



This is the 23rd Affidavit of William E. Aziz in this case and was made on June 26, 2018

NO. S-1510120  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

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

AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF NEW  
WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL  
CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP., NEW  
WOLVERINE COAL CORP. AND CAMBRIAN  
ENERGYBUILD HOLDINGS ULC

PETITIONERS

**AFFIDAVIT**

I, **WILLIAM E. AZIZ**, Chief Restructuring Officer, of the Town of Oakville, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the President of BlueTree Advisors Inc. ("**BlueTree**") which has been retained to provide my services as Chief Restructuring Officer ("**CRO**") to the Petitioners (the "**New Walter Canada Group**"). As such I have personal knowledge of the facts hereinafter deposed, except where such facts are stated to be based upon information and belief, and where so stated I do verily believe the same to be true.
2. This Affidavit is made in support of a motion by the New Walter Canada Group under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**") seeking an Order (the "**Sanction Order**") providing for, among other things, the following:
  - (a) sanctioning the Amended and Restated Plan of Compromise and Arrangement of the New Walter Canada Group dated June 22, 2018 (the "**CCAA Plan**"), a copy of which is attached as Exhibit "**A**" to this Affidavit;

- (b) authorizing the New Walter Canada Group and the Monitor to take all steps necessary to implement the CCAA Plan;
  - (c) granting releases to certain Releasees (as defined below); and
  - (d) authorizing the New Walter Canada Group and the Monitor to take such steps as may be necessary following the Plan Implementation Date (as defined below) to make distributions and complete such transactions as are contemplated by the CCAA Plan, to seek an orderly wind-down or other process acceptable to the New Walter Canada Group for Energybuild, complete the Claims Process, and address any other matters that arise in connection with the CCAA Proceedings; and
  - (e) granting such further and other relief as this Honourable Court deems just.
3. I was initially retained by Walter Energy Canada Holdings, Inc. ("**Walter Energy Canada**") to provide my services as CRO to Walter Energy Canada, its direct and indirect subsidiaries and affiliates, and the partnerships listed on Schedule "C" to the Initial Order (collectively, the "**Old Walter Canada Group**"). I was retained pursuant to an engagement letter dated December 30, 2015, as amended in response to certain requests made by Old Walter Canada Group stakeholders. BlueTree was appointed as CRO of the Old Walter Canada Group pursuant to the Order of this Honourable Court made on January 5, 2016 (the "**SISP Order**").
  4. My engagement as CRO of the Old Walter Canada Group, other than as CRO of Cambrian Energybuild Holdings ULC ("**Cambrian**"), was terminated on December 15, 2016, when the entities comprising that group filed for bankruptcy.
  5. The companies comprising the New Walter Canada Group (other than Cambrian) were incorporated on December 8, 2016, pursuant to the authorization granted in paragraph 5 of the Order of this Honourable Court made on December 7, 2016 (the "**CCAA Procedure Order**"). Each such company became a Petitioner in these CCAA proceedings and subject to the CCAA Charges (as defined in the CCAA Procedure Order), and I became CRO of each new company in the New Walter Canada Group when the companies were formed.
  6. On May 31, 2018, this Honourable Court granted an order (the "**Meeting Order**") permitting the New Walter Canada Group to file its Plan of Compromise and Arrangement dated May 29, 2018 (the "**Original Plan**"), as such Original Plan may be amended in accordance with the terms thereof.

7. As discussed in more detail below, the Original Plan was amended and restated to narrow the scope of the releases contained therein. A blackline showing the changes made to the Original Plan is attached as Exhibit "B" to this Affidavit.

8. Any capitalized terms that are used but not defined in this Affidavit have the meaning given to them in the CCAA Plan or the proposed Sanction Order.

9. The information in this Affidavit is arranged under the following headings:

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**I. INTRODUCTION**

10. The New Walter Canada Group is bringing this motion to seek this Honourable Court's approval of the CCAA Plan which, if sanctioned and implemented, will result in the successful culmination of these CCAA proceedings, including:

- (a) payment in full of all Proven Claims of Affected Creditors,
- (b) a \$13 million payment to the United Mine Workers of America 1974 Pension Plan and Trust (the "1974 Plan"),
- (c) a \$75,000 payment to the United Steel, Paper and Forestry, Rubber, Manufacturing, Allied Industrial and Service Workers International Union, Local 1-424 ("USW") in respect of its costs in these proceedings, and
- (d) a substantial distribution to Warrior Met Coal, Inc. ("Warrior") on account of the Deemed Interest Claim.

11. Pursuant to the SISP Order, the Old Walter Canada Group and the New Walter Canada Group have engaged in several Court-approved transactions that generated significant value for their creditors:
  - (a) *Conuma Transaction*: On August 16, 2016, the Old Walter Canada Group obtained this Honourable Court's authorization to sell most of its business and assets to Conuma Coal Resources ("**Conuma**"). The sale transaction was subsequently consummated, resulting in significant funds becoming available to the Old Walter Canada Group and its creditors, the assumption of several material contracts and potential claims, and the restart of a number of the Old Walter Canada Group's former mines, to the benefit of the affected communities.
  - (b) *Remaining Assets Transaction*: After the Conuma Transaction, the Old Walter Canada Group and the Monitor developed and implemented a further sales and investment solicitation process for certain assets remaining within the Old Walter Canada Group, including the Old Walter Canada Group's U.K. subsidiaries. This culminated in the formation of the New Walter Canada Group and the sale of the shares of the Old Walter Canada Group to 1098138 B.C. Limited pursuant to a proposal under the *Bankruptcy and Insolvency Act* and approved by this Honourable Court on December 21, 2016 (the "**BIA Proposal**").
  - (c) *Belcourt Transaction*: The New Walter Canada Group entered into and consummated a purchase agreement with Peace River Coal Inc. approved by this Honourable Court in respect of the New Walter Canada Group's 50 percent interest in Belcourt Saxon Limited Partnership and Belcourt Saxon Coal Ltd.
  - (d) *Speciality Carbons Transaction*: The New Walter Canada Group's U.K. subsidiary Energybuild Holdings Limited entered into and consummated a share sale agreement with Speciality Carbons Limited ("**Speciality Carbons**") approved by this Honourable Court pursuant to which it sold the shares of Energybuild Limited and certain of its affiliates.
12. In addition, on August 16, 2016, the Old Walter Canada Group obtained an Order of this Honourable Court which established a claims procedure for creditors of the Old Walter Canada Group (the "**Claims Process Order**"). The Claims Process established under the Claims Process Order was subsequently implemented, with a view to establishing the universe of claims and ultimately making a distribution to creditors.

