties are referred to herein collectively as the “**CCAA Parties**”.
- C.** Pursuant to an order (the “**Approval and Vesting Order**”) rendered by the Court on , 2016, the transaction contemplated by the Asset Purchase Agreement dated as of January 26, 2016 (the “**Purchase Agreement**”) by and among Wabush Iron Co. Limited and Wabush Resources Inc., as vendors, and Administration Portuaire De Sept-Îles / Sept-Îles Port Authority, as purchaser (the “**Purchaser**”) was authorized and approved, with a view, *inter alia*, to vest in and to the Purchaser, all of the Vendors' right, title and interest in and to the Purchased Assets (as defined in the Purchase Agreement).
- D.** Each capitalized term used and not defined herein has the meaning given to such term in the Purchase Agreement.
- E.** The Approval and Vesting Order provides for the vesting of all of the Vendors' right, title and interest in and to the Purchased Assets in the Purchaser, in accordance with the terms of the Approval and Vesting Order and upon the delivery of a certificate (the “**Certificate**”) issued by the Monitor confirming that the Vendors and the Purchaser have each delivered Conditions Certificates to the Monitor.
- F.** In accordance with the Approval and Vesting Order, the Monitor has the power to authorize, execute and deliver this Certificate.
- G.** The Approval and Vesting Order also directed the Monitor to file with the Court, a copy of this Certificate forthwith after issuance thereof.

## **THEREFORE, IN RELIANCE UPON THE CONDITIONS CERTIFICATES ADDRESSED AND DELIVERED TO THE MONITOR BY EACH OF THE VENDORS AND THE PURCHASER, THE MONITOR CERTIFIES THE FOLLOWING:**

- 1.** The Monitor has received payment in full of the Purchase Price in accordance with the Purchase Agreement.
- 2.** The Vendors and the Purchaser have each delivered to the Monitor the Conditions Certificates evidencing that all applicable conditions under the Purchase Agreement have been satisfied and/or waived, as applicable.

3. The Closing Time is deemed to have occurred on at <TIME> on <\*>, 2016.

**THIS CERTIFICATE** was issued by the Monitor at <TIME> on <\*>, 2016.

**FTI Consulting Canada Inc., in its capacity as  
Monitor of the CCAA Parties, and not in its personal  
or corporate capacity.**

By: \_\_\_\_\_

Name: Nigel Meakin

**SCHEDULE “B” TO APPROVAL AND VESTING ORDER**  
**PERMITTED ENCUMBRANCES**

1. Servitude registered at the Registry Office for the Registration Division of Sept-Îles, under number 2 161;
2. Servitude registered at the Registry Office for the Registration Division of Sept-Îles, under number 32 464;
3. Servitudes or rights-of-way for the passage, ingress and egress of Persons and vehicles over parts of the Purchased Assets, provided such servitudes or rights-of-way are registered on title of the Purchased Assets;
4. Servitudes for the supply of utilities to the Purchased Assets and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services, provided such servitudes are registered on title of the Purchased Assets;
5. Any unregistered servitudes or rights of way by Hydro-Québec to occupy a part of the Purchased Assets to install any circuits, poles and necessary equipment required for the connection or the network, in accordance to its by-law number 634 relating to the supply of electricity and any servitudes granted prior to January 1, 1917 which affect the Purchased Assets;
6. Restrictive covenants, private deed restrictions and other similar land use control agreements, provided they are registered on title to the Purchased Assets;
7. Any minor encroachments by any structure located on the Purchased Assets onto any adjoining lands and any minor encroachment by any structure located on adjoining lands onto the Purchased Assets;
8. Any title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Purchased Assets;
9. The provisions of Applicable Laws, including by-laws, regulations, airport zoning regulations, ordinances and similar instruments relating to development and zoning;
10. Any reservations, exceptions, limitations, provisos and conditions contained in the original Crown grant or patent; and
11. Servitudes in favour of Hydro-Québec registered at the Registry Office for the Registration Division of Sept-Îles, under numbers 75 876 and 75-877.

## SCHEDULE "C" TO APPROVAL AND VESTING ORDER

### DESCRIPTION OF IMMOVABLE PROPERTY

The immovable known and described as being composed of a part of lot 3 931 541, lot 3 931 539 and part of lot 3 669 214, all of the cadastre of Québec, registration division of Sept-Îles, such lot and parts of lots being for purposes hereof particularly described as follows:

- a) Une partie du lot 3 931 541 du cadastre du Québec, circonscription foncière de Sept-Îles, décrite comme suit :

Une partie du lot 3 931 541, de figure irrégulière, bornée vers le nord-est et le nord par les lots 3 708 360 et 3 708 361, chemin de la Pointe-Noire, vers le nord-est, l'est, le nord, l'ouest et le sud-ouest par le lot 3 931 533, vers le nord et l'est par le lot 3 708 360, chemin de la Pointe-Noire, vers le nord par la partie restante du lot 3 931 541, vers le nord est par le lot 3 708 376, vers le sud et le sud-est par un territoire non cadastré, vers le sud-ouest et le sud par la limite des hautes eaux (marées) de la Baie-des-Sept-Îles (Territoire non cadastré), vers l'ouest par le lot 3 669 046, par un territoire non cadastré et par les lots 3 669 047 et 4 711 908, vers le sud-ouest par le lot 4 711 908 et vers le nord-ouest par le lot 3 708 359, rue Alband-Bancharde; mesurant successivement 505,92 mètres, 30,04 mètres, 150,00 mètres, 50,02 mètres, 657,10 mètres, 7,87 mètres d'arc le long d'une courbe ayant un rayon de 5985,00 mètres, 94,78 mètres, 49,86 mètres, 49,98 mètres, 148,10 mètres d'arc le long d'une courbe ayant un rayon de 5985,00 mètres, 394,80 mètres et 338,91 mètres de long d'une courbe ayant un rayon de 815,00 mètres vers le nord-est, 104,06 mètres, 60,01 mètres, 90,00 mètres, 30,33 mètres, 51,32 mètres; 92,25 mètres d'arc le long d'une courbe ayant un rayon de 615,00 mètres, 35,95 mètres, 25,76 mètres, 21,05 mètres, 31,26 et 25,82 mètres vers le nord, 6,83 mètres vers le nord-ouest, 20,63 mètres, 51,45 mètres et 29,29 mètres vers le nord, 48,07 mètres, 5,39 mètres et 430,00 mètres vers le nord-ouest, 7,07 mètres vers le nord-est, 67,89 mètres vers l'est, 51,05 mètres d'arc le long d'une courbe ayant un rayon de 45,00 mètres vers le nord-est, 32,02 mètres vers le nord, 37,34 mètres vers l'est, 22,02 mètres vers le sud, 77,00 mètres vers l'est, 57,00 mètres vers le nord, 44,00 mètres vers l'ouest, 55,00 mètres vers le nord, 25,00 mètres vers l'ouest, 41,82 mètres et 25,72 mètres d'arc le long d'une courbe ayant un rayon de 40,00 mètres vers le sud-ouest, 40,70 mètres vers le sud, 98,10 mètres vers l'ouest, 35,21 mètres et 38,89 mètres d'arc le long d'une courbe ayant un rayon de 782,00 mètres vers le nord, 14,99 mètres vers le nord-ouest, 29,76 mètres vers le nord, 24,96 mètres vers le nord-ouest, 19,63 mètres d'arc le long d'une courbe ayant un rayon de 785,00 mètres, 24,55 mètres, 34,28 mètres d'arc le long d'une courbe ayant un rayon de 783,50 mètres, 29,45 mètres, 107,02 mètres d'arc le long d'une courbe ayant un rayon de 785,00 mètres, 180,94 mètres, 50,00 mètres, 35,00 mètres et 15,04 mètres vers le nord, 35,33 mètres vers l'est, 20,00 mètres, 70,46 mètres, 25,96 mètres, 63,00 mètres, 64,57 mètres, 61,30 mètres, 81,51 mètres d'arc le long d'une courbe ayant un rayon de 917,00 mètres vers le nord, 5,47 mètres vers le nord-ouest, 159,48 mètres d'arc le long d'une courbe ayant un rayon de 915,00 mètres, 193,99 mètres et 313,53 mètres vers le nord, 617,36 mètres vers le nord-est, 2111,36 mètres, 936,11 mètres et 232,24 mètres vers le sud, 265,84 mètres vers le sud-est, 1694,70 mètres mesurée en suivant une ligne sinueuse vers le sud-ouest et le sud, 135,90 mètres mesurée en suivant une ligne sinueuse vers le sud, 94,29 mètres, 1056,76 mètres et 389,82 mètres vers l'ouest, 78,00 mètres vers le sud-ouest et 89,56 mètres d'arc le long d'une courbe ayant un rayon de 522,92 mètres, 22,33 mètres d'arc le long d'une courbe ayant un rayon de 50,53 mètres et 30,67 mètres vers le nord-ouest; contenant une superficie de 3 321 872 mètres carrés.

- b) Le lot 3 931 539 du cadastre du Québec, circonscription foncière de Sept-Îles, lequel est plus particulièrement décrit comme suit:

De figure irrégulière, borné vers le nord-est par le lot 3 708 384, vers le sud-est et le nord-est par le lot 3 669 214, vers le sud, le sud-est, le sud-ouest et le sud par le lot 3 708 360, chemin de la Pointe-Noire, vers l'ouest, le sud et l'est par le lot 3 931 537 et vers le sud et le sud-ouest par le lot 3 708 361, chemin de la Pointe-Noire; mesurant successivement 235,54 mètres d'arc le long d'une courbe ayant un rayon de 813,35 mètres, 1535,40 mètres, 186,61 mètres d'arc le long d'une courbe ayant un rayon de 1796,57 mètres et 331,60 mètres vers le nord-est, 72,09 mètres vers le sud-est, 877,32 mètres vers le nord-est, 151,85 mètres, 31,62 mètres et 19,37 mètres vers le sud, 30,53 mètres vers le sud-est, 48,54 mètres et 19,57 mètres vers le sud, 6,62 mètres vers le sud-ouest, 72,62 mètres, 24,33 mètres, 34,11 mètres, 87,75 mètres d'arc le long d'une courbe ayant un rayon de 585,00 mètres, 48,70 mètres, 29,68 mètres, 90,00 mètres, 60,01 mètres et 45,00 mètres vers le sud, 45,00 mètres vers l'ouest, 40,00 mètres vers le sud, 45,00 mètres vers l'est, 19,06 mètres vers le sud, 326,43 mètres d'arc le long d'une courbe ayant un rayon de 785,00 mètres, 394,80 mètres, 148,84 mètres d'arc le long d'une courbe ayant un rayon de 6 015,00 mètres, 50,26 mètres, 50,16 mètres, 95,29 mètres, 7,91 mètres d'arc le long d'une courbe ayant un rayon de 6 015,00 mètres, 657,10 mètres, 50,02 mètres, 150,00 mètres, 30,04 mètres et 522,35 mètres vers le sud-ouest ; contenant une superficie de 662 919,9 mètres carrés.

- c) Une partie du lot 3 669 214 du cadastre du Québec, circonscription foncière de Sept-Îles, décrite comme suit :

De figure irrégulière, bornée vers le nord-ouest par une partie du lot 3 669 214, vers l'est, le nord et l'ouest par la partie du lot 3 669 214 qui remplace le lot Z-1 du bloc Z du cadastre du canton d'Arnaud, vers le nord par une partie du lot 3 669 214, vers le sud, le sud-est et le sud-ouest par le lot 3 708 360, chemin de la Pointe-Noire; mesurant successivement 420,43 mètres vers le nord-ouest, 55,32 mètres vers l'est, 434,95 mètres vers le nord, 24,08 mètres vers l'ouest, 390,14 mètres vers le nord, 52,21 mètres, 25,50 mètres, 25,50 mètres, 48,13 mètres, 154,25 mètres d'arc le long d'une courbe ayant un rayon de 885,00 mètres, 5,30 mètres et 78,49 mètres d'arc le long d'une courbe ayant un rayon de 883,00 mètres vers le sud, 5,30 mètres vers le sud-est, 44,24 mètres vers le sud, 17,89 mètres vers le sud-ouest, 24,75 mètres, 99,96 mètres, 50,00 mètres, 44,28 mètres, 20,62 mètres, 27,07 mètres, 35,00 mètres, 50,00 mètres, 180,94 mètres, 111,11 mètres d'arc le long d'une courbe ayant un rayon de 815,00 mètres, 30,63 mètres, 35,72 mètres d'arc le long d'une courbe ayant un rayon de 816,50 mètres et 25,54 mètres vers le sud; contenant une superficie de 122 810 mètres carrés.

For purpose of clarity, the Block Z is identified in the attached land survey plan as being delimited by the red colored borders.

**SCHEDULE “D” TO APPROVAL AND VESTING ORDER**  
**REGISTRATIONS PUBLISHED AT THE REGISTRY OFFICE FOR THE REGISTRATION**  
**DIVISION OF SEPT-ÎLES**

- Legal Hypothec (construction) in favour of Axor Experts-Conseil Inc. registered at the Registry Office for the Registration Division of Sept-Îles, under number **21 306 859**;
- Legal Hypothec (construction) in favour of Kilotech Contrôle (1995) Inc. registered at the Registry Office for the Registration Division of Sept-Îles, under number **21 231 306**;
- Prior Notice of the exercise of a sale by judicial authority in favour of Kilotech Contrôle (1995) Inc. registered at the Registry Office for the Registration Division of Sept-Îles, under number **21 540 652**;
- Legal Hypothec (construction) in favour of Kilotech Contrôle (1995) Inc. registered at the Registry Office for the Registration Division of Sept-Îles, under number **21 231 351**;
- Prior Notice of the exercise of a sale by judicial authority in favour of Kilotech Contrôle (1995) Inc. registered at the Registry Office for the Registration Division of Sept-Îles, under number **21 540 654**;
- Legal Hypothec (construction) in favour of 3887952 Canada Inc. registered at the Registry Office for the Registration Division of Sept-Îles, under number **21 269 941**;
- Prior Notice of the exercise of a sale by judicial authority in favour of 3887952 Canada Inc. registered at the Registry Office for the Registration Division of Sept-Îles, under number **21 503 424**.



## **Schedule "B"**

### **Permitted Encumbrances**

1. Servitude registered at the Registry Office for the Registration Division of Sept-Îles, under number 2 161;
2. Servitude registered at the Registry Office for the Registration Division of Sept-Îles, under number 32 464;
3. Servitudes or rights-of-way for the passage, ingress and egress of Persons and vehicles over parts of the Purchased Assets, provided such servitudes or rights-of-way are registered on title of the Purchased Assets;
4. Servitudes for the supply of utilities to the Purchased Assets and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services, provided such servitudes are registered on title of the Purchased Assets;
5. Any unregistered servitudes or rights of way by Hydro-Québec to occupy a part of the Purchased Assets to install any circuits, poles and necessary equipment required for the connection or the network, in accordance to its by-law number 634 relating to the supply of electricity and any servitudes granted prior to January 1, 1917 which affect the Purchased Assets;
6. Restrictive covenants, private deed restrictions and other similar land use control agreements, provided they are registered on title to the Purchased Assets;
7. Any minor encroachments by any structure located on the Purchased Assets onto any adjoining lands and any minor encroachment by any structure located on adjoining lands onto the Purchased Assets;
8. Any title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Purchased Assets;
9. The provisions of Applicable Laws, including by-laws, regulations, airport zoning regulations, ordinances and similar instruments relating to development and zoning;
10. Any reservations, exceptions, limitations, provisos and conditions contained in the original Crown grant or patent; and
11. Servitudes in favour of Hydro-Québec registered at the Registry Office for the Registration Division of Sept-Îles, under numbers 75 876 and 75-877.

## Schedule "C"

### Purchased Assets

The immovable known and described as being composed of a part of lot 3 931 541, lot 3 931 539 and part of lot 3 669 214, all of the cadastre of Québec, registration division of Sept-Îles, such lot and parts of lots being for purposes hereof particularly described as follows:

- a) Une partie du lot 3 931 541 du cadastre du Québec, circonscription foncière de Sept-Îles, décrite comme suit :

Une partie du lot 3 931 541, de figure irrégulière, bornée vers le nord-est et le nord par les lots 3 708 360 et 3 708 361, chemin de la Pointe-Noire, vers le nord-est, l'est, le nord, l'ouest et le sud-ouest par le lot 3 931 533, vers le nord et l'est par le lot 3 708 360, chemin de la Pointe-Noire, vers le nord par la partie restante du lot 3 931 541, vers le nord est par le lot 3 708 376, vers le sud et le sud-est par un territoire non cadastré, vers le sud-ouest et le sud par la limite des hautes eaux (marées) de la Baie-des-Sept-Îles (Territoire non cadastré), vers l'ouest par le lot 3 669 046, par un territoire non cadastré et par les lots 3 669 047 et 4 711 908, vers le sud-ouest par le lot 4 711 908 et vers le nord-ouest par le lot 3 708 359, rue Alband-Banchard; mesurant successivement 505,92 mètres, 30,04 mètres, 150,00 mètres, 50,02 mètres, 657,10 mètres, 7,87 mètres d'arc le long d'une courbe ayant un rayon de 5985,00 mètres, 94,78 mètres, 49,86 mètres, 49,98 mètres, 148,10 mètres d'arc le long d'une courbe ayant un rayon de 5985,00 mètres, 394,80 mètres et 338,91 mètres de long d'une courbe ayant un rayon de 815,00 mètres vers le nord-est, 104,06 mètres, 60,01 mètres, 90,00 mètres, 30,33 mètres, 51,32 mètres; 92,25 mètres d'arc le long d'une courbe ayant un rayon de 615,00 mètres, 35,95 mètres, 25,76 mètres, 21,05 mètres, 31,26 et 25,82 mètres vers le nord, 6,83 mètres vers le nord-ouest, 20,63 mètres, 51,45 mètres et 29,29 mètres vers le nord, 48,07 mètres, 5,39 mètres et 430,00 mètres vers le nord-ouest, 7,07 mètres vers le nord-est, 67,89 mètres vers l'est, 51,05 mètres d'arc le long d'une courbe ayant un rayon de 45,00 mètres vers le nord-est, 32,02 mètres vers le nord, 37,34 mètres vers l'est, 22,02 mètres vers le sud, 77,00 mètres vers l'est, 57,00 mètres vers le nord, 44,00 mètres vers l'ouest, 55,00 mètres vers le nord, 25,00 mètres vers l'ouest, 41,82 mètres et 25,72 mètres d'arc le long d'une courbe ayant un rayon de 40,00 mètres vers le sud-ouest, 40,70 mètres vers le sud, 98,10 mètres vers l'ouest, 35,21 mètres et 38,89 mètres d'arc le long d'une courbe ayant un rayon de 782,00 mètres vers le nord, 14,99 mètres vers le nord-ouest, 29,76 mètres vers le nord, 24,96 mètres vers le nord-ouest, 19,63 mètres d'arc le long d'une courbe ayant un rayon de 785,00 mètres, 24,55 mètres, 34,28 mètres d'arc le long d'une courbe ayant un rayon de 783,50 mètres, 29,45 mètres, 107,02 mètres d'arc le long d'une courbe ayant un rayon de 785,00 mètres, 180,94 mètres, 50,00 mètres, 35,00 mètres et 15,04 mètres vers le nord, 35,33 mètres vers l'est, 20,00 mètres, 70,46 mètres, 25,96 mètres, 63,00 mètres, 64,57 mètres, 61,30 mètres, 81,51 mètres d'arc le long d'une courbe ayant un rayon de 917,00 mètres vers le nord, 5,47 mètres vers le nord-ouest, 159,48 mètres d'arc le long d'une courbe ayant un rayon de 915,00 mètres, 193,99 mètres et 313,53 mètres vers le nord, 617,36 mètres vers le nord-est, 2111,36 mètres, 936,11 mètres et 232,24 mètres vers le sud, 265,84 mètres vers le sud-est, 1694,70 mètres mesurée en suivant une ligne sinueuse vers le sud-ouest et le sud, 135,90 mètres mesurée en suivant une ligne sinueuse vers le sud, 94,29 mètres, 1056,76 mètres et 389,82 mètres vers l'ouest, 78,00 mètres vers le sud-ouest et 89,56 mètres d'arc le long d'une courbe ayant un rayon de 522,92 mètres, 22,33 mètres d'arc le long d'une courbe ayant un rayon de 50,53 mètres et 30,67 mètres vers le nord-ouest; contenant une superficie de 3 321 872 mètres carrés.

- b) Le lot 3 931 539 du cadastre du Québec, circonscription foncière de Sept-Îles, lequel est plus particulièrement décrit comme suit:

De figure irrégulière, borné vers le nord-est par le lot 3 708 384, vers le sud-est et le nord-est par le lot 3 669 214, vers le sud, le sud-est, le sud-ouest et le sud par le lot 3 708 360, chemin de la Pointe-Noire, vers l'ouest, le sud et l'est par le lot 3 931 537 et vers le sud et le sud-ouest par le lot 3 708 361, chemin de la Pointe-Noire; mesurant successivement 235,54 mètres d'arc le long d'une courbe ayant un rayon de 813,35 mètres, 1535,40 mètres, 186,61 mètres d'arc le long d'une courbe ayant un rayon de 1796,57 mètres et 331,60 mètres vers le nord-est, 72,09 mètres vers le sud-est, 877,32 mètres vers le nord-est, 151,85 mètres, 31,62 mètres et 19,37 mètres vers le sud, 30,53 mètres vers le sud-est, 48,54 mètres et 19,57 mètres vers le sud, 6,62 mètres vers le sud-ouest, 72,62 mètres, 24,33 mètres, 34,11 mètres, 87,75 mètres d'arc le long d'une courbe ayant un rayon de 585,00 mètres, 48,70 mètres, 29,68 mètres, 90,00 mètres, 60,01 mètres et 45,00 mètres vers le sud, 45,00 mètres vers l'ouest, 40,00 mètres vers le sud, 45,00 mètres vers l'est, 19,06 mètres vers le sud, 326,43 mètres d'arc le long d'une courbe ayant un rayon de 785,00 mètres, 394,80 mètres, 148,84 mètres d'arc le long d'une courbe ayant un rayon de 6 015,00 mètres, 50,26 mètres, 50,16 mètres, 95,29 mètres, 7,91 mètres d'arc le long d'une courbe ayant un rayon de 6 015,00 mètres, 657,10 mètres, 50,02 mètres, 150,00 mètres, 30,04 mètres et 522,35 mètres vers le sud-ouest ; contenant une superficie de 662 919,9 mètres carrés.

- c) Une partie du lot 3 669 214 du cadastre du Québec, circonscription foncière de Sept-Îles, décrite comme suit :

De figure irrégulière, bornée vers le nord-ouest par une partie du lot 3 669 214, vers l'est, le nord et l'ouest par la partie du lot 3 669 214 qui remplace le lot Z-1 du bloc Z du cadastre du canton d'Arnaud, vers le nord par une partie du lot 3 669 214, vers le sud, le sud-est et le sud-ouest par le lot 3 708 360, chemin de la Pointe-Noire; mesurant successivement 420,43 mètres vers le nord-ouest, 55,32 mètres vers l'est, 434,95 mètres vers le nord, 24,08 mètres vers l'ouest, 390,14 mètres vers le nord, 52,21 mètres, 25,50 mètres, 25,50 mètres, 48,13 mètres, 154,25 mètres d'arc le long d'une courbe ayant un rayon de 885,00 mètres, 5,30 mètres et 78,49 mètres d'arc le long d'une courbe ayant un rayon de 883,00 mètres vers le sud, 5,30 mètres vers le sud-est, 44,24 mètres vers le sud, 17,89 mètres vers le sud-ouest, 24,75 mètres, 99,96 mètres, 50,00 mètres, 44,28 mètres, 20,62 mètres, 27,07 mètres, 35,00 mètres, 50,00 mètres, 180,94 mètres, 111,11 mètres d'arc le long d'une courbe ayant un rayon de 815,00 mètres, 30,63 mètres, 35,72 mètres d'arc le long d'une courbe ayant un rayon de 816,50 mètres et 25,54 mètres vers le sud; contenant une superficie de 122 810 mètres carrés.

For purpose of clarity, the Block Z is identified in the attached land survey plan as being delimited by the red colored borders.

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
Commercial Division

File: No: 500-11-048114-157

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

**BLOOM LAKE GENERAL PARTNER  
LIMITED, QUINTO MINING  
CORPORATION, 8568391 CANADA  
LIMITED, CLIFFS QUÉBEC IRON  
MINING ULC, WABUSH IRON CO.  
LIMITED AND WABUSH RESOURCES  
INC.**

Petitioners

- and -

**THE BLOOM LAKE IRON ORE MINE  
LIMITED PARTNERSHIP, BLOOM LAKE  
RAILWAY COMPANY LIMITED,  
WABUSH MINES, ARNAUD RAILWAY  
COMPANY AND WABUSH LAKE  
RAILWAY COMPANY LIMITED**

Mises-en-cause

- and -

**FTI CONSULTING CANADA INC.**

Monitor

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**NINETEENTH REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

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## INTRODUCTION

1. On January 27, 2015, Bloom Lake General Partner Limited (“**Bloom Lake GP**”), Quinto Mining Corporation, 8568391 Canada Limited and Cliffs Québec Iron Mining ULC (“**CQIM**”) (collectively, the “**Bloom Lake Petitioners**”) sought and obtained an initial order (as amended, restated or rectified from time to time, the “**Bloom Lake Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) from the Superior Court of Quebec (the “**Court**”), providing for, *inter alia*, a stay of proceedings against the Bloom Lake Petitioners until February 26, 2015, (the “**Bloom Lake Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The relief granted in the Bloom Lake Initial Order was also extended to The Bloom Lake Iron Ore Mine Limited Partnership (“**Bloom Lake LP**”) and Bloom Lake Railway Company Limited (together with Bloom Lake LP, the “**Bloom Lake Mises-en-Cause**” and together with the Bloom Lake Petitioners, the “**Bloom Lake CCAA Parties**”). The proceedings commenced under the CCAA by the Bloom Lake CCAA Parties will be referred to herein as the “**CCAA Proceedings**”.

2. On May 20, 2015, the CCAA Proceedings were extended to include Wabush Iron Co. Limited (“**WICL**”), Wabush Resources Inc. (“**WRI**” and together with WICL, the “**Wabush Petitioners**”), Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company Limited (collectively the “**Wabush Mises-en-Cause**” and together with the Wabush Petitioners, the “**Wabush CCAA Parties**”) pursuant to an initial order (as amended, restated or rectified from time to time, the “**Wabush Initial Order**”) providing for, *inter alia*, a stay of proceedings against the Wabush CCAA Parties until June 19, 2015, (the “**Wabush Stay Period**”) and approving an interim financing term sheet dated May 19, 2015 (as amended, the “**Interim Financing Term Sheet**”), providing an interim facility of up to US\$10 million (the “**Interim Financing**”). The Bloom Lake CCAA Parties and the Wabush CCAA Parties will be referred to collectively herein as the “**CCAA Parties**”.
3. The Bloom Lake Stay Period and the Wabush Stay Period (together, the “**Stay Period**”) have been extended from time to time and currently expires on April 22, 2016.
4. On April 17, 2015, Mr. Justice Hamilton J.S.C. granted an Order (the “**SISP Order**”) approving, as it relates to the Bloom Lake CCAA Parties, a sale and investor solicitation process (as may be amended from time to time, the “**SISP**”) involving the business and assets of the Bloom Lake CCAA Parties. The SISP was subsequently amended and restated to reflect the inclusion of the Wabush CCAA Parties in the CCAA Proceedings and was approved *nunc pro tunc* as it relates to the Wabush CCAA Parties pursuant to an Order granted June 9, 2015 (together with the April 17, 2015 Order, the “**SISP Order**”).
5. On June 22, 2015, Mr. Justice Hamilton J.S.C. granted an Order (the “**June 22 Rep Order**”) *inter alia*:

- (a) Appointing Michael Keeper, Terence Watt, Damin Lebel and Neil Johnson as representatives (the “**Representatives**”) of the Salaried Members (as defined in the June 22 Rep Order); and
  - (b) Appointing Koskie Minsky LLP and Nicholas Scheib (collectively “**Representative Counsel**”) as legal counsel to the Representatives.
- 6. On November 5, 2015, Mr. Justice Hamilton J.S.C. granted an Order approving a procedure for the submission, evaluation and adjudication of claims against the CCAA Parties and their current and former directors and officers (as amended, the “**Claims Procedure Order**”).
- 7. To date, the Monitor has filed eighteen reports in respect of various aspects of the CCAA Proceedings. The purpose of this, the Monitor’s Nineteenth Report (this “**Report**”), is to provide information to the Court with respect to:
  - (a) The receipts and disbursements of the CCAA Parties for the period January 9 to March 25, 2016;
  - (b) The CCAA Parties’ revised and extended cash flow forecast for the period March 26, 2016 to September 30, 2016 (the “**April 8 Forecast**”);
  - (c) The current status of the realization of assets, including:
    - (i) The Pointe-Noire Transaction;
    - (ii) The Block Z Transaction;
    - (iii) The Bloom Lake Transaction;
    - (iv) The remaining Bloom Lake equipment;
    - (v) The Wabush Mine;

- (vi) The Restructuring Letter of Intent;
- (vii) Sundry remaining assets;
- (d) The appointment by the applicable regulators of independent administrators for the Wabush Pension Plans;
- (e) The progress of the Claim Procedure and Claims and D&O Claims filed by the Claims Bar Date and the D&O Claims Bar Date respectively;
- (f) The current status of the Monitor's review of the 2014 Reorganization;
- (g) The current status of the Fisheries Summonses Hearing;
- (h) The current status of the MFC Litigation;
- (i) The current status of the Beumer Litigation;
- (j) The motion filed by the Sept-Îles Port Authority ("**SIPA**") on March 29, 2016, for *inter alia* an Order for the payment of certain claims (the "**SIPA Claims**") by certain of the CCAA Parties (the "**SIPA Claims Motion**");
- (k) The motion filed by the USW for payments to be made to six bargaining unit employees that were working at the Pointe-Noire facility prior to the completion of the Pointe-Noire Transaction in lieu of normal cost pension contributions that could not be made following the termination of the Wabush Pension Plans (the "**USW Emoluments Motion**"); and
- (l) The CCAA Parties' request for an extension of the Stay Period to September 30, 2016 and the Monitor's recommendation thereon.



## TERMS OF REFERENCE

8. In preparing this Report, the Monitor has relied upon unaudited financial information of the CCAA Parties, the CCAA Parties' books and records, certain financial information prepared by the CCAA Parties and discussions with various parties (the "**Information**").
9. Except as described in this Report:
  - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
  - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
10. The Monitor has prepared this Report in connection with the CCAA Parties' motion for an extension of the Stay Period scheduled to be heard April 20, 2016 (the "**April 20 Extension Motion**"). The Report should not be relied on for other purposes.
11. Future oriented financial information reported or relied on in preparing this Report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
12. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the Bloom Lake Initial Order, the Wabush Initial Order or previous reports of the Monitor.

## **EXECUTIVE SUMMARY**

13. Capitalized terms used in the Executive Summary are as defined in the relevant section of the Report.
14. The Monitor is of the view that:
  - (a) The CCAA Parties have acted, and are acting, in good faith and with due diligence;
  - (b) Circumstances exist that make an extension of the Stay Period appropriate; and
  - (c) Creditors would not be materially prejudiced by an extension of the Stay Period to September 30, 2016.
15. Accordingly, the Monitor respectfully recommends that the CCAA Parties' request for an extension of the Stay Period to September 30, 2016 be granted.

## **RECEIPTS & DISBURSEMENTS FOR THE PERIOD TO MARCH 25, 2016**

### **THE BLOOM LAKE CCAA PARTIES**

16. The Bloom Lake CCAA Parties' actual cash flow on a consolidated basis for the period from January 9 to March 25, 2016, excluding proceeds of asset realizations, was approximately \$1.3 million better than the January 19 Forecast before foreign exchange losses, as summarized below:

	<b>Forecast</b>	<b>Actual</b>	<b>Variance</b>
	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
<b>Receipts</b>	<b>345</b>	<b>236</b>	<b>(109)</b>
<b>Disbursements:</b>			
Payroll & Employee Benefits	(1,744)	(1,476)	268
Termination & Severance	0	0	0
Utilities	(1,171)	(1,058)	113
Other Operating Disbursements	(1,913)	(1,131)	782
<b>Operating Cash Flows</b>	<b>(4,483)</b>	<b>(3,429)</b>	<b>1,054</b>
Restructuring Professional Fees	(2,987)	(2,745)	242
<b>Projected Net Cash Flow</b>	<b>(7,470)</b>	<b>(6,174)</b>	<b>1,296</b>
<b>Beginning Cash Balance</b>	<b>27,823</b>	<b>27,823</b>	<b>0</b>
Projected Net Cash Flow	(7,470)	(6,174)	1,296
Foreign Exchange Gain/(Loss)	0	(1,290)	(1,290)
<b>Ending Cash Balance</b>	<b>20,353</b>	<b>20,359</b>	<b>6</b>

17. Explanations for the key variances in actual receipts and disbursements as compared to the January 19 Forecast are as follows:

- (a) The unfavourable variance in receipts is a timing variance as the March lease payment for the Mount-Wright Camp has not yet been received;
- (b) The favourable variance in payroll and employee benefits is a combination of timing and permanent variances;
- (c) The favourable variance of approximately \$0.1 million in utility costs is a permanent variance resulting from lower overall consumption than forecast;
- (d) The favourable variance of approximately \$0.8 million in other operating disbursements consists of favourable timing variances totalling approximately \$0.1 million expected to reverse in future periods and favourable permanent variances totalling approximately \$0.7 million as a result of lower than forecast requirements for maintenance and repairs, contractors and other costs;

- (e) The favourable variance of approximately \$0.2 million in aggregate professional fees is comprised of favourable timing variances of approximately \$1.7 million offset by unfavourable permanent variances of approximately \$1.5 million; and
  - (f) The foreign exchange gain arises as the Bloom Lake CCAA Parties hold certain funds and make certain payments in U.S. dollars and actual exchange rates vary from those used in the January 19 Forecast.
18. The Bloom Lake Initial Order permits inter-company funding between the Bloom Lake CCAA Parties. To date inter-company funding in the amount of approximately \$4.1 million has been advanced by Bloom Lake LP to CQIM since the start of the CCAA Proceedings.

