



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION**

**Citation:** *Rambler Metals and Mining Canada Limited, Re CCAA*, 2023 NLSC 35

**Date:** March 3, 2023

**Docket:** 202301G0841

**BETWEEN:**

**RAMBLER METALS AND MINING  
CANADA LIMITED**

**FIRST APPLICANT**

**AND:**

**RAMBLER METALS AND MINING  
PLC**

**SECOND APPLICANT**

**AND:**

**RAMBLER MINES LIMITED**

**THIRD APPLICANT**

**AND:**

**1948565 ONTARIO INC.**

**FOURTH APPLICANT**

---

**Before:** Justice Alexander MacDonald

---

**Place of Hearing:**

St. John's, Newfoundland and Labrador

**Date of Hearing:**

February 27, 2023

**Appearances:**

Joseph J. Thorne and Stewart Wallace	Appearing on behalf of the Applicants
Jason Kanji and Phil Clarke	Appearing on behalf of Grant Thornton
Alex MacFarlane	Appearing on behalf of Rambler Group (the Monitor)
Meghan M. King	Appearing on behalf of Elemental Royalties Corp.
Tim Ross	Appearing on behalf of NewGen Asset Management Ltd.
Peter Fraser	Appearing on behalf of RMM Debt Limited Partnership (DIP Lender)

**Authorities Cited:**

**CASES CONSIDERED:** *McEwan Enterprises Inc.*, 2021 ONSC 6453

**STATUTES CONSIDERED:** *Companies' Creditors Arrangement Act*,  
R.S.C. 1985, c. C-36; *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

**REASONS FOR JUDGMENT**

**MACDONALD, J.:**

**INTRODUCTION**



[1] The initial hearing of this matter took place on February 27, 2023. I granted an Initial Order with reasons to follow. These are the reasons.

[2] Rambler Metals and Mining Canada Limited (Rambler Canada), Rambler Metals and Mining PLC (Rambler UK), Rambler Mines Limited (Rambler Mines), and 1948565 Ontario Inc. (1948) (collectively, the “Companies”), apply for creditor protection and other relief under the *Companies' Creditors Arrangement Act*, R.S.C.

1985, c. C-36 (CCAA). They seek an initial order substantially in the form attached to the Application record. No party on the motion opposed the request.

[3] For the reasons that follow, I grant the Initial Order described in Schedule "A" attached to this decision.

## FACTS

[4] Rambler Canada own and operate the copper and gold Ming Mine, ancillary facilities, mineral leases, and other property near Baie Verte, Newfoundland and Labrador (Mine). It owns 50% of the Little Deer and Whaleback mines exploration project. 1948 owns the remaining 50% of the exploration project. I will refer to Rambler Canada and 1948 as the Rambler Group.

[5] Rambler UK owns 100% of the shares of 1948 and Rambler Mines. Rambler Mines in turn owns 100% of the shares of Rambler Canada.

[6] Baie Verte, Newfoundland and Labrador, is a town of 1400 people. The Town is a service centre for about 19 communities on the Baie Verte Peninsula with a population of 5,300 people. At the time of this Application, the Mine employed about 212 full and part time employees, 60 independent contractors, and up to 15 spring and summer students.

[7] The Companies opened the Ming Mine in 2012 in its current form, operating as a small-scale operation targeting high-grade mineral zones. While the Mine initially generated a positive cash flow, it became apparent that the Rambler Mines needed more ore production to reduce unit overhead costs.



[8] The Companies say, and the proposed monitor Grant Thornton Ltd. (GTL) agrees, that a weak balance sheet and lack of capital caused Rambler Canada to make cash constrained decisions, which resulted in poor long-term profitability after 2016.

[9] In 2019, to address the high unit cost of production, Rambler Canada increased production but then exhausted the available underground reserves. This caused cash flow deficiencies as the Rambler Group shifted from production of copper and gold to development of further underground reserves.

[10] The Rambler Group started to make improvements to mining efficiencies in 2020. However, the COVID-19 pandemic and declining copper prices negatively affected business operations.

[11] COVID-19 required Mine employees to social distance. Employees were more likely to remain on site because of the impacts of COVID-19. Employee social distancing contributed to insufficient ore production to feed processing operations. This in turn caused reduced lower revenue because of reduced copper recovery. All of these factors caused yet higher unit costs.

[12] Thus, the Rambler Group has been experiencing financial challenges for some time because of chronic undercapitalization exacerbated by the impacts of the COVID-19 pandemic.

[13] Toby Bradbury, CEO of the Companies, tells me in his Affidavit filed in this Application that the Companies' consolidated financial statements show total assets of about US \$123 million, and total liabilities of about US \$59 million. Rambler Canada also owes Rambler UK about US \$125 million and Rambler Canada owes 1948 about US \$1 million.



[14] He also says that Rambler Canada owes to unsecured or preferred creditors about:

- (a) US \$12.6 million due to unsecured trade creditors as of December 31, 2022 (see affidavit at para. 27(b)(i)), and US \$14.5 million as of January 31, 2023 (see affidavit paragraph 53);
- (b) US \$6 million to Gold Stream creditors as of December 31, 2022 (see affidavit at para. 27(b)(iii));
- (c) US \$4.7 million as of December 31, 2022 (see affidavit at para. 27(b)(ii)), and US \$2.4 million as of February 22, 2023 (see affidavit at para. 51) to the Canada Revenue Agency for source deductions;
- (d) US \$0.4 million as of December 31, 2022 and US \$1.4 million as of February 22, 2023 (see affidavit paragraphs 27(b)(vi) and 57), to ACOA; and
- (e) US \$0.489 as of February 22, 2023 (see affidavit at para. 52) to Newfoundland and Labrador Health and Post-Secondary Education Tax (HAPSET).

[15] Rambler Canada owes to secured creditors:

- (a) US \$12.1 million (secured) as of January 31, 2023 (see affidavit at para. 47) to Elemental Royalties Corp. secured for prepayment of minerals not yet supplied to it;
- (b) US \$11.2 million (secured) as of December 31, 2022 (see affidavit at para. 27(b)(v)) to NewGen Resource Lending Inc. as agent for NewGen Resource Lending LP WF CAD Investment Holdings LP, Dundee Resources Limited, Whitleaf Trust and Ali Akay (NewGen Lenders);



- (c) US \$2.2 million (secured) to Transamine SA for prepayment of minerals not yet supplied to it, and US \$2.6 million for overpayment of provisional invoices as of January 31, 2023 (see affidavit at paras. 39 and 40);
- (d) US \$1.8 million (secured) as of January 31, 2023 (see affidavit at para. 43) to Sandstorm Gold Ltd.; and
- (e) US \$1.7 million (secured) as of December 31, 2022 (see affidavit at para. 27(b)(vii)) to various lessors of equipment.

[16] These amounts in paragraphs [13] to [15] are approximate and the effective dates vary.

[17] The remainder of the Companies guaranteed Rambler Canada's obligations to most of these secured creditors.

[18] The Companies served all its principle secured creditors (excluding CRA) with notice of this Application. Sandstorm Gold Limited neither attended the hearing nor took a position on the Companies' Application. Elemental Royalties Corp. attended but took no position on the Application. The remaining secured consented to the Initial Order.

[19] The Companies' counsel submits that the principal objectives of these *CCAA* proceedings are to ensure the ongoing operations of the Mine for the benefit of its many stakeholders and to restructure the Mine. The Companies intend to conduct a Solicitation Investment Sale Process (SISP). If the SISP is successful, the Rambler Group intends to bring a subsequent motion to seek Court approval of any transaction arising out of that process.

[20] GTL concludes that the Companies are acting in good faith and due diligence. They have responded quickly to GTL's requests for information. Furthermore, GTL is of the opinion that the *CCAA* process offers a better chance to maximize return to



stakeholders than a liquidation or restructuring under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

[21] The Companies say time is of the essence given its minimal cash flow position and negative cash flows. The issues are:

- (a) Do the Companies meet the criteria for protection of the *CCAA*?
- (b) Should I appoint GTL as the Monitor?
- (c) Should the Court exercise its discretion to authorize (secured by a priority charge over the assets of Rambler Group in this order):
  - (i) Administration Charge;
  - (ii) DIP Financing; and
  - (iii) Directors' Charge?
- (d) Should the Court exercise its Discretion to Extend the Stay of Proceedings to Rambler UK and Rambler Mines who are no longer parties?

[22] I first turn to whether the Companies Meet the Criteria for Protection under the *CCAA*.

**Do the Companies Meet the Criteria for Protection Under the *CCAA*?**

[23] I have considered the Affidavit of Toby Bradbury and the Pre-filing Report of GTL. I find it is appropriate to grant an order under section 11.02 of the *CCAA*. I find that Rambler Group:



- (a) meet the *CCAA* definition of a company and are eligible for *CCAA* protection;
- (b) are debtors under the *CCAA*. GTL told me that the Rambler Group is insolvent and each have liabilities in excess of CDN \$5 million; and
- (c) are eligible for *CCAA* protection.

[24] I am not prepared to order that Rambler UK and Rambler Mines are applicants who will benefit from the Initial Order.

[25] Rambler UK and Rambler Mines have no other business than holding the shares of the Canadian operations. They have guaranteed the obligations of Canadian operations to secured creditors.

[26] However, I have insufficient information on the assets and business of Rambler UK and Rambler Mines in the United Kingdom, even though counsel tell me that their only function is to own the shares in the Canadian operations.

[27] I now turn to whether I appoint GTL as the Monitor.

**Should I Appoint GTL as the Monitor?**

[28] I appoint GTL as Monitor. GTL is qualified to act as Monitor under Section 11.7(1) of the *CCAA*. Phil Clark, the representative of GTL, has acted as Monitor and officer this Court in other proceedings under the *CCAA*.

[29] I now turn to whether the Court should exercise its Discretion to Grant the Administration Charge.

*D*



**Should the Court Exercise its Discretion to Grant the Administration Charge?**

[30] The Rambler Group seeks, pursuant to section 11.52(1), a charge on the Rambler Group's property to a maximum amount of CDN \$185,000 to secure GTL's and the Rambler Group's legal and other professional fees and disbursements. I allow this Administration Charge.

[31] I must limit this Administration Charge to that which is reasonably necessary for the continued operation of the Rambler Group during the initial stay.

[32] The Companies' cash flow statements show that the Rambler Group's administration costs will be about CAD\$185,000 up to the issuance of the Initial Order. GTL says that these costs are reasonable. I agree and I find that CAD\$185,000 is a fair and reasonable allowance for these costs.

[33] Furthermore, I find there is no avoidable duplication of roles. The Rambler Group and GTL have and should have legal counsel. GTL's costs are necessary for the proper operations of the *CCAA*.

[34] I now turn to whether the Court should exercise its discretion to authorize the DIP Financing.

**Should the Court Exercise its Discretion to Authorize the DIP Financing?**

[35] The Companies ask that I allow the DIP Financing. RMM Debt Limited Partnership by its General Partner RMM General Partner Inc. (DIP Lender) has or will provide an interim loan facility of up to US \$5 million (DIP Financing) and secure it by a priority charge of the Rambler Group's property. I will make provision for DIP of up to US \$1.87 million in the Initial Order.



[36] Under section 11.2(1) of the *CCAA*, I may make an order to allow the DIP Financing and secure it by a priority charge. The charge shall not secure obligations that exists before I make the Initial Order.

[37] The DIP Lender is a group including a plurality of the secured creditors. GTL told me that the Companies rejected another DIP financing option as being less favourable to the Companies. GTL then says the DIP Financing terms are reasonable given the current financial circumstances of the Rambler Group. I agree.

[38] The Rambler Group projects that DIP Lender will advance about US \$1.87 million shortly after I grant this Initial Order. I am satisfied that this financing is necessary.

[39] GTL provided me with the revised cash flow showing payments that the Rambler Group needs to make payments to allow the Mine to continue operation until the Comeback Hearing. About US \$883,000 relates to startup costs, purchase of necessary mining supplies, and payments of past due receivables to critical suppliers.

[40] GTL told me that without the DIP Financing, the Rambler Group would not be able to continue operating the Mine. The Rambler Group's cash flow statements support this possibility. This could adversely affect its prospects for a successful SISF. The loan provides the means to allow for the development of a possible compromise proposal.