13. Among other Claims, the New Walter Canada group disputed a claim made by the 1974 Plan pursuant to certain "controlled group" provisions of the U.S. Employee Retirement Income Security Act of 1974.
14. On May 1, 2017, this Honourable Court determined that the 1974 Plan did not have a valid Claim, but the 1974 Plan obtained leave to appeal that determination to the British Columbia Court of Appeal (the "**Appeal**").
15. The New Walter Canada Group subsequently agreed to a Settlement Term Sheet (the "**Term Sheet**") with the 1974 Plan and Warrior that resulted in a full and final settlement of all outstanding issues among these parties in these CCAA proceedings.
16. This Honourable Court approved the Term Sheet in an Order made October 6, 2017 (the "**Term Sheet Approval Order**"). In its reasons for decision for granting the Term Sheet Approval Order, this Honourable Court noted that the Term Sheet "achieves what few CCAA proceedings achieve, namely a somewhat timely but full recovery for the vast majority of claimants" and is "fair and reasonable, ... provides a substantial benefit to the creditors of the petitioners and ... is consistent with the purpose and spirit of the CCAA."
17. The settlement contemplated by the Term Sheet was conditional, among other things, upon the completion of the unresolved restructuring claims process commenced pursuant to an Order of this Honourable Court made on August 15, 2017 (the "**Claims Process Amendment Order**"). The Claims Process Amendment Order authorized a process whereby the New Walter Canada Group and the Monitor would seek to identify remaining Restructuring Claims and Directors/Officers Claims that had not been solicited (the "**Unresolved Restructuring Claims Process**"). The Appeal was put into abeyance to allow the Unresolved Restructuring Claims Process to proceed so that the New Walter Canada Group could determine whether the conditions precedent to the implementation of the Term Sheet could be met.
18. After the Unresolved Restructuring Claims Process was completed, the New Walter Canada Group and the Monitor determined that there would be sufficient funds to make the payments contemplated by the Term Sheet after establishing certain reserves for Unresolved Claims and other matters (as described in greater detail below). The New Walter Canada Group then, in consultation with the Monitor and certain stakeholders, developed the CCAA Plan.
19. As described above, the CCAA Plan (if implemented) is expected to result in the full recovery of Proven Claims owed to Affected Creditors, the full satisfaction of the 1974 Plan Claim as provided by the Term Sheet, a payment to USW, and a payment of substantial remaining funds to Warrior in respect of the Deemed Interest Claim as contemplated by the BIA Proposal. As discussed in

greater detail below, the CCAA Plan satisfies all the statutory pre-conditions under the CCAA, and is fair and reasonable.

20. On May 31, 2018, this Honourable Court granted the Meeting Order permitting the New Walter Canada Group to file the Original Plan, authorized certain amendments to the Original Plan, and ordered that the New Walter Canada Group's creditors would be deemed to meet and vote their claims unanimously in favour of the Original Plan, or, if amended, the CCAA Plan, at certain deemed meetings (the "**Creditors Meetings**"). The New Walter Canada Group and the Monitor have complied with the Meeting Order. As a result, the New Walter Canada Group is now moving for sanction of the CCAA Plan.
21. If the Sanction Order is issued, the principal steps to be completed prior to the conclusion of these proceedings are the satisfaction of the conditions precedent to the implementation of the CCAA Plan, a distribution of the funds generated through the Court-approved transactions described above, and the litigation of the remaining Unresolved Claim filed by Mr. James.

## II. **THE CCAA PLAN**

### A. **Overview of the CCAA Plan**

22. The purpose of the CCAA Plan is to:
  - (a) permit the satisfaction, settlement, extinguishment, release and discharge of all Affected Claims in accordance with the Claims Process Order, the Meeting Order, and the CCAA Plan;
  - (b) provide for the distribution of a sufficient amount of the Available Funds to Affected Creditors to satisfy the Proven Claims of Affected Creditors in full;
  - (c) fully and finally compromise, resolve, release, and settle the 1974 Plan Claim;
  - (d) provide for the payment of CDN\$13 million to the 1974 Plan and CDN\$75,000 to USW on account of USW's costs in the CCAA Proceedings (the "**USW Settlement Amount**"), each as contemplated by the Term Sheet; and
  - (e) provide for the distribution of any surplus of the Available Funds, free and clear of any Claims of Affected Creditors, to fully and finally satisfy, compromise, extinguish, release and discharge Warrior's Deemed Interest Claim.
23. The key features of the CCAA Plan are as follows:

- (a) If the conditions precedent to the implementation of the CCAA Plan are fulfilled, then on the Plan Implementation Date, the Monitor, on behalf of the New Walter Canada Group, will establish the following reserves and cash pools (all described below): (i) Administrative Costs Reserve; (ii) Insurance Reserve; (iii) Wind-Down Reserve; (iv) Unresolved Claims Reserve; (v) Affected Creditors' Distribution Cash Pool; and (vi) Deemed Interest Claim Distribution Cash Pool.
  
- (b) The primary stakeholders affected by the CCAA Plan are the Affected Creditors, the 1974 Plan, and Warrior:
  - (i) The Affected Creditors will have all of their Proven Claims paid in full under the CCAA Plan and USW will receive the USW Settlement Amount.
  
  - (ii) The 1974 Plan (which is an Affected Creditor under the CCAA Plan) will receive a payment of CDN\$13 million from the Deemed Interest Claim Distribution Cash Pool in accordance with the Term Sheet (the "**1974 Plan Settlement Amount**"), as a result of which the 1974 Plan Claim shall be fully and finally satisfied, settled, extinguished, released and discharged.
  
  - (iii) Warrior will be entitled to receive distributions from the funds remaining in Deemed Interest Claim Distribution Cash Pool after the 1974 Plan Settlement Amount has been paid.

**B. Summary of Reserves and Distribution Cash Pools**

- 24. The CCAA Plan contemplates that the Monitor, on behalf of the New Walter Canada Group, will establish a number of reserves and distribution cash pools on the Plan Implementation Date using the Available Funds. The Available Funds are the total of (i) the proceeds of any sale or disposition of any of the assets of the New or Old Walter Canada Group that have been paid to the Monitor on behalf of the New or Old Walter Canada Group and are being held by the Monitor; (ii) the proceeds of the transaction set out in the BIA Proposal; (iii) all other monies held by the Monitor, on behalf of the Petitioners, that are in the hands of the Monitor at the Effective Time on the Plan Implementation Date; and (iv) all monies received by the Monitor, on behalf of the Petitioners, following the Plan Implementation Date.
  
- 25. After the Plan Implementation Date, the Monitor shall hold the Available Funds, on behalf of the New Walter Canada Group, in one or more separate interest-bearing accounts or guaranteed investment certificates for each of the reserves and pools described in the following sections.