**THE WABUSH CCAA PARTIES**

19. The Wabush CCAA Parties' actual cash flow, excluding Interim Financing draws, on a consolidated basis for the period from January 9 to March 25, 2016, excluding proceeds of major asset realizations, was in line with the January 19 Forecast, as summarized below:

	Forecast	Actual	Variance
	\$000	\$000	\$000
<b>Receipts</b>	<b>1,641</b>	<b>1,231</b>	<b>(410)</b>
<b>Disbursements:</b>			
Payroll & Employee Benefits	(715)	(973)	(258)
Termination & Severance	0	0	0
Contractors	(217)	(198)	19
Utilities	(350)	(429)	(79)
Other Operating Disbursements	(1,073)	(896)	177
<b>Operating Cash Flows</b>	<b>(714)</b>	<b>(1,265)</b>	<b>(551)</b>
Restructuring Professional Fees	(1,447)	(852)	595
<b>Projected Net Cash Flow</b>	<b>(2,161)</b>	<b>(2,117)</b>	<b>44</b>
<b>Beginning Cash Balance</b>	<b>1,133</b>	<b>1,133</b>	<b>0</b>
Interim Financing Draws	1,250	2,089	839
Projected Net Cash Flow	(2,161)	(2,117)	44
Foreign Exchange Gain/(Loss)	0	(5)	(5)
<b>Ending Cash Balance</b>	<b>222</b>	<b>1,100</b>	<b>878</b>

20. Explanations for the key variances in actual receipts and disbursements as compared to the January 19 Forecast are as follows:

- (a) The unfavourable variance of approximately \$0.4 million in receipts comprises a permanent favourable variance of approximately \$0.2 million in tax refunds offset by an unfavourable variance arising on the receipt of proceeds of the sale of employee housing pending finalization of closing adjustments;
- (b) The unfavourable variance of approximately \$0.3 million in payroll and employee benefits is a permanent variance resulting from the payment of vacation entitlements to employees on the sale of the Pointe-Noire Facility which had not been included in the January 19 Forecast due to uncertainty on timing;

- (c) The unfavourable variance of approximately \$0.1 million in utilities is primarily a permanent variance as a result of higher than forecast consumption;
  - (d) The favourable variance of approximately \$0.2 million in other operating disbursements is a permanent variance; and
  - (e) The favourable variance of approximately \$0.6 million in restructuring fees is believed to be comprised of favourable timing variances of approximately \$0.4 million that are expected to reverse in future periods combined with permanent favourable variances of approximately \$0.2 million.
21. As discussed later in this Report, the Interim Financing Facility was repaid following Closing of the Pointe-Noire Transaction.

#### **THE APRIL 8 FORECAST**

22. The April 8 Forecast is attached hereto as **Appendix A**. The April 8 Forecast shows a net cash outflow of approximately \$5.7 million for the Bloom Lake CCAA Parties and of approximately \$8.1 million for the Wabush CCAA Parties in the period March 26 to September 30, 2016. The April 8 Forecast has been prepared on the assumption that the Wabush Mine is not sold in the period. The April 8 Forecast is summarized below:

	<b>Bloom Lake CCAA Parties</b>	<b>Wabush CCAA Parties</b>
	<b>\$000</b>	<b>\$000</b>
<b>Receipts</b>	<b>403</b>	<b>173</b>
<b>Disbursements:</b>		
Payroll & Employee Benefits	(859)	(321)
Termination & Severance	(463)	0
Contractors	0	(2,285)
Utilities	(276)	(377)
Other Operating Disbursements	(1,250)	(1,952)
<b>Operating Cash Flows</b>	<b>(2,445)</b>	<b>(4,762)</b>
Restructuring Professional Fees	(3,256)	(3,351)
<b>Projected Net Cash Flow</b>	<b>(5,701)</b>	<b>(8,113)</b>

23. As noted above, the April 8 Forecast assumes the status quo, with no sale of the Wabush Mine. The sale of the Wabush Mine would result in a material reduction of cash expenditures. The current status of efforts to sell the Wabush Mine is discussed later in this Report. The April 8 Forecast also excludes the remittance of any taxes payable in respect of the Pointe-Noire Transaction, the Block Z Transaction and the Bloom Lake Transaction, which, if payable, would be remitted from the sale proceeds.
24. Of the \$7.2 million of net operating cash outflow, an estimated amount of approximately \$2.9 million relates to expenses already incurred. Similarly, of the \$6.6 million of restructuring professional fees included in the April 8 Forecast, an estimated amount of approximately \$3 million relates to amounts incurred prior to the date of this report.

#### **CURRENT CASH BALANCES**

25. In addition to the balances in the CCAA Parties' operating accounts, various amounts are held by the Monitor. Total cash balances are summarized below:

	<b>Bloom Lake CCAA Parties</b>	<b>Wabush CCAA Parties</b>	<b>Total</b>
	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
<b>Held by Monitor<sup>1</sup></b>			
Sale proceeds accounts	57,553.2	1,067.1	58,620.3
Operating accounts	16,783.0	35,808.4	52,591.4
Supplier security deposits	125.1	0.0	125.1
Minimum Royalty deposits		1,626.6	1,626.6
<b>Total Held by Monitor</b>	<b>74,461.3</b>	<b>38,502.1</b>	<b>112,963.4</b>
Held by CCAA Parties <sup>2</sup>	1,364.4	465.3	1,829.7
<b>Total</b>	<b>75,825.7</b>	<b>38,967.4</b>	<b>114,793.1</b>

<sup>1</sup>As at April 12, 2016

<sup>2</sup>As at April 8, 2016

## CURRENT STATUS OF ASSETS REALIZATIONS

### THE POINTE-NOIRE TRANSACTION

26. The Pointe-Noire Transaction closed on March 8, 2016.
27. Pursuant to the provisions of the Interim Financing Term Sheet and in accordance with the provisions of the Pointe-Noire AVO, US\$8,340,351.02 was repaid to the Interim Lender on March 9, 2016, in full and final satisfaction of the obligations owing under the Interim Financing Term Sheet.
28. Pursuant to the provisions of the Moelis Engagement Letter and in accordance with the provisions of the Pointe-Noire AVO, US\$602,098.72, being the transaction fee and expenses owing in connection with the Pointe-Noire Transaction, was paid to Moelis on March 22, 2016.
29. Various amounts are outstanding in respect of property taxes related to the Pointe-Noire Facility and Block Z Lands. The Monitor, in consultation with the CCAA Parties, is in the process of determining the amounts of such property taxes that would be payable from the sale proceeds of the Pointe-Noire Transaction and the Block Z Transaction.



**THE BLOCK Z TRANSACTION**

30. The Block Z Transaction closed on March 10, 2016.

**THE BLOOM LAKE TRANSACTION**

31. The Bloom Lake Transaction closed on April 11, 2016.

**THE REMAINING BLOOM LAKE EQUIPMENT**

32. The remaining Bloom Lake equipment consists of equipment and rail cars that are subject to secured financing arrangements (the “**Key Bank Facility**”). As described in previous materials filed with the Court, the Key Bank Facility was in the original principal amount of approximately US\$164.8 million and was secured on specific equipment and rail cars (collectively, the “**Key Bank Equipment**”). Various portions of the Key Bank Facility were assigned to different lenders as follows:

<b>Lender</b>	<b>Original Principal (US\$)</b>	<b>Loan Schedule Ref.</b>	<b>Secured by Equipment</b>
Cole Taylor	\$8,710,091	Loan Schedule No. 1	KOMATSU PC4000 BLSO #6
BNS	\$33,871,319	Loan Schedule No. 2	424 Phase II Ore Gondola Cars
BNS	\$19,533,337	Loan Schedule No. 3	CATERPILLAR 7495 CABLE SHOVEL
Bank of Tokyo-Mitsubishi	\$24,842,747	Loan Schedule No. 4	313 Phase II Ore Gondola Cars
BNS	\$1,031,807	Loan Schedule No. 5	13 Phase II Ore Gondola Cars
BNS	\$9,465,638	Loan Schedule No. 6	CAT 7495 Shovel Training Unit ("Simulator")
Bank of the West	\$11,453,805	Loan Schedule No. 7	KOMATSU TRUCK 930E-4SE BLHT #152 KOMATSU TRUCK 930E-4SE BLHT #153
BBVA Compass Financial Corporation.	\$11,118,256	Loan Schedule No. 8	KOMATSU 930E-4SE BLHT#150 KOMATSU 930E-4SE BLHT#151
Suntrust Equipment Finance & Leasing Corp	\$16,713,828	Loan Schedule No. 9	KOMATSU TRUCK 930E-4SE BLHT #154 KOMATSU TRUCK 930E-4SE BLHT #155 KOMATSU TRUCK 930E-4SE BLHT #156
BBVA Compass Financial Corporation	\$13,446,239	Loan Schedule No. 10	KOMATSU 830E-1AC BLHT #111 KOMATSU 830E-1AC BLHT #112 KOMATSU 830E-1AC BLHT #113
Signature	\$4,007,306	Loan Schedule No. 11	KOMATSU 830E-1AC BLHT #114
Regions Bank	\$4,010,488	Loan Schedule No. 12	KOMATSU 830E-1AC BLHT #115
Cole Taylor	\$6,624,576	Loan Schedule No. 13	CATERPILLAR DRILL MD6640 BLDR #54
<b>TOTAL</b>	<b>\$164,829,438</b>		

33. The Key Bank Facility was guaranteed by Cliffs Natural Resources Inc. (“**CNR**”), the ultimate parent of the CCAA Parties. Each of the tranches of the Key Bank Facility other than loan schedules 4, 11 and 12 has now been repaid by CNR under the guarantee and CNR has either taken an assignment of the relevant claims and security or asserts a subrogated claim.
34. Various offers for elements of the Key Bank Equipment have been received and the CCAA Parties, in consultation with the Monitor, are in the process of endeavouring to negotiate the terms of an asset purchase agreement, subject to Court approval, for the sale of all the Key Bank Equipment other than the equipment under loan schedules 2, 3, 4, 5 and 6.
35. The Monitor has received a number of enquiries in respect of the equipment under loan schedules 3 and 6 but to date no definitive proposals have been received.
36. A proposal for the acquisition of 27 rail cars has been received and the CCAA Parties, in consultation with the Monitor, are in the process of endeavouring to negotiate the terms of an asset purchase agreement, subject to Court approval. No offers have yet been received for the remaining 723 rail cars.

#### **THE WABUSH MINE**

37. Paragraph 28 of the Monitor’s Sixteenth Report stated:

“Since the date of the Fifteenth Report, the interested party has been undertaking due diligence, including a visit to the Wabush Mine and discussions with various stakeholders. A letter of intent was submitted by the interested party on January 20, 2016 and is under consideration by the Wabush CCAA Parties in consultation with the Monitor. There is no guarantee that the letter of intent will lead to a binding agreement for the acquisition of the Wabush Mine.”

38. Since the date of the Sixteenth Report, the interested party has continued its due diligence and discussions with various stakeholders. The Wabush CCAA Parties and the interested party have exchanged a number of drafts of an asset purchase agreement but to date no agreement has been reached. There is no guarantee that the efforts of the parties will lead to a binding agreement for the acquisition of the Wabush Mine.
39. In the event that the parties are unable to agree on the terms of an asset purchase agreement or if the interested party decides not to proceed with the potential acquisition, the Monitor expects that the moveable Wabush Mine assets would be liquidated.

#### **THE RESTRUCTURING LETTER OF INTENT**

40. Paragraphs 29 and 30 of the Monitor's Sixteenth Report stated:

“29. The Monitor has previously stated to the Court that the Bloom Lake CCAA Parties have been in discussions with a party potentially interested in sponsoring a plan of arrangement that would generate significant value for the estate in connection with the corporate attributes of the Bloom Lake CCAA Parties, which value would be in addition to the proceeds of the various proposed sale transactions.

30. The Bloom Lake CCAA Parties have now received the Restructuring Letter of Intent. The Restructuring Letter of Intent states, *inter alia*, that the proposed restructuring assumes that Bloom Lake LP continues to exist and carry on business and is not bankrupt and that the Bloom Lake Transaction is completed prior to the closing of the proposed restructuring.”

41. The CCAA Parties, in consultation with the Monitor, have continued discussions with the party that submitted the Restructuring Letter of Intent. A standstill agreement was executed by the CCAA Parties on March 2, 2016, granting the interested party exclusivity with respect to the restructuring transaction proposed in the Restructuring Letter of Intent until April 22, 2016.
42. A revised proposal for the structuring of the proposed restructuring transaction was submitted by the interested party on March 14, 2016, and the CCAA Parties and the Monitor are undertaking due diligence to determine whether it is feasible and appropriate to continue negotiations and pursue the proposed restructuring transaction.

#### **SUNDRY REMAINING ASSETS**

43. Other than the assets described above, the only other major asset is the Mount-Wright Camp located near the Bloom Lake Mine. The Mount-Wright Camp is currently leased to ArcelorMittal pursuant to a lease agreement approved by the Court on April 17, 2015. A notice of termination was received from ArcelorMittal pursuant to the provisions of the lease on March 16, 2016, such termination to be effective on June 15, 2016.
44. Two parties have expressed preliminary interest in the Mount-Wright Camp though no acceptable offer has yet been received.

#### **APPOINTMENT OF ADMINISTRATORS OF THE WABUSH PENSION PLANS**

45. As previously reported, the relevant regulators terminated the Wabush Pension Plans effective December 16, 2015.
46. On March 1, 2016, the Wabush CCAA Parties requested that the regulators appoint replacement administrators for the Wabush Pension Plans.

47. Morneau Shepell was appointed as independent administrator of the Wabush Pension Plans by the regulators effective March 30, 2016.
48. The Monitor has been in contact with Morneau Shepell to discuss the relevant aspects of the CCAA Proceedings, including the Claims Procedure and the completion of the wind-up reports for the Wabush Pension Plans.

## **THE CLAIMS PROCEDURE**

### **CLAIMS**

49. The current status of the Claims Procedure is summarized below:

	Allowed/ To Be Allowed		In Progress		Disallowed/ To Be Disallowed	
	#	\$000	#	\$000	#	\$000
<b>Secured</b>						
CQIM	0	0.0	5	129,655.5	4	749.3
Bloom Lake LP	0	0.0	34	279,383.5	4	43,180.5
Bloom Lake GP	0	0.0	3	19,885.6	4	1,354.4
Quinto Mining	0	0.0	0	0.0	0	0.0
8568391 Canada	0	0.0	0	0.0	1	160.9
Bloom Lake Railway	0	0.0	0	0.0	0	0.0
Wabush Mines	0	0.0	6	54,105.4	1	25,774.5
WICL	0	0.0	1	8,862.8	0	0.0
WRI	0	0.0	2	13,646.4	0	0.0
Arnaud Railway	0	0.0	3	53,632.2	0	0.0
Wabush Lake Railway	0	0.0	2	53,000.0	0	0.0
<b>Total Secured</b>	<b>0</b>	<b>0.0</b>	<b>56</b>	<b>612,171.4</b>	<b>14</b>	<b>71,219.6</b>
<b>Unsecured</b>						
CQIM	50	127,085.6	22	6,983,202.2	11	0.8
Bloom Lake LP	159	139,257.7	70	1,281,499.9	27	8,535.6
Bloom Lake GP	1	119,999.2	4	494,366.3	10	0.0
Quinto Mining	0	0.0	5	16,952.1	11	100.0
8568391 Canada	0	0.0	0	0.0	8	0.0
Bloom Lake Railway	0	0.0	0	0.0	10	0.0
Wabush Mines	58	2,220.9	1,107	1,759,699.9	5	49,794.9
WICL	2	2,116.9	13	352,238.5	12	49,728.2
WRI	1	203.5	15	692,875.9	12	49,728.2
Arnaud Railway	1	0.1	11	36,962.6	11	3.5
Wabush Lake Railway	2	1,811.1	3	10,051.3	11	3.5
<b>Total Unsecured</b>	<b>274</b>	<b>392,695.0</b>	<b>1,250</b>	<b>11,627,848.7</b>	<b>128</b>	<b>157,894.7</b>
<b>Total</b>	<b>274</b>	<b>392,695.0</b>	<b>1,306</b>	<b>12,240,020.1</b>	<b>142</b>	<b>229,114.3</b>

50. The 1,306 claims in progress are summarized as follows:

- (a) 60 claims in the aggregate amount of approximately \$406.3 million are pending further legal review and/or the determination of the allocation of proceeds of realization and costs of the CCAA Proceedings, which allocation has not yet been approved by the Court;
- (b) 29 claims in the aggregate amount of approximately \$273.7 million are pending responses by the creditors to requests from the Monitor for further information or documentation;

- (c) 1,129 claims in the aggregate amount of approximately \$67 million are OPEB claims of former employees, which are discussed in further detail below;
- (d) 76 claims in the aggregate amount of approximately \$9.9 billion are Related Party Claims, which are discussed in further detail below; and
- (e) 12 claims in the aggregate amount of approximately \$1.6 billion are trade or restructuring claims.

***Related Party Claims***

- 51. 76 claims totalling approximately \$9.9 billion were filed by a CCAA Party against another CCAA Party or by a related party that is not subject to the CCAA Proceedings (collectively, “**Related Party Claims**”). Of the Related Party Claims, Claims totalling approximately \$199 million were filed as secured claims and Claims totalling approximately \$9.7 billion were filed as unsecured claims. The Monitor’s review of the Related Party Claims is in progress and to date no Related Party Claim has been allowed or disallowed.
- 52. The Monitor intends to provide a report on its review of the Related Party Claims and its assessment of the quantum, status and validity thereof once its review is completed. The Monitor intends to file that report prior to issuing any Notice of Allowance or any Notice of Revision or Disallowance in respect of the Related Party Claims in order to provide the opportunity for any relevant stakeholder to consider the Monitor’s assessment.
- 53. The support provided for the Related Party Claims includes in excess of 44,000 transaction entries. Accordingly, the Monitor’s review and analysis is expected to take a significant period of time and it is therefore not possible at this time to predict the likely timing for the completion of the Monitor’s report on the Related Party Claims.



***Secured Claims***

54. Secured Claims include:
- (a) A Related Party Claim for advances made by Cliffs Mining Company (“**CMC**”) to the Wabush CCAA Parties prior to the CCAA Proceedings (the “**CMC Secured Claim**” and the related security being the “**CMC Security**”);
  - (b) Claims relating to the Key Bank Facility (the “**Key Bank Claims**” and the related security being the “**Key Bank Security**”);
  - (c) Claims of CNR as guarantor under the Key Bank Facility;
  - (d) Claims of creditors holding a registered legal hypothec for construction (the “**Construction Hypothec Claims**” and the related security being the “**Construction Hypothecs**”);
  - (e) Claims filed by the pension administrators in respect of the Wabush Hourly Pension Plan and the Wabush Salaried Pension Plan;
  - (f) Claims filed in respect of environmental obligations; and
  - (g) Claims filed in respect of unpaid property taxes.
55. The Monitor’s Counsel has provided an independent opinion on the validity and enforceability of the CMC Security (the “**CMC Security Opinion**”). In summary, the CMC Security Opinion, subject to the qualifications and assumptions set out therein, opines that the CMC Security is valid and legally enforceable against the applicable Wabush CCAA Parties and their creditors. The Monitor has not completed its review of the quantum of the CMC Secured Claim which was filed in the amount of approximately \$8.9 million against each of WRI and WICL.

56. The Monitor's Counsel has provided an independent opinion on the validity and enforceability of the Key Bank Security (the "**Key Bank Security Opinion**"). In summary, the Key Bank Security Opinion, subject to the qualifications and assumptions set out therein, opines that the Key Bank Security is valid and legally enforceable against Bloom Lake LP or CQIM as applicable and their respective creditors. The Monitor has not completed its review of the quantum of the claims in respect of the Key Bank Facility. The Monitor notes that the amount of such claims that will have priority will depend on the proceeds of realization from the assets subject to the Key Bank Security and the allocation of the costs of the CCAA Proceedings, which allocation has not yet been approved by the Court. The Monitor's Counsel is also in the process of considering whether the claims of CNR in connection with payments made as guarantor of the Key Bank Facility are validly secured.
57. The Monitor's Counsel is in the process of preparing an independent opinion on the validity and enforceability of the Construction Hypothecs (the "**Construction Hypothec Opinion**"). The Monitor has not completed its review of the quantum of the Construction Hypothec Claims. The Monitor notes that the amount of such Claims that will have priority will depend on the allocation of realization proceeds and costs of the CCAA Proceedings, which allocation has not yet been approved by the Court and on the "added value" resulting from the works secured by the applicable Construction Hypothecs.

***Pension Claims***

58. The pension administrator of the Wabush Hourly Pension Plan filed claims against Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company in the amount of \$29 million in respect of wind-up deficit and in the amount of approximately \$6.1 million in respect of unremitted amortization payments.

59. The pension administrator of the Wabush Salaried Pension Plan filed claims against Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company in the amount of \$24 million in respect of wind-up deficit and in the amount of approximately \$1.9 million in respect of unremitted amortization payments.
60. As noted earlier in this Report, the relevant regulators have now appointed Morneau Shepell as independent administrator of the Wabush Pension Plans. Morneau Shepell will be filing wind-up reports quantifying the wind-up deficits of the Wabush Pension Plans. The Monitor is awaiting the wind-up reports prior to determining the quantum of the pension Claims.
61. The Monitor's Counsel is also currently reviewing matters related to potential priority of the pension Claims or any parts thereof.

***OPEB Claims***

62. The Monitor is working with Representative Counsel and the USW to determine the appropriate basis of the calculation of the OPEB claims. While there are 1,129 known individuals with such claims, the calculation methodology will be applied consistently across the group.
63. Representative Counsel and USW have engaged Segal Canada ("**Segal**") to provide actuarial support with respect to the OPEB claims. Representative Counsel and USW requested that the CCAA Parties fund the costs of Segal. The CCAA Parties, with the concurrence of the Monitor, made a proposal to the Representative Counsel and USW to which they responded on April 12, 2016. The CCAA Parties, in consultation with the Monitor, are considering the counter-proposal made.

### ***Late Claims***

64. 23 creditors filed proofs of claim asserting claims in the aggregate amount of approximately \$2.8 million after the Claims Bar Date of December 18, 2015 (collectively, the “**Late Claims**”), with the latest Late Claim being filed on March 7, 2016. The Monitor has been in contact with the parties that filed Late Claims to seek explanations as to why the Late Claims were filed after the Claims Bar Date.
65. The Monitor anticipates that a motion will be filed in the near future with respect to an amendment of the Claims Bar Date for some or all of the Late Claims.

### **D&O CLAIMS**

66. 53 D&O Claims were filed in the aggregate amount of approximately \$2.7 million. Of these, 37 D&O Claims in the aggregate amount of approximately \$1.6 million were subsequently confirmed as having been incorrectly filed as D&O Claims and have been re-characterized as Claims. The remaining 16 D&O Claims in the aggregate amount of approximately \$1.1 million were filed by employees in respect of vacation pay and termination amounts that are expected to be paid in due course consistent with the prior practice and disclosure of the CCAA Parties in the CCAA Proceedings. Assuming such amounts are paid, these D&O Claims would be disallowed and there would be no proven D&O Claims.

### **THE 2014 REORGANIZATION**

67. Paragraphs 44 and 45 of the Monitor’s Twelfth Report stated:

“44. The 2014 Reorganization was a complex, multi-stage corporate reorganization that had the effect of reducing inter-company indebtedness owed by CQIM to non-filing affiliates by approximately \$805.4 million from approximately \$5.6 billion to \$4.8 billion through the

transfer to non-filing affiliates of cash from the Australian subsidiaries of CQIM (the “Australian Subsidiaries”), the assignment of inter-company notes and the transfer of preferred and common shares in the Australian Subsidiaries held by CQIM.

45. The Monitor has requested that CNR provide various documents and other information with respect to the 2014 Reorganization and the inter-company indebtedness in order that the Monitor can undertake its review. To date, CNR has co-operated with the Monitor in respect of its review of the 2014 Reorganization and has provided documents and information in response to the Monitor’s original request. The Monitor has made additional requests for documents and information and CNR has informed the Monitor that it intends to provide additional information shortly.”

68. The Monitor has now received various additional documents and information relating to the 2014 Reorganization. The effect of the 2014 Reorganization on potential recoveries to creditors of CQIM can only be determined once the Claims against CQIM, including the Related Party Claims, are known. Accordingly, the Monitor is not yet in position to provide a detailed report on the 2014 Reorganization.

#### **THE FISHERIES SUMMONSES HEARING**

69. As described in the Monitor’s Fourteenth Report, the Fisheries Summonses were issued on October 28, 2015 and served on Newfoundland counsel to the Wabush CCAA Parties on November 5, 2015, and allege offences under the *Fisheries Act* as follows:

- (a) On or between May 14, 2015 and May 25, 2015, at or near the Town of Wabush, in the Province of Newfoundland and Labrador, following a deposit out of the normal course of events, at the final discharge point known as Knoll Lake, failed to conduct an acute lethality test without delay, in violation of paragraph 14(1)(b) of the *Metal Mining Effluent Regulations*, SOR/2002-222; and
- (b) On or about May 14, 2015 and continuing until May 25, 2015, at or near the Town of Wabush, in the Province of Newfoundland and Labrador, following the receipt of laboratory test results indicating that the limit for Total Suspended Solids in effluent set out in Schedule 4 of the *Metal Mining Effluent Regulations*, SOR/2002-222, had been exceeded, at the final discharge point known as Knoll Lake, failed to notify an inspector without delay, in violation of subsection 24(1) of the *Metal Mining Effluent Regulations*, SOR/2002-222.

70. Paragraph 32 of the Monitor's Fifteenth Report stated:

“32. The Fisheries Summonses Hearing took place by teleconference on December 17, 2015, before the Provincial Court in the Town of Wabush. The hearing was adjourned until February 25, 2016, in order to allow for written disclosures to be made by the Crown in respect of the alleged offences. No plea was required to be entered before the hearing resumes on February 25, 2016.”

71. The CCAA Parties have now entered a not guilty plea with respect to all of the charged entities and have received disclosure from the Crown. To date, no trial date has been set.

## **THE MFC LITIGATION**

72. As the Court is aware, there is a dispute between the Wabush CCAA Parties and MFC with respect to the amount of the quarterly Minimum Royalty Payment under the MFC Sub-Lease.
73. Pursuant to the Order of the Honourable Mr. Stephen Hamilton made December 4, 2015, the Wabush CCAA Parties made deposits of \$812,250 with the Monitor in December 2015 and January 2016 for amounts potentially payable in respect of the Minimum Royalty Payment. A further deposit of \$812,250 is scheduled to be made in April, 2016.

## **THE BEUMER LITIGATION**

74. On October 23, 2015, the CCAA Parties filed a motion (as amended from time to time, the "**Beumer Motion**") seeking the release of approximately US\$6.3 million (the "**Beumer Escrow Funds**") from an escrow agreement dated June 28, 2013 and entered into between Beumer Corporation ("**Beumer**"), Bloom Lake LP and BMO Trust Company (the "**Beumer Escrow Agreement**") in relation to certain disputed claims. The Beumer Escrow Agreement provides, as more fully set out therein, for the release of the Beumer Escrow Funds upon written agreement of the parties or upon a final and non-appealable court order or arbitration award directing delivery of the Beumer Escrow Funds.
75. In its contestation filed on December 17, 2015 (the "**Beumer Contestation**" and together with the Beumer Motion, the "**Beumer Litigation**"), Beumer responded by not only opposing the conclusions sought in the Beumer Motion, but also by seeking the release of the Beumer Escrow Funds to Beumer, despite the underlying claims of the parties being contested and not yet being finally adjudicated.

76. On December 18, 2015, Beumer filed a proof of claim in the Claims Procedure with respect to, *inter alia*, its underlying claim related to the Beumer Escrow Funds (the “**Beumer Claim**”), pursuant to the Claims Procedure Order. The Monitor’s review of the Beumer Claim is ongoing.
77. The hearing on the merits of the Beumer Litigation is scheduled for April 22, 2016. The dispute as to the merits and quantum of the parties’ underlying claims do not form part of the Beumer Litigation.
78. While the Monitor does not take a position with respect to the Bloom Lake CCAA Parties’ request for the release to them of the Beumer Escrow Funds as set out in the Beumer Motion, the Monitor will object to the release of the Beumer Escrow Funds to Beumer prior to the final adjudication of the Beumer Claim in accordance with the Claims Procedure Order.

**THE SIPA CLAIMS MOTION**

79. The SIPA Claims Motion seeks payment of the following amounts, in addition to interest and indemnity accruing thereon:

<b>CCAA Party</b>	<b>Agreement</b>	<b>Amount \$</b>
Wabush Mine <sup>1</sup>	Lease 474-46	10,902.78
CQIM	Lease 474-109	218,586.15
<b>Total Amount re Leases</b>		<b>229,488.93</b>
Wabush Mine <sup>1</sup>	MOA 1998	641,753.43
<b>Total Amount</b>		<b>871,242.36</b>

<sup>1</sup>Also claimed against WRI and WICL

80. No date is yet scheduled for a hearing on the SIPA Claims Motion. The Monitor will liaise with the parties to determine whether the SIPA Claims Motion can be consensually resolved and, if not, to attempt to agree a schedule for the motion.



### **THE USW EMOLUMENTS MOTION**

81. The USW Emoluments Motion seeks payments to the six bargaining unit employees that were working at the Pointe-Noire facility prior to the completion of the Pointe-Noire Transaction in lieu of normal cost pension contributions that would have been part of their compensation package but could not be made following the termination of the Wabush Pension Plans. The aggregate of the amounts in question is \$10,347.
82. The CCAA Parties and the USW, with the support of the Monitor, have agreed to settle the USW Emoluments Motion, which will be withdrawn or otherwise settled without costs and the amounts claimed will be paid by the CCAA Parties. The Monitor is in discussion with counsel to the USW with regard to logistical arrangements for the settlement.

### **ALLOCATION ISSUES**

83. As the Court is aware, the Bloom Lake AVO, the Pointe-Noire AVO and the Block Z AVO specifically provide that the transactions were approved without prejudice to the rights of creditors to object to the allocation of proceeds. Accordingly, prior to any distribution to creditors it will be necessary to obtain a final determination of the appropriate allocation of the proceeds of realizations among both the individual CCAA Parties and amongst various asset classes.
84. Furthermore, it will be necessary for an appropriate allocation of the costs of the CCAA Proceedings among both the individual CCAA Parties and amongst various asset classes to be determined.
85. The Monitor anticipates that a motion for such determinations can be brought once it is determined whether a sale of the Wabush Mine will proceed.

## **REQUEST FOR AN EXTENSION OF THE STAY PERIOD**

86. The Stay Period currently expires on April 22, 2016. Additional time is required for the CCAA and Parties and the Monitor to complete the CCAA Proceedings, including the following activities:
- (a) Determining whether a sale of the Wabush Mine can be negotiated;
  - (b) Completing the negotiation of definitive agreements for the sale of remaining assets, obtaining Court approval of such agreements and completing the transactions;
  - (c) Considering, and if appropriate, pursuing the proposed restructuring under the Restructuring Letter of Intent;
  - (d) Completing the Claims Procedure;
  - (e) Dealing with distributions to creditors, including the determination of the appropriate allocations of realizations and costs of the CCAA Proceedings amongst the estates and asset categories;
  - (f) Completing the investigation of the 2014 Reorganization and the effect thereof and determining what, if any, action should be taken with respect thereto; and
  - (g) Undertaking the other activities necessary to complete the CCAA Proceedings.
87. The continuation of the stay of proceedings is necessary to provide the stability needed to complete the foregoing activities. Accordingly, the CCAA Parties now seek an extension of the Stay Period to September 30, 2016.
88. The April 8 Forecast demonstrates that, subject to the underlying assumptions thereof, the CCAA Parties have sufficient liquidity to fund the CCAA Parties' operations and the CCAA Proceedings to September 30, 2016.