[41] I am also satisfied that the Court has the jurisdiction to permit payment of pre-filing obligations in a *CCAA* proceeding, including where such payments are critical to the ongoing operations of a debtor company or the maintenance of its customer, supplier, and employee relationships. (See: *McEwan Enterprises Inc.*, 2021 ONSC 6453)



[42] In arriving at this conclusion, I have taken into account a number of factors in authorizing the payment of pre-filing obligations, including:

- (a) GTL's assurance that some services and some currently unpurchased mining supplies are integral to the Rambler Group's business;
- (b) If Rambler Group cannot make pre-filing payments, this will adversely affect its operations and its ability to restructure; and
- (c) Rambler Group will make no payments without the consent of GTL.

(See: *McEwan Enterprises*)

[43] As of the hearing, GTL referred to only one critical service provider, a local ore transportation provider. The Mine is the contractor's only customer. GTL says that if the Rambler Group does not pay the contractor's pre-filing receivables, the contractor will be unable to finance its operations and thus will be unable to continue to provide services.

[44] Given that these are specialized services in a small local market, GTL says, and I agree, that it is impractical for the Rambler Group to replace this contractor. Therefore, GTL may approve Rambler Group payments to this supplier.

[45] I now turn to whether the Court should exercise its Discretion to Grant the Directors' Charge.

**Should the Court Exercise its Discretion to Grant the Directors' Charge?**

[46] Rambler Group are seeking a Directors' Charge for US \$675,000 to secure the indemnification of its directors and officers for any liabilities they may incur



during the *CCAA* proceedings in their capacities as directors and officers. I hereby grant this charge.

[47] Section 11.51 of the *CCAA* provides the Court with the authority to grant a charge relating to directors' and officers' indemnification supported by a priority charge over the assets of the Applicants.

[48] The proposed Directors' Charge would apply only to the extent that the directors and officers do not have coverage under the D&O Policy. The Companies' counsel tells me that the Rambler Group's D&O Policy contains several exclusions and limitations to the coverage provided, and there is potential for there to be insufficient coverage for the directors and officers under such D&O Policy.

[49] I accept that this is a risk. It is thus possible for the directors and officers to be personally liable for some of Rambler Group's obligations during the course of these *CCAA* proceedings.

[50] The Directors' Charge would only cover liabilities that the directors and officers may incur after the commencement of these *CCAA* proceedings and does not cover willful misconduct or gross negligence.

[51] The directors and officers have been actively involved in Rambler Group's efforts to address the current circumstances of the Mine, including the review and consideration of Rambler Group's financial circumstances, managing and addressing Rambler Group's challenging liquidity position, pursuing restructuring alternatives, and preparing for these *CCAA* proceedings. The Companies' counsel tells me the directors and officers may resign if I do not grant the Directors' Charge.

[52] I find that Rambler Group will benefit from the active and committed involvement of the directors and officers to carry on business during the *CCAA* proceedings and to complete a successful restructuring for the benefit of Rambler Group and its stakeholders.



[53] The amount of the Directors' Charge relates to the estimated exposure of the directors and officers in the period up to the Comeback Hearing. GTL has reviewed its calculations.

[54] I now turn to whether the Court should extend the Stay of Proceedings to the UK parents who are no longer parties to the Initial Order.

**Should the Court Exercise its Discretion to Extend the Stay of Proceedings to Rambler UK and Rambler Mines Who are No Longer Parties?**

[55] The Companies' counsel submits that it is appropriate to extend the Stay of Proceedings to Rambler UK and Rambler Mines with respect to their assets in Canada.

[56] I find that it is reasonable to extend the stay of proceedings to Rambler UK and Rambler Mine's property, assets, and undertakings situated in Canada for the duration of the stay.

[57] Courts have the authority under the broad jurisdiction granted under ss. 11 and 11.02(1) of the *CCAA* and the Court's inherent jurisdiction to grant a stay of proceedings in favour of third parties that are not themselves applicants in a *CCAA* proceeding. (See: *McEwan Enterprises*)

[58] I have considered the following factors in making this decision:

- (a) the business of Rambler UK and Rambler Mines is significantly intertwined and integrated with those of Rambler Group;
- (b) extending the stay to Rambler UK and Rambler Mines would help maintain stability and value during the *CCAA* process; and



- (c) refusing the stay would have a negative impact on Rambler Group's ability to restructure.

