

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C. 1985, c. C-44

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN CORPORATION LTD.

PETITIONER

**NOTICE OF APPLICATION**

**Name of applicant:** The Government of the Northwest Territories ("**GNWT**")

To: The Service List attached as **Schedule "A"** hereto

TAKE NOTICE that an application will be made by the applicant to the Honourable Mr. Justice Butler at the courthouse at 800 Smithe Street, Vancouver, BC, V6Z 2E1 on Monday, November 16, 2015 at 10:00 a.m. for the order set out in Part 1 below.

**Part 1: ORDER SOUGHT**

1. An Order substantially in the form attached as **Schedule "B"** hereto.

**Part 2: FACTUAL BASIS**

Background

1. GNWT, as assignee of Her Majesty the Queen in Right of Canada, holds security (the "**MacTung Security**") for certain reclamation and environmental obligations of the Petitioner including, *inter alia*, a first-registered charge over the real and personal property comprising the MacTung mining claims (the "**MacTung Property**"). Details of the MacTung Property are more fully set out in the Affidavits filed by the Petitioner in these proceedings.
2. The Petitioner's other property is subject to security in favour of other parties (the "**CanTung Security**"). Callidus Capital Corporation ("**Callidus**") holds a first charge evidenced by a general security agreement over the majority of the personal property of the Petitioner, including the equipment used to operate the CanTung mine but excluding the MacTung Property. Various equipment lessors hold security as well. Details of the CanTung property are also more fully set out in the Affidavits filed by the Petitioner in these proceedings.

3. Pursuant to: (a) the initial order pronounced June 9, 2015, as amended and restated by the amended and restated initial order pronounced July 9, 2015; and (b) order pronounced August 13, 2015, Mr. Justice Butler granted certain priority charges over the Petitioner's assets, being the Administration Charge, the Interim Lender's Charge, the Directors' Charge and the AR Lender's Charge (collectively, the "**CCAA Charges**").
4. The MacTung Security and the CanTung Security were subordinated to the CCAA Charges.
5. On July 17, 2015, Mr. Justice Butler granted an order (the "**SISP Order**"), *inter alia*, authorizing the Petitioner to conduct a sale and investment solicitation process ("**SISP**") to identify potential investors or purchasers of some or all of the Petitioner's assets, including the MacTung Property.
6. On September 14, 2015, Mr. Justice Butler granted an order varying the SISP Order and approving an amended sale and investment process (the "**Amended SISP**") pursuant to which Alvarez & Marsal Inc. (the "**Monitor**") was given expanded powers. The bid deadline under the Amended SISP was September 30, 2015.
7. Pursuant to the Amended SISP, the Monitor received several offers on the MacTung Property. Assuming they were capable of completion at the amounts offered, the offers would have been vastly insufficient to pay out the indebtedness owing by the Petitioner to GNWT, which totals in excess of \$27 million. Accordingly, based on discussions among the Monitor, the Company and the financial stakeholders, including GNWT and Callidus, the Monitor determined that none of the offers were likely to result in a transaction being consummated, and, accordingly, the Monitor terminated the Amended SISP and notified each qualified bidder of the termination effective October 21, 2015.

#### Purchase of MacTung

8. Given the SISP did not result in a successful offer being made for the MacTung Property, GNWT wishes to purchase the MacTung Property, in part through an offset of the debts owing to it, to maximize its recovery. To that end, GNWT intends to pay out the CCAA Charges in full, subject to an allocation and being subrogated to the rights, claims and security of the beneficiaries of the CCAA Charges. GNWT and the Petitioner (in consultation with the Monitor) are finalising an asset purchase agreement for the purchase of the MacTung Property (the "**APA**").

#### Allocation

9. Given the material differences among the Petitioner's assets and the different creditors secured on each asset, an allocation of the CCAA Charges amongst the assets is required.
10. GNWT seeks an order directing the Monitor to forthwith prepare an allocation of the CCAA Charges as against the assets of the Petitioner.
11. There is no prejudice in preparing an allocation at this time as the APA provides that the GNWT will:
  - (a) pay all amounts owing under the CCAA Charges, subject to subrogation and allocation, contemporaneously with closing; and
  - (b) will be responsible for any amounts which are allocated to the Petitioner's other assets, to the extent those assets do not realise sufficient proceeds to pay the amounts allocated to them, and those costs are allocated to the MacTung Property;

all to a maximum of \$4,500,000.