***Administrative Costs Reserve***

26. An Administrative Costs Reserve will be established out of the Available Funds in the amount of \$1.25 million, which will be held by the Monitor, on behalf of the New Walter Canada Group.
27. The Administrative Costs Reserve shall be used to pay the Administrative Costs, which consist of administrative claims and costs outstanding on the Plan Implementation Date (or arising thereafter) including, without limitation, the following:
  - (a) amounts in respect of the fees and costs to be incurred by (i) the CRO; (ii) the New Walter Canada Group, their counsel and their advisors; and (iii) the Monitor, its counsel and its advisors, in each case on a solicitor and own client full indemnity basis (as applicable) with respect to the performance of such parties' duties and obligations whether arising before or after the Plan Implementation Date;
  - (b) an amount equal to the Petitioners' estimate of any potential costs awarded to an Affected Creditor with an Unresolved Claim in respect of any litigation associated with such Unresolved Claim; and
  - (c) amounts, if any, secured by the Charges – which includes the Administration Charge, the Directors' Charge, the Success Fee Charge and the KERP Charge – that remain owing on the Plan Implementation Date, if any.
28. If the Monitor determines, in consultation with the New Walter Canada Group and Warrior, that there are funds in the Administrative Costs Reserve sufficiently more than the amount of all Administrative Costs, the CCAA Plan permits the Monitor to transfer such excess Administrative Costs Reserve funds to the Deemed Interest Claim Distribution Cash Pool and declare a Distribution Date in respect thereof.
29. The New Walter Canada Group and the Monitor believe that \$1.25 million is an appropriate reserve to fund Administrative Costs associated with the remaining activities in these CCAA Proceedings and to address any potential contingencies. This amount is fair and reasonable because of the following reasons:
  - (i) One significant Unresolved Claim remains, the claim of Mr. Kevin James, which may need to be litigated by a full hearing and any appeals that may be taken;
  - (ii) Additional expenses will be incurred to wind-down certain New Walter Canada Group entities as a result of their corporate structure and the Unresolved Claims;



- (iii) Additional tax returns will need to be filed and the Monitor will need to deal with any additional tax issues;
- (iv) Costs will be incurred to make the distributions to Affected Creditors and Warrior contemplated by the CCAA Plan; and
- (v) Further Court appearances may be necessary.

***Wind-Down Reserve***

- 30. A Wind-Down Reserve will be established out of the Available Funds (i) in the amount of CDN\$3,000,000.00, plus any amounts held by or on behalf of Energybuild, including as a result of the sale of Energybuild Limited, Energybuild Mining Limited and Mineral Extraction and Handling Limited.
- 31. The Wind-Down Reserve shall include any outstanding costs as at the Plan Implementation Date or arising thereafter falling within one or more of the following categories:
  - (a) amounts in respect of existing or future taxes, expenses and other disbursements that are or may become payable;
  - (b) amounts in respect of outstanding Crown Claims;
  - (c) amounts to address the orderly wind-down or other process at the discretion of the New Walter Canada Group for Energybuild in a cost effective and tax efficient manner that protects Energybuild's directors and officers from liability to the fullest extent possible, including the purchase of any reasonable director and officer insurance and "run off" coverage; and
  - (d) amounts in respect of general contingency costs.
- 32. A plan of compromise and arrangement proposed under the CCAA must provide for the payment or provision of Crown Claims pursuant to section 6(3) of the CCAA. The CCAA Plan satisfies this requirement by requiring the Monitor, within six months after the Plan Sanction Date, to pay in full, on behalf of the New Walter Canada Group, to Her Majesty in Right of Canada or any province all amounts of any kind that could be subject to a demand under Section 6(3) of the CCAA that were outstanding on the Filing Date and which have not been paid by the Plan Implementation Date. The New Walter Canada Group is not aware of any outstanding Crown Claims at this time.

33. The CCAA Plan does not provide for payment of any "Employee Priority Claims" or "Pension Priority Claims" pursuant to Sections 6(5) and 6(6) of the CCAA because no such claims exist.

***Insurance Reserve***

34. An Insurance Reserve shall be established out of the Available Funds to be held by the Monitor, on behalf of the New Walter Canada Group, for the purpose of purchasing any reasonable "run off" or "tail" insurance for the Directors and Officers and for the directors and officers of Energybuild and the payment of any deductibles required in connection with claims made in respect thereof. The Insurance Reserve will be in the amount of CDN\$275,000.
35. In circumstances where the Monitor determines, in consultation with the Petitioners and Warrior, that there are excess funds in the Insurance Reserve, such excess funds will be deemed to have been transferred to the Deemed Interest Claim Distribution Pool on such date as is determined by the Monitor.

***Unresolved Claims Reserve***

36. An Unresolved Claims Reserve shall be established out of the Available Funds and be held by the Monitor, on behalf of the New Walter Canada Group, in an amount equal to the aggregate amount that would have been paid to all Affected Creditors holding Unresolved Claims in accordance with the CCAA Plan (calculated on the basis of the amounts specified in such Affected Creditors' Proofs of Claim) if such Unresolved Claims had been Proven Claims on the Plan Implementation Date.
37. The Unresolved Claims shall be finally determined in accordance with the Claims Process Order and any other applicable Order. If an Affected Creditor's Unresolved Claim is determined to be a Proven Claim in accordance with the Claims Process Order or if an Affected Creditor's Unresolved Claim is accepted, in each case, in whole or in part, (a) the Monitor, on behalf of the New Walter Canada Group, shall distribute the amount from the Unresolved Claims Reserve equal to such Affected Creditor's Distribution Claim, if any, that would have been distributed on the Plan Implementation Date had such Affected Claim been a Proven Claim, plus an amount equal to the costs (if any) awarded by this Honourable Court to such Affected Creditor in respect of any litigation associated with such Unresolved Claim (the "**Proven Claim Amount**") to such Affected Creditor in full satisfaction, payment, settlement, release and discharge of such Affected Creditor's Claim; and (b) that Proven Claim Amount shall be deemed to have first been transferred to the Affected Creditors' Distribution Cash Pool (described below) and then paid therefrom by the Monitor, on behalf of the New Walter Canada Group.

38. When all Unresolved Claims have been finally determined in accordance with the Claims Process Order and any other applicable Order, and when all Proven Claim Amounts have been paid, any balance that remains in the Unresolved Claims Reserve will be deemed to be transferred to the Deemed Interest Claim Distribution Cash Pool.