## DISPOSITION

[59] I am satisfied that Rambler Group meet all of the qualifications established for relief under the *CCAA*. I have executed the Initial Order.

[60] The Comeback Hearing is on Monday, March 6, 2023, at 10:00 a.m.

[61] I direct the Companies' counsel to serve the Application materials on Maeve Baird, solicitor for the Canada Revenue Agency.



---

**ALEXANDER MACDONALD**  
Justice

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")

INITIAL ORDER

THIS APPLICATION, made by Rambler Metals and Mining Canada Limited ("Rambler Canada") and 1948565 Ontario Inc. ("1948") (collectively, the "Rambler Group" or the "Applicants") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order substantially in the form filed with the Application was heard this 27<sup>th</sup> day of February, 2023.

ON READING the affidavit of Toby Bradbury sworn the 22<sup>nd</sup> day of February, 2023 (the "Bradbury Affidavit") and the exhibits thereto, the consent of Grant Thornton Limited ("GTL") to act as Court-appointed monitor of Rambler Group (in such capacity, the "Monitor"), and the Monitor's Pre-Filing Report;

ON HEARING the submissions of counsel for Joe Thorne, counsel for the Rambler Group, and such other counsel that were present, no one else appearing for any party although duly served as outlined in the affidavit of service dated the 27<sup>th</sup> day of February, 2023;

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the materials filed, as set out in the affidavit of service is hereby deemed adequate notice so that this application is properly returnable today and hereby dispenses with further service thereof.

*Handwritten signature*

## APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that Rambler Group are each companies to which the CCAA applies.

## POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that Rambler Group shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Honourable Court, the Rambler Group shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. Rambler Group is authorized and empowered to continue to retain and employ the employees, consultants, independent contractors, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of its Business or for the carrying out of the terms of this Order.
4. **THIS COURT ORDERS** that the Rambler Group shall be entitled to continue to utilize its cash management system currently in place, or replace it with another substantially similar cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Rambler Group of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Rambler Group, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.
5. **THIS COURT ORDERS** that the Rambler Group shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:





- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Rambler Group in respect of these proceedings, at their standard rates and charges;
- (c) amounts owing for goods and services supplied to the Rambler Group if in the opinion of the Monitor the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property; and
- (d) only with written consent of the Monitor, amounts owing for goods or services supplied to the Rambler Group prior to the Initial Order if, in the opinion of the Rambler Group and the Monitor, such payment is necessary or desirable to avoid disruption to the operations of the Business or the Applicant during the CCAA proceedings.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Rambler Group shall be entitled but not required to pay all reasonable expenses incurred by the Rambler Group in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance, maintenance and security services and lease payments for mining equipment used in the operation of the Business; and
- (b) payment for goods or services actually supplied to the Rambler Group following the date of this Order.

7. **THIS COURT ORDERS** that the Rambler Group shall remit, in accordance with legal requirements, or pay:



- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
  - (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Rambler Group in connection with the sale of goods and services by the Rambler Group, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
  - (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Rambler Group.
8. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Rambler Group shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Rambler Group and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order. The Rambler Group may pay such Rent twice monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.
9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Rambler Group is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Rambler Group to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or



encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

#### **NO PROCEEDINGS AGAINST THE RAMBLER GROUP OR THE PROPERTY**

10. **THIS COURT ORDERS** that until and including the 6<sup>th</sup> day of March, 2023 or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Rambler Group or the Monitor, or affecting the Business or the Property, except with the written consent of the Monitor and the Rambler Group, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Rambler Group or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.
11. **THIS COURT ORDERS** that the stay of Proceedings set out in paragraph 10, above, shall also extend to any and all of the property, assets, and undertaking of Rambler Metals and Mining plc and Rambler Mines Limited situate in Canada for the duration of the Stay Period.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

12. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Rambler Group or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Monitor and the Rambler Group, or leave of this Court, provided that nothing in this Order shall (i) empower the Rambler Group to carry on any business which the Rambler Group is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

13. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Rambler Group,



except with the written consent of the Monitor and the Rambler Group, or leave of this Court.