### Part 3: LEGAL BASIS

#### Credit Bidding

1. Sales transactions involving credit bidding have been widely accepted in Canadian insolvency proceedings.

Pamela Huff et al, "Credit Bidding - Recent Canadian and U.S. Themes", in Janis P. Sarra, ed,  
*Annual Review of Insolvency Law* (Toronto: Carswell, 2010) 1 at 7
2. Courts will generally approve sales involving credit bids so long as they meet the requirements under section 36 of the CCAA.

*White Birch Paper Holding Company (Arrangement relatif à)*,  
2010 QCCS 4915, para. 54  
*TBS Acquireco Inc. (Re)*, 2013 ONSC 4663, para. 18
3. Section 36 of the CCAA provides that:
  36. (1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.
  - (2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.
  - (3) In deciding whether to grant the authorization, the court is to consider, among other things,
    - (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
    - (b) whether the monitor approved the process leading to the proposed sale or disposition;
    - (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
    - (d) the extent to which the creditors were consulted;
    - (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
    - (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

...

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

...  
*Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, s. 36

4. In assessing the value of a credit bid, a credit bid and a cash bid will both be valued on a dollar-for-dollar basis.

*White Birch*, para. 34

#### Allocation

5. The following are the general principles governing the allocation of restructuring costs:

- (a) allocation must be done on a case by case basis and is a task involving a court officer's discretion;
- (b) a strict accounting to allocate costs is neither necessary nor desirable in all cases and a creditor need not benefit directly from a proceeding before costs can be allocated to it;
- (c) costs should be allocated in an equitable manner and in a manner that does not readjust the priorities between creditors; and
- (d) where a monitor's proposed allocation is *prima facie* fair the onus falls on the objecting creditor to demonstrate an inequity in the circumstances.

*Re Hunjan International Inc.* (2006), 2006 CanLII 63716 (ONSC), paras. 4 and 5

*Winnipeg Motor Express Inc. et al*, 2009 MBQB 204, paras. 41, 42 and 48

*Re: Medican Holdings Ltd.*, 2013 ABQB 224, paras. 25, 32, 34, 35, 39

6. It is appropriate that secured creditors who receive a real and meaningful benefit as a result of a monitor's efforts in a proceeding bear a portion of the costs incurred in the proceeding.

*Winnipeg Motor Express*, paras. 51, 63 and 65

7. Accordingly, all secured creditors contribute to the costs of restructuring but in a proportion that is just.

*In the Matter of Western Express Air Lines Inc.*, 2005 BCSC 53, para. 19

8. In considering what is an equitable allocation, "undue prejudice is a reason to adjust what would otherwise be a uniform approach."

*Winnipeg Motor Express*, para. 62

9. In allocating costs, it is unfair to ignore differences in the type of security held by creditors and the degree of potential benefit that they might derive from the CCAA proceedings.

*Re Hunters Trailer & Marine Ltd.*, 2001 ABQB 1094, para. 20

10. It is equitable, rather than equal treatment which is the objective in the allocation of CCAA costs.

*Hunters*, para. 18

11. It must be recognized that a court officer's activities may have been less significant with respect to certain assets as opposed to other assets. In such cases, variation of the allocation of costs from a uniform amount may be appropriate.

*In Re Hickman Equipment (1985) Ltd. (In Receivership)*,  
2004 NLSCD 164, paras. 17 and 18

12. GNWT specifically relies on:

- (a) *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and ss. 11 and 36 in particular;
- (b) *Supreme Court Civil Rules*, B.C. Reg. 168/2009, as amended and Rules 8-1 and 13-1 in particular; and
- (c) the inherent jurisdiction of this Honourable Court.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Dennis Lindahl, made June 8, 2015;
2. Affidavit #3 of Dennis Lindahl, made June 29, 2015;
3. Affidavit #1 of Craig Boyer, made June 29, 2015;
4. Affidavit #1 of Mark Warren, made July 7, 2015;
5. Affidavit #1 of Susan Danielisz, made November 6, 2015;
6. Ninth Report of the Monitor, dated October 13, 2015;
7. Eleventh Report of the Monitor, to be filed;
8. the pleadings and other materials filed herein; and
9. and such further and other materials as counsel may advise and this Honourable Court may permit.

The applicant estimates that the application will take one day.

☐ This matter is within the jurisdiction of a master.

☒ This matter is not within the jurisdiction of a master. Mr Justice Butler is seized of this matter. This matter has been booked with trial scheduling.