89. The CCAA Proceedings are complex and the activities and assets of the CCAA Parties are, to various extents, intertwined. The co-ordination of the various estates is, in the Monitor's view, critical to maximize efficiency and effectiveness. It is also the Monitor's view that a continuation of the CCAA Proceedings is, at the current time, the only realistic way that such co-ordination can be achieved and that the realization of assets for the benefit of all stakeholders can be completed.
90. Based on the information currently available, the Monitor believes that creditors of the CCAA Parties would not be materially prejudiced by an extension of the Stay Period to September 30, 2016.
91. The Monitor also believes that the CCAA Parties have acted, and are acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.
92. The Monitor therefore respectfully recommends that this Honourable Court grant the CCAA Parties' request for an extension of the Stay Period to September 30, 2016.

The Monitor respectfully submits to the Court this, its Nineteenth Report.

Dated this 13<sup>th</sup> day of April, 2016.

FTI Consulting Canada Inc.

In its capacity as Monitor of

Bloom Lake General Partner Limited, Quinto Mining Corporation,

8568391 Canada Limited, Cliffs Québec Iron Mining ULC,

Wabush Iron Co. Limited, Wabush Resources Inc.,

The Bloom Lake Iron Ore Mine Limited Partnership,

Bloom Lake Railway Company Limited, Wabush Mines,

Arnaud Railway Company and Wabush Lake Railway Company Limited



Nigel D. Meakin  
Senior Managing Director



Steven Bissell  
Managing Director

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# **Appendix A**

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## **The April 8 Forecast**

**Bloom Lake CCAA Parties Cash Flow Projection**

Amounts in CAD in thousands

Week Ending Friday	1-Apr-16	8-Apr-16	15-Apr-16	22-Apr-16	29-Apr-16	6-May-16	13-May-16	20-May-16	27-May-16	3-Jun-16	10-Jun-16	17-Jun-16	24-Jun-16	1-Jul-16	8-Jul-16	15-Jul-16	22-Jul-16	29-Jul-16	5-Aug-16	12-Aug-16	19-Aug-16	26-Aug-16	2-Sep-16	9-Sep-16	16-Sep-16	23-Sep-16	30-Sep-16	27-Week	
Forecast Week	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	Total	
<b>Cash Flow from Operations</b>																													
Receipts	-	-	115	-	115	-	-	-	115	-	-	-	-	58	-	-	-	-	-	-	-	-	-	-	-	-	-	-	403
Payroll & Employee Benefits	(339)	(5)	(424)	(5)	(76)	(5)	-	(5)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(859)
Termination & Severance	-	-	(463)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(463)
Utilities	(21)	-	(25)	(131)	-	(8)	-	(91)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(276)
Other Operating Disbursements	(348)	(170)	(102)	(128)	(81)	(73)	(6)	(6)	(18)	(48)	(6)	(6)	(6)	(48)	(6)	(6)	(6)	(48)	(6)	(6)	(6)	(6)	(48)	(6)	(6)	(6)	(48)	(6)	(1,250)
<b>Operating Cash Flows</b>	<b>(708)</b>	<b>(175)</b>	<b>(899)</b>	<b>(264)</b>	<b>(42)</b>	<b>(86)</b>	<b>(6)</b>	<b>(102)</b>	<b>97</b>	<b>(48)</b>	<b>(6)</b>	<b>(6)</b>	<b>(6)</b>	<b>10</b>	<b>(6)</b>	<b>(6)</b>	<b>(6)</b>	<b>(48)</b>	<b>(6)</b>	<b>(6)</b>	<b>(6)</b>	<b>(6)</b>	<b>(48)</b>	<b>(6)</b>	<b>(6)</b>	<b>(6)</b>	<b>(48)</b>	<b>(6)</b>	<b>(2,445)</b>
Restructuring Professional Fees	(43)	-	(168)	(54)	(1,802)	(178)	(51)	(51)	(51)	(51)	(49)	(49)	(49)	(49)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(47)	(3,256)
<b>Projected Net Cash Flow</b>	<b>(751)</b>	<b>(175)</b>	<b>(1,067)</b>	<b>(318)</b>	<b>(1,844)</b>	<b>(264)</b>	<b>(57)</b>	<b>(153)</b>	<b>46</b>	<b>(99)</b>	<b>(55)</b>	<b>(55)</b>	<b>(55)</b>	<b>(39)</b>	<b>(53)</b>	<b>(53)</b>	<b>(53)</b>	<b>(95)</b>	<b>(53)</b>	<b>(53)</b>	<b>(53)</b>	<b>(95)</b>	<b>(53)</b>	<b>(53)</b>	<b>(53)</b>	<b>(95)</b>	<b>(53)</b>	<b>(5,701)</b>	

**Notes:**

- [1] The purpose of this cash flow projection is to determine the liquidity requirements of the Bloom Lake CCAA Parties during the forecast period.
- [2] Forecast Receipts consist of monthly lease payments in respect of the Mount-Wright Camp Lease Agreement approved by the Court on March 30, 2015. Following the receipt of a termination notice, the lease is scheduled to terminate on June 15, 2016.
- [3] Forecast Payroll & Employee Benefits disbursements are based on actual payroll funding in the period leading up to the forecast period, and include accrued vacation payouts for Bloom Lake employees following the closing of the sale of the Bloom Lake business and assets.
- [4] Forecast Utilities disbursements consist primarily of hydro costs to maintain the Bloom Lake operations on care and maintenance mode, and reflect current payment terms, rates and estimated consumption over the forecast period.
- [5] Forecast Other Operating Disbursements reflect the wind-down, and placement on care and maintenance of Bloom Lake. The timing of Other Operating Disbursements are assumed to be on 30 day credit terms.
- [6] Forecast Restructuring Professional Fees consist of legal and financial advisor fees associated with the CCAA proceedings based on estimates obtained from legal and professional advisors.

**Wabush CCAA Parties Cash Flow Projection**

Amounts in CAD in thousands (\$000s)

Week Ending Friday	1-Apr-16	8-Apr-16	15-Apr-16	22-Apr-16	29-Apr-16	6-May-16	13-May-16	20-May-16	27-May-16	3-Jun-16	10-Jun-16	17-Jun-16	24-Jun-16	1-Jul-16	8-Jul-16	15-Jul-16	22-Jul-16	29-Jul-16	5-Aug-16	12-Aug-16	19-Aug-16	26-Aug-16	2-Sep-16	9-Sep-16	16-Sep-16	23-Sep-16	30-Sep-16	27-Week		
Forecast Week	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	Total		
<b>Cash Flow from Operations</b>																														
Receipts	-	14	-	14	-	-	14	-	14	-	14	-	14	-	14	-	14	-	-	14	-	14	-	14	-	14	-	14	-	173
Payroll & Employee Benefits	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	-	(23)	(321)
Termination & Severance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Contractors	(27)	(80)	(22)	(14)	(22)	(11)	(22)	(14)	(22)	(11)	(22)	(14)	(472)	(8)	(19)	(11)	(19)	(458)	(19)	(11)	(19)	(459)	(20)	(9)	(20)	(459)	(9)	(9)	(2,285)	
Utilities	(154)	(8)	-	-	(36)	-	(4)	-	(4)	(30)	(2)	-	(2)	(30)	(2)	(5)	(2)	(30)	-	(3)	-	(33)	-	-	-	(33)	-	(4)	(377)	
Other Operating Disbursements	(24)	(53)	(15)	(826)	(24)	(12)	(25)	(14)	(4)	(12)	(4)	(15)	(4)	(12)	(4)	(15)	(816)	(4)	(12)	(14)	(5)	(4)	(12)	(4)	(15)	(4)	(4)	(1,952)		
<b>Operating Cash Flows</b>	<b>(228)</b>	<b>(126)</b>	<b>(59)</b>	<b>(825)</b>	<b>(104)</b>	<b>(23)</b>	<b>(58)</b>	<b>(28)</b>	<b>(37)</b>	<b>(53)</b>	<b>(36)</b>	<b>(28)</b>	<b>(486)</b>	<b>(50)</b>	<b>(33)</b>	<b>(30)</b>	<b>(845)</b>	<b>(492)</b>	<b>(53)</b>	<b>(13)</b>	<b>(46)</b>	<b>(482)</b>	<b>(54)</b>	<b>1</b>	<b>(57)</b>	<b>(482)</b>	<b>(36)</b>	<b>(4,761)</b>		
Restructuring Professional Fees	(177)	-	(59)	(192)	(481)	(337)	(129)	(114)	(124)	(114)	(114)	(99)	(99)	(99)	(97)	(92)	(92)	(92)	(97)	(92)	(92)	(92)	(97)	(92)	(92)	(92)	(97)	(97)	(3,351)	
<b>Projected Net Cash Flow</b>	<b>(405)</b>	<b>(126)</b>	<b>(118)</b>	<b>(1,017)</b>	<b>(585)</b>	<b>(359)</b>	<b>(187)</b>	<b>(141)</b>	<b>(161)</b>	<b>(166)</b>	<b>(150)</b>	<b>(127)</b>	<b>(585)</b>	<b>(148)</b>	<b>(130)</b>	<b>(122)</b>	<b>(937)</b>	<b>(584)</b>	<b>(150)</b>	<b>(105)</b>	<b>(138)</b>	<b>(574)</b>	<b>(151)</b>	<b>(91)</b>	<b>(149)</b>	<b>(574)</b>	<b>(133)</b>	<b>(8,113)</b>		

**Notes:**

- [1] The purpose of this cash flow projection is to determine the liquidity requirements of the Wabush CCAA Parties during the forecast period.
- [2] Forecast receipts include recurring mortgage payments associated with certain residential properties in Wabush owned by Wabush Mines, combined with the receipt of storage fees from an affiliated party in April and May.
- [3] Forecast Payroll & Employee Benefits disbursements are forecast based on current staffing levels and recent payroll amounts, and do not include any payments in respect of post-employment benefits.
- [4] Forecast disbursements in respect of Contractors consist primarily of environmental monitoring and containment activities related to the Scully mine, and are assumed to be paid when services are rendered.
- [5] Forecast Utilities disbursements consist primarily of hydro costs to maintain the Scully Mine facilities and reflect current payment terms, rates and estimated consumption over the forecast period.
- [6] Forecast Other Operating Disbursements reflect costs of on-going monitoring and maintenance of the Scully Mine facilities not reflected in other line items. The timing of Other Operating Disbursements is assumed to be cash on delivery.
- [7] Forecast Restructuring Professional Fees consist of legal and financial advisor fees associated with the CCAA proceedings.
- [8] Forecast amounts denominated in U.S. dollars are converted to Canadian dollars at the rate of USD 0.76/CAD.

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
Commercial Division

File: No: 500-11-048114-157

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

**BLOOM LAKE GENERAL PARTNER  
LIMITED, QUINTO MINING  
CORPORATION, 8568391 CANADA  
LIMITED, CLIFFS QUÉBEC IRON  
MINING ULC, WABUSH IRON CO.  
LIMITED AND WABUSH RESOURCES  
INC.**

Petitioners

- and -

**THE BLOOM LAKE IRON ORE MINE  
LIMITED PARTNERSHIP, BLOOM LAKE  
RAILWAY COMPANY LIMITED,  
WABUSH MINES, ARNAUD RAILWAY  
COMPANY AND WABUSH LAKE  
RAILWAY COMPANY LIMITED**

Mises-en-cause

- and -

**FTI CONSULTING CANADA INC.**

Monitor

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**TWENTY-FIRST REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

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## INTRODUCTION

1. On January 27, 2015, Bloom Lake General Partner Limited (“**Bloom Lake GP**”), Quinto Mining Corporation, 8568391 Canada Limited and Cliffs Québec Iron Mining ULC (“**CQIM**”) (collectively, the “**Bloom Lake Petitioners**”) sought and obtained an initial order (as amended, restated or rectified from time to time, the “**Bloom Lake Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) from the Superior Court of Québec (the “**Court**”), providing for, *inter alia*, a stay of proceedings against the Bloom Lake Petitioners until February 26, 2015, (the “**Bloom Lake Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The relief granted in the Bloom Lake Initial Order was also extended to The Bloom Lake Iron Ore Mine Limited Partnership (“**Bloom Lake LP**”) and Bloom Lake Railway Company Limited (together with Bloom Lake LP, the “**Bloom Lake Mises-en-Cause**” and together with the Bloom Lake Petitioners, the “**Bloom Lake CCAA Parties**”). The proceedings commenced under the CCAA by the Bloom Lake CCAA Parties will be referred to herein as the “**CCAA Proceedings**”.
2. On May 20, 2015, the CCAA Proceedings were extended to include Wabush Iron Co. Limited (“**WICL**”), Wabush Resources Inc. (“**WRI**” and together with WICL, the “**Wabush Petitioners**”), Wabush Mines, Arnaud Railway Company (“**Arnaud**”) and Wabush Lake Railway Company Limited (collectively the “**Wabush Mises-en-Cause**” and together with the Wabush Petitioners, the “**Wabush CCAA Parties**”) pursuant to an initial order (as amended, restated or rectified from time to time, the “**Wabush Initial Order**”) providing for, *inter alia*, a stay of proceedings against the Wabush CCAA Parties until June 19, 2015, (the “**Wabush Stay Period**”). The Bloom Lake CCAA Parties and the Wabush CCAA Parties will be referred to collectively herein as the “**CCAA Parties**”.

3. The Bloom Lake Stay Period and the Wabush Stay Period (together, the “**Stay Period**”) have been extended from time to time and currently expire on September 30, 2016.
4. On April 17, 2015, Mr. Justice Hamilton J.S.C. granted an Order approving, as it relates to the Bloom Lake CCAA Parties, a sale and investor solicitation process (as may be amended from time to time, the “**SISP**”) involving the business and assets of the Bloom Lake CCAA Parties. The SISP was subsequently amended and restated to reflect the inclusion of the Wabush CCAA Parties in the CCAA Proceedings and was approved *nunc pro tunc* as it relates to the Wabush CCAA Parties pursuant to an Order granted June 9, 2015 (together with the April 17, 2015 Order, the “**SISP Order**”).
5. To date, the Monitor has filed twenty reports in respect of various aspects of the CCAA Proceedings. The purpose of this, the Monitor’s Twenty-First Report (this “**Report**”), is to provide information to the Court with respect to:
  - (a) The request by WRI and WICL for the approval and vesting order (the “**Toromont Generators AVO**”) contemplated in the agreement dated as of June 30, 2016 (the “**Toromont Generators APA**”) by and between WRI and WICL, as vendors respectively, and Toromont Industries Ltd. as purchaser (“**Toromont**”), pursuant to which Toromont will acquire WRI’s and WICL’s right, title and interest in 3 generators (the “**Toromont Generators Transaction**”) and to provide the Monitor’s recommendation thereon.

## **TERMS OF REFERENCE**

6. In preparing this Report, the Monitor has relied upon unaudited financial information of the CCAA Parties, the CCAA Parties’ books and records, certain financial information prepared by the CCAA Parties and discussions with various parties (the “**Information**”).

7. Except as described in this Report:
  - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
  - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
8. The Monitor has prepared this Report in connection with the Motion for the granting of the Toromont Generators AVO, scheduled to be heard on July 20, 2016 (the “**Toromont Generators Hearing**”). The Report should not be relied on for other purposes.
9. Future oriented financial information reported or relied on in preparing this Report is based on management’s assumptions regarding future events; actual results may vary from forecast and such variations may be material.
10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the Bloom Lake Initial Order, the Wabush Initial Order or previous reports of the Monitor.

## **EXECUTIVE SUMMARY**

11. Capitalized terms used in the Executive Summary are as defined in the relevant section of the Report.
12. The Monitor is of the view that:

- (a) The marketing process that resulted in the execution of the Toromont Generators APA was fair and reasonable in the circumstances;
  - (b) The Toromont Generators Transaction is the highest and best transaction resulting from the marketing of the Purchased Assets and the consideration appears to be fair and reasonable in the circumstances;
  - (c) The approval of the Toromont Generators Transaction is in the best interests of and WRI's and WICL's stakeholders generally.
13. Accordingly, the Monitor supports WRI's and WICL's request for approval of the Toromont Generators Transaction and the granting of the Toromont Generators AVO.

#### **REQUEST FOR THE TOROMONT GENERATORS AVO**

14. Capitalized terms used in this section of this Report not otherwise defined are as defined in the Toromont Generators APA, a copy of which is attached hereto as **Appendix A**.

#### **THE TOROMONT GENERATORS APA**

15. Pursuant to the Toromont Generators APA, Toromont will purchase 3 generators owned by WRI and WICL related to the Wabush Mine for \$425,000 (the "**Purchase Price**"). In addition to the Purchase Price, Toromont will pay all applicable transfer taxes.
16. Pursuant to the Asset Purchase Agreement, the Purchaser paid a deposit of \$21,250 on July 4, 2016.

17. The Purchased Assets are stored on the Wabush Scully Mine site and are being purchased on an “as is, where is basis.” Pursuant to the Toromont Generators APA, on Closing Toromont shall remove the Purchased Assets from the Wabush Scully Mine site within 10 business days after the Closing Date.
18. The obligation of Toromont to complete the Toromont Generators Transaction is subject to the following conditions being fulfilled or waived by Toromont:
  - (a) The Toromont Generators AVO shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed;
  - (b) WRI and WICL shall have executed and delivered or caused to have been executed and delivered to Toromont at Closing all the documents contemplated in Section 7.2 of the Toromont Generators APA;
  - (c) During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of:
    - (i) Making any of the transactions contemplated by the Toromont Generators APA illegal; or
    - (ii) Otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by the Toromont Generators APA.
  - (d) Each of the representations and warranties contained in Section 4.2 of the Toromont Generators APA shall be true and correct in all material respects:
    - (i) As of the Closing Date as if made on and as of such date; or
    - (ii) If made as of a date specified therein, as of such date; and

- (e) WRI and WICL shall have performed in all material respects all covenants, obligations and agreements contained in the Toromont Generators APA required to be performed by WRI and WICL on or before the Closing.
19. The obligation of WRI and WICL to complete the Toromont Generators Transaction is subject to the following conditions being fulfilled or waived by WRI and WICL:
- (a) The Toromont Generators AVO shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed;
  - (b) Toromont shall have executed and delivered or caused to have been executed and delivered to WRI and WICL at Closing all the documents and payments contemplated in Section 7.3 of the Toromont Generators APA;
  - (c) During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of:
    - (i) Making any of the transactions contemplated by the Toromont Generators APA illegal;
    - (ii) Otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by the Toromont Generators APA;
  - (d) Each of the representations and warranties contained in Section 4.1 of the Toromont Generators APA shall be true and correct in all material respects:
    - (i) As of the Closing Date as if made on and as of such date; or

- (ii) If made as of a date specified therein, as of such date; and
  - (e) Toromont shall have performed in all material respects all covenants, obligations and agreements contained in the Toromont Generators APA required to be performed by Toromont on or before the Closing.
20. The Toromont Generators APA may be terminated on or prior to the Closing Date as set out in section 9.1 of the Toromont Generators APA:
- (a) By mutual written agreement of WRI and WICL and Toromont, and, if following the approval of the Sale Transaction by the Court, with the consent of the Monitor, or approval of the Court;
  - (b) By written notice from Toromont if before Closing all, or substantially all, of the Purchased Assets are subject to a Casualty;
  - (c) By either Toromont or WRI and WICL if:
    - (i) The Toromont Generators AVO has not been obtained by August 31, 2016, or such later date as the Parties may agree; or
    - (ii) The Court declines to grant the Toromont Generators AVO for reasons other than a breach of the Toromont Generators APA by WRI and WICL or Toromont, as applicable;
  - (d) By Toromont if there has been a material breach by WRI and WICL of any representation, warranty or covenant in the Toromont Generators APA that has not been waived by Toromont, and:
    - (i) Such breach is not curable and has rendered the satisfaction of any condition in section 8.1 of the Toromont Generators APA impossible by the Outside Date; or

- (ii) If such breach is curable, but has not been cured within ten (10) days following the date upon which WRI and WICL received notice of the breach;
- (e) By Toromont, or WRI and WICL if Closing has not occurred by the Outside Date, being five (5) Business Days following receipt of the Approval and Vesting Order, and the failure to close is not caused by Toromont's or WRI's and WICL's breach of the Toromont Generators APA, respectively; or
- (f) By WRI and WICL if there has been a material breach by Toromont of any representation, warranty or covenant in the Toromont Generators APA that has not been waived by WRI and WICL, and:
  - (i) Such breach is not curable and has rendered the satisfaction of any condition in section 8.2 impossible by the Outside Date; or
  - (ii) If such breach is curable, but has not been cured within ten (10) days following the date upon which Toromont received notice of the breach.

#### **THE MONITOR'S COMMENTS AND RECOMMENDATION**

21. Section 36(1) of the CCAA states:

**“36(1) Restriction on disposition of business assets -** A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or



provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.”

22. Section 36(3) of the CCAA states:

“(3) **Factors to be considered** - In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.”

***Reasonableness of the Process Leading to the Proposed Sale***

23. The Purchased Assets were made available for sale in the SISF and during a parallel process where the Monitor sought liquidation proposals for the CCAA Parties’ assets and inventories. No offers were received that stated a purchase price for the Purchased Assets higher than that provided for in the Toromont Generators APA.

24. The Monitor is of the view that it was widely known that the Purchased Assets were available for sale, and that the process that resulted in the execution of the Toromont Generators APA was fair and reasonable in the circumstances.

***Monitor's Approval of the Process***

25. The Monitor approved the process that led to the execution of the Toromont Generators APA and was actively involved in the execution thereof.

***Comparison with Sale in Bankruptcy***

26. The Monitor has considered whether the Toromont Generators Transaction would be more beneficial and the creditors of WRI and WICL generally than a sale or disposition of the Purchased Assets under a bankruptcy.
27. Given the SISP, the offers received and the liquidation alternatives available, the options available for sale or disposition of the Purchased Assets are the same regardless of whether such sale or disposition is carried out in the CCAA Proceedings or in a bankruptcy.
28. As discussed later in this Report, the Monitor is satisfied that the Purchase Price contemplated in the Toromont Generators APA is fair and reasonable in the circumstances and that the approval and completion of the Toromont Generators Transaction is in the best interests of and of WRI's and WICL's stakeholders generally.
29. It is the Monitor's view that the process to obtain the Toromont Generators AVO, which is a condition of the Toromont Generators APA, and close the Toromont Generators Transaction would be the same in both the CCAA Proceedings and a bankruptcy and that the costs associated with obtaining the AVO and closing the Toromont Generators Transaction would be essentially the same whether the sale was completed in the CCAA Proceedings or a bankruptcy.

30. The Monitor also notes that a sale in bankruptcy would delay the approval and closing of the Toromont Generators Transaction as it would be necessary to first assign WRI and WICL into bankruptcy or obtain a Bankruptcy Order, convene a meeting of creditors, appoint inspectors and obtain the approval of the inspectors for the Toromont Generators Transaction.
31. Accordingly, it is the Monitor's view that a sale or disposition of the Purchased Assets in a bankruptcy would not be more beneficial than the closing of the Toromont Generators Transaction in the CCAA Proceedings.

***Consultation with Creditors***

32. Paragraph 55 of the Monitor's Nineteenth Report stated:

“55. The Monitor's Counsel has provided an independent opinion on the validity and enforceability of the CMC Security (the “**CMC Security Opinion**”). In summary, the CMC Security Opinion, subject to the qualifications and assumptions set out therein, opines that the CMC Security is valid and legally enforceable against the applicable Wabush CCAA Parties and their creditors. The Monitor has not completed its review of the quantum of the CMC Secured Claim which was filed in the amount of approximately \$8.9 million against each of WRI and WICL.”

33. However, the CMC Security Opinion opines that the CMC Security, which purports to secure all “equipment”, is currently only perfected against those assets specifically scheduled in the relevant documents relating to the CMC Security. Accordingly, while the CMC Security in respect of the Purchased Assets is enforceable against the Wabush CCAA Parties, it is not enforceable against the third parties unless and until perfected. The Monitor has informed CMC of the findings of the CMC Security Opinion and CMC is considering its position with respect thereto and has informed the Monitor that it reserves its rights to take such steps as may be necessary to perfect its security interest.
34. Regardless, CMC has informed the Monitor that it consents to the Toromont Generators Transaction.
35. The Monitor is of the view that the degree of creditor consultation was appropriate in the circumstances. The Monitor does not consider that any material change in the outcome of efforts to sell the Purchased Assets would have resulted from additional creditor consultation.

***The Effect of the Proposed Sale on Creditors and Other Interested Parties***

36. Pursuant to the proposed form of the Toromont Generators AVO, the proceeds of sale will stand in the stead of the Purchased Assets and be held by the Monitor pending further Order of the Court. Accordingly, it is the Monitor’s view that no stakeholder would be adversely affected by the Toromont Generators Transaction.

***Fairness of Consideration***

37. No offer for the Purchased Assets has been received that specifies a purchase price superior to that specified in the Toromont Generators APA. Based on the results of the sale efforts, the Monitor is of the view that the Purchase Price is fair and reasonable in the circumstances.

***Monitor's Recommendation***

38. The Toromont Generators Transaction is the highest and best transaction resulting from the marketing of the Purchased Assets and the consideration appears to be fair and reasonable in the circumstances. There is no evidence to suggest that viable alternatives exist that would deliver a better recovery from the Purchased Assets for the creditors of WRI's and WICL's estates, respectively.
39. Accordingly, and based on the foregoing, the Monitor is of the view that the approval of the Toromont Generators Transaction is in the best interests of WRI's and WICL's stakeholders generally and the Monitor supports WRI's and WICL's request for approval of the Toromont Generators Transaction and the granting of the Toromont Generators AVO.

The Monitor respectfully submits to the Court this, its Twenty-First Report.

Dated this 14<sup>th</sup> day of July, 2016.

FTI Consulting Canada Inc.  
In its capacity as Monitor of  
Bloom Lake General Partner Limited, Quinto Mining Corporation,  
8568391 Canada Limited, Cliffs Québec Iron Mining ULC,  
Wabush Iron Co. Limited, Wabush Resources Inc.,  
The Bloom Lake Iron Ore Mine Limited Partnership,  
Bloom Lake Railway Company Limited, Wabush Mines,  
Arnaud Railway Company and Wabush Lake Railway Company Limited



Nigel D. Meakin  
Senior Managing Director

Steven Bissell  
Managing Director

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# **Appendix A**

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## **The Toromont Generators APA**

**WABUSH RESOURCES INC.**

**- and -**

**WABUSH IRON CO. LIMITED**

**- and -**

**TOROMONT INDUSTRIES LTD.**

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**ASSET PURCHASE AGREEMENT**

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**DATED AS OF JUNE 30, 2016**

## TABLE OF CONTENTS

Page

### ARTICLE 1 INTERPRETATION

1.1	Definitions .....	2
1.2	Actions on Non-Business Days .....	7
1.3	Currency and Payment Obligations .....	7
1.4	Calculation of Time.....	7
1.5	Tender.....	7
1.6	Additional Rules of Interpretation.....	7
1.7	Schedules .....	8

### ARTICLE 2 PURCHASE OF ASSETS

2.1	Purchase and Sale of Purchased Assets.....	8
-----	--	---

### ARTICLE 3 PURCHASE PRICE & TAXES

3.1	Purchase Price .....	8
3.2	Satisfaction of Purchase Price .....	8
3.3	Taxes .....	9
3.4	Section 116 of <i>ITA</i> .....	9
3.5	Allocation of Purchase Price.....	10

### ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1	Representations and Warranties of the Purchaser .....	10
4.2	Representations and Warranties of the Vendors .....	11
4.3	As is, Where is .....	12

### ARTICLE 5 ACCESS AND REMOVAL

5.1	Access .....	13
5.2	Removal of Purchased Assets.....	14
5.3	Care and Maintenance .....	15
5.4	Compliance with Laws.....	15
5.5	Restoration.....	15
5.6	Insurance .....	15

### ARTICLE 6 COVENANTS

6.1	Target Closing Date .....	16
6.2	Motion for Approval and Vesting Order.....	16



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
6.3 Risk of Loss.....	16
6.4 Release.....	16
6.5 Trademarked and Branded Assets .....	16
6.6 Indemnity.....	17
 <b>ARTICLE 7</b> <b>CLOSING ARRANGEMENTS</b> 	
7.1 Closing .....	17
7.2 Vendors' Closing Deliveries.....	17
7.3 Purchaser's Closing Deliveries .....	18
 <b>ARTICLE 8</b> <b>CONDITIONS OF CLOSING</b> 	
8.1 Purchaser's Conditions.....	18
8.2 Vendor's Conditions .....	19
8.3 Monitor's Certificate.....	20
 <b>ARTICLE 9</b> <b>TERMINATION</b> 	
9.1 Grounds for Termination.....	20
9.2 Effect of Termination .....	21
9.3 Treatment of Deposit.....	21
 <b>ARTICLE 10</b> <b>GENERAL</b> 	
10.1 Survival .....	22
10.2 Expenses .....	22
10.3 Public Announcements.....	22
10.4 Notices .....	23
10.5 Time of Essence.....	24
10.6 Further Assurances .....	24
10.7 Entire Agreement .....	24
10.8 Amendment.....	24
10.9 Waiver.....	24
10.10 Severability.....	24
10.11 Remedies Cumulative .....	25
10.12 Governing Law .....	25
10.13 Dispute Resolution .....	25
10.14 Attornment.....	25

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
10.15 Successors and Assigns .....	25
10.16 Assignment .....	25
10.17 Monitor's Capacity .....	25
10.18 Third Party Beneficiaries .....	25
10.19 Counterparts .....	25

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement dated as of June 30, 2016 is made by and between:

### WABUSH RESOURCES INC.

(“Wabush Resources”)

- and -

### WABUSH IRON CO. LIMITED

(“Wabush Iron” and together with Wabush Resources, the “Vendors”)

- and -

### TOROMONT INDUSTRIES LTD.

(the “Purchaser”)

#### RECITALS:

A. By an Order of the Québec Superior Court (Commercial Division) (the “**Court**”) dated May 20, 2015 (as amended, restated or rectified from time to time, the “**Wabush Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) in the proceedings bearing Court File No. 500-11-048114-157 (the “**CCAA Proceedings**”), Wabush Iron Co. Limited, Wabush Resources Inc., Arnaud Railway Company, Wabush Lake Railway Company Limited and Wabush Mines (collectively, the “**Wabush CCAA Parties**”) were added to the CCAA Proceedings and obtained protection from their creditors under the CCAA, and FTI Consulting Canada Inc. was appointed as monitor in the CCAA Proceedings (in such capacity and not in its personal or corporate capacity, the “**Monitor**”).

B. Pursuant to Orders of the Court dated April 17, 2015 and June 9, 2015 (as each may be amended, restated, supplemented or modified from time to time, the “**SISP Orders**”), the Vendors were authorized to conduct the sale and investor solicitation process for the property and business of, among others, each of the Vendors, in accordance with the sale and investor solicitation procedures approved by the Court in the SISP Orders (the “**SISP**”).

C. The Vendors, among others, used to operate the business of the iron ore mine and processing facility located north of the Town of Wabush in Newfoundland and Labrador, known as the Wabush Mine or the Scully Mine (the “**Scully Mine**”).

D. The Vendors desire to sell, transfer and assign to the Purchaser, and the Purchaser desires to acquire and assume from the Vendors, all of the Vendors’ right, title and interest in and to the Purchased Assets, on the terms and subject to the conditions contained in this Agreement.

E. The transactions contemplated by this Agreement are subject to the approval of the Court and will be consummated pursuant to the Approval and Vesting Order to be entered by the Court in the CCAA Proceedings.

**NOW THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions.** In this Agreement:

**“116(5.2) Property”** means such portion of the Purchased Assets owned by Wabush Iron that consists of property that is described in subsection 116(5.2) of the *ITA*.

**“Action”** means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity and by or before a Governmental Authority.

**“Affiliate”** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to **“control”** another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term **“controlled”** shall have a similar meaning.

**“Agreement”** means this Asset Purchase Agreement and all the Schedules attached hereto, as they may be amended, restated or supplemented from time to time in accordance with the terms hereof.

**“Applicable Law”** means, with respect to any Person, property, transaction, event or other matter, (a) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order or other requirement having the force of law, (b) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively, in the foregoing clauses (a) and (b), **“Law”**), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

**“Approval and Vesting Order”** means an order of the Court issued in the CCAA Proceedings, substantially in the form of Schedule “A”, approving the transactions contemplated by this Agreement and vesting in the Purchaser all of the Vendors’ right, title and interest in and to the Purchased Assets free and clear of all Encumbrances.