***Affected Creditors' Distribution Cash Pool***

39. An Affected Creditors' Distribution Cash Pool shall be established from the Available Funds in an amount equal to all Proven Claims of Affected Creditors. The Affected Creditors' Distribution Cash Pool shall be distributed by the Monitor, on behalf of the New Walter Canada Group, on the Plan Implementation Date or on any Distribution Date, as the case may be, to each Affected Creditor in the amount of such Affected Creditor's Proven Claim in full satisfaction, payment, settlement, release and discharge of such Affected Creditor's Proven Claim.
40. On the Plan Implementation Date, or as soon thereafter as the Monitor and the New Walter Canada Group may, in their discretion, determine, the Monitor shall pay the USW Settlement Amount to USW on account of USW's costs in the CCAA Proceedings.
41. Distributions to Employee Claimants in respect of Employee Claims will be made following review by Service Canada and net of any employment insurance overpayment deductions or other amounts required by Applicable Law to be withheld from the amount to be distributed to Employee Claimants and remitted or paid to Service Canada or any other Government Authority. Distributions to Employee Claimants shall not be made by the Monitor until the Service Canada review is complete and the amount of any remittance or payment due to Service Canada has been determined. Within five Business Days of making any distribution to an Employee Claimant in respect of an Employee Claim, the Monitor shall make a distribution to Service Canada and any other Government Authority equal to the amount required by Applicable Law to be remitted or paid to Service Canada or such Government Authority and such distribution shall be deemed to be a remittance or payment made to Service Canada or such Government Authority by the applicable Petitioner or Employee (all capitalized terms as defined in the CCAA Plan).
42. As noted above, if an Unresolved Claim becomes a Proven Claim, additional funds will be deemed to be transferred from the Unresolved Claims Reserve to the Affected Creditors' Distribution Cash Pool and distributed therefrom to satisfy such Proven Claims.
43. The CCAA Plan provides that all claims for undeliverable or uncashed distributions in respect of Proven Claims will expire 12 months after the date of distribution, after which time the Proven Claims of that Affected Creditor shall be forever discharged and barred. At that time, any

undeliverable or uncashed distribution amount shall be deemed to be transferred to the Deemed Interest Claim Distribution Cash Pool.

***Deemed Interest Claim Distribution Cash Pool***

44. A Deemed Interest Claim Distribution Cash Pool shall be established out of the Available Funds in an amount equal to the Available Funds less the amounts used to fund the reserves and cash pool mentioned above. The Monitor shall hold the Deemed Interest Claim Distribution Cash Pool in a separate interest-bearing account or guaranteed investment certificate in escrow for distribution in accordance with the CCAA Plan.
45. The following payments shall be made by the Monitor, on behalf of the New Walter Canada Group, from the Deemed Interest Claim Distribution Cash Pool:
- (a) On the Plan Implementation Date, or as soon as reasonably practicable thereafter as the Monitor and the New Walter Canada Group may, in their discretion, determine, the Monitor shall pay the 1974 Plan Settlement Amount from the Deemed Interest Claim Distribution Cash Pool to the 1974 Plan. The 1974 Plan Claim shall be fully and finally satisfied, settled, extinguished, released and discharged immediately upon the 1974 Plan Settlement Amount being made.
  - (b) On the Plan Implementation Date or on any Distribution Date, as the case may be, the Monitor shall transfer amounts as determined by the New Walter Canada Group and the Monitor in consultation with Warrior in accordance with the CCAA Plan, from the Deemed Interest Claim Distribution Cash Pool (each such transfer being a "**Deemed Interest Claim Distribution**") (i) as a capital contribution by New Walter to New Walter Canadian Coal Corp. ("**New WCCC**") by New WCCC to Cambrian and by Cambrian to Energybuild Group Limited in an amount not to exceed the amount owing to Warrior by Energybuild Group Limited (in the maximum amount of US\$6,976,591.45) and provided that Energybuild Group Limited shall direct Cambrian to pay such amount to Warrior on account of Energybuild Group's debt to Warrior; and/or (ii) directly to Warrior.
46. Warrior will receive the Deemed Interest Claim Distributions in full and final satisfaction of the Deemed Interest Claim.

**C. Conditions Precedent and Plan Implementation Date**

47. The implementation of the CCAA Plan shall be conditional upon the fulfillment (or, in the case of paragraph 10.3(c) of the CCAA Plan, waiver as more fully set out in the CCAA Plan) of the following conditions on or prior to the Plan Implementation Date, as the case may be:

- (a) *Plan Approval:* The Affected Creditors shall have been deemed to have unanimously voted in favour of the CCAA Plan at the Affected Creditors' Meeting and the Deemed Interest Claim Resolution shall have been deemed to have been passed approving the CCAA Plan.
- (b) *Plan Sanction Order:* The Sanction Order shall have been made and be in full force and effect, and all applicable appeal periods in respect thereof shall have expired and any appeals therefrom shall have been finally disposed of, leaving the Sanction Order wholly operable.
- (c) *Resolution of Certain Liabilities:* The Petitioners shall be satisfied that (i) all material consents, declarations, rulings, certificates, or approvals of any Government Authority as may be considered necessary by the Petitioners and the Monitor in respect of the transactions contemplated by the CCAA Plan shall have been obtained, provided that, without limiting the generality of the forgoing, and notwithstanding any other provision of the CCAA Plan, no distributions shall be made by the Monitor from any of the Unresolved Claims Reserve, Affected Creditors' Distribution Cash Pool or the Deemed Interest Claim Distribution Pool unless and until one of the following conditions have been met to the satisfaction of, or waived by, the Monitor, in its sole discretion: (a) certificates have been issued by or on behalf of the Minister of National Revenue (Canada) ("CRA") pursuant to section 159 of the *Income Tax Act* (Canada) in respect each of the members of the New Walter Canada Group, or (b) the Monitor has received written confirmation from the CRA that it may distribute the property of the New Walter Canada Group without any personal liability; (ii) all tax returns required to be filed by or on behalf of the Petitioners have been or will be duly filed in all appropriate jurisdictions; and (iii) all taxes required to be paid in respect thereof have been or will be paid.
- (d) *Outside Date:* The date on which the CCAA Plan becomes effective (the "**Plan Implementation Date**") shall have occurred by the day that is no later than nine months following the pronouncement of the Sanction Order, or such later date as the Monitor, the Petitioners and Warrior agree, acting reasonably, and the Petitioners and the Monitor shall be satisfied that there will be sufficient Available Funds to pay all Proven Claims of Affected Creditors, the USW Settlement Amount and the 1974 Plan Settlement Amount.

48. The Plan Implementation Date shall be the Business Day on which the Monitor has delivered to the New Walter Canada Group a certificate confirming that, among other things, all conditions to implementation of the Plan have been satisfied or, where applicable, waived.

**D. Payment of Interest**

49. The CCAA Plan provides that no interest will be paid on any Proven Claims unless so specified in the applicable Proof of Claim, and no interest will be paid on any Proven Claim for the period after the Filing Date.