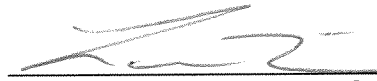
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that

- (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding; and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
- (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

November 6, 2015

Dated

  
Signature of lawyer for The Government of the  
Northwest Territories  
DLA Piper (Canada) LLP  
(Mary I.A. Buttery and H. Lance Williams)

***To be completed by the court only:***

Order made

☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this notice of application

☐ with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Signature of ☐ Judge ☐ Master

## APPENDIX

*The following information is provided for data collection purposes only and is of no legal effect.*

### THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ oral matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ other

SCHEDULE "A"

No. S-154746  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C. 1985, c. C-44

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, c. 57

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN CORPORATION LTD.

PETITIONER

SERVICE LIST  
UPDATED JULY 22, 2015

<p><b>Dentons Canada LLP</b> 250 Howe Street 20th Floor Vancouver BC V6C 3R8</p> <p>Attention: John Sandrelli Tevia Jeffries Jordan Schultz Avic Arenas Miriam Domínguez</p> <p>Email: <a href="mailto:john.sandrelli@dentons.com">john.sandrelli@dentons.com</a> <a href="mailto:tevia.jeffries@dentons.com">tevia.jeffries@dentons.com</a> <a href="mailto:jordan.schultz@dentons.com">jordan.schultz@dentons.com</a> <a href="mailto:miriam.dominguez@dentons.com">miriam.dominguez@dentons.com</a> <a href="mailto:avic.arenas@dentons.com">avic.arenas@dentons.com</a></p> <p><i>Counsel for NATC</i></p>	<p><b>North American Tungsten Corporation</b> Vancouver Office #1640 - 1188 West Georgia Street Vancouver, BC V6E 4A2 Tel: (604) 684-5300 ext. 313</p> <p>Attention: Bruce Penich Grant Bond</p> <p>E-mail: <a href="mailto:bpenich@natungsten.com">bpenich@natungsten.com</a> <a href="mailto:gbond@natungsten.com">gbond@natungsten.com</a></p>
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**SERVICE LIST**  
**UPDATED JULY 22, 2015**

<p><b>Alvarez &amp; Marsal Canada Inc.</b> 400 Burrard Street Suite 1680, Commerce Place Vancouver, BC V6C 3A6</p> <p>Attention :     Todd Martin                      Tom Powell                      Marianna Lee</p> <p>E-mail: <a href="mailto:tmartin@alvarezandmarsal.com">tmartin@alvarezandmarsal.com</a>           <a href="mailto:tpowell@alvarezandmarsal.com">tpowell@alvarezandmarsal.com</a>           <a href="mailto:Marianna.lee@alvarezandmarsal.com">Marianna.lee@alvarezandmarsal.com</a></p> <p><i>Monitor</i></p>	<p><b>Fasken Martineau</b> 2900-550 Burrard Street Vancouver, BC V6C 0A3 Tel: (604) 631-4786</p> <p>Attention:       Kibben Jackson                      Vicki Tickle                      Nina Wolf</p> <p>E-mail:           <a href="mailto:kjackson@fasken.com">kjackson@fasken.com</a>                      <a href="mailto:vtickle@fasken.com">vtickle@fasken.com</a>                      <a href="mailto:nwolf@fasken.com">nwolf@fasken.com</a>                      <a href="mailto:llewis@fasken.com">llewis@fasken.com</a></p> <p><i>Counsel for the Monitor</i></p>
<p><b>Borden Ladner Gervais LLP</b> 1200 Waterfront Centre, 200 Burrard St, P.O. Box 48600 Vancouver, BC, V7X 1T2 Tel: 604.640.4121</p> <p>Attention:       William E. J. Skelly                      Lisa Hiebert</p> <p>E-mail:           <a href="mailto:wskelly@blg.com">wskelly@blg.com</a>                      <a href="mailto:LHiebert@blg.com">LHiebert@blg.com</a></p> <p><i>Counsel for Callidus Capital Corporation</i></p>	<p><b>Gowling Lafleur Henderson LLP</b> 550 Burrard Street, Suite 2300, Bentall 5 Vancouver, BC V6C 2B5 Tel: 604-891-2286</p> <p>Attention:       Colin Brousson                      Michèle Hay</p> <p>E-mail :           <a href="mailto:colin.brousson@gowlings.com">colin.brousson@gowlings.com</a>                      <a href="mailto:michele.hay@gowlings.com">michele.hay@gowlings.com</a></p> <p><i>Counsel for Comsup Commodities</i></p>
<p><b>Miller Thomson LLP</b> Robson Court, 1000 - 840 Howe Street Vancouver, BC V6Z 2M1 Tel: 604.628.2948</p> <p>Attention :       Gord Plottel                      Aimee Schalles                      Vanessa Lever</p> <p>Email:            <a href="mailto:gplottel@millerthomson.com">gplottel@millerthomson.com</a>                      <a href="mailto:aschalles@millerthomson.com">aschalles@millerthomson.com</a>                      <a href="mailto:vlever@millerthomson.com">vlever@millerthomson.com</a></p> <p><i>Counsel for Finning International</i></p>	<p><b>Stikeman Elliott LLP</b> 5300 Commerce Court West 199 Bay Street Toronto, ON M5L 1B9 Tel: (416) 869-5627</p> <p>Attention:       David R. McCarthy                      Jonathan McLean                      David Brown                      Angela Crimeni</p> <p>E-mail:           <a href="mailto:dmccarthy@stikeman.com">dmccarthy@stikeman.com</a>                      <a href="mailto:jmclean@stikeman.com">jmclean@stikeman.com</a>                      <a href="mailto:drbrown@stikeman.com">drbrown@stikeman.com</a>                      <a href="mailto:acrimeni@stikeman.com">acrimeni@stikeman.com</a></p> <p><i>Counsel for Wolfram Bergbau und Hütten AG</i></p>