**“Bill of Sale”** means a bill of sale, in form and substance satisfactory to the Parties, acting reasonably, evidencing the sale to the Purchaser of all of the Vendors’ right, title and interest in and to the Purchased Assets.

**“Business Day”** means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Montréal, Québec, the City of Toronto,

Ontario, the City of St. John's, Newfoundland and Labrador, or the City of Cleveland, Ohio.

**"CCAA"** has the meaning set out in Recital A.

**"CCAA Parties"** means collectively the Wabush CCAA Parties and such other Affiliates of the Wabush CCAA Parties who are parties to the CCAA proceedings from time to time.

**"CCAA Proceedings"** has the meaning set out in Recital A.

**"Certificate of Compliance"** has the meaning set out in Section 3.4(1).

**"Closing"** means the completion of the purchase and sale of the Vendors' right, title and interest in and to the Purchased Assets by the Purchaser in accordance with the provisions of this Agreement.

**"Closing Date"** means the date on which Closing occurs, which date shall be the Target Closing Date or such other date as may be agreed to in writing by the Parties.

**"Closing Time"** has the meaning set out in Section 7.1.

**"Conditions Certificates"** has the meaning set out in Section 8.3.

**"Court"** has the meaning set out in Recital A.

**"CRA"** means the Canada Revenue Agency or any successor agency.

**"Damages"** means any loss, cost, liability, claim, interest, fine, penalty, assessment, Taxes, damages available at law or in equity (including incidental, consequential, special, aggravated, exemplary or punitive damages), expense (including consultant's and expert's fees and expenses and reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation, defence or settlement) or diminution in value.

**"Deposit"** has the meaning set out in Section 3.2(1).

**"Encumbrances"** means all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, liens, security interests, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights), encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

**"Equipment"** means the three (3) Caterpillar XQ2000 generator sets located at the Scully Mine as further described in Schedule "B".

**"Environmental Law"** means any Applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the

investigation or cleanup thereof), the management or protection of natural resources, endangered or threatened species, human health or safety, or the protection or quality of the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials.

**“Governmental Authority”** means:

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);
- (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
- (c) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association.

**“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

**“GST/HST”** means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada).

**“Hazardous Materials”** means (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral, gas, odour, heat, sound, vibration, radiation or combination of them that may impair the natural environment, injure or damage property or animal life or harm or impair the health of any individual and includes any contaminant, waste or substance or material defined, prohibited, regulated or reportable pursuant to any Environmental Law in each case, whether naturally occurring or manmade; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

**“Interim Period”** means the period from the date that this Agreement is entered into by the Parties to the Closing Time.

**“ITA”** means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supplement).

**“Law”** has the meaning set out in the definition of **“Applicable Law”**.

**“Legal Proceeding”** means any litigation, Action, application, suit, investigation, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review.

**“Liability”** means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

**“Monitor”** has the meaning set out in Recital A.

**“Monitor’s Certificate”** means the certificate, substantially in the form attached as Schedule “A” to the Approval and Vesting Order, to be delivered by the Monitor to the Vendors and the Purchaser on Closing and thereafter filed by the Monitor with the Court certifying that it has received the Conditions Certificates.

**“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

**“Outside Date”** means five (5) Business Days following receipt of the Approval and Vesting Order, or such other date as the Parties may agree.

**“Party”** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **“Parties”** means more than one of them.

**“Person”** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

**“Proprietary Marks”** has the meaning set out in Section 6.5.

**“Purchase Price”** has the meaning set out in Section 3.1.

**“Purchased Assets”** means the right, title and interest of the Vendors in the Equipment.

**“Purchaser”** has the meaning set out in the preamble hereto, and includes any successor or permitted assignee thereof in accordance with Section 10.16.

**“Representative”** when used with respect to a Person means each director, officer, employee, consultant, subcontractor, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

**“Removal Activities”** has the meaning set out in Section 5.1(1).

**“Removal Deadline”** means 5:00 p.m. (Newfoundland & Labrador time) on the date that is ten (10) Business Days after the Closing Date or such later date and/or other time as the Parties may agree in writing.

“**Sale Advisor**” means Moelis & Company LLC.

“**Scully Mine**” has the meaning set out in Recital C.

“**SISP**” has the meaning set out in Recital B.

“**SISP Orders**” has the meaning set out in Recital B.

“**SISP Team**” means the CCAA Parties, the Sale Advisor and the Monitor.

“**Target Closing Date**” means three (3) Business Days following receipt of the Approval and Vesting Order, or such other date as the Parties may agree.

“**Taxes**” means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, social security premiums, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties.

“**Tax Returns**” means all returns, reports, declarations, elections, notices, filings, information returns, and statements in respect of Taxes that are required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

“**Transfer Taxes**” means all applicable Taxes, including where applicable, GST/HST, payable upon or in connection with the transactions contemplated by this Agreement and any filing, registration, recording or transfer fees payable in connection with the instruments of transfer provided for in this Agreement.

“**Vendors**” has the meaning set out in the preamble hereto.

“**Wabush CCAA Parties**” has the meaning set out in Recital A.

“**Wabush Initial Order**” has the meaning set out in Recital A.

“**Wabush Iron**” has the meaning set out in the preamble hereto.

“**Wabush Mines**” means an unincorporated contractual joint venture called “Wabush Mines” pursuant to which Wabush Resources and Wabush Iron have, respectively, undivided 73.17% and 26.83% co-ownership interests in the underlying assets and liabilities of the joint venture.

“**Wabush Resources**” has the meaning set out in the preamble hereto.



**1.2 Actions on Non-Business Days.** If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

**1.3 Currency and Payment Obligations.** Except as otherwise expressly provided in this Agreement: (a) all dollar amounts referred to in this Agreement are stated in the lawful currency of Canada; and (b) any payment contemplated by this Agreement shall be made by wire transfer of immediately available funds to an account of the Monitor specified by the payee, by cash, by certified cheque or by any other method that provides immediately available funds as agreed to between the Parties, with the consent of the Monitor.

**1.4 Calculation of Time.** In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Eastern on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Eastern on the next succeeding Business Day.

**1.5 Tender.** Any tender of documents or money hereunder may be made upon the Parties or, if so indicated, the Monitor, or their respective counsel.

**1.6 Additional Rules of Interpretation.**

- (1) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.
- (2) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.
- (3) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, and Schedules to this Agreement.
- (4) *Words of Inclusion.* Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.
- (5) *References to this Agreement.* The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.
- (6) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted,

consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

- (7) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules attached thereto.

**1.7 Schedules.** The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

**SCHEDULES**

<u>Schedule "A"</u>	Form of Approval and Vesting Order
<u>Schedule "B"</u>	Purchased Assets

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Schedules and the interpretation provisions set out in this Agreement apply to the Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

**ARTICLE 2  
PURCHASE OF ASSETS**

**2.1 Purchase and Sale of Purchased Assets.** At the Closing Time, on and subject to the terms and conditions of this Agreement and the Approval and Vesting Order, the Vendors shall sell to the Purchaser, and the Purchaser shall purchase from the Vendors, all of the Vendors' right, title and interest in and to the Purchased Assets, which shall be free and clear of all Encumbrances, to the extent and as provided for in the Approval and Vesting Order.

**ARTICLE 3  
PURCHASE PRICE & TAXES**

**3.1 Purchase Price.** The consideration payable by the Purchaser to the Vendors for the Vendors' right, title and interest in and to the Purchased Assets shall be \$425,000.00 (the "**Purchase Price**").

**3.2 Satisfaction of Purchase Price.** The Purchase Price shall be paid and satisfied as follows:

- (1) the deposit in the amount of \$21,250.00 which shall be paid by the Purchaser to the Monitor in trust on behalf of the Vendors within three (3) Business Days of the date of this Agreement (the "**Deposit**") shall be applied against the Purchase Price on Closing. The Purchaser agrees that notwithstanding the terms of the SISF, it waives any accrued interest earned on the Deposit from the date the Deposit was remitted to the Monitor until the Closing Date; and

- (2) the balance of the Purchase Price, after crediting the Deposit in Section 3.2(1) above, shall be paid by the Purchaser to the Monitor on Closing.

**3.3 Taxes.** In addition to the Purchase Price, the Purchaser shall be liable for and shall, at Closing, pay all applicable Transfer Taxes.

**3.4 Section 116 of *ITA*.**

- (1) Wabush Iron shall take all reasonable steps to obtain and deliver to the Purchaser on or before Closing a certificate of compliance issued by the Minister of National Revenue (Canada) under subsection 116(5.2) of the *ITA* in respect of its disposition of the 116(5.2) Property. A certificate issued by the Minister of National Revenue (Canada) under subsection 116(5.2) of the *ITA* in respect of the 116(5.2) Property is hereinafter referred to as a “**Certificate of Compliance**”.
- (2) If a Certificate of Compliance in respect of the 116(5.2) Property is delivered to the Purchaser on or before the Closing, Purchaser shall be entitled to withhold from the portion of the Purchase Price allocable to the 116(5.2) Property and payable to Wabush Iron at Closing fifty percent (50%) of the amount, if any, by which such portion of the Purchase Price exceeds the certificate limit specified in such certificate. If a Certificate of Compliance in respect of the 116(5.2) Property is not delivered to the Purchaser on or before the Closing, the Purchaser shall be entitled to withhold from the portion of the Purchase Price allocable to the 116(5.2) Property and payable to Wabush Iron at Closing fifty percent (50%) of such portion of the Purchase Price.
- (3) Where the Purchaser has withheld any amount under Section 3.4(2) and Wabush Iron delivers a Certificate of Compliance to the Purchaser after Closing and on or before the twenty-eighth day of the calendar month following the calendar month in which the Closing occurs (the “**Remittance Date**”), the Purchaser shall remit forthwith to the Receiver General for Canada for the account of Wabush Iron fifty percent (50%) of the amount, if any, by which the portion of the Purchase Price allocable to the 116(5.2) Property and payable to Wabush Iron exceeds the certificate limit fixed in such certificate and pay forthwith to Wabush Iron any amount that the Purchaser has withheld in respect of the 116(5.2) Property in excess of such amount.
- (4) Where the Purchaser has withheld any amount under Section 3.4(2) and no Certificate of Compliance has been delivered to the Purchaser in respect of the 116(5.2) Property on or prior to the Remittance Date, such amount shall be remitted by the Purchaser to the Receiver General for Canada for the account of Wabush Iron in accordance with section 116 of the *ITA*.
- (5) For the avoidance of doubt, the Purchaser shall not remit any amount referred to in Section 3.4(4) to the Receiver General for Canada before the Remittance Date, as such date may be extended pursuant to Section 3.4(6).
- (6) Notwithstanding anything to the contrary in this Section 3.4, if prior to the Remittance Date, the Purchaser has received a comfort letter issued by the CRA in form and substance satisfactory to the Purchaser, acting reasonably, extending the time period under which the Purchaser is required to remit an

amount in respect of the Purchase Price for the account of Wabush Iron without being subject to interest or penalties, the Purchaser shall not make any remittance to the Receiver General for Canada on the date that would otherwise be the Remittance Date and the Remittance Date shall be extended indefinitely, or until the Purchaser receives notification from the CRA that such comfort letter is no longer in effect.

- (7) Notwithstanding anything to the contrary in this Section 3.4, any amounts withheld by the Purchaser pursuant to this Section 3.4 shall be remitted to and held by the Monitor, in trust and invested by the Monitor for the benefit of Wabush Iron in a Canadian dollar-denominated interest bearing deposit account with a Canadian chartered bank listed in Schedule 1 to the *Bank Act* (Canada) until paid out of trust to the Monitor on behalf of Wabush Iron, or remitted to the Receiver General for Canada for the account of Wabush Iron in accordance with this Section 3.4.
- (8) A copy of any Certificate of Compliance, other certificates, notices, comfort letters, correspondence or any other document sent by any Vendor or the Purchaser, or received by any Vendor or the Purchaser, pursuant to this Section 3.4 shall be sent promptly to the Monitor by the applicable Vendor or the Purchaser.

**3.5 Allocation of Purchase Price.** The Purchase Price shall be allocated among the Purchased Assets and the Vendors as set forth on Schedule "B". The Parties shall report an allocation of the Purchase Price among the Purchased Assets in a manner entirely consistent with Schedule "B", and shall not take any position inconsistent therewith in the filing of any Tax Returns or in the course of any audit by any Governmental Authority, Tax review or Tax proceeding relating to any Tax Returns.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES**

**4.1 Representations and Warranties of the Purchaser.** As a material inducement to the Vendors entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Vendors are entering into this Agreement in reliance upon the representations and warranties of the Purchaser set out in this Section 4.1, the Purchaser represents and warrants to the Vendors as follows:

- (1) *Incorporation and Corporate Authority.* The Purchaser is a corporation incorporated, organized and subsisting under the laws of the jurisdiction of its incorporation. The Purchaser has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform its obligations under this Agreement and under all such other agreements and instruments.
- (2) *Authorization by Purchaser.* The execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated by this Agreement and all such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.

- (3) *Approvals.* No consent, waiver, authorization or approval of any Person 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 all other agreements and instruments to be executed by the Purchaser or the performance by the Purchaser of its obligations hereunder or thereunder.
- (4) *Enforceability of Obligations.* This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms. There is no Legal Proceeding in progress, pending, or threatened against or affecting the Purchaser, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting the Purchaser which, in any such case, affects adversely or might affect adversely the ability of the Purchaser to enter into this Agreement or to perform its obligations hereunder.
- (5) *Excise Tax Act.* The Purchaser is registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada), and the Purchaser's GST/HST number is as follows - 892135443 RT0001.
- (6) *Commissions.* The Vendors will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Purchaser.
- (7) *Sufficient Funds.* The Purchaser has sufficient financial resources or has arranged sufficient financing for it to pay the Purchase Price, the Transfer Taxes and any and all other amounts payable by the Purchaser hereunder.

**4.2 Representations and Warranties of the Vendors.** As a material inducement to the Purchaser entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon the representations and warranties of the Vendors set out in this Section 4.2, the Vendors represent and warrant to the Purchaser as follows:

- (1) *Incorporation and Corporate Power.* Wabush Iron is a corporation incorporated, organized and subsisting under the laws of the State of Ohio. Wabush Resources is a corporation, organized and subsisting under the federal laws of Canada. Subject to the granting of the Approval and Vesting Order, the Vendors have the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by them as contemplated herein and to perform their other obligations under this Agreement and under all such other agreements and instruments.
- (2) *Authorization by Vendors.* Subject to the granting of the Approval and Vesting Order, the execution and delivery of this Agreement and all other agreements and instruments to be executed by them as contemplated herein and the completion of the transactions contemplated by this Agreement and all such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Vendors.

- (3) *Enforceability of Obligations.* Subject to the granting of the Approval and Vesting Order, this Agreement constitutes a valid and binding obligation of the Vendors enforceable against the Vendors in accordance with its terms.
- (4) *ITA.* Wabush Resources is not a non-resident of Canada for purposes of the *ITA*.
- (5) *Excise Tax Act.* The Vendors are registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada), and their GST/HST numbers are as follows: Wabush Iron - GST/HST – 105566251; and Wabush Resources – GST/HST 881498307.
- (6) *Commissions.* The Purchaser will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Vendors.

**4.3 As is, Where is.** Notwithstanding any other provision of this Agreement, the Purchaser acknowledges, agrees and confirms that:

- (1) except for the representations and warranties of the Vendors set forth in Section 4.2, it is entering into this Agreement, acquiring the Purchased Assets on an “as is, where is” basis as they exist as of the Closing Time and will accept the Purchased Assets in their state, condition and location as of the Closing Time except as expressly set forth in this Agreement and the sale of the Purchased Assets is made without legal warranty and at the risk of the Purchaser;
- (2) it has conducted to its satisfaction such independent searches, investigations and inspections of the Purchased Assets as it deemed appropriate, and based solely thereon, has determined to proceed with the transactions contemplated by this Agreement;
- (3) except as expressly stated in Section 4.2, neither the Vendors nor any other Person is making, and the Purchaser is not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Purchased Assets, the Vendors' right, title or interest in or to the Purchased Assets, including with respect to merchantability, physical or financial condition, description, fitness for a particular purposes, suitability for development, title, description, use or zoning, environmental condition, existence of latent defects, quality, quantity or any other thing affecting any of the Purchased Assets or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or representations expressed or implied pursuant to any Applicable Law in any jurisdiction, which the Purchaser confirms do not apply to this Agreement and are hereby waived in their entirety by the Purchaser;
- (4) without limiting the generality of the foregoing, no representation, warranty or covenant is given by any member of the SISP Team or any of the SISP Team's Representatives that the Purchased Assets are or can be made operational within a specified time frame or will achieve any particular level of service, use, production capacity or actual production if made operational;

- (5) without limiting the generality of the foregoing, except as expressly stated in Section 4.2, the Vendors have made no representation or warranty as to any regulatory approvals, permits and licenses, consents or authorizations that may be needed to complete the transactions contemplated by this Agreement or to operate the Purchased Assets, and the Purchaser is relying entirely on its own investigation, due diligence and inquiries in connection with such matters;
- (6) all written and oral information obtained from any member of the SISP Team or any of the SISP Team's Representatives, including in any teaser letter, asset listing, confidential information memorandum or other document made available to the Purchaser (including in certain "data rooms", management presentations, site visits and diligence meetings or telephone calls), with respect to the Purchased Assets has been obtained for the convenience of the Purchaser only, and no member of the SISP Team nor any of the SISP Team's Representatives have made any representation or warranty, express or implied, statutory or otherwise as to the accuracy or completeness of any such information;
- (7) any information regarding or describing the Purchased Assets in this Agreement (including the Schedules hereto), or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by any member of the SISP Team or any of the SISP Team's Representatives, or any other Person concerning the completeness or accuracy of such information or descriptions; and
- (8) except as otherwise expressly provided in this Agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or claims the Purchaser might have against the Vendors, any member of the SISP Team or any of the SISP Team's Representatives pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those representations and warranties by the Vendors expressly set forth in Section 4.2. Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights.

This Section 4.3 shall not merge on Closing and is deemed incorporated by reference in all closing documents and deliveries. The Purchaser shall have no recourse or claim of any kind against the proceeds of the transactions contemplated by this Agreement following Closing.

## **ARTICLE 5 ACCESS AND REMOVAL**

### **5.1 Access.**

- (1) The Purchaser acknowledges that the Purchased Assets are located at the Scully Mine site. The Purchaser and its Representatives shall be permitted access to the Scully Mine site for the sole purpose of dismantling, removing and

transporting the Purchased Assets off the Scully Mine site by the Removal Deadline (the “**Removal Activities**”).

- (2) The Purchaser acknowledges and agrees that its access to the Scully Mine site will be at its sole risk and liability.
- (3) The Purchaser acknowledges and agrees that it will, and it will cause its Representatives to access the Scully Mine site and conduct the Removal Activities in accordance with and subject to:
  - (a) all applicable industry standards and laws, including applicable environmental, health and safety and workers compensation laws and regulations, and permits and authorizations necessary, if any, to conduct the Removal Activities; and
  - (b) reasonable security measures imposed by the Vendors.

The Purchaser acknowledges and agrees that the Vendors or any their respective Representatives may, at any time, interrupt any Removal Activities or restrict access to the Scully Mine site to the Purchaser or any of its Representatives where the Purchaser has failed to comply with its obligations under this Article 5.

- (4) Notwithstanding the foregoing, if the Scully Mine is sold or transferred by the Vendors, then the Purchaser’s access to the Scully Mine site shall be subject to the Purchaser executing and delivering an acknowledgment to the new owner of the Scully Mine agreeing to be bound to the terms of an access agreement if one is entered into among the new owner of the Scully Mine and the Vendors or pursuant to such other access arrangement as the Purchaser and Vendors shall agree.

## **5.2 Removal of Purchased Assets.**

- (1) The Purchaser shall be entirely responsible for removing the Purchased Assets from the Scully Mine site, transporting the Purchased Assets offsite and supplying all equipment, personnel and materials required to carry out the foregoing pursuant to and in accordance with the terms of this Agreement and any access agreement contemplated by Section 5.1.
- (2) The Purchaser acknowledges that the Vendors shall have no responsibility or liability of any kind or nature whatsoever in connection with the Purchaser accessing the Scully Mine site or the removal and transportation of the Purchased Assets from the Scully Mine site.
- (3) Unless otherwise agreed in writing by the Vendors, the Purchaser shall ensure that the Purchased Assets located at the Scully Mine site are removed no later than the Removal Deadline. Without limitation to any other rights or remedies of the Vendors whether contained herein or otherwise at law, if the Purchaser has not removed all of the Purchased Assets from the Scully Mine by the Removal Deadline, then the Purchaser shall transfer to the Vendors all its right, title and interest in and to any of the Purchased Assets remaining at the Scully Mine at



such time in consideration for the payment by the Vendors of \$1.00. The Purchaser acknowledges that there shall be no adjustment to the Purchase Price as a result of its abandonment of any such Purchased Assets and the transfer of title thereof to the Vendors.

- (4) Prior to conducting any Removal Activity, the Purchaser will provide to the Vendors, or cause the Purchaser's Representatives to provide to the Vendors, a description of the proposed Removal Activity, including the nature of such Removal Activity, the expected duration of such Removal Activity and the identity of the Representatives of the Purchaser, if any, that will require access to the Scully Mine site in connection with such Removal Activity.
- (5) Access to the Scully Mine site and conduct of the Removal Activities shall be made during normal business hours (7 AM to 6 PM (Newfoundland & Labrador time)) or as otherwise agreed upon by the Purchaser and the Vendors.
- (6) The Purchaser will not, and will cause its Representatives not to, interfere with the work and operation activities of the Vendors on the Scully Mine site, including with the Removal Activities related to other assets of the Vendors located on or about the Scully Mine site.
- (7) The Purchaser and its Representatives will only use their own equipment to conduct the Removal Activities and may not use the Vendors' equipment or assets unless agreed upon by the Vendors.

**5.3 Care and Maintenance.** The Purchaser shall be solely responsible for all necessary maintenance and services required at the Scully Mine site in order to allow the Purchaser to access the Scully Mine site to conduct the Removal Activities. The Purchaser acknowledges that the Vendors are not and will not be obligated to maintain, alter, modify or improve the Scully Mine site to allow the Purchaser and its Representatives to access the Scully Mine site or to conduct any Removal Activity. The Purchaser acknowledges that it shall not damage the Scully Mine nor demolish any portion of the Scully Mine in connection the Removal Activities.

**5.4 Compliance with Laws.** In connection with access to the Scully Mine site, the Purchaser shall (1) comply with all Applicable Laws, (2) be responsible, at its sole expense and as applicable, for obtaining any permits, licenses, authorizations or approvals required by any Laws, and (3) take all necessary and reasonable health and safety precautions for its employees and subcontractors.

**5.5 Restoration.** Without limiting the obligations of the Purchaser in this Article 5, the Purchaser and its Representatives accessing the Scully Mine site to conduct the Removal Activities shall be entirely responsible for cleaning up any spills of fuel or oil, any other release of Hazardous Materials or any other environmental incidents that occur as a result of its access or use of the Scully Mine site or as a result of the conduct of its Removal Activities, and undertakes to restore the Scully Mine site to the same condition as they were immediately prior to such spill, release of Hazardous Materials or environmental incident

**5.6 Insurance.** Without limiting the Purchaser's commitment to indemnify, defend and hold harmless the Vendors against any liability, as provided hereunder, the Purchaser shall obtain and maintain, as of the date of execution of this Agreement and for a period of one year after the Purchaser has removed the Purchased Assets from the Scully Mine site, liability insurance

from an insurance company considered satisfactory by the Vendors which includes but is not limited to employer's liability, general liability, public liability, property damage liability, environmental liability, and contractual liability in an amount not less than \$1,000,000 per occurrence for bodily injury, death and property damage, including liability for goods and deprivation of use of such goods and liability for environmental damage caused by the Purchaser and/or its Representatives. The Purchaser shall also provide an insurance certificate naming the Vendors as additional insureds under such policy, a copy of which certificate shall be given to Vendors upon the execution of this Agreement.

## **ARTICLE 6 COVENANTS**

**6.1 Target Closing Date.** The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on or before the Target Closing Date.

**6.2 Motion for Approval and Vesting Order.** The Vendors shall file with the Court, as soon as practicable after their execution and delivery of this Agreement, a motion seeking the Court's issuance of the Approval and Vesting Order. The Vendors shall diligently use commercially reasonable efforts to seek the issuance and entry of the Approval and Vesting Order. The Purchaser shall cooperate with the Vendors in their efforts to obtain the issuance and entry of the Approval and Vesting Order. The Purchaser, at its own expense, will promptly provide to the Vendors and the Monitor all such information within its possession or under its control as the Vendors or the Monitor may reasonably require to obtain the Approval and Vesting Order.

**6.3 Risk of Loss.** Subject to the terms and conditions of this Agreement, the Purchased Assets shall be at the risk of the Vendors until Closing. If before the Closing all or substantially all of the Purchased Assets are lost, damaged or destroyed or are expropriated or seized by any Governmental Authority or any other Person in accordance with Applicable Law or if notice of any such expropriation or seizure shall have been given in accordance with Applicable Law, the Purchaser, in its discretion, acting reasonably, shall have the option, exercisable by notice to the Vendors given prior to the Closing Time to terminate this Agreement, as provided in Section 9.1. Title to, risk of loss of, or damage to any of the Purchased Assets shall pass to the Purchaser at Closing, notwithstanding that the Purchased Assets will remain on the Scully Mine site until the Purchased Assets are, subject to the terms and conditions of this Agreement, removed by the Purchaser from the Scully Mine site.

**6.4 Release.** The Purchaser hereby releases and discharges the Vendors, the Vendors' Affiliates and each of their respective Representatives and assumes the risk of loss of or damage to Persons or property as may be related to the Purchaser accessing the Scully Mine site or the removal, transportation or any use or resale of the Purchased Assets by the Purchaser.

**6.5 Trademarked and Branded Assets.** With respect to any Purchased Assets to be acquired by the Purchaser hereunder bearing any trademarks, business names, logos or other branding of the Vendors or Cliffs Natural Resources Inc. (collectively, "**Proprietary Marks**"), such Proprietary Marks do not form part of the Purchased Assets. The Purchaser will cooperate with the Vendors, at the Purchaser's cost and expense, in removing, dismantling and/or destroying such Proprietary Marks on or contained in any of the Purchased Assets, to the satisfaction of the Vendors, and nothing in this Agreement shall be construed as a licence by the Vendors to the Purchaser of any of the Proprietary Marks.

**6.6 Indemnity.** The Purchaser hereby indemnifies the Vendors, the Vendors' Affiliates and each of their respective Representatives, and saves them fully harmless against, and will reimburse or compensate them for, any Damages arising from, in connection with or related in any manner whatsoever to:

- (1) any Taxes payable by the Purchaser including Transfer Taxes (including penalties and interest) which may be assessed against the Vendors (the Vendors acknowledge that provided that the Purchaser has paid the applicable GST/HST to the Vendors at Closing, the Purchaser will have no further liability in respect of any assessment against the Vendors for unpaid GST/HST);
- (2) the Purchaser's access to the Scully Mine site in accordance with Article 5; and
- (3) the Purchaser's removal and transportation or any use or resale of the Purchased Assets, including all claims for loss of or damage or injury to any Persons or property caused by any access, use, removal or transportation of the Purchased Assets.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

**7.1 Closing.** The Closing shall take place at 10:00 a.m. Eastern time (the "**Closing Time**") on the Closing Date at the offices of the Vendors' counsel in Toronto, Ontario, or at such other time on the Closing Date or such other place as may be agreed orally or in writing by the Vendors and the Purchaser.

**7.2 Vendors' Closing Deliveries.** At the Closing, the Vendors shall deliver or cause to be delivered to the Purchaser the following:

- (1) the Purchased Assets, provided that delivery shall occur *in situ* wheresoever such Purchased Assets are located at the Closing Time;
- (2) a true copy of the Approval and Vesting Order;
- (3) the Bill of Sale, duly executed by the Vendors;
- (4) a bring-down certificate executed by a senior officer of Wabush Resources dated as of the Closing Date, in form and substance satisfactory to the Purchaser, acting reasonably, certifying that (i) all of the representations and warranties of Wabush Resources hereunder remain true and correct in all material respects as of the Closing Date as if made on and as of such date or, if made as of a date specified therein, as of such date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or performed by Wabush Resources at or prior to Closing have been complied with or performed by Wabush Resources in all material respects;
- (5) a bring-down certificate executed by a senior officer of Wabush Iron dated as of the Closing Date, in form and substance satisfactory to the Purchaser, acting reasonably, certifying that (i) all of the representations and warranties of Wabush Iron hereunder remain true and correct in all material respects as of the Closing Date as if made on and as of such date or, if made as of a date specified therein,

as of such date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or performed by Wabush Iron at or prior to Closing have been complied with or performed by Wabush Iron in all material respects; and

- (6) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

**7.3 Purchaser's Closing Deliveries.** At the Closing (or prior to Closing, if so indicated below), the Purchaser shall deliver or cause to be delivered to the Vendors (or to the Monitor, if so indicated below), the following:

- (1) the payment of the Deposit required to be paid pursuant to Section 3.2(1) shall have been made to the Monitor;
- (2) the payment referred to in Section 3.2(2), which shall have been made to the Monitor;
- (3) the payment of all Transfer Taxes (if any) required to be paid on Closing shall be made to the Monitor;
- (4) the Bill of Sale, duly executed by the Purchaser;
- (5) a bring-down certificate executed by a senior officer of the Purchaser dated as of the Closing Date, in form and substance satisfactory to the Vendors, acting reasonably, certifying that (i) all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing Date as if made on and as of such date or, if made as of a date specified therein, as of such date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or performed by the Purchaser at or prior to Closing have been complied with or performed by the Purchaser in all material respects;
- (6) the insurance certificates referred to in Section 5.6; and
- (7) such other agreements, documents and instruments as may be reasonably required by the Vendors to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## **ARTICLE 8 CONDITIONS OF CLOSING**

**8.1 Purchaser's Conditions.** The Purchaser shall not be obligated to complete the transactions contemplated by this Agreement, unless, at or before the Closing Time, each of the conditions listed below in this Section 8.1 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Purchaser, and may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. The Vendors shall take all such actions, steps and

proceedings as are reasonably within their control as may be necessary to ensure that the conditions listed below in this Section 8.1 are fulfilled at or before the Closing Time.

- (1) *Court Approval.* The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.
- (2) *Vendors' Deliverables.* The Vendors shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.2.
- (3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of (a) making any of the transactions contemplated by this Agreement illegal, or (b) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.
- (4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 4.2 shall be true and correct in all material respects (i) as of the Closing Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.
- (5) *No Breach of Covenants.* The Vendors shall have performed, in all material respects, all material covenants, obligations and agreements contained in this Agreement required to be performed by the Vendors on or before the Closing.

**8.2 Vendor's Conditions.** The Vendors shall not be obligated to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the conditions listed below in this Section 8.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendors, and may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. The Purchaser shall take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the conditions listed below in this Section 8.2 are fulfilled at or before the Closing Time.

- (1) *Court Approval.* The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.
- (2) *Purchaser's Deliverables.* The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendors (or the Monitor, as applicable) at the Closing all the documents and payments contemplated in Section 7.3.
- (3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of (a) making any of the transactions contemplated by this Agreement illegal, or (b) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.

- (4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 4.1, shall be true and correct in all material respects (i) as of the Closing Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.
- (5) *No Breach of Covenants.* The Purchaser shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

**8.3 Monitor's Certificate.** When the conditions to Closing set out in Section 8.1 and Section 8.2, have been satisfied and/or waived by the Vendors or the Purchaser, as applicable, the Vendors and the Purchaser will each deliver to the Monitor written confirmation (a) that such conditions of Closing, as applicable, have been satisfied and/or waived, and (b) of the amounts of the Transfer Taxes (if any are payable) payable by the Purchaser on Closing (the "**Conditions Certificates**"). Upon receipt of payment in full of the Purchase Price and Transfer Taxes payable by the Purchaser at Closing (if any is payable) in the amounts set out in the Conditions Certificates and receipt of each of the Conditions Certificates, the Monitor shall (i) issue forthwith its Monitor's Certificate concurrently to the Vendors and the Purchaser, at which time the Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the Court (and shall provide a true copy of such filed certificate to the Vendors and the Purchaser). In the case of (i) and (ii), above, the Monitor will be relying exclusively on the basis of the Conditions Certificates and without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

## **ARTICLE 9 TERMINATION**

**9.1 Grounds for Termination.** This Agreement may be terminated on or prior to the Closing Date:

- (1) by the mutual written agreement of the Vendors and the Purchaser, provided however that if this Agreement has been approved by the Court, any such termination shall require either the consent of the Monitor, or approval of the Court;
- (2) by written notice from the Purchaser to the Vendors in accordance with Section 6.3;
- (3) by the Purchaser, on the one hand, or by the Vendors, on the other hand, upon written notice to the other Party if (i) the Approval and Vesting Order has not been obtained by August 31, 2016 or such later date as the Parties may agree, or (ii) the Court declines at any time to grant the Approval and Vesting Order, in each case for reasons other than a breach of this Agreement by either the Purchaser, on the one hand, or any of the Vendors, on the other hand;

- (4) by written notice from the Purchaser to the Vendors if there has been a material breach by the Vendors of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser, and (i) such breach is not curable and has rendered the satisfaction of any condition in Section 8.1 impossible by the Outside Date, or (ii) if such breach is curable, the Purchaser has provided prior written notice of such breach to the Vendors, and such breach has not been cured within ten (10) days following the date upon which the Vendors received such notice;
- (5) by written notice from the Purchaser to the Vendors any time after the Outside Date, if the Closing has not occurred by the Outside Date for reasons other than as set out in Section 9.1(3), and such failure to close was not caused by or as a result of the Purchaser's breach of this Agreement;
- (6) by written notice from the Vendors to the Purchaser if there has been a material breach by the Purchaser of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendors, and (i) such breach is not curable and has rendered the satisfaction of any condition in Section 8.2 impossible by the Outside Date, or (ii) if such breach is curable, the Vendors have provided prior written notice of such breach to the Purchaser, and such breach has not been cured within ten (10) days following the date upon which the Purchaser received such notice; or
- (7) by written notice from the Vendors to the Purchaser any time after the Outside Date, if the Closing has not occurred by the Outside Date for reasons other than as set out in Section 9.1(3), and such failure to close is not caused by or as a result of the Vendors' breach of this Agreement; or
- (8) by written notice from the Vendor to the Purchaser if the Deposit has not been paid within three (3) Business Days of the date of this Agreement.