#### **CONTINUATION OF SERVICES**

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Rambler Group or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Rambler Group, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Rambler Group, and that the Rambler Group shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Rambler Group in accordance with normal payment practices of the Rambler Group or such other practices as may be agreed upon by the supplier or service provider and each of the Monitor and the Rambler Group, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

15. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Rambler Group. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

16. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Rambler Group with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Rambler Group whereby the directors or officers are

alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Rambler Group, if one is filed, is sanctioned by this Court or is refused by the creditors of the Rambler Group or this Court.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

17. **THIS COURT ORDERS** that the Rambler Group shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Rambler Group after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
18. **THIS COURT ORDERS** that the directors and officers of the Rambler Group shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of USD\$675,000, as security for the indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 39 and 41 herein.
19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Rambler Group's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 17 of this Order.

#### **APPOINTMENT OF MONITOR**

20. **THIS COURT ORDERS** that Grant Thornton Limited is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Rambler Group with the powers and obligations set out in the CCAA or set forth herein and that the Rambler Group and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Rambler Group pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.



21. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor and approve in writing the Rambler Group's receipts and disbursements;
  - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
  - (c) assist, in consultation with the Rambler Group, in its dissemination of reports and other information to the DIP Lender (as defined herein) and their respective counsel, pursuant to and in accordance with the Definitive Documents (as defined herein), or as may otherwise be reasonably requested by the DIP Lender;
  - (d) advise, in consultation with the Rambler Group, in its preparation of the Rambler Group's cash flow statements and reporting required by the DIP Lender under the Definitive Documents, which information shall be reviewed with the Monitor and delivered to the DIP Lender and their respective counsel in accordance with the Definitive Documents;
  - (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Rambler Group, to the extent that is necessary to adequately assess the Rambler Group's business and financial affairs or to perform its duties arising under this Order;
  - (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
  - (g) perform such other duties as are required by this Order or by this Court from time to time.
22. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

23. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act, 1999*, SC 1999, c 33, as amended, and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.
24. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Rambler Group and the DIP Lender with information provided by the Rambler Group in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Rambler Group is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Rambler Group may agree.
25. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and counsel to the Rambler Group shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Rambler Group as part of the costs of these



proceedings. The Rambler Group is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, and counsel for the Rambler Group on a weekly basis and, in addition, the Rambler Group is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Rambler Group reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

27. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose, the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Supreme Court of Newfoundland and Labrador in Bankruptcy and Insolvency.
28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Rambler Group's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of CAD\$185,000, as security for their professional fees and disbursements incurred at their respective standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 39 and 41 herein.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE MONITOR**

29. **THIS COURT ORDERS** that the Rambler Group and all its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf shall fully co-operate with the Monitor in the exercise its powers under this Order or any other Order of the Court, including by:
  - (a) advising the Monitor of the existence of any Property of which such party has knowledge of;
  - (b) providing the Monitor with immediate and continued access to any Property in such party's possession or control;
  - (c) advising the Monitor of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Rambler Group, and any computer programs, computer tapes, computer disks, or other





data storage media containing any such information ("Records") of which such party has knowledge of; and

- (d) providing access to and use of the Records, including any accounting, computer, software and physical facilities relating thereto, and including providing the Monitor with instructions on the use of any computer or other system as requested by the Monitor and providing the Monitor with any and all access codes, account names and account numbers that may be required to gain access to the Records, provided however that nothing in this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Monitor due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

#### **LIMITATION ON THE MONITOR'S LIABILITY**

30. **THIS COURT ORDERS** that the Monitor is not and shall not, for any purposes, be deemed to be a director, officer, employee, receiver, receiver-manager, or liquidator of the Rambler Group.
31. **THIS COURT ORDERS** that the Monitor is not and shall not for the purposes of the *Income Tax Act*, RSC 1985, c 1 (5<sup>th</sup> Supp.), as amended (the "ITA") be deemed to be a legal representative or person to whom s. 150(3) of the ITA applies.
32. **THIS COURT ORDERS** that that the rights, protections, indemnities, charges, priorities and other provisions in favour of the Monitor set out in the CCAA, any other applicable legislation, and any other Order granted in these proceedings, all shall apply and extend to the Monitor in connection with the Monitor carrying out the provisions of this Order, amended as necessary to give effect to the terms of this Order.