**SERVICE LIST**  
**UPDATED JULY 22, 2015**

<b>Stephen Leahy</b> Tel: (604) 729-4573 Email : sleahy@westpac.ca	<b>Amalgamated Mining Inc.</b> 9615 – 37 Avenue NW Edmonton, AB T6E 6V9  Attention: Tom Flanagan, President  E-mail : tflanagan@amalgamatedmining.com
<b>DLA Piper</b> Suite 2800, Park Place 666 Burrard St Vancouver British Columbia V6C 2Z7 Tel: 604 643 6478  Attention: Mary Buttery Lance Williams Susan Wood Sue Danielisz  E-mail: <a href="mailto:mary.buttery@dlapiper.com">mary.buttery@dlapiper.com</a> <a href="mailto:lance.williams@dlapiper.com">lance.williams@dlapiper.com</a> <a href="mailto:susan.wood@dlapiper.com">susan.wood@dlapiper.com</a> <a href="mailto:sue.danielisz@dlapiper.com">sue.danielisz@dlapiper.com</a>  <i>Counsel for Government of NWT</i>	<b>Government of the Northwest Territories</b> Department of Justice, Legal Division, P.O. Box 1320 4th Floor, 4903-49th Street Yellowknife, NT, X1A 2L9 Tel: (867) 920-6180  Attention: Ian Blackstock  E-mail: <a href="mailto:ian_blackstock@gov.nt.ca">ian_blackstock@gov.nt.ca</a>
<b>Macdonald &amp; Company</b> Suite 200-204 Lambert Street Whitehorse, Yukon, Y1A 3T2 Tel: 867-667-7885 ext 229  Attention: Grant Macdonald  Email: <a href="mailto:gmacdonald@anton.yk.ca">gmacdonald@anton.yk.ca</a>  <i>Counsel for Alkan Air Ltd.</i>	<b>Sodexo Canada Ltd.</b> 5420 North Service Road Burlington, ON L7L 6C7 Tel: 905-632-8592  Attention: Tracey L. Durand Senior Vice President, Corporate & Legal Affairs and General Counsel  Email: <a href="mailto:tracey.durand@sodexo.com">tracey.durand@sodexo.com</a>
<b>Northern Industrial Sales Inc.</b> 11440 163 Street NW Edmonton, AB T5M 3T3 Tel: (780) 454-2682  Attention: Mark Gardhouse Tim MacDonald  E-mail: <a href="mailto:mgardhouse@norterra.com">mgardhouse@norterra.com</a> <a href="mailto:TMacDonald@northernindustrialsales.ca">TMacDonald@northernindustrialsales.ca</a>	<b>McCarthy Tétrault LLP</b> Suite 4000 421 - 7th Avenue SW Calgary, AB T2P 4K9 Tel: 403-260-3536  Attention: Pantelis Kyriakakis  Email: <a href="mailto:pkyriakakis@mccarthy.ca">pkyriakakis@mccarthy.ca</a>  <i>Counsel for CAT Financial</i>