**9.2 Effect of Termination.** If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder, except as contemplated in this Section 9.2 (*Effect of Termination*) and Sections 6.4 (*Release*), 9.3 (*Treatment of Deposit*), 10.2 (*Expenses*), 10.3 (*Public Announcements*), 10.4 (*Notices*), 10.7 (*Entire Agreement*), 10.8 (*Amendment*), 10.10 (*Severability*), 10.12 (*Governing Law*), 10.13 (*Dispute Resolution*), 10.14 (*Attornment*), 10.15 (*Successors and Assigns*), 10.17 (*Monitor's Capacity*) and 10.18 (*Third Party Beneficiaries*), which shall survive such termination. For the avoidance of doubt, any Liability incurred by a Party prior to the termination of this Agreement shall survive such termination.

**9.3 Treatment of Deposit.**

- (1) *Retention of Deposit.* In the event that this Agreement is terminated by the Vendors pursuant to Section 9.1(6), the Deposit shall be forfeited by the Purchaser and retained by the Monitor on behalf of the Vendors as a genuine estimate of liquidated damages, and not as a penalty.
- (2) *Return of Deposit.* In the event that this Agreement is terminated other than a termination by the Vendors pursuant to Section 9.1(6), the Deposit shall be

returned to the Purchaser. The return of the Deposit shall be the Purchaser's sole and exclusive remedy for any termination of this Agreement.

- (3) *Transfer Tax Gross Up.* In the event that any payment or forfeiture under this Agreement is deemed by the *Excise Tax Act* (Canada) to include GST/HST, or is deemed by any applicable provincial or territorial legislation to include a similar value added or multi-staged tax, the amount of such payment or forfeiture shall be increased accordingly.

## ARTICLE 10 GENERAL

**10.1 Survival.** All representations, warranties, covenants and agreements of the Vendors or the Purchaser made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement shall not survive the Closing except where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or obligations extending after the Closing, or as otherwise expressly provided in this Agreement. For greater certainty, Sections 3.4 (*Section 116 of ITA*), 3.5 (*Allocation of Purchase Price*), 4.3 (*As is, Where is*), 5.1 (*Access*), 5.2 (*Removal of Purchased Assets*), 5.3 (*Care and Maintenance*), 5.4 (*Compliance with Laws*), 5.5 (*Restoration*), 5.6 (*Insurance*), 6.3 (*Risk of Loss*), 6.4 (*Release*), 6.5 (*Trademarked and Branded Assets*), 6.6 (*Indemnity*), 10.1 (*Survival*), 10.2 (*Expenses*), 10.3 (*Public Announcements*), 10.4 (*Notices*), 10.6 (*Further Assurances*), 10.7 (*Entire Agreement*), 10.8 (*Amendment*), 10.9 (*Waiver*), 10.10 (*Severability*), 10.12 (*Governing Law*), 10.13 (*Dispute Resolution*), 10.14 (*Attornment*), 10.15 (*Successors and Assigns*), 10.16 (*Assignment*), 10.17 (*Monitor's Capacity*) and 10.18 (*Third Party Beneficiaries*), shall survive Closing.

**10.2 Expenses.** Except as otherwise expressly provided herein, each Party shall be responsible for all costs and expenses (including any Taxes imposed on such expenses) incurred by it in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisers).

**10.3 Public Announcements.** The Vendors shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court and parties in interest in the CCAA Proceedings, and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Other than as provided in the preceding sentence or statements made in Court (or in pleadings filed therein), the Vendors and the Purchaser shall not issue (prior to or after the Closing) any press release or make any public statement or public communication with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, provided, however, that a Party may, without the prior consent of the other Party, issue such press release or make such public statement as may, upon the advice of counsel, be required by Applicable Law or by any Governmental Authority with competent jurisdiction including any applicable securities Laws. Notwithstanding any other provision of this Agreement, the Purchaser shall not disclose the quantum of the Purchase Price or Deposit to any Person prior to the Closing without the prior written consent of the Vendors and the Monitor.



#### 10.4 Notices.

(1) *Mode of Giving Notice.* Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service, or (iii) sent by e-mail or other similar means of electronic communication, in each case to the applicable address set out below:

(a) if to the Vendors, to:

Wabush Resources Inc. & Wabush Iron Co. Limited  
c/o 199 Bay Street, Suite 4000, Commerce Court West  
Toronto, ON M5L 1A9

Attention: James Graham, Executive Vice President  
Chief Legal Officer and Secretary AND  
Clifford T. Smith, Executive Vice President, Business Development  
Email: [James.Graham@CliffsNR.com](mailto:James.Graham@CliffsNR.com) / [Clifford.Smith@CliffsNR.com](mailto:Clifford.Smith@CliffsNR.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: Thomas A. McKee/ Milly Chow  
Email: [tom.mckee@blakes.com](mailto:tom.mckee@blakes.com) / [milly.chow@blakes.com](mailto:milly.chow@blakes.com)

(b) if to the Purchaser, to:

**Toromont Industries Ltd.**  
2344 Bowman Street  
Innisfil, Ontario, L9S 3V7  
Attention: Pat McCart  
Email: [pmccart@toromont.com](mailto:pmccart@toromont.com)

(c) and in either case, with a copy to the Monitor, to:

FTI Consulting Canada Inc.  
TD South Tower, 790 Wellington Street West  
Toronto Dominion Centre, Suite 2010, P.O. Box 104  
Toronto, ON M5K 1G8  
Attention: Nigel Meakin  
Email: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

and

Norton Rose Fulbright Canada LLP  
1 Place Ville Marie, Suite 2500  
Montréal, QC H3B1R1  
Attention: Sylvain Rigaud  
Email: [sylvain.rigaud@nortonrosefulbright.com](mailto:sylvain.rigaud@nortonrosefulbright.com)

(2) *Deemed Delivery of Notice.* Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 5:00 p.m. Eastern on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

(3) *Change of Address.* Any Party may from time to time change its address under this Section 10.4 by notice to the other Party given in the manner provided by this Section 10.4.

**10.5 Time of Essence.** Time shall be of the essence of this Agreement in all respects.

**10.6 Further Assurances.** The Vendors and the Purchaser shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Party may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

**10.7 Entire Agreement.** Other than any confidentiality agreement, non-disclosure agreement or similar undertaking or agreement signed by the Purchaser in favour of the CCAA Parties, or any of them, which remain in full force and effect, unamended by this Agreement, this Agreement and the agreements contemplated hereby constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, representations, warranties, obligations or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.

**10.8 Amendment.** No amendment of this Agreement shall be effective unless made in writing and signed by the Parties.

**10.9 Waiver.** A waiver of any default, breach or non-compliance under this Agreement shall not be effective unless in writing and signed by the Party to be bound by the waiver and then only in the specific instance and for the specific purpose for which it has been given. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).

**10.10 Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

**10.11 Remedies Cumulative.** The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

**10.12 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**10.13 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 9, such dispute shall be determined by the Court within the CCAA Proceedings, or by such other Person or in such other manner as the Court may direct.

**10.14 Attornment.** Each Party agrees (a) that any Legal Proceeding relating to this Agreement may (but need not) 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 10.14. Each Party agrees that service of process on such Party as provided in Section 10.4 shall be deemed effective service of process on such Party.

**10.15 Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

**10.16 Assignment.** Prior to the issuance of the Approval and Vesting Order, the Purchaser may assign all of its rights and obligations under this Agreement to an Affiliate, provided that (a) the Purchaser shall remain liable to perform all of its obligations hereunder, and (b) the Purchaser and its assignee execute and deliver to the Vendors an assignment and assumption agreement, in form and substance satisfactory to the Vendors, acting reasonably, evidencing such assignment. Other than in accordance with the preceding sentence, neither the Purchaser nor the Vendors may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement.

**10.17 Monitor's Capacity.** The Purchaser acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of the Vendors and the other CCAA Parties in the CCAA Proceedings, will have no Liability in connection with this Agreement whatsoever in its capacity as Monitor, in its personal capacity or otherwise.

**10.18 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.

**10.19 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.



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

**WABUSH RESOURCES INC.**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: President

I have authority to bind the corporation.

**WABUSH IRON CO. LIMITED**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: President

I have authority to bind the corporation.

**TOROMONT INDUSTRIES LTD.**

By: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the company.

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

**WABUSH RESOURCES INC.**

By: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the corporation.

**WABUSH IRON CO. LIMITED**

By: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the corporation.

**TOROMONT INDUSTRIES LTD.**

By: David Wehnerald  
Name: David L. Wehnerald  
Title: VP, Human Resources & Legal

I have authority to bind the company.

**SCHEDULE "A"**

**FORM OF APPROVAL AND VESTING ORDER**

**SUPERIOR COURT**

(Commercial Division)

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

N°: 500-11-048114-157

DATE: \_\_\_\_\_, 2016

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**PRESIDING: THE HONOURABLE STEPHEN W. HAMILTON J.S.C.**

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

**WABUSH RESOURCES INC.**

-and-

**WABUSH IRON CO. LIMITED**

Petitioners

-and-

**TOROMONT INDUSTRIES LTD.**

Mise-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

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**APPROVAL AND VESTING ORDER**

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- [1] **ON READING** the Petitioners' *Motion for the Issuance of an Approval and Vesting Order with respect to the sale of certain assets* (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the • Report of the Monitor dated •, 2016, (the "**Report**");

- [2] **SEEING** the service of the Motion;
- [3] **SEEING** the submissions of the Petitioner's and the Monitor's attorneys;
- [4] **SEEING** that it is appropriate to issue an order approving the transaction (the "**Transaction**") contemplated by the agreement entitled Asset Purchase Agreement (the "**Purchase Agreement**") dated as of •, 2016 by and between Wabush Resources Inc. and Wabush Iron Co. Limited, as vendors (the "**Vendors**") and **Toromont Industries Ltd.**, as purchaser, a copy of which was filed as Exhibit • to the Motion, and vesting in the Purchaser all of Vendors' right, title and interest in and to all of the Purchased Assets (as defined in the Purchase Agreement).

**FOR THESE REASONS, THE COURT HEREBY:**

- [5] **GRANTS** the Motion.
- [6] **ORDERS** that all capitalized terms in this Order shall have the meaning given to them in the Purchase Agreement unless otherwise indicated herein.

**SERVICE**

- [7] **ORDERS** that any prior time period for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
- [8] **PERMITS** service of this Order at any time and place and by any means whatsoever.

**SALE APPROVAL**

- [9] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Vendors is hereby authorized and approved, *nunc pro tunc*.
- [10] **AUTHORIZES AND DIRECTS** the Monitor to hold the Deposit, *nunc pro tunc*, and to apply, disburse and/or deliver the Deposit or the applicable portions thereof in accordance with the provisions of the Purchase Agreement and this Order.

**AUTHORIZATION**

- [11] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Vendors to proceed with the Transaction and that no other approval or authorization, including any board or shareholder approval, shall be required in connection therewith.

**EXECUTION OF DOCUMENTATION**

- [12] **AUTHORIZES AND DIRECTS** the Vendors, **Toromont Industries Ltd.** and/or any of its Affiliates who is an assignee of some or all of **Toromont Industries Ltd.**'s rights and obligations under the Purchase Agreement following an assignment pursuant to Section 10.16 of the Purchase Agreement (collectively, the "**Purchaser**") and the Monitor to perform all acts, sign all documents and take any necessary action to



execute any agreement, contract, deed, provision, transaction or undertaking stipulated in or contemplated by the Purchase Agreement, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Monitor, and any other ancillary document which could be required or useful to give full and complete effect thereto.

### **VESTING OF THE PURCHASED ASSETS**

- [13] **ORDERS AND DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest free and clear, absolutely and exclusively in and with the Purchaser, from any and all rights, titles, benefits, priorities, claims (including claims provable in bankruptcy in the event that any of the Vendors should be adjudged bankrupt), liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, trusts, deemed trusts (whether contractual, statutory, or otherwise), assignments, judgments, executions, writs of seizure or execution, notices of sale, options, agreements, rights of distress, legal, equitable or contractual setoff, adverse claims, levies, taxes, disputes, debts, charges, options to purchase, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, security interests or charges evidenced by registration, publication or filing pursuant to the Civil Code of Québec, or any other applicable legislation providing for a security interest in personal or movable property, and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets, be expunged and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.
- [14] **ORDERS AND DIRECTS** the Monitor, upon receipt of (i) payment in full of the Purchase Price, Transfer Taxes (if any are payable) for remittance to the applicable taxation authorities in accordance with Applicable Law, in the amounts set out in the Conditions Certificates, and (ii) of each of the Conditions Certificates, to (a) issue forthwith its Certificate concurrently to the Vendors and the Purchaser; and (b) file forthwith after issuance thereof a copy of the Certificate with the Court.
- [15] **DECLARES** that the Monitor shall be at liberty to rely exclusively on the Conditions Certificates in issuing the Certificate, without any obligation to independently confirm or verify the waiver or satisfaction of the applicable conditions.
- [16] **AUTHORIZES AND DIRECTS** the Monitor to receive and hold the Purchase Price and to remit the Purchase Price in accordance with the provisions of this Order.

### **NET PROCEEDS**

- [17] **ORDERS** that any amounts payable to the Vendors in accordance with the Purchase Agreement (the "**Proceeds**") shall be remitted to the Monitor and shall, subject to the

provisions of this Order, be held by the Monitor on behalf of the Vendors pending further order of the Court.

- [18] **AUTHORIZES AND DIRECTS** the Monitor, as soon as practicable after Closing, to remit to the Vendors for remittance to the applicable taxing authorities in accordance with Applicable Law, the Transfer Taxes (if any are payable) received by the Monitor from the Purchaser on Closing as set out in the Conditions Certificates and, when required pursuant to Section 3.4 of the Purchase Agreement, to remit any amounts held by the Monitor in trust pursuant to Section 3.4(7) of the Purchase Agreement and payable to the Receiver General for Canada for the account of Wabush Iron in accordance with Section 3.4 of the Purchase Agreement.
- [19] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the balance of the Proceeds remaining following deduction for the Transfer Taxes (if any are paid by the Purchaser to the Monitor on Closing), the remittance of any amounts to the Receiver General for Canada and other amounts that are remitted by the Monitor pursuant to Paragraph [18] of this Order (the "**Net Proceeds**") shall stand in the place and stead of the Purchased Assets, and that upon the issuance of the Certificate, all Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the Closing, as if the Purchased Assets had not been sold and remained in the possession or control of the Person having that possession or control immediately prior to the Closing.
- [20] **ORDERS** that, following the issuance of the Certificate, the Purchaser shall have no recourse or claim of any kind against the Net Proceeds.

#### **VALIDITY OF THE TRANSACTION**

- [21] **ORDERS** that notwithstanding:
- a) the pendency of the proceedings under the CCAA;
  - b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), and any order issued pursuant to any such petition;
  - c) any application for a receivership order; or
  - d) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Vendors, the Purchaser or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

**LIMITATION OF LIABILITY**

- [22] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Monitor to take control, or to otherwise manage all or any part of the Purchased Assets. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.
- [23] **DECLARES** that no Action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.

**GENERAL**

- [24] **DECLARES** that the Vendors and the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
- [25] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [26] **DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
- [27] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
- [28] **ORDERS** the provisional execution of this Order, including without limiting the general application of the foregoing, notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

**THE WHOLE WITHOUT COSTS, save in case of contestation.**

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**STEPHEN W. HAMILTON J.S.C.**

M<sup>tre</sup> Bernard Boucher  
(Blake, Cassels & Graydon LLP)  
Attorneys for the Petitioner

Hearing date: • , 2016

SCHEDULE "A" TO APPROVAL AND VESTING ORDER

FORM OF CERTIFICATE OF THE MONITOR

**SUPERIOR COURT**  
(Commercial Division)

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

File: No: 500-11-048114-157

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

**WABUSH RESOURCES INC.**

-and-

**WABUSH IRON CO. LIMITED**

Petitioners

-and-

**TOROMONT INDUSTRIES LTD.**

Mise-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

**CERTIFICATE OF THE MONITOR**

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**RECITALS**

- A.** By an Order of the Québec Superior Court (Commercial Division) (the "**Court**") dated May 20, 2015 (as amended, restated or rectified from time to time, the "**Wabush Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") in the proceedings bearing Court File No. 500-11-048114-157 (the "**CCAA Proceedings**"), Wabush Iron Co. Limited, Wabush Resources Inc., Arnaud Railway Company, Wabush Lake Railway Company Limited and Wabush Mines (collectively, the "**Wabush CCAA Parties**") were added to the CCAA Proceedings and obtained

protection from their creditors under the CCAA and FTI Consulting Canada Inc. (the “**Monitor**”) was appointed as Monitor of the Wabush CCAA Parties.

- B. Pursuant to an order (the “**Approval and Vesting Order**”) rendered by the Court on •, 2016, the transaction contemplated by the Asset Purchase Agreement dated as of •, 2016 (the “**Purchase Agreement**”) by and between Wabush Resources Inc. and Wabush Iron Co. Limited, as vendors, and Toromont Industries Ltd., as purchaser (the “**Purchaser**”), was authorized and approved, with a view, *inter alia*, to vest in and to the Purchaser, all of the Vendors’ right, title and interest in and to the Purchased Assets (as defined in the Purchase Agreement).
- C. Each capitalized term used and not defined herein has the meaning given to such term in the Purchase Agreement.
- D. The Approval and Vesting Order provides for the vesting of all of the Vendors’ right, title and interest in and to the Purchased Assets in the Purchaser, in accordance with the terms of the Approval and Vesting Order and upon the delivery of a certificate (the “**Certificate**”) issued by the Monitor confirming, among other things, that the Vendors and the Purchaser have each delivered Conditions Certificates to the Monitor.
- E. In accordance with the Approval and Vesting Order, the Monitor has the power to authorize, execute and deliver this Certificate.
- F. The Approval and Vesting Order also directed the Monitor to file with the Court, a copy of this Certificate forthwith after issuance thereof.

**THEREFORE, IN RELIANCE UPON THE CONDITIONS CERTIFICATES ADDRESSED AND DELIVERED TO THE MONITOR BY EACH OF THE VENDORS AND THE PURCHASER, THE MONITOR CERTIFIES THE FOLLOWING:**

1. The Monitor has received (i) payment in full of the Purchase Price, and (ii) payment in full of the Transfer Taxes (if any are payable) payable by the Purchaser on Closing in the amounts set out in the Conditions Certificates, all in accordance with the Purchase Agreement.
2. The Vendors and the Purchaser have each delivered to the Monitor the Conditions Certificates evidencing that all applicable conditions under the Purchase Agreement have been satisfied and/or waived, as applicable.
3. The Closing Time is deemed to have occurred on at <TIME> on <\*>, 2016.

**THIS CERTIFICATE** was issued by the Monitor at <TIME> on <\*>, 2016.

***FTI Consulting Canada Inc., in its capacity as  
Monitor of the Wabush CCAA Parties, and not in  
its personal or corporate capacity.***

By: \_\_\_\_\_

Name: Nigel Meakin

**SCHEDULE "B"**

**PURCHASED ASSETS**

Description	Asset Number	Serial Number	Purchase Price Allocation	
			Wabush Resources	Wabush Iron
Caterpillar XQ2000 generator set	WSGN6991003	7RN01126	\$103,657.50	\$38,009.17
Caterpillar XQ2000 generator set	WSGN6991004	7RN01393	\$103,657.50	\$38,009.17
Caterpillar XQ2000 generator set	WSGN6991005	1HZ01348	\$103,657.50	\$38,009.16
<b>Total Purchase Price:</b>			\$310,972.50	\$114,027.50
			<b>\$425,000.00</b>	



CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
Commercial Division

File: No: 500-11-048114-157

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

**BLOOM LAKE GENERAL PARTNER  
LIMITED, QUINTO MINING  
CORPORATION, 8568391 CANADA  
LIMITED, CLIFFS QUÉBEC IRON  
MINING ULC, WABUSH IRON CO.  
LIMITED AND WABUSH RESOURCES  
INC.**

Petitioners

- and -

**THE BLOOM LAKE IRON ORE MINE  
LIMITED PARTNERSHIP, BLOOM LAKE  
RAILWAY COMPANY LIMITED,  
WABUSH MINES, ARNAUD RAILWAY  
COMPANY AND WABUSH LAKE  
RAILWAY COMPANY LIMITED**

Mises-en-cause

- and -

**FTI CONSULTING CANADA INC.**

Monitor

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**TWENTY-SECOND REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

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## INTRODUCTION

1. On January 27, 2015, Bloom Lake General Partner Limited (“**Bloom Lake GP**”), Quinto Mining Corporation, 8568391 Canada Limited and Cliffs Québec Iron Mining ULC (“**CQIM**”) (collectively, the “**Bloom Lake Petitioners**”) sought and obtained an initial order (as amended, restated or rectified from time to time, the “**Bloom Lake Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) from the Superior Court of Québec (the “**Court**”), providing for, *inter alia*, a stay of proceedings against the Bloom Lake Petitioners until February 26, 2015, (the “**Bloom Lake Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The relief granted in the Bloom Lake Initial Order was also extended to The Bloom Lake Iron Ore Mine Limited Partnership (“**Bloom Lake LP**”) and Bloom Lake Railway Company Limited (together with Bloom Lake LP, the “**Bloom Lake Mises-en-Cause**” and together with the Bloom Lake Petitioners, the “**Bloom Lake CCAA Parties**”). The proceedings commenced under the CCAA by the Bloom Lake CCAA Parties will be referred to herein as the “**CCAA Proceedings**”.
2. On May 20, 2015, the CCAA Proceedings were extended to include Wabush Iron Co. Limited (“**WICL**”), Wabush Resources Inc. (“**WRI**” and together with WICL, the “**Wabush Petitioners**”), Wabush Mines, Arnaud Railway Company (“**Arnaud**”) and Wabush Lake Railway Company Limited (collectively the “**Wabush Mises-en-Cause**” and together with the Wabush Petitioners, the “**Wabush CCAA Parties**”) pursuant to an initial order (as amended, restated or rectified from time to time, the “**Wabush Initial Order**”) providing for, *inter alia*, a stay of proceedings against the Wabush CCAA Parties until June 19, 2015, (the “**Wabush Stay Period**”). The Bloom Lake CCAA Parties and the Wabush CCAA Parties will be referred to collectively herein as the “**CCAA Parties**”.

3. The Bloom Lake Stay Period and the Wabush Stay Period (together, the “**Stay Period**”) have been extended from time to time and currently expire on September 30, 2016.
4. On April 17, 2015, Mr. Justice Hamilton J.S.C. granted an Order approving, as it relates to the Bloom Lake CCAA Parties, a sale and investor solicitation process (as may be amended from time to time, the “**SISP**”) involving the business and assets of the Bloom Lake CCAA Parties. The SISP was subsequently amended and restated to reflect the inclusion of the Wabush CCAA Parties in the CCAA Proceedings and was approved *nunc pro tunc* as it relates to the Wabush CCAA Parties pursuant to an Order granted June 9, 2015 (together with the April 17, 2015 Order, the “**SISP Order**”).
5. To date, the Monitor has filed twenty-one reports in respect of various aspects of the CCAA Proceedings. The purpose of this, the Monitor’s Twenty-Second Report (this “**Report**”), is to provide information to the Court with respect to:
  - (a) The intended sale by the Wabush Mines of 51 residential properties located in the Town of Wabush, Newfoundland and Labrador;
  - (b) The independent opinion on the validity and enforceability of the secured claims of Cliffs Natural Resources Inc. (“**CNR**”) in respect of assignment and/or subrogation of rights pursuant to the Key Bank Security as described in the Monitor’s Twentieth Report (the “**CNR Key Bank Security**”);

- (c) The request by CQIM for an approval and vesting order (the “**IOC Railcar AVO**”) contemplated in the agreement dated as of July 22, 2016 (the “**IOC Railcar APA**”) by and between CQIM and Iron Ore Company of Canada as purchaser (“**IOC**”), pursuant to which IOC will acquire CQIM’s right, title and interest in 159 gondola railcars (the “**IOC Railcar Transaction**”) and to provide the Monitor’s recommendation thereon; and
- (d) CQIM’s request that information in the IOC Railcar APA with respect to the Purchase Price and Deposit, each as defined in the IOC Railcar APA, be kept confidential for commercial reasons and the Monitor’s recommendation thereon.

#### **TERMS OF REFERENCE**

- 6. In preparing this Report, the Monitor has relied upon unaudited financial information of the CCAA Parties, the CCAA Parties’ books and records, certain financial information prepared by the CCAA Parties and discussions with various parties (the “**Information**”).
- 7. Except as described in this Report:
  - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
  - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.

8. The Monitor has prepared this Report in connection with the Motion for the granting of the IOC Railcar AVO, scheduled to be heard on August 30, 2016, and to inform the Court of the intention of the Wabush CCAA Parties to sell certain residential properties located in the Town of Wabush. The Report should not be relied on for other purposes.
9. Future oriented financial information reported or relied on in preparing this Report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the Bloom Lake Initial Order, the Wabush Initial Order or previous reports of the Monitor.

#### **EXECUTIVE SUMMARY**

11. Capitalized terms used in the Executive Summary are as defined in the relevant section of the Report.
12. The Monitor is of the view that:
  - (a) The CNR Key Bank Security over the IOC Purchased Assets is valid and legally enforceable as against a trustee in bankruptcy;
  - (b) Other than the beneficiaries of the Administration Charge and the Directors' Charge, there are no known claims that rank in priority to the CNR Key Bank Security in respect of the IOC Purchased Assets. CNR is therefore the only creditor with an economic interest in the IOC Purchased Assets and it supports the IOC Railcar Transaction;
  - (c) The marketing process that resulted in the execution of the IOC Railcar APA was fair and reasonable in the circumstances;

- (d) The IOC Railcar Transaction is the highest and best transaction resulting from the marketing of the IOC Purchased Assets and the consideration appears to be fair and reasonable in the circumstances;
  - (e) The approval of the IOC Railcar Transaction is in the best interests of CNR, the sole creditor holding security over the IOC Purchased Assets other than the beneficiaries of the CCAA Charges, and CQIM's stakeholders generally.
13. Accordingly, the Monitor supports CQIM's request for approval of the IOC Railcar Transaction and the granting of the IOC Railcar AVO.
14. With respect to CQIM's request to maintain the Purchase Price and Deposit information confidential, the Monitor's view is that it is reasonable, justified and appropriate in the circumstances.

#### **SALE OF RESIDENTIAL PROPERTIES**

15. The Wabush Initial Order permits the sale of employee homes upon approval of the Monitor. Paragraph 33(c) of the Wabush Initial Order states:

“33. **DECLARES** that, to facilitate the orderly restructuring of their business and financial affairs (the "Restructuring") but subject to such requirements as are imposed by the CCAA, the Wabush CCAA Parties shall have the right, subject to approval of the Monitor or further order of the Court, to:

(c) convey, transfer, assign, lease, or in any other manner dispose of the Property, outside of the ordinary course of business, in whole or in part, provided that the price in each case does not exceed \$100,000 or \$1,000,000 in the aggregate except that this amount shall not include

amounts with respect to the sale or other disposition of employee homes by the Wabush CCAA Parties and any employee homes may be sold or otherwise disposed of by the Wabush CCAA Parties upon approval of the Monitor;”

16. As described in the application for the Initial Order in respect of the Wabush CCAA Parties dated May 19, 2015 (the “**Wabush Initial Application**”), the Wabush CCAA Parties own various residential properties in the Town of Wabush that provided housing to employees while the Wabush Mine was operational. Currently, the Wabush CCAA Parties own 109 properties, consisting of 106 single-family homes, two apartment buildings with ten units each and one “staff house” with four units (collectively the “**Employee Homes**”).
17. 55 of the single-family homes are occupied by former employees and are subject to conditional agreements of purchase and sale with them as described in section 4.5 of the Wabush Initial Application (the “**Conditional Sale Employee Homes**”). Two single-family homes are rented under a month-to-month lease. The remaining 49 single-family homes are vacant. Three of the units in the two apartment blocks are currently rented. The staff house is vacant.
18. In addition to the properties described above, since the commencement of the CCAA Proceedings, 20 sales of individual single family homes in the Town of Wabush subject to conditional agreements of purchase and sale or rental agreements have been completed and the eight employee houses located in Sept Iles were listed and sold by the Wabush CCAA Parties with the approval of the Monitor pursuant to paragraph 33(c) of the Wabush Initial Order.

19. It is the Monitor's understanding that the main source of employment in the area of the Town of Wabush where the Employee Homes are located is mining and related services. Based on its discussions with local real estate agents, the Monitor understands that the real estate market in the Town of Wabush is significantly depressed as a result of the decrease in mining activity in recent years, including the closure of the Wabush Mine, with a significant rise in foreclosures and a large inventory of properties for sale.
20. The Wabush CCAA Parties have had four of the vacant single-family homes listed for sale with local real estate agents since 2014. The listing price on those properties was significantly reduced on a number of occasions but only one offer has been received since the listing was made. The potential buyer was unable to obtain financing and the transaction therefore did not proceed.
21. In addition to the listings, the availability of the Employee Homes was made know in the SISP and has been widely known in the community.
22. The Wabush CCAA Parties are in the process of completing the sale of one of the vacant single-family homes in accordance with the provisions of paragraph 33(c) of the Wabush Initial Order.
23. The Wabush CCAA Parties have now obtained an offer to purchase 48 of the 49 vacant single-family homes<sup>1</sup>, the two apartment buildings and the staff house (the "**Employee Homes Transaction**"). The Wabush CCAA Parties are in the process of negotiating a definitive agreement in respect of the Employee Homes Transaction and are of the view that the transaction may proceed without Court approval pursuant to paragraph 33(c) of the Wabush Initial Order.

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<sup>1</sup> The purchaser did not want to acquire the remaining vacant single-family home as a result of an oil spill on the property prior to the CCAA Proceedings.



24. The Monitor has considered the Employee Homes Transaction and concurs with the Wabush CCAA Parties' conclusion that the sale may be completed without Court approval pursuant to paragraph 33(c) of the Wabush Initial Order that permits the sale of employee homes by the Wabush CCAA Parties without Court approval upon approval of the Monitor.
25. The Employee Homes Transaction represents an opportunity to realize on a large number of the Employee Homes in a single transaction, thereby eliminating the costs that would otherwise be incurred to continue to hold these properties and to market and sell the properties in multiple transactions. Based on the efforts to sell the Employee Homes and the current state of the real estate market in the Town of Wabush, it would likely take many years to dispose of the portfolio of properties subject to the Employee Homes Transaction if the properties are not sold *en masse*. Furthermore, there is no certainty that a higher value could be obtained from individual sales once carrying costs, transaction costs and the time value of money are taken into account.
26. Based on the information currently available, the Monitor is of the view that the decision of the Wabush CCAA Parties to proceed with the Employee Homes Transaction is fair and reasonable in the circumstances.
27. The Wabush CCAA Parties are also in the process of negotiating the sale of a number of the Conditional Sale Employee Homes to the occupants of such Conditional Sale Employee Homes and intend to make offers to the remaining occupants for the early completion of the conditional sale agreements. The Wabush CCAA Parties, in consultation with the Monitor, will determine an appropriate approach for the marketing of any Conditional Sale Employee Homes not sold as a result of that process.

## INDEPENDENT REVIEW OF SECURITY

28. As reported in the Monitor's Twentieth Report, CNR in its capacity as guarantor paid all amounts owing to BNS under the Key Bank Facility. CNR in its capacity as guarantor has now paid all other amounts owing under the Key Bank Facility.

