

District of British Columbia  
Division No. 03 - Vancouver  
Court No. B-160976  
Estate No. 11-2199860, 11-2199859,  
11-2199857, 11-2199861, 11-2199858,  
11-2199862, 11-2199813, 11-254026,  
11-254024, 11-254025, 11-254023

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE JOINT PROPOSAL OF  
WALTER ENERGY CANADA HOLDINGS, INC., WALTER CANADIAN COAL ULC,  
BRULE COAL ULC, WILLOW CREEK COAL ULC, PINE VALLEY COAL LTD.,  
WOLVERINE COAL ULC, 0541237 B.C. LTD., WALTER CANADIAN COAL  
PARTNERSHIP, BRULE COAL PARTNERSHIP, WILLOW CREEK COAL  
PARTNERSHIP AND WOLVERINE COAL PARTNERSHIP  
(COLLECTIVELY THE “WALTER ENTITIES”)**

**TRUSTEE’S REPORT ON THE JOINT PROPOSAL**

**DECEMBER 19, 2016**

**1. INTRODUCTION**

This report (“**Report**”) has been prepared by KPMG Inc. in its capacity as proposal trustee (the “**Proposal Trustee**”) in the proceedings commenced in respect of the Walter Entities listed above on December 19, 2016 under Part III, Division I of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).

Each of the Walter Entities filed a voluntary assignment in bankruptcy on December 15, 2016. KPMG Inc. was appointed as the trustee (in that capacity, the “**Bankruptcy Trustee**”) of each of the Estates.

On December 16, 2016, the Supreme Court of British Columbia (the “**Court**”) made an Order (the “**Bankruptcy Procedure Order**”) pursuant to which, amongst other things, the Bankruptcy Trustee was authorized to administer the procedural matters relating to the bankruptcy proceedings of each of the Walter Entities on a consolidated basis. In accordance with the Bankruptcy Procedure Order, the Bankruptcy Trustee held a joint First Meeting of Creditors for all of the Walter Entities on December 19, 2016 (the “**FMOC**”), following which a meeting of the inspectors who were appointed at the FMOC was convened. The inspectors approved the joint proposal of the Walter Entities (the “**Joint Proposal**”), the filing of which by the Bankruptcy Trustee was authorized pursuant to the Bankruptcy Procedure Order.

On December 19, 2016, the Bankruptcy Trustee, in accordance with Section 62(1) of the BIA, filed the Joint Proposal with the Official Receiver, along with certain other prescribed documents. A copy of the Joint Proposal is attached hereto as Appendix “A”.

The purpose of this Report is to provide information with respect to the following:

- a) Background information concerning the Walter Entities, their financial situation, the causes of their difficulties and the state of the Walter Entities’ business and financial affairs;
- b) The terms of the Joint Proposal;
- c) A preliminary comparison of the estimated recovery to creditors under the Joint Proposal versus under a bankruptcy scenario; and
- d) The Proposal Trustee’s recommendation to creditors voting on the Joint Proposal.

## **2. TERMS OF REFERENCE**

In developing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Walter Entities’ management (“**Management**”), the Walter Entities’ books and records and discussions with Management. The Proposal Trustee has not performed an audit or other verification of such information. Future oriented financial information relied upon in this Report is based on Management’s assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Proposal Trustee expresses no opinion or other form of assurance with respect to the accuracy of the financial information presented in this Report, or relied upon by the Proposal Trustee in preparing this Report.

The capitalized terms used in this Report are defined in the Joint Proposal or in this Report, and this Report should only be read in conjunction with the Joint Proposal. Details of the Joint Proposal are outlined in this Report.

## **3. BACKGROUND AND CAUSES OF FINANCIAL DIFFICULTY**

The Walter Entities, along with certain other affiliated entities (collectively with the Walter Entities “**Walter Canada**”), commenced proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C 1985, c. C-36, as amended (the “**CCAA**”) and, on December 7, 2015 (the “**CCAA Proceedings**”), the Court pronounced an order pursuant to which KPMG Inc. was appointed as Monitor (the “**Monitor**”) in the CCAA proceedings.

On December 7, 2016, the Court granted an order which, amongst other things, approved a proposed restructuring transaction (the “**Amacon Transaction**”) with 1098138 B.C. Ltd. as purchaser and Amacon Land Corporation as guarantor (taken together, “**Amacon**”) pursuant to the Term Sheet executed on November 28, 2016 (the “**Term Sheet**”) and authorized Walter Canada to take such additional steps and execute such additional documents as may be necessary or desirable to complete the Amacon Transaction. Pursuant to the Term Sheet, those steps included the aforementioned making of the assignments by the Walter Entities as well as the filing of the Joint Proposal.

The Monitor issued the Seventh Report of the Monitor on December 11, 2016 (the “**Seventh Report**”, a copy of which is attached hereto as Appendix “**B**”) in its capacity not only as Monitor but also as the proposed Bankruptcy Trustee and the proposed Proposal Trustee, and the Seventh Report was prepared as a special purpose report to provide creditors with advance notice of the terms of the Joint Proposal and the Monitor’s comments thereon and its recommendation that creditors should support the Joint Proposal.

For a more detailed discussion of the background information in respect of the Walter Entities, the causes of their financial difficulties and the state of their business and financial affairs, readers are directed to the Pre-Filing Report of the Proposed Monitor dated December 6, 2015 (the “**Pre-Filing Report**”, a copy of which is attached (without appendices) to the attached Seventh Report under Appendix “**B**”). A complete copy of the Pre-Filing Report, along with various other reports and materials in respect of the CCAA Proceedings, the Walter Entities’ proceedings pursuant to the BIA, can be found on the website established by the Monitor at [www.kpmg.com/ca/walterenergycanada](http://www.kpmg.com/ca/walterenergycanada) (the “**Website**”).

For a summary discussion of the matters which have arisen since the commencement of the CCAA Proceedings, readers are directed to the attached Seventh Report, particularly the “Introduction and Background” section.

#### **4. THE JOINT PROPOSAL**

The attached Seventh Report includes a detailed discussion (in the section entitled “Filing of and Terms of the Proposal”) in respect of the Joint Proposal, including providing a summary of its key terms as well as the Monitor’s concluding comments and recommendations in respect of the Joint Proposal. The Monitor noted in the Seventh Report that the terms of the Joint Proposal remained subject to further revision as at the date of that report; the Proposal Trustee hereby advises that the terms of the final Joint Proposal did not change significantly from the form which was discussed in the Seventh Report (and attached thereto in draft); accordingly, the Monitor’s discussion regarding the Joint Proposal terms, and its recommendation to creditors to support the Joint Proposal, in the Seventh Report is unchanged.

This Report and the Seventh Report provide an overview of the terms of the Joint Proposal; neither of these reports is a substitute for reading the Joint Proposal and creditors are strongly encouraged to review the Joint Proposal in its entirety prior to voting on the Joint Proposal. Creditors may also wish to discuss the terms of the Joint Proposal with their legal counsel and other advisors.

Terms not defined herein are as defined in the Seventh Report.

The Proposal Trustee wishes to emphasize the following points (which are discussed in more detail in the Seventh Report) in respect of the Joint Proposal:

- a) The purpose of the Joint Proposal is to facilitate the transfer of the majority of assets from the Walter Entities to newly-created entities (the “**New Walter Group**”) and the deeming of the Deemed Claims of the Affected Claimants against the New Walter Group such that those Affected Claimants’ Claims are unaffected by the Amacon Transaction;

- b) The Amacon Transaction will create additional value for Walter Entities' creditors and other stakeholders in the amount of \$17,350,000. This value can only be obtained if the Joint Proposal is approved by the Required Majority of creditors in the sole voting class of creditors (that being a vote in favour of the Joint Proposal by two thirds in value and a majority in number of the Affected Claimants who actually vote on the Joint Proposal, in person or by proxy) as well as by the Court, and the Amacon Transaction closes prior to December 31, 2016; and
- c) In short, the Joint Proposal is intended to increase the total pool of proceeds available for distribution to the Walter Entities' creditors while preserving the same priority of the creditors' claims, and is ultimately in the best interests of all of the Walter Entities' creditors.

### **Other Terms of the Joint Proposal**

The only distributions that will be made to the Walter Entities' creditors pursuant to the Joint Proposal are Priority Claims, which include all Crown Claims as well as any employee claims which are required to be paid under subsection 60(1.3) of the BIA and certain other post-bankruptcy claims. As at the date of this report, there are no Priority Claims that have been allowed that would be paid pursuant to terms of the Joint Proposal. Any distributions to general creditors of the Walter Entities will be completed by the New Walter Group at a later date within the CCAA Proceedings.

Any person's entitlement to seek recourse with respect to transfers at undervalue or preferences pursuant to sections 38 and 95-101 of the BIA and any equivalent provincial statute as against a Walter Entity is preserved as against the corresponding member of the New Walter Group.

Please refer to the attached Seventh Report for a more detailed discussion of the terms of the Joint Proposal.

The Joint Proposal provides for the payment of the reasonable fees of the Proposal Trustee from the funds on hand with the Walter Entities (which, pursuant to the Joint Proposal, shall be transferred to the New Walter Group).

### **5. STATEMENT OF ESTIMATED REALIZATION**

Please refer to the discussion in "The Monitor's Concluding Comments Regarding the Proposal" at pages 13 to 16 in the attached Seventh Report for a comparison of the preliminary estimate (on a consolidated basis and for illustrative purposes only) of the potential recovery to the Walter Entities' creditors if the Amacon Transaction under the Joint Proposal is completed (with an eventual distribution by the New Walter Group) as compared with the potential recovery if a sale were to occur in bankruptcy.

### **6. SUMMARY COMMENTS**

As discussed above and in more detail in the Seventh Report, the Amacon Transaction cannot be completed if the creditors do not vote in favour of the Joint Proposal, and the successful completion of the Amacon Transaction is expected to result in significantly higher proceeds being available to the Walter Entities' creditors and other stakeholders. Furthermore, the Joint Proposal is designed to preserve the rights and priorities of the Walter Entities' creditors such

that they are not negatively impacted by the steps contemplated by the Joint Proposal, instead only benefitting from the expected larger pool of funds which will be available for distribution.

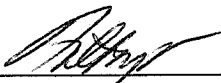
In conclusion, the Proposal Trustee considers the Joint Proposal to be advantageous for the Walter Entities' creditors and, respectfully, recommends they vote in favour of the Joint Proposal.

Dated at Vancouver, British Columbia, this 19th day of December, 2016.

**KPMG INC.,**

In its capacity as Trustee in re: the Matter of the  
Joint Proposal of the Walter Entities  
and not in its personal capacity

Per:

  
\_\_\_\_\_  
Anthony Tillman  
*Senior Vice President*

## **APPENDIX “A”**

Estates Nos.: 11-2199860, 11-2199859,  
11-2199857, 11-2199861, 11-2199858,  
11-2199862, 11-2199813, 11-254026,  
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Court File No.: B-160976  
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PARTNERSHIP, BRULE COAL PARTNERSHIP, WILLOW CREEK COAL  
PARTNERSHIP AND WOLVERINE COAL PARTNERSHIP**

**JOINT PROPOSAL**

KPMG Inc., in its capacity as trustee in bankruptcy of the Walter Canada Group, hereby submits this Proposal pursuant to Section 50 of the BIA and pursuant to the CCAA Procedure Order pronounced in respect of the Walter Canada Group and the New Walter Canada Group.

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

For the purposes of this Proposal, all capitalized terms used but not defined herein shall have the meanings given in the CCAA Procedure Order and the following terms shall have the following meanings:

- (a) **“Affected Claimant”** means any Claimant other than any Claimant with respect to a Priority Claim or any Claimant with a Claim under the Promissory Note;
- (b) **“Allowed Claim”** has the meaning given in the Claims Process Order;
- (c) **“Annulment Time”** means the time that is the first instant on the Proposal Completion Date, at which time the bankruptcy of the members of the Walter Canada Group is annulled;
- (d) **“Bankruptcy Date”** means the date on which the members of the Walter Canada Group made an assignment in bankruptcy pursuant to the BIA;
- (e) **“Bankruptcy Trustee”** means KPMG Inc., in its capacity as bankruptcy trustee in respect of the bankruptcy proceedings of the Walter Canada Group under the BIA;

- (f) “**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended;
- (g) “**BIA Proceedings**” means the consolidated bankruptcy proceedings of the Walter Canada Group under the BIA, having Court File No. B-160976;
- (h) “**BIA Procedure Order**” means the Order of the Court pronounced December 16, 2016 in the BIA Proceedings abridging certain time periods and dispensing with certain requirements under the BIA;
- (i) “**BIA Proposal Approval Order**” means an Order of the Court, in form and substance satisfactory to the Walter Canada Group, the Purchaser, the New Walter Canada Group and the Proposal Trustee, approving this Proposal;
- (j) “**Business Day**” means any day other than a Saturday, a Sunday, or a statutory holiday in the Province of British Columbia;
- (k) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- (l) “**CCAA Charge**” has the meaning given in the Claims Process Order;
- (m) “**CCAA Procedure Order**” means the Order of the Court pronounced December 7, 2016 in the CCAA Proceedings approving the transaction contemplated by the Term Sheet and authorizing the formation of the New Walter Canada Group;
- (n) “**CCAA Proceedings**” means the CCAA Proceedings commenced in respect of the Walter Canada Group pursuant to the Initial Order and having File No. S-1510120;
- (o) “**Chair**” means the chair of the Creditors’ Meeting as designated by the Official Receiver or nominee thereof;
- (p) “**Claim**” has the meaning given in subsection 2(1) of the CCAA and, for greater certainty, shall include all “Claims” as defined in the Claims Process Order but shall exclude any Claim that has already been barred pursuant to the terms of the Claims Process Order;
- (q) “**Claimant**” means any Person with a Claim and, for greater certainty, shall include all “Claimants” as defined in the Claims Process Order;
- (r) “**Claims Process Order**” means the Order of the Court establishing a claims procedure in the CCAA Proceedings in respect of the Walter Canada Group pronounced on August 16, 2016, as amended from time to time;
- (s) “**Conuma APA**” means the Asset Purchase Agreement dated August 8, 2016 among Conuma Coal Resources Limited and the Walter Canada Group, as amended;



- (t) “**Court**” means the Supreme Court of British Columbia or the Supreme Court of British Columbia in bankruptcy and insolvency, as applicable;
- (u) “**Creditors’ Meeting**” means the meeting of Affected Claimants holding Claims for the purposes of, among other things, considering and, if deemed appropriate, passing the Resolution and includes any adjournment, postponement or other rescheduling of such meeting;
- (v) “**Creditors’ Meeting Date**” means December 19, 2016, subject to any adjournment, postponement or further Order;
- (w) “**CRO**” means BlueTree Advisors, Inc., in its capacity as Chief Restructuring Officer of the New Walter Canada Group and former Chief Restructuring Officer of the Walter Canada Group;
- (x) “**Crown Claims**” means Claims of Her Majesty in right of Canada or any province, for all amounts that were outstanding on the Proposal Commencement Date and are of a kind that could be subject to a demand under:
  - (i) subsection 224(1.2) of the *Income Tax Act*;
  - (ii) any provision of the Canada Pension Plan or of the Employment Insurance Act that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
  - (iii) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
    - (A) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*; or
    - (B) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;
- (y) “**Deemed Claims**” means all Claims, other than the Residual Liabilities and the Priority Claims, and for greater certainty includes the Insolvency Claims and the Intercompany Claims, and provided, for greater certainty, that any Priority Claim that is not an Allowed Claim and that has not been barred pursuant to the terms of the Claims Process Order shall be a Deemed Claim against the applicable member

of the New Walter Canada Group for further determination pursuant to the Claims Process Order;

- (z) **“Deemed Interest Amount”** means an amount equal to the amount of accrued but unpaid interest owing by WECH in respect of the Promissory Note for the period from the issuance of the Promissory Note and ending on the Proposal Commencement Date, up to a maximum amount equal to the amount by which (i) the value of the Transferred Assets transferred to New Walter pursuant to Section 4.1(g) hereof exceeds (ii) the amount of all Claims that are Deemed Claims against New Walter pursuant to Section 4.1(f) hereof, provided however that, for the purpose of the calculation of such maximum amount, the amount of such Deemed Claims shall not include the UMWA 1974 Pension Plan Claim;
- (aa) **“Directors/Officers Claim”** means any right or claim of any Person against one or more of the directors and/or officers of the Walter Canada Group that relates to a Claim (including for greater certainty, a “Restructuring Claim” as defined in the Claims Process Order), however arising, for which the directors and/or officers are by statute or otherwise by law liable to pay in their capacity as directors and/or officers;
- (bb) **“Governmental Entity”** means any: (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau or agency, domestic or foreign; (ii) subdivision, agent, commission, board, or authority of any of the foregoing; or (iii) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or, for the account of, any of the foregoing;
- (cc) **“Initial Order”** means the Order of the Court issued on December 7, 2015 in respect of the CCAA Proceedings, as amended;
- (dd) **“Insolvency Claim”** means:
  - (i) the reasonable fees and expenses incurred by the CRO, legal counsel to the Walter Canada Group and the New Walter Canada Group, the Monitor and its legal counsel;
  - (ii) Claims of the Bankruptcy Trustee, the Proposal Trustee and their legal counsel; and
  - (iii) All other Claims secured by the CCAA Charges;
- (ee) **“Inspector”** has the meaning set out in Section 3.9;
- (ff) **“Intercompany Claims”** means any Claim of a member of the Walter Canada Group against any other member of the Walter Canada Group;
- (gg) **“Monitor”** means KPMG Inc. in its capacity as CCAA monitor of the New Walter Canada Group and former CCAA monitor of the Walter Canada Group;

- (hh) “**New Brule**” means New Brule Coal Corp.;
- (ii) “**New Walter**” means New Walter Energy Canada Holdings, Inc.;
- (jj) “**New Walter Canada Group**” means New Walter, New WCCP, New Brule, New Willow Creek and New Wolverine;
- (kk) “**New WCCP**” means New Walter Canadian Coal Corp.;
- (ll) “**New Willow Creek**” means New Willow Creek Coal Corp.;
- (mm) “**New Wolverine**” means New Wolverine Coal Corp.;
- (nn) “**Obligations**” has the meaning set out in Section 4.3(a);
- (oo) “**Official Receiver**” means the officer appointed pursuant to section 12(2) of the BIA in the City of Vancouver, British Columbia.
- (pp) “**Operative Time**” means the time on the Proposal Commencement Date at which all liabilities of and Claims (other than the Residual Liabilities) against any member of the Walter Canada Group shall be released, discharged and extinguished as set out in Section 4.1(j) of this Proposal;
- (qq) “**Order**” means any order of the Court in the CCAA Proceedings, in the BIA Proceedings or in respect of this Proposal;
- (rr) “**Partnerships**” has the meaning given in Section 5.3(c);
- (ss) “**Person**” means any person, including any individual, partnership, joint venture, venture capital fund, association, corporation, limited liability company, limited liability partnership, unlimited liability company, trust, trustee, executor, administrator, legal personal representative, estate, group, unincorporated association or organization, Governmental Entity, syndicate, the Proposal Trustee, or other entity, whether or not having legal status;
- (tt) “**Priority Claims**” means all Crown Claims and all Priority Employee Claims that are Allowed Claims and all Claims against any member of the Walter Canada Group or the Bankruptcy Trustee for obligations incurred after the Bankruptcy Date and which were authorized and approved by the Bankruptcy Trustee prior to the Annulment Time and not otherwise addressed in this Proposal;
- (uu) “**Priority Employee Claims**” means Claims of employees of the Walter Canada Group (if any) required to be paid under subsection 60(1.3) of the BIA;
- (vv) “**Promissory Note**” means the Secured Promissory Note dated April 1, 2011 issued by WECH to WEI;
- (ww) “**Proposal**” means this Proposal as varied, amended, modified or supplemented in accordance with the provisions hereof and the BIA;

- (xx) **“Proposal Commencement Date”** has the meaning ascribed to it under Section 5.5;
- (yy) **“Proposal Commencement Time”** means 5:00 p.m. on the Proposal Commencement Date;
- (zz) **“Proposal Completion Date”** means the date immediately after the Proposal Commencement Date on which this Proposal is completed and the Annulment Time occurs.
- (aaa) **“Proposal Trustee”** means KPMG Inc., in its capacity as trustee in respect of this Proposal;
- (bbb) **“Purchase Price”** means \$17,350,000 plus the cost of the Retained Business Assets;
- (ccc) **“Purchaser”** means 1098138 B.C. Ltd.;
- (ddd) **“Purchaser Guarantor”** means Amacon Land Corporation;
- (eee) **“Released Claims”** has the meaning ascribed to such term in Section 4.3(b);
- (fff) **“Released Parties”** has the meaning ascribed to such term in Section 4.3(b);
- (ggg) **“Required Majority”** means the affirmative vote of (i) a majority in number of the Affected Claimants (other than Affected Claimants with Insolvency Claims) voting on the Resolution (in person or by proxy) at the Creditors’ Meeting; and (ii) Affected Claimants (other than Affected Claimants with Insolvency Claims) representing not less than 66 $\frac{2}{3}$ % in value of the Claims of the Affected Claimants voting on the Resolution (in person or by proxy) at the Creditors’ Meeting;
- (hhh) **“Residual Assets”** means:
  - (i) the shares of Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal Ltd. and 0541237 B.C. Ltd.;
  - (ii) the partnership interests in Walter Canadian Coal Partnership, Brule Coal Partnership, Wolverine Coal Partnership and Willow Creek Coal Partnership;
  - (iii) securities of mining and/or mining related businesses held by Walter Canadian Coal Partnership having a cost of approximately \$50,000 to be acquired after the date of the Term Sheet and prior to the Proposal Commencement Date and which, for greater certainty, shall not include the capital stock of Cambrian Energybuild Holdings ULC or Belcourt Saxon Coal Ltd., or any partnership interest in Belcourt Saxon Coal Limited Partnership;

- (iv) all short term liquid investments affording an appropriate safety of principal held by Wolverine Coal Partnership having a cost of approximately \$50,000;
  - (v) all short term liquid investments affording an appropriate safety of principal held by Brule Coal Partnership having a cost of approximately \$50,000;
  - (vi) all short term liquid investments affording an appropriate safety of principal held by Willow Creek Coal Partnership having a cost of approximately \$50,000 (the investments set out in paragraphs (iii) through (vi) are collectively referred to herein as the “**Retained Business Assets**”); and
  - (vii) the Walter Canada Group’s corporate and partnership minute books, financial and accounting records, taxation records and documents (including banking records and other evidence of fund transfers) necessary to substantiate the share capital of WECH;
- (iii) “**Residual Liabilities**” means
- (i) all liabilities for any Taxes due or accruing due on and after the Proposal Commencement Date; and
  - (i) all liabilities and claims that are not Claims that can be compromised pursuant to the CCAA or the BIA;
- (jjj) “**Resolution**” means the resolution of the Affected Claimants providing for the approval of this Proposal by the Affected Claimants;
- (kkk) “**Tax**” means any domestic or foreign federal, state, local, provincial, territorial or municipal taxes or other impositions by any Government Entity, including Transfer Taxes and the following taxes and impositions: net income, gross income, capital, value added, goods and services, capital gains, alternative, net worth, harmonized sales, gross receipts, sales, use, ad valorem, business rates, transfer, franchise, profits, business, environmental, real or immovable property, municipal, school, Canada Pension Plan, withholding, workers’ compensation levies, payroll, employment, unemployment, employer health, occupation, social security, excise, stamp, customs, and all other taxes, fees, duties, assessments, deductions, contributions, withholdings or charges of the same or of a similar nature, however denominated, together with any interest and penalties, fines, additions to tax or additional amounts imposed or assessed with respect thereto;
- (lll) “**Term Sheet**” means the Term Sheet dated November 28, 2016 among the Walter Canada Group and the Purchaser and the Purchaser Guarantor;
- (mmm) “**Transferred Assets**” means all of the Walter Canada Group’s right, title and interest in, to, under or relating to the assets, property and undertaking owned or used or held by the Walter Canada Group on the date set for such transfer in this

Proposal and any other Order of the Court, including the following properties, assets and rights:

- (i) the Purchase Price;
- (ii) all rights of the Walter Canada Group under the Term Sheet, this Proposal and any Orders in the CCAA Proceedings and the BIA Proceedings, unless specified therein;
- (iii) all records, documents and information in the possession of the Walter Canada Group, including any records prepared in connection with this Proposal, the Conuma APA, the CCAA Proceedings or any other matter, and all records, documents and information in the possession of the Walter Canada Group but not owned by the Walter Canada Group;
- (iv) copies of any book, record, literature, list and any other written or recorded information of the Walter Canada Group as at or prior to the Proposal Commencement Date to which the New Walter Canada Group, the CRO or the Monitor in good faith determine are reasonably likely to be needed to access for bona fide tax or legal purposes, including in respect of any matter arising in the CCAA Proceedings;
- (v) all information, materials, documents, reports and/or records, whether written or electronic, prepared by the Walter Canada Group's legal counsel and the Monitor and the Monitor's legal counsel, whether or not prepared before or after Proposal Commencement Date, that is attorney-client privileged and any and all attorney work product (provided however that no material prepared by legal counsel of the Purchaser, who may become legal counsel to the Walter Canada Group after the Proposal Commencement Date, is intended to be included in this paragraph);
- (vi) all information, materials, documents, reports and/or records, whether written or electronic, in the possession of the CRO, the Monitor or the Proposal Trustee;
- (vii) any deposits held on behalf of the Walter Canada Group, including any deposits held in trust accounts to secure payment of the reasonable fees and disbursements of the Monitor, the Proposal Trustee and any professional advisors of the Walter Canada Group and of the Monitor and Proposal Trustee, any deposits provided to any Governmental Entity in respect of Tax liabilities, and any amounts paid by or on behalf of the Walter Canada Group in respect of any employment liabilities;
- (viii) all cash, cash equivalents, bank balances, and moneys in possession of banks, the Monitor, the Proposal Trustee and other depositories;
- (ix) marketable shares, notes, bonds, debentures or other securities of or issued by corporations, partnerships or other persons and all certificates or other evidences of ownership thereof owned or held by or for the account of the

Walter Canada Group, including the shares in the capital stock of Cambrian Energybuild Holdings ULC and Belcourt Saxon Coal Ltd., and including any partnership interest in Belcourt Saxon Coal Limited Partnership, but excluding all other shares and partnership interests of other Walter Canada Group entities that constitute Residual Assets;

- (x) the accounts receivable, bills receivable, trade accounts, book accounts, and any other amount due or deemed to be due to the Walter Canada Group or any of them including any payments, refunds and rebates receivable;
- (xi) refunds due or payable in respect of reassessments for Taxes paid by any member of the Walter Canada Group up to the Proposal Commencement Date;
- (xii) refundable Taxes;
- (xiii) any person's entitlement to seek recourse pursuant to sections 38 and 95-101 of the BIA and any equivalent provincial statute as against the Walter Canada Group or any other person *mutatis mutandis* and as if this Proposal had not been implemented;
- (xiv) amounts owing to the Walter Canada Group or any of them from any director, officer, former director or officer, shareholder, employee of any member of the Walter Canada Group;
- (xv) director and officer insurance policies and the right to receive insurance recoveries under (i) any insurance policies for losses that occurred prior to Proposal Commencement Date and (ii) any director and officer insurance policies in respect of any matters at any time;
- (xvi) all rights and interests under or pursuant to all warranties, representations, indemnities and guarantees, express, implied or otherwise, of or made by suppliers or others in connection with any other Transferred Assets, the Conuma APA or any Deemed Claims; and
- (xvii) all other rights, properties and assets of the Walter Canada Group or any of them as at the Proposal Commencement Date of whatsoever nature or kind and wherever situated (other than such rights, properties and assets that are not transferrable under section 11.3 of the CCAA or 84(1) of the BIA),

but excluding the Residual Assets. For greater certainty and notwithstanding the foregoing, the Transferred Assets shall not include the Walter Canada Group's corporate and partnership minute books, financial and accounting records, taxation records and documents (including banking records and other evidence of fund transfers) necessary to substantiate the share capital of WECH and provided further that the New Walter Canada Group shall be permitted to retain a copy of

any such minute books, financial and accounting records, taxation records and documents;

- (nnn) “**Transfer Taxes**” means all goods and services, sales, excise, use, transfer, gross receipts, documentary, filing, recordation, value-added, stamp, stamp duty reserve, and all other similar taxes, duties or other like charges, however denominated, in each case including interest, penalties or additions attributable thereto whether or not disputed, including GST/ HST and PST;
- (ooo) “**Trustee Certificate**” has the meaning ascribed to it in Section 5.5;
- (ppp) “**UMWA 1974 Pension Plan Claim**” has the meaning given in the Claims Process Order;
- (qqq) “**Walter Canada Group**” means Walter Energy Canada Holdings, Inc., Walter Canadian Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal Ltd., Wolverine Coal ULC, 0541237 B.C. Ltd., Walter Canadian Coal Partnership, Brule Coal Partnership, Willow Creek Coal Partnership and Wolverine Coal Partnership;
- (rrr) “**WECH**” means Walter Energy Canada Holdings, Inc.; and
- (sss) “**WEI**” means New WEI, Inc., formerly known as Walter Energy, Inc.