**E. CCAA Plan Releases**

50. On the Plan Implementation Date, customary releases will be granted to certain released parties.
51. The Original Plan provided that releases would be granted in favour of the New Walter Canada Group, the Monitor and its affiliates, the CRO, the Financial Advisor, the Directors and the Officers, each and every present and former employee who filed or could have filed an indemnity claim or a D&O Indemnity Claim against the Old Walter Canada Group, each and every affiliate, subsidiary, partner, member (including members of any committee or governance council), auditor, financial advisor, legal counsel, consultant, and agent thereof and any Person claiming to be liable derivatively through any or all of the foregoing Persons (the "**Original Releasees**").
52. The CCAA Plan has been amended to narrow the list of Original Releasees. The persons entitled to a release under the CCAA Plan are:
- (a) **The New Walter Canada Group Parties:** The New Walter Canada Group, the Directors, the Officers, and all present and former Employees who filed or could have filed indemnity claims against the Old Walter Canada Group or the New Walter Canada Group, and all affiliates and legal counsel thereof.
  - (b) **The Restructuring Support Parties:** The Monitor, KPMG Inc, and its affiliates; the CRO; Philip L. Evans Jr., in his capacity as consultant to the Old and New Walter Canada Group; the Financial Advisor, solely with respect to its activities regarding the Sale and Investor Solicitation Process conducted in connection with the SISP Order; and all affiliates, partners, members and legal counsel thereof; and
  - (c) **The Derivative Released Parties:** Any person claiming to be liable derivatively through any of the foregoing persons (collectively, the "**Releasees**").
53. The CCAA Plan limits the release given to the Financial Advisor specifically to its activities conducted in connection with the SISP Order. These activities generated value for the Petitioners and their stakeholders. As noted in the twenty-second affidavit I swore on March 29, 2018 in these proceedings, the Old Walter Canada Group was uncertain at the time the SISP Order was granted that a going concern solution could be found. Ultimately, a going concern sale to Conuma

was consummated, to the benefit of the Old Walter Canada Group, the New Walter Canada Group and their stakeholders. Conuma has since restarted certain of the mines, to the benefit of the local communities. The Financial Advisor was instrumental in achieve this result.

54. Paragraph 8 of the SISP Order provided that the Financial Advisor would have no liability other than for gross negligence or wilful misconduct on its part. The release contemplated by the CCAA Plan gives full effect to this provision of the SISP Order. A copy of the SISP Order is attached hereto as Exhibit "C" to this affidavit.
55. The releases previously proposed for other financial advisors, the auditor, agents and consultants were eliminated. The CCAA Plan retained a release only for one consultant, Mr. Evans, who assisted the Old Walter Canada Group and the New Walter Canada Group throughout the sales process, including with respect to the sale of the majority of the Old Walter Canada Group's assets to Conuma; the monitoring of Conuma's operations throughout the period that Conuma operated under the Old Walter Canada Group's mining, environmental and other licenses under the contract mining agreement; and the sale of certain Energybuild entities to Speciality Carbons. Mr. Evans also assisted the New Walter Canada Group with respect to the Unresolved Claim and will continue to do so. Mr. Evans continued support is important for the implementation of the CCAA Plan and the completion of the Claims Process contemplated thereby.
56. The Releasees shall each be released and discharged in respect of any and all claims (which are defined broadly) that any Person may be entitled to assert against the Releasees, provided that nothing in the CCAA Plan shall release or discharge any Petitioner from any Excluded Claim, any Director from any Claim that cannot be compromised pursuant to Section 5.1(2) of the CCAA, any Releasee other than the Petitioners and any present and former Employees who filed or could have filed indemnity claims against the Old Walter Canada Group or the New Walter Canada Group from liability for gross negligence or wilful misconduct, or any Releasee from any obligation created by or existing under the CCAA Plan or any related document and provided that any Unresolved Claim shall remain a Claim on the Unresolved Claims Reserve until such time as such Unresolved Claim is finally determined in accordance with the Claims Process Order and any other Order and, if such Unresolved Claim becomes a Proven Claim, such Proven Claim is paid as contemplated by this CCAA Plan.
57. The CCAA Plan is demonstrably to the benefit of all Affected Creditors, including the 1974 Plan and USW, and Warrior in respect of the Deemed Interest Claim. Further, Affected Creditors have been advised of the scope the releases, including through delivery of documents that direct interested parties to review the CCAA Plan in its entirety.

58. The New Walter Canada Group considers the Releasees to have been necessary and essential for the restructuring of the Walter Canada Group and the New Walter Canada Group that is culminating in a CCAA Plan that, if implemented, is expected to result in full recovery for all Proven Claims of Affected Creditors. Each of the Releasees contributed in a tangible way to that outcome.
59. The New Walter Canada Group considers the releases to be fair and reasonable in the context of, among other things, the efforts of the Financial Advisor, the Monitor, Mr. Evans, the New Walter Canada Group and the other Releasees that have contributed to the overall success of these CCAA proceedings and the CCAA Plan that effectively concludes those proceedings, notwithstanding the insolvency that precipitated the issuance of the Initial Order.
60. I am advised that the Monitor considers the releases contained in the CCAA Plan to be fair and reasonable in the circumstances.

**F. CCAA Plan Amendments**

61. Pursuant to the Meeting Order, the New Walter Canada Group was able to amend, restate, modify and/or supplement the Original Plan (each such change being an "Amendment") as long as the Amendment is contained in a written document filed with this Honourable Court, and (i) if made prior to the Affected Creditors' Meeting and/or the making of the Deemed Interest Claim Resolution, the Amendment is made in accordance with the Original Plan, communicated to the Affected Creditors and/or Warrior in respect of the Deemed Interest Claim, as applicable, in the manner required by this Honourable Court (if so required); and (ii) if made following the Creditors' Meeting and/or the making of the Deemed Interest Claim Resolution, is consistent with the Settlement Term Sheet and approved by this Honourable Court following notice to the Affected Creditors and/or Warrior in respect of the Deemed Interest Claim.
62. Notwithstanding the foregoing, any Amendment may be made by the New Walter Canada Group with consent of the Monitor or pursuant to an Order following the Plan Sanction Date, provided that it concerns a matter which is of an administrative nature required to better give effect to the implementation of the Original Plan, the Settlement Agreement and the Sanction Order or to cure any errors, omissions or ambiguities, and is not materially adverse to the financial or economic interests of the Affected Creditors or Warrior in respect of the Deemed Interest Claim.