29. Paragraphs 22 and 23 of the Monitor's Twentieth Report stated:

“22. Previously in these CCAA Proceedings, counsel to the Monitor conducted a review of the Key Bank Security and delivered its opinion to the Monitor (the “**Security Opinion**”). Subject to the qualifications and assumptions set out therein, the Security Opinion indicates that the Key Bank Security over the Purchased Assets, which was subsequently assigned to BNS, is valid and legally enforceable as against a trustee in bankruptcy.

23. The Monitor and its counsel are in the process of reviewing CNR's claim to the Key Bank Security following its payment in full of the Key Bank Facility in respect of the Purchased Assets and will report to this Court its findings on the matter prior to any distribution of the proceeds from the Rio Tinto Railcar Transaction or from the sale of any other assets subject to the Key Bank Security.”

30. Counsel to the Monitor has now completed its review and has delivered its opinion in respect of the CNR Key Bank Security (the “**CNR Key Bank Security Opinion**”). Subject to the qualifications and assumptions set out therein, the CNR Key Bank Security Opinion indicates that the CNR Key Bank Security over the IOC Purchased Assets is valid and enforceable as against a trustee in bankruptcy.

31. The amount owing under the CNR Key Bank Security in respect of the loan schedule which includes the financing in respect of the IOC Purchased Assets is approximately \$29.7 million. Based on the information available, there is no question that CNR will suffer a shortfall on that indebtedness even if all of the assets subject to the loan schedule are sold.

### **REQUEST FOR THE IOC RAILCAR AVO**

32. Capitalized terms used in this section of this Report not otherwise defined are as defined in the IOC Railcar APA, a redacted copy of which is attached hereto as **Appendix A**.

### **THE IOC RAILCAR APA**

33. Pursuant to the IOC Railcar APA, IOC will purchase all of CQIM's right, title and interest to 159 gondola railcars, as more particularly described in Schedule "B" to the IOC Railcar APA (the "**IOC Purchased Assets**") owned by CQIM related to the Bloom Lake Mine for an amount which CQIM is requesting remain confidential subject to further order of this Court (the "**Purchase Price**"). In addition to the Purchase Price, IOC will pay all applicable transfer taxes.
34. Pursuant to the IOC Railcar APA, on July 22, 2016, the Purchaser paid a deposit to the Monitor in an amount equal to 5% of the Purchase Price.
35. The IOC Purchased Assets are located at the Pointe-Noire Facility which was acquired by Société Ferroviaire et Portuaire de Pointe-Noire (the "**Pointe-Noire Purchaser**") pursuant to the transaction approved by the Court on February 1, 2016 and closed on March 8, 2016. The IOC Purchased Assets are being purchased on an "as is, where is basis" and, pursuant to the IOC Railcar APA, IOC shall on Closing:

- (a) Execute and deliver an acknowledgement (“**Access Acknowledgement**”) agreeing to be bound to the terms of the access agreement dated March 8, 2016 between CQIM and the Pointe-Noire Purchaser (“**Access Agreement**”) for access to the Pointe-Noire Facility;
  - (b) Be responsible for removing the IOC Purchased Assets from the Pointe-Noire Facility, transporting the IOC Purchased Assets offsite and supplying all equipment, personnel and materials required to carry out the foregoing pursuant to and in accordance with the terms of the Access Agreement or such other access arrangement that IOC may negotiate with the Pointe-Noire Purchaser. IOC acknowledges that CQIM shall have no responsibility or liability of any kind or nature whatsoever in connection with IOC accessing the Pointe-Noire Facility.
36. The obligation of IOC to complete the IOC Railcar Transaction is subject to the following conditions being fulfilled or waived by IOC:
- (a) The IOC Railcar AVO shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed;
  - (b) CQIM shall have executed and delivered or caused to have been executed and delivered to IOC at Closing all the documents contemplated in Section 7.2 of the IOC Railcar APA;
  - (c) During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of:
    - (i) Making any of the transactions contemplated by the IOC Railcar APA illegal; or

- (ii) Otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by the IOC Railcar APA.
  - (d) Each of the representations and warranties contained in Section 4.2 of the IOC Railcar APA shall be true and correct in all material respects:
    - (i) As of the Closing Date as if made on and as of such date; or
    - (ii) If made as of a date specified therein, as of such date; and
  - (e) CQIM shall have performed in all material respects all covenants, obligations and agreements contained in the IOC Railcar APA required to be performed by CQIM on or before the Closing.
37. The obligation of CQIM to complete the IOC Railcar Transaction is subject to the following conditions being fulfilled or waived by CQIM:
- (a) The IOC Railcar AVO shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed;
  - (b) IOC shall have executed and delivered or caused to have been executed and delivered to CQIM at Closing all the documents and payments contemplated in Section 7.3 of the IOC Railcar APA;
  - (c) During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of:
    - (i) Making any of the transactions contemplated by the IOC Railcar APA illegal;

- (ii) Otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by the IOC Railcar APA;
  - (d) Each of the representations and warranties contained in Section 4.1 of the IOC Railcar APA shall be true and correct in all material respects:
    - (i) As of the Closing Date as if made on and as of such date; or
    - (ii) If made as of a date specified therein, as of such date; and
  - (e) IOC shall have performed in all material respects all covenants, obligations and agreements contained in the IOC Railcar APA required to be performed by IOC on or before the Closing.
38. The IOC Railcar APA may be terminated on or prior to the Closing Date as set out in section 9.1 of the IOC Railcar APA:
- (a) By mutual written agreement of CQIM and IOC, and, if following the approval of the IOC Railcar Transaction by the Court, with the consent of the Monitor, or approval of the Court;
  - (b) By written notice from IOC if before Closing all, or substantially all, of the IOC Purchased Assets are subject to a Casualty;
  - (c) By either IOC or CQIM if, for reasons other than a breach of the IOC Railcar APA by CQIM or IOC, as applicable:
    - (i) The IOC Railcar AVO has not been obtained by September 30, 2016, or such later date as the Parties may agree; or
    - (ii) The Court declines to grant the IOC Railcar AVO;

- (d) By IOC if there has been a material breach by CQIM of any representation, warranty or covenant in the IOC Railcar APA that has not been waived by IOC, and:
  - (i) Such breach is not curable and has rendered the satisfaction of any condition in section 8.1 of the IOC Railcar APA impossible by the Outside Date, being five (5) Business Days following receipt of the Approval and Vesting Order; or
  - (ii) Such breach is curable but has not been cured within ten (10) days following the date upon which CQIM received notice of the breach;
- (e) By either IOC or CQIM if Closing has not occurred by the Outside Date and the failure to close is not caused by IOC's or CQIM's breach of the IOC Railcar APA, respectively; or
- (f) By CQIM if there has been a material breach by IOC of any representation, warranty or covenant in the IOC Railcar APA that has not been waived by CQIM, and:
  - (i) Such breach is not curable and has rendered the satisfaction of any condition in section 8.2 impossible by the Outside Date; or
  - (ii) Such breach is curable but has not been cured within ten (10) days following the date upon which IOC received notice of the breach.

**THE MONITOR'S COMMENTS AND RECOMMENDATION**

39. Section 36(1) of the CCAA states:

“36(1) **Restriction on disposition of business assets** - A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.”

40. Section 36(3) of the CCAA states:

“(3) **Factors to be considered** - In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.”



***Reasonableness of the Process Leading to the Proposed Sale***

41. The IOC Purchased Assets were made available for sale in the SISP and during a parallel process where the Monitor sought liquidation proposals for the CCAA Parties' assets and inventories.
42. The Monitor is of the view that it was widely known that the IOC Purchased Assets were available for sale, and that the process that resulted in the execution of the IOC Railcar APA was fair and reasonable in the circumstances.

***Monitor's Approval of the Process***

43. The Monitor approved the process that led to the execution of the IOC Railcar APA and was actively involved in the execution thereof.

***Comparison with Sale in Bankruptcy***

44. The Monitor has considered whether the IOC Railcar Transaction would be more beneficial to CNR, the sole creditor holding security on the IOC Purchased Assets other than the beneficiaries of the CCAA Charges, and the creditors of CQIM generally, than a sale or disposition of the IOC Purchased Assets under a bankruptcy.
45. Given the SISP, the offers received and the liquidation alternatives available, the options available for sale or disposition of the IOC Purchased Assets are the same regardless of whether such sale or disposition is carried out in the CCAA Proceedings or in a bankruptcy.

46. As discussed later in this Report, the Monitor is satisfied that the Purchase Price contemplated in the IOC Railcar APA is fair and reasonable in the circumstances and that the approval and completion of the IOC Railcar Transaction is in the best interests of the creditor holding security on the IOC Purchased Assets and of CQIM's stakeholders generally. There would be no prejudice to the beneficiaries of the CCAA Charges from the sale of the IOC Purchased Assets as the proceeds will stand in the stead of the IOC Purchased Assets and be held by the Monitor pending further Order of the Court.
47. It is the Monitor's view that the process to obtain the IOC Railcar AVO, which is a condition of the IOC Railcar APA, and close the IOC Railcar Transaction would be the same in both the CCAA Proceedings or a bankruptcy and that the costs associated therewith would be essentially the same whether the sale was completed in the CCAA Proceedings or a bankruptcy.
48. However, a sale in bankruptcy would delay the approval and closing of the IOC Railcar Transaction as it would be necessary to first assign CQIM into bankruptcy or obtain a Bankruptcy Order, convene a meeting of creditors, appoint inspectors and obtain the approval of the inspectors for the IOC Railcar Transaction prior to seeking the IOC Railcar AVO. Alternatively, the secured creditor could seek to have the stay of proceedings lifted and a receiver appointed to conclude the IOC Railcar Transaction which would again delay the completion of the IOC Railcar Transaction.
49. Accordingly, it is the Monitor's view that a sale or disposition of the IOC Purchased Assets in a bankruptcy would not be more beneficial than the closing of the IOC Railcar Transaction in the CCAA Proceedings.

***Consultation with Creditors***

50. Other than the beneficiaries of the Administration Charge and the Directors' Charge, there are no known claims which would rank in priority to the CNR Key Bank Security over the IOC Purchased Assets and, accordingly, CNR is the only creditor with an economic interest in the IOC Purchased Assets. CNR has informed the Monitor that it consents to the IOC Railcar Transaction.
51. The Monitor is of the view that the degree of creditor consultation was appropriate in the circumstances. The Monitor does not consider that any material change in the outcome of efforts to sell the IOC Purchased Assets would have resulted from additional creditor consultation.

***The Effect of the Proposed Sale on Creditors and Other Interested Parties***

52. Pursuant to the proposed form of the IOC Railcar AVO, the proceeds of sale will stand in the stead of the IOC Purchased Assets and be held by the Monitor pending further Order of the Court. Accordingly, the beneficiaries of the Administration Charge and the Directors' Charge will not be prejudiced by the IOC Railcar Transaction.
53. As noted earlier in this Report, CNR is the only creditor with an economic interest in the IOC Purchased Assets. Accordingly, it is the Monitor's view that no stakeholder would be adversely affected by the IOC Railcar Transaction.

***Fairness of Consideration***

54. During the SISP and the parallel process to obtain liquidation proposals, there was very little interest in the railcars owned or leased by the CCAA Parties. No offers for the IOC Purchased Assets have been received other than the offer from IOC. While the implicit price per railcar of the IOC Railcar APA is lower than the implicit price per railcar of the Rio Tinto Railcar APA previously approved by the Court, it is within the range of the three offers received by the CCAA Parties for similar railcars. Furthermore, the IOC Railcar APA provides for the sale of a significantly higher number of railcars than the Rio Tinto Railcar APA. In the Monitor's view, it is not unreasonable that a somewhat lower price per railcar might be appropriate in a sale of such volume.
55. Accordingly, the Monitor is of the view that the Purchase Price is fair and reasonable in the circumstances.

***Monitor's Recommendation***

56. The IOC Railcar Transaction is the highest and best transaction resulting from the marketing of the IOC Purchased Assets and the consideration appears to be fair and reasonable in the circumstances. There is no evidence to suggest that viable alternatives exist that would deliver a better recovery from the IOC Purchased Assets for the creditors of CQIM's estate.
57. CNR is the only creditor with an economic interest in the IOC Purchased Assets. CNR has informed the Monitor that it consents to the IOC Railcar Transaction.
58. Accordingly, and based on the foregoing, the Monitor is of the view that the approval of the IOC Railcar Transaction is in the best interests of the creditor holding security over the IOC Purchased Assets and CQIM's stakeholders generally and the Monitor supports CQIM's request for approval of the IOC Railcar Transaction and the granting of the IOC Railcar AVO.

**REQUEST TO MAINTAIN THE PURCHASE PRICE AND DEPOSIT  
INFORMATION CONFIDENTIAL**

59. In support of its application for the issuance of the IOC Railcar AVO, CQIM filed a copy of the IOC Railcar APA redacted to remove details with respect to the Purchase Price and Deposit. CQIM continues to market for sale 564 gondola railcars similar to the IOC Purchased Assets and believes providing this information to the public could negatively impact future negotiations for the sale of the remaining gondola cars. CQIM submits that these redactions should remain until the balance of the railcars are sold or otherwise realized by CQIM.
60. A similar request was made by CQIM in its motion for approval of the Rio Tinto Railcar AVO and was granted by the Court on June 28, 2016.
61. The Monitor has considered CQIM's request and is of the view that CQIM's request to maintain the Purchase Price and Deposit information confidential until such time as the remaining gondola railcars have been sold is reasonable, justified and appropriate in the circumstances.

The Monitor respectfully submits to the Court this, its Twenty-Second Report.

Dated this 22<sup>nd</sup> day of August, 2016.

FTI Consulting Canada Inc.  
In its capacity as Monitor of  
Bloom Lake General Partner Limited, Quinto Mining Corporation,  
8568391 Canada Limited, Cliffs Québec Iron Mining ULC,  
Wabush Iron Co. Limited, Wabush Resources Inc.,  
The Bloom Lake Iron Ore Mine Limited Partnership,  
Bloom Lake Railway Company Limited, Wabush Mines,  
Arnaud Railway Company and Wabush Lake Railway Company Limited



Nigel D. Meakin  
Senior Managing Director



Steven Bissell  
Managing Director

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# **Appendix A**

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**The IOC Railcar APA (Redacted)**

**CLIFFS QUÉBEC IRON MINING ULC**

**- and -**

**IRON ORE COMPANY OF CANADA**

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**ASSET PURCHASE AGREEMENT**

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**DATED AS OF JULY \_\_\_\_, 2016**

## TABLE OF CONTENTS

Page

### ARTICLE 1 INTERPRETATION

1.1	Definitions .....	1
1.2	Actions on Non-Business Days.....	6
1.3	Currency and Payment Obligations .....	6
1.4	Calculation of Time .....	6
1.5	Tender.....	6
1.6	Additional Rules of Interpretation.....	6
1.7	Schedules .....	7

### ARTICLE 2 PURCHASE OF ASSETS

2.1	Purchase and Sale of Purchased Assets.....	8
-----	--	---

### ARTICLE 3 PURCHASE PRICE & TAXES

3.1	Purchase Price.....	8
3.2	Satisfaction of Purchase Price .....	8
3.3	Taxes .....	8
3.4	Allocation of Purchase Price .....	8

### ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1	Representations and Warranties of the Purchaser .....	8
4.2	Representations and Warranties of the Vendor.....	9
4.3	As is, Where is .....	10

### ARTICLE 5 ACCESS AND REMOVAL

5.1	Access. ....	12
5.2	Removal.....	12

### ARTICLE 6 COVENANTS

6.1	Target Closing Date .....	12
6.2	Motion for Approval and Vesting Order.....	12
6.3	Risk of Loss and Casualty .....	13
6.4	Release.....	13
6.5	Trademarked and Branded Assets .....	13
6.6	Indemnity .....	13



**TABLE OF CONTENTS**  
(continued)

**Page**

**ARTICLE 7**  
**CLOSING ARRANGEMENTS**

7.1	Closing .....	14
7.2	Vendor's Closing Deliveries .....	14
7.3	Purchaser's Closing Deliveries .....	14

**ARTICLE 8**  
**CONDITIONS OF CLOSING**

8.1	Purchaser's Conditions .....	15
8.2	Vendor's Conditions .....	15
8.3	Monitor's Certificate .....	16

**ARTICLE 9**  
**TERMINATION**

9.1	Grounds for Termination .....	16
9.2	Effect of Termination .....	17
9.3	Treatment of Deposit .....	18

**ARTICLE 10**  
**GENERAL**

10.1	Survival .....	18
10.2	Expenses .....	18
10.3	Public Announcements .....	18
10.4	Notices .....	19
10.5	Time of Essence .....	20
10.6	Further Assurances .....	20
10.7	Entire Agreement .....	20
10.8	Amendment .....	20
10.9	Waiver .....	21
10.10	Severability .....	21
10.11	Remedies Cumulative .....	21
10.12	Governing Law .....	21
10.13	Dispute Resolution .....	21
10.14	Attornment .....	21
10.15	Successors and Assigns .....	21
10.16	Assignment .....	21
10.17	Monitor's Capacity .....	22
10.18	Third Party Beneficiaries .....	22

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
10.19 Counterparts .....	22
10.20 Language .....	22

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement dated as of July \_\_\_\_, 2016 is made by and between:

### CLIFFS ÉBÉC IRON MINING ULC

(the “Vendor”)

- and -

### IRON ORE COMPANY OF CANADA

(the “Purchaser”)

#### RECITALS:

A. Pursuant to an initial order of the Québec Superior Court [Commercial Division] (the “**Court**”) dated January 27, 2015 (as the same may be amended and restated from time to time) in the proceedings bearing Court File No. 500-11-048114-157 (the “**CCA Proceedings**”), Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, 8568391 Canada Limited, Bloom Lake General Partner Limited, the Bloom Lake Railway Company Limited and the Bloom Lake Iron Ore Mine Limited Partnership (collectively, the “**Bloom Lake CCA Parties**”) obtained protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCA**”) and FTI Consulting Canada Inc. was appointed as monitor in the CCA Proceedings (in such capacity and not in its personal or corporate capacity, the “**Monitor**”).

B. Pursuant to Orders of the Court dated April 17, 2015 and June 9, 2015 (as each may be amended, restated, supplemented or modified from time to time, the “**SISP Orders**”), the Vendor was authorized to conduct the sale and investor solicitation process for the property and business of, among others, the Vendor, in accordance with the sale and investor solicitation procedures approved by the Court in the SISP Orders (the “**SISP**”).

D. The Vendor desires to sell, transfer and assign to the Purchaser, and the Purchaser desires to acquire and assume from the Vendor, all of the Vendor’s right, title and interest in and to the Purchased Assets, on the terms and subject to the conditions contained in this Agreement.

E. The transactions contemplated by this Agreement are subject to the approval of the Court and will be consummated pursuant to the Approval and Vesting Order to be entered by the Court in the CCA Proceedings.

**NOW THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties agree as follows:

### ARTICLE 1 INTERPRETATION

**1.1 Definitions.** In this Agreement:

“**Access Acknowledgement**” has the meaning set out in Section 5.1.

**“Access Agreement”** has the meaning set out in Section 5.1.

**“Action”** means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity and by or before a Governmental Authority.

**“Affiliate”** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to **“control”** another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term **“controlled”** shall have a similar meaning.

**“Agreement”** means this Asset Purchase Agreement and all the Schedules attached hereto, as they may be amended, restated or supplemented from time to time in accordance with the terms hereof.

**“Applicable Law”** means, with respect to any Person, property, transaction, event or other matter, (a) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order or other requirement having the force of law, (b) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively, in the foregoing clauses (a) and (b), **“Law”**), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

**“Approval and Vesting Order”** means an order of the Court issued in the CCAA Proceedings, substantially in the form of Schedule “A”, approving the transactions contemplated by this Agreement and vesting in the Purchaser all of the Vendor’s right, title and interest in and to the Purchased Assets free and clear of all Encumbrances.

**“Bill of Sale”** means a bill of sale, in form and substance satisfactory to the Parties, acting reasonably, evidencing the sale to the Purchaser of all of the Vendor’s right, title and interest in and to the Purchased Assets.

**“Bloom Lake CCAA Parties”** has the meaning set out in Recital A.

**“Business Day”** means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Montréal, Québec, the City of Toronto, Ontario, or the city of Cleveland, Ohio.

**“Casualty”** has the meaning set out in Section 6.3.

**“Casualty Assets”** has the meaning set out in Section 6.3.

**“CCAA”** has the meaning set out in Recital A.

**“CCAA Parties”** means collectively the Bloom Lake CCAA Parties and such other Affiliates of the Bloom Lake CCAA Parties who are parties to the CCAA Proceedings from time to time.

**“CCAA Proceedings”** has the meaning set out in Recital A.

**“Closing”** means the completion of the purchase and sale of the Vendor’s right, title and interest in and to the Purchased Assets by the Purchaser in accordance with the provisions of this Agreement.

**“Closing Date”** means the date on which Closing occurs, which date shall be the Target Closing Date or such other date as may be agreed to in writing by the Parties.

**“Closing Time”** has the meaning set out in Section 7.1.

**“Conditions Certificates”** has the meaning set out in Section 8.3.

**“Court”** has the meaning set out in Recital A.

**“CRA”** means the Canada Revenue Agency or any successor agency.

**“Damages”** means any loss, cost, liability, claim, interest, fine, penalty, assessment, Taxes, damages available at law or in equity (including incidental, consequential, special, aggravated, exemplary or punitive damages), expense (including consultant’s and expert’s fees and expenses and reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation, defence or settlement) or diminution in value.

**“Deposit”** has the meaning set out in Section 3.2(1).

**“Encumbrances”** means all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, liens, security interests, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights), encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

**“Governmental Authority”** means:

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);
- (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;

- (c) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association.

“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada).

“**Interim Period**” means the period from the date that this Agreement is entered into by the Parties to the Closing Time.

“**ITA**” means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supplement).

“**Law**” has the meaning set out in the definition of “**Applicable Law**”.

“**Legal Proceeding**” means any litigation, Action, application, suit, investigation, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review.

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**Monitor**” has the meaning set out in Recital A.

“**Monitor’s Certificate**” means the certificate, substantially in the form attached as Schedule “A” to the Approval and Vesting Order, to be delivered by the Monitor to the Vendor and the Purchaser on Closing and thereafter filed by the Monitor with the Court certifying that it has received the Conditions Certificates.

“**Order**” means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

“**Outside Date**” means five (5) Business Days following receipt of the Approval and Vesting Order, or such other date as the Parties may agree.

“**Party**” means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and “**Parties**” means more than one of them.

“**Person**” is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

**“Pointe-Noire Facilities”** means the pellet production facility located in Pointe-Noire, Québec, and the port facility located in Pointe-Noire, Québec in the Bay of Sept-Iles, together with the Arnaud Railway (as such term is defined in the Pointe-Noire Purchase Agreement).

**“Pointe-Noire Purchase Agreement”** has the meaning set out in Section 5.1.

**“Pointe-Noire Purchaser”** means Société Ferroviaire et Portuaire de Pointe-Noire s.e.c.

**“Purchase Price”** has the meaning set out in Section 3.1.

**“Purchased Assets”** means the right, title and interest of the Vendor in the equipment listed on Schedule “B”.

**“Purchaser”** has the meaning set out in the preamble hereto, and includes any successor or permitted assignee thereof in accordance with Section 10.16.

**“QST”** means all Québec sales tax imposed pursuant to the *Act respecting the Québec sales tax*, R.S.Q. c. T-0.1, as amended.

**“Representative”** when used with respect to a Person means each director, officer, employee, consultant, subcontractor, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

**“Sale Advisor”** means Moelis & Company LLC.

**“SISP”** has the meaning set out in Recital B.

**“SISP Order”** has the meaning set out in Recital B.

**“SISP Team”** means the CCAA Parties, the Sale Advisor and the Monitor.

**“Target Closing Date”** means three (3) Business Days following receipt of the Approval and Vesting Order, or such other date as the Parties may agree.

**“Taxes”** means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, social security premiums, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, QST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties.

**“Tax Returns”** means all returns, reports, declarations, elections, notices, filings, information returns, and statements in respect of Taxes that are required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

**“Transfer Taxes”** means all applicable Taxes, including where applicable, GST/HST and QST payable upon or in connection with the transactions contemplated by this Agreement and any filing, registration, recording or transfer fees payable in connection with the instruments of transfer provided for in this Agreement.

**“Vendor”** has the meaning set out in the preamble hereto.

**1.2 Actions on Non-Business Days.** If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

**1.3 Currency and Payment Obligations.** Except as otherwise expressly provided in this Agreement: (a) all dollar amounts referred to in this Agreement are stated in the lawful currency of Canada; and (b) any payment contemplated by this Agreement shall be made by wire transfer of immediately available funds to an account of the Monitor specified by the payee, by cash, by certified cheque or by any other method that provides immediately available funds as agreed to between the Parties, with the consent of the Monitor.

**1.4 Calculation of Time.** In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Eastern on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Eastern on the next succeeding Business Day.

**1.5 Tender.** Any tender of documents or money hereunder may be made upon the Parties or, if so indicated, the Monitor, or their respective counsel.

**1.6 Additional Rules of Interpretation.**

(1) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.

(2) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.

(3) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, and Schedules to this Agreement.

(4) *Words of Inclusion.* Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”



and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.

(5) *References to this Agreement.* The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.

(6) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(7) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules attached thereto.

**1.7 Schedules.** The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

**SCHEDULES**

<u>Schedule “A”</u>	Form of Approval and Vesting Order
<u>Schedule “B”</u>	Purchased Assets
<u>Schedule “C”</u>	Allocation of Purchase Price
<u>Schedule “D”</u>	Access Agreement
<u>Schedule “E”</u>	Access Acknowledgement

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Schedules and the interpretation provisions set out in this Agreement apply to the Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

## **ARTICLE 2 PURCHASE OF ASSETS**

**2.1 Purchase and Sale of Purchased Assets.** At the Closing Time, on and subject to the terms and conditions of this Agreement and the Approval and Vesting Order, the Vendor shall sell to the Purchaser, and the Purchaser shall purchase from the Vendor, all of the Vendor's right, title and interest in and to the Purchased Assets, which shall be free and clear of all Encumbrances, to the extent and as provided for in the Approval and Vesting Order.

## **ARTICLE 3 PURCHASE PRICE & TAXES**

**3.1 Purchase Price.** The consideration payable by the Purchaser to the Vendor for the Vendor's right, title and interest in and to the Purchased Assets shall be [REDACTED], as may be adjusted in accordance with Section 6.3(2) (the "**Purchase Price**").

**3.2 Satisfaction of Purchase Price.** The Purchase Price shall be paid and satisfied as follows:

(1) the deposit in the amount of [REDACTED] which shall be paid by the Purchaser to the Monitor in trust on behalf of the Vendor within three (3) Business Days of the date of this Agreement (the "**Deposit**") shall be applied against the Purchase Price on Closing. The Purchaser agrees that it waives any accrued interest earned on the Deposit; and

(2) the balance of the Purchase Price, after crediting the Deposit in Section 3.2(1) above, shall be paid by the Purchaser to the Monitor on Closing.

**3.3 Taxes.** In addition to the Purchase Price, the Purchaser shall be liable for and shall, at Closing, pay all applicable Transfer Taxes.

**3.4 Allocation of Purchase Price.** The Purchase Price shall be allocated among the Purchased Assets as set forth on Schedule "C". The Parties shall report an allocation of the Purchase Price among the Purchased Assets in a manner entirely consistent with Schedule "C", and shall not take any position inconsistent therewith in the filing of any Tax Returns or in the course of any audit by any Governmental Authority, Tax review or Tax proceeding relating to any Tax Returns.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES**

**4.1 Representations and Warranties of the Purchaser.** As a material inducement to the Vendor entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Vendor is entering into this Agreement in reliance upon the representations and warranties of the Purchaser set out in this Section 4.1, the Purchaser represents and warrants to the Vendor as follows:

(1) *Incorporation and Corporate Power.* The Purchaser is a corporation incorporated, organized and subsisting under the laws of the jurisdiction of its incorporation. The Purchaser has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform its obligations under this Agreement and under all such other agreements and instruments.

(2) *Authorization by Purchaser.* The execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated by this Agreement and all such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.

(3) *Approvals.* No consent, waiver, authorization or approval of any Person 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 all other agreements and instruments to be executed by the Purchaser or the performance by the Purchaser of its obligations hereunder or thereunder.

(4) *Enforceability of Obligations.* This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms. There is no Legal Proceeding in progress or pending against or affecting the Purchaser and there is no Order outstanding against or affecting the Purchaser which, in any such case, affects adversely the ability of the Purchaser to enter into this Agreement or to perform its obligations hereunder.

(5) *Excise Tax Act.* The Purchaser is registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada) and for QST purposes pursuant to the *Act respecting the Québec sales tax* and its GST/HST and QST numbers are as follows: GST/HST – R102529906; QST – 1000196092.

(6) *Commissions.* The Vendor will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Purchaser.

(7) *Sufficient Funds.* The Purchaser has sufficient financial resources or has arranged sufficient financing for it to pay the Purchase Price and the Transfer Taxes.

**4.2 Representations and Warranties of the Vendor.** As a material inducement to the Purchaser entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon the representations and warranties of the Vendor set out in this Section 4.2, the Vendor represents and warrants to the Purchaser as follows:

(1) *Incorporation and Corporate Power.* The Vendor is a corporation existing under the laws of British Columbia. Subject to the granting of the Approval and Vesting Order, the Vendor has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform its other obligations under this Agreement and under all such other agreements and instruments.

(2) *Authorization by Vendor.* Subject to the granting of the Approval and Vesting Order, the execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated by this Agreement and all such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Vendor.

(3) *Enforceability of Obligations.* Subject to the granting of the Approval and Vesting Order, this Agreement constitutes a valid and binding obligation of the Vendor enforceable against the Vendor in accordance with its terms.

(4) *ITA.* The Vendor is not a non-resident of Canada for purposes of the *ITA*.

(5) *Excise Tax Act.* The Vendor is registered for GST/HST purposes under Part IX of the *Excise Tax Act* (Canada) and for QST purposes pursuant to the *Act respecting the Québec sales tax* and its GST/HST and QST numbers are as follows: GST/HST – 12262 6575; QST – 1003852071.

(6) *Commissions.* The Purchaser will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Vendor.

**4.3 As is, Where is.** Notwithstanding any other provision of this Agreement, the Purchaser acknowledges, agrees and confirms that:

(1) except for the representations and warranties of the Vendor set forth in Section 4.2, it is entering into this Agreement, acquiring the Purchased Assets on an "as is, where is" basis as they exist as of the Closing Time and will accept the Purchased Assets in their state, condition and location as of the Closing Time except as expressly set forth in this Agreement and the sale of the Purchased Assets is made without legal warranty and at the risk of the Purchaser;

(2) it has conducted to its satisfaction such independent searches, investigations and inspections of the Purchased Assets as it deemed appropriate, and based solely thereon, has determined to proceed with the transactions contemplated by this Agreement;

(3) except as expressly stated in Section 4.2, neither the Vendor nor any other Person is making, and the Purchaser is not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Purchased Assets, the Vendor's right, title or interest in or to the Purchased Assets, including with respect to merchantability, physical or financial condition, description, fitness for a particular purposes, suitability for development, title, description, use or zoning, environmental condition, existence of latent defects, quality, quantity or any other thing affecting any of the Purchased Assets or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or

representations expressed or implied pursuant to any Applicable Law in any jurisdiction, which the Purchaser confirms do not apply to this Agreement and are hereby waived in their entirety by the Purchaser;

(4) without limiting the generality of the foregoing, no representation, warranty or covenant is given by any member of the SISP Team or any of the SISP Team's Representatives that the Purchased Assets are or can be made operational within a specified time frame or will achieve any particular level of service, use, production capacity or actual production if made operational;

(5) without limiting the generality of the foregoing, except as expressly stated in Section 4.2, the Vendor has made no representation or warranty as to any regulatory approvals, permits and licenses, consents or authorizations that may be needed to complete the transactions contemplated by this Agreement or to operate the Purchased Assets, and the Purchaser is relying entirely on its own investigation, due diligence and inquiries in connection with such matters;

(6) all written and oral information obtained from any member of the SISP Team or any of the SISP Team's Representatives, including in any teaser letter, asset listing, confidential information memorandum or other document made available to the Purchaser (including in certain "data rooms", management presentations, site visits and diligence meetings or telephone calls), with respect to the Purchased Assets has been obtained for the convenience of the Purchaser only, and no member of the SISP Team nor any of the SISP Team's Representatives have made any representation or warranty, express or implied, statutory or otherwise as to the accuracy or completeness of any such information;

(7) any information regarding or describing the Purchased Assets in this Agreement (including the Schedules hereto), or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by any member of the SISP Team or any of the SISP Team's Representatives, or any other Person concerning the completeness or accuracy of such information or descriptions; and

(8) except as otherwise expressly provided in this Agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or claims the Purchaser might have against the Vendor, any member of the SISP Team or any of the SISP Team's Representatives pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those representations and warranties by the Vendor expressly set forth in Section 4.2. Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties contained in the *Civil Code of Québec*, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights.

