2023 01G 0841

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF an application of Rambler Metals and Mining Canada Limited and 1948565 Ontario Inc.

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

FIFTH REPORT OF GRANT THORNTON LIMITED, IN ITS CAPACITY AS MONITOR UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36 OF RAMBLER METALS AND MINING CANADA LIMITED AND 1948565 ONTARIO INC.

June 28, 2023

Grant Thornton

Grant Thornton Limited,

Court-Appointed Monitor

200 King Street West, Floor 11,

Toronto, Ontario

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INTRODUCTION

1. On February 23, 2023, Rambler Metals and Mining Canada Limited ("**Rambler Canada**") and 1948565 Ontario Inc. ("**1948**") (collectively, the "**Rambler Group**"), Rambler Metals and Mining, plc, ("**Rambler UK**"), and Rambler Mines Limited ("**Rambler Mines** and with Rambler UK and the Rambler Group, collectively the "**Companies**"), made an application to commence proceedings pursuant to the CCAA (the "**CCAA Application**").

2. On February 27, 2023, the Honourable Justice Macdonald of the Supreme Court of Newfoundland and Labrador (the "**Court**") issued an order ("**Initial Order**") granting the Rambler Group protection from its creditors pursuant to the CCAA and appointing Grant Thornton Limited ("**GTL**") as monitor ("**Monitor**").

3. Pursuant to the Initial Order, amongst other things, all creditors were stayed from commencing or contiuing any proceedings against the Rambler Group until, and including, March 6, 2023 ("**Stay Period**"), or until such date as the Court may by subsequent order direct. The Stay Period was further extended by multiple orders and, most recently, to Setpember 11, 2023 by the further amended and restated initial order ("**FARIO**") issued on May 16, 2023, which also increased the DIP Facility and DIP Charge to US$8.3 million.

4. The Court also issued the sales and investment solication process order ("**SISP**" and "**SISP Order**") on March 15, 2023, which, among other things, directed and empowered the Monitor to adminster a SISP in the CCAA Proceedings.

5. This fifth report of the Monitor ("**Fifth Report**"), the preceding reports of GTL as Proposed Monitor and as Monitor, and all other information in respect of the CCAA proceedings (the "**CCAA Proceedings**"), are posted on the Monitor's case website at www.GrantThornton.ca/Rambler. Readers are encouraged to read the following reports of the Proposed Monitor and of the Monitor, the materials filed with the Court in relation to the applications, and the orders of the Court to provide additional information:

   Reports to the Court

   (a) Pre-Filing report of Grant Thornton Limited in its capacity as Proposed Monitor dated February 23, 2023 (the "**Pre-Filing Report**");

   (b) First Report of Grant Thornton Limited in its capacity as Monitor dated March 3, 2023;

(the “**First Report**”);

(c) Second Report of Grant Thornton Limited in its capacity as Monitor dated March 13, 2023 (the “**Second Report**”); and,

(d) Third Report of Grant Thornton Limited in its capacity as Monitor dated April 5, 2023 (the “**Third Report**”).

(e) Fourth Report of Grant Thornton Limited in its capacity as Monitor dated May 12, 2023 (the “**Fourth Report**”)

<u>Court Orders</u>

(a) Endorsement dated February 24, 2023;

(b) CCAA Initial Order dated February 27, 2023, and Reasons for Judgement;

(c) Stay Extension Order dated March 6, 2023;

(d) ARIO dated March 7, 2023;

(e) FARIO dated March 15, 2023;

(f) SISP Order dated March 15, 2023;

(g) Order regarding WEPPA declaration (“**WEPPA Order**”), dated April 6, 2023; and

(h) FARIO dated May 16, 2023.

PURPOSE OF THE FIFTH REPORT

6. The Fifth Report is intended to provide the Court with the following:

(a) An update on the activities of the Monitor since May 12, 2023, the date of the Fourth Report, including an update on the SISP; and

(b) An update on the settlement between Rambler Canada and Transamine S.A. (“**Transamine**”) in relation to the sale and collection of proceeds from Rambler Canada’s post filing production to Transamine which previously caused a material adverse change in these CCAA Proceedings, as further described in paragraphs 24-38 of the Third Report.

TERMS OF REFERENCE

7. In preparing this Fifth Report, the Monitor has relied upon unaudited internal financial statements, certain other financial information and financial projections of the Rambler Group, discussions with management of the Rambler Group ("**Management**") and its legal advisor, and discussions with certain senior secured noteholders and their legal advisor (collectively, the "**Information**"). While the Monitor has reviewed the Information for reasonableness and believes that the information herein provides a fair summary of the transactions and underlying financial position as reflected in the documents of the Rambler Group, 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 Canadian Generally Accepted Auditing Standards.