## 1.2 Interpretation

For purposes of this Proposal:

- (a) the division of this Proposal into Articles, Sections, Schedules, and paragraphs and the insertion of captions and headings to Articles, Sections and paragraphs are for convenience only and are not intended to affect or be used in the interpretation of this Proposal;
- (b) where the context requires, a word or words importing the singular shall include the plural and vice versa and a word or words importing one gender shall include all genders;
- (c) unless otherwise stated, all monetary amounts in this Proposal, including the symbol “\$”, are in Canadian currency;
- (d) the terms “hereof”, “herein”, “hereunder”, “hereto” and words of similar import shall, unless otherwise stated, be construed to refer to this Proposal in its entirety rather than to any particular provision of this Proposal and all references in this Proposal to Articles and Sections are references to Articles and Sections of or to this Proposal;
- (e) in the computation of periods of time from a specified date to a later specified date, unless otherwise stated, “from” means “from and including” and the words “to” or “until” mean “to but excluding”;



- (f) the deeming provisions are not rebuttable and are conclusive and irrevocable; and
- (g) the words “includes” and “including” mean “includes, without limitation” and “including without limitation”.

### **1.3 Date for any Action**

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, then, unless otherwise stated herein, that action shall be required to be taken on the next succeeding day that is a Business Day.

### **1.4 Time**

All times expressed in this Proposal are prevailing local time in Vancouver, British Columbia, Canada unless otherwise stipulated.

### **1.5 Statutory References**

Unless otherwise indicated, any reference in this Proposal to a statute refers to that statute and to the regulations made thereunder, as amended and as in force from time to time, or any statute or regulations that supplement or supersede such statute or regulations.

## **ARTICLE 2 PURPOSE**

### **2.1 Purpose of the Proposal**

The purpose of this Proposal is to monetize a significant portion of the remaining value in the Walter Canada Group for the benefit of all Claimants and other stakeholders of the Walter Canada Group.

To achieve this goal, this Proposal is filed by the Bankruptcy Trustee for and on behalf of the Walter Canada Group to cause the Transferred Assets to become assets of the New Walter Canada Group and to cause the Deemed Claims to become liabilities of the New Walter Canada Group so as to preserve the Claims of the Affected Claimants and the interests of other stakeholders in and to the Transferred Assets and to permit the resolution of such Claims and interests pursuant to the CCAA.

The New Walter Canada Group will continue in the place and stead of the Walter Canada Group for all purposes in the CCAA Proceedings, including for the purposes of finally determining all Claims pursuant to the Claims Process Order.

### **2.2 Effect of the Proposal**

The corporate structure of the Walter Canada Group includes a number of partnerships. WECH, the principal entity affected by this Proposal, is the general partner of Walter Canada Coal Partnership, which in turn is the general partner of each of the other Partnerships. As such, all Claimants with a claim against any of the Partnerships have a Claim against WECH. All of the Claimants who have filed a Proof of Claim, were deemed to have filed a Proof of Claim or who filed a notice of civil claim under the Claims Process Order have Claims against one or more of

the Partnerships and, as such, a Claim against WECH as ultimate general partner. The effect of this Proposal is to increase the value available for distribution to any Claimants with Affected Claims against WECH (*i.e.* all Affected Claimants).

For the purposes of determining the nature and priority of the Deemed Claims, the applicable member of the New Walter Canada Group (and the Transferred Assets transferred to such member) shall stand in the place and stead of the member of the Walter Canada Group formerly liable for such Claim (other than any claim that has already been barred pursuant to the Claims Process Order and other than any Residual Liability), and from and after the Proposal Commencement Date, all such Claims against such member of the Walter Canada Group and any encumbrances in respect of such Claims shall be Deemed Claims against the corresponding member of the New Walter Canada Group and shall be deemed encumbrances on the applicable Transferred Assets and such Deemed Claims and deemed encumbrances shall have the same priority with respect to the applicable member of the New Walter Canada Group and the applicable Transferred Assets as they had with respect to the corresponding member of the Walter Canada Group and the Transferred Assets immediately prior to the Proposal Commencement Date, as if the applicable member of the New Walter Canada Group was in all respects the corresponding member of the Walter Canada Group and as if the Transferred Assets had not been transferred and had remained in the possession or control of the member of the Walter Canada Group having that possession or control immediately prior to the transfer.

All Claims against the Walter Canada Group (other than the Residual Liabilities and Priority Claims) shall be compromised, extinguished and released pursuant to the terms hereof.

### **2.3 Affected Claimants**

Although all Claims against the Walter Canada Group (other than the Residual Liabilities and Priority Claims) shall be cancelled, compromised and extinguished pursuant to this Proposal, no Affected Claimant's Claim is adversely affected because each such claim shall become a Deemed Claim against the applicable member of the New Walter Canada Group. Each Affected Claimant's Claim against any member of the Walter Canada Group shall be preserved pursuant to the terms hereof as a Deemed Claim against the applicable member of the New Walter Canada Group as set out herein.

## **ARTICLE 3 THE CREDITORS' MEETING AND RELATED MATTERS**

### **3.1 Voting Claimants**

All Affected Claimants, other than Claimants with Insolvency Claims, shall be entitled to vote their Claims (whether or not such Claims are Allowed Claims) in respect of this Proposal.

Affected Claimants with Insolvency Claims and all Claimants and other stakeholders who are not Affected Claimants, including Claimants to the extent of Priority Claims or to the extent of a Claim under the Promissory Note, will not be entitled to vote at the Creditors' Meeting. Nothing in this Proposal shall affect the defences, both legal and equitable, with respect to any Priority Claim, Deemed Claim or Deemed Interest Amount, including any rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Claims.

### **3.2 Classes of Creditors**

For the purposes of voting on this Proposal, all Affected Claimants' Claims shall be included in a single class of creditors.

### **3.3 Creditors' Meeting**

The Creditors' Meeting held in respect of the Affected Claimants shall be held in accordance with this Proposal for the purposes of, among other things, considering and voting on the Resolution or any other matters to be considered at the Creditors' Meeting.

### **3.4 Approval by the Affected Claimants**

The Walter Canada Group will seek approval of this Proposal by the affirmative vote for the Resolution by the Required Majority. Such vote will be conducted by ballot. For the purposes of determining whether or not the Resolution has passed, the Chair shall tabulate the votes cast or deemed cast by each Affected Claimant.

Any other matter submitted for a vote at the Creditors' Meeting shall be decided by affirmative vote of (i) a majority in number the Affected Claimants (other than Claimants with Insolvency Claims) voting (in person or by proxy) on such matter at the Creditors' Meeting; and (ii) Affected Claimants (other than Claimants with Insolvency Claims) representing not less than 66 $\frac{2}{3}$ % in value of the Claims of the Affected Claimants voting on the Resolution (in person or by proxy) at the Creditors' Meeting, which may be adduced by show of hands, unless the Chair decides, in the Chair's sole and absolute discretion, to hold such vote by way of written ballot.

### **3.5 Claims for Voting Purposes**

For each vote conducted by ballot, each Affected Claimant (other than Claimants with Insolvency Claims) with one or more Affected Claimant's Claim shall be entitled to one (1) vote and the weight attributed to such vote (for the purposes of determining the Required Majority) shall be equal to the aggregate Canadian dollar value of such Affected Claimant's Claim (if necessary, converted into Canadian dollars in accordance with the provisions of the Claims Process Order). An Affected Claimant with a Claim that is not yet an Allowed Claim shall be entitled to vote such Claim in respect of the Resolution and the value of the Affected Claimant's Claim for voting purposes shall be the value of such Claim as set out in the Affected Claimant's Proof of Claim or Notice of Dispute, deemed Proof of Claim or notice of civil claim, as applicable. The Proposal Trustee may, in its discretion, maintain a separate tabulation of any Affected Claimants' Claims that are not yet Allowed Claims.

No Affected Claimant shall be entitled to bifurcate or sub-divide a Claim for purposes of voting. If an Affected Claimant has assigned part, but not all, of the Affected Claimant's Claim, then only the Affected Claimant shall be entitled to vote at the Creditors' Meeting (in person or by proxy) and the value of such vote shall be the unassigned portion of such Affected Claimant's Claim. In such case, the assignee of such Affected Claimant's Claim shall not be entitled to vote the assigned portion of such Affected Claimant's Claim at the Creditors' Meeting unless the Chair, in the Chair's sole and absolute discretion, determines that the assignee shall be permitted to vote.

For greater certainty, no Claimant shall be entitled to vote any claim that has been barred pursuant to the terms of the Claims Process Order.

### **3.6 Adjournment**

If the Creditors' Meeting is adjourned or postponed by the Chair upon the direction of the Proposal Trustee (which Proposal Trustee may so direct in its sole and absolute discretion) or because a quorum (as required under the BIA) is not obtained, the Creditors' Meeting will be adjourned, postponed or otherwise rescheduled by the Proposal Trustee to such date, time and place as may be decided by the Proposal Trustee, in the Proposal Trustee's sole and absolute discretion and upon such notice as the Proposal Trustee deems appropriate.

### **3.7 Voting of Proxies**

Where an Affected Claimant has submitted a proxy in advance of the Creditors' Meeting, such Affected Claimant's proxy will be voted on any ballot in accordance with the Affected Claimant's instruction to vote for or against the approval of the Resolution and any other matters before the Creditors' Meeting.

Forms of proxy may confer discretionary authority on the individuals designated therein with respect to amendments or variations of matters identified in the notice of the Creditors' Meeting and other matters that may properly come before the Creditors' Meeting.

All other matters related to the solicitation of votes for the Creditors' Meeting, the delivery of materials to Affected Claimants and the voting procedure and tabulation of votes cast at the Creditors' Meeting shall be as set forth in the BIA Procedure Order.

### **3.8 Claims Bar Date**

If any Claimant that was required to file a Proof of Claim has failed to file its Proof of Claim prior to the relevant Claims Bar Date and has not, in accordance with the Claims Process Order, been permitted to file its Proof of Claim late, or if such Claimant received a Notice of Revision or Disallowance pursuant to the Claims Process Order and did not respond within the time period provided for by the Claims Process Order, such Claimant shall have the Claim provided for in the applicable Notice of Revision or Disallowance and, if such Claim is nil, such Claimant shall be forever barred from voting at the Creditors' Meeting and any meeting in respect of the Proposal and such Claimant shall be forever barred from receiving a distribution under this Proposal or any subsequent plan of compromise or arrangement in respect of the New Walter Canada Group, and (i) the Walter Canada Group and the Purchaser shall be released from the Claims of such Claimant, (ii) such Claims shall not be Deemed Claims against any member of the New Walter Canada Group and (iii) Section 4.3(b) shall apply to all such Claims and, for the purposes of the application Section 4.3(b) pursuant to this Section 3.8, the Released Parties referenced therein shall include the New Walter Canada Group and its present and former advisors, partners, principals, employees, officers, directors, representatives, financial advisors, legal counsel, accountants, investment bankers, consultants, agents, predecessors, affiliates, subsidiaries, related companies, heirs, spouses, dependents, administrators and executors.

### **3.9 Inspectors**

At the Creditors' Meeting, the Affected Claimants with Allowed Claims may appoint from one (1) to five (5) inspectors (each an "**Inspector**") under this Proposal, whose powers shall be restricted to advising the Proposal Trustee in respect of such matters as the Proposal Trustee may consider appropriate from time to time, and considering and approving any amendments to this Proposal which have been agreed and consented to by the Proposal Trustee and the Purchaser.

Provided that all acts done by the Inspectors are done in good faith, the Inspectors shall not be liable to the Affected Claimants for any actions taken by the Inspectors.

## **ARTICLE 4 TERMS OF THE PROPOSAL**

### **4.1 Terms of the Proposal**

Each of the following transactions contemplated by and provided for under this Proposal will be consummated and effected, and shall for all purposes be deemed to occur, commencing at the Proposal Commencement Time and concluding on the Proposal Completion Date, in the manner and the sequence and at the times set forth below:

- (a) The Purchaser shall subscribe for 200,000,000 common shares in the capital of WECH and, in respect thereof,
  - (i) at least five days before the Proposal Commencement Date, the Purchaser shall pay to the Proposal Trustee (on WECH's behalf) an amount equal to the Purchase Price as the subscription price for such shares,
  - (ii) WECH shall issue such shares to the Purchaser as fully-paid and non-assessable common shares in the capital of WECH, and
  - (iii) WECH shall add an amount equal to the Purchase Price to the capital in respect of its common shares;
- (b) The 1,207,905 issued and outstanding shares in the capital of WECH held by WEI and recorded on the Central Securities Register of WECH shall be repurchased for no consideration but shall not be cancelled and shall continue to be held by WECH;
- (c) Any issued and outstanding shares of WECH not recorded on the Central Securities Register of WECH shall be repurchased for no consideration and cancelled, and any option or other right to acquire shares or securities of WECH held by any person shall be cancelled for no consideration;
- (d) All obligations of WECH under the Promissory Note shall be released, extinguished and discharged;
- (e) The Walter Canada Group shall pay in cash to the Monitor, acting upon the irrevocable direction from the Proposal Trustee, all amounts owed in respect of any Priority Claims that are Allowed Claims (if any) plus the amount of the levy

payable under section 147 of the BIA, and the Monitor shall pay all such Priority Claims and such levy within the time period prescribed under the BIA; for greater certainty, any Priority Claim that is not an Allowed Claim and has not been barred pursuant to the terms of the Claims Process Order shall be a Deemed Claim against the applicable member of the New Walter Canada Group for further determination pursuant to the Claims Process Order;

- (f) Each of the applicable member(s) of the New Walter Canada Group shall be deemed liable for all Deemed Claims (which, for greater certainty, exclude the Residual Liabilities and Priority Claims but include the Insolvency Claims) of the corresponding Walter Canada Group entity and WECH shall be deemed liable to WEI for the Deemed Interest Amount, as follows:
- (i) all Claims against Wolverine Coal ULC and Wolverine Coal Partnership shall be Deemed Claims against New Wolverine, New WCCP and New Walter;
  - (ii) all Claims against Brule Coal ULC and Brule Coal Partnership shall be Deemed Claims against New Brule, New WCCP and New Walter;
  - (iii) all Claims against Willow Creek Coal ULC, Willow Creek Coal Partnership and Pine Valley Coal Ltd. shall be Deemed Claims against New Willow Creek, New WCCP and New Walter;
  - (iv) all Claims against Walter Canadian Coal Partnership, Walter Canadian Coal ULC and 0541237 BC Ltd shall be Deemed Claims against New WCCP and New Walter;
  - (v) all Claims against WECH (other than any Claim in respect of the Promissory Note) shall be Deemed Claims against New Walter; and
  - (vi) New Walter shall be deemed liable for the Deemed Interest Amount, provided however that the Deemed Interest Amount shall be subject to the terms of the Claims Process Order and shall have the same status thereunder as the Claim to which it relates,

and, for certainty, all of the Residual Liabilities shall be and are retained by the applicable member of the Walter Canada Group and shall not be Deemed Claims against any member of the New Walter Canada Group.

- (g) All of the Transferred Assets of the Walter Canada Group shall be transferred and deemed transferred to the applicable member(s) of the New Walter Canada Group and, subject to any agreement among the members of the New Walter Canada Group, shall be so transferred specifically as follows:
- (i) all Transferred Assets of Wolverine Coal ULC and Wolverine Coal Partnership are transferred to New Wolverine;

- (ii) all Transferred Assets of Brule Coal ULC and Brule Coal Partnership are transferred to New Brule;
- (iii) all Transferred Assets of Willow Creek Coal ULC, Willow Creek Coal Partnership and Pine Valley Coal Ltd. are transferred to New Willow Creek;
- (iv) all Transferred Assets of (A) Walter Canadian Coal ULC, (B) 0541237 BC Ltd. and (C) Walter Canadian Coal Partnership (including, for greater certainty, the Walter Canadian Coal Partnership assets consisting of (i) the shares of Cambrian Energybuild ULC and (ii) if applicable, Walter Canadian Coal Partnership's shares of Belcourt Saxon Coal Ltd. and Walter Canadian Coal Partnership's interest in Belcourt Saxon Coal Limited Partnership) are transferred to New WCCP; and
- (v) all Transferred Assets of WECH are transferred to New Walter,

and, for certainty, all of the Residual Assets shall be and are retained by the applicable member of the Walter Canada Group and shall not be transferred to or assumed by any member of the New Walter Canada Group;

- (h) Any remaining directors and officers of any member of the Walter Canada Group are deemed to resign and to no longer hold such positions;
- (i) The directors nominated by the Purchaser who have executed a consent to act as a director shall be appointed as directors of the applicable member of the Walter Canada Group;
- (j) All liabilities of or Claims (other than the Residual Liabilities) against any member of the Walter Canada Group shall be released, discharged and extinguished (and, for greater certainty, the time at which this step occurs shall be the Operative Time);
- (k) All Directors/Officers Claims (other than such Directors/Officers Claims that cannot be released pursuant to section 50(14) of the BIA) shall be released, discharged and extinguished at the Operative Time; and
- (l) The bankruptcy of the members of the Walter Canada Group shall be annulled as of the Annulment Time and all right, title and interest of the Bankruptcy Trustee in the Residual Assets shall re-vest in the applicable member of the Walter Canada Group free and clear of all liens, charges and encumbrances, except as expressly provided for herein, in the CCAA Procedure Order or a subsequent Order of the Court. For greater certainty, the annulment of the bankruptcy of the members of the Walter Canada Group shall not occur until all of the steps in paragraphs (a) to (k) of this Section 4.1 above have been completed.

## 4.2 Corporate Actions

From and after the Proposal Commencement Time, all corporate actions contemplated by this Proposal shall be deemed to have been authorized and approved in all respects (subject to the provisions of this Proposal). All matters provided for in this Proposal shall be deemed to have timely occurred in the order and at the times provided for in Section 4.1 of this Proposal, in accordance with applicable law, and shall be effective, without any requirement of further action by any creditors, security holders, shareholders, directors, officers or managers of the Walter Canada Group. On the Proposal Commencement Date, the Proposal Trustee shall be authorized and directed to issue, execute and deliver the agreements, documents, securities and instruments contemplated by this Proposal in the name of and on behalf of the Walter Canada Group.

## 4.3 Proposal Releases

The following releases will become effective at the Operative Time:

(a) **Releases by the Walter Canada Group and the Purchaser of Walter Canada Group Advisors**

Subject to the provisions of the BIA, the Walter Canada Group and the Purchaser will be deemed to forever release, waive and discharge any and all demands, claims, actions, causes of action, counterclaims, suits, rights, obligations, debts, sums of money, accounts, covenants, damages, judgments, expenses, liabilities, executions, liens, encumbrances, security interests and other recoveries on account of any indebtedness, liability, obligation, demand or cause of action of whatever nature, including interest thereon and costs, fees or other amounts in respect thereof (collectively, the “**Obligations**”) (other than the rights of the Walter Canada Group and the Purchaser to enforce this Proposal and the contracts, instruments, and other agreements or documents delivered hereunder) whether reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, direct, indirect or derivative, then existing or hereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other circumstance or occurrence existing or taking place on or prior to the Proposal Commencement Time in any way relating to, arising out of or in connection with the business and affairs of the Walter Canada Group, the subject matter of, or the transactions or events giving rise to, any Claims, this Proposal, the CCAA Proceedings and the related BIA Proceedings that could be asserted by or on behalf of the Walter Canada Group or the Purchaser against: (i) the agents, legal counsel, financial advisors and other professionals of the Walter Canada Group, in each case in their respective capacities as of the Proposal Commencement Time; (ii) the CRO; (iii) the Monitor, the Proposal Trustee, the Bankruptcy Trustee and their legal counsel; (iv) the Purchaser and its legal counsel; and (v) where applicable, with respect to each of the above named Persons, such Person’s present and former advisors, partners, principals, employees, officers, directors, representatives, financial advisors, legal counsel, accountants, investment bankers, consultants, agents, predecessors, affiliates, subsidiaries, related companies, heirs, spouses, dependents, administrators and executors.



(b) **Releases by Others**

Each of (i) the Walter Canada Group, (ii) the CRO, (iii) KPMG LLP, (iv) KPMG Inc., including in its capacity as Monitor, Bankruptcy Trustee and Proposal Trustee, (v) the Purchaser, and (vi) with respect to each of the above named Persons, such Person's present and former advisors, partners, principals, employees, officers, directors, representatives, financial advisors, legal counsel, accountants, investment bankers, consultants, agents, predecessors, affiliates, subsidiaries, related companies, heirs, spouses, dependents, administrators and executors (collectively, the "**Released Parties**") will be released and discharged from any and all Obligations, whether reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, direct, indirect or derivative, then existing or hereafter arising, in law, equity or otherwise, that any Person (including the Claimants, the Purchaser and the Walter Canada Group, and any Person who may claim contribution or indemnification against or from them) may be entitled to assert based in whole or in part on any act, omission, transaction, event or other circumstance or occurrence existing or taking place on or prior to the Proposal Completion Time in any way relating to, arising out of or in connection with the business and affairs of the Walter Canada Group, the subject matter of, or the transactions or events giving rise to, any Claims, this Proposal, the CCAA Proceedings and the related BIA Proceedings (collectively, the "**Released Claims**"), provided, however, that nothing herein will release or discharge: (A) the Walter Canada Group from any Residual Liabilities; or (B) any Released Party if the Released Party is judged by the expressed terms of a judgment rendered on a final determination on the merits to have committed fraud or wilful misconduct or to have been grossly negligent.

**4.4 Permanent Injunction**

At the Operative Time, the Walter Canada Group and the Purchaser shall be permanently and forever barred, estopped, stayed and enjoined with respect to the Obligations set out in Section 4.3(a) and all Claimants and other Persons shall be permanently and forever barred, estopped, stayed and enjoined with respect to the Released Claims from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any actions, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any actions, suits or demands, including, without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien, encumbrance or security interest of any kind; or (v) taking any actions to interfere with the implementation or consummation of this Proposal.

#### **4.5 Waiver of Defaults**

At the Operative Time, all Persons shall be deemed to have waived any and all defaults of the Walter Canada Group then existing or previously committed by the Walter Canada Group or caused by the Walter Canada Group, directly or indirectly, or non-compliance with any covenant, positive or negative, pledge, warranty, representation, term, provision, condition or obligation, express or implied, in any contract, credit document, purchase order, agreement for sale, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Walter Canada Group arising from the filing by the Walter Canada Group under the BIA or the transactions contemplated by this Proposal, and any and all notices of default and demands for payment under any instrument, including any guarantee arising from such default, shall be deemed to have been rescinded; provided, however, that any such defaults may still be asserted against the New Walter Canada Group in accordance with the process established in the CCAA Proceedings and any Order pronounced in respect thereof.

#### **4.6 Books and Records**

- (a) Notwithstanding any term in this Proposal, from and after the Proposal Commencement Date, the Purchaser, the Walter Canada Group and the New Walter Canada Group will make available to the other, as reasonably requested, and to any Tax authority, all information, records or documents currently or subsequently in the possession or control of such party relating to liability for Taxes with respect to the Residual Assets, the Transferred Assets, the Deemed Claims and the Residual Liabilities for all periods prior to or including the Proposal Commencement Date, and will preserve such information, records or documents until the expiration of any applicable statute of limitations or extensions thereof. In the event that one party needs access to records in the possession of the other party relating to any of the Residual Assets, the Transferred Assets, the Deemed Claims and the Residual Liabilities for purposes of preparing Tax returns or complying with any Tax audit request, subpoena or other investigative demand by any tax authority, or for any other legitimate Tax-related purpose not injurious to the other party, the other party will allow representatives of the first party, at the first party's sole expense, access to such records during regular business hours at the other party's place of business for the sole purpose of obtaining information for use as aforesaid and will permit the other party to make extracts and copies thereof as may be necessary or convenient.
- (b) Notwithstanding any term in this Proposal, from and after the Proposal Commencement Date, the Purchaser and the Walter Canada Group shall take all reasonable steps to preserve and keep the books and records delivered to it in connection with the completion of the transaction contemplated by this Proposal, including in respect of the period prior to the date of the Initial Order, for a period of six years from the Proposal Commencement Date, or for any longer period as may be required by any law or Government Entity, and shall make such records available to New Walter Canada Group, the Monitor, the Proposal Trustee, the CRO or the Bankruptcy Trustee of the New Walter Canada Group on a timely basis, as may be required by it, including in connection with the CCAA

Proceedings and the claims process being conducted thereunder and with any administrative or legal proceeding that may be initiated by, on behalf of, or against the New Walter Canada Group and, for greater certainty, any litigation with respect to the UMWA 1974 Pension Plan Claim, including any discovery process that may be ordered in respect thereof.

#### **4.7 Continuation of Partnerships**

All of the Partnerships shall continue to exist as partnerships through and after the Proposal Completion Date and are not and shall not be dissolved, notwithstanding the terms of any of the applicable partnership agreements, the *Partnership Act* (British Columbia), the CCAA Proceedings, the BIA Proceedings, this Proposal or the transactions occurring pursuant to the terms hereof.

### **ARTICLE 5 CONDITIONS**

#### **5.1 Confirmation of Proposal**

Provided that this Proposal is approved by the Required Majority:

- (a) the Proposal Trustee shall forthwith seek the BIA Proposal Approval Order; and
- (b) subject to the BIA Proposal Approval Order being made in form and substance acceptable to the New Walter Canada Group, Proposal Trustee and the Purchaser and the satisfaction of the conditions to the implementation of this Proposal set forth in Section 5.3, this Proposal shall be implemented by the Proposal Trustee and shall be binding upon each of the Walter Canada Group and all Persons referred to in this Proposal.

#### **5.2 Paramountcy**

From and after the Proposal Commencement Date, any conflict between (i) this Proposal, and (ii) the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, purchase order, mortgage, security agreement, indenture, trust indenture, loan or other agreement, commitment letter, lease or other arrangement or undertaking, written or oral (including any and all amendments or supplements thereto) existing with, between or among one or more of the Affected Claimants and the Walter Canada Group as at the Proposal Commencement Date will be deemed to be governed by the provisions of this Proposal and the BIA Proposal Approval Order, which shall take precedence and priority. All Affected Claimants shall be deemed irrevocably for all purposes to consent to all transactions contemplated in and by this Proposal.

#### **5.3 Conditions Precedent to Implementation of the Proposal**

The implementation of this Proposal is subject to the following conditions precedent, which may be waived in writing as provided in Section 5.4:

- (a) there shall be no evidence that WECH does not own, directly or indirectly, 100% of the equity interests of the other members of the Walter Canada Group;

- (b) the Walter Canada Group shall have the Retained Business Assets;
- (c) from and after the date of the Term Sheet, no special resolution to dissolve any of Walter Canadian Coal Partnership, Wolverine Coal Partnership, Brule Coal Partnership or Willow Creek Coal Partnership (the “**Partnerships**”) shall have been passed;
- (d) from and after the date of the Term Sheet, no steps shall have been taken to change the membership of the Partnerships nor any member’s interest in any of the Partnerships;
- (e) from and after the date of the Term Sheet until the Proposal Commencement Date, there shall be no jurisprudence or change in law that would have a material adverse effect on the tax attributes of the Walter Energy Group or tax impact of the transactions contemplated by or related to this Proposal;
- (f) the Purchaser shall have paid the Purchase Price to the Proposal Trustee, to hold in escrow for delivery to the New Walter Canada Group in accordance with the terms hereof;
- (g) this Proposal shall have been approved by the Required Majority;
- (h) The BIA Proposal Approval Order sanctioning this Proposal shall have been made and entered in form and substance satisfactory to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Proposal Trustee, no appeals or leaves to appeal shall have been filed or commenced in respect of the BIA Approval Order which has not been dismissed or withdrawn and the operation and effect of the BIA Proposal Approval Order shall not have been stayed, revised, modified, reversed or amended, and the BIA Proposal Approval Order shall, among other things:
  - (i) declare that this Proposal has been approved by the Required Majority of Affected Claimants in conformation with the BIA and the BIA Procedure Order;
  - (ii) declare that all steps taken by the Proposal Trustee as contemplated in the BIA Procedure Order have been satisfied;
  - (iii) declare that this Proposal and the transactions contemplated hereby are fair and reasonable, and in the best interests of the Walter Canada Group and its Affected Claimants and other stakeholders of the Walter Canada Group;
  - (iv) order that this Proposal (including the settlements, compromises, arrangements, reorganizations, transfers corporate transactions and releases set out herein) is sanctioned and approved pursuant to the BIA and, as at the Proposal Completion Date, will be effective and will enure to the benefit of and be binding upon the Walter Canada Group and all other Persons named or referred to in this Proposal, in the BIA Proposal

Approval Order, the CCAA Procedure Order and any subsequent Order of the Court, if any;

- (v) authorize and direct the Proposal Trustee to issue, execute and deliver the agreements, documents, securities and instruments contemplated by this Proposal, in the name of and on behalf of the Walter Canada Group, in order to effect all corporate actions contemplated by this Proposal;
- (vi) enjoin the commencement or prosecution, whether directly, derivatively or otherwise, of any demands, claims, actions, causes of action, counterclaims, suits, or any indebtedness, liability, obligation or cause of action released and discharged pursuant to this Proposal;
- (vii) annul the bankruptcy of the Walter Canada Group as of the Annulment Time; and
- (viii) be pronounced by the Court on or before December 28, 2016;
- (i) all relevant Persons shall have executed, delivered and filed all documents and other instruments, in form and substance satisfactory to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Proposal Trustee, that, in the opinion of the Proposal Trustee acting reasonably, are necessary to implement the provisions of this Proposal;
- (j) no effective injunction, writ or preliminary restraining order or any order of any nature shall have been issued and remain in effect by a competent authority prohibiting this Proposal from being consummated as provided herein and no law shall be in effect prohibiting this Proposal from being consummated as provided herein; and
- (k) the Purchaser shall be satisfied that the Annulment Time will occur on or before December 30, 2016.

#### **5.4 Waiver of Conditions**

Other than the approval of the Proposal by the Required Majority pursuant to Section 5.3(g) and the granting of the BIA Proposal Approval Order pursuant to Section 5.3(h) (but not the specific terms of that Order), the Purchaser and the New Walter Canada Group may, with the consent of the Proposal Trustee, at any time and from time to time waive the fulfillment or satisfaction, in whole or in part, of the conditions set forth in Section 5.3 above, except for the conditions set out in Sections 5.3(a) to 5.3(e), which may only be waived by the Purchaser, and the condition set out in Section 5.3(f), which may only be waived by the New Walter Canada Group, with the consent of the Monitor, in each case without any other notice to parties in interest or the Court and without a hearing.

#### **5.5 Trustee's Certificate**

Upon receipt of written evidence of the satisfaction or waiver of each of the conditions precedent set out in Section 5.3, the Proposal Trustee will file with the Court a copy of the certificate given

by the Proposal Trustee to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Official Receiver stating that all conditions precedent set out in Section 5.3 have been satisfied or waived (the “**Trustee’s Certificate**”). The date that the Trustee’s Certificate is given to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Official Receiver and filed with the Court shall be deemed to be the “**Proposal Commencement Date**”. The delivery of the Trustee’s Certificate to each of the Purchaser, the New Walter Canada Group and the Walter Canada Group shall be conclusive evidence that this Proposal and the transactions contemplated herein shall become effective in accordance with the terms herein.

## **ARTICLE 6 MISCELLANEOUS**

### **6.1 Modification of Proposal**

After the Creditors’ Meeting (and both prior to and subsequent to the obtaining of the BIA Proposal Approval Order), the Purchaser and the New Walter Canada Group, in consultation with the Proposal Trustee, may at any time and from time to time agree to modify, amend, vary or supplement this Proposal, without the need for obtaining an Order of the Court or providing notice to the Affected Claimants if the Proposal Trustee determines that such modification, amendment, variation or supplement would not be materially prejudicial to the interests of the Affected Claimants under this Proposal or the BIA Proposal Approval Order and is necessary in order to give effect to the substance of this Proposal or the BIA Proposal Approval Order. The Proposal Trustee shall post on the Proposal Trustee’s website, as soon as possible, any such modification, amendment, variation or supplement to this Proposal, with notice of such posting forthwith provided to all known Claimants at the filing date.

### **6.2 Capacity of Proposal Trustee**

KPMG Inc., is acting in its capacity as Bankruptcy Trustee and Proposal Trustee under this Proposal and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business or obligations of any of the members of the Walter Canada Group or the New Walter Canada Group.

### **6.3 Capacity of the CRO**

The CRO is acting and has acted in its capacity as CRO pursuant to the terms of the Order of the Court dated January 5, 2016, as amended or supplemented by further Court Orders and shall not be responsible or liable for any obligations of any member of the Walter Canada Group or of the New Walter Canada Group; provided however that the CRO shall exercise the powers granted to the CRO to cause the members of the New Walter Canada Group to perform their obligations (if any) under this Proposal, the CCAA Procedure Order and any subsequent Order of the Court.

### **6.4 Notices**

Any notices or communication to be made or given hereunder to the Walter Canada Group, the Purchaser and the Proposal Trustee shall be in writing and shall refer to this Proposal and may,

subject as hereinafter provided, be made or given by fax or e-mail addresses to the respective parties as follows:

- (a) if to the New Walter Canada Group, on or prior to the Proposal Commencement Date, the Walter Canada Group:

William E. Aziz  
Chief Restructuring Officer

Email: baziz@bluetreeadvisors.com

With a copy to:

Osler, Hoskin & Harcourt LLP  
Box 50, 1 First Canadian Place  
Toronto, Ontario, M5X 1B8

Attention: Marc Wasserman / Patrick Riesterer  
Fax No.: 416.862.6666  
Email: mwasserman@osler.com / priesterer@osler.com

And with a copy to:

DLA Piper (Canada) LLP  
Suite 2800, Park Place  
666 Burrard St.  
Vancouver, British Columbia V6C 2Z7

Attention: Mary Buttery / Lance Williams  
Facsimile: (604) 605-3768  
Email: mary.buttery@dlapiper.com / lance.williams@dlapiper.com

- (b) If to the Proposal Trustee:

KPMG Inc.  
777 Dunsmuir Street, PO Box 10426  
Vancouver, British Columbia V7Y 1K3

Attention: Philip Reynolds / Anthony Tillman  
Facsimile: (604) 691-3036  
Email: pjreynolds@kpmg.ca / atillman@kpmg.ca

with a copy to:

McMillan LLP  
181 Bay Street, Suite 440  
Toronto, ON M5J 2T3

Attention: Wael Rostom / Caitlin Fell  
Facsimile: 416.865.7048  
Email: wael.rostom@mcmillan.ca / caitlin.fell@mcmillan.ca

- (c) If to the Purchaser, or after the Proposal Commencement Date, the Walter Canada Group:

Jeff Shickele  
Director  
1098138 B.C. Ltd.  
Suite 500, 856 Homer Street  
Vancouver, BC V6B 2W5

Facsimile: 604.602.7110  
Email: jshickele@amacon.com

and a copy to:

Randy Morphy  
Borden Ladner Gervais LLP  
Suite 1200 – 200 Burrard Street  
PO Box 48600  
Vancouver, BC V7X 1T2

Facsimile: 604.622.5006  
Email: rmorphy@blg.com

or to such other fax or e-mail as any party may from time to time notify the others in accordance with this Section 6.4. All such notices and communications shall be deemed to have been received, in the case of notice by fax or e-mail sent prior to 5:00 p.m. (local time) on a Business Day, when such fax or email is sent or if sent after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day. This Proposal and any action taken by any Person pursuant to this Proposal shall not be invalidated where the BIA Procedure Order provides that any notice may be dispensed with or where there is an unintentional failure by the New Walter Canada Group, the Walter Canada Group or the Proposal Trustee to give any notice contemplated hereunder to any particular Claimant.

Any notices or communications to be made or given hereunder by the New Walter Canada Group, the Walter Canada Group or the Proposal Trustee to a Claimant shall be sent as provided for in the BIA Procedure Order or by fax, e-mail, ordinary mail, registered mail or courier. A Claimant shall be deemed to have received any document sent pursuant to this Proposal: (i) in the case of a document sent by fax or e-mail prior to 5:00 p.m. (local time) on a Business Day, when such fax or email is sent or if sent after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day; (ii) in the case of documents sent by courier, on the Business Day immediately following the day on which the document is sent; and (iii) in the case of a document sent by ordinary or registered mail, four (4) Business Days after the document is sent. Documents shall not be sent by ordinary or registered mail during a postal strike or work stoppage of general application.



Notices or communications may be sent to a Claimant as follows: (i) at the addresses set forth in the Proof of Claim filed by such Claimant; (ii) to the address set forth in any written notice of address changes delivered to the Proposal Trustee; or (iii) the last known address for such Claimant available to the Proposal Trustee.

### **6.5 Severability of Proposal Provisions**

If, prior to the Proposal Commencement Date, any term or provision of this Proposal is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Proposal Trustee, the New Walter Canada Group or the Purchaser, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Proposal shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

### **6.6 Non-consummation**

If this Proposal is not approved by the Required Majority, if any of the other conditions set forth in Section 5.3 above are not satisfied or waived in accordance with the terms hereof or if the BIA Proposal Approval Order is not granted, then: (i) this Proposal shall be null and void in all respects, (ii) no transfer of Transferred Assets and no assumption of Deemed Claims shall occur; (iii) any Claim, any settlement, compromise or release embodied in this Proposal, assumption or termination, repudiation of executory contracts or leases effected by this Proposal, and any document or agreement executed pursuant to this Proposal shall be deemed null and void, and (iv) nothing contained in this Proposal, and no act taken in preparation for consummation of Proposal, shall:

- (a) constitute or be deemed to constitute a waiver or release of any Claims by or against the Walter Canada Group or any other Person;
- (b) prejudice in any manner the rights of the Walter Canada Group, the New Walter Canada Group or any other Person in any further proceedings involving the Walter Canada Group or the New Walter Canada Group; or
- (c) constitute an admission of any sort by the Walter Canada Group, the New Walter Canada Group or any other Person.

### **6.7 Governing Law**


This Proposal shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein. Any questions as to the interpretation or application of this Proposal and all proceedings taken in connection with this Proposal and its provisions shall be subject to the exclusive jurisdiction of the Court.

**6.8 Successors and Assigns**

This Proposal shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal representatives, successors (including by merger, amalgamation, consolidation, conversion or reorganization or following any winding-up, liquidation or dissolution) and permitted assigns of any Person named or referred to in this Proposal.

**DATED** as of December 19, 2016

**KPMG INC., IN ITS CAPACITY AS  
BANKRUPTCY TRUSTEE AND  
PROPOSAL TRUSTEE OF WALTER  
ENERGY CANADA HOLDINGS, INC.,  
WALTER CANADIAN COAL ULC,  
BRULE COAL ULC, WILLOW CREEK  
COAL ULC, PINE VALLEY COAL LTD.,  
WOLVERINE COAL ULC, 0541237 B.C.  
LTD., WALTER CANADIAN COAL  
PARTNERSHIP, BRULE COAL  
PARTNERSHIP, WILLOW CREEK COAL  
PARTNERSHIP AND WOLVERINE COAL  
PARTNERSHIP AND NOT IN ITS  
PERSONAL CAPACITY**

By:   
Name: ANTHONY TILLMAN  
Title: SENIOR VICE PRESIDENT

## **APPENDIX ‘B’**

**File 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**

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

**AND**

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

**PETITIONERS**

**SEVENTH REPORT OF THE MONITOR, KPMG INC.**

**December 11, 2016**

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Schedule C	Draft Proposal as at December 10, 2016
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## INTRODUCTION AND BACKGROUND

1. KPMG Inc. (“**KPMG**” or the “**Monitor**”) was appointed as Monitor pursuant to the order (the “**Initial Order**”) issued by this Honourable Court on December 7, 2015 (the “**Filing Date**”) in respect of the motion (the “**Application**”) filed by Walter Energy Canada Holdings, Inc. (“**WECH**”), Walter Canadian Coal ULC (“**WCC**”), Wolverine Coal ULC (“**WC**”), Brule Coal ULC (“**BC**”), Cambrian Energybuild Holdings ULC, Willow Creek Coal ULC (“**WIC**”), Pine Valley Coal Ltd. (“**PVC**”) and 0541237 BC Ltd. (collectively, the “**Petitioners**”) under the *Companies’ Creditors Arrangement Act*, R.S.C 1985, c. C-36, as amended (the “**CCAA**”) granting, *inter alia*, a stay of proceedings (the “**Stay**”) until January 6, 2016. Pursuant to the Initial Order, the Stay and certain other relief was extended to certain of the Petitioners’ partnerships and affiliates listed on Schedule “**A**” hereto (collectively with the Petitioners, “**Walter Canada**”). The proceedings brought by the Petitioners under the CCAA will be referred to herein as the “**CCAA Proceedings**”.
2. Walter Canada’s background information and the reasons for which the Petitioners filed the Application to commence the CCAA Proceedings were discussed, amongst other things, in the Pre-Filing Report of the Proposed Monitor which KPMG filed on December 7, 2015 (the “**Pre-Filing Report**”). Additional details regarding Walter Canada’s background and the Application was provided in the Affidavit of William G. Harvey sworn December 4, 2015, a copy of which can be found on Monitor’s website at [www.kpmg.com/ca/walterenergycanada](http://www.kpmg.com/ca/walterenergycanada) (the “**Monitor’s Website**”). For ease of reference for Walter Canada’s creditors and other stakeholders, a copy of the Pre-Filing Report (without appendices) is attached hereto as Schedule “**B**” and a complete copy, including the appendices, can be found on the Monitor’s Website.

### Summary of Matters Arising During the CCAA Proceedings

3. On December 31, 2015, KPMG filed the First Report of the Monitor (the “**First Report**”) which, amongst other things, described the Monitor’s activities to date, Walter Canada’s actual receipts and disbursements against forecast as well as its updated cash flow forecast for the 16-week period ending April 9, 2016, the proposed Sale and Investment Solicitation Process (the “**SISP**”), the proposed retention of PJT Partners LP as financial advisor and investment banker (the “**Financial Advisor**”), the proposed

retention of BlueTree Advisors Inc. as Chief Restructuring Officer (the “**CRO**”) and the proposed Key Employee Retention Plan (the “**KERP**”).

4. On January 5, 2016, this Honourable Court granted an order (the “**January 5 Order**”) which, amongst other things, extended the Stay to April 5, 2016 and approved the SISP, the KERP and the retention of both the Financial Advisor and the CRO.
5. On March 24, 2016, KPMG filed the Second Report of the Monitor (the “**Second Report**”) which, amongst other things, described the Monitor’s activities to date, Walter Canada’s actual receipts and disbursements against forecast as well as its updated cash flow forecast for the 16-week period ending July 2, 2016, a status update on the SISP and updates in respect of various other matters.
6. On March 30, 2016, this Honourable Court granted an order which, amongst other things, extended the Stay to June 24, 2016.
7. On June 22, 2016, KPMG filed the Third Report of the Monitor (the “**Third Report**”) which, amongst other things, provided a status update on the SISP and the Liquidation Request For Proposals Process, information regarding Walter Canada’s actual receipts and disbursements against forecast as well as its updated cash flow forecast for the 18-week period ending October 15, 2016 and updates in respect of certain other matters.
8. On June 24, 2016, this Honourable Court granted an order which, amongst other things, extended the Stay to August 19, 2016.
9. On August 11, 2016, KPMG filed the Fourth Report of the Monitor (the “**Fourth Report**”) which, amongst other things, provided a status update on the SISP as well as information in respect of Walter Canada’s proposed transaction (the “**Conuma Transaction**”) with Conuma Coal Resources Limited (“**Conuma**”), its proposed claims process (the “**Claims Process**”), an amendment to the Financial Advisor Engagement Letter, information regarding Walter Canada’s actual receipts and disbursements against forecast, its updated cash flow forecast for the 26-week period ending January 28, 2017 (the “**Current CCAA Cash Flow Forecast**”) and updates in respect of various other matters.



10. Also on August 11, 2016, the Monitor prepared its Confidential Supplemental Report to the Fourth Report (the “**First Confidential Report**”) in which it provided certain additional details in respect of the Bids and Liquidation Proposals, along with the Monitor’s corresponding analysis.
11. On August 15, 2016, on application by the Petitioners, this Honourable Court granted an order sealing the First Confidential Report, as well as the Affidavit #4 of Mr. William E. Aziz sworn August 9, 2016, until further order of this Honourable Court.
12. On August 16, 2016, this Honourable Court granted the following orders:
  - a) the Approval and Vesting Order which, amongst other things, approved the Conuma Transaction and authorized and directed Walter Canada to take such additional steps and execute such additional documents as may be necessary or desirable to complete the Conuma Transaction;
  - b) the Claims Process Order which, amongst other things, approved the Claims Process; and
  - c) an order which, amongst other things, extended the Stay to January 17, 2017 (the “**Extended Stay Period**”), approved the amendment to the Financial Advisor Engagement Letter, and expanded the powers of the Monitor.
13. On October 24, 2016, KPMG filed the Fifth Report of the Monitor (the “**Fifth Report**”) that provided a status update on the closing of the Conuma Transaction, a status update with respect to the Claims Process, information regarding Walter Canada’s actual receipts and disbursements against forecast and updates in respect of various other matters.
14. On October 26, 2016, this Honourable Court pronounced an order requiring that a case plan be complied with for the Court hearing of certain matters related to the claim of the 1974 Pension Plan (to be heard commencing on January 9, 2017).

15. On December 5, 2016, KPMG filed the Sixth Report of the Monitor (the “**Sixth Report**”) which included, amongst other things, a discussion of the process undertaken by Walter Canada, the CRO and the Monitor to obtain offers in respect of Walter Canada’s remaining assets (the “**Remaining Assets**”) after the closing of the Conuma Transaction (the “**Remaining Asset Sale Process**”), the CRO’s selection of the Bid (the “**Amacon Bid**”) submitted by 1098138 B.C. Ltd. and guaranteed by Amacon Land Corporation (taken together, “**Amacon**”), Walter Canada’s application for approval to enter into the proposed restructuring transaction with Amacon (the “**Amacon Transaction**”) pursuant to the Term Sheet executed on November 28, 2016 (the “**Term Sheet**”), and the Monitor’s observations and recommendations in respect of Walter Canada’s motion returnable December 7, 2016.
16. Also on December 5, 2016, the Monitor prepared its Confidential Supplemental Report to the Sixth Report (the “**Second Confidential Report**”) in which it provided certain confidential information to this Honourable Court in respect of the reasons for the selection of the Amacon Bid by the CRO and the Monitor’s support for that selection, as well as certain details regarding the other LOIs and Bids which were submitted pursuant to the Remaining Asset Sale Process.
17. On December 7, 2016, on application by the Petitioners, this Honourable Court granted the following orders:
  - a) an order (the “**Sealing Order**”) sealing the Second Confidential Report until further order of this Honourable Court; and
  - b) an order (the “**New Walter Group Procedure Order**”) which, amongst other things:
    - i. approved the Amacon Transaction and authorized Walter Canada to take such additional steps and execute such additional documents as may be necessary or desirable to complete the Amacon Transaction;
    - ii. authorized but did not direct each of the Walter Canada entities to make an assignment in bankruptcy;

- iii. authorized the formation of certain new entities pursuant to the Term Sheet (thereby creating the “**New Walter Group**”) and deemed each of the New Walter Group entities to, upon formation, be a debtor company (as defined in the CCAA), added as a Petitioner in the CCAA Proceedings and be subject to the CCAA charges and, amongst other things, extended the appointment of the Monitor to the New Walter Group; and
  - iv. deemed the CRO to have been engaged by the New Walter Group effective on the formation of the New Walter Group and terminated the appointment of the CRO in respect of such members of Walter Canada which make an assignment in bankruptcy, effective immediately before the bankruptcy.
18. The New Walter Group entities were formed on December 8, 2016.
19. Terms not specifically defined herein shall have the meanings as defined in the First Report, the Second Report, the Third Report, the Fourth Report, the Fifth Report and the Sixth Report (collectively, the “**Previous Reports**”), the SISP or the Claims Process Order.
20. Copies of the Previous Reports, as well as further information regarding these CCAA Proceedings, can be found on the Monitor’s Website.

#### **PURPOSE OF THE MONITOR’S REPORT**

21. This Seventh Report of the Monitor (the “**Seventh Report**”) has been prepared by KPMG in its capacity as Monitor, as well as in its capacity as the proposed Bankruptcy Trustee and the proposed Proposal Trustee (each as subsequently defined), as a special purpose report to provide this Honourable Court and Walter Canada’s stakeholders with additional details in respect of the following steps which are required to be taken in order to implement the Amacon Transaction:
- a) A discussion of the terms of the joint proposal which is expected to be filed pursuant to the *Bankruptcy and Insolvency Act* (“**BIA**”) on behalf of certain members of Walter Canada (the “**Proposal**”) as part of the process of implementing the Amacon Transaction;

- b) Comments regarding certain proposed procedural steps in the bankruptcy and in respect of the Proposal which Walter Canada believe are necessary to be able to successfully complete the Amacon Transaction (the “**Proposed Procedural Amendments**”); and
- c) The Monitor’s observations and recommendations in respect of the Proposal and the Proposed Procedural Amendments.

## **REPORT RESTRICTIONS AND SCOPE LIMITATIONS**

- 22. In preparing this report, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by Walter Canada and/or certain of its affiliates, discussions with management of Walter Canada (“**Management**”) and information from other public third-party sources (collectively, the “**Information**”). The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance in respect of the Information.
- 23. The information contained in this report is not intended to be relied upon by any prospective purchaser or investor in any transaction with Walter Canada.
- 24. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

## **FILING OF AND TERMS OF THE PROPOSAL**

- 25. In the Sixth Report, the Monitor discussed the terms of the Amacon Bid and the procedural steps required to implement the Amacon Transaction pursuant to the Term Sheet, including the anticipated assignment in bankruptcy by certain Walter Canada entities and the subsequent filing of the Proposal. These matters are also described in detail in the 5th Affidavit of Mr. William E. Aziz (the “**Aziz Affidavit**”).

26. The Amacon Transaction will create additional value for Walter Canada's creditors and other stakeholders in the amount of \$17,350,000 plus the cost of certain securities held by WECH of approximately \$200,000. This value can only be obtained if the Amacon Transaction closes prior to December 31, 2016. Accordingly, the Amacon Transaction requires numerous restructuring and procedural steps to take place on an expedited basis.
27. Walter Canada contemplates the first step in the restructuring process will be for each of the members of Walter Canada with the exception of Cambrian Energybuild Holdings ULC (the "**UK Interest**"), (each of those eleven entities being an "**Old Walter Entity**"), to make an assignment in bankruptcy (the "**Bankruptcy Proceedings**") on or before December 13, 2016, with KPMG Inc. being appointed as trustee for each of the eleven bankruptcy estates (in such capacity, the "**Bankruptcy Trustee**") and that the Bankruptcy Trustee shall immediately thereafter apply to this Honourable Court for an Order (the "**BIA Procedural Order**") to, amongst other things which shall be discussed subsequently, procedurally consolidate the eleven estates under one Court file and approve certain procedural steps. For clarity, no member of the New Walter Group will be making an assignment in bankruptcy and Belcourt Saxon Coal Ltd. and Belcourt Saxon Coal Limited Partnership (together, the "**Belcourt Interest**"), which are not Walter Canada entities, will not be making an assignment in bankruptcy.
28. Upon the granting of the BIA Procedural Order by this Honourable Court, the proposed restructuring steps require that the Bankruptcy Trustee file the Proposal with the Official Receiver on behalf of the Old Walter Entities. The Proposal contemplates that KPMG Inc. shall be appointed as the trustee (in such capacity, the "**Proposal Trustee**") in the proposal proceedings (the "**Proposal Proceedings**").
29. As noted in the Sixth Report, Walter Canada and Amacon were still in the process of finalizing the terms of the Proposal as at the date of that report. A copy of the current draft form of the Proposal as at December 10, 2016 is attached hereto as Schedule "**C**". The Monitor understands that the attached draft Proposal is in substantially final form but remains subject to further revision by Walter Canada in consultation with Amacon and other stakeholders, each of whom are in the process of reviewing the Proposal. However, given the proposed expedited timeline for the filing of and voting in respect of the

Proposal (as subsequently discussed), the Monitor, as the proposed Proposal Trustee, is providing to Walter Canada's various stakeholders the following summary of the expected terms of the Proposal. Based on Walter Canada's and Amacon's current timeline, the meeting of Walter Canada's creditors (the "**Creditors' Meeting**") will be held on or about December 15, 2016 to consider and vote for the acceptance or rejection of the Proposal. Any terms not specifically defined herein are as defined in the attached Proposal.