### III. THE CREDITORS MEETINGS

63. The Meeting Order set out certain steps that the Monitor was required to take to provide notice of the Creditors Meetings. I have been advised by the Monitor and believe that it fulfilled these requirements by taking the following steps in accordance with the Meeting Order:

- (a) *Notice to Affected Creditors:* The Monitor, on behalf of the New Walter Canada Group, sent copies of the Notice to Affected Creditors to each Affected Creditor by regular pre-paid mail, courier, fax or e-mail by June 4, 2018.
- (b) *Notice to Warrior:* The Monitor, on behalf of the New Walter Canada Group, sent a copy of the Notice to Warrior by regular pre-paid mail, courier, or e-mail by June 4, 2018.
- (c) *Posting on Monitor's Website:* The Monitor posted electronic copies of the Meeting Materials on its website on or before June 5, 2018. The Monitor will ensure that the Meeting Materials remain posted on its website until at least the Business Day following the Plan Implementation Date.
- (d) *Newspaper Notice:* On or before June 4, 2018, the Monitor caused the Notice to Affected Creditors (or a shortened form thereof), to be published for one (1) Business Day in The Globe and Mail (National Edition), the Vancouver Sun, the Prince George Citizen and the Alaskan Highway News. The Monitor also posted the newspaper notice on its website.

64. The Notice to Affected Creditors included a request that any person with a concern regarding the Original Plan, as amended, respond to advise the Monitor of such concerns by June 25, 2018. I am advised by the Monitor that, to date, no Affected Creditor has objected to the deeming provisions with respect to the Creditors' Meetings, though certain Affected Creditors have expressed concerns regarding any further delays before distributions under the CCAA Plan can be made. I understand that the Monitor will file a Report with this Honourable Court describing any material concerns raised by Affected Creditors and, if necessary, the proposed approach to address any such concerns.

65. Pursuant to the terms of the Meeting Order, the following Creditors Meetings will be deemed to have occurred:

- (a) A meeting of the consolidated class of all creditors holding Affected Claims, including Warrior with respect to its Shared Services Claim, (the "**Affected Creditors Class**"). The Affected Creditors Class will be deemed to have met and voted unanimously in favour of a resolution to approve the CCAA Plan on June 27, 2018.

- (b) A meeting of Warrior in respect of the Deemed Interest Claim to obtain the Deemed Interest Claim Resolution. Warrior will be deemed to have voted its entire Deemed Interest Claim in favour of Deemed Interest Claim Resolution on June 27, 2018.

#### **IV. THE CCAA PLAN SHOULD BE SANCTIONED**

##### **A. The New Walter Canada Group has Complied with the CCAA and the Orders Granted in these Proceedings**

66. As explained in the First Affidavit of William G. Harvey sworn December 4, 2015 in these proceedings and as was found by this Honourable Court when granting the Initial Order, each of the Original Petitioners was a "debtor company" under section 2 of the CCAA that has debts far in excess of the CDN\$5 million statutory requirement, and is insolvent.
67. Since the commencement of these proceedings, the Old Walter Canada Group and (following its formation) the New Walter Canada Group has complied with the provisions of the CCAA, the Initial Order and all subsequent Orders of this Honourable Court granted in these proceedings. I am not aware, and I am advised by counsel to the New Walter Canada Group that they are unaware, of any steps taken by any of the members of the Old Walter Canada Group or the New Walter Canada Group that are not authorized by the CCAA.
68. This Honourable Court and the New Walter Canada Group's stakeholders have been kept up to date with regular updates provided in affidavits that I have sworn and in reports of the Monitor that have been filed with this Honourable Court. In particular, the Old Walter Canada Group and the New Walter Canada Group made full and timely disclosure of, among other things: (a) developments in the SISP; (b) the consummation of the Conuma transaction, the BIA Proposal, the Belcourt transaction and the Speciality Carbons transaction; (c) developments in the negotiation and settlement of the 1974 Plan Claim and related matters among the New Walter Canada Group and other parties; and (d) the efforts to develop and bring forward the CCAA Plan for approval by this Honourable Court.
69. Accordingly, after consulting with counsel to the New Walter Canada Group and the Monitor, I believe that all steps taken by the Old Walter Canada Group and the New Walter Canada Group since the inception of this proceeding have been authorized by the CCAA.

##### **B. The CCAA Plan is Fair and Reasonable**

70. The Old Walter Canada Group and the New Walter Canada Group have expended considerable efforts and resources examining alternatives to find the best possible resolution to the issues facing them.

71. The Old Walter Canada Group sought protection under the CCAA to address a looming liquidity crisis arising from a challenging metallurgical coal market in the period prior to the filing and the pending loss of financial and managerial support from Walter Energy, Inc. ("WEI"), the ultimate parent of the Old Walter Canada Group. WEI had filed for protection under Chapter 11 of the US Bankruptcy Code in July 2015 and subsequent developments in the ensuing Chapter 11 proceedings resulted in the Old Walter Canada Group losing all support from WEI following the closing of the sale of a significant portion of WEI's and its US subsidiaries' assets to Warrior.
72. As previously discussed, following the commencement of the CCAA proceedings, the Old Walter Canada Group obtained the SISF Order and conducted a Court-supervised Sale Process to determine whether it could find a potential going concern solution for its principal assets and monetize any other assets.
73. As a result of these efforts, the CCAA Plan (if implemented) is expected to result in the full recovery of Proven Claims owed to Affected Creditors, which comprise the vast majority of the New Walter Canada Group's creditors. The CCAA Plan is also expected to result in the full satisfaction of the 1974 Plan Claim as provided by the Term Sheet and a payment of the remaining funds to Warrior in respect of the Deemed Interest Claim, as contemplated by the BIA Proposal.
74. The CCAA Plan has been developed in consultation with the New Walter Canada Group's major creditors and other stakeholders, including Warrior, the USW and the 1974 Plan. The CCAA Plan is based on the principal terms included in the Term Sheet to which both Warrior and the 1974 Plan are party, and which has already been approved as fair and reasonable by this Honourable Court.
75. As noted above, the releases contemplated in the CCAA Plan are appropriately limited to those persons who were essential to the successful outcome of the restructuring proceedings and to the development of the CCAA Plan for the benefit of all stakeholders. The Releasees have contributed in a significant way to the development of the CCAA Plan and to the transactions that made the CCAA Plan possible. All Affected Creditors and Warrior have been advised of the releases sought and no objection has been raised.
76. I have been advised that the Monitor supports the approval and sanction of the CCAA Plan. The Monitor's 18<sup>th</sup> Report states at para. 58 that the alternative to the CCAA Plan, a bankruptcy, would likely entail the resumption of the 1974 Plan's Appeal and continuation of the litigation of the 1974 Plan's claim. If the Appeal was ultimately successful, Affected Creditors would receive only a few pennies on the dollar of their Proven Claim amounts. As well, the Monitor reported that, irrespective of the outcome of the 1974 Plan's Appeal, the levy payable to the

Superintendent of Bankruptcy pursuant to the *Bankruptcy and Insolvency Act* would become payable on all distributions. Accordingly, the Monitor stated that it believes that the outcome for the New Walter Canada Group's creditors would not be improved by a bankruptcy and could instead be worsened, particularly if the 1974 Plan's claim were to become a Proven Claim.

77. In developing the Plan, I believe that the New Walter Canada Group has not acted in a manner that unfairly disregards, or is unfairly prejudicial to, or oppresses the interests of any stakeholders.