8. Some of the Information used in preparing this Fifth Report consists of forward-looking information, including the May Forecast as defined in the Fourth Report. The Monitor cautions that such forward looking information is based upon assumptions about future events and conditions that are not ascertainable. The actual results with respect to the forward-looking information and the variations thereof could be significant.

9. In the course of its mandate, the Monitor has assumed the integrity and truthfulness of the Information and explanations presented to it by Management, within the context in which such Information was presented. To date, nothing has come to the Monitor's attention that would cause it to question the reasonableness of these assumptions. The Monitor has requested that Management bring to its attention any significant matters which were not addressed in the course of the Monitor's specific inquiries. Accordingly, this Fifth Report is based solely on the Information (financial or otherwise) made available to the Monitor by the Rambler Group and its Management.

10. This Fifth Report has been prepared for the use of this Court and the Rambler Group's stakeholders as general information relating to the Rambler Group and these CCAA Proceedings, and to assist the Court in determining whether to grant the relief sought by the Rambler Group. Accordingly, the reader is cautioned that this Fifth Report may not be appropriate for any other purpose. The Monitor does not assume responsibility or liability

for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Fifth Report contrary to the provisions of this paragraph.

11. Unless otherwise stated, all monetary amounts contained herein are expressed in US Dollars. Capitalized terms not otherwise defined herein have the meaning given to them in the orders granted by the Court and the Monitor's previous reports as outlined above.

ACTIVITIES OF THE MONITOR

12. Since the date of the Fourth Report, the Monitor has, among other things:

(a) Continued to assist the Rambler Group with its communications in respect of these CCAA Proceedings, including conversations with employees, creditors, suppliers and other stakeholders;

(b) Worked with Management to gather the required information and facilitate claims by terminated employees under WEPP and pursuant to the WEPPA Order;

(c) Coordinated weekly update meetings with Management and the Rambler Group's interim CEO to discuss and review ongoing matters related to the CCAA Proceedings, Warm Idle operations, the SISP, contract reviews and claim reviews, amongst other things;

(d) Monitored the actual cash flows of the Rambler Group relative to the May Forecast, as submitted in the Fourth Report, and provided ongoing reporting of same to the DIP Lenders, pursuant to the DIP Financing Agreement; and

(e) Worked with the Rambler Group to review several claims made by third parties with respect to equipment or other party property located at the Rambler Canada site and responded to such claims.

<u>Ongoing SISP Update</u>

13. Since the last update provided in the Fourth Report, the Monitor has continued to progress the SISP which includes, amongst other things:

(a) Reviewing executed NDAs and corresponding with Potential Bidders, prior to allowing access to the confidential virtual data room ("**VDR**"), including notifying Potential Bidders that they were deemed a Phase 1 Qualified Bidder for purposes of the SISP;

(b) Reviewing questions by Phase 1 Qualified Bidders and working with Management to provide responses to the same, as well as updating the VDR with additional due diligence information as it became available;

(c) Reviewing the non-binding letters of intent submitted by Phase 1 Qualified Bidders in accordance with paragraph 14 of the Bidding Procedures to the SISP Order;

(d) Coordinating follow up discussions with each Phase 1 Qualified Bidder to understand the nature of their Bid;

(e) Communicating with the Rambler Group and the DIP Lenders on the Monitor's view of the Phase 1 Qualified Bids;

(f) Determining, in consultation with the Rambler Group and in accordance with paragraph 14 of the Bidding Procedures from the SISP Order, which Phase 1 Qualified Bids would be accepted as Phase 1 Successful Bids and therefore advance to Phase 2 of the SISP as Phase 2 Qualified Bidders;

(g) Providing notice on May 26, 2023, to those Phase 1 Qualified Bidders who were determined to have a Phase 1 Successful Bid of their acceptance into Phase 2 of the SISP as a Phase 2 Qualified Bidder; and

(h) Scheduling follow up calls and coordinating with Phase 2 Qualified Bidders to advance their ongoing due diligence, including site visits, to assist with advancing binding offers.