30. The Proposal contemplates the transfer of the Transferred Assets to New Walter and the deeming of the Deemed Claims against New Walter. Deemed Claims consist of all Claims other than any: (i) Claims that have already been barred pursuant to the terms of the Claims Process Order; (ii) liabilities for any priority claims, including crown claims and all priority employee claims that have been allowed in the Claims Process and all claims against any member of Walter Canada or a trustee in bankruptcy for obligations incurred after the date of bankruptcy (the "**Priority Claims**") and (iii) certain liabilities which shall continue against Walter Canada (the "**Residual Liabilities**").
31. An integral component of the Amacon Transaction is that the New Walter Group will be formed to replicate the existing Walter Canada group. The New Walter Group will be liable for all Deemed Claims. The deeming of the Deemed Claims will preserve the claims of creditors against each member of Walter Canada by causing the applicable member of the New Walter Group to be liable for such claim and for the stakeholders to have the same claim against the Transferred Assets as it currently has against the members of Walter Canada and their assets. In addition, any person's entitlement to seek recourse with respect to transfers at undervalue or preferences pursuant to sections 38 and 95-101 of the BIA and any equivalent provincial statute as against an Old Walter Entity is preserved as against the corresponding member of the New Walter Group. The New Walter Group and the Transferred Assets will continue in the place and stead of Walter Canada for all purposes in the CCAA Proceedings, including for the purposes of finally determining all Claims pursuant to the Claims Process Order and for the ultimate distribution to Affected Claimants.
32. The key terms of the Proposal as at December 10, 2016 are set out in the table beginning on the following page:

Summary of Key Terms of the Proposal	
<b>Distributions to Creditors</b>	<ul style="list-style-type: none"> <li>• No distributions will be made to the Old Walter Entities' creditors generally. Any distributions to general creditors of the Old Walter Entities will be completed at a later date within the CCAA Proceedings by the New Walter Group. The only distributions contemplated under the Proposal are the payment in full of the following Priority Claims:               <ul style="list-style-type: none"> <li>i) Any Priority Employee Claims and which are required to be paid under subsection 60(1.3) of the BIA;</li> <li>ii) Any Crown Claims that are Allowed Claims which are required to be paid under subsection 60(1.1) of the BIA; and</li> <li>iii) Certain post-bankruptcy date claims which may arise against either the Old Walter Entities or the Bankruptcy Trustee prior to the annulment of the bankruptcy of any of the Old Walter Entities.</li> </ul> </li> </ul>
<b>Implementation of Term Sheet Transaction Steps</b>	<ul style="list-style-type: none"> <li>• The terms of the Proposal (under Article 4 of the Proposal) are designed to effect the implementation of certain of the transaction steps set out in the Term Sheet, and include the following:               <ul style="list-style-type: none"> <li>i) Amacon becomes, through completion of certain steps, the sole shareholder of WECH and WEI's shares of WECH are repurchased for no consideration;</li> <li>ii) All obligations owing by WECH to WEI under the \$2 billion promissory note as part of the Hybrid Debt Structure the "<b>Promissory Note</b>") shall be released, extinguished and discharged;</li> <li>iii) Payment shall be made from the Old Walter Entities to the Monitor for all amounts owed in respect of any Priority Claims that are Allowed Claims, and the Monitor shall pay all such Priority Claims and the levy payable under section 47 of the BIA within the time period prescribed by the BIA;</li> <li>iv) Each of the applicable New Walter Group entities shall be deemed liable for all Deemed Claims of the corresponding Old Walter Entity;</li> <li>v) New Walter will be deemed liable for the Deemed Interest Amount, being an amount calculated with reference to the outstanding interest owing on the Promissory Note, provided however that such Deemed Interest Amount shall be subject to the Claims Process Order and shall have the same status as that claim;</li> </ul> </li> </ul>

<p><b>Implementation of Term Sheet Transaction Steps</b> (continued)</p>	<p>vi) All of the Transferred Assets are to then be transferred and deemed transferred from the Old Walter Entities to the applicable member(s) of the New Walter Group. Transferred assets including the Purchase Price, the UK Interest, the Belcourt Interest, cash on hand, accounts receivable, deposits, retainers, refundable taxes, certain records and information, and any person’s entitlement to seek recourse pursuant to sections 38 and 95-101 of the BIA shall be deemed to be transferred to the New Walter Group in a manner that replicates the existing ownership structure of those assets in all material respects;</p> <p>vii) Any remaining directors and officers of any of the Old Walter Entities are deemed to resign, and new directors (to be nominated by Amacon) shall be appointed as directors of the applicable Old Walter Entities;</p> <p>viii) All remaining liabilities or Claims (other than the Residual Liabilities) against any of the Old Walter Entities, as well as all Directors/Officers Claims (other than those that cannot be released pursuant to section 50(14) of the BIA), shall be released, discharged and extinguished; and</p> <p>ix) After all of the above steps are completed, the bankruptcies of the Old Walter Entities shall be annulled and all of the Bankruptcy Trustee’s right, title and interest in the Residual Assets shall re-vest in the applicable Old Walter Entity.</p>
<p><b>Creditors’ Meeting and Voting</b></p>	<ul style="list-style-type: none"> <li>• The Creditors’ Meeting is expected to be held on or about December 15, 2016.</li> <li>• All Affected Claimants (other than Affected Claimants with Insolvency Claims, i.e., the restructuring professionals), which includes parties with disputed claims, shall be entitled to vote their Claims (whether or not they are Allowed Claims) in respect of the Proposal, either in person or by proxy. Certain Claimants are considered to not be Affected Claimants and, accordingly, will not be entitled to vote at the Creditors’ Meeting.</li> <li>• There shall be one single class of creditors for voting in respect of the Proposal, consisting of the Claims of all Affected Claimants (other than Affected Claimants with Insolvency Claims).</li> <li>• The Proposal shall be accepted if it is accepted by a majority in number of the Affected Claimants who voted in respect of the Proposal at the Creditors’ Meeting, in person or by proxy, and representing not less than two thirds in value of the Claims of the Affected Claimants who voted in respect of the Proposal at the Creditors’ Meeting.</li> <li>• The Affected Claimants with Allowed Claims may appoint between one and five inspectors at the Creditors’ Meeting.</li> </ul>



<p><b>Confirmation and Implementation of Proposal</b></p>	<ul style="list-style-type: none"> <li>• The Proposal Trustee shall, forthwith upon approval of the Proposal by the Requisite Majority of Affected Claimants, seek the BIA Proposal Approval Order from this Honourable Court.</li> <li>• The Proposal Trustee shall thereupon implement the Proposal, subject to the satisfaction of certain conditions precedent, the majority of which may be waived by Amacon and the New Walter Group, with the consent of the Proposal Trustee. Upon the completion of the required steps under the Proposal, The Proposal Trustee shall prepare and deliver to Amacon, the Old Walter Entities, the New Walter Group and the Official Receiver a certificate stating that these conditions have been satisfied or waived, and file a copy of that certificate with this Honourable Court.</li> </ul>
<p><b>Modification of Proposal</b></p>	<ul style="list-style-type: none"> <li>• The Proposal includes provisions to permit modifications to the Proposal by Amacon and the New Walter Group, in consultation with the Proposal Trustee, at any time after the Creditors' Meeting without an Order of this Honourable Court or providing notice to the Affected Claimants, but only if the Proposal Trustee determines that such modifications would not materially prejudice the interests of the Affected Claimants and are necessary in the circumstances.</li> <li>• The Proposal Trustee shall post any such amended Proposal on its website as soon as possible and also provide notice of such posting to all known Claimants.</li> </ul>

33. As at the date of this report, the Monitor is not aware of any Priority Claims that are quantified and that would be paid pursuant to terms of the Proposal. However, as noted in the Fifth Report, the Canada Revenue Agency (“**CRA**”) is in the process of conducting a trust examination in respect of a potential Crown Claim for 2014 to 2016 payroll source deductions. Under the terms of the Proposal, any such Crown Claim would be a Deemed Claim against the applicable member of the New Walter Group.
34. On December 10, 2016, Walter Canada and Amacon finalized the terms of an agreement (the “**Letter of Support**”), which remains subject to approval by this Honourable Court, which provides that Amacon will subscribe for 2,500,000 common shares (the “**Shares**”) in the capital of Walter Canada for a purchase price of \$25,000 prior to the date of the assignment into bankruptcy (instead of after the assignment) of certain Walter Canada entities. In the event that the Amacon Transaction is not completed, Amacon granted to Walter Canada an option to repurchase the Shares for an aggregate repurchase price of \$1.00 to ensure that Walter Canada is put back in the same position it was in prior to the

transfer of the Shares. The Monitor supports Walter Canada's application to have the Letter of Support approved by this Honourable Court, which is expected to be heard on December 12, 2016.

35. The Monitor, as the proposed Bankruptcy Trustee, considered the following in determining that, in its view, it is reasonable and appropriate in the circumstances for the Proposal to be filed as a joint proposal of all of the Old Walter Entities:

- a) The Old Walter Entities, as at the Filing Date, were effectively managed and directed by one directing mind being the sole director with the assistance of the CRO;
- b) The cost efficiencies to be achieved by the filing and administration of only one joint Proposal as compared with the added costs of filing and administering eleven separate Proposals (one for each of the Old Walter Entities); and
- c) The purpose of the Proposal, which is to facilitate the transfer of the Transferred Assets to the New Walter Group from the Old Walter Entities and the deeming of the Deemed Claims of the Affected Claimants against the New Walter Group such that those Affected Claimants' Claims are unaffected by the Amacon Transaction. Those Affected Claimants whose Claims are finally determined to be Allowed Claims under the Claims Process Order shall share in any distributions to be made in the CCAA Proceedings at a later date in the same manner as they would if the Amacon Transaction does not occur, except that the pool of funds available for distribution to those Affected Creditors will be larger if the transaction with Amacon is completed.
- d) The Monitor notes that the amount of any such distribution is not known at this time. A number of Claims have not yet been determined to be Allowed Claims, and in particular, Walter Canada's dispute regarding the Claim filed by the United Mine Workers of America 1974 Pension Plan and Trust (the "**1974 Pension Plan**") is ongoing. The outcome of that dispute will have a significant impact on the recoveries of Affected Claimants.

## **The Monitor's Concluding Comments Regarding the Proposal**

36. In the Sixth Report, the Monitor, in providing its recommendation to this Honourable Court that the Amacon Transaction be approved, stated that it was of the view that the Amacon Bid represented the best combination of price and likelihood of being capable of resulting in a transaction being completed by December 31, 2016 as compared with the other Bids which were submitted pursuant to the Remaining Asset Sale Process.
37. The terms of the current form of the Proposal are generally consistent with the terms of the Term Sheet in respect of facilitating the necessary steps to complete the Amacon Transaction by December 31, 2016, while at the same time preserving the Claims of Affected Claimants against the New Walter Group in a manner which will leave them unaffected by the Proposal while providing the benefit of increasing the total pool of cash available for distribution to Walter Canada's creditors.
38. Furthermore, the outcome for Walter Canada's creditors under the Proposal is better than it would be in a bankruptcy because neither the Amacon Transaction nor any of the competing Bids submitted in the Remaining Asset Sale Process appear to be capable of being completed in a bankruptcy of the Walter Canada entities that did not also involve a proposal substantially similar to the Proposal. Accordingly, the Monitor expects that minimal proceeds from the Remaining Assets that are the subject of the Amacon Bid would be generated in a bankruptcy that did not also involve a proposal substantially similar to the Proposal. Provided in the table on the following page is a comparison of the preliminary estimate (on a consolidated basis and for illustrative purposes only) of the potential recovery to Affected Claimants if the Amacon Transaction under the Proposal is completed (with an eventual distribution by the New Walter Group) as compared with the potential recovery if a sale of the Remaining Assets were to occur in bankruptcy.

<b>Preliminary Statement of Estimated Realizations on a Consolidated Basis as at the Date of the Creditors' Meeting</b>			
<b>(CAD \$000)</b>	<b>Notes</b>	<b>Proposal</b>	<b>Bankruptcy</b>
<b>Assets Available for Realization</b>			
Cash	a	55,147	55,147
Purchase Price from the Amacon Transaction	b	17,350	-
Proceeds from Sale of Remaining Assets	c	TBD	TBD
GST receivable	d	TBD	TBD
		<u>72,497</u>	<u>55,147</u>
<b>Less: Priority Claims and Insolvency Claims</b>			
Potential deemed trust claim	e	unknown	unknown
Unpaid success fees subject to Success Fee Charge	f	1,501	1,501
Professional fees subject to Administration Charge	g	TBD	TBD
		<u>1,501</u>	<u>1,501</u>
<b>Net Realizations Available to Affected Claimants</b>		<b>70,996</b>	<b>53,646</b>
<b>Allowed Affected Claims</b>	h	13,093	13,093
<b>Unresolved Claims</b>			
Disputed Claims	i	8,622	8,622
Other unresolved claims	j	11,375	11,375
Contingent 1974 Pension Plan Claim		<u>1,201,271</u>	<u>1,201,271</u>
<b>Total Potential Allowed Claims</b>		<b>1,234,361</b>	<b>1,234,361</b>
<b>Estimated Recovery to Affected Claimants prior to outstanding and future professional fees and other costs</b>		<b>5.8%</b>	<b>4.3%</b>

39. As illustrated and described above, the contingent Claim of the 1974 Pension Plan has been included in the analysis to calculate potential distributions in the event that this claim is successfully proven. However, this claim is currently being challenged by Walter Canada. If the claim of the 1974 Pension Plan is found not to be a provable claim, it is anticipated that all creditors of Walter Canada will be paid in full (other than the creditor who is owed unpaid interest on the Promissory Note).
40. The Monitor notes as follows in respect of the above table:
- a) The opening cash balance represents monies held by the Monitor as at December 7, 2016 with all U.S. dollar holdings converted at current exchange rates;
  - b) Additive to the Proposal scenario is the collection of the Purchase Price of \$17,350,000, plus the sum of \$200,000 worth of investments that will remain in the Old Walter Entities;

- c) Walter Canadian Coal Partnership holds ownership interests in the UK Interest and the Belcourt Interest. A sale of the Belcourt Interest is anticipated to be completed and proceeds from the sale are included in current cash holdings out of the Conuma Transaction. While transactions may be completed for the sale of the UK Interest in the future there is no certainty that any realizations will be generated, and, accordingly, no realizations have been inserted for purposes of this analysis;
- d) Walter Canada's GST accounts are currently in a net credit position totaling approximately \$900,000. However, CRA has advised the Monitor that it is reviewing the accounts and is suspending payment until a conclusion of the review is reached;
- e) As previously discussed, the CRA is in the process of performing a trust examination related to a potential Crown Claim in respect of 2014, 2015 and 2016 payroll source deductions. Any such claim would enjoy a priority (as a deemed trust claim) over Walter Canada's creditors in both a bankruptcy and proposal scenario. CRA's claim in this regard has not been quantified at the date of this report;
- f) Unpaid success fees are owed to the CRO in the amount of US\$1.13 million and are secured under the Success Fee Charge granted pursuant to the January 5 Order;
- g) The balance of professional fees which are secured under the Administration Charge to a maximum of \$2.5 million pursuant to the Initial Order includes amounts owing to date as well as the expected fees to be incurred to the completion of the estates. Such costs have not been estimated for purposes of this report;
- h) Allowed Claims represent those Claims to which the Monitor has not filed a Notice of Revision or Dispute with the applicable Claimant and/or the Claimant has accepted the Notice of Revision or Dispute;

- i) Disputed claims represent those Claimants who responded with Notices of Dispute to the Monitor's Notices of Revision or Dispute by the required deadline. The Monitor is in the process of reviewing the Notices of Dispute received with Walter Canada; and
  - j) Unresolved claims represents one claim received from a First Nations group after the Claims Bar Date which is under review by Walter Canada and the Monitor.
41. Excluded currently from the above analysis is any accrued but unpaid interest on the Promissory Note that may be due by WECH. Pursuant to the Proposal, interest on the Promissory Note will only be relevant for distribution purposes in the event the 1974 Pension Plan claim is unsuccessful, and, accordingly such interest has not been considered herein. The impact of the interest on the Promissory Note on the distribution to Affected Claimants is anticipated to be negligible if the 1974 Pension Plan claim is not successful.
42. Based on the foregoing factors and primarily on the higher anticipated proceeds available to creditors under the Proposal, the Monitor, in anticipation of being appointed as the Proposal Trustee as currently contemplated by Walter Canada, recommends to Walter Canada's creditors that they vote in favour of the Proposal, which is anticipated to be finalized on substantially the same terms as the form of Proposal discussed herein.

#### **PROPOSED PROCEDURAL AMENDMENTS**

43. As discussed in the Aziz Affidavit, Walter Canada has determined that, in order to successfully complete the Amacon Transaction, certain proposed procedural changes under the BIA are necessary as, absent those Proposed Procedural Amendments, there is insufficient time to complete all of the necessary steps while still complying with all of the notice periods which would ordinarily be required pursuant to the BIA. Accordingly, the Bankruptcy Trustee will make an application to this Honourable Court for the BIA Procedural Order forthwith after the Old Walter Entities file their assignments in bankruptcy. A copy of the current draft form of the BIA Procedural Order as at December 9, 2016 is attached hereto as Schedule "D".

44. The following discussion describes the relief, including the Proposed Procedural Amendments, which is expected to be sought by the Bankruptcy Trustee in its application to this Honourable Court for the BIA Procedural Order, followed by the Monitor's comments in respect of the relief and any potential impact on Walter Canada's creditors and other stakeholders which may result therefrom.

#### **Consolidation of the Bankruptcy Proceedings**

45. The Bankruptcy Trustee shall seek, in the BIA Procedural Order, this Honourable Court's authorization to administer the procedural matters relating to the Bankruptcy Proceedings of the eleven Old Walter Entities on a consolidated basis as if the Bankruptcy Proceedings and the Proposal Proceedings were each a single proceeding under the BIA, including administering the following duties of both the Bankruptcy Trustee and the Proposal Trustee on a consolidated basis:
- a) the meetings of creditors;
  - b) reporting in respect of the debtor Old Walter Entities; and
  - c) all filings and notices as required under the BIA.

#### **Amendments to BIA Notice and Other Requirements**

46. To expedite the holding of the First Meeting of Creditors in the Bankruptcy Proceedings (the "FMOC"), as well as the subsequent Creditors' Meeting in the Proposal Proceedings as soon as possible upon commencement of the Bankruptcy Proceedings, the Bankruptcy Trustee shall seek authorization from this Honourable Court in the BIA Procedural Order to shorten the ordinary notice requirements under the BIA by ordering that the following actions shall be sufficient notice for the holding of both the FMOC and the Creditors' Meeting:
- a) the posting on the Bankruptcy Trustee's website (which shall be on the Monitor's Website) of the BIA Procedural Order and all notices given by the Bankruptcy Trustee and the Proposal Trustee;
  - b) the mailing by the Monitor, on November 29, 2016 and on December 7, 2016, of two separate notices to certain creditors of Walter Canada advising them of certain matters in respect of the Amacon Transaction; and

- c) the delivery by email or fax to all Claimants for whom the Monitor had email addresses or fax numbers on December 11, 2016 of the draft notice of the FMOC, draft notice of the Creditors' Meeting and draft notice of the Court application to approve the Proposal (the "**Sanction Hearing**").
47. The Bankruptcy Trustee shall also seek the following provisions in respect of the Bankruptcy Proceedings in the BIA Procedural Order:
- a) abridging of the requirements to satisfy the BIA requirements for the Bankruptcy Trustee to provide notice or information in respect of the FMOC (pursuant to section 102 of the BIA) and for the Proposal Trustee to report as to the appraisal and investigation of the affairs of the Old Walter Entities (pursuant to section 50(10) of the BIA);
  - b) satisfaction of any notice requirements under the BIA in advance of the Sanction Hearing by the issuance of the notices referred to in paragraph 46 above and by the Bankruptcy Trustee posting certain documents on the Monitor's Website as well as providing copies of those same documents to the Superintendent of Bankruptcy and the Official Receiver;
  - c) dispensing with the requirement for the Bankruptcy Trustee to publish notice of the FMOC in a newspaper pursuant to section 102(4) of the BIA;
  - d) deeming that all Claims filed or deemed to be filed in the CCAA Proceedings pursuant to the Claims Process Order will continue in the Bankruptcy Proceedings, such that Walter Canada's creditors (other than any who may have certain types of claims arising between the Filing Date in the CCAA Proceedings and the bankruptcy filing dates of the Old Walter Entities) do not need to prove their claims again; and
  - e) authorizing the Bankruptcy Trustee to file the Proposal as a joint proposal of the Old Walter Entities in the form in which it is filed with this Honourable Court in the Bankruptcy Trustee's application for the BIA Procedural Order, or as amended in accordance with its terms.



48. It is contemplated that the Proposal Proceedings shall be commenced forthwith after the FMOC is held in the Bankruptcy Proceedings (and very possibly on the same day), and, therefore, there will be insufficient time for the Proposal Trustee to seek an order from this Honourable Court for, amongst other things, provisions to expedite the holding of the Creditors' Meeting and proceeding to the Sanction Hearing. Accordingly, the Bankruptcy Trustee will seek the following provisions in the BIA Procedural Order in respect of the Proposal Proceedings:
- a) abridging and amending the Proposal Trustee's requirement to send all of the documents listed in section 51(1) of the BIA to every known creditor such that the posting of those documents on the Proposal Trustee's website (which shall be on the Monitor's Website, assuming that KPMG is the Proposal Trustee) and the delivery of those documents by email or fax to the creditors of the Old Walter Entities for which the Proposal Trustee has e-mail addresses or fax numbers will be good and sufficient delivery and notice of these documents;
  - b) authorizing Mr. William Aziz (CRO) to be an inspector in the Bankruptcy Proceedings if so appointed by the creditors at the FMOC;
  - c) abridging the time for holding the Sanction Hearing such that it will be held on December 16, 2016; and
  - d) abridging and amending the requirements pursuant to section 58 of the BIA such that the posting of the required notice of the Sanction Hearing on the Proposal Trustee's website will be good and sufficient notice of the Sanction Hearing, and that the posting of the Proposal Trustee's notice of application and its required report to this Honourable Court in respect of the Sanction Hearing (the "**Sanction Hearing Materials**") on the Proposal Trustee's website, along with delivering those documents by email or fax to the creditors of the Old Walter Entities for which the Proposal Trustee has e-mail addresses or fax numbers will be good and sufficient delivery and notice of the Sanction Hearing Materials.

## **Consultations with Stakeholders and Creditors**

49. Further to discussion in the Sixth Report, the Monitor and its counsel, and Walter Canada's counsel have engaged in discussions with certain of Walter Canada's key stakeholders in respect of the Proposed Procedural Amendments and to seek to address any of their concerns. This included providing a draft copy of the proposed BIA Procedural Order to representatives of the Superintendent of Bankruptcy and working with them to address their concerns in respect of certain provisions contained in the draft BIA Procedural Order. Such changes are reflected in the form of order attached hereto.
50. In addition, the Monitor has taken steps to provide as many as possible of Walter Canada's creditors with advance notice of the anticipated Bankruptcy Proceedings and Proposal Proceedings by delivering the notices referenced to above in paragraph 46, and to request that they submit email address or fax numbers to the Monitor to facilitate delivery of documents.

## **The Monitor's Conclusions Regarding the Proposed Procedural Amendments**

51. As has been set out herein and in the Sixth Report, the reason for the Bankruptcy Proceedings and the subsequent Proposal Proceedings of the Old Walter Entities is to facilitate the steps required to complete the Amacon Transaction by creating the New Walter Group, transferring the existing assets (generally speaking, cash) from each of the Old Walter Entities to the applicable member of the New Walter Group and deeming the applicable member of the New Walter Group to be liable for the Claims against the corresponding Old Walter Entity such that each of Walter Canada's Affected Claimants' rights and interests as against Walter Canada assets are preserved and replicated in the New Walter Group. The only expected impact on Walter Canada's Affected Claimants from both the Bankruptcy Proceedings and Proposal Proceedings is that there will be a larger pool of proceeds available for Walter Canada's stakeholders if the Amacon Transaction is completed.
52. The Monitor is of the view that in the circumstances, considering the significant incremental benefit which would be achieved for Walter Canada's stakeholders by completing the Amacon Transaction by December 31, 2016, and collecting \$17.35 million of additional value, and given that the Monitor has identified alternative delivery

mechanisms for various notices and other documents, and not identified an adverse impact to any of Walter Canada's stakeholders by this Honourable Court's granting of the proposed BIA Procedural Order, it is fair and reasonable for this Honourable Court to grant the proposed BIA Procedural Order abridging and amending certain notice periods and other requirements pursuant to the BIA.

## **HYBRID DEBT**

53. As previously noted, the Proposal provides that, as part of the restructuring process, the Promissory Note under the Hybrid Debt Structure will be unwound for no consideration after WECH has filed an assignment in bankruptcy.
54. Further discussion of the Hybrid is provided as follows:
- a) On April 1, 2011, Walter Energy U.S. acquired Western Coal Corp. ("**Western**") and its subsidiaries, and WECH was formed for the purpose of acquiring all of the outstanding common shares of Western for US\$3.3 billion, comprised of US\$2.1 billion of cash plus stock of Walter Energy U.S.;
  - b) WECH obtained the majority of funding for the acquisition of Western by way of the Hybrid Debt Structure, through the following transactions which occurred on April 1, 2011: (i) WECH issued a US\$2 billion promissory note to Walter Energy U.S. (the Promissory Note) in exchange for US\$2 billion of cash and shares of Walter Energy U.S.; (ii) Walter Energy Holdings, LLC ("**Walter LLC**") entered into a forward subscription agreement (the "**Subscription Agreement**") with WECH pursuant to which Walter LLC agreed to purchase shares of WECH for an aggregate subscription price equal to the principal amount of the Promissory Note (US\$2 billion); and (iii) pursuant to a guarantee (the "**Guarantee**") issued by Walter Energy U.S. in favour of WECH, Walter Energy U.S. guaranteed the performance of all of Walter LLC's obligations to WECH under the Subscription Agreement.
55. The Monitor is of the view that the overall Hybrid Debt Structure appears to be properly characterized as a debt transaction and therefore the Claim of Walter Energy U.S. against WECH with respect to the US\$2 billion Promissory Note would constitute a debt Claim.

Notwithstanding this US\$2 billion Claim, under the Promissory Note and the terms of the Guarantee, WECH is entitled to a right of set off of the obligations owing under the Promissory Note, with the obligations of Walter Energy U.S. to WECH under the Guarantee. Upon the extinguishment of the Promissory Note pursuant to the terms of the Proposal, there will be no further corresponding obligations of Walter Energy U.S. or Walter LLC.

56. U.S. counsel to Walter Energy U.S. has been served with all previous materials in the CCAA Proceedings, and will be served with Walter Canada's materials in respect of the Bankruptcy Proceedings.

**THE MONITOR'S OBSERVATIONS AND RECOMMENDATIONS**

57. In the Monitor's opinion, Walter Canada is continuing to act in good faith and with due diligence in an effort to realize on its remaining assets and further its restructuring efforts.
58. The Monitor is of the view that Affected Claimants should support the Proposal as it is intended to increase the total pool of proceeds available for distribution to Walter Canada's creditors while preserving the same priority of the creditor' claims, and is ultimately in the best interests of all of Walter Canada's stakeholders.
59. The Monitor is also of the view that the Proposed Procedural Steps, including the abridgement of certain notice periods and deemed meeting provisions, are necessary to effect the Amacon Transaction and are reasonable in the circumstances given that no creditors are being compromised in the Proposal, and in the end additional proceeds will be available to satisfy the claims against Walter Canada.

All of which is respectfully submitted this 11<sup>th</sup> day of December, 2016.