For greater certainty and without limiting the generality of the foregoing, the Parties hereby agree to exclude altogether the effect of the legal warranty provided for by article 1716 of the *Civil Code of Québec* and that the Purchaser is purchasing the Purchased Assets at its own risk within the meaning of article 1733 of the *Civil Code of Québec*. This Section 4.3 shall not merge on Closing and is deemed incorporated by reference in all closing documents and deliveries. The Purchaser shall have no recourse or claim of any kind against the proceeds of the transactions contemplated by this Agreement following Closing.

## **ARTICLE 5 ACCESS AND REMOVAL**

**5.1 Access.** The Purchaser acknowledges that the Purchased Assets are located at the Pointe-Noire Facilities which have been acquired by the Pointe-Noire Purchaser pursuant to an asset purchase agreement dated December 23, 2015 (as assigned, the “**Pointe-Noire Purchase Agreement**”). The Purchaser acknowledges that the Purchaser’s access to the Pointe-Noire Facilities for the purposes of taking possession of the Purchased Assets and removing and transporting the Purchased Assets off the Pointe-Noire Facilities sites will be subject to the Purchaser executing and delivering an acknowledgment in the form set out in Schedule “D” (the “**Access Acknowledgement**”) agreeing to be bound to the terms of the access agreement dated March 8, 2016 among, inter alia, the Vendor and the Pointe-Noire Purchaser (the “**Access Agreement**”), a copy of which is attached as Schedule “E”, or such other access arrangement that the Purchaser may negotiate with the Pointe-Noire Purchaser. The Purchaser also acknowledges that its access to the Pointe-Noire Facilities will be at its sole risk and liability.

**5.2 Removal.** The Purchaser shall be entirely responsible for removing the Purchased Assets from the Pointe-Noire Facilities sites, transporting the Purchased Assets offsite and supplying all equipment, personnel and materials required to carry out the foregoing pursuant to and in accordance with the terms of the Access Agreement or such other access arrangement that the Purchaser may negotiate with the Pointe-Noire Purchaser. The Purchaser acknowledges that the Vendor shall have no responsibility or liability of any kind or nature whatsoever in connection with the Purchaser accessing the Pointe-Noire Facilities sites, or the removal and transportation of the Purchased Assets from the Pointe-Noire Facilities sites and that there shall be no adjustment to the Purchase Price as a result of any degradation in value of the Purchased Assets after the date of this Agreement or the Purchaser’s abandonment of any of the Purchased Assets after Closing or any transfer of title to any of the Purchased Assets to the Pointe-Noire Purchaser pursuant to the terms of the Access Agreement should any Purchased Assets not be removed by the timelines set out in the Access Agreement.

## **ARTICLE 6 COVENANTS**

**6.1 Target Closing Date.** The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on or before the Target Closing Date.

**6.2 Motion for Approval and Vesting Order.** The Vendor shall file with the Court, as soon as practicable after its execution and delivery of this Agreement, a motion seeking the Court’s issuance of the Approval and Vesting Order. The Vendor shall diligently use commercially reasonable efforts to seek the issuance and entry of the Approval and Vesting Order. The Purchaser shall cooperate with the Vendor in its efforts to obtain the issuance and entry of the Approval and Vesting Order. The Purchaser, at its own expense, will promptly provide to the

Vendor and the Monitor all such information within its possession or under its control as the Vendor or the Monitor may reasonably require to obtain the Approval and Vesting Order.

### **6.3 Risk of Loss and Casualty.**

(1) Subject to the terms and conditions of this Agreement, the Purchased Assets shall be at the risk of the Vendor until Closing. Title to, risk of loss of, or damage to any of the Purchased Assets shall pass to the Purchaser at Closing.

(2) If before the Closing, Purchased Assets comprising less than all or substantially all of the Purchased Assets are lost, materially damaged so as to render the Purchased Assets inoperable, destroyed or are expropriated or seized by any Governmental Authority or any other Person in accordance with Applicable Law or if notice of any such expropriation or seizure shall have been given in accordance with Applicable Law (each, a "**Casualty**"), then with respect to each such Purchased Asset which is subject to a Casualty (each, a "**Casualty Asset**"), the Purchaser shall have the option to amend Schedule "B" to remove such Casualty Asset, and the Purchase Price payable shall be adjusted to reflect the removal of such Casualty Asset as a Purchased Asset under this Agreement in accordance with the allocation set forth on Schedule "C".

(3) If before the Closing all or substantially all of the Purchased Assets are subject to a Casualty, in addition to the option set forth in Section 6.3(2) above, the Purchaser, in its discretion, shall have the option, exercisable by written notice to the Vendor given prior to the Closing Time, to terminate this Agreement, as provided in Section 9.1.

(4) During the Interim Period, each Party shall notify the other in writing of the occurrence of any Casualty promptly after such Party has become aware of the occurrence thereof.

**6.4 Release.** The Purchaser hereby releases and discharges the Vendor, the Vendor's Affiliates and their respective Representatives and assumes the risk of loss of or damage to Persons or property as may be related to the Purchaser accessing the Pointe-Noire Facilities or the removal, transportation or any use or resale of the Purchased Assets by the Purchaser.

**6.5 Trademarked and Branded Assets .** With respect to any Purchased Assets to be acquired by the Purchaser hereunder bearing any trademarks, business names, logos or other branding of the Vendor or Cliffs Natural Resources Inc. (collectively, "**Proprietary Marks**"), such Proprietary Marks do not form part of the Purchased Assets. The Purchaser will co-operate with the Vendor, at the Purchaser's cost and expense, in removing, dismantling and/or destroying such Proprietary Marks on or contained in any of the Purchased Assets, to the satisfaction of the Vendor, and nothing in this Agreement shall be construed as a licence by the Vendor to the Purchaser of any of the Proprietary Marks.

**6.6 Indemnity.** The Purchaser hereby indemnifies the Vendor, the Vendor's Affiliates and their respective Representatives, and save them fully harmless against, and will reimburse or compensate them for, any Damages arising from, in connection with or related in any manner whatsoever to:

(1) any Taxes including Transfer Taxes (including penalties and interest) which may be assessed against the Vendor;

(2) the Purchaser's access to the Pointe-Noire Facilities, including for the removal and transportation or any use or resale of the Purchased Assets by the Purchaser, including all claims for loss of or damage or injury to any Persons or property caused by any access, use, removal or transportation of the Purchased Assets.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

**7.1 Closing.** The Closing shall take place at 10:00 a.m. Eastern time (the "**Closing Time**") on the Closing Date at the offices of the Vendor's counsel in Montréal, Québec, or at such other time on the Closing Date or such other place as may be agreed orally or in writing by the Vendor and the Purchaser.

**7.2 Vendor's Closing Deliveries.** At the Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following:

(1) the Purchased Assets, provided that delivery shall occur *in situ* at the Pointe-Noire Facilities;

(2) a true copy of the Approval and Vesting Order;

(3) the Bill of Sale, duly executed by the Vendor;

(4) a bring-down certificate executed by a senior officer of the Vendor dated as of the Closing Date, in form and substance satisfactory to the Purchaser, acting reasonably, certifying that (i) all of the representations and warranties of the Vendor hereunder remain true and correct in all material respects as of the Closing Date as if made on and as of such date or, if made as of a date specified therein, as of such date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or performed by the Vendor at or prior to Closing have been complied with or performed by the Vendor in all material respects; and

(5) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

**7.3 Purchaser's Closing Deliveries.** At the Closing (or prior to Closing, if so indicated below), the Purchaser shall deliver or cause to be delivered to the Vendor (or to the Monitor, if so indicated below), the following:

(1) the payment of the Deposit required to be paid pursuant to Section 3.2(1) of this Agreement shall have been made to the Monitor;

(2) the payment referred to in Section 3.2(2), which shall be made to the Monitor;

(3) the payment of all Transfer Taxes (if any) required to be paid on Closing shall be made to the Monitor;

(4) the Bill of Sale, duly executed by the Purchaser;

(5) the Access Acknowledgement, duly executed by the Purchaser;



(6) a bring-down certificate executed by a senior officer of the Purchaser dated as of the Closing Date, in form and substance satisfactory to the Vendor, acting reasonably, certifying that (i) all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing Date as if made on and as of such date or, if made as of a date specified therein, as of such date, and (ii) all of the terms and conditions set out in this Agreement to be complied with or performed by the Purchaser at or prior to Closing have been complied with or performed by the Purchaser in all material respects; and

(7) such other agreements, documents and instruments as may be reasonably required by the Vendor to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## **ARTICLE 8 CONDITIONS OF CLOSING**

**8.1 Purchaser's Conditions.** The Purchaser shall not be obligated to complete the transactions contemplated by this Agreement, unless, at or before the Closing Time, each of the conditions listed below in this Section 8.1 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Purchaser, and may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. The Vendor shall take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions listed below in this Section 8.1 are fulfilled at or before the Closing Time.

(1) *Court Approval.* The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.

(2) *Vendor's Deliverables.* The Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.2.

(3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of (a) making any of the transactions contemplated by this Agreement illegal, or (b) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.

(4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 4.2 shall be true and correct in all material respects (i) as of the Closing Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.

(5) *No Breach of Covenants.* The Vendor shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendor on or before the Closing.

**8.2 Vendor's Conditions.** The Vendor shall not be obligated to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the conditions listed below in this Section 8.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendor, and may be waived by the Vendor in whole

or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. The Purchaser shall take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the conditions listed below in this Section 8.2 are fulfilled at or before the Closing Time.

(1) *Court Approval.* The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.

(2) *Purchaser's Deliverables.* The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor (or the Monitor, as applicable) at the Closing all the documents and payments contemplated in Section 7.3.

(3) *No Violation of Orders or Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of (a) making any of the transactions contemplated by this Agreement illegal, or (b) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement, including any expropriation or seizure or notice thereof by any Governmental Authority or any other Person with respect to the Purchased Assets, as contemplated in Section 6.3 hereof.

(4) *No Breach of Representations and Warranties.* Each of the representations and warranties contained in Section 4.1, shall be true and correct in all material respects (i) as of the Closing Date as if made on and as of such date or (ii) if made as of a date specified therein, as of such date.

(5) *No Breach of Covenants.* The Purchaser shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

**8.3 Monitor's Certificate.** When the conditions to Closing set out in Section 8.1 and Section 8.2, have been satisfied and/or waived by the Vendor or the Purchaser, as applicable, the Vendor and the Purchaser will each deliver to the Monitor written confirmation (a) that such conditions of Closing, as applicable, have been satisfied and/or waived, and (b) of the amounts of the Transfer Taxes (if any are payable) payable by the Purchaser on Closing (the "**Conditions Certificates**"). Upon receipt of payment in full of the Purchase Price and Transfer Taxes payable by the Purchaser at Closing (if any is payable) in the amounts set out in the Conditions Certificates and receipt of each of the Conditions Certificates, the Monitor shall (i) issue forthwith its Monitor's Certificate concurrently to the Vendor and the Purchaser, at which time the Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the Court (and shall provide a true copy of such filed certificate to the Vendor and the Purchaser). In the case of (i) and (ii), above, the Monitor will be relying exclusively on the basis of the Conditions Certificates and without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

## **ARTICLE 9 TERMINATION**

**9.1 Grounds for Termination.** This Agreement may be terminated on or prior to the Closing Date:

(1) by the mutual written agreement of the Vendor and the Purchaser, provided however that if this Agreement has been approved by the Court, any such termination shall require either the consent of the Monitor, or approval of the Court;

(2) by written notice from the Purchaser to the Vendor in accordance with Section 6.3(3);

(3) by the Purchaser, on the one hand, or by the Vendor, on the other hand, upon written notice to the other Party if (i) the Approval and Vesting Order has not been obtained by September 30, 2016, or such later date as the Parties may agree, or (ii) the Court declines at any time to grant the Approval and Vesting Order, in each case for reasons other than a breach of this Agreement by either the Purchaser, on the one hand, or the Vendor, on the other hand;

(4) by written notice from the Purchaser to the Vendor if there has been a material breach by the Vendor of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser, and (i) such breach is not curable and has rendered the satisfaction of any condition in Section 8.1 impossible by the Outside Date, or (ii) if such breach is curable, the Purchaser has provided prior written notice of such breach to the Vendor, and such breach has not been cured within ten (10) days following the date upon which the Vendor received such notice;

(5) by written notice from the Purchaser to the Vendor any time after the Outside Date, if the Closing has not occurred by the Outside Date for reasons other than as set out in Section 9.1(3), and such failure to close was not caused by or as a result of the Purchaser's breach of this Agreement;

(6) by written notice from the Vendor to the Purchaser if there has been a material breach by the Purchaser of any representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendor, and (i) such breach is not curable and has rendered the satisfaction of any condition in Section 8.2 impossible by the Outside Date, or (ii) if such breach is curable, the Vendor has provided prior written notice of such breach to the Purchaser, and such breach has not been cured within ten (10) days following the date upon which the Purchaser received such notice;

(7) by written notice from the Vendor to the Purchaser any time after the Outside Date, if the Closing has not occurred by the Outside Date for reasons other than as set out in Section 9.1(3), and such failure to close is not caused by or as a result of the Vendor's breach of this Agreement; or

(8) by written notice from the Vendor to the Purchaser if the Deposit has not been paid within three (3) Business Days of the date of this Agreement in accordance with Section 3.2(1) of this Agreement.

**9.2 Effect of Termination.** If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder, except as contemplated in this Section 9.2 (*Effect of Termination*) and Sections 6.4 (*Release*), 9.3 (*Treatment of Deposit*), 10.2 (*Expenses*), 10.3 (*Public Announcements*), 10.4 (*Notices*), 10.7 (*Entire Agreement*), 10.8 (*Amendment*), 10.10 (*Severability*), 10.12 (*Governing Law*), 10.13 (*Dispute Resolution*), 10.14 (*Attornment*), 10.15 (*Successors and Assigns*), 10.17 (*Monitor's Capacity*), 10.18 (*Third Party Beneficiaries*) and 10.20 (*Language*), which shall survive such termination. For the avoidance of doubt, any

Liability incurred by a Party prior to the termination of this Agreement shall survive such termination.

### **9.3 Treatment of Deposit.**

(1) *Retention of Deposit.* In the event that this Agreement is terminated by the Vendor pursuant to Section 9.1(6), the Deposit shall be forfeited by the Purchaser and retained by the Monitor on behalf of the Vendor as a genuine estimate of liquidated damages, and not as a penalty.

(2) *Return of Deposit.* In the event that this Agreement is terminated other than a termination by the Vendor pursuant to Section 9.1(6), the Deposit shall be returned to the Purchaser. The return of the Deposit shall be the Purchaser's sole and exclusive remedy for any termination of this Agreement.

(3) *Transfer Tax Gross Up.* In the event that any payment or forfeiture under this Agreement is deemed by the *Excise Tax Act* (Canada) to include GST/HST, or is deemed by any applicable provincial or territorial legislation to include a similar value added or multi-staged tax, the amount of such payment or forfeiture shall be increased accordingly.

## **ARTICLE 10 GENERAL**

**10.1 Survival.** All representations, warranties, covenants and agreements of the Vendor or the Purchaser made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement shall not survive the Closing except where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or obligations extending after the Closing, or as otherwise expressly provided in this Agreement. For greater certainty, Sections 3.4 (*Allocation of Purchase Price*), 4.3 (*As is, Where is*), 5.1 (*Access*), 5.2 (*Removal*), 6.3 (*Risk of Loss*), 6.4 (*Release*), 6.5 (*Trademarked and Branded Assets*), 6.6 (*Indemnity*), 10.1 (*Survival*), 10.2 (*Expenses*), 10.3 (*Public Announcements*), 10.4 (*Notices*), 10.6 (*Further Assurances*), 10.7 (*Entire Agreement*), 10.8 (*Amendment*), 10.9 (*Waiver*), 10.10 (*Severability*), 10.12 (*Governing Law*), 10.13 (*Dispute Resolution*), 10.14 (*Attornment*), 10.15 (*Successors and Assigns*), 10.16 (*Assignment*), 10.17 (*Monitor's Capacity*), 10.18 (*Third Party Beneficiaries*) and 10.20 (*Language*), shall survive Closing.

**10.2 Expenses.** Except as otherwise expressly provided herein, each Party shall be responsible for all costs and expenses (including any Taxes imposed on such expenses) incurred by it in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisers).

**10.3 Public Announcements.** An unredacted copy of this Agreement will be disclosed and filed with the Court and the Vendor shall seek a sealing order of the Court with respect to such unredacted copy. The Vendor shall be entitled to disclose a copy of this Agreement with the quantum of the Purchase Price, Deposit and allocation of the Purchase Price as set out in Schedule "C" redacted, and all information provided by the Purchaser in connection herewith, to the service list in the CCAA Proceedings and any other parties of interest, and a redacted copy of this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Other than as provided in the preceding two (2) sentences, the Vendor

and the Purchaser shall not issue (prior to or after the Closing) any press release or make any public statement or public communication with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, provided, however, that a Party may, without the prior consent of the other Party, issue such press release or make such public statement as may, upon the advice of counsel, be required by Applicable Law or by any Governmental Authority with competent jurisdiction including any applicable securities Laws. Notwithstanding any other provision of this Agreement, unless such information is otherwise publicly disclosed or, upon the advice of counsel, required by Applicable Law or by any Governmental Authority to be disclosed (including in any Tax Returns), the Purchaser shall not disclose the quantum of the Purchase Price, Deposit or allocation of the Purchase Price as set out in Schedule "C" to any Person without the prior written consent of the Vendor and the Monitor.

#### 10.4 Notices.

(1) *Mode of Giving Notice.* Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service, or (iii) sent by e-mail or other similar means of electronic communication, in each case to the applicable address set out below:

(a) if to the Vendor, to:

Cliffs Québec Iron Mining ULC  
c/o 199 Bay Street, Suite 4000, Commerce Court West  
Toronto, ON M5L 1A9

Attention: James Graham, Executive Vice President  
Chief Legal Officer and Secretary AND  
Clifford T. Smith, Executive Vice President, Business Development  
Email: [James.Graham@CliffsNR.com](mailto:James.Graham@CliffsNR.com) / [Clifford.Smith@CliffsNR.com](mailto:Clifford.Smith@CliffsNR.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: Thomas A. McKee/ Milly Chow  
Email: [tom.mckee@blakes.com](mailto:tom.mckee@blakes.com) / [milly.chow@blakes.com](mailto:milly.chow@blakes.com)

(b) if to the Purchaser, to:

Iron Ore Company of Canada  
400-1190 Avenue Des Canadiens-de-Montréal  
Montreal, QC H3B 0E3  
Attention: Christian Richard, Manager, Business Development AND  
Marie-Christine Dupont, Legal Counsel and Secretary  
Email: [christian.richard@ironore.ca](mailto:christian.richard@ironore.ca) / [marie-christine.dupont@riotinto.com](mailto:marie-christine.dupont@riotinto.com)

(c) and in either case, with a copy to the Monitor, to:

FTI Consulting Canada Inc.  
TD South Tower, 790 Wellington Street West  
Toronto Dominion Centre, Suite 2010, P.O. Box 104  
Toronto, ON M5K 1G8  
Attention: Nigel Meakin  
Email: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

and

Norton Rose Fullbright Canada LLP  
1 Place Ville Marie, Suite 2500  
Montréal, QC H3B1R1  
Attention: Sylvain Rigaud  
Email: [sylvain.rigaud@nortonrosefulbright.com](mailto:sylvain.rigaud@nortonrosefulbright.com)

(2) *Deemed Delivery of Notice.* Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 5:00 p.m. Eastern on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

(3) *Change of Address.* Any Party may from time to time change its address under this Section 10.4 by notice to the other Party given in the manner provided by this Section 10.4.

**10.5 Time of Essence.** Time shall be of the essence of this Agreement in all respects.

**10.6 Further Assurances.** The Vendor and the Purchaser shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Party may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

**10.7 Entire Agreement.** Other than any confidentiality agreement, non-disclosure agreement or similar undertaking or agreement signed by the Purchaser in favour of the CCAA Parties, or any of them, which remain in full force and effect, unamended by this Agreement, this Agreement and the agreements contemplated hereby constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, representations, warranties, obligations or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.

**10.8 Amendment.** No amendment of this Agreement shall be effective unless made in writing and signed by the Parties.

**10.9 Waiver.** A waiver of any default, breach or non-compliance under this Agreement shall not be effective unless in writing and signed by the Party to be bound by the waiver and then only in the specific instance and for the specific purpose for which it has been given. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).

**10.10 Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

**10.11 Remedies Cumulative.** The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

**10.12 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein.

**10.13 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 9, such dispute shall be determined by the Court within the CCAA Proceedings, or by such other Person or in such other manner as the Court may direct.

**10.14 Attornment.** Each Party agrees (a) that any Legal Proceeding relating to this Agreement may (but need not) 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 10.14. Each Party agrees that service of process on such Party as provided in Section 10.4 shall be deemed effective service of process on such Party.

**10.15 Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

**10.16 Assignment.** Prior to the issuance of the Approval and Vesting Order, the Purchaser may assign all of its rights and obligations under this Agreement to an Affiliate, provided that (a) the Purchaser shall remain liable to perform all of its obligations hereunder, and (b) the Purchaser and its assignee execute and deliver to the Vendor an assignment and assumption agreement, in form and substance satisfactory to the Vendor, acting reasonably, evidencing such assignment. Other than in accordance with the preceding sentence, neither the Purchaser nor the Vendor may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement.

**10.17 Monitor's Capacity.** The Purchaser acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of the Vendor and the other CCAA Parties in the CCAA Proceedings, will have no Liability in connection with this Agreement whatsoever in its capacity as Monitor, in its personal capacity or otherwise.

**10.18 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.

**10.19 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

**10.20 Language.** The Parties have required that this Agreement and all deeds, documents and notices relating to this Agreement be drawn up in the English language. Les parties aux présentes ont exigé que le présent contrat et tous autres contrats, documents ou avis afférents aux présentes soient rédigés en langue anglaise.

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

**CLIFFS QUÉBEC IRON MINING ULC**

By:   
Name: Clifford T. Smith  
Title: Executive Vice President

I have authority to bind the corporation.

**IRON ORE COMPANY OF CANADA**

By:   
Name: Maurice McClure  
Title: Vice President Finance & Strategy

By: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the corporation.

**SCHEDULE "A"**

**FORM OF APPROVAL AND VESTING ORDER**

**SUPERIOR COURT**

(Commercial Division)

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

N<sup>o</sup>: 500-11-048114-157

DATE: \_\_\_\_\_, 2016

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**PRESIDING: THE HONOURABLE STEPHEN W. HAMILTON J.S.C.**

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

**CLIFFS QUÉBEC IRON MINING ULC**

Petitioner

-and-

**IRON ORE COMPANY OF CANADA**

Mise-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

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**APPROVAL AND VESTING ORDER**

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- [1] **ON READING** the Petitioners' *Motion for the Issuance of an Approval and Vesting Order with respect to the sale of certain assets* (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the • Report of the Monitor dated •, 2016, (the "**Report**");
- [2] **SEEING** the service of the Motion;
- [3] **SEEING** the submissions of the Petitioner's and the Monitor's attorneys;

- [4] **SEEING** that it is appropriate to issue an order approving the transaction (the "**Transaction**") contemplated by the agreement entitled Asset Purchase Agreement (the "**Purchase Agreement**") dated as of •, 2016 by and between Cliffs Québec Iron Mining ULC, as vendor (the "**Vendor**") and Iron Ore Company of Canada, as purchaser, a redacted copy of which was filed as Exhibit R-4 to the Motion, and vesting in the Purchaser all of Vendor's right, title and interest in and to all of the Purchased Assets (as defined in the Purchase Agreement).

**FOR THESE REASONS, THE COURT HEREBY:**

- [5] **GRANTS** the Motion.
- [6] **ORDERS** that all capitalized terms in this Order shall have the meaning given to them in the Purchase Agreement unless otherwise indicated herein.

**SERVICE**

- [7] **ORDERS** that any prior time period for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
- [8] **PERMITS** service of this Order at any time and place and by any means whatsoever.

**SALE APPROVAL**

- [9] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Vendor is hereby authorized and approved, *nunc pro tunc*.
- [10] **AUTHORIZES AND DIRECTS** the Monitor to hold the Deposit, *nunc pro tunc*, and to apply, disburse and/or deliver the Deposit or the applicable portions thereof in accordance with the provisions of the Purchase Agreement and this Order.

**AUTHORIZATION**

- [11] **ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Vendor to proceed with the Transaction and that no other approval or authorization, including any board or shareholder approval, shall be required in connection therewith.

**EXECUTION OF DOCUMENTATION**

- [12] **AUTHORIZES AND DIRECTS** the Vendor, Iron Ore Company of Canada and/or any of its Affiliates who is an assignee of some or all of Iron Ore Company of Canada's rights and obligations under the Purchase Agreement following an assignment pursuant to Section 10.16 of the Purchase Agreement (collectively, the "**Purchaser**") and the Monitor to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in or contemplated by the Purchase Agreement, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to

but only with the consent of the Monitor, and any other ancillary document which could be required or useful to give full and complete effect thereto.

### **VESTING OF THE PURCHASED ASSETS**

- [13] **ORDERS and DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest free and clear, absolutely and exclusively in and with the Purchaser, from any and all rights, titles, benefits, priorities, claims (including claims provable in bankruptcy in the event that the Vendor should be adjudged bankrupt), liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, trusts, deemed trusts (whether contractual, statutory, or otherwise), assignments, judgments, executions, writs of seizure or execution, notices of sale, options, agreements, rights of distress, legal, equitable or contractual setoff, adverse claims, levies, taxes, disputes, debts, charges, options to purchase, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, security interests or charges evidenced by registration, publication or filing pursuant to the Civil Code of Québec, or any other applicable legislation providing for a security interest in personal or movable property, and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets, be expunged and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.
- [14] **ORDERS and DIRECTS** the Monitor, upon receipt of (i) payment in full of the Purchase Price, Transfer Taxes (if any are payable) for remittance to the applicable taxation authorities in accordance with Applicable Law, in the amounts set out in the Conditions Certificates, and (ii) of each of the Conditions Certificates, to (a) issue forthwith its Certificate concurrently to the Vendor and the Purchaser; and (b) file forthwith after issuance thereof a copy of the Certificate with the Court.
- [15] **DECLARES** that the Monitor shall be at liberty to rely exclusively on the Conditions Certificates in issuing the Certificate, without any obligation to independently confirm or verify the waiver or satisfaction of the applicable conditions.
- [16] **AUTHORIZES and DIRECTS** the Monitor to receive and hold the Purchase Price and to remit the Purchase Price in accordance with the provisions of this Order.

### **NET PROCEEDS**

- [17] **ORDERS** that any amounts payable to the Vendor in accordance with the Purchase Agreement (the "**Proceeds**") shall be remitted to the Monitor and shall, subject to the provisions of this Order, be held by the Monitor on behalf of the Vendor pending further order of the Court.
- [18] **AUTHORIZES AND DIRECTS** the Monitor, as soon as practicable after Closing, to remit to the Vendor for remittance to the applicable taxing authorities in accordance

with Applicable Law, the Transfer Taxes (if any are payable) received by the Monitor from the Purchaser on Closing as set out in the Conditions Certificates.

- [19] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the balance of the Proceeds remaining following deduction for the Transfer Taxes (if any are payable) that are remitted by the Monitor pursuant to Paragraph 18 of this Order (the “**Net Proceeds**”) shall stand in the place and stead of the Purchased Assets, and that upon the issuance of the Certificate, all Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the Closing, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the Closing.
- [20] **ORDERS** that, following the issuance of the Certificate, the Purchaser shall have no recourse or claim of any kind against the Net Proceeds.

### **VALIDITY OF THE TRANSACTION**

- [21] **ORDERS** that notwithstanding:
- a) the pendency of the proceedings under the CCAA;
  - b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* (the “**BIA**”), and any order issued pursuant to any such petition;
  - c) any application for a receivership order; or
  - d) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Vendor, the Purchaser or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

### **LIMITATION OF LIABILITY**

- [22] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Monitor to take control, or to otherwise manage all or any part of the Purchased Assets. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.
- [23] **DECLARES** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.

**CONFIDENTIALITY**

- [24] **ORDERS** that the unredacted Purchase Agreement filed with the Court shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

**GENERAL**

- [25] **DECLARES** that the Vendor and the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
- [26] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [27] **DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
- [28] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
- [29] **ORDERS** the provisional execution of this Order, including without limiting the general application of the foregoing, notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

**THE WHOLE WITHOUT COSTS, save in case of contestation.**

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**STEPHEN W. HAMILTON J.S.C.**

M<sup>tre</sup> Bernard Boucher  
(Blake, Cassels & Graydon LLP)  
Attorneys for the Petitioner

Hearing date: • , 2016

SCHEDULE "A" TO APPROVAL AND VESTING ORDER

FORM OF CERTIFICATE OF THE MONITOR

**SUPERIOR COURT**  
(Commercial Division)

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

File: No: 500-11-048114-157

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

**CLIFFS QUÉBEC IRON MINING ULC**

Petitioner

-and-

**IRON ORE COMPANY OF CANADA**

Mise-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

**CERTIFICATE OF THE MONITOR**

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**RECITALS**

- A.** Pursuant to an initial order rendered by the Honourable Mr. Justice Martin Castonguay, J.S.C., of the Superior Court of Québec, Commercial Division (the "**Court**") on January 27, 2015 (as amended on February 20, 2015 and as may be further amended from time to time, the "**Initial Order**"), FTI Consulting Canada Inc. (the "**Monitor**") was appointed to monitor the business and financial affairs of Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, 8568391 Canada Limited, Bloom Lake General Partner Limited, the Bloom Lake Railway Company Limited and The Bloom Lake Iron Ore Mine Limited Partnership (collectively, the "**Bloom Lake CCAA Parties**").
- B.** Pursuant to an order (the "**Approval and Vesting Order**") rendered by the Court on •, 2016, the transaction contemplated by the Asset Purchase Agreement dated as of •, 2016 (the "**Purchase Agreement**") by and between Cliffs Québec Iron Mining ULC, as



vendor (the "**Vendor**") and Iron Ore Company of Canada, as purchaser (the "**Purchaser**"), was authorized and approved, with a view, *inter alia*, to vest in and to the Purchaser, all of the Vendor's right, title and interest in and to the Purchased Assets (as defined in the Purchase Agreement).

- C. Each capitalized term used and not defined herein has the meaning given to such term in the Purchase Agreement.
- D. The Approval and Vesting Order provides for the vesting of all of the Vendor's right, title and interest in and to the Purchased Assets in the Purchaser, in accordance with the terms of the Approval and Vesting Order and upon the delivery of a certificate (the "**Certificate**") issued by the Monitor confirming that the Vendor and the Purchaser have each delivered Conditions Certificates to the Monitor.
- E. In accordance with the Approval and Vesting Order, the Monitor has the power to authorize, execute and deliver this Certificate.
- F. The Approval and Vesting Order also directed the Monitor to file with the Court, a copy of this Certificate forthwith after issuance thereof.

**THEREFORE, IN RELIANCE UPON THE CONDITIONS CERTIFICATES ADDRESSED AND DELIVERED TO THE MONITOR BY EACH OF THE VENDOR AND THE PURCHASER, THE MONITOR CERTIFIES THE FOLLOWING:**

1. The Monitor has received (i) payment in full of the Purchase Price, and (ii) payment in full of the Transfer Taxes (if any are payable) payable by the Purchaser on Closing in the amounts set out in the Conditions Certificates, all in accordance with the Purchase Agreement.
2. The Vendor and the Purchaser have each delivered to the Monitor the Conditions Certificates evidencing that all applicable conditions under the Purchase Agreement have been satisfied and/or waived, as applicable.
3. The Closing Time is deemed to have occurred on at <TIME> on <\*>, 2016.

