

## Appendix “A”

### Wabush Mines, Wabush Resources Inc., Wabush Iron Co. Limited, Wabush Lake Railway Company Limited (collectively, the “Vendors”)

#### Scully Mine Sale Procedures

These sale procedures (the “**Sale Procedures**”) have been developed by the Vendors, in consultation with the Monitor, and set out the procedures for a potential transaction involving the acquisition of all of the Vendors’ right, title and interest in all or substantially all of the remaining assets (collectively, the “**Scully Mine Assets**”) related to the business of an iron ore mine and processing facility located north of the Town of Wabush in Newfoundland and Labrador, commonly known as either the Wabush mine or the Scully mine (the “**Scully Mine**”) and the federally regulated Wabush Lake railway which connects the Scully Mine to the railway tracks owned by Northern Land and previously used for, among other things, the transportation of iron ore concentrate from the Scully Mine.

Further to the request of the Honourable Mr. Justice Stephen W. Hamilton on January 30, 2017 (the “**Progress Report Request**”), the Monitor will report to the Court on these Sale Procedures and their status and, on a confidential and sealed basis, the status of any discussions or negotiations with any of the Prospective Bidders.

#### Defined Terms

1. All capitalized terms used herein and not otherwise defined shall have the meanings given to them in **Appendix “A”** hereto.

#### Sale Procedures

2. These Sale Procedures describe, among other things:
  - (a) the requirement that all Binding Offers for the Scully Mine Assets, together with a cash deposit of CAD \$750,000 (the “**Deposit**”) and the other items set out in the Sale Procedures, must be received by the Vendors no later than **5:00 p.m. (Toronto time) on Monday, March 27, 2017** or such later date and/or time as the Vendors may, in consultation with the Monitor, determine appropriate (the “**Binding Offer Deadline**”);
  - (b) the manner and timeline in which Prospective Bidders may submit a Binding Offer for all or substantially all of the Scully Mine Assets and the required contents of a Binding Offer. These Sale Procedures are not designed to preclude discussions or negotiations with the various Prospective Bidders prior to the Binding Offer Deadline;
  - (c) the process and criteria for the ultimate selection of a Successful Bid (if any); and
  - (d) the process for obtaining approval of a Successful Bid (if any).

#### Conduct of the Sale Procedures

3. The Sale Procedures will be carried out by the Vendors, with the assistance of and in consultation with the Monitor.

4. Until the approval of a Successful Bid (if any) or as may be otherwise ordered by the Court, the Monitor will continue to provide the Court with monthly progress reports (each, a **“Progress Report”**) pursuant to the Progress Report Request. Each Progress Report will include, on a confidential and sealed basis, updates on the status of ongoing discussions and negotiations with each Prospective Bidder and the Successful Bidder (if any).

**“As is, Where is”**

5. Any Sale will be on an “as is, where is” and “without recourse” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature or description by the Vendors, Monitor or any of their respective Representatives, except to the extent expressly set forth in a Definitive Agreement with a Successful Bidder (if any).
6. The Vendors and the Monitor and their respective Representatives are not responsible for, and will have no liability with respect to, any information obtained by any Prospective Bidder or Successful Bidder (if any) in connection with the Scully Mine Assets. The Vendors, Monitor and their respective Representatives do not make any representations or warranties whatsoever as to the completeness or accuracy of the documents or information posted on the Data Room or otherwise provided to or made available to any Prospective Bidder or the Successful Bidder (if any).

**Submission of Binding Offers**

7. Prior to the Binding Offer Deadline:
  - (a) each Prospective Bidder will continue to have an opportunity to complete due diligence (including any site visits arranged or to be arranged on reasonable notice to the Vendors), provided that access to certain due diligence information may require entry into a confidentiality agreement, in form and substance satisfactory to the Vendors, in consultation with the Monitor;
  - (b) the Vendors, with the assistance of the Monitor, will exercise commercially reasonable efforts (with due regard to the limited number of employees employed by the Vendors) to satisfy any reasonable due diligence request from a Prospective Bidder; and
  - (c) the Prospective Bidders will be entitled to seek to clarify with the Vendors the terms in respect of any Binding Offer that is intended to be ultimately submitted by a Prospective Bidder, and the Vendors may discuss or negotiate with or provide any Prospective Bidder with further mark-ups of the proposed Form of Definitive Agreement (or any part thereof) prior to the Binding Offer Deadline.
8. Without limiting the Vendors’ discretion with respect to any Binding Offer as set out in this Paragraph 8 and Paragraph 11 below, a Binding Offer will only be eligible to be selected as a Successful Bid if it is submitted in writing by a Prospective Bidder to the Vendors, with a copy to the Monitor (in each case, in accordance with the notice provision set out in Paragraph 15 below) and complies with all of the following conditions:
  - (a) it is received by no later than the Binding Offer Deadline;

- (b) it includes a letter stating that the Binding Offer is irrevocable until the earlier of (i) 11:59 p.m. (Toronto time) on the Business Day following the closing of a Successful Bid (if any), and (ii) 11:59 p.m. (Toronto time) on June 12, 2017;
- (c) it includes a duly authorized and executed Definitive Agreement based on the Form of Definitive Agreement and accompanied by a mark-up (in the form of a blackline and clean word version) of the Form of Definitive Agreement showing proposed amendments and modifications made thereto (if any), specifying the consideration, and such ancillary agreements as may be required by the Prospective Bidder with all exhibits and schedules thereto (other than the Assignment Order);
- (d) it fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the Binding Offer, including the identification of the Prospective Bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
- (e) it includes evidence sufficient to allow the Vendors, in consultation with the Monitor, to make a reasonable determination as to the Prospective Bidder's (and parent entities, owners and/or sponsors, as applicable) financial and other capabilities to satisfy all obligations and conditions that are to be performed by the Prospective Bidder under the Definitive Agreement on closing (collectively, the "**Purchaser Obligations**"), including the payment of the Purchase Price and Cure Costs (as each term is defined in the Form of Definitive Agreement). Such evidence could include but is not limited to evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy entity;
- (f) if the Prospective Bidder is an entity newly formed for the purpose of the transaction, the Binding Offer shall contain a guarantee by the Prospective Bidder's parent entities, owners and/or sponsors, as applicable, in form and substance satisfactory to the Vendors, in consultation with the Monitor;
- (g) it is not conditioned on the outcome of unperformed due diligence by the Prospective Bidder;
- (h) it is accompanied by the Deposit payable to the Monitor by wire transfer of immediately available funds (to a trust account specified by the Monitor), in trust, which will be dealt with in accordance with Paragraph 14; and
- (i) it contains such other information that is reasonably requested by the Vendors, in consultation with the Monitor.

Notwithstanding the foregoing requirements, the Vendors, in consultation with the Monitor, may waive compliance with any one or more of the requirements set out above and deem such non-compliant Binding Offer as eligible to be selected as a Successful Bid.

### **Assessment of Binding Offers**

9. Following the Binding Offer Deadline, the Vendors shall (i) be entitled to seek to clarify the terms of any Binding Offer that has been submitted and, in consultation with the Monitor, (ii) assess any Binding Offers received and determine whether any of the transactions contemplated by such Binding Offers are likely to be able to be

consummated and whether proceeding with any of the Binding Offers is in the best interests of the Vendors and their stakeholders.

10. If the Vendors, in consultation with the Monitor, determine that one or more of the Binding Offers submitted in accordance with paragraph 8 contemplates a transaction that is likely to be able to be consummated, then the Vendors may, in consultation with the Monitor (i) select the “**Successful Bid**” (and the Prospective Bidder making the Successful Bid shall be a “**Successful Bidder**”), or (ii) continue negotiations with one or more Prospective Bidders in respect of one or more of such Binding Offers as the Vendors, in consultation with the Monitor, may determine, with a view to selecting one of the Binding Offers as the Successful Bid, and take such steps as are necessary to finalize and complete a Definitive Agreement for the Successful Bid.
11. The Vendors, in consultation with the Monitor, may at any time, (i) reject any Binding Offer that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the CCAA, these Sale Procedures or any orders of the Court applicable to the Vendors, or (c) contrary to the best interests of the applicable Vendors; (ii) in accordance with the terms hereof, accept any Binding Offer not in conformity with these Sale Procedures to the extent that the applicable Vendors determine, in their reasonable business judgment after consultation with the Monitor, that doing so would benefit the applicable Vendors; (iii) extend the Binding Offer Deadline; and/or (iv) reject one or more or all Binding Offers. For greater certainty, the Vendors shall be under no obligation to (i) continue negotiations with any Prospective Bidder, and/or (ii) accept any Binding Offer, including the highest or best Binding Offer and the selection of the Successful Bid, if any, shall be entirely in the discretion of the Vendors, after consultation with the Monitor.

#### **Selection Criteria**

12. In selecting the Successful Bid (if any), the Vendors, in consultation with the Monitor, will consider, among other things, the following evaluation criteria: (i) the proposed purchase price (including assumed liabilities and other obligations to be performed by the Prospective Bidder); (ii) the claims likely to be created by such Binding Offer in relation to other Binding Offers; (iii) the counterparties to the proposed transaction; (iv) the terms of proposed transaction documents, including the extent of any mark-ups to the Form of Definitive Agreement; (v) other factors affecting the speed, certainty and value of the proposed transaction (including scope and nature of regulatory approvals required to close the proposed transaction and the existence of other closing conditions and representations and warranties); (vi) proposed treatment of creditors and other stakeholders, generally; (vii) the assets proposed to be included and excluded from the Binding Offer; and (viii) the likelihood and timing of consummating the proposed transaction.

#### **Approval Hearing**

13. As soon as reasonably practicable after the execution of a Definitive Agreement by the Vendors and the Successful Bidder, and subject to the terms of such Definitive Agreement, the Vendors shall apply to the Court for an Approval and Vesting Order and if applicable, an Assignment Order.

### **Deposits**

14. All Deposits shall be retained by the Monitor and deposited in a non-interest bearing trust account. If there is a Successful Bid, the Deposit paid by the Successful Bidder will be held and dealt with in accordance with the provisions of the Definitive Agreement. The Deposits of Prospective Bidders not selected as a Successful Bidder shall be returned to such bidders within five (5) Business Days after the date on which their Binding Offer is no longer irrevocable in accordance with Paragraph 8(b), as applicable.

### **Notice**

15. Any notice, submission or other communication required or permitted to be given or made under these Sale Procedures shall be in writing and sent by e-mail to the following applicable addresses:

If to the Vendors, to Clifford Smith ([clifford.smith@cliffsnr.com](mailto:clifford.smith@cliffsnr.com)) and Adam Munson ([adam.munson@cliffsnr.com](mailto:adam.munson@cliffsnr.com)), with a copy to the Vendors' legal counsel, Tom McKee ([tom.mckee@blakes.com](mailto:tom.mckee@blakes.com)) and Milly Chow ([milly.chow@blakes.com](mailto:milly.chow@blakes.com)); and

- (a) If to the Monitor, to Nigel Meakin ([nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)), with a copy to the Monitor's legal counsel, Sylvain Rigaud ([sylvain.rigaud@nortonrosefulbright.com](mailto:sylvain.rigaud@nortonrosefulbright.com)) and Evan Cobb ([evan.cobb@nortonrosefulbright.com](mailto:evan.cobb@nortonrosefulbright.com)).

### **General**

16. All Binding Offers (other than the Successful Bid) will be deemed rejected at 11:59 p.m. Toronto time on the Business Day following the closing of a Successful Bid.
17. Except with respect to the treatment of the Deposit as set forth in Paragraph 14 above, these Sale Procedures do not, and will not, be interpreted to create any contractual or other legal relationship between the Vendors and any Prospective Bidder, other than as specifically set forth in any Definitive Agreements that may be signed with the Vendors.
18. Unless otherwise indicated herein, any event that occurs on a day that is not a Business Day shall be deemed to occur on the next Business Day.
19. All dollar amounts expressed herein, unless otherwise noted, are in Canadian currency.
20. Each Prospective Bidder that submits a Binding Offer shall be deemed to have irrevocably and unconditionally attorned and submitted to the jurisdiction of the Court in respect of any action, proceeding or dispute in relation to the conduct or any aspect of the Sale Procedures.
21. At any time during these Sale Procedures, the Vendors or Monitor may apply to the Court for advice and directions with respect to their obligations and duties herein.

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## **APPENDIX "A"**

### **Defined Terms**

**"Approval and Vesting Order"** means an order of the Court issued in the CCAA Proceedings approving the transactions contemplated by the Definitive Agreement in substantially the form of Schedule "A" thereto.

**"Assignment Order"** means an order of the Court issued in the CCAA Proceedings pursuant to section 11.3 of the CCAA in substantially the form of Schedule "A-1" to the Definitive Agreement.

**"Binding Offer"** means an offer to acquire all or substantially all of the Scully Mine 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 St. John's, Newfoundland and Labrador, the City of Toronto, Ontario, or the City of Cleveland, Ohio.

**"CCAA"** means the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36.

**"CCAA Proceedings"** means the CCAA proceedings bearing Court File No. 500-11-048114-157.

**"Court"** means the Québec Superior Court [Commercial Division].

**"Data Room"** means a confidential virtual data room which contains documents furnished by the Vendors in respect of the Scully Mine Assets.

**"Definitive Agreement"** means a definitive asset purchase agreement in respect of the Scully Mine Assets.

**"Form of Definitive Agreement"** means the form of asset purchase agreement, including schedules and exhibits thereto (other than the Assignment Order), provided to each Prospective Bidder with these Sale Procedures, attached as Exhibit "A".

**"Monitor"** means FTI Consulting Canada Inc., in its capacity as Monitor in the CCAA Proceedings and not in its personal or corporate capacity.

**"Northern Land"** means Northern Land Company Limited, a corporation existing under the laws of Newfoundland and Labrador.

**"Prospective Bidder"** means any of the parties that have expressed or may express an interest in acquiring the Scully Mine Assets or any affiliate thereof, and **"Prospective Bidders"** means all of them.

**"Representative"** means, with respect to a particular person, any director, officer, employee, agent, consultant, advisor or other representative of such person, including legal counsel, accountants and financial advisors.

**"Sale"** means the acquisition of the Scully Mine Assets, in whole or in part, by a Prospective Bidder from the Vendors.