**V. APPROVAL OF THE MONITOR'S FEES AND EXPENSES**

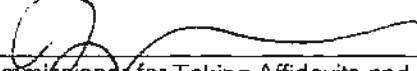
78. I have reviewed and approved payment of all of the accounts of the Monitor and its legal counsel as they were rendered. All of the accounts were, in my view, fair and reasonable.

**VI. NEXT STEPS AND CONCLUSION**

79. If the CCAA Plan is sanctioned by this Honourable Court, the New Walter Canada Group and the Monitor will proceed to seek to satisfy the conditions precedent to implement the CCAA Plan and to achieve implementation. The New Walter Canada Group will also continue to advance the Claims Process and to seek an orderly wind-down for Energybuild.

80. I respectfully request that this Honourable Court sanction the CCAA Plan so that the New Walter Canada Group and the Monitor can work to satisfy the conditions precedent to its implementation and thereafter make distributions to the Affected Creditors and others entitled to payment in accordance with the CCAA Plan.

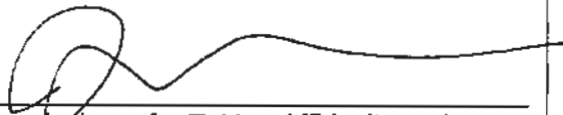
SWORN BEFORE ME at Oakville, in the Province of Ontario, on June 26, 2018.

  
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Commissioner for Taking Affidavits and Notary Public in the Province of Ontario

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WILLIAM E. AZIZ

This is Exhibit "A" referred to in Affidavit #23 of **William E. Aziz** sworn June 26, 2018 at Oakville, Ontario.



Commissioner for Taking Affidavits and  
Notary Public in the Province of Ontario

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**AND**

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

**AND**

**IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF NEW  
WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL  
CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP., NEW  
WOLVERINE COAL CORP. AND CAMBRIAN ENERGYBUILD HOLDINGS ULC**

**PETITIONERS**

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**AMENDED AND RESTATED  
PLAN OF COMPROMISE AND ARRANGEMENT**

**concerning, affecting and involving**

**NEW WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN  
COAL CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP.,  
NEW WOLVERINE COAL CORP. AND CAMBRIAN ENERGYBUILD HOLDINGS ULC**

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**PURSUANT TO THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT (CANADA)***

**AND THE  
*BUSINESS CORPORATIONS ACT (BRITISH COLUMBIA)***

**June 22, 2018**

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**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL  
CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP., NEW  
WOLVERINE COAL CORP. AND CAMBRIAN ENERGYBUILD HOLDINGS ULC**

**AMENDED AND RESTATED  
PLAN OF COMPROMISE AND ARRANGEMENT**

**WHEREAS** New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine and Cambrian are insolvent;

**AND WHEREAS** WECH, Cambrian, Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal, Ltd., and 0541237 B.C. Ltd. applied for and were granted protection under the CCAA pursuant to an Initial Order of the Court pronounced December 7, 2015 in the CCAA Proceedings and the benefits and protections of the CCAA and the Initial Order were extended to Walter Canadian Coal Partnership, Brule Coal Partnership, Wolverine Coal Partnership and Willow Creek Coal Partnership.

**AND WHEREAS** KPMG Inc. was appointed as Monitor pursuant to the Initial Order;

**AND WHEREAS** Walter Energy, Inc. sold certain claims it had against the Walter Canada Group to Warrior, including (a) the Shared Services Claim and (b) a claim in relation to that certain secured promissory note among Walter Energy, Inc. and WECH dated April 1, 2011 and related documents;

**AND WHEREAS** the 1974 Plan has asserted a claim against the Walter Canada Group throughout the CCAA Proceedings pursuant to certain "controlled group" provisions of the US Employee Retirement Income Security Act of 1974;

**AND WHEREAS** the Walter Canada Group obtained from the Court the Claims Process Order, which established a Claims Process in respect of the Walter Canada Group, including a Claims

Bar Date, a Restructuring Claims Bar Date and related matters, and included a specific process for the determination of the validity of the 1974 Plan Claim;

**AND WHEREAS** pursuant to and in accordance with the SISP Order pronounced January 5, 2016, the Walter Canada Group was authorized to conduct a Sale and Investor Solicitation Process for the purpose of soliciting bids for the purchase of all or part of the Walter Canada Group's business, operations and assets;

**AND WHEREAS** the Walter Canada Group and the New Walter Canada Group have completed a number of transactions pursuant to the SISP Order and additional Orders of the Court, including (A) the Order of the Court pronounced December 7, 2016 in the CCAA Proceedings (styled the "CCAA Procedure Order") pursuant to which the Petitioners were formed and became petitioners in the CCAA Proceedings and (B) the CCAA Continuity and Vesting Order pronounced December 21, 2016 in the CCAA Proceedings, which, in combination with the BIA Proposal caused (i) Cambrian and all the assets of the Walter Canada Group (other than Cambrian's assets and certain residual assets) to be transferred to the members of the New Walter Canada Group, subject to any agreement among the members of the New Walter Canada Group regarding the transfer of the Transferred Assets, and (ii) all Claims against the Walter Canada Group (other than against Cambrian) to be deemed to be Claims against one or more of the members of the New Walter Canada Group;

**AND WHEREAS** the New Walter Canada Group entered into the Waterfall Agreement contemplated by the CCAA Continuity and Vesting Order and the BIA Proposal regarding the transfer of the Transferred Assets, which provides that (i) all Transferred Assets are transferred to New Walter in consideration for New Walter agreeing to become liable for the Deemed Claims (as defined in the Proposal), for making (or causing New WCCC to make) certain transfers of Transferred Assets to other members of the New Walter Canada Group, and otherwise as a contribution of surplus; (ii) all Intercompany Claims are fully subordinated to the Claims of arm's length creditors; and (iii) all amounts held by any Petitioner shall be deemed to be held by or on behalf of such Petitioner in trust for New Walter or such other applicable Petitioner as more fully set out in the Waterfall Agreement;

**AND WHEREAS** New Walter retained approximately \$38 million of cash pursuant to the CCAA Continuity and Vesting Order and the Waterfall Agreement;

**AND WHEREAS** on May 1, 2017, the Court ruled that the 1974 Plan did not have a valid Claim against the Walter Canada Group or the New Walter Canada Group;

**AND WHEREAS** the British Columbia Court of Appeal granted the 1974 Plan leave to appeal the May 1 Order and the Appeal was scheduled to be heard on August 16, 2017;

**AND WHEREAS** by Order of the Court pronounced October 6, 2017 in the CCAA Proceedings, the Court approved a settlement of all outstanding matters among the Petitioners, Energybuild, the 1974 Plan and Warrior, and supported by the Monitor, on the terms set out in the Settlement Term Sheet;