Revised SISP Timelines

14. Paragraph 33 of the Bidding Procedures provides the Monitor with the right to make amendments to the SISP if in the Monitor's reasonable judgement, and in consultation with the Rambler Group and the DIP Lenders, such amendment will enhance the SISP and maximize the potential value derived therefrom. In light of the interest that was generated and the number of competitive Phase 1 Bids received, the Monitor in consultation with the DIP Lenders and the Rambler Group amended the SISP timelines to allow the Monitor to identify, within an earlier time frame, which Phase 2 Qualified Bidders may not have the required financial capability to close a transaction as set out in their Phase 1 Successful Bid.

15. For certainty, the overall SISP timeline has not been extended and the date for the submission of Binding LOIs remains unchanged at July 21, 2023.

16. The Monitor is of the view that the amendment to the Bidding Procedures will enhance the viability of the SISP by narrowing (or further qualifying) the pool of Phase 2 Qualified Bidders that advance into Phase 3. This amendment will also ensure that the limited resources of the Rambler Group, the Monitor and the associated professional advisors will be focused on those Bidders that are most likely to close a transaction for the benefit of the Rambler Group's creditors. In the Monitor's view, this amendment will limit closing risk and assist the Rambler Group to reduce unnecessary costs while maintaining the competitive tension required to maximize realizations for all stakeholders at the conclusion of the SISP.

17. Pursuant to paragraph 33 of the Bidding Procedures, the Monitor sent notice to the service list on May 30, 2023, of the amendment to the SISP timelines. A copy of the notice advising of the changes to the SISP timelines is attached hereto as **Appendix "A"**.

18. In light of the amendment, a table summarizing the revised key dates of the SISP is set out below.

Event	Date
Phase 2 Bid Deadline: *-Demonstrating financial capacity to close a transaction.*	June 23, 2023
Phase 3 Successful Bids -*Submission of definitive offers.*	July 21, 2023
Selection of Successful Bidder *-Or Auction, if required*	July 28, 2023
Definitive Documentation	August 4, 2023
Approval motion for Successful Bid	September 11, 2023
Anticipated closing of Successful Bid	September 18, 2023

19. On June 23, 2023, a number of Phase 2 Qualified Bidders provided the Monitor with evidence demonstrating their financial capacity. As at the date of this Fifth Report, the Monitor is continuing to review this information with the Company and DIP Lenders and

anticipates advising qualified Phase 2 Bidders of their admission to Phase 3 in the coming week.

TRANSAMINE SETTLEMENT

20. The Monitor reported in paragraphs 24-38 of its Third Report that on April 3, 2023, a material adverse change (“**MAC**”) had occurred during the CCAA Proceedings because the Rambler Group’s exclusive customer, Transamine, advised it had exercised a right of set off in respect of amounts owing to Rambler Canada against certain pre-filing indebtedness owing to Transamine. As a result, there was a material variance in the Rambler Group’s March 13, 2023 Forecast. Accordingly, on March 30, 2023, as a direct result of the MAC, Rambler Canada immediately began transitioning its operations into Warm Idle.

21. As noted in paragraphs 23-27 of its Fourth Report, the Monitor provided a draft analysis of its understanding of Transamine’s asserted right of set off with regard to amounts owing by Transamine to Rambler Canada, to the Rambler Group, the DIP Lenders, and the Secured Parties to the Intercreditor Agreement (other than Transamine), in an effort to assist the parties to find a resolution to this matter. The Monitor further advised in paragraph 27 of its Fourth Report that it was of the understanding that the Rambler Group and Transamine had started discussions with the goal of reaching a commercial resolution in respect of the set off issue and the amounts owing by Transamine for the remaining concentrate produced by Rambler Canada post filing.

22. The Monitor has been advised by the Rambler Group that it has reached a settlement with Transamine (“**Transamine Settlement**”), a copy of which is attached to the Rambler Group’s application to have the Transamine Settlement approved by this Honourable Court. Key terms of the Transamine Settlement include:

    (a) Rambler Canada will provide Transamine with an invoice ("**Provisional Invoice**") for approximately 1,021.43 copper concentrate tonnes, being the full quantity of Copper Concentrate at Goodyears Cove from Lots 293 to 302 (defined in the Transamine Settlement as "**Remaining Shipment**"). The Provisional invoice (of approximately USD$1.9 million) represents 100% of the copper concentrate in the Remaining

Shipment, less the payments already made by Transamine to Rambler Canada on Lots 293 – 300 and the other ordinary deductions therein;

(b) The Provisional Invoice will be calculated using Rambler Canada's estimate of the actual copper grade in the Remaining Shipment, based on internal sampling completed for each truck of copper concentrate transported to Goodyears Cove;

(c) Upon delivery by Rambler Canada to Transamine of the Provisional Invoice and a Holding Certificate:

i. Transamine will promptly pay the full balance (100%) of the Provisional Invoice to the Monitor, to be held in trust pursuant to the terms of the Transamine Settlement;

ii. Transamine will pay to the Monitor USD$500,023.21, representing a return of funds set-off by Transamine against the invoice for Lot 299, which the Monitor will distribute to Rambler Canada for immediate use as permitted in the CCAA proceeding;

iii. The Monitor, Transamine, and Rambler will jointly agree to an internationally recognized surveyor to arrange a stock inspection and to collect representative samples of the Remaining Shipment, to finalize assaying and actual weight/quality of the Remaining Shipment, such inspection to be completed and finalized as soon as practicable (and in any event, before the Remaining Shipment leaves Goodyears Cove) and to be final and binding on the parties;

iv. Upon confirmation that the funds above are received in the Monitor's account, Rambler Canada shall permit Transamine to remove the Remaining Shipment from Goodyears Cove and shall provide Transamine and its counsel with the original bills of lading evidencing shipment from Goodyear's Cove of the full Remaining Shipment;

v. Following delivery of the surveyor's final assays and final weights of the Remaining Shipment, Rambler Canada will deliver to Transamine a final invoice ("**Final Invoice**");

(d) If it is determined on the Final Invoice that Transamine has overpaid for the Remaining Shipment on the Provisional Invoice, Rambler Canada's liability will be limited to an amount equal to the difference between (a) the value of all payments received from Transamine in respect of the Remaining Shipment and (b) the value of the Remaining Shipment in the Final Invoice. In this event, the Monitor would pay this calculated amount from the funds paid in trust to Transamine or as Transamine may direct, with the balance (if any) directed to Rambler Canada, provided that Rambler Canada will not be required to refund to Transamine more than the amount of the Provisional Invoice.

(e) If it is determined in the Final Invoice that Transamine has underpaid for the Remaining Shipment on the Provisional Invoice, Transamine will pay to the Monitor, on behalf of Rambler Canada, the difference between (a) the value of the Remaining Shipment in the Final Invoice and (b) the value of all payments received from Transamine in respect of the Remaining Shipment. The Monitor will then release these funds, along with those received pursuant to the Provisional Invoice, to Rambler Canada.

(f) Rambler Canada will release and waive its claim for the return of the USD$1,778,858 that Transamine set-off against the January shipment, which shall instead be accounted for in Transamine's secured claim in the CCAA process.

(g) Rambler Canada and Transamine will exchange mutual releases in respect of the matters in the Transamine Settlement.

VESTING ORDER

23. As a term of the Transamine Settlement, Transamine has requested that the Court grant a vesting order (the "**Vesting Order**") pursuant to which (a) the Court approves the Transamine Settlement and (b) all right, title and interest of the Rambler Group in and to all of the accumulated Copper Concentrate at Goodyears Cove in Lots 293-302 shall vest in and to Transamine upon the Monitor filing a certificate in the form attached to the Vesting Order (the "**Monitor's Certificate**"). The Monitor's Certificate will confirm that all terms and conditions under the Transamine Settlement have been either satisfied or

waived and that the transactions contemplated by the Transamine Settlement have been completed to the satisfaction of the Monitor.

24. The Monitor is of the view that the Transamine Settlement is reasonable, reduces collection risk to both parties, expedites the collection of funds and overall is beneficial to the estate and stakeholders within these CCAA proceedings. The Monitor understands the DIP Lenders are also supportive of the Company's efforts in finalizing a settlement with Transamine for the benefit of the estate.

25. The Monitor is of the view that the Company has acted in good faith and with due diligence in finalizing the Transamine Settlement and is supportive of the Rambler Group's requested relief to for Court approval of the Transamine Settlement and the associated vesting order transferring title of the Remaining Shipment to Transamine.

NO MATERIAL ADVERSE CHANGE

26. The Monitor is not aware of any issue or condition that could be considered a Material Adverse Change pursuant to s.23(1)(d), or the DIP Financing Agreement.

27. The Monitor continues to be of the opinion that s.23(1)(h) does <u>not</u> apply, and it would be more beneficial to the Rambler Group's creditors to continue with the SISP within the CCAA proceeding.

ADDITIONAL RELIEF

28. The Monitor also seeks approval by the Court of this Fifth Report and the activities of the Monitor as described therein.

CONCLUSION

29. The Monitor is of the view that the Rambler Group has continued to act in good faith and with due diligence in respect of exploring various options which would enable it to restructure its business and operations for the benefit of its creditors and stakeholders in these CCAA Proceedings.

30. For the reasons set out in this Fifth Report, the Monitor is of the view that the relief requested by the Rambler Group is reasonable and respectfully recommends that this Court make an Order granting the requested relief.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 28th day of June 2023.

GRANT THORNTON LIMITED,
SOLELY IN ITS CAPACITY AS COURT-APPOINTED MONITOR OF THE APPLICANTS, AND NOT IN ITS CORPORATE OR PERSONAL CAPACITY

Liam Murphy, CPA, CA, CIRP, LIT
Senior Vice President

Appendix A – Notice of Amendment to SISP Timelines

May 30, 2023

NEWFOUNDLAND AND LABRADOR
SUPREME COURT
(BANKRUPTCY AND INSOLVENCY)

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

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF RAMBLER METALS AND MINING CANADA LIMITED & 1948565 ONTARIO INC. (collectively, "Rambler" or the "Company")

AMENDMENT TO SISP TIMELINES

TAKE NOTICE that pursuant to paragraphs 4 and 33 of the Bidding Procedures in the SISP Order, the Monitor shall have the right at any time, in consultation with the Rambler Group and DIP Lenders, to make amendments to the SISP if, in the Monitor's view, such amendment will enhance the procedure for conducting the SISP. The Monitor hereby provides notice to the service list pursuant to paragraph 33 of the Bidding Procedures that:

- The Monitor has segregated the original time period for Phase 2, being May 27 to July 21, into two phases.
- The Phase 2 Bid Deadline will be June 23, 2023 (the "**Phase 2 Deadline**"). At the Phase 2 Deadline, all Phase 2 Qualified Bidders must deliver to the Monitor:
    - o Evidence demonstrating financial capacity to execute the transaction outlined in the non-binding LOI in a form acceptable to the Monitor, in consultation with the Company and the DIP Lenders; and
    - o Additional details related to non-binding LOI's that include a compromise of a specific class of creditors. Specifically, the Monitor needs to understand with which creditors, if any, the Phase 2 Qualified Bidder intends to seek a compromise.
- The Monitor, in consultation with the Rambler Group and DIP Lenders, will review the information provided by Phase 2 Qualified Bidders at the Phase 2 Deadline, and advise each Phase 2 Qualified Bidder whether they are admitted as Phase 3 Qualified Bidders.
- Phase 3 Qualified Bidders will have until July 21, 2023 (the original Phase 2 deadline) to provide a binding LOI.

The purpose of the amendments is to enable the Monitor, within an earlier time frame, to identify the current participants in the SISP who may not have the required financial capability to close a transaction within the timelines as set out below. The Monitor is of the view that the amendments will not hinder the continuance of the SISP, but rather will enhance the viability of the SISP and should result in a greater likelihood of maximizing realizations for all stakeholders at the conclusion of the SISP.

Furthermore, due to Court availability, the Approval Motion date as outlined in paragraph 5 of the Bidding Procedures has been rescheduled for September 11th, 2023. A table outlining the revised dates pursuant to the SISP is shown below.

May 30, 2023

Event	Timing
Distribution of the Notice, Teaser Letter, Confidentiality Agreement, and Acknowledgement of the SISP	5:00 pm NST on April 14, 2023
Phase I Bid Deadline	5:00 pm NST on May 19, 2023
Phase II Bid Deadline	5:00 pm NST on June 23, 2023
Phase III Bid Deadline	5:00 pm NST on July 21, 2023
Auction (if any)	July 28, 2023
Selection of Successful Bidder	5:00 pm NST on July 28, 2023
Definitive Documentation	August 4, 2023
Approval Motion	September 11, 2023
Closing Date Deadline	September 18, 2023

No other changes to the SISP are being made at this time.

If you have any questions or would like to discuss your intended LOI, please feel free to contact Mr. Liam Murphy, at (902) 429-5435 (Liam.Murphy@ca.gt.com) or Mr. Jason Kanji at 416-777-6136 (Jason.Kanji@ca.gt.com).

Sincerely,

GRANT THORNTON LIMITED,
In its capacity as the Court-appointed Monitor
of Rambler Metals and Mining Canada Limited and 1948565 Ontario Inc,
and not in its corporate or personal capacity.

Note capitalized terms within this document that are not defined herein maintain their meaning as defined in the Procedures for the Sale and Investment Solicitation Process available on the Monitor's case website www.GrantThornton.ca/Rambler.