**THIS CERTIFICATE** was issued by the Monitor at <TIME> on <\*>, 2016.

***FTI Consulting Canada Inc., in its capacity as Monitor of the CCAA Parties, and not in its personal or corporate capacity.***

By: \_\_\_\_\_  
Name: Nigel Meakin

## SCHEDULE "B"

### PURCHASED ASSETS

The following 159 railcars (National Steel Car built ore gondolas, specification P-475 and Folio 23429982-A):

	Car Number
1.	CLMX 10751
2.	CLMX 10752
3.	CLMX 10753
4.	CLMX 10754
5.	CLMX 10755
6.	CLMX 10756
7.	CLMX 10757
8.	CLMX 10758
9.	CLMX 10759
10.	CLMX 10760
11.	CLMX 10761
12.	CLMX 10762
13.	CLMX 10763
14.	CLMX 10764
15.	CLMX 10765
16.	CLMX 10766
17.	CLMX 10767
18.	CLMX 10768
19.	CLMX 10769
20.	CLMX 10770
21.	CLMX 10771
22.	CLMX 10772
23.	CLMX 10773
24.	CLMX 10774
25.	CLMX 10775
26.	CLMX 10776
27.	CLMX 10777

	<b>Car Number</b>
28.	CLMX 10778
29.	CLMX 10779
30.	CLMX 10780
31.	CLMX 10781
32.	CLMX 10782
33.	CLMX 10783
34.	CLMX 10784
35.	CLMX 10785
36.	CLMX 10786
37.	CLMX 10787
38.	CLMX 10788
39.	CLMX 10789
40.	CLMX 10790
41.	CLMX 10791
42.	CLMX 10792
43.	CLMX 10793
44.	CLMX 10794
45.	CLMX 10795
46.	CLMX 10796
47.	CLMX 10797
48.	CLMX 10798
49.	CLMX 10799
50.	CLMX 10800
51.	CLMX 10801
52.	CLMX 10802
53.	CLMX 10803
54.	CLMX 10804
55.	CLMX 10805
56.	CLMX 10807
57.	CLMX 10808
58.	CLMX 10809
59.	CLMX 10810

	<b>Car Number</b>
60.	CLMX 10811
61.	CLMX 10812
62.	CLMX 10813
63.	CLMX 10814
64.	CLMX 10815
65.	CLMX 10816
66.	CLMX 10817
67.	CLMX 10818
68.	CLMX 10819
69.	CLMX 10820
70.	CLMX 10821
71.	CLMX 10822
72.	CLMX 10823
73.	CLMX 10824
74.	CLMX 10825
75.	CLMX 10826
76.	CLMX 10827
77.	CLMX 10828
78.	CLMX 10829
79.	CLMX 10830
80.	CLMX 10831
81.	CLMX 10832
82.	CLMX 10833
83.	CLMX 10834
84.	CLMX 10840
85.	CLMX 10930
86.	CLMX 10970
87.	CLMX 11006
88.	CLMX 11008
89.	CLMX 11009
90.	CLMX 11010
91.	CLMX 11012

	<b>Car Number</b>
92.	CLMX 11013
93.	CLMX 11014
94.	CLMX 11015
95.	CLMX 11017
96.	CLMX 11018
97.	CLMX 11019
98.	CLMX 11020
99.	CLMX 11021
100.	CLMX 11022
101.	CLMX 11023
102.	CLMX 11024
103.	CLMX 11025
104.	CLMX 11026
105.	CLMX 11027
106.	CLMX 11028
107.	CLMX 11029
108.	CLMX 11030
109.	CLMX 11031
110.	CLMX 11032
111.	CLMX 11033
112.	CLMX 11034
113.	CLMX 11035
114.	CLMX 11036
115.	CLMX 11037
116.	CLMX 11038
117.	CLMX 11039
118.	CLMX 11040
119.	CLMX 11041
120.	CLMX 11042
121.	CLMX 11043
122.	CLMX 11044
123.	CLMX 11045

	<b>Car Number</b>
124.	CLMX 11046
125.	CLMX 11047
126.	CLMX 11048
127.	CLMX 11049
128.	CLMX 11050
129.	CLMX 11051
130.	CLMX 11052
131.	CLMX 11053
132.	CLMX 11054
133.	CLMX 11055
134.	CLMX 11056
135.	CLMX 11057
136.	CLMX 11058
137.	CLMX 11059
138.	CLMX 11060
139.	CLMX 11061
140.	CLMX 11062
141.	CLMX 11063
142.	CLMX 11064
143.	CLMX 11065
144.	CLMX 11066
145.	CLMX 11067
146.	CLMX 11068
147.	CLMX 11069
148.	CLMX 11070
149.	CLMX 11071
150.	CLMX 11072
151.	CLMX 11073
152.	CLMX 11074
153.	CLMX 11075
154.	CLMX 11076
155.	CLMX 11077

	<b>Car Number</b>
156.	CLMX 11078
157.	CLMX 11079
158.	CLMX 11080
159.	CLMX 11081

**SCHEDULE "C"**

**ALLOCATION OF PURCHASE PRICE**

<b>Equipment</b>	<b>Price Per Individual Piece of Equipment</b>	<b>Total Price of Equipment</b>
Railcar number CLMX 10752 (National Steel Car built ore gondolas, specification P-475 and Folio 23429982-A),	[REDACTED]	[REDACTED]
158 remaining railcars (National Steel Car built ore gondolas, specification P-475 and Folio 23429982-A)	[REDACTED]	[REDACTED]
<b>TOTAL PURCHASE PRICE</b>		[REDACTED]



**SCHEDULE "D"**

**ACCESS ACKNOWLEDGEMENT**

TO: Société Ferroviaire et Portuaire de Pointe-Noire s.e.c.

AND TO: The CCAA Parties (as defined in the Access Agreement)

AND TO: FTI Consulting Canada Inc. as monitor of the CCAA Parties (as defined in the Access Agreement)

FROM: Iron Ore Company of Canada

RE: Access Agreement dated as of March 8, 2016 (as it may be amended, restated or supplemented from time to time, the "**Access Agreement**")

The undersigned hereby confirms and acknowledges that it has reviewed the terms of the attached Access Agreement and agrees to be bound by its terms in respect of the Excluded Assets set out in the attached Exhibit A as though it were a party thereto and an Access Party thereunder.

The undersigned's address for service for the purposes of Section 5.6 of the Access Agreement shall be as follows:

**Iron Ore Company of Canada**

Attention: Christian Richard AND Marie-Christine Dupont

Email: [christian.richard@ironore.ca](mailto:christian.richard@ironore.ca) / [marie-christine.dupont@riotinto.com](mailto:marie-christine.dupont@riotinto.com)

All initially capitalized terms not herein defined have the meaning ascribed to them in the Access Agreement.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016.

**IRON ORE COMPANY OF CANADA**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE "E"**  
**ACCESS AGREEMENT**  
(See attached.)

## ACCESS AGREEMENT

**THIS ACCESS AGREEMENT** dated as of the 8<sup>th</sup> day of March, 2016 (the “**Effective Date**”)

**BETWEEN:**

**CLIFFS QUÉBEC IRON MINING ULC**

**BLOOM LAKE GENERAL PARTNER LIMITED**

**BLOOM LAKE RAILWAY COMPANY LIMITED**

**ARNAUD RAILWAY COMPANY**

**WABUSH IRON CO. LIMITED**

**WABUSH RESOURCES INC.**

**BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP**

-and-

**SOCIÉTÉ FERROVIAIRE ET PORTUAIRE DE POINTE-  
NOIRE s.e.c.**

**WHEREAS** pursuant to an initial order of the Québec Superior Court [Commercial Division] (the “**Court**”) dated January 27, 2015 (as the same may be amended and restated from time to time), in the proceedings bearing Court File No. 500-11-048114-157 (the “**CCAA Proceedings**”), Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, 8568391 Canada Limited, Bloom Lake General Partner Limited, the Bloom Lake Railway Company Limited and the Bloom Lake Iron Ore Mine Limited Partnership (collectively, the “**Bloom Lake CCAA Parties**”), obtained protection from their creditors under the Companies’ Creditors Arrangement Act (Canada) (the “**CCAA**”) and FTI Consulting Canada Inc. was appointed as monitor in the CCAA Proceedings (in such capacity and not in its personal or corporate capacity, the “**Monitor**”).

**WHEREAS** pursuant to an Order of the Court dated May 20, 2015 in the CCAA Proceedings, Wabush Iron Co. Limited, Wabush Resources Inc., Arnaud Railway Company, Wabush Lake Railway Company Limited and Wabush Mines (collectively, the “**Wabush CCAA Parties**”) were added to the CCAA Proceedings and obtained protection from their creditors under the CCAA.

**WHEREAS** pursuant to Orders of the Court dated April 17, 2015 and June 9, 2015, the CCAA Parties were authorized to conduct a sale and investor solicitation process for the property and business of, among others, each of the Vendors.

**WHEREAS** pursuant to the Asset Purchase Agreement (as it may be amended, restated or supplemented from time to time, the “**Asset Purchase Agreement**”) dated as of December 23, 2015 between the Vendors, as vendors, and Investissement Québec., as purchaser (“**IQ**”), IQ

agreed to purchase, among other things, all of the Vendors' right, title and interest in and to the Premises (defined below).

**WHEREAS** pursuant to the Asset Purchase Agreement, IQ was entitled, prior to the issuance of the Approval and Vesting Order, to assign all of its rights and obligations under the Asset Purchase Agreement to an Affiliate, subject to the terms and conditions of the Asset Purchase Agreement.

**WHEREAS** pursuant to an assignment and assumption agreement dated as of January 29, 2016, IQ assigned all of its rights, title and interest under the Asset Purchase Agreement to Société ferroviaire et portuaire de Pointe-Noire s.e.c. (the "**Purchaser**").

**WHEREAS** pursuant to an Approval and Vesting Order issued by the Court on February 1, 2016, the Asset Purchase Agreement and transactions contemplated therein were approved.

**WHEREAS** pursuant to the Asset Purchase Agreement, the "Bunker C" heavy oil stored in one or more tanks located at or about the Premises and all Excluded Railcars are excluded from, or otherwise do not form any part of, the assets being acquired by the Purchaser (together with any additional assets and equipment which may be included from time to time with the consent of the Purchaser, such consent not to be unreasonably withheld, collectively, the "**Excluded Assets**").

**WHEREAS** the Purchaser and certain of the CCAA Parties have agreed that the Excluded Assets may remain on the Premises in accordance with the terms and conditions of this Access Agreement.

**WHEREAS** pursuant to Section 7.3(6) of the Asset Purchase Agreement, this Access Agreement, duly executed by the Purchaser, is required to be delivered by the Purchaser to the Vendors on the closing thereof.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto, it is agreed as follows:

1. **Definitions**

Whenever used in this Access Agreement, the following words and terms have the meanings set out below:

"**Access Agreement**" means this agreement and all Schedules attached hereto, as they may be amended, restated or supplemented from time to time in accordance with the terms hereof.

"**Access Parties**" means collectively (i) the CCAA Parties who are Parties to this Agreement, (ii) any trustee in bankruptcy of any of the CCAA Parties who are Parties to this Agreement, (iii) any purchaser of Excluded Assets, or (iv) any Person that holds a hypothec, lien or other security or leasehold interest over any Excluded Asset, in each case, that becomes a party to this Access Agreement by execution and delivery of the Acknowledgment.

“**Access Party Indemnified Parties**” has the meaning set out in Section 3.1.

“**Acknowledgment**” means an acknowledgment in substantially the form of Schedule “A” hereto.

“**Activities**” means collectively, (i) dismantling any of the Excluded Assets, (ii) transferring, transporting, removing or disposing any of the Excluded Assets, (iii) inspecting, quality testing (in the case of the Bunker “C” oil) or gathering information with respect to any of the Excluded Assets, (iv) safely storing any of the Excluded Assets, (v) repairing any of the Excluded Assets or maintaining any of the Excluded Assets in marketable condition, (vi) advertising and marketing in relation to any of the Excluded Assets, including showing and/or demonstrating any of the Excluded Assets to potential purchasers interested in purchasing any such Excluded Assets from any Access Party, (vii) preparing any of the Excluded Assets for auction or sale and carrying out such auction or sale, (viii) removing the heavy oil from the “Bunker C” fuel tanks and cleaning such tanks and tank lines where the fuel was stored, and (viii) any activities reasonably related to the foregoing.

“**Agents**” means any employee, representative or agent of any of the Access Parties and includes any Person or Persons retained by any of the Access Parties for the purposes of carrying out any of the Activities (including, for greater certainty, any direct or indirect subcontractors retained to conduct any Sale Activities).

“**Arnaud Railway**” has the meaning ascribed to such term in the Asset Purchase Agreement.

“**Asset Purchase Agreement**” has the meaning set out in the recitals hereto.

“**Bloom Lake CCAA Parties**” has the meaning set out in the recitals hereto.

“**Business Day**” means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Montréal, Québec, the City of St. John’s, Newfoundland and Labrador, the City of Toronto, Ontario, or the City of Cleveland, Ohio.

“**CCAA**” has the meaning set out in the recitals hereto.

“**CCAA Parties**” means collectively, the Bloom Lake CCAA Parties and the Wabush CCAA Parties.

“**CCAA Proceedings**” has the meanings set out in the recitals hereto.

“**Court**” has the meaning set out in the recitals hereto.

“**Early Removal Assets**” has the meaning set out in Section 4.2(b).

“**Early Removal Date**” has the meaning set out in Section 4.2(c).

“**Early Removal Notice**” has the meaning set out in Section 4.2(c).

“**Excluded Assets**” has the meaning set out in the recitals hereto.

“**Excluded Railcars**” means the Excluded Railcars as defined in the Asset Purchase Agreement.

“**Effective Date**” means the Closing Date as defined in the Asset Purchase Agreement.

“**Governmental Authority**” means:

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);
- (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
- (c) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association.

“**Losses**”, in respect of any matter, means all losses, claims, demands, proceedings, damages, liabilities, deficiencies, costs and expenses (including, without limitation, all reasonable legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement) arising directly or indirectly as a consequence of such matter.

“**Monitor**” has the meaning set out in the recitals hereto.

“**Order**” means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

“**Party**” means a party to this Access Agreement and any reference to a Party includes its successors and permitted assigns, and “**Parties**” means more than one of them.

“**Person**” is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity

“**Premises**” means collectively, the port facility located in Pointe-Noire, Québec in the Bay of Sept-Iles, together with the Arnaud Railway.

“**Purchaser**” has the meaning set out in the preamble hereto, and includes any successor or permitted assignee thereof.

“**Purchaser Indemnified Parties**” has the meaning set out in Section 3.2.

“**Representatives**” means any employee, agent, contractor, sub-contractor or other

representative of the Purchaser.

“**Term**” has the meaning set out in Section 4.1.

“**Vendors**” means collectively, Cliffs Québec Iron Mining ULC, Wabush Iron Co. Limited, Wabush Resources Inc. and Arnaud Railway Company.

“**Wabush CCAA Parties**” has the meaning set out in the recitals hereto.

“**Wabush Mine**” means the iron ore mine and processing facility located near the Town of Wabush and Labrador City, Newfoundland and Labrador known as the “Scully Mine” or “Wabush Mine”.

“**Wabush Railcars**” means all Wabush style fully enclosed bottom dumper railcars owned by the Vendors, wherever such railcars are located, that were used by Wabush Mines in its operation of the Wabush Mine.

## 2. **Access Rights**

### 2.1 **Access Parties**

The Purchaser acknowledges and agrees that from and after the Effective Date and during the Term, the Excluded Assets shall be entitled to remain on the Premises and each of the Access Parties and their respective Agents and any potential purchasers of Excluded Assets accompanying any Access Parties or their respective Agents shall be permitted access to and across the Premises and shall have the right to use the Premises for the purpose of preparing for and undertaking the Activities, in the case of each of the foregoing, other than as set out in Section 2.1(f), without any costs or charges of any kind to the Access Parties, including, without limitation, any cost or charge in respect of rent or property taxes. The grant of such access rights is subject to the following terms:

- (a) Each Access Party acknowledges and agrees that such Access Parties’ access to the Premises will be at its sole risk and expense and that the Purchaser shall not have any responsibility or liability in connection with the Excluded Assets or the Activities other than in connection with any Loss to any Excluded Asset caused by the gross negligence or intentional fault of the Purchaser or any of its Representatives.
- (b) Each Access Party agrees that it will, and it will cause its Agents to access and use the Premises and conduct the Sale Activities in accordance with and subject to:
  - i. all applicable industry standards and laws, including applicable environmental, health and safety and workers compensation laws and regulations, and permits and authorizations necessary, if any, to conduct the Sale Activities; and
  - ii. reasonable security measures imposed by the Purchaser.
- (c) Prior to conducting any Activity, the applicable Access Parties will provide to the Purchaser, or cause its Agents to provide to the Purchaser a description of the

proposed Activity, including the nature of such Activity, the expected duration of such Activity and the identity of all Access Parties and Agents, if applicable, that will require access to the Premises in connection with such Activity.

- (d) Each Access Party will not, and will cause any potential purchaser of Excluded Assets accompanying such Access Party and their respective Agents not to, interfere with the work and operation activities of the Purchaser on the Premises and subject to and in accordance with Section 2.3, the Purchaser is entitled to move the Excluded Assets on the Premises if they interfere with the work and operation activities of the Purchaser.
- (e) Each Access Party and its respective Agents will only use their own equipment to conduct the Sale Activities and may not use the Purchaser's equipment or assets unless agreed upon by the Purchaser.
- (f) Each Access Party agrees to reimburse the Purchaser for any expenses reasonably incurred and paid by the Purchaser (i) to any third party, arising out, directly or indirectly, of such Access Party's Activities no later than 30 days after the Purchaser has submitted the invoice or any documentation in support of such expenses to such Access Party, and (ii) in respect of any additional salary for employees of the Purchaser whose presence on the Premises or other involvement is determined by the Purchaser, acting reasonably, are necessary solely as a result of the Activities being conducted by an Access Party; provided, that in both cases, any such expenses shall be approved in writing in advance by such Access Party prior to such Access Party conducting such Activities.
- (g) Without limiting the obligations of the Access Parties in Section 3, each Access Party shall, prior to conducting any Activity which may pose a risk of damage to the Premises or to any asset of the Purchaser on the Premises, obtain and maintain liability insurance from an insurance company and such insurance shall be in an amount and with such coverage as is commercially reasonable, taking into account the nature of the Activities to be conducted by such Access Party, the whole to the satisfaction of the Purchaser, acting reasonably.

## 2.2 **Monitor**

The Purchaser acknowledges and agrees that from and after the Effective Date, the Monitor and any potential purchasers of Excluded Assets accompanying the Monitor shall be permitted access to the Premises and the Excluded Assets for the purpose of (i) inspecting the Excluded Assets or gathering information with respect to any of the Excluded Assets, (ii) advertising and marketing in relation to any of the Excluded Assets, including showing any of the Excluded Assets to potential purchasers interested in purchasing any such Excluded Assets, and (iii) any activity reasonably ancillary to the foregoing, in each case, without any costs or charge of any kind, including any cost or charge in respect of rent or property taxes. The Monitor acknowledges and agrees that the grant of such access will be at its sole risk and expense.

## 2.3 **Designated Area**

At any time during the Term, the Purchaser shall be entitled to transport the Excluded Assets to a designated area of the Premises at its own risk and peril, costs and expenses provided that prior to carrying out such transportation, the Purchaser will provide to all Access Parties and the



Monitor, a description of the designated area of the Premises that the Excluded Asset will be transported to, the whole to the satisfaction of the applicable Access Party, acting reasonably.

In carrying out any of its rights in this Section 2.3, the Purchaser shall (i) exercise reasonable care and diligence in transporting such Excluded Assets as if such Excluded Assets were assets of the Purchaser, (ii) comply, and cause its Representatives to comply, with all applicable industry standards and laws, including applicable environmental, health and safety and workers compensation laws and regulations, (iii) obtain any necessary permits and authorizations, and (iv) be responsible for any Losses to any of the Excluded Assets in accordance with Section 3.2.

### 3. **Indemnifications**

#### 3.1 **Indemnification in favour of the Purchaser**

Each of the Access Parties severally, and not jointly or jointly and severally or jointly and solidarily, indemnifies and holds the Purchaser and its officers, directors and Representatives (collectively, the “**Access Party Indemnified Parties**”) harmless against and in respect of any and all Losses which may be suffered by the Access Party Indemnified Parties or which the Access Party Indemnified Parties may sustain, pay or incur arising out of or otherwise in connection with such Access Party’s use and/or access to the Premises or conduct of the Activities; provided, however, that the indemnification in this Section 3 shall not in any way delay any distribution to creditors of the applicable indemnifying CCAA Party unless at the time of the proposed distribution an actual claim seeking indemnification under this Section 3 has been made by an Indemnified Party and an adequate cash or other reserve is not available in respect of such claim if such claim were to be finally determined at a later date to be valid. For greater certainty and the avoidance of doubt, no Access Party will be required to indemnify any other Access Party Indemnified Party against and in respect of any Losses which were the result of actions of such other Access Parties or their respective Agents.

#### 3.2 **Indemnification in favour of the Access Parties**

The Purchaser indemnifies and holds each Access Party and its officers, directors, and Representatives (collectively, the “**Purchaser Indemnified Parties**”) harmless against and in respect of any and all Losses (i) which the Purchaser Indemnified Parties may suffer, sustain, pay or incur as a result of the gross negligence or intentional fault of the Purchaser or any of its Representatives, and (ii) caused by the Purchaser or its Representatives to the Excluded Assets during the transportation of Excluded Assets in accordance with Section 2.3.

### 4. **Term and Termination**

#### 4.1 **Term**

Subject to Section 4.2, this Access Agreement shall continue for a term (as may be extended below, the “**Term**”) beginning on the Effective Date and ending on the earlier of (i) November 30, 2016 or such later date as may be agreed to in writing by the Purchaser and any Access Party, and (ii) the date upon which counsel to the CCAA Parties and the Monitor confirm in writing that the Activities have been completed. The Parties agree that the obligations of the Purchaser and the Access Parties pursuant to Section 3 will survive any termination of this Access Agreement.

## 4.2 **Early Removal Notice.**

Notwithstanding Section 4.1, if the Purchaser is required by Court order to remove the Wabush Railcars from its present location at the Wabush Mine, the Purchaser shall:

- (a) forthwith provide written notice to the Access Parties of such Court order;
- (b) forthwith identify those Excluded Assets, the removal of which is reasonably necessary to accommodate the storage of the Wabush Railcars on the Premises (the “**Early Removal Assets**”); and
- (c) forthwith provide written notice (the “**Early Removal Notice**”) to the applicable Access Parties of the requirement to remove the Early Removal Assets by the date (the “**Early Removal Date**”) that is the later of (i) the date required for removal of the Wabush Railcars from the Wabush Mine in such Court order, and (ii) the date upon which the removal of such Excluded Assets from the Premises is reasonably necessary to accommodate the storage of the Wabush Railcars on the Premises.

For greater certainty, Excluded Assets other than the Early Removal Assets are entitled to remain on the Premises until the end of the Term and all rights of Access Parties in respect of such Excluded Assets under this Access Agreement continue unamended.

## 4.3 **Removal of Assets at the End of the Term or Deemed Transfer**

In the event that (a) at the end of the Term any Excluded Asset remains on the Premises or (b) an Access Party is provided with an Early Removal Notice, the applicable Access Party hereby agrees and undertakes, at its discretion, to either (i) transport, remove or dispose of such Excluded Asset or Early Removal Asset, as applicable, of such Access Party out of the Premises within 30 days from the end of the Term or the Early Removal Date, as applicable, or (ii) transfer to the Purchaser all of its rights, title and interests in such Excluded Asset or Early Removal Asset, as applicable, of such Access Party on an “as is, where is” basis and in consideration for the payment by the Purchaser of an amount of \$1.00.

In the event an Access Party elects to remove any Excluded Asset or Early Removal Asset out of the Premises in accordance with the foregoing paragraph, the Term shall be deemed, in respect of such Excluded Asset or Early Removal Asset, only, to be extended until the earlier of (a) the complete removal of such Excluded Asset or Early Removal Asset from the Premises, and (b) the date that is 30 days from the end of the Term or the Early Removal Date, as applicable. If such Access Party fails to remove such Excluded Asset or Early Removal Asset by such time, the applicable Access Party shall be deemed to have transferred all of its right, title and interests in such Excluded Asset or Early Removal Asset to the Purchaser on an “as is, where is” basis for \$1.00 and such Access Party shall execute any such transfer documents as may be required to evidence such transfer.

## 5. **General**

### 5.1 **Interpretation Not Affected by Headings, etc.**

The division of this Access Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this

Access Agreement. The terms “this Access Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Access Agreement and not any particular section hereof.

## **5.2 Extended Meanings**

In this Access Agreement, words importing the singular include the plural and vice versa, words importing gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, corporations, and Governmental Authorities. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings.

## **5.3 Schedules**

The Schedules attached to this Access Agreement form an integral part of this Access Agreement for all purposes. Without limiting the generality of the foregoing, any terms, conditions, provisions, agreements or covenants set out in the Schedules are terms, conditions, provisions, agreements and covenants of this Access Agreement, binding on the Parties hereto.

## **5.4 Entire Agreement**

This Access Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Access Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. Other than as set out herein, there are no conditions, representations, warranties, obligations or other agreements between the Parties in connection with the subject matter of this Access Agreement (whether oral or written, express or implied, statutory or otherwise). Notwithstanding the foregoing, as it relates to the Vendors and the Purchaser, in the event of any inconsistency between the provisions of this Access Agreement and the provisions of the Asset Purchase Agreement, the provisions of the Asset Purchase Agreement shall prevail.

## **5.5 Disputes**

If any dispute arises with respect to this Access Agreement that cannot be resolved as between the Parties, such dispute will be determined by the Court and the Parties hereto irrevocably submit and attorn to the non-exclusive jurisdiction of the Court.

## **5.6 Notice**

Any notice, consent, waiver, direction or other communication required or permitted to be given under this Access Agreement by a Party shall be in writing and shall be sent by email to the email address set out below or to such other address or email address as shall be specified by a Party by like notice. Any notice, consent, waiver, direction or other communication aforesaid shall be deemed to have been given and received at the time of receipt (if a Business Day or, if not, then the next succeeding Business Day) unless actually received after 4:00 p.m. (Toronto time) in which case it shall be deemed to have been given and received on the next Business Day.

The address for service of each of the Parties shall be as follows:

- (i) if to the CCAA Parties, to:

**Cliffs Québec Iron Mining ULC**

Attention: **James Graham**  
*General Counsel & Secretary*  
E-mail: [James.Graham@CliffsNR.com](mailto:James.Graham@CliffsNR.com)

- and -

Attention: **Clifford T. Smith**  
*Executive Vice President*  
E-mail: [Clifford.Smith@CliffsNR.com](mailto:Clifford.Smith@CliffsNR.com)

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

**Blake, Cassels & Graydon LLP**

Attention: **Thomas A. McKee**  
E-mail: [tom.mckee@blakes.com](mailto:tom.mckee@blakes.com)

- and -

Attention: **Milly Chow**  
E-mail: [milly.chow@blakes.com](mailto:milly.chow@blakes.com)

(ii) if to the Purchaser, to:

**Société ferroviaire et portuaire de Pointe-Noire s.e.c.**

Attention: Iya Touré  
Email: [iya.toure@invest-quebec.com](mailto:iya.toure@invest-quebec.com)

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

**Gowling Lafleur Henderson LLP**

Attention: **Paule Tardif**  
E-mail: [paule.tardif@gowlings.com](mailto:paule.tardif@gowlings.com)

- and -

Attention: **Patrice Benoit**  
E-mail: [patrice.benoit@gowlings.com](mailto:patrice.benoit@gowlings.com)

*and in either case, with a copy to the Monitor, to:*

**FTI Consulting Canada Inc.**

Attention: **Nigel Meakin**  
E-mail: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

- and -

**Norton Rose Fulbright Canada LLP**

Attention: **Sylvain Rigaud**

E-mail: [sylvain.rigaud@nortonrosefulbright.com](mailto:sylvain.rigaud@nortonrosefulbright.com)

**5.7 Assignment and Enurement**

Each of the Parties covenants and agrees that it will not assign or transfer this Access Agreement or any rights hereunder without the written consent of the other Parties, such consent not to be unreasonably withheld. Notwithstanding the aforementioned, the Purchaser may sell, assign, transfer, sublet or otherwise dispose of the Premises in whole or in part without obtaining the consent of the Parties, provided that (i) this Access Agreement is assigned and assumed by such assignee, transferee, purchaser or Person acquiring such portion of the Premises, and (ii) such assignee, transferee, purchaser or person acquiring such portion of the Premises executes an acknowledgment agreeing to be bound by the terms of this Agreement as though it were a party hereto and the Purchaser hereunder. Subject to the foregoing, this Access Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors and permitted assigns.

**5.8 Further Assurances and Relationship**

Each of the Parties hereto covenants and agrees to execute and deliver such further documents and assurances and do such further things within its power as may be necessary or desirable in performance of its obligations hereunder. No Party shall be obliged to enter into any further agreement with the other. Nothing herein shall comprise a partnership, joint venture, or the relationship of principal and agent.

**5.9 Time**

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing between the Parties hereto or by their respective solicitors.

**5.10 Governing Law**

This Access Agreement shall be governed and construed and enforced in accordance with the internal laws of the Province of Québec and the laws of Canada applicable therein.

**5.11 Amendments**

No term or provision of this Access Agreement may be changed, waived or modified except with the consent of the Monitor and by instrument in writing signed by all Parties to this Access Agreement.

**5.12 Execution in Counterparts**

This Access Agreement may be executed in one or more counterparts, each of which shall conclusively be deemed to be an original and all such counterparts collectively shall be conclusively deemed to be one and the same. Delivery of an executed counterpart of the signature page to this Access Agreement by pdf email scan shall be effective as delivery of a

manually executed counterpart of this Access Agreement.

**5.13 Survival**

Sections 2.1(a) and 3 of this Access Agreement shall survive expiry or early termination hereof.

**5.14 Waiver**

No waiver or release by a Party shall be effective unless in writing and executed by the Party granting such waiver or release and any waiver or release shall affect only the matter, and the occurrence thereof, specifically identified and shall not extend to any other matter or occurrence.

**5.15 Monitor's Capacity**

The Purchaser acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of the CCAA Parties in the CCAA Proceedings, will have no liability in connection with this Agreement whatsoever in its capacity as Monitor, in its personal capacity or otherwise. Further, the Monitor shall not be deemed to be an agent of any of the Access Parties.

**5.16 Language**

The Parties hereto acknowledge and confirm that they have requested that the present Access Agreement and all notices and communications contemplated hereby be drafted in the English language. Les Parties aux présentes reconnaissent et confirment qu'ils ont exigé que la présente Convention ainsi que tout avis et communications projetés par la présente soient rédigés dans la langue anglaise.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF the Parties have executed this Access Agreement as of the date first above written.

**CLIFFS QUÉBEC IRON MINING ULC**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: Executive Vice President  
Authorized Signatory

**BLOOM LAKE GENERAL PARTNER LIMITED**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: Executive Vice President  
Authorized Signatory

**BLOOM LAKE RAILWAY COMPANY LIMITED**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: President  
Authorized Signatory

**THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP by its General Partner, Bloom Lake General Partner Limited**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: Executive Vice President  
Authorized Signatory

**WABUSH IRON CO. LIMITED**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: President  
Authorized Signatory

**WABUSH RESOURCES INC.**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: President

Authorized Signatory

**ARNAUD RAILWAY COMPANY**

By: Clifford T. Smith  
Name: Clifford T. Smith  
Title: Vice President

Authorized Signatory

**SOCIÉTÉ FERROVIAIRE ET PORTUAIRE  
DE POINTE-NOIRE s.e.c.**

By: \_\_\_\_\_  
Name:  
Title:

Authorized Signatory

**FTI CONSULTING CANADA INC., in its  
capacity as Monitor of the CCAA Parties, and  
not in its personal capacity**

\_\_\_\_\_  
Name:  
Title:



**WABUSH RESOURCES INC.**

By: \_\_\_\_\_

Name:

Title:

Authorized Signatory

**ARNAUD RAILWAY COMPANY**


By: \_\_\_\_\_

Name:

Title:

Authorized Signatory

**SOCIÉTÉ FERROVIAIRE ET PORTUAIRE  
DE POINTE-NOIRE s.e.c.**

By: 

Name: DENIS WILLIAMS

Title: SECRETARY

Authorized Signatory

**FTI CONSULTING CANADA INC., in its  
capacity as Monitor of the CCAA Parties, and  
not in its personal capacity**



Name: Nigel D. Meakin

Title: Senior Managing Director

**SCHEDULE "A"**  
**ACKNOWLEDGEMENT**

TO: Société Ferroviaire et Portuaire de Pointe-Noire s.e.c.

AND TO: The CCAA Parties (as defined in the Access Agreement)

AND TO: FTI Consulting Canada Inc. as monitor of the CCAA Parties (as defined in the Access Agreement)

FROM: **[NAME OF ACCESS PARTY]**

RE: Access Agreement dated as of \_\_\_\_\_, 2016 (as it may be amended, restated or supplemented from time to time, the "**Access Agreement**")

The undersigned hereby confirms and acknowledges that **[he/she/it]** has reviewed the terms of the attached Access Agreement and agrees to be bound by its terms in respect of the Excluded Assets set out in the attached Exhibit A as though **[he/she/it]** were a party thereto and an Access Party thereunder.

The undersigned's address for service for the purposes of Section 5.6 of the Access Agreement shall be as follows:

**[email address of Access Party]**

All initially capitalized terms not herein defined have the meaning ascribed to them in the Access Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Witness (in the case of an individual): **[NAME OF ACCESS PARTY]**

\_\_\_\_\_  
Name:

By: \_\_\_\_\_  
Name:  
Title: