

NO. S-1510120
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 BUSINESS CORPORATIONS ACT,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT
OF WALTER ENERGY CANADA HOLDINGS, INC., AND THE OTHER PETITIONERS
LISTED ON SCHEDULE "A"

PETITIONERS

**ORDER MADE AFTER APPLICATION
(New Walter Group Procedure Order)**

BEFORE THE HONOURABLE
MADAM JUSTICE FITZPATRICK

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WEDNESDAY, THE 7TH DAY OF
DECEMBER, 2016

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 7th day of December, 2016; AND ON HEARING Mary I.A. Buttery, H. Lance Williams and Patrick Riesterer, counsel for the Petitioners and the Partnerships listed on **Schedule "A"** hereto (collectively, the "**Walter Canada Group**"), Peter Reardon and Wael Rostom, counsel for KPMG Inc. and those other counsel listed on **Schedule "B"** hereto; AND UPON READING the material filed, including the 5th Affidavit of William E. Aziz sworn December 2, 2016 (the "**Fifth Affidavit**"), the 6th Affidavit of William E. Aziz (the "**Sixth Affidavit**") sworn December 2, 2016, the Sixth Report of the Monitor dated December 5, 2016 and the Confidential Supplemental Report to the Sixth Report of the Monitor dated December 5, 2016;

THIS COURT ORDERS AND DECLARES THAT:

SERVICE AND DEFINITIONS

1. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.
2. Any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Order of this Honourable Court granted on December 7, 2015 pursuant to *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended (the "**CCAA**") in respect of the Walter Canada Group (the "**Initial Order**") or in the Fifth Affidavit.

TRANSACTION APPROVAL

3. The sale transaction (the "**Transaction**") contemplated by the Term Sheet among Walter Canada Group, as subject, and 1098138 B.C. Ltd., as purchaser (the "**Purchaser**") and Amacon Land Corporation, as guarantor, made November 28, 2016 (the "**Term Sheet**"), a copy of which is attached as Exhibit "A" to the Sixth Affidavit of William Aziz is hereby approved, and the Term Sheet is commercially reasonable. The execution of the Term Sheet by Walter Canada Group is hereby authorized and approved, and the Walter Canada Group is hereby authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction contemplated by the Term Sheet, including the execution of ancillary documents.

TRANSACTION STEPS AND PROCEDURAL MATTERS

4. Each of the members of the Walter Canada Group are authorized but not directed to make an assignment in bankruptcy at such time as the Walter Canada Group determines, in its sole discretion, that it is necessary or advisable to do so.

NEW WALTER ENTITIES

5. The formation of corporations under the British Columbia *Business Corporations Act* to consist of New Walter, New WCCP, New Brule, New Willow Creek and New Wolverine (collectively, the "**New Walter Group**") as provided for by the Term Sheet is hereby authorized and:
 - (a) upon formation, New Walter shall issue shares to New WEI, Inc., formerly known as Walter Energy, Inc., such that New Walter will be wholly-owned by New WEI, Inc.;
 - (b) upon formation, New WCCP shall issue shares to New Walter, such that New WCCP will be wholly-owned by New Walter; and
 - (c) upon formation, each of New Brule, New Willow Creek and New Wolverine shall issue shares to New WCCP, such that each of New Brule, New Willow Creek and New Wolverine will be wholly-owned by New WCCP.
6. The Monitor, on behalf of the New Walter Group and the Walter Canada Group, is authorized to contribute \$5 from the Deposit (as defined in the Term Sheet) as payment by the Purchaser, as agent for Walter Energy Inc., of the subscription price for the shares of New Walter and to invest such portion of the \$5 on behalf of New Walter in the other members of the New Walter Group as required.
7. The adoption, execution, delivery, implementation and consummation of any matters required to form the members of the New Walter Group involving any corporate action shall be deemed to