**SERVICE LIST**  
**UPDATED JULY 22, 2015**

<b>Allan Krasnick</b> Tel: 778-840-4051 E-mail: <a href="mailto:krasnick@shaw.ca">krasnick@shaw.ca</a>	<b>Fernandes Hearn LLP</b> 155 University Avenue, Suite 700 Toronto, ON M5H 3B7 Tel: 416-203-9500  Attention: M. Gordon Hearn E-mail: <a href="mailto:gord@fernandeshearn.com">gord@fernandeshearn.com</a> <i>Counsel for Manitoulin Transport Inc.</i>
<b>Bull, Housser &amp; Tupper LLP</b> 1800 - 510 West Georgia Street Vancouver, BC V6B 0M3 Tel: 604.641.4868  Attention: Kieran Siddall Scott Boucher  E-mail: <a href="mailto:kes@bht.com">kes@bht.com</a> <a href="mailto:scb@bht.com">scb@bht.com</a>  <i>Counsel for Global Tungsten &amp; Powders Corp.</i>	<b>Davies Ward Phillips &amp; Vineberg LLP</b> Barristers and Solicitors 1501 McGill College, 26th Floor Montreal, Quebec H3A 3N9 Tel: 514-841-6420  Attention: Christian Lachance  Email: <a href="mailto:clachance@dwpv.com">clachance@dwpv.com</a>  <i>Co- Counsel for Global Tungsten &amp; Powders Corp.</i>
<b>Department of Justice</b> 900 – 840 Howe Street Vancouver, BC V6Z 2S9 Tel: 604-666-0632  Attention: Jason W. Levine Melissa Nicolls  Email: <a href="mailto:jason.levine@justice.gc.ca">jason.levine@justice.gc.ca</a> <a href="mailto:Melissa.Nicolls@justice.gc.ca">Melissa.Nicolls@justice.gc.ca</a> <i>Counsel for Canada Revenue Agency</i>	<b>McCarthy Tétrault LLP</b> Suite 4000 421 - 7th Avenue Calgary AB T2P 4K9 T: 403-260-3531  Attention: Sean Collins Warren Milman Walker MacLeod  E-mail: <a href="mailto:scollins@mccarthy.ca">scollins@mccarthy.ca</a> <a href="mailto:wmilman@mccarthy.ca">wmilman@mccarthy.ca</a> <a href="mailto:wmacleod@mccarthy.ca">wmacleod@mccarthy.ca</a>  <i>Counsel for Teck Resources</i>

# SCHEDULE "B"

NO. S-154746  
VANCOUVER REGISTRY

## IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C. 1985, c. C-44

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN CORPORATION LTD.

PETITIONER

## ORDER MADE AFTER APPLICATION

BEFORE	)		)	
	)	THE HONOURABLE JUSTICE BUTLER	)	MONDAY, THE 16 <sup>TH</sup> DAY
	)		)	OF NOVEMBER, 2015
	)		)	

ON THE APPLICATION of The Government of the Northwest Territories ("**GNWT**") coming on for hearing at 800 Smithe Street, Vancouver, BC V6Z 2E1 on November 16, 2015 and on hearing Mary I.A. Buttery and H. Lance Williams and those other counsel listed on **Schedule "A"** hereto;

THIS COURT ORDERS AND DECLARES THAT:

1. The sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement dated November \_\_, 2015 (the "**Sale Agreement**") between the Petitioner and GNWT, a copy of which is attached as **Schedule "B"** hereto, is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Petitioner is hereby authorized and approved, and the Petitioner and GNWT are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to GNWT of the assets described in the Sale Agreement (the "**Purchased Assets**").
2. Upon delivery by Alvarez & Marsal Canada Inc., in its capacity as Court-appointed Monitor of the Petitioner (the "**Monitor**") to GNWT of a certificate substantially in the form attached as **Schedule**

“C” hereto (the “**Monitor’s Certificate**”), all of the Petitioner’s right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in GNWT in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) the Administration Charge, the Interim Lender’s Charge, the Directors’ Charge (each as defined in the Amended and Restated Initial Order pronounced herein on July 9, 2015) and the AR Lender’s Charge (as defined in the Order pronounced herein August 13, 2015, and collectively the “**CCAA Charges**”); and (ii) those charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system (collectively referred to as the “**Encumbrances**”), but excepting those set out in **Schedule “D”** hereto (the “**Permitted Encumbrances**”), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Monitor’s Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
4. The Monitor is to file with the Court a copy of the Monitor’s Certificate forthwith after delivery thereof.
5. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Petitioner to GNWT at 12:00 noon on the Closing Date (as defined in the Sale Agreement), subject to the Permitted Encumbrances.
6. The Petitioner, with the consent of GNWT, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.
7. Notwithstanding:
  - (a) these proceedings;