#### **DIP FINANCING**

33. **THIS COURT ORDERS** that Rambler Group is hereby authorized and empowered to execute, enter into and deliver the Terms and Conditions for a Senior Secured Superpriority Debtor-in-Possession Credit Facility (the "**DIP Financing Agreement**") dated the 23<sup>rd</sup> day of February, 2023 between, Rambler Canada as borrower, RMM Debt Limited Partnership by its General Partner RMM General Partner Inc. as lender (the "**DIP Lender**"), and Rambler UK, Rambler Mines Limited, and 1948 as guarantors, and to

borrow, in accordance with the terms and conditions of the DIP Financing Agreement, interim financing of up to USD\$1,870,000 (the "DIP Agreement") to, among other things, fund the Rambler Group's working capital requirements and other general corporate purposes of the Rambler Group during the ten (10) day Stay period.

34. **THIS COURT ORDERS** that, in addition to the DIP Agreement, Rambler Canada is also hereby authorized and empowered to execute and deliver such other credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the DIP Agreement, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and Rambler Canada is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the other Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
35. **THIS COURT ORDERS** that, as security for Rambler Canada's obligations under the Definitive Documents, the DIP Lender shall be entitled to the benefit of and are hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 39 and 41 herein.
36. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:
- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
  - (b) upon the occurrence of an event of default under the DIP Agreement, the other Definitive Documents or the DIP Lender's Charge, upon five (5) days notice to the Monitor and the Rambler Group, may exercise any rights and remedies against Rambler Canada or the Property under or pursuant to the DIP Agreement, the other Definitive Documents and the DIP Lender's Charge, including, without limitation, to cease making advances to Rambler Canada and set off and/or consolidate any amounts that may be owing by the DIP Lender against the obligations of Rambler Group to the DIP Lender under the DIP Agreement, the



other Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Rambler Group and for the appointment of a trustee in bankruptcy of the Rambler Group; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Rambler Group or the Property.

37. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Rambler Group under the CCAA, or any proposal filed by the Rambler Group under the BIA, with respect to any advances made under the DIP Agreement and the other Definitive Documents.

38. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the other Definitive Documents or the DIP Lender's Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "Variation") whether by subsequent order of this Court on or pending an appeal from this Order, such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender, whether under this Order (as made prior to the Variation), under the DIP Agreement or the other Definitive Documents with respect to any advances made or obligations incurred prior to the DIP Lender being given notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Lender's Charge) for all advances so made and other obligations set out in the DIP Agreement and the other Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

39. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender's Charge and the Directors' Charge (collectively, the "Charges"), as among them, shall be as follows:

*First* – the Administration Charge (to the maximum amount of CAD\$185,000);



*Second* – the DIP Lender's Charge (to the maximum amount of USD\$1,870,000);  
and

*Third* – the Directors' Charge (to the maximum amount of USD\$675,000)

40. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
41. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for any secured creditor of the Rambler Group who did not receive notice of the application for this Order. The Rambler Group shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrances over which the Charges have not obtained priority pursuant to this Order.
42. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Rambler Group shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Rambler Group also obtains the prior written consent of the Monitor and of the applicable chargee(s) entitled to the benefit of the Charges (collectively, the "**Chargees**"), or further Order of this Court.
43. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other

agreement (collectively, an "**Agreement**") which binds the Rambler Group, and notwithstanding any provision to the contrary in any Agreement:

- (a) Neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the other Definitive Documents shall create or be deemed to constitute a breach by the Rambler Group of any Agreement to which it is a party;
  - (b) None of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from Rambler Canada entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the other Definitive Documents; and
  - (c) The payments made by the Rambler Group pursuant to this Order, the DIP Agreement or the other Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.
44. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Rambler Group's interest in such real property leases.

#### **SERVICE AND NOTICE**

45. **THIS COURT ORDERS** that the Monitor shall (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Rambler Group of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

#### **GENERAL**

46. **THIS COURT ORDERS** that the Rambler Group or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.



47. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from subsequently acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Rambler Group, the Business, or the Property.
48. **THIS COURT ORDERS** that each of the Rambler Group and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
49. **THIS COURT ORDERS** that any interested party (including the Rambler Group and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
50. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Newfoundland Standard/Daylight Time on the date of this Order.

  
\_\_\_\_\_

**COURT  
OFFICER**