**KPMG INC., in its sole capacity as  
Monitor of Walter Energy Canada Holdings, Inc. et al**



Per: Philip J. Reynolds  
*Senior Vice President*



Per: Anthony Tillman  
*Senior Vice President*

## **Schedule “A”**

### **List of Petitioners, Partnerships and Affiliates**

**Petitioners**

Walter Canadian Coal ULC  
Wolverine Coal ULC  
Brule Coal ULC  
Cambrian Energybuild Holdings ULC  
Willow Creek Coal ULC  
Pine Valley Coal, Ltd.  
0541237 BC, Ltd.

**Partnerships**

Walter Canadian Coal Partnership  
Wolverine Coal Partnership  
Brule Coal Partnership  
Willow Creek Coal Partnership

**Corporate Affiliates**

Belcourt Saxon Coal Ltd.  
Belcourt Saxon Coal Limited Partnership

## **Schedule “B”**

**The Pre-Filing Report (without appendices)**

File No. \_\_\_\_\_

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**

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

**AND**

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

**PETITIONERS**

**PRE-FILING REPORT OF THE PROPOSED MONITOR, KPMG INC.**

**DECEMBER 6, 2015**



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## INTRODUCTION

1. KPMG Inc. (“**KPMG**” or the “**Proposed Monitor**”) understands that Walter Energy Canada Holdings, Inc. (“**WECH**”), Walter Canadian Coal ULC (“**WCC**”), Wolverine Coal ULC (“**WC**”), Brule Coal ULC (“**BC**”), Cambrian Energybuild Holdings ULC (“**CEH**”), Willow Creek Coal ULC (“**WIC**”), Pine Valley Coal Ltd. (“**PVC**”) and 0541237 BC Ltd. (collectively, the “**Petitioners**”) intend to bring an application before this Honourable Court seeking certain relief (in the form of an initial order (the “**Proposed Initial Order**”)) under the *Companies’ Creditors Arrangement Act*, R.S.C 1985, c. C-36, as amended (the “**CCAA**”) granting, *inter alia*, a stay of proceedings until January 6, 2016 and appointing KPMG as Monitor (the “**Monitor**”). The Petitioners will also request that this Honourable Court exercise its jurisdiction to extend a stay of proceedings and other relief as set out in the Proposed Initial Order to certain of the Petitioners’ partnerships and affiliates listed on Schedule “A” hereto (collectively with the Petitioners, “**Walter Canada**”). The proceedings to be commenced by the Petitioners under the CCAA will be referred to herein as the “**CCAA Proceedings**”.
2. This pre-filing report (the “**Pre-Filing Report**”) has been prepared by the Proposed Monitor prior to and in contemplation of its appointment as Monitor in the CCAA Proceedings to provide information to this Honourable Court for its consideration of the Petitioners’ initial CCAA application.
3. The purpose of this Pre-Filing Report is to provide the following information to this Honourable Court:
  - a) KPMG’s qualifications to act as Monitor (if appointed);
  - b) A general background to the proposed CCAA Proceedings and a business overview of Walter Canada, including its existing cash management system;
  - c) An overview of environmental matters in respect of Walter Canada’s operations;
  - d) An overview of Walter Canada’s 13-week cash flow forecast (the “**CCAA Cash Flow Forecast**”) and the Proposed Monitor’s assessment thereof;

- e) The relief being sought in the Proposed Initial Order, including the proposed Court-ordered Directors' Charge and the Administration Charge, all as further described herein; and
- f) The Proposed Monitor's conclusion.

## **REPORT RESTRICTIONS AND SCOPE LIMITATIONS**

- 4. In preparing the Pre-Filing Report and making the comments herein, the Proposed Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by Walter Canada, discussions with management of Walter Canada ("**Management**") and information from other public third-party sources (collectively, the "**Information**"). Except as described in this report in respect of Walter Canada's CCAA Cash Flow Forecast:
  - a) The Proposed Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Proposed Monitor expresses no opinion or other form of assurance in respect of the Information; and
  - b) Some of the information referred to in this Pre-Filing Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.
- 5. Future oriented financial information referred to in this Pre-Filing Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be material.

6. The information contained in this report is not intended to be relied upon by any prospective purchaser or investor in any transaction with Walter Canada.
7. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian Dollars (“C\$” or “CAD”).

#### **KPMG’S QUALIFICATIONS TO ACT AS MONITOR**

8. KPMG is a trustee within the meaning of section 2(1) of the *Bankruptcy and Insolvency Act* (Canada). Further, KPMG is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA.
9. KPMG has consented to act as Monitor of the Petitioners should this Honourable Court grant the Petitioners’ request to grant the Proposed Initial Order.
10. The Proposed Monitor has retained McMillan LLP to act as its independent counsel.
11. KPMG was first introduced to Walter Canada in April 2015 and was formally engaged as financial advisor to Walter Canada on or about April 14, 2015. Since it first became involved with Walter Canada, KPMG has been provided with updates regarding the activities of Walter Canada including the ongoing restructuring process in the U.S. as it relates to the parent company, Walter Energy, Inc. (“**Walter Energy U.S.**”) and any developments related to Walter Canada. This involvement has enabled KPMG to form preliminary observations related to certain of the relief Walter Canada is now seeking. It has been agreed to by WECH that KPMG’s engagement as financial advisor will terminate immediately upon the appointment of KPMG as Monitor, if so appointed.
12. KPMG LLP has provided tax services to Walter Canada since 2011. KPMG LLP has also provided tax services to Walter Energy U.S. since 2009. We do not consider our role as tax advisor or as financial advisor to Walter Canada as a conflict of interest as it relates to KPMG’s role as Monitor.

## **BACKGROUND REGARDING THE PETITIONERS AND THEIR APPLICATION FOR RELIEF UNDER THE CCAA**

### **Overview**

13. As is more fully described herein and in the Initial Order Affidavit (as subsequently defined), Walter Canada is facing business and operational challenges that have necessitated its request for relief under the CCAA, including but not limited to:
  - a) A challenging metallurgical coal market which has forced Walter Canada to idle its mines and implement care and maintenance programs until market conditions improve. As a result, Walter Canada will not generate revenue from operating activities until mining operations resume;
  - b) Significant ongoing costs of approximately \$16 million per year which are required to continue the care and maintenance activities of the mines and fund Walter Canada's other ongoing costs;
  - c) Material known obligations that are currently due or accruing due in the near term;
  - d) Finite cash resources that will be depleted as mining operations remain idled and ongoing costs are funded. The depletion of these resources will materially and adversely affect the Petitioners' ability to resume mining operations as and when market conditions improve; and
  - e) The pending loss of financial and managerial support from Walter Energy U.S. (Walter Canada's ultimate parent company) as a result of developments in its Chapter 11 Cases in the U.S. (as subsequently defined and described herein).
  
14. The Proposed Monitor understands that the primary purpose and intent of these CCAA proceedings is to:
  - a) Stabilize the affairs of Walter Canada;
  - b) Initiate discussions with stakeholders including the appropriate governmental authorities with regard to the status of the mines; and
  - c) With the assistance of its advisors and the Proposed Monitor, initiate a comprehensive program to sell, refinance or recapitalize the operations of Walter Canada, likely through a Sales and Investment Solicitation Process ("SISP"), which is to be developed.

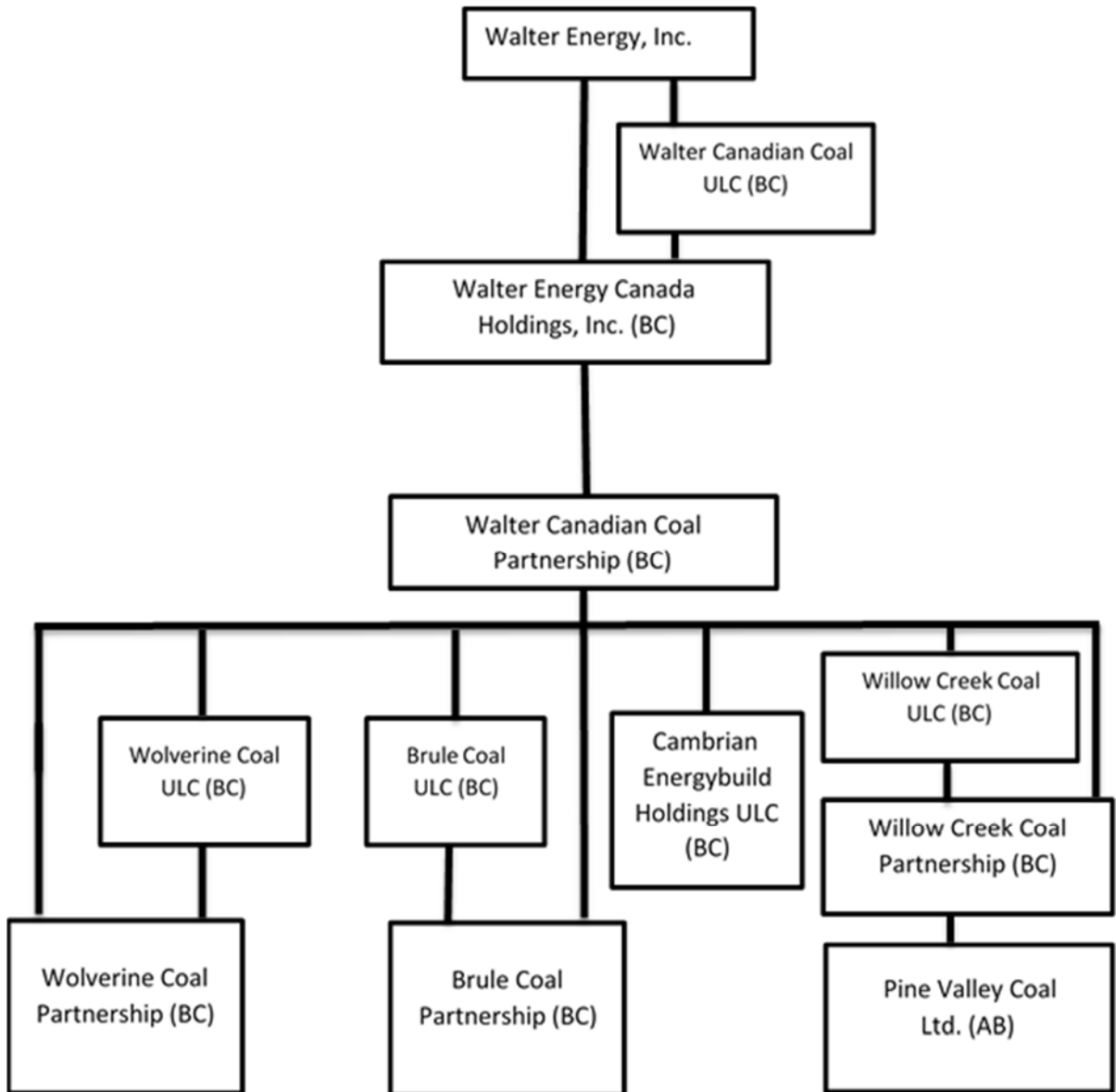
## Background

15. A comprehensive background with respect to the Petitioners including recent events leading up to their CCAA application and their current state of affairs can be found in the Affidavit of William G. Harvey sworn December 4, 2015 and filed in support of the Petitioners' application to this Honourable Court for relief under the CCAA (the "**Initial Order Affidavit**") and is therefore not repeated herein. Capitalized terms used herein and not otherwise defined have the meaning given to them in the Initial Order Affidavit.
16. WECH was formerly Western Coal Corp. ("**Western Coal**") which was acquired by Walter Energy U.S. in April 2011. As a result of the downturn in global coal markets, Walter Energy U.S. faced several financial challenges and filed for bankruptcy protection under Chapter 11 of the U.S. Bankruptcy Code on July 15, 2015. As a result of a sale process underway in Walter Energy U.S.' insolvency proceedings where its senior lenders have advanced a stalking horse bid with an auction set for January 5, 2016, the majority of Walter Energy U.S.' assets are expected to be sold to a new company effective late February 2016. Walter Canada and its assets are not included in the stalking horse bid and Walter Canada will likely be left without financial or operational support from its parent company by the end of February 2016 unless other arrangements are made with the purchaser.
17. Walter Canada produces and exports metallurgical coal for the global steel industry from its operations in northeastern British Columbia, and Walter Canada's UK subsidiaries produce anthracite coal (mainly for power generation) from their operations in the United Kingdom. Weakening steel demand globally has led to dramatic decreases in metallurgical coal prices that have made the mining, processing and sale of metallurgical coal unprofitable for the Petitioners. As a result, Walter Canada ceased coal mining between April 2013 and June 2014 at its three sites and has placed its mines into care and maintenance. Between May 2014 and September 2015, Walter Canada processed and sold the remaining stores of substantially all of its mined coal and has no projected revenue at this time.

## Ownership Structure

18. As shown in the simplified corporate organization chart below, WECH is a wholly owned subsidiary of Walter Energy U.S. WECH holds a 99.99% interest in the Walter Canadian Coal Partnership (“**WCCP**”), which in turns holds a 99.99% interest in three partnerships: Brule Coal Partnership (“**BCP**”), Willow Creek Partnership (“**WiCP**”) and Wolverine Coal Partnership (“**WoCP**”) that each own one mine. The remaining 0.01% interests in each of the partnerships are held by unlimited liability companies, WCC, WC, BC and WIC. A fourth partnership (Belcourt Saxon LP. (“**BSLP**”)) holds WECH’s joint venture interest in the Belcourt Saxon development property. WCCP also owns CEH which owns Energybuild Group Limited, a UK based company that ultimately owns an anthracite coal mine in South Wales (collectively, these UK based companies will be referred to herein as “**Walter UK**”). A more detailed corporate organization chart of Walter Energy U.S.’s, Canadian and UK companies is attached hereto as Schedule “B”.





**Walter Canada’s Canadian Operations**

19. Walter Canada maintains three surface metallurgical coal mines in northeast BC’s coal fields. It also owns a 50% joint venture interest in the Belcourt Saxon development property. The Proposed Monitor understands the other Belcourt Saxon joint venture partner is (indirectly through Peace River Coal) Anglo American plc, a multi-national mining company. The table below summarizes certain information with respect to Walter Canada’s Canadian operations.

<b>Walter Canada Summary Table</b>					
<b>Site Attributes</b>	<b>Walter Canada Mine Site / Office Locations</b>				
	<b>Brule</b>	<b>Willow Creek</b>	<b>Wolverine / Perry Creek</b>	<b>Belcourt Saxon Properties</b>	<b>NEBC Regional Office</b>
<b>Location</b>	28 miles south of Chetwynd, B.C.	28 miles west of Chetwynd, B.C.	15 miles south of Tumbler Ridge, B.C.	Tumbler Ridge, B.C. (55 miles south)	Tumbler Ridge, B.C.
<b>Product</b>	Metallurgical/ PCI <sup>(1)</sup>				N/A
<b>On-site processing and rail load out</b>	No - coal shipped to Willow Creek for processing	Yes	Yes	N/A	N/A
<b>Parent Company</b>	WECH through Walter Canadian Coal Partnership			JV between Belcourt Saxon LP (50%) and Peace River Coal (50%)	WECH
<b>Estimated Operating Mine Life (years)<sup>(2)</sup></b>	8	10	4 <sup>(3)</sup>	N/A	N/A
<b>Estimated Reserves (million metric tons)<sup>(4)</sup></b>	16.6	16.6	8.8	15.5	N/A
<b>Operating Status</b>	Care & maintenance <sup>(5)</sup>			Exploration Property	N/A
<b>Average number of employees when operating<sup>(4)</sup></b>	200	350	425	N/A	N/A
<b>Organization of employees<sup>(4)</sup></b>	Non Unionized	CLAC (Christian Labor Association of Canada)	USW (United Steelworkers)	N/A	N/A
<b>Estimated monthly care &amp; maintenance costs (C\$)<sup>(6)</sup></b>	\$652,000	Included in Brule costs	\$515,000	N/A	\$163,000
<b>Annual license renewal payments<sup>(6)</sup></b>	Included in estimated monthly care & maintenance costs			\$402,000 (Belcourt Saxon's 50% share)	
<b>Current Headcount</b>	4	4	4		7

<sup>(1)</sup> PCI = pulverized coal injection  
<sup>(2)</sup> Source = Walter Energy, Inc. Form 10K Annual Report for the year ended December 31, 2014 and Initial Order Affidavit  
<sup>(3)</sup> Operating mine life may be extended up to 10 years if nearby sites developed  
<sup>(4)</sup> Source = Initial Order Affidavit  
<sup>(5)</sup> Brule, Willow Creek and Wolverine mines idled in June, May and April, 2014, respectively.  
<sup>(6)</sup> Source = Walter Canada 2016 budget dated September 2, 2015

20. Walter Canada's mines are idled and being managed under a regimented care and maintenance program. All equipment has been winterized. Walter Canada's staff complement has been reduced to 19 full time employees: 12 of whom provide security at the mine sites while the remaining 8 individuals provide maintenance, general management, environmental monitoring and reporting, and engineering support. In addition, up to 7 part-time employees have been retained to perform specific tasks as needed.
21. Walter Canada holds other coal permits adjacent to or nearby the above-noted operations that could extend the life of its operations in British Columbia.

22. Walter Canada's officers and directors consist of:
- a) Mr. William Harvey, Chief Financial Officer of WECH;
  - b) Mr. Dan Stickel, President of WECH and Director of all Walter Canada entities as well as a director of Walter UK; and
  - c) Mr. Al Kangas, General Manager of Walter Canada and Director of Pine Valley Coal Ltd.
23. Walter Canada's officers and directors have agreed to continue in their exiting roles, at least in the near term, during the CCAA Proceedings (should the Proposed Initial Order be granted).

#### **Walter Canada's Financial Position**

24. Consolidated financial information is provided below and select unconsolidated financial information for Walter Canada is set out for illustrative purposes in Schedule "C".

#### Assets

25. The table below presents a consolidated summary of Walter Canada's assets pursuant to their books and records as at October 31, 2015, updated where possible for known material transactions and events subsequent thereto.

<b>Walter Canada Consolidated Asset Summary (unaudited) As at October 31, 2015 (unless otherwise noted below) (\$ millions)</b>	<b>Note Reference</b>	<b>US\$</b>	<b>C\$<sup>(1)</sup> Equivalent</b>
<b>Assets</b>			
Cash	2	40.6	53.1
Accounts Receivable	2	-	-
Inventory	3	28.8	37.7
Prepays and Security Deposits		2.0	2.6
Due from (to) Walter Energy US		(8.1)	(10.6)
Due from Walter UK		0.7	0.9
Land, Building, Leaseholds, Machinery and Equipment, net		75.4	98.7
Deferred Tax Assets		3.5	4.6
Investment In Walter UK	4	233.4	305.3
<b>Total Assets<sup>(5)</sup></b>		<b>376.3</b>	<b>492.4</b>
<b>Notes:</b>			
1. US\$ converted to C\$ at October 30, 2015 rate of US\$1 = C\$1.3083.			
2. Represents the consolidated cash balance for week beginning December 5, 2015. The accounts receivable balance as at October 31, 2015 was approximately US\$16.3 million and related primarily to WECH's final coal shipment for which payment was received in the week ended November 14, 2015.			
3. Consists of remaining coal inventory and supplies and stores inventory.			
4. Walter UK has idled its operations.			
5. Total assets differs from October 31, 2015 balance sheet by approximately US\$2.7 million on account of the net negative cash flow experienced by Walter Canada between October 31, 2015 and December 4, 2015.			

26. Walter Canada's assets currently consist of cash generated primarily from the sale of its coal inventories since the spring of 2014, mining equipment and plants, supply and store's inventory, an intercompany receivable due from Walter UK and its investment in Walter UK.

## Liabilities

27. The table below presents a consolidated summary of Walter Canada's liabilities pursuant to Walter Canada's books and records as at October 31, 2015, updated where possible for known material transactions and events subsequent thereto.

<b>Walter Canada Consolidated Liabilities Summary (unaudited) As at October 31, 2015 (unless otherwise noted) (\$ millions)</b>	<b>Note Reference</b>	<b>US\$</b>	<b>C\$<sup>(1)</sup> Equivalent</b>
<b>Liabilities</b>			
Accounts Payable and Accrued Expenses		4.3	5.6
Deferred Tax Liability		3.5	4.6
Mineral Tax Liability (2005-2009)	2	0.8	1.0
Other Tax Accruals	3	2.1	2.8
Asset Retirement Obligation	4	57.4	75.1
Other Long term Liabilities		0.9	1.1
<b>Total Liabilities</b>		<b>69.0</b>	<b>90.3</b>
<b>Contingent or unrecorded liabilities<sup>(7)</sup></b>			
USW Severance and Other USW Claims	5	14.2	18.6
Letters of Credit	6	16.9	22.1
<b>Total Contingent Liabilities</b>		<b>31.1</b>	<b>40.7</b>
<b>Total Recorded and Contingent Liabilities</b>		<b>100.1</b>	<b>131.0</b>
<b>Notes:</b>			
1. US\$ converted to C\$ at October 30, 2015 rate of US\$1 = C\$1.3083.			
2. Represents one remaining payment on account of Walter Canada's assessed mineral tax liability in respect of the period 2005-2009.			
3. Walter Canada's estimate of its other potential tax liability exposures. This amount is accrued in Walter Canada's financial statements, but remains subject to assessment by the taxation authorities.			
4. Accounting estimate of costs to reclaim Walter Canada's mine sites at the end of their useful lives, assuming the mines continued to operate to the end of their estimated useful lives.			
5. Consists of Walter Canada's estimate of its potential obligations estimated to be owing in respect of approximately 300 temporarily laid off employees from the Wolverine mine who are members of the USW for possible severance, notice and benefit entitlements if they are not recalled to work prior to April 2016.			
6. Potential claim from Bank of Nova Scotia to fund outstanding letters of credit in favour of certain regulators, including the Chief Inspector of Mines, for future reclamation costs.			
7. These items are not currently recorded in Walter Canada's balance sheet.			

28. Since the complete idling of its operations in the spring of 2014, Walter Canada has paid its suppliers and employees in the normal course. As employees were terminated they received working notice and/or severance payments as applicable. Following Walter Energy U.S.' Chapter 11 filing in July 2015, several suppliers have requested payment in advance or upon delivery of supply or service. Accordingly, Walter Canada's trade accounts payable balance has declined. The balance of Walter Canada's liabilities as at October 31, 2015 consist of:

- a) Accounts payable and accrued liabilities totaling \$4.3 million which includes current trade payables and accruals for outstanding transportation rebates and costs related to relocating assets for a former mine contractor whose assets remain at the Brule site;
- b) Mineral taxes – In June 2015, the British Columbia Ministry of Finance finalized its assessment of Walter Canada's mineral tax accounts in respect of its 2005-2009 taxation years at \$6.4 million, which include assessed interest and penalties. Walter Canada entered into a monthly repayment plan with the British Columbia Ministry of Finance whereby this liability would be repaid in equal installments over six months between July and December, 2015. One final payment of approximately US\$0.8 million (\$1.0 million) is due in December 2015; and
- c) Asset retirement obligations – As at October 31, 2015 Walter Canada's accounting liability in connection with reclaiming activities with respect to the mines to the end of their lives was approximately US\$57.4 million. This liability is calculated based on the estimated number of hectares to reclaim at the end of the mines' lives multiplied by the reclamation cost per hectare based on Walter Canada's recent reclamation activities, all discounted to their present value. The actual cost to reclaim Walter Canada's mines sites may differ materially from this accounting estimate. As noted in the Initial Order Affidavit, Walter Canada estimates that the cost to reclaim the mines in their current state (i.e. if the reclamation work was to be undertaken now rather than at the end of the life of the mines) could be in the range of \$36-\$42 million. These reclamation obligation estimates are based upon the five year mine plans that have not yet been approved by the Ministry of Energy

and Mines.

29. Excluded from the above summary of liabilities are Walter Canada's obligations with respect to a hybrid note of US\$2.0 billion (the "**Hybrid Note**") that was issued to Walter Energy U.S. in connection with the funding it provided on the purchase of Western Coal in 2011. The Hybrid Note structure is described in the Initial Order Affidavit. The Hybrid Note obligation is recorded on Walter Canada's financial statements as capital surplus (i.e. equity).

### Liquidity

30. Walter Canada currently has approximately US\$40.6 million of cash which is expected to be used to maintain its idled operations under its existing care and maintenance program as well as carry out its restructuring plans. However, it has no sources of operating revenue and insufficient funds to restart the mines in light of the several liabilities due and accruing that may deplete Walter Canada's cash considerably in the near term. These liabilities include accounts payable of US\$4.3 million, mineral tax liabilities in respect of 2005-2009 of US\$0.8 million (total US\$5.1 million) and contingent claims totaling US\$31.1 million (estimated USW claims of US\$14.2 million and outstanding letters of credit US\$16.9 million). These represent the claims that are known to Walter Canada; additional unidentified claims may exist that have not yet been advanced or asserted.
31. The Proposed Monitor understands that if these liabilities must be satisfied in the short term then Walter Canada's liquidity would be depleted significantly prior to accounting for the Company's regular forecast cash flow requirements. Accordingly, management has advised the Proposed Monitor that it requires the protection of this Honourable Court to allow Walter Canada time to implement its restructuring plans.

### **Cash Management System**

32. Walter Canada utilizes an account network at the Bank of Nova Scotia ("**BNS**"). Each of WCCP and the three Canadian partnerships (BCP, WiCP and WoCP) maintain a Canadian Dollar and a U.S. Dollar account at BNS.

33. Walter Canada's cash handling functions, along with many of its other administrative and management functions, are generally managed by Walter Energy U.S. pursuant to a Management Services Agreement. Currently, Walter Energy U.S. is responsible for the receipt and management of the majority of Walter Canada's receipts and disbursements.
34. In the near term, the Proposed Monitor proposes to oversee Walter Canada's bank accounts and disbursements by conducting weekly reviews of:
  - a) Purchase orders that Walter Canada intends to issue to ensure such expenses are required for the care and maintenance of Walter Canada's mines and assets; and
  - b) Planned disbursements (i.e. cheques and wire transfers) to ensure that such disbursements i) are properly supported with purchase orders, ii) were approved before the services or goods were received and iii) that if the payment relates to the pre-filing period, the supply and/or service was required for the care and maintenance of Walter Canada's mines and assets.
35. The Proposed Monitor is advised that full custody of the bank accounts and related authorities will be fully transitioned over to Walter Canada executives and employees in the short term.

#### **Walter UK**

36. As noted above, WECH owns 100% of the shares of CEH, which in turns owns the Walter UK companies. Walter UK's primary asset is an underground development mine located in South Wales that, until it was idled earlier this year, produced anthracite coal. Walter UK has reduced development spending of this mine since 2012 due to challenges related to an oversupply of coal and decreased demand. Since being idled, staffing has been reduced to seven employees that provide security, management, environmental monitoring and reporting and limited sales of thermal coal to coal merchants that sell coal to businesses and residences to heat their properties.



37. The Walter UK mine is currently in a “hot” idled state such that fans and water pumps are operating underground to ensure that air moves throughout the mine and ground water is removed so that the mine does not fill with water.
38. Walter UK operates relatively independently of WECH and Walter Energy U.S. and maintains its own accounts and financial and operating records. Walter UK has historically received financial support from Walter Energy U.S. and Walter Canada. Walter UK would no longer receive financial and management support from Walter Energy U.S. in the event that the sale transaction contemplated in Walter Energy U.S.’s Chapter 11 proceedings is completed.
39. Walter UK’s recent financial reporting indicates that it currently has approximately US\$2.6 million in cash as of December 5, 2015. This balance results primarily from US\$3 million in funding provided by Walter Canada in June 2015. Walter Energy U.S. management has estimated the annual costs to maintain the mine in its current state to be approximately US\$3.6 million. Accordingly, Walter UK is projected to have sufficient funding to maintain the mine until approximately the end of the third quarter of 2016 barring any unforeseen circumstances.
40. The Proposed Monitor understands that Walter UK is relatively current with its suppliers and its creditor pool is small both in number and amounts due to creditors. The insurance coverage expires on December 31, 2015, but Walter Energy U.S. is arranging renewal of the insurance at least until the end of February 2016. Walter UK estimates that the reclamation liabilities associated with the mine are approximately £2-3 million (US\$3-4.5 million).
41. The Proposed Monitor intends to work with WECH and Walter UK to develop a plan to maximize value for its stakeholders as the CCAA proceeding progresses.

## ENVIRONMENTAL MATTERS

42. Walter Canada's operations are subject to various environmental laws and regulations including the *Environmental Assessment Act*, *the Mines Act*, *the Environmental Management Act* and *the Fisheries Act*. Walter Canada manages several environmental matters that include ongoing environmental monitoring and reporting and mine reclamation activities.
43. The Proposed Monitor has reviewed the Initial Order Affidavit, particularly paragraphs 53 to 59 and 85 to 95 with respect to environmental permitting, reclamation and bonding requirements. To better understand these matters, the Proposed Monitor has retained a third party environmental consultant, Knight Piesold, to provide the Proposed Monitor with ongoing advice and analysis with respect thereto.
44. The Proposed Monitor understands that as part of its restructuring efforts and CCAA filing, the Petitioners intends to meet with the relevant regulators as soon as practicable after the CCAA filing to discuss environmental permitting, reclamation and bonding matters and options that may exist to maximize value for Walter Canada's stakeholders. The Monitor intends to participate in these discussions.

## CCAA CASH FLOW FORECAST AND PROPOSED MONITOR'S ASSESSMENT THEREOF

45. Walter Canada, with the assistance of the Proposed Monitor, has prepared the CCAA Cash Flow Forecast on a consolidated basis for the period from December 5, 2015 to March 5, 2016 (the "**Cash Flow Period**"). A copy of the CCAA Cash Flow Forecast, Management's representation thereon and the Pre-Filing Monitor's report thereon are attached as Schedule "D" to this Pre-Filing Report.
46. The CCAA Cash Flow Forecast is presented on a weekly basis and represents Management's estimates of the projected cash flow during the Cash Flow Period. The CCAA Cash Flow Forecast has been prepared by Management of Walter Canada using probable and hypothetical assumptions set out in notes to the CCAA Cash Flow Forecast.

47. The Proposed Monitor has reviewed the CCAA Cash Flow Forecast as to its reasonableness as required by Section 23(1) (b) of the CCAA. In accordance with the requirements of the CCAA, the Proposed Monitor provides its report on the CCAA Cash Flow Forecast in prescribed form (attached at Schedule "D"). As stated in its report, nothing has come to the Proposed Monitor's attention that indicates that the CCAA Cash Flow Forecast is unreasonable given its stated assumptions.
48. A summary of the CCAA Cash Flow Forecast is set out in the table below:

<b>Walter Energy Canada Holdings Inc. et al</b>	
<b>Consolidated Cash Flow Forecast Summary</b>	
<b>Unaudited (USD \$000)</b>	
<b>For the 13-week period</b>	
<b>December 5, 2015 to March 5 2015</b>	
<b>Cash Inflow</b>	
Asset Sales	\$ 910
Other Receipts	164
<b>Total Cash Inflow</b>	<b>1,074</b>
<b>Cash Outflow - Operating Disbursements</b>	
Payroll	(459)
Payroll Taxes	(191)
Benefits	(68)
Operating Leases and Storage Facilities	(34)
Taxes	(1)
Mineral Taxes	(802)
Utilities	(141)
Fuel	(36)
Maintenance, Supplies, & Other Op. Exp.	(782)
Other	(641)
<b>Total Cash Outflows - Operating Disbursements</b>	<b>(3,154)</b>
<b>Cash Outflow - Non-operating Disbursements</b>	
Restructuring Advisor Fees	(2,250)
Management Services	(2,400)
Bank Fees and Interest	(263)
<b>Total Cash Outflows - Non-operating Disbursements</b>	<b>(4,913)</b>
<b>Net Cash Flow</b>	<b>(6,993)</b>
<b>Cash, beginning of period (December 5, 2015)</b>	<b>40,584</b>
<b>Cash, end of period (March 7, 2015)</b>	<b>\$ 33,590</b>
<b>Note 1:</b> Readers are cautioned to read the "Report Restrictions and Scope Limitations" section of this report.	

49. With respect to the CCAA Cash Flow Projection:
- a) The Petitioners expect to have combined cash resources in the order of approximately US\$40.6 million available at the beginning of the Cash Flow Period and, with expected net cash outflow of US\$7.0 million, approximately US\$33.6 million remaining at the end of the Cash Flow Period;
  - b) The following is a general breakdown of the significant components of the forecast US\$7.0 million net cash outflow in the Cash Flow Period by operating and other key categories:
    - i. Walter Canada is expected to collect net cash proceeds of US\$910,000 (gross proceeds of US\$1.2 million less estimated disassembly and shipping costs) from Walter Energy U.S. in late January 2016 pursuant to the proposed sale of three bulldozers in December, 2015 (as subsequently discussed herein and further in the Initial Order Affidavit);
    - ii. Other forecast receipts are comprised of US\$164,000 of GST tax refunds anticipated to be received throughout the period;
    - iii. Forecast payroll costs (US\$459,000), payroll taxes (US\$191,000) and benefits (US\$68,000) for WECH's 19 full-time employees who provide security at the mine sites and other support services;
    - iv. Forecast real property leases for office space leases and supply inventory storage facilities of US\$34,000;
    - v. A forecast outflow representing the final installment with respect to Walter Canada's assessed mineral tax liability in respect of 2005-2009 of US\$802,000 to be paid in December 2015;
    - vi. Forecast utilities of US\$141,000 for electricity, propane and natural gas at the Company's sites;
    - vii. Forecast fuel costs of US\$36,000 for diesel purchases required to run generators and other equipment at the mine sites;

- viii. Forecast maintenance and supplies of US\$782,000 for costs required to keep the mine assets secured as well as required maintenance for the equipment;
  - ix. Forecast other costs of US\$641,000 include disbursements related to environmental testing and monitoring, including external engineers;
  - x. Forecast restructuring advisor fees of US\$2.25 million for professional fees expected to be paid to the Company's counsel and the Proposed Monitor and its counsel;
  - xi. Forecast management services to be provided by Walter Energy U.S. in the forecast period of US\$2.4 million. Such services include payroll and payment processing, accounting and financial reporting, taxation, legal, information technology services, technical and engineering services, management services and insurance premiums. These intercompany charges are funded on a monthly basis and Walter Energy U.S. currently charges WECH approximately US\$800,000 per month for these services; and
  - xii. Bank fees are charges associated with renewals of letters of credit and actual fees for use of WECH's account network at BNS;
- c) Walter Canada is planning to fund certain pre-filing trade payable claims not to exceed \$200,000 in the normal course that relate to goods and/or services that were required to maintain the care and maintenance of Walter Canada's mines;
- d) Walter Canada's property, liability and other insurance coverage is funded annually by Walter Energy U.S. with most policies expiring on June 30, 2016. Current monthly management costs charged by Walter Energy U.S. include an allocation of monthly prepaid insurance costs. Certain policies are purchased directly by Walter Canada (e.g. automobile insurance) while others are purchased by Walter Energy U.S. and coverage is allocated and/or shared amongst the divisions;

- e) Management expects to fund the cash flow requirements with current cash resources on hand and projected collections until the end of the Cash Flow Period; and
- f) The CCAA Cash Flow Projection indicates that Walter Canada has the necessary liquidity to fund its requirements over the Cash Flow Period.

## **RELIEF SOUGHT IN THE PROPOSED INITIAL ORDER**

### **Stay of Proceedings**

- 50. The Petitioners are seeking a stay of proceedings to provide them with “breathing room” to restructure their affairs and to stay certain known potential claims (as discussed above) while the Petitioners work with their advisors to develop a SISF in the short term. The Petitioners do, however, intend to make a limited number of pre-filing payments to critical suppliers as set out in the CCAA Cash Flow Forecast and as discussed above.
- 51. The Petitioners are also seeking to have the stay of proceedings and other provisions of the Proposed Initial Order extended to the following subsidiaries and affiliates of WECH:
  - a) WCCP, BCP, WiCP and WoCP, as these partnerships are the principal vehicles through which the mines are operated; and
  - b) BSCL, but only to prevent any action that may be taken to remove it as general partner of Belcourt Saxon Coal Limited Partnership or trigger any sale rights, thereby preserving the value in this joint venture project.

### **Payments during CCAA Proceedings**

- 52. Walter Canada intends to make pre-filing payments to suppliers as contemplated in the CCAA Cash Flow Forecast. Walter Canada has a number of critical contracts with equipment, lessors, mechanics, parts suppliers, road maintenance companies, warehouses, offsite equipment, storage and repair and environmental consultants. The Proposed Monitor is of the view that continued supply from these vendors will be essential for any proposed restructuring of the Walter Canada. For this reason, it is anticipated that certain pre-filing payments will be required to be made to suppliers in accordance with the CCAA Cash Flow Forecast that has been reviewed by KPMG as Proposed Monitor.

53. The Proposed Monitor is of the view that the above relief is reasonable and appropriate in the circumstances, taking into account the critical nature of these supply arrangements and the fact that these contracts are the only available source of supply to the remote areas of British Columbia where the Walter Canada's mines are situated.

#### **Enhanced Powers of the Monitor**

54. Given that Walter Canada does not currently have an internal cash management system and the aforementioned risk that, upon completion of the U.S. APA, cash management and other services currently provided by Walter Energy U.S. under the Management Services Agreement may be discontinued, the Petitioners are seeking to have the Proposed Monitor provided with certain enhanced powers under the Proposed Initial Order.
55. In addition, the Proposed Initial Order provides the Monitor with authority to participate in the Petitioners' discussions with stakeholders, including governmental authorities with respect to the property of Walter Canada and the impact of the SISP.

#### **Administration Charge**

56. The Proposed Initial Order contemplates a charge on the assets of the Petitioners in favour of counsel to Walter Canada, counsel to the Proposed Monitor and the Proposed Monitor as security for their respective fees and disbursements rendered in respect of the Petitioners in the aggregate amount of \$2.5 million (the "**Administration Charge**").
57. The Administration Charge is not to exceed \$2.5 million and is to rank in first priority over all other claims.
58. The Proposed Monitor is of the view that the proposed Administration Charge is reasonable and appropriate in the circumstances having considered the complexity of the proceedings, the work that has been done to date, the anticipated work levels of the applicable professional firms over the estimated duration of the CCAA proceedings and the size of charges approved in comparable proceedings.

## **Directors' and Officers' Charge**

59. The Proposed Initial Order grants an indemnity in favour of Walter Canada's directors and officers for any obligations or liabilities that they may incur as directors or officers of the applicable Walter Canada entities after the commencement of the CCAA Proceedings, except to the extent that such obligation or liability is incurred as a result of such director's or officer's gross negligence or willful misconduct.
60. The Proposed Monitor notes that this indemnification is consistent with the language in the British Columbia CCAA model order. The indemnification is proposed to be secured by a charge in an amount not to exceed \$2.5 million (the "**Directors' Charge**"). The proposed Directors' Charge would apply only to the extent that the directors and officers do not have coverage under the directors' and officers' insurance policies which are maintained by Walter Energy U.S. and provide coverage to the directors and officers of Walter Canada. The Directors' charge is proposed to be ranked only behind the Administration Charge. The calculation of the Directors' Charge is based on estimates of amounts that Directors could be liable for under British Columbia law, including potential tax liabilities, if these amounts are not paid.
61. The Proposed Monitor reviewed the calculation of the Directors' Charge that was prepared by Walter Canada taking into consideration the amount and timing of Walter Canada's payroll, vacation pay and certain tax liabilities.
62. The Proposed Monitor is of the view that the Directors' Charge is required and is reasonable and appropriate in the circumstances.

## **Equipment Sale to Walter Energy U.S.**

63. Walter Canada has negotiated the sale of three surplus bulldozers (the "**Equipment**") to Jim Walter Resources, Inc., a subsidiary of Walter Energy U.S. and a related party of Walter Canada (the "**Purchaser**"), for a purchase price of US\$1.2 million plus applicable taxes (the "**Purchase Price**"), or net US\$910,000 after accounting for disassembly and shipping costs. The Proposed Monitor was advised by Management that the Equipment is surplus and not essential to the operation of the mines.



64. The Proposed Monitor has been advised that Walter Canada has been attempting to sell the Equipment and other available equipment for over a year by delivering lists of such equipment to selected potential purchasers and by posting information with respect to such equipment on auctioneer websites. To date, no viable offers for the Equipment have been received.
65. The Proposed Monitor understands that the proposed net proceeds of US\$910,000 equals the value attributed to the Equipment in an appraisal of Walter Canada's mobile equipment that was conducted in July 2015. The Proposed Monitor is of the view that the proposed Purchase Price is fair and reasonable in the circumstances.
66. The Proposed Monitor understands that Walter Canada has marketed the Equipment prior to the commencement of these CCAA Proceedings in the manner described in the Initial Order Affidavit at paragraph 98. To ensure that the sale meets the requirements under section 36 of the CCAA, including: (i) that the process leading to the proposed sale is reasonable in the circumstances; (ii) good faith efforts were made to sell the Equipment to persons that are not related to Walter Canada; and (iii) that the proposed purchase price consideration is superior to any offer that may be received, following the granting of the Proposed Initial Order, the Proposed Monitor intends to expand and continue the marketing process to sell the Equipment for an additional period of two to three weeks in order to see if superior offers can be obtained.
67. Following the granting of the Proposed Initial Order, if a superior offer for the Equipment is not received by mid to late December, then the Proposed Monitor will deliver to the Purchaser a first certificate confirming that the conditions to the sale (other than payment of the purchase price) have been met. Upon the delivery of the first certificate, the Equipment will vest to the Purchaser free and clear of any liens or encumbrances. To ensure that the purchase price is paid by the Purchaser within 90 days of the date of the Initial Order, Walter Canada is seeking a Court ordered first ranking charge (the "**Equipment Charge**") on the sold Equipment to ensure that Walter Canada will be paid in priority to any creditor of the Purchaser. Once the Purchase Price has been paid by the Purchaser, the Proposed Monitor will deliver a second certificate certifying that the Purchase Price has

been paid by the Purchaser. Upon delivery of the second certificate, Walter Canada is proposing that the Equipment Charge be extinguished.

**CONCLUSION**

68. The Proposed Monitor has reviewed the Petitioners' filing materials and has consented to act as the Monitor of the Petitioners should the Court see fit to grant the relief sought by the Petitioners.

All of which is respectfully submitted this 6<sup>th</sup> day of December, 2015.

**KPMG INC., in its sole capacity as  
Proposed Monitor of Walter Energy Canada Holdings, Inc. et al**



Per: Philip J. Reynolds  
*Senior Vice President*



Per: Anthony Tillman  
*Senior Vice President*

## **Schedule “C”**

**Draft Proposal as at December 10, 2016**

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF**

**THE JOINT PROPOSAL OF  
WALTER ENERGY CANADA HOLDINGS, INC. WALTER CANADIAN COAL ULC,  
BRULE COAL ULC, WILLOW CREEK COAL ULC, PINE VALLEY COAL LTD.,  
WOLVERVINE COAL ULC, 0541237 B.C. LTD., WALTER CANADIAN COAL  
PARTNERSHIP, BRULE COAL PARTNERSHIP, WILLOW CREEK COAL  
PARTNERSHIP AND WOLVERINE COAL PARTNERSHIP**

**JOINT PROPOSAL**

KPMG Inc., in its capacity as trustee in bankruptcy of the Walter Canada Group, hereby submits this Proposal pursuant to Section 50 of the BIA and pursuant to the CCAA Procedure Order pronounced in respect of the Walter Canada Group and the New Walter Canada Group.

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

For the purposes of this Proposal, all capitalized terms used but not defined herein shall have the meanings given in the CCAA Procedure Order and the following terms shall have the following meanings:

- (a) “**Affected Claimant**” means any Claimant other than any Claimant with respect to a Priority Claim or any Claimant with a Claim under the Promissory Note;
- (b) “**Allowed Claim**” has the meaning given in the Claims Process Order;
- (c) “**Annulment Time**” means the time that is the first instant on the Proposal Completion Date, at which time the bankruptcy of the members of the Walter Canada Group is annulled;
- (d) “**Bankruptcy Date**” means the date on which the members of the Walter Canada Group made an assignment in bankruptcy pursuant to the BIA;
- (e) “**Bankruptcy Trustee**” means KPMG Inc., in its capacity as bankruptcy trustee in respect of the bankruptcy proceedings of the Walter Canada Group under the BIA;
- (f) “**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended;

- (g) “**BIA Proceedings**” means the consolidated bankruptcy proceedings of the Walter Canada Group under the BIA, having Court File No. ● ● ●;
- (h) “**BIA Procedure Order**” means the Order of the Court pronounced ● in the BIA Proceedings abridging certain time periods and dispensing with certain requirements under the BIA;
- (i) “**BIA Proposal Approval Order**” means an Order of the Court, in form and substance satisfactory to the Walter Canada Group, the Purchaser, the New Walter Canada Group and the Proposal Trustee, approving this Proposal;
- (j) “**Business Day**” means any day other than a Saturday, a Sunday, or a statutory holiday in the Province of British Columbia;
- (k) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- (l) “**CCAA Charge**” has the meaning given in the Claims Process Order;
- (m) “**CCAA Procedure Order**” means the Order of the Court pronounced December 7, 2016 in the CCAA Proceedings approving the transaction contemplated by the Term Sheet and authorizing the formation of the New Walter Canada Group;
- (n) “**CCAA Proceedings**” means the CCAA Proceedings commenced in respect of the Walter Canada Group pursuant to the Initial Order and having File No. S-1510120;
- (o) “**Chair**” means the chair of the Creditors’ Meeting as designated by the Official Receiver or nominee thereof;
- (p) “**Claim**” has the meaning given in subsection 2(1) of the CCAA and, for greater certainty, shall include all “Claims” as defined in the Claims Process Order but shall exclude any Claim that has already been barred pursuant to the terms of the Claims Process Order;
- (q) “**Claimant**” means any Person with a Claim and, for greater certainty, shall include all “Claimants” as defined in the Claims Process Order;
- (r) “**Claims Process Order**” means the Order of the Court establishing a claims procedure in the CCAA Proceedings in respect of the Walter Canada Group pronounced on August 16, 2016, as amended from time to time;
- (s) “**Conuma APA**” means the Asset Purchase Agreement dated August 8, 2016 among Conuma Coal Resources Limited and the Walter Canada Group, as amended;
- (t) “**Court**” means the Supreme Court of British Columbia or the Supreme Court of British Columbia in bankruptcy and insolvency, as applicable;

- (u) “**Creditors’ Meeting**” means the meeting of Affected Claimants holding Claims for the purposes of, among other things, considering and, if deemed appropriate, passing the Resolution and includes any adjournment, postponement or other rescheduling of such meeting;
- (v) “**Creditors’ Meeting Date**” means December [15], 2016, subject to any adjournment, postponement or further Order;
- (w) “**CRO**” means BlueTree Advisors, Inc., in its capacity as Chief Restructuring Officer of the New Walter Canada Group and former Chief Restructuring Officer of the Walter Canada Group;
- (x) “**Crown Claims**” means Claims of Her Majesty in right of Canada or any province, for all amounts that were outstanding on the Proposal Commencement Date and are of a kind that could be subject to a demand under:
  - (i) subsection 224(1.2) of the *Income Tax Act*;
  - (ii) any provision of the Canada Pension Plan or of the Employment Insurance Act that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
  - (iii) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
    - (A) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*; or
    - (B) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;
- (y) “**Deemed Claims**” means all Claims, other than the Residual Liabilities and the Priority Claims, and for greater certainty includes the Insolvency Claims and the Intercompany Claims, and provided, for greater certainty, that any Priority Claim that is not an Allowed Claim and that has not been barred pursuant to the terms of the Claims Process Order shall be a Deemed Claim against the applicable member of the New Walter Canada Group for further determination pursuant to the Claims Process Order;

- (z) **“Deemed Interest Amount”** means an amount equal to the amount of accrued but unpaid interest owing by WECH in respect of the Promissory Note for the period from the issuance of the Promissory Note and ending on the Proposal Commencement Date, up to a maximum amount equal to the amount by which (i) the value of the Transferred Assets transferred to New Walter pursuant to Section 4.1(g) hereof exceeds (ii) the amount of all Claims that are Deemed Claims against New Walter pursuant to Section 4.1(f) hereof, provided however that, for the purpose of the calculation of such maximum amount, the amount of such Deemed Claims shall not include the UMWA 1974 Pension Plan Claim;
- (aa) **“Directors/Officers Claim”** means any right or claim of any Person against one or more of the directors and/or officers of the Walter Canada Group that relates to a Claim (including for greater certainty, a “Restructuring Claim” as defined in the Claims Process Order), however arising, for which the directors and/or officers are by statute or otherwise by law liable to pay in their capacity as directors and/or officers;
- (bb) **“Governmental Entity”** means any: (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau or agency, domestic or foreign; (ii) subdivision, agent, commission, board, or authority of any of the foregoing; or (iii) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or, for the account of, any of the foregoing;
- (cc) **“Initial Order”** means the Order of the Court issued on December 7, 2015 in respect of the CCAA Proceedings, as amended;
- (dd) **“Insolvency Claim”** means:
  - (i) the reasonable fees and expenses incurred by the CRO, legal counsel to the Walter Canada Group and the New Walter Canada Group, the Monitor and its legal counsel;
  - (ii) Claims of the Bankruptcy Trustee, the Proposal Trustee and their legal counsel; and
  - (iii) All other Claims secured by the CCAA Charges;
- (ee) **“Inspector”** has the meaning set out in Section 3.9;
- (ff) **“Intercompany Claims”** means any Claim of a member of the Walter Canada Group against any other member of the Walter Canada Group;
- (gg) **“Monitor”** means KPMG Inc. in its capacity as CCAA monitor of the New Walter Canada Group and former CCAA monitor of the Walter Canada Group;
- (hh) **“New Brule”** means New Brule Coal Corp.;
- (ii) **“New Walter”** means New Walter Energy Canada Holdings, Inc.;

- (jj) “**New Walter Canada Group**” means New Walter, New WCCP, New Brule, New Willow Creek and New Wolverine;
- (kk) “**New WCCP**” means New Walter Canada Coal Corp.;
- (ll) “**New Willow Creek**” means New Willow Creek Coal Corp.;
- (mm) “**New Wolverine**” means New Wolverine Coal Corp.;
- (nn) “**Obligations**” has the meaning set out in Section 4.3(a);
- (oo) “**Official Receiver**” means the officer appointed pursuant to section 12(2) of the BIA in the City of Vancouver, British Columbia.
- (pp) “**Operative Time**” means the time on the Proposal Commencement Date at which all liabilities of and Claims (other than the Residual Liabilities) against any member of the Walter Canada Group shall be released, discharged and extinguished as set out in Section 4.1(j) of this Proposal;
- (qq) “**Order**” means any order of the Court in the CCAA Proceedings, in the BIA Proceedings or in respect of this Proposal;
- (rr) “**Partnerships**” has the meaning given in Section 5.3(c);
- (ss) “**Person**” means any person, including any individual, partnership, joint venture, venture capital fund, association, corporation, limited liability company, limited liability partnership, unlimited liability company, trust, trustee, executor, administrator, legal personal representative, estate, group, unincorporated association or organization, Governmental Entity, syndicate, the Proposal Trustee, or other entity, whether or not having legal status;
- (tt) “**Priority Claims**” means all Crown Claims and all Priority Employee Claims that are Allowed Claims and all Claims against any member of the Walter Canada Group or the Bankruptcy Trustee for obligations incurred after the Bankruptcy Date and which were authorized and approved by the Bankruptcy Trustee prior to the Annulment Time and not otherwise addressed in this Proposal;
- (uu) “**Priority Employee Claims**” means Claims of employees of the Walter Canada Group (if any) required to be paid under subsection 60(1.3) of the BIA;
- (vv) “**Promissory Note**” means the Secured Promissory Note dated April 1, 2011 issued by WECH to WEI;
- (ww) “**Proposal**” means this Proposal as varied, amended, modified or supplemented in accordance with the provisions hereof and the BIA;
- (xx) “**Proposal Commencement Date**” has the meaning ascribed to it under Section 5.5;



- (yy) **“Proposal Commencement Time”** means 5:00 p.m. on the Proposal Commencement Date;
- (zz) **“Proposal Completion Date”** means the date immediately after the Proposal Commencement Date on which this Proposal is completed and the Annulment Time occurs.
- (aaa) **“Proposal Trustee”** means KPMG Inc., in its capacity as trustee in respect of this Proposal;
- (bbb) **“Purchase Price”** means \$17,350,000 plus the cost of the Retained Business Assets;
- (ccc) **“Purchaser”** means 1098138 B.C. Ltd.;
- (ddd) **“Purchaser Guarantor”** means Amacon Land Corporation;
- (eee) **“Released Claims”** has the meaning ascribed to such term in Section 4.3(b);
- (fff) **“Released Parties”** has the meaning ascribed to such term in Section 4.3(b);
- (ggg) **“Required Majority”** means the affirmative vote of (i) a majority in number of the Affected Claimants (other than Affected Claimants with Insolvency Claims) voting on the Resolution (in person or by proxy) at the Creditors’ Meeting; and (ii) Affected Claimants (other than Affected Claimants with Insolvency Claims) representing not less than 66<sup>2</sup>/<sub>3</sub>% in value of the Claims of the Affected Claimants voting on the Resolution (in person or by proxy) at the Creditors’ Meeting;
- (hhh) **“Residual Assets”** means:
  - (i) the shares of Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal Ltd. and 0541237 B.C. Ltd.;
  - (ii) the partnership interests in Walter Canadian Coal Partnership, Brule Coal Partnership, Wolverine Coal Partnership and Willow Creek Coal Partnership;
  - (iii) securities of mining and/or mining related businesses held by Walter Canadian Coal Partnership having a cost of approximately \$50,000 to be acquired after the date of the Term Sheet and prior to the Proposal Commencement Date and which, for greater certainty, shall not include the capital stock of Cambrian Energybuild Holdings ULC or Belcourt Saxon Coal Ltd., or any partnership interest in Belcourt Saxon Coal Limited Partnership;
  - (iv) all short term liquid investments affording an appropriate safety of principal held by Wolverine Coal Partnership having a cost of approximately \$50,000;

- (v) all short term liquid investments affording an appropriate safety of principal held by Brule Coal Partnership having a cost of approximately \$50,000;
  - (vi) all short term liquid investments affording an appropriate safety of principal held by Willow Creek Coal Partnership having a cost of approximately \$50,000 (the investments set out in paragraphs (iii) through (vi) are collectively referred to herein as the “**Retained Business Assets**”); and
  - (vii) the Walter Canada Group’s corporate and partnership minute books, financial and accounting records, taxation records and documents (including banking records and other evidence of fund transfers) necessary to substantiate the share capital of WECH;
- (iii) “**Residual Liabilities**” means
- (i) all liabilities for any Taxes due or accruing due on and after the Proposal Commencement Date; and
  - (i) all liabilities and claims that are not Claims that can be compromised pursuant to the CCAA or the BIA;
- (jjj) “**Resolution**” means the resolution of the Affected Claimants providing for the approval of this Proposal by the Affected Claimants;
- (kkk) “**Tax**” means any domestic or foreign federal, state, local, provincial, territorial or municipal taxes or other impositions by any Government Entity, including Transfer Taxes and the following taxes and impositions: net income, gross income, capital, value added, goods and services, capital gains, alternative, net worth, harmonized sales, gross receipts, sales, use, ad valorem, business rates, transfer, franchise, profits, business, environmental, real or immovable property, municipal, school, Canada Pension Plan, withholding, workers’ compensation levies, payroll, employment, unemployment, employer health, occupation, social security, excise, stamp, customs, and all other taxes, fees, duties, assessments, deductions, contributions, withholdings or charges of the same or of a similar nature, however denominated, together with any interest and penalties, fines, additions to tax or additional amounts imposed or assessed with respect thereto;
- (lll) “**Term Sheet**” means the Term Sheet dated November 28, 2016 among the Walter Canada Group and the Purchaser and the Purchaser Guarantor;
- (mmm) “**Transferred Assets**” means all of the Walter Canada Group’s right, title and interest in, to, under or relating to the assets, property and undertaking owned or used or held by the Walter Canada Group on the date set for such transfer in this Proposal and any other Order of the Court, including the following properties, assets and rights:
- (i) the Purchase Price;

- (ii) all rights of the Walter Canada Group under the Term Sheet, this Proposal and any Orders in the CCAA Proceedings and the BIA Proceedings, unless specified therein;
- (iii) all records, documents and information in the possession of the Walter Canada Group, including any records prepared in connection with this Proposal, the Conuma APA, the CCAA Proceedings or any other matter, and all records, documents and information in the possession of the Walter Canada Group but not owned by the Walter Canada Group;
- (iv) copies of any book, record, literature, list and any other written or recorded information of the Walter Canada Group as at or prior to the Proposal Commencement Date to which the New Walter Canada Group, the CRO or the Monitor in good faith determine are reasonably likely to be needed to access for bona fide tax or legal purposes, including in respect of any matter arising in the CCAA Proceedings;
- (v) all information, materials, documents, reports and/or records, whether written or electronic, prepared by the Walter Canada Group's legal counsel and the Monitor and the Monitor's legal counsel, whether or not prepared before or after Proposal Commencement Date, that is attorney-client privileged and any and all attorney work product (provided however that no material prepared by legal counsel of the Purchaser, who may become legal counsel to the Walter Canada Group after the Proposal Commencement Date, is intended to be included in this paragraph);
- (vi) all information, materials, documents, reports and/or records, whether written or electronic, in the possession of the CRO, the Monitor or the Proposal Trustee;
- (vii) any deposits held on behalf of the Walter Canada Group, including any deposits held in trust accounts to secure payment of the reasonable fees and disbursements of the Monitor, the Proposal Trustee and any professional advisors of the Walter Canada Group and of the Monitor and Proposal Trustee, any deposits provided to any Governmental Entity in respect of Tax liabilities, and any amounts paid by or on behalf of the Walter Canada Group in respect of any employment liabilities;
- (viii) all cash, cash equivalents, bank balances, and moneys in possession of banks, the Monitor, the Proposal Trustee and other depositories;
- (ix) marketable shares, notes, bonds, debentures or other securities of or issued by corporations, partnerships or other persons and all certificates or other evidences of ownership thereof owned or held by or for the account of the Walter Canada Group, including the shares in the capital stock of Cambrian Energybuild Holdings ULC and Belcourt Saxon Coal Ltd., and including any partnership interest in Belcourt Saxon Coal Limited Partnership, but excluding all other shares and partnership interests of other Walter Canada Group entities that constitute Residual Assets;

- (x) the accounts receivable, bills receivable, trade accounts, book accounts, and any other amount due or deemed to be due to the Walter Canada Group or any of them including any payments, refunds and rebates receivable;
- (xi) refunds due or payable in respect of reassessments for Taxes paid by any member of the Walter Canada Group up to the Proposal Commencement Date;
- (xii) refundable Taxes;
- (xiii) any person's entitlement to seek recourse pursuant to sections 38 and 95-101 of the BIA and any equivalent provincial statute as against the Walter Canada Group or any other person *mutatis mutandis* and as if this Proposal had not been implemented;
- (xiv) amounts owing to the Walter Canada Group or any of them from any director, officer, former director or officer, shareholder, employee of any member of the Walter Canada Group;
- (xv) director and officer insurance policies and the right to receive insurance recoveries under (i) any insurance policies for losses that occurred prior to Proposal Commencement Date and (ii) any director and officer insurance policies in respect of any matters at any time;
- (xvi) all rights and interests under or pursuant to all warranties, representations, indemnities and guarantees, express, implied or otherwise, of or made by suppliers or others in connection with any other Transferred Assets, the Conuma APA or any Deemed Claims; and
- (xvii) all other rights, properties and assets of the Walter Canada Group or any of them as at the Proposal Commencement Date of whatsoever nature or kind and wherever situated (other than such rights, properties and assets that are not transferrable under section 11.3 of the CCAA or 84(1) of the BIA),

but excluding the Residual Assets. For greater certainty and notwithstanding the foregoing, the Transferred Assets shall not include the Walter Canada Group's corporate and partnership minute books, financial and accounting records, taxation records and documents (including banking records and other evidence of fund transfers) necessary to substantiate the share capital of WECH and provided further that the New Walter Canada Group shall be permitted to retain a copy of any such minute books, financial and accounting records, taxation records and documents;

- (nnn) "**Transfer Taxes**" means all goods and services, sales, excise, use, transfer, gross receipts, documentary, filing, recordation, value-added, stamp, stamp duty reserve, and all other similar taxes, duties or other like charges, however

denominated, in each case including interest, penalties or additions attributable thereto whether or not disputed, including GST/ HST and PST;

- (ooo) “**Trustee Certificate**” has the meaning ascribed to it in Section 5.5;
- (ppp) “**UMWA 1974 Pension Plan Claim**” has the meaning given in the Claims Process Order;
- (qqq) “**Walter Canada Group**” means Walter Energy Canada Holdings, Inc., Walter Canadian Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal Ltd., Wolverine Coal ULC, 0541237 B.C. Ltd., Walter Canadian Coal Partnership, Brule Coal Partnership, Willow Creek Coal Partnership and Wolverine Coal Partnership;
- (rrr) “**WECH**” means Walter Energy Canada Holdings, Inc.; and
- (sss) “**WEI**” means New WEI, Inc., formerly known as Walter Energy, Inc.

## 1.2 Interpretation

For purposes of this Proposal:

- (a) the division of this Proposal into Articles, Sections, Schedules, and paragraphs and the insertion of captions and headings to Articles, Sections and paragraphs are for convenience only and are not intended to affect or be used in the interpretation of this Proposal;
- (b) where the context requires, a word or words importing the singular shall include the plural and vice versa and a word or words importing one gender shall include all genders;
- (c) unless otherwise stated, all monetary amounts in this Proposal, including the symbol “\$”, are in Canadian currency;
- (d) the terms “hereof”, “herein”, “hereunder”, “hereto” and words of similar import shall, unless otherwise stated, be construed to refer to this Proposal in its entirety rather than to any particular provision of this Proposal and all references in this Proposal to Articles and Sections are references to Articles and Sections of or to this Proposal;
- (e) in the computation of periods of time from a specified date to a later specified date, unless otherwise stated, “from” means “from and including” and the words “to” or “until” mean “to but excluding”;
- (f) the deeming provisions are not rebuttable and are conclusive and irrevocable; and
- (g) the words “includes” and “including” mean “includes, without limitation” and “including without limitation”.

### **1.3 Date for any Action**

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, then, unless otherwise stated herein, that action shall be required to be taken on the next succeeding day that is a Business Day.

### **1.4 Time**

All times expressed in this Proposal are prevailing local time in Vancouver, British Columbia, Canada unless otherwise stipulated.

### **1.5 Statutory References**

Unless otherwise indicated, any reference in this Proposal to a statute refers to that statute and to the regulations made thereunder, as amended and as in force from time to time, or any statute or regulations that supplement or supersede such statute or regulations.

## **ARTICLE 2 PURPOSE**

### **2.1 Purpose of the Proposal**

The purpose of this Proposal is to monetize a significant portion of the remaining value in the Walter Canada Group for the benefit of all Claimants and other stakeholders of the Walter Canada Group.

To achieve this goal, this Proposal is filed by the Bankruptcy Trustee for and on behalf of the Walter Canada Group to cause the Transferred Assets to become assets of the New Walter Canada Group and to cause the Deemed Claims to become liabilities of the New Walter Canada Group so as to preserve the Claims of the Affected Claimants and the interests of other stakeholders in and to the Transferred Assets and to permit the resolution of such Claims and interests pursuant to the CCAA.

The New Walter Canada Group will continue in the place and stead of the Walter Canada Group for all purposes in the CCAA Proceedings, including for the purposes of finally determining all Claims pursuant to the Claims Process Order.

### **2.2 Effect of the Proposal**

The corporate structure of the Walter Canada Group includes a number of partnerships. WECH, the principal entity affected by this Proposal, is the general partner of Walter Canada Coal Partnership, which in turn is the general partner of each of the other Partnerships. As such, all Claimants with a claim against any of the Partnerships have a Claim against WECH. All of the Claimants who have filed a Proof of Claim under the Claims Process Order have Claims against one or more of the Partnerships and, as such, a Claim against WECH as ultimate general partner. The effect of this Proposal is to increase the value available for distribution to any Claimants with Affected Claims against WECH (*i.e.* all Affected Claimants).

For the purposes of determining the nature and priority of the Deemed Claims, the applicable member of the New Walter Canada Group (and the Transferred Assets transferred to such

member) shall stand in the place and stead of the member of the Walter Canada Group formerly liable for such Claim (other than any claim that has already been barred pursuant to the Claims Process Order and other than any Residual Liability), and from and after the Proposal Commencement Date, all such Claims against such member of the Walter Canada Group and any encumbrances in respect of such Claims shall be Deemed Claims against the corresponding member of the New Walter Canada Group and shall be deemed encumbrances on the applicable Transferred Assets and such Deemed Claims and deemed encumbrances shall have the same priority with respect to the applicable member of the New Walter Canada Group and the applicable Transferred Assets as they had with respect to the corresponding member of the Walter Canada Group and the Transferred Assets immediately prior to the Proposal Commencement Date, as if the applicable member of the New Walter Canada Group was in all respects the corresponding member of the Walter Canada Group and as if the Transferred Assets had not been transferred and had remained in the possession or control of the member of the Walter Canada Group having that possession or control immediately prior to the transfer.

All Claims against the Walter Canada Group (other than the Residual Liabilities and Priority Claims) shall be compromised, extinguished and released pursuant to the terms hereof.

### **2.3 Affected Claimants**

Although all Claims against the Walter Canada Group (other than the Residual Liabilities and Priority Claims) shall be cancelled, compromised and extinguished pursuant to this Proposal, no Affected Claimant's Claim is adversely affected because each such claim shall become a Deemed Claim against the applicable member of the New Walter Canada Group. Each Affected Claimant's Claim against any member of the Walter Canada Group shall be preserved pursuant to the terms hereof as a Deemed Claim against the applicable member of the New Walter Canada Group as set out herein.

## **ARTICLE 3 THE CREDITORS' MEETING AND RELATED MATTERS**

### **3.1 Voting Claimants**

All Affected Claimants, other than Claimants with Insolvency Claims, shall be entitled to vote their Claims (whether or not such Claims are Allowed Claims) in respect of this Proposal.

Affected Claimants with Insolvency Claims and all Claimants and other stakeholders who are not Affected Claimants, including Claimants to the extent of Priority Claims or to the extent of a Claim under the Promissory Note, will not be entitled to vote at the Creditors' Meeting. Nothing in this Proposal shall affect the defences, both legal and equitable, with respect to any Priority Claim, Deemed Claim or Deemed Interest Amount, including any rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Claims.

### **3.2 Classes of Creditors**

For the purposes of voting on this Proposal, all Affected Claimants' Claims shall be included in a single class of creditors.

### **3.3 Creditors' Meeting**

The Creditors' Meeting held in respect of the Affected Claimants shall be held in accordance with this Proposal for the purposes of, among other things, considering and voting on the Resolution or any other matters to be considered at the Creditors' Meeting.

### **3.4 Approval by the Affected Claimants**

The Walter Canada Group will seek approval of this Proposal by the affirmative vote for the Resolution by the Required Majority. Such vote will be conducted by ballot. For the purposes of determining whether or not the Resolution has passed, the Chair shall tabulate the votes cast or deemed cast by each Affected Claimant.

Any other matter submitted for a vote at the Creditors' Meeting shall be decided by affirmative vote of (i) a majority in number the Affected Claimants (other than Claimants with Insolvency Claims) voting (in person or by proxy) on such matter at the Creditors' Meeting; and (ii) Affected Claimants (other than Claimants with Insolvency Claims) representing not less than 66 $\frac{2}{3}$ % in value of the Claims of the Affected Claimants voting on the Resolution (in person or by proxy) at the Creditors' Meeting, which may be adduced by show of hands, unless the Chair decides, in the Chair's sole and absolute discretion, to hold such vote by way of written ballot.

### **3.5 Claims for Voting Purposes**

For each vote conducted by ballot, each Affected Claimant (other than Claimants with Insolvency Claims) with one or more Affected Claimant's Claim shall be entitled to one (1) vote and the weight attributed to such vote (for the purposes of determining the Required Majority) shall be equal to the aggregate Canadian dollar value of such Affected Claimant's Claim (if necessary, converted into Canadian dollars in accordance with the provisions of the Claims Process Order). An Affected Claimant with a Claim that is not yet an Allowed Claim shall be entitled to vote such Claim in respect of the Resolution and the value of the Affected Claimant's Claim for voting purposes shall be the value of such Claim as set out in the Affected Claimant's Proof of Claim or Notice of Dispute, as applicable. The Proposal Trustee may, in its discretion, maintain a separate tabulation of any Affected Claimants' Claims that are not yet Allowed Claims.

No Affected Claimant shall be entitled to bifurcate or sub-divide a Claim for purposes of voting. If an Affected Claimant has assigned part, but not all, of the Affected Claimant's Claim, then only the Affected Claimant shall be entitled to vote at the Creditors' Meeting (in person or by proxy) and the value of such vote shall be the unassigned portion of such Affected Claimant's Claim. In such case, the assignee of such Affected Claimant's Claim shall not be entitled to vote the assigned portion of such Affected Claimant's Claim at the Creditors' Meeting unless the Chair, in the Chair's sole and absolute discretion, determines that the assignee shall be permitted to vote.

For greater certainty, no Claimant shall be entitled to vote any claim that has been barred pursuant to the terms of the Claims Process Order.



### **3.6 Adjournment**

If the Creditors' Meeting is adjourned or postponed by the Chair upon the direction of the Proposal Trustee (which Proposal Trustee may so direct in its sole and absolute discretion) or because a quorum (as required under the BIA) is not obtained, the Creditors' Meeting will be adjourned, postponed or otherwise rescheduled by the Proposal Trustee to such date, time and place as may be decided by the Proposal Trustee, in the Proposal Trustee's sole and absolute discretion and upon such notice as the Proposal Trustee deems appropriate.

### **3.7 Voting of Proxies**

Where an Affected Claimant has submitted a proxy in advance of the Creditors' Meeting, such Affected Claimant's proxy will be voted on any ballot in accordance with the Affected Claimant's instruction to vote for or against the approval of the Resolution and any other matters before the Creditors' Meeting.

Forms of proxy may confer discretionary authority on the individuals designated therein with respect to amendments or variations of matters identified in the notice of the Creditors' Meeting and other matters that may properly come before the Creditors' Meeting.

All other matters related to the solicitation of votes for the Creditors' Meeting, the delivery of materials to Affected Claimants and the voting procedure and tabulation of votes cast at the Creditors' Meeting shall be as set forth in the BIA Procedure Order.

### **3.8 Claims Bar Date**

If any Claimant has failed to file its Proof of Claim prior to the relevant Claims Bar Date and has not, in accordance with the Claims Process Order, been permitted to file its Proof of Claim late, or if such Claimant received a Notice of Revision or Disallowance pursuant to the Claims Process Order and did not respond within the time period provided for by the Claims Process Order, such Claimant shall have the Claim provided for in the applicable Notice of Revision or Disallowance and, if such Claim is nil, such Claimant shall be forever barred from voting at the Creditors' Meeting and any meeting in respect of the Proposal and such Claimant shall be forever barred from receiving a distribution under this Proposal or any subsequent plan of compromise or arrangement in respect of the New Walter Canada Group, and (i) the Walter Canada Group and the Purchaser shall be released from the Claims of such Claimant, (ii) such Claims shall not be Deemed Claims against any member of the New Walter Canada Group and (iii) Section 4.3(b) shall apply to all such Claims and, for the purposes of the application Section 4.3(b) pursuant to this Section 3.8, the Released Parties referenced therein shall include the New Walter Canada Group and its present and former advisors, partners, principals, employees, officers, directors, representatives, financial advisors, legal counsel, accountants, investment bankers, consultants, agents, predecessors, affiliates, subsidiaries, related companies, heirs, spouses, dependents, administrators and executors.

### **3.9 Inspectors**

At the Creditors' Meeting, the Affected Claimants with Allowed Claims may appoint from one (1) to five (5) inspectors (each an "**Inspector**") under this Proposal, whose powers shall be restricted to advising the Proposal Trustee in respect of such matters as the Proposal Trustee may

consider appropriate from time to time, and considering and approving any amendments to this Proposal which have been agreed and consented to by the Proposal Trustee and the Purchaser.

Provided that all acts done by the Inspectors are done in good faith, the Inspectors shall not be liable to the Affected Claimants for any actions taken by the Inspectors.

#### **ARTICLE 4 TERMS OF THE PROPOSAL**

##### **4.1 Terms of the Proposal**

Each of the following transactions contemplated by and provided for under this Proposal will be consummated and effected, and shall for all purposes be deemed to occur, commencing at the Proposal Commencement Time and concluding on the Proposal Completion Date, in the manner and the sequence and at the times set forth below:

- (a) The Purchaser shall subscribe for 200,000,000 common shares in the capital of WECH and, in respect thereof,
  - (i) at least five days before the Proposal Commencement Date, the Purchaser shall pay to the Proposal Trustee (on WECH's behalf) an amount equal to the Purchase Price as the subscription price for such shares,
  - (ii) WECH shall issue such shares to the Purchaser as fully-paid and non-assessable common shares in the capital of WECH, and
  - (iii) WECH shall add an amount equal to the Purchase Price to the capital in respect of its common shares;
- (b) The 1,207,905 issued and outstanding shares in the capital of WECH held by WEI and recorded on the Central Securities Register of WECH shall be repurchased for no consideration but shall not be cancelled and shall continue to be held by WECH;
- (c) Any issued and outstanding shares of WECH not recorded on the Central Securities Register of WECH shall be repurchased for no consideration and cancelled, and any option or other right to acquire shares or securities of WECH held by any person shall be cancelled for no consideration;
- (d) All obligations of WECH under the Promissory Note shall be released, extinguished and discharged;
- (e) The Walter Canada Group shall pay in cash to the Monitor, acting upon the irrevocable direction from the Proposal Trustee, all amounts owed in respect of any Priority Claims that are Allowed Claims (if any) plus the amount of the levy payable under section 147 of the BIA, and the Monitor shall pay all such Priority Claims and such levy within the time period prescribed under the BIA; for greater certainty, any Priority Claim that is not an Allowed Claim and has not been barred pursuant to the terms of the Claims Process Order shall be a Deemed Claim

against the applicable member of the New Walter Canada Group for further determination pursuant to the Claims Process Order;

- (f) Each of the applicable member(s) of the New Walter Canada Group shall be deemed liable for all Deemed Claims (which, for greater certainty, exclude the Residual Liabilities and Priority Claims but include the Insolvency Claims) of the corresponding Walter Canada Group entity and WECH shall be deemed liable to WEI for the Deemed Interest Amount, as follows:
- (i) all Claims against Wolverine Coal ULC and Wolverine Coal Partnership shall be Deemed Claims against New Wolverine, New WCCP and New Walter;
  - (ii) all Claims against Brule Coal ULC and Brule Coal Partnership shall be Deemed Claims against New Brule, New WCCP and New Walter;
  - (iii) all Claims against Willow Creek Coal ULC, Willow Creek Coal Partnership and Pine Valley Coal Ltd. shall be Deemed Claims against New Willow Creek, New WCCP and New Walter;
  - (iv) all Claims against Walter Canadian Coal Partnership, Walter Canadian Coal ULC and 0541237 BC Ltd shall be Deemed Claims against New WCCP and New Walter;
  - (v) all Claims against WECH (other than any Claim in respect of the Promissory Note) shall be Deemed Claims against New Walter; and
  - (vi) New Walter shall be deemed liable for the Deemed Interest Amount, provided however that the Deemed Interest Amount shall be subject to the terms of the Claims Process Order and shall have the same status thereunder as the Claim to which it relates,

and, for certainty, all of the Residual Liabilities shall be and are retained by the applicable member of the Walter Canada Group and shall not be Deemed Claims against any member of the New Walter Canada Group.

- (g) All of the Transferred Assets of the Walter Canada Group shall be transferred and deemed transferred to the applicable member(s) of the New Walter Canada Group and, subject to any agreement among the members of the New Walter Canada Group, shall be so transferred specifically as follows:
- (i) all Transferred Assets of Wolverine Coal ULC and Wolverine Coal Partnership are transferred to New Wolverine;
  - (ii) all Transferred Assets of Brule Coal ULC and Brule Coal Partnership are transferred to New Brule;
  - (iii) all Transferred Assets of Willow Creek Coal ULC, Willow Creek Coal Partnership and Pine Valley Coal Ltd. are transferred to New Willow Creek;

(iv) all Transferred Assets of (A) Walter Canadian Coal ULC, (B) 0541237 BC Ltd. and (C) Walter Canadian Coal Partnership (including, for greater certainty, the Walter Canadian Coal Partnership assets consisting of (i) the shares of Cambrian Energybuild ULC and (ii) if applicable, Walter Canadian Coal Partnership's shares of Belcourt Saxon Coal Ltd. and Walter Canadian Coal Partnership's interest in Belcourt Saxon Coal Limited Partnership) are transferred to New WCCP; and

(v) all Transferred Assets of WECH are transferred to New Walter,

and, for certainty, all of the Residual Assets shall be and are retained by the applicable member of the Walter Canada Group and shall not be transferred to or assumed by any member of the New Walter Canada Group;

- (h) Any remaining directors and officers of any member of the Walter Canada Group are deemed to resign and to no longer hold such positions;
- (i) The directors nominated by the Purchaser who have executed a consent to act as a director shall be appointed as directors of the applicable member of the Walter Canada Group;
- (j) All liabilities of or Claims (other than the Residual Liabilities) against any member of the Walter Canada Group shall be released, discharged and extinguished (and, for greater certainty, the time at which this step occurs shall be the Operative Time);
- (k) All Directors/Officers Claims (other than such Directors/Officers Claims that cannot be released pursuant to section 50(14) of the BIA) shall be released, discharged and extinguished at the Operative Time; and
- (l) The bankruptcy of the members of the Walter Canada Group shall be annulled as of the Annulment Time and all right, title and interest of the Bankruptcy Trustee in the Residual Assets shall re-vest in the applicable member of the Walter Canada Group free and clear of all liens, charges and encumbrances, except as expressly provided for herein, in the CCAA Procedure Order or a subsequent Order of the Court. For greater certainty, the annulment of the bankruptcy of the members of the Walter Canada Group shall not occur until all of the steps in paragraphs (a) to (k) of this Section 4.1 above have been completed.

## **4.2 Corporate Actions**

From and after the Proposal Commencement Time, all corporate actions contemplated by this Proposal shall be deemed to have been authorized and approved in all respects (subject to the provisions of this Proposal). All matters provided for in this Proposal shall be deemed to have timely occurred in the order and at the times provided for in Section 4.1 of this Proposal, in accordance with applicable law, and shall be effective, without any requirement of further action by any creditors, security holders, shareholders, directors, officers or managers of the Walter Canada Group. On the Proposal Commencement Date, the Proposal Trustee shall be authorized

and directed to issue, execute and deliver the agreements, documents, securities and instruments contemplated by this Proposal in the name of and on behalf of the Walter Canada Group.

### **4.3 Proposal Releases**

The following releases will become effective at the Operative Time:

(a) **Releases by the Walter Canada Group and the Purchaser of Walter Canada Group Advisors**

Subject to the provisions of the BIA, the Walter Canada Group and the Purchaser will be deemed to forever release, waive and discharge any and all demands, claims, actions, causes of action, counterclaims, suits, rights, obligations, debts, sums of money, accounts, covenants, damages, judgments, expenses, liabilities, executions, liens, encumbrances, security interests and other recoveries on account of any indebtedness, liability, obligation, demand or cause of action of whatever nature, including interest thereon and costs, fees or other amounts in respect thereof (collectively, the “**Obligations**”) (other than the rights of the Walter Canada Group and the Purchaser to enforce this Proposal and the contracts, instruments, and other agreements or documents delivered hereunder) whether reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, direct, indirect or derivative, then existing or hereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other circumstance or occurrence existing or taking place on or prior to the Proposal Commencement Time in any way relating to, arising out of or in connection with the business and affairs of the Walter Canada Group, the subject matter of, or the transactions or events giving rise to, any Claims, this Proposal, the CCAA Proceedings and the related BIA Proceedings that could be asserted by or on behalf of the Walter Canada Group or the Purchaser against: (i) the agents, legal counsel, financial advisors and other professionals of the Walter Canada Group, in each case in their respective capacities as of the Proposal Commencement Time; (ii) the CRO; (iii) the Monitor, the Proposal Trustee, the Bankruptcy Trustee and their legal counsel; (iv) the Purchaser and its legal counsel; and (v) where applicable, with respect to each of the above named Persons, such Person’s present and former advisors, partners, principals, employees, officers, directors, representatives, financial advisors, legal counsel, accountants, investment bankers, consultants, agents, predecessors, affiliates, subsidiaries, related companies, heirs, spouses, dependents, administrators and executors.

(b) **Releases by Others**

Each of (i) the Walter Canada Group, (ii) the CRO, (iii) KPMG LLP, (iv) KPMG Inc., including in its capacity as Monitor, Bankruptcy Trustee and Proposal Trustee, (v) the Purchaser, and (vi) with respect to each of the above named Persons, such Person’s present and former advisors, partners, principals, employees, officers, directors, representatives, financial advisors, legal counsel, accountants, investment bankers, consultants, agents, predecessors, affiliates, subsidiaries, related companies, heirs, spouses, dependents, administrators and

executors (collectively, the “**Released Parties**”) will be released and discharged from any and all Obligations, whether reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, direct, indirect or derivative, then existing or hereafter arising, in law, equity or otherwise, that any Person (including the Claimants, the Purchaser and the Walter Canada Group, and any Person who may claim contribution or indemnification against or from them) may be entitled to assert based in whole or in part on any act, omission, transaction, event or other circumstance or occurrence existing or taking place on or prior to the Proposal Completion Time in any way relating to, arising out of or in connection with the business and affairs of the Walter Canada Group, the subject matter of, or the transactions or events giving rise to, any Claims, this Proposal, the CCAA Proceedings and the related BIA Proceedings (collectively, the “**Released Claims**”), provided, however, that nothing herein will release or discharge: (A) the Walter Canada Group from any Residual Liabilities; or (B) any Released Party if the Released Party is judged by the expressed terms of a judgment rendered on a final determination on the merits to have committed fraud or wilful misconduct or to have been grossly negligent.

#### **4.4 Permanent Injunction**

At the Operative Time, the Walter Canada Group and the Purchaser shall be permanently and forever barred, estopped, stayed and enjoined with respect to the Obligations set out in Section 4.3(a) and all Claimants and other Persons shall be permanently and forever barred, estopped, stayed and enjoined with respect to the Released Claims from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any actions, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any actions, suits or demands, including, without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien, encumbrance or security interest of any kind; or (v) taking any actions to interfere with the implementation or consummation of this Proposal.

#### **4.5 Waiver of Defaults**

At the Operative Time, all Persons shall be deemed to have waived any and all defaults of the Walter Canada Group then existing or previously committed by the Walter Canada Group or caused by the Walter Canada Group, directly or indirectly, or non-compliance with any covenant, positive or negative, pledge, warranty, representation, term, provision, condition or obligation, express or implied, in any contract, credit document, purchase order, agreement for sale, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Walter Canada Group arising from the filing by the Walter Canada Group under the BIA or the transactions contemplated by this Proposal, and

any and all notices of default and demands for payment under any instrument, including any guarantee arising from such default, shall be deemed to have been rescinded; provided, however, that any such defaults may still be asserted against the New Walter Canada Group in accordance with the process established in the CCAA Proceedings and any Order pronounced in respect thereof.

#### **4.6 Books and Records**

- (a) Notwithstanding any term in this Proposal, from and after the Proposal Commencement Date, the Purchaser, the Walter Canada Group and the New Walter Canada Group will make available to the other, as reasonably requested, and to any Tax authority, all information, records or documents currently or subsequently in the possession or control of such party relating to liability for Taxes with respect to the Residual Assets, the Transferred Assets, the Deemed Claims and the Residual Liabilities for all periods prior to or including the Proposal Commencement Date, and will preserve such information, records or documents until the expiration of any applicable statute of limitations or extensions thereof. In the event that one party needs access to records in the possession of the other party relating to any of the Residual Assets, the Transferred Assets, the Deemed Claims and the Residual Liabilities for purposes of preparing Tax returns or complying with any Tax audit request, subpoena or other investigative demand by any tax authority, or for any other legitimate Tax-related purpose not injurious to the other party, the other party will allow representatives of the first party, at the first party's sole expense, access to such records during regular business hours at the other party's place of business for the sole purpose of obtaining information for use as aforesaid and will permit the other party to make extracts and copies thereof as may be necessary or convenient.
- (b) Notwithstanding any term in this Proposal, from and after the Proposal Commencement Date, the Purchaser and the Walter Canada Group shall take all reasonable steps to preserve and keep the books and records delivered to it in connection with the completion of the transaction contemplated by this Proposal, including in respect of the period prior to the date of the Initial Order, for a period of six years from the Proposal Commencement Date, or for any longer period as may be required by any law or Government Entity, and shall make such records available to New Walter Canada Group, the Monitor, the Proposal Trustee, the CRO or the Bankruptcy Trustee of the New Walter Canada Group on a timely basis, as may be required by it, including in connection with the CCAA Proceedings and the claims process being conducted thereunder and with any administrative or legal proceeding that may be initiated by, on behalf of, or against the New Walter Canada Group and, for greater certainty, any litigation with respect to the UMWA 1974 Pension Plan Claim, including any discovery process that may be ordered in respect thereof.

#### **4.7 Continuation of Partnerships**

All of the Partnerships shall continue to exist as partnerships through and after the Proposal Completion Date and are not and shall not be dissolved, notwithstanding the

terms of any of the applicable partnership agreements, the *Partnership Act* (British Columbia), the CCAA Proceedings, the BIA Proceedings, this Proposal or the transactions occurring pursuant to the terms hereof.

## **ARTICLE 5 CONDITIONS**

### **5.1 Confirmation of Proposal**

Provided that this Proposal is approved by the Required Majority:

- (a) the Proposal Trustee shall forthwith seek the BIA Proposal Approval Order; and
- (b) subject to the BIA Proposal Approval Order being made in form and substance acceptable to the New Walter Canada Group, Proposal Trustee and the Purchaser and the satisfaction of the conditions to the implementation of this Proposal set forth in Section 5.3, this Proposal shall be implemented by the Proposal Trustee and shall be binding upon each of the Walter Canada Group and all Persons referred to in this Proposal.

### **5.2 Paramountcy**

From and after the Proposal Commencement Date, any conflict between (i) this Proposal, and (ii) the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, purchase order, mortgage, security agreement, indenture, trust indenture, loan or other agreement, commitment letter, lease or other arrangement or undertaking, written or oral (including any and all amendments or supplements thereto) existing with, between or among one or more of the Affected Claimants and the Walter Canada Group as at the Proposal Commencement Date will be deemed to be governed by the provisions of this Proposal and the BIA Proposal Approval Order, which shall take precedence and priority. All Affected Claimants shall be deemed irrevocably for all purposes to consent to all transactions contemplated in and by this Proposal.

### **5.3 Conditions Precedent to Implementation of the Proposal**

The implementation of this Proposal is subject to the following conditions precedent, which may be waived in writing as provided in Section 5.4:

- (a) there shall be no evidence that WECH does not own, directly or indirectly, 100% of the equity interests of the other members of the Walter Canada Group;
- (b) the Walter Canada Group shall have the Retained Business Assets;
- (c) from and after the date of the Term Sheet, no special resolution to dissolve any of Walter Canadian Coal Partnership, Wolverine Coal Partnership, Brule Coal Partnership or Willow Creek Coal Partnership (the “**Partnerships**”) shall have been passed;



- (d) from and after the date of the Term Sheet, no steps shall have been taken to change the membership of the Partnerships nor any member's interest in any of the Partnerships;
- (e) from and after the date of the Term Sheet until the Proposal Commencement Date, there shall be no jurisprudence or change in law that would have a material adverse effect on the tax attributes of the Walter Energy Group or tax impact of the transactions contemplated by or related to this Proposal;
- (f) the Purchaser shall have paid the Purchase Price to the Proposal Trustee, to hold in escrow for delivery to the New Walter Canada Group in accordance with the terms hereof;
- (g) this Proposal shall have been approved by the Required Majority;
- (h) The BIA Proposal Approval Order sanctioning this Proposal shall have been made and entered in form and substance satisfactory to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Proposal Trustee, no appeals or leaves to appeal shall have been filed or commenced in respect of the BIA Approval Order which has not been dismissed or withdrawn and the operation and effect of the BIA Proposal Approval Order shall not have been stayed, revised, modified, reversed or amended, and the BIA Proposal Approval Order shall, among other things:
  - (i) declare that this Proposal has been approved by the Required Majority of Affected Claimants in conformation with the BIA and the BIA Procedure Order;
  - (ii) declare that all steps taken by the Proposal Trustee as contemplated in the BIA Procedure Order have been satisfied;
  - (iii) declare that this Proposal and the transactions contemplated hereby are fair and reasonable, and in the best interests of the Walter Canada Group and its Affected Claimants and other stakeholders of the Walter Canada Group;
  - (iv) order that this Proposal (including the settlements, compromises, arrangements, reorganizations, transfers corporate transactions and releases set out herein) is sanctioned and approved pursuant to the BIA and, as at the Proposal Completion Date, will be effective and will enure to the benefit of and be binding upon the Walter Canada Group and all other Persons named or referred to in this Proposal, in the BIA Proposal Approval Order, the CCAA Procedure Order and any subsequent Order of the Court, if any;
  - (v) authorize and direct the Proposal Trustee to issue, execute and deliver the agreements, documents, securities and instruments contemplated by this Proposal, in the name of and on behalf of the Walter Canada Group, in order to effect all corporate actions contemplated by this Proposal;

- (vi) enjoin the commencement or prosecution, whether directly, derivatively or otherwise, of any demands, claims, actions, causes of action, counterclaims, suits, or any indebtedness, liability, obligation or cause of action released and discharged pursuant to this Proposal;
- (vii) annul the bankruptcy of the Walter Canada Group as of the Annulment Time; and
- (viii) be pronounced by the Court on or before December 28, 2016;
- (i) all relevant Persons shall have executed, delivered and filed all documents and other instruments, in form and substance satisfactory to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Proposal Trustee, that, in the opinion of the Proposal Trustee acting reasonably, are necessary to implement the provisions of this Proposal;
- (j) no effective injunction, writ or preliminary restraining order or any order of any nature shall have been issued and remain in effect by a competent authority prohibiting this Proposal from being consummated as provided herein and no law shall be in effect prohibiting this Proposal from being consummated as provided herein; and
- (k) the Purchaser shall be satisfied that the Annulment Time will occur on or before December 30, 2016.

#### **5.4 Waiver of Conditions**

Other than the approval of the Proposal by the Required Majority pursuant to Section 5.3(g) and the granting of the BIA Proposal Approval Order pursuant to Section 5.3(h) (but not the specific terms of that Order), the Purchaser and the New Walter Canada Group may, with the consent of the Proposal Trustee, at any time and from time to time waive the fulfillment or satisfaction, in whole or in part, of the conditions set forth in Section 5.3 above, except for the conditions set out in Sections 5.3(a) to 5.3(e), which may only be waived by the Purchaser, and the condition set out in Section 5.3(f), which may only be waived by the New Walter Canada Group, with the consent of the Monitor, in each case without any other notice to parties in interest or the Court and without a hearing.

#### **5.5 Trustee's Certificate**

Upon receipt of written evidence of the satisfaction or waiver of each of the conditions precedent set out in Section 5.3, the Proposal Trustee will file with the Court a copy of the certificate given by the Proposal Trustee to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Official Receiver stating that all conditions precedent set out in Section 5.3 have been satisfied or waived (the "**Trustee's Certificate**"). The date that the Trustee's Certificate is given to the Walter Canada Group, the New Walter Canada Group, the Purchaser and the Official Receiver and filed with the Court shall be deemed to be the "**Proposal Commencement Date**". The delivery of the Trustee's Certificate to each of the Purchaser, the New Walter Canada Group and the Walter Canada Group shall be conclusive evidence that this

Proposal and the transactions contemplated herein shall become effective in accordance with the terms herein.

## **ARTICLE 6 MISCELLANEOUS**

### **6.1 Modification of Proposal**

After the Creditors' Meeting (and both prior to and subsequent to the obtaining of the BIA Proposal Approval Order), the Purchaser and the New Walter Canada Group, in consultation with the Proposal Trustee, may at any time and from time to time agree to modify, amend, vary or supplement this Proposal, without the need for obtaining an Order of the Court or providing notice to the Affected Claimants if the Proposal Trustee determines that such modification, amendment, variation or supplement would not be materially prejudicial to the interests of the Affected Claimants under this Proposal or the BIA Proposal Approval Order and is necessary in order to give effect to the substance of this Proposal or the BIA Proposal Approval Order. The Proposal Trustee shall post on the Proposal Trustee's website, as soon as possible, any such modification, amendment, variation or supplement to this Proposal, with notice of such posting forthwith provided to all known Claimants at the filing date.

### **6.2 Capacity of Proposal Trustee**

KPMG Inc., is acting in its capacity as Bankruptcy Trustee and Proposal Trustee under this Proposal and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business or obligations of any of the members of the Walter Canada Group or the New Walter Canada Group.

### **6.3 Capacity of the CRO**

The CRO is acting and has acted in its capacity as CRO pursuant to the terms of the Order of the Court dated January 5, 2016, as amended or supplemented by further Court Orders and shall not be responsible or liable for any obligations of any member of the Walter Canada Group or of the New Walter Canada Group; provided however that the CRO shall exercise the powers granted to the CRO to cause the members of the New Walter Canada Group to perform their obligations (if any) under this Proposal, the CCAA Procedure Order and any subsequent Order of the Court.

### **6.4 Notices**

Any notices or communication to be made or given hereunder to the Walter Canada Group, the Purchaser and the Proposal Trustee shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by fax or e-mail addresses to the respective parties as follows:

- (a) if to the New Walter Canada Group, on or prior to the Proposal Commencement Date, the Walter Canada Group:

William E. Aziz  
Chief Restructuring Officer

Email: baziz@bluetreadvisors.com

With a copy to:

Osler, Hoskin & Harcourt LLP  
Box 50, 1 First Canadian Place  
Toronto, Ontario, M5X 1B8

Attention: Marc Wasserman / Patrick Riesterer  
Fax No.: 416.862.6666  
Email: mwasserman@osler.com / priesterer@osler.com

And with a copy to:

DLA Piper (Canada) LLP  
Suite 2800, Park Place  
666 Burrard St.  
Vancouver, British Columbia V6C 2Z7

Attention: Mary Buttery / Lance Williams  
Facsimile: (604) 605-3768  
Email: mary.buttery@dlapiper.com / lance.williams@dlapiper.com

(b) If to the Proposal Trustee:

KPMG Inc.  
777 Dunsmuir Street, PO Box 10426  
Vancouver, British Columbia V7Y 1K3

Attention: Philip Reynolds / Anthony Tillman  
Facsimile: (604) 691-3036  
Email: pjreynolds@kpmg.ca / atillman@kpmg.ca

with a copy to:

McMillan LLP  
181 Bay Street, Suite 440  
Toronto, ON M5J 2T3

Attention: Wael Rostom / Caitlin Fell  
Facsimile: 416.865.7048  
Email: wael.rostom@mcmillan.ca / caitlin.fell@mcmillan.ca

(c) If to the Purchaser, or after the Proposal Commencement Date, the Walter Canada Group:

Jeff Shickele

Director  
1098138 B.C. Ltd.  
Suite 500, 856 Homer Street  
Vancouver, BC V6B 2W5

Facsimile: 604.602.7110  
Email: jshickele@amacon.com

and a copy to:

Randy Morphy  
Borden Ladner Gervais LLP  
Suite 1200 – 200 Burrard Street  
PO Box 48600  
Vancouver, BC V7X 1T2

Facsimile: 604.622.5006  
Email: rmorphy@blg.com

or to such other fax or e-mail as any party may from time to time notify the others in accordance with this Section 6.4. All such notices and communications shall be deemed to have been received, in the case of notice by fax or e-mail sent prior to 5:00 p.m. (local time) on a Business Day, when such fax or email is sent or if sent after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day. This Proposal and any action taken by any Person pursuant to this Proposal shall not be invalidated where the BIA Procedure Order provides that any notice may be dispensed with or where there is an unintentional failure by the New Walter Canada Group, the Walter Canada Group or the Proposal Trustee to give any notice contemplated hereunder to any particular Claimant.

Any notices or communications to be made or given hereunder by the New Walter Canada Group, the Walter Canada Group or the Proposal Trustee to a Claimant shall be sent as provided for in the BIA Procedure Order or by fax, e-mail, ordinary mail, registered mail or courier. A Claimant shall be deemed to have received any document sent pursuant to this Proposal: (i) in the case of a document sent by fax or e-mail prior to 5:00 p.m. (local time) on a Business Day, when such fax or email is sent or if sent after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day; (ii) in the case of documents sent by courier, on the Business Day immediately following the day on which the document is sent; and (iii) in the case of a document sent by ordinary or registered mail, four (4) Business Days after the document is sent. Documents shall not be sent by ordinary or registered mail during a postal strike or work stoppage of general application.

Notices or communications may be sent to a Claimant as follows: (i) at the addresses set forth in the Proof of Claim filed by such Claimant; (ii) to the address set forth in any written notice of address changes delivered to the Proposal Trustee; or (iii) the last known address for such Claimant available to the Proposal Trustee.

## **6.5 Severability of Proposal Provisions**

If, prior to the Proposal Commencement Date, any term or provision of this Proposal is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Proposal Trustee, the New Walter Canada Group or the Purchaser, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Proposal shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

## **6.6 Non-consummation**

If this Proposal is not approved by the Required Majority, if any of the other conditions set forth in Section 5.3 above are not satisfied or waived in accordance with the terms hereof or if the BIA Proposal Approval Order is not granted, then: (i) this Proposal shall be null and void in all respects, (ii) no transfer of Transferred Assets and no assumption of Deemed Claims shall occur; (iii) any Claim, any settlement, compromise or release embodied in this Proposal, assumption or termination, repudiation of executory contracts or leases effected by this Proposal, and any document or agreement executed pursuant to this Proposal shall be deemed null and void, and (iv) nothing contained in this Proposal, and no act taken in preparation for consummation of Proposal, shall:

- (a) constitute or be deemed to constitute a waiver or release of any Claims by or against the Walter Canada Group or any other Person;
- (b) prejudice in any manner the rights of the Walter Canada Group, the New Walter Canada Group or any other Person in any further proceedings involving the Walter Canada Group or the New Walter Canada Group; or
- (c) constitute an admission of any sort by the Walter Canada Group, the New Walter Canada Group or any other Person.

## **6.7 Governing Law**

This Proposal shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein. Any questions as to the interpretation or application of this Proposal and all proceedings taken in connection with this Proposal and its provisions shall be subject to the exclusive jurisdiction of the Court.

## **6.8 Successors and Assigns**

This Proposal shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal representatives, successors (including by merger, amalgamation, consolidation, conversion or reorganization or following any winding-up, liquidation or dissolution) and permitted assigns of any Person named or referred to in this Proposal.

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## **Schedule “D”**

**Draft BIA Procedural Order as at December 9, 2016**



No.:  
Vancouver Registry  
Estate No.:

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,  
R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE BANKRUPTCY OF  
WALTER ENERGY CANADA HOLDINGS, INC.

**ORDER MADE AFTER APPLICATION**  
**(Bankruptcy Procedure Order)**

BEFORE THE HONOURABLE )  
MADAM JUSTICE FITZPATRICK ) **[MONDAY]**, THE **[12]** DAY OF  
 ) DECEMBER 2016

ON THE APPLICATION of KPMG Inc., in its capacity as trustee-in-bankruptcy (the "**Bankruptcy Trustee**") of Walter Energy Canada Holdings, Inc., Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal, Ltd., 0541237 B.C. Ltd., Walter Canadian Coal Partnership, Wolverine Coal Partnership, Brule Coal Partnership and Willow Creek Coal Partnership (collectively, the "**Debtors**") coming on for hearing at Vancouver, British Columbia, on the **[12]** day of December, 2016;

AND ON HEARING Peter Reardon and Wael Rostom, counsel for the Bankruptcy Trustee, and Mary I.A. Buttery, H. Lance Williams, Marc Wasserman and Patrick Riesterer, counsel for the Debtors and **[●list entities in the New Walter Canada Group (the "New Walter Canada Group")]** and those other counsel listed on **Schedule "A"** hereto;

AND UPON READING the material sworn or filed herein and all other materials sworn and filed in connection with the Supreme Court of British Columbia Action No. S-1510120 (the "**CCAA Proceedings**") under *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended;

AND pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and the British Columbia Supreme Court Civil Rules;

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.

**CONSOLIDATED BANKRUPTCY PROCEEDINGS**

2. The Bankruptcy Trustee is entitled to administer the procedural matters relating to the bankruptcy proceedings of the Debtors on a consolidated basis (the “**Consolidated Bankruptcy Proceedings**”). A copy of this order will be filed in the court file for each of the Debtor’s respective estate, but any other document required to be filed in the court in the Consolidated Bankruptcy Proceedings shall be filed in this proceeding.
3. The Consolidated Bankruptcy Proceeding will be in relation to procedural matters only and do not:
  - (a) affect the separate legal status and corporate structure of the Debtors;
  - (b) cause the Debtors to be liable for any claim for which it is otherwise not liable, or cause the Debtors to have an interest in an asset to which it otherwise would not have; or
  - (c) affect the Debtors’ filing obligations under the BIA, other than abridging timelines and dispensing with notice requirements as set out herein.
4. Without limiting the generality of the foregoing, the Bankruptcy Trustee is authorised to carry out its administrative duties and responsibilities as trustee-in-bankruptcy and as proposal trustee (the “**Proposal Trustee**”) under the BIA as if the Consolidated Bankruptcy Proceedings were a single proceeding under the BIA, including without limitation:
  - (a) the meetings of creditors of the Debtors may be convened and conducted jointly;
  - (b) the Bankruptcy Trustee and the Proposal Trustee, as applicable is authorised to issue consolidated reports in respect of the Debtors; and
  - (c) the Bankruptcy Trustee is authorised to deal with all filings and notices relating to the bankruptcy and the Proposal Trustee is authorized to deal with all filings and notices relating of the proposal proceedings of the Debtors, each as required under the BIA on a consolidated basis.

**BANKRUPTCY OF THE DEBTORS AND BANKRUPTCY TRUSTEE**

5. The First Meeting of Creditors (the “**First Meeting of Creditors**”) will be held on December [13], 2016 at 10 o'clock a.m. (Vancouver time) at the offices of the Bankruptcy Trustee, 777 Dunsmuir Street, Vancouver, or such later date as required by the Bankruptcy Trustee and notice of such later date shall be posted on the Bankruptcy Trustee’s website.
  
6. The following actions shall be sufficient notice for the holding the First Meeting of Creditors and the holding of the meeting to consider the Proposal:
  - (a) the posting of this Order and all notices given by the Bankruptcy Trustee and the Proposal Trustee on the Bankruptcy Trustee’s website at <http://www.kpmg.com/ca/walterenergycanada>;
  
  - (b) the mailing by the Monitor in the CCAA Proceedings (the “Monitor”) on November 29, 2016 of a letter to all creditors with proven claims in the CCAA Proceedings for whom the Monitor did not have an email address or a fax number regarding potential proceedings relating to the Debtors;
  
  - (c) the mailing of a further letter to creditors for whom the Monitor did not have an email address or fax number on December 7, 2016 advising that further proceedings, including a bankruptcy of the Debtors would occur shortly and advising that the First Meeting of Creditors would likely be held as soon as 10:00 a.m. on December 13, 2016, the meeting to consider the Proposal would likely be held at 2:00 p.m. on December 13, 2016 and the sanction hearing to approve the Proposal was likely to be heard at 10:00 a.m. on December 14, 2016 at the Supreme Court of British Columbia at 800 Smythe Street, Vancouver, BC; and
  
  - (d) the delivery by email or fax to all creditors for whom the Monitor had email addresses or fax numbers on December 10, 2016 of drafts of the Notice of First Meeting of Creditors, notice of meeting to consider the Proposal and notice of the court application to approve the Proposal;

(such actions being collectively referred to herein as the “Notices”).
  
7. The times for satisfying the following requirements under the BIA are abridged:
  - (a) the requirement of the Bankruptcy Trustee to provide any notice or information in respect of the First Meeting of Creditors pursuant to section 102 of the BIA; and

- (b) for the Proposal Trustee to report as to the appraisal and investigation of the affairs of the Debtors pursuant to section 50(10) of the BIA;

and any notice requirements under the BIA required in advance of the Sanction Hearing as defined in paragraph 14 below are satisfied by the Notices and the Bankruptcy Trustee making available on its website and providing a copy to the Superintendent of Bankruptcy/Official Receiver of the following:

- (c) the certificates of appointment issued by the Superintendent of Bankruptcy in respect of the Debtors;
- (d) all Monitor's reports issued in the CCAA Proceedings, including the most current cash flow statement;
- (e) a copy of this Order; and
- (f) a copy of a consolidated statement of all claims in the CCAA Proceeding and all assets.

8. The requirement for the Bankruptcy Trustee to publish notice of the First Meeting of Creditors pursuant to section 102(4) is hereby dispensed with.
9. All claims filed or deemed to be filed pursuant to the claims process order pronounced August 16, 2016 (the "**Claims Process Order**") or otherwise in the CCAA Proceedings will continue in the Consolidated Bankruptcy Proceedings and all proofs of claim filed in respect of such claims and all notices of revision or disallowance issued in the CCAA Proceedings claims process and the Claims Bar Date (as defined in the Claims Process Order) continue to apply, *mutatis mutandis*, in these proceedings. The creditors of the Walter Canada Group shall not be required to further prove their claims pursuant to section 124 of the BIA. Any creditors of the Debtors with claims arising after the deadline set out in the Claims Process Order may prove their claim in accordance with the BIA, and are unaffected by the Claims Bar Date.
10. The Bankruptcy Trustee is hereby authorized to file a joint proposal of the Debtors under the BIA in the form attached as **Schedule "B"**, or as amended in accordance with its terms (the "**Proposal**").

#### **THE PROPOSAL AND THE PROPOSAL TRUSTEE**

11. The requirement that the Proposal Trustee send the documents listed in section 51(1) of the BIA to every known creditor is hereby abridged and amended such that the posting by the Proposal

Trustee of these documents on the Proposal Trustee's website at <http://www.kpmg.com/ca/walterenergycanada> and delivery of the documents by e-mail or fax to the creditors of the Debtors for which the Proposal Trustee has e-mail addresses or fax numbers will be good and sufficient delivery and notice of the documents to be provided pursuant to section 51(1) of the BIA.

12. The meeting to approve the Proposal of the Debtors (the "**Proposal Meeting**") will be held on December **[14]**, 2016 at 2:00 o'clock p.m. (Vancouver time) at the offices of the Proposal Trustee, 777 Dunsmuir Street, Vancouver or such later date as required by the Proposal Trustee and notice of such later date shall be posted on the Proposal Trustee's website.
13. William Aziz of BlueTree Advisors Inc., the chief restructuring officer of the Debtors in the CCAA Proceedings shall be entitled to be an inspector in the Consolidated Bankruptcy Proceedings if appointed by the creditors at the First Meeting of Creditors.
14. The time for holding the application for the Court's approval of the Proposal (the "**Sanction Hearing**") is hereby abridged such that the Sanction Hearing will be heard by the Court on December **[16]**, 2016.
15. The requirement that the Proposal Trustee send a notice (the "**Proposal Notice**") pursuant to section 58 of the BIA of the hearing of the Sanction Hearing at least 15 days before the date of such hearing, to the Debtors and to every creditor of the Debtors who has a proven claim is hereby abridged and amended such that the posting by the Proposal Trustee of the Proposal Notice on the Proposal Trustee's website will be good and sufficient notice of the Sanction Hearing. On the day prior to the Sanction Hearing, the Trustee will post a copy of the notice of application and report of the Trustee to be filed in connection with the Sanction Hearing (the "**Sanction Hearing Materials**"), on the Trustee's website and will deliver such notice of application and report by e-mail or fax to the creditors of the Debtors for which the Trustee has e-mail addresses or fax numbers, and such delivery will constitute sufficient delivery and notice of the Sanction Hearing Materials.

#### GENERAL

16. The Proposal Trustee is authorized and directed to take any steps or execute any conveyances, contracts, assignments or other documents reasonably necessary or advisable to complete the Proposal and the transactions contemplated thereby.

17. The Bankruptcy Trustee, the Proposal Trustee or any other interested person may rely on the materials filed in the CCAA Proceedings at the application for the Proposal Approval Order or any other order in these proceedings.
18. Each of the Bankruptcy Trustee, the Proposal Trustee and the New Walter Canada Group be and are 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 Bankruptcy Trustee or the Proposal Trustee, as applicable 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 Debtors 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.
19. 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 Trustee, as an officer of this Court, and to the New Walter Canada Group as may be necessary or desirable to give effect to this Order, to grant representative status to the Trustee in any foreign proceeding, or to assist the Trustee and the New Walter Canada Group 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:

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Lawyers for the Trustee

McMillan LLP  
(Peter Reardon and Wael Rostom)

BY THE COURT

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REGISTRAR-IN-BANKRUPTCY