(b) any applications for a bankruptcy order in respect of the Petitioner now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made by or in respect of the Petitioner,

the vesting of the Purchased Assets in GNWT pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioner and shall not be void or voidable by creditors of the Petitioner, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. The Monitor is directed to forthwith prepare an allocation for approval by this Court of the portion of the CCAA Charges to be allocated to the Purchased Assets (the "**MacTung Allocation**").
9. On the Closing (as defined in the Sale Agreement), GNWT will pay all amounts owing under the CCAA Charges (to a maximum of \$4,500,000) to the Petitioner (or as otherwise directed by the Monitor) to be distributed to the beneficiaries thereof. Upon making such payments, GNWT shall be fully subrogated to the rights, claims and security of the beneficiaries of the CCAA Charges, including the right to charge interest at the rate currently charged by the beneficiaries of such CCAA Charges.
10. The Petitioner, GNWT or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
11. The endorsement of this order by counsel appearing, other than counsel for GNWT, is hereby dispensed with.

THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Petitioner, the Monitor, the GNWT and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioner, the Monitor and the GNWT, as may be necessary or desirable to give effect to this Order or to assist the Petitioner, the Monitor and the GNWT and their agents in carrying out the terms of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of lawyers for The Government of  
the Northwest Territories  
DLA Piper (Canada) LLP  
(Mary I.A. Buttery and H. Lance Williams)

BY THE COURT

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REGISTRAR

**SCHEDULE “A”**

Counsel List	
Name	Party Represented



## **SCHEDULE “B”**

### **ASSET PURCHASE AGREEMENT**

See Attached.

## SCHEDULE "C"

### MONITOR'S CERTIFICATE

NO. S-154746  
VANCOUVER REGISTRY

### IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C. 1985, c. C-44

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN CORPORATION LTD.

PETITIONER

### MONITOR'S CERTIFICATE

1. Pursuant to an Order of the Court dated ●, 2015 (the "**Approval and Vesting Order**"), the Court approved the Asset Purchase Agreement dated November \_\_, 2015, (the "**Sale Agreement**") between North American Tungsten Corporation Ltd. (the "**Seller**") and GNWT (the "**Purchaser**"), and ordered that all of the Seller's right, title and interest in and to the Assets, vest in the Purchaser effective upon the delivery by Alvarez & Marsal Canada Inc., in its capacity as Court-appointed Monitor of the Petitioner (the "**Monitor**") of this certificate to the Purchaser confirming: (i) the payment by the Purchaser of the Purchase Price for the Assets pursuant to the Sale Agreement; (ii) that the conditions to the Closing as set out in the Sale Agreement have been satisfied or waived by the Seller and the Purchaser; and (iii) the purchase and sale of the Assets has been completed pursuant to the Sale Agreement.
2. Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Sale Agreement.

**THE MONITOR HEREBY CERTIFIES as follows:**

- (a) The Purchaser has paid and the Seller has received the Purchase Price for the Assets (on terms and as adjusted pursuant to the Sale Agreement) payable on the Closing Date pursuant to the Sale Agreement; and
- (b) The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Purchaser and the Seller, as applicable.

DATED at the City of Vancouver, in the Province of British Columbia, this \_\_\_\_ day of November, 2015.

**ALVAREZ AND MARSAL CANADA INC.,  
in its capacity as Court-appointed Monitor  
of North American Tungsten Corporation  
and not in its personal capacity**

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

## **SCHEDULE “D”**

### **Permitted Encumbrances**

1. The net smelter returns royalty of which Teck Resources Limited is the beneficial holder over the MacTung Property (as defined in the Sale Agreement), pursuant to a royalty agreement dated October 7, 1997, between the Petitioner and Aur Resources Inc.

NO. S-154746  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF THE *CANADA BUSINESS*  
*CORPORATIONS ACT*, R.S.C. 1985, c. C-44

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN  
CORPORATION LTD.

PETITIONER

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**ORDER MADE AFTER APPLICATION**

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**DLA Piper (Canada) LLP**  
Barristers & Solicitors  
2800 Park Place  
666 Burrard Street  
Vancouver, BC V6C 2Z7

Tel. No. 604.687.9444  
Fax No. 604.687.1612

File No. 28515-00011

TAG/mlf

NO. S-154746  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATION*:  
*ACT*, R.S.C. 1985, c. C-44

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN  
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PETITIONER

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**NOTICE OF APPLICATION**

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Barristers & Solicitors  
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