- have been authorized and approved in all respects and for all purposes without any requirement of any further action by any shareholders and all necessary approvals to take any actions shall be deemed to have been obtained from the shareholders of each member of the New Walter Group, and no vote of or action by any shareholder shall be required to complete the steps contemplated hereby or by the Term Sheet.
8. From and after the date of the formation of the members of the New Walter Group, each member of the New Walter Group shall be and is hereby deemed, upon formation:
 - (a) to be a debtor company (as defined in the CCAA); and
 - (b) to be added as a Petitioner in these CCAA proceedings.
 9. From and after the date of the formation of the members of the New Walter Group, the provisions of the Initial Order (as amended and extended) shall apply to the each member of the New Walter Group and the Monitor shall be appointed as Monitor of the New Walter Group, with all of the powers, responsibilities and duties set out in the Initial Order and shall be granted and shall continue to have all of the applicable rights and protections. All charges over the Property of the Petitioners granted in these proceedings shall apply equally and with the same respective priority to the Property of each of the members of the New Walter Group (including, for greater certainty, any after acquired property of the New Walter Group and any property transferred to the New Walter Group pursuant to the Term Sheet and the Transaction). For greater certainty, and without limiting the generality of the foregoing, the Administration Charge, the Director Charge and the Success Fee Charge, each as defined and described in the Initial Order and the order of the Court pronounced January 5, 2016 (the "**SISP Order**") (each as amended by any subsequent Order of the Court), shall attach to all Property of the New Walter Group.
 10. The Monitor is hereby authorized and directed to file with the Court a certificate substantially in the form attached hereto as **Schedule "C"** indicating the names of each member of the New Walter Group and, following the delivery of such certificate, the style of cause in these CCAA proceedings shall be amended to include the names of the members of the New Walter Group as Petitioners.
 11. The Monitor is hereby granted all of the enhanced powers set out in the Order of the Court pronounced August 16, 2016 (the "**Enhanced Powers Order**") with respect to the New Walter Group and is also hereby authorized and directed to:
 - (a) open such bank accounts or brokerage accounts with such financial institutions as the Monitor, in its sole discretion, deems are necessary or advisable in connection with the exercise of the Monitor's powers, the Transaction, the claims process underway with respect to the Walter Canada Group and any other matter in these CCAA proceedings,

including accounts in the name of the Monitor in trust for any member of the New Walter Group and any accounts in the name of any member of the Walter Canada Group;

- (b) change the signing authority of any of the foregoing bank accounts or brokerage accounts, including as deemed necessary by the Monitor to facilitate the completion of the Transaction, at such times as the Monitor may determine; and
- (c) receive, collect and take possession of all monies, securities or other negotiable instruments of the Walter Canada Group or the New Walter Group.

CHIEF RESTRUCTURING OFFICER

- 12. BlueTree Advisors Inc. ("**BlueTree**") shall be and shall be deemed to have been engaged to provide the services of William E. Aziz to act as chief restructuring officer ("**CRO**") of the New Walter Group; the CRO Engagement Letter, including any indemnification obligations set out therein, shall apply to the members of the New Walter Group and the New Walter Group shall be "Walter Canada" or the "Company" as defined in the CRO Engagement Letter; and BlueTree and the CRO shall be granted and shall continue to have all continue to have all of the powers, responsibilities and duties set out in the SISP Order and shall be granted and shall continue to have all of the applicable rights and protections set out in the SISP Order, in each case as amended by any subsequent Order of the Court, including the benefit of the Administration Charge and the Success Fee Charge.
- 13. At the last moment in time before the assignment in bankruptcy of any member of the Walter Canada Group, the appointment of BlueTree and the CRO in respect of such member of the Walter Canada Group shall be and is hereby terminated and deemed terminated and BlueTree and the CRO be and are hereby discharged as of such time and relieved from any further obligations, responsibilities or duties in the capacity of CRO of such member of the Walter Canada Group pursuant to the SISP Order, any other Order of this Court in the CCAA proceedings or otherwise and, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the rights, approvals and protections in favour of the CRO in the SISP Order, any other Order of this Court in the CCAA proceedings or otherwise.

GENERAL


- 14. Each of the Walter Canada Group and New Walter 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 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, including acting as a foreign representative of the Walter Canada Group and New Walter Group to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.

15. Endorsement of this Order by counsel appearing, other than counsel for the Petitioners, is hereby dispensed with.

THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunals, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Walter Canada Group and New Walter Group and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Walter Canada Group and New Walter Group and the Monitor and their respective 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:



Lawyers for the Petitioners

DLA Piper (Canada) LLP
(Mary I.A. Buttery and H. Lance Williams)

and

Osler, Hoskin & Harcourt LLP
(Marc Wasserman and Patrick Riesterer)

BY THE COURT



REGISTRAR



SCHEDULE "A"

Petitioners

1. Walter Canadian Coal ULC
2. Wolverine Coal ULC
3. Brule Coal ULC
4. Cambrian Energybuild Holdings ULC
5. Willow Creek Coal ULC
6. Pine Valley Coal, Ltd.
7. 0541237 B.C. Ltd.

Partnerships

1. Walter Canadian Coal Partnership
2. Wolverine Coal Partnership
3. Brule Coal Partnership
4. Willow Creek Coal Partnership

SCHEDULE "C"

Monitor's Certificate

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

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

AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT
OF WALTER ENERGY CANADA HOLDINGS, INC. AND THOSE PARTIES LISTED ON
SCHEDULE "A" TO THE INITIAL ORDER

PETITIONERS

MONITOR'S CERTIFICATE: NEW WALTER GROUP

RECITALS

A. Pursuant to an Order of the Honourable Justice Fitzpatrick of the British Columbia Supreme Court (the "**Court**") pronounced December 7, 2015 (the "**Initial Order**"), KPMG Inc. was appointed as the monitor (the "**Monitor**") in connection with the CCAA proceedings of the Petitioners.

B. Pursuant to the Order of the Court pronounced December 7, 2016 (the "**New Walter Group Procedure Order**"), the Court authorized the formation of New Walter, New WCCP, New Brule, New Willow Creek and New Wolverine (the "**New Walter Group**") and that the New Walter Group be and be deemed to be Petitioners in the *Companies' Creditors Arrangement Act* ("**CCAA**") proceedings initiated by the Initial Order.

C. The Monitor was directed to file this certificate upon the formation of the entities comprising the New Walter Group.

D. All capitalized terms used but not defined herein shall have the meaning given in the New Walter Group Procedure Order.

THE MONITOR CERTIFIES the following:

1. The New Walter Group, consisting of New Walter, New WCCP, New Brule, New Willow Creek and New Wolverine have been formed and:
 - a. "**New Walter**" means _____.
 - b. "**New WCCP**" means _____.
 - c. "**New Brule**" means _____.
 - d. "**New Willow Creek**" means _____.

e. "New Wolverine" means _____.

2. Pursuant to the terms of the New Walter Group Procedure Order, each of New Walter, New WCCP, New Brule, New Willow Creek and New Wolverine are Petitioners in the CCAA proceedings and are subject to the Initial Order and the style of cause is to be amended to be as follows:

[STYLE OF CAUSE TO BE INSERTED].

This Certificate was delivered by the Monitor at _____ on _____, 2016.

KPMG Inc., in its capacity as Monitor of Walter Energy Canada Holdings, Inc., the other members of the Walter Canada Group and the members of the New Walter Group and not in its personal capacity

Per: _____

Name:

Title:

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IN THE MATTER OF THE PLAN OF COMPROMISE AND
ARRANGEMENT OF WALTER ENERGY CANADA HOLDINGS,
INC., AND THOSE PARTIES LISTED ON SCHEDULE "A"

PETITIONERS

ORDER MADE AFTER APPLICATION

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Client Matter No. 15375-00001

LZW/sd