**AND WHEREAS** the Petitioners have completed the Claims Process as required by the Settlement Term Sheet and the Claims Process Order, except for Unresolved Claims, and the Petitioners and the Monitor have determined that the Petitioners will have sufficient funds, after

taking reserves for Unresolved Claims and other matters as set out herein, to make the payments contemplated by the Settlement Term Sheet;

**AND WHEREAS** the Available Funds and the shares of Energybuild Group Limited represent the entire estate available for the benefit of the creditors of the Petitioners;

**AND WHEREAS** the CCAA Plan will facilitate distributions to Affected Creditors in respect of their Proven Claims and to USW in respect of the USW Settlement Amount, and, provided that there are sufficient Available Funds to satisfy all Proven Claims of Affected Creditors and to pay the USW Settlement Amount, to Warrior in respect of the Deemed Interest Claim and to the 1974 Plan in respect of the 1974 Plan Settlement Amount;

**AND WHEREAS** the Court pronounced the Meeting Order which, among other things, accepted the Petitioners' plan of compromise and arrangement dated May 29, 2018 for filing and the Petitioners have since amended and restated such plan of compromise and arrangement in its entirety in accordance with the terms thereof and of the Meeting Order;

**NOW THEREFORE** the Petitioners hereby propose this CCAA Plan to the Affected Creditors and Warrior in respect of the Deemed Interest Claim under and pursuant to the CCAA:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

For the purposes of the CCAA Plan, terms not otherwise defined herein shall have the following meanings ascribed thereto:

**"1974 Plan"** means the United Mine Workers of America 1974 Pension Plan and Trust.

**"1974 Plan Claim"** means the Claim asserted against the Walter Canada Group by the 1974 Plan throughout the CCAA Proceedings pursuant to certain "controlled group" provisions of ERISA.

**"1974 Plan Settlement Amount"** means the amount of CDN\$13,000,000.00 payable to the 1974 Plan pursuant to the Settlement Term Sheet.

**"Administration Charge"** has the meaning given to that term in the Initial Order, as amended by the SISP Order.

**"Administrative Costs"** means administrative claims and costs outstanding on the Plan Implementation Date (or arising thereafter) falling within one or more categories to be specified by the Petitioners, in consultation with the Monitor, including, without limitation: (a) amounts in respect of the fees and costs to be incurred by (i) the CRO; (ii) the Petitioners, their counsel and their advisors; and (iii) the Monitor, its counsel and its advisors, in each case on a solicitor and own client full indemnity basis (as applicable) with respect to the performance of such parties' duties and obligations whether arising before or after the Plan Implementation Date; (b) an amount equal to the Petitioner's estimate of any potential cost award to an Affected Creditor with an Unresolved Claim in respect of

any litigation associated with such Unresolved Claims; and (c) amounts, if any, secured by the Charges that remain owing on the Plan Implementation Date.

**“Administrative Costs Reserve”** means the cash reserve established out of Available Funds in accordance with **Section 5.2** of the CCAA Plan to pay Administrative Costs.

**“Affected Claim”** means any Claim, whether or not such Claim is or becomes an Allowed Claim and includes, for greater certainty, any Unresolved Restructuring Claim, any D&O Claim, any Employee Claim, the Shared Service Claim, the 1974 Plan Claim, and any other Claim under ERISA, but does not include the Deemed Interest Claim or any Excluded Claim.

**“Affected Creditor”** means any Person having an Affected Claim, but only with respect to and to the extent of such Affected Claim, and includes, without limitation, the transferee or assignee of an Affected Claim that has been or is transferred and recognized in accordance with the Claims Process Order or the CCAA Plan or a trustee, executor, liquidator, receiver, receiver and manager or other Person acting on behalf of or through such Person.

**“Affected Creditors’ Distribution Cash Pool”** means the cash pool established out of Available Funds in accordance with **Section 5.6** of the CCAA Plan to pay the Proven Claims of Affected Creditors and the USW Settlement Amount.

**“Affected Creditors’ Meeting”** means the meeting of Affected Creditors that will be deemed to occur pursuant to the Meeting Order with a deemed vote of Affected Creditors in favour of a resolution to approve the CCAA Plan.

**“Allowed Claim”** has the meaning given to that term in the Claims Process Order.

**“Appeal”** means the appeal of the May 1 Order that was scheduled to be heard on August 16, 2017 and subsequently adjourned.

**“Applicable Law”** means, in respect of any Person, property, transaction, event or other matter, any law, statute, regulation, code, ordinance, principle of common law or equity, municipal by-law, treaty, or order, domestic or foreign, applicable to that Person, property, transaction, event or other matter and all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines, and policies, in each case, having the force of law, of any Government Authority having or purporting to have authority over that Person, property, transaction, event or other matter and regarded by such Government Authority as requiring compliance.

**“Assumed Liabilities”** means the liabilities that were or were to be assumed, fulfilled, performed or discharged by any of Conuma Coal Resources Limited, 1098138 B.C. Ltd., Amacon Land Corporation, Peace River Coal Inc. or any other Person pursuant to the BIA Proposal or pursuant to any applicable agreement among such Person and any one or more member of the Old Walter Canada Group or the New Walter Canada Group.

**“Available Funds”** means the total of (i) the proceeds of any sale or disposition of any of the assets of the Walter Canada Group or the Petitioners that have been paid to the Monitor

on behalf of the Walter Canada Group or the Petitioners and are being held by the Monitor; (ii) the proceeds of the transaction set out in the CCAA Continuity and Vesting Order; (iii) all other monies held by the Monitor, on behalf of the Petitioners, that are in the hands of the Monitor at the Effective Time on the Plan Implementation Date; and (iv) all monies received by the Monitor, on behalf of the Petitioners, following the Effective Time on the Plan Implementation Date.

“**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

“**BIA Proposal**” means the proposal made by the Walter Canada Group (other than Cambrian) under the BIA and approved by the Court on December 21, 2016.

“**Business Day**” means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Vancouver, British Columbia.

“**Cambrian**” means Cambrian Energybuild Holdings ULC.

“**CCAA**” means the *Companies’ Creditors Arrangement Act (Canada)*, R.S.C. 1985, c. C-36, as amended.

“**CCAA Continuity and Vesting Order**” means the Order of the Court pronounced December 21, 2016 in the CCAA Proceedings which, in combination with the BIA Proposal caused (i) Cambrian and all the Transferred Assets to be transferred to the applicable member of the New Walter Canada Group, subject to any agreement among the members of the New Walter Canada Group regarding the transfer of the Transferred Assets, and (ii) all Claims against the Walter Canada Group (other than against Cambrian) to be deemed to be Claims against one or more of the members of the New Walter Canada Group.

“**CCAA Plan**” means this Amended and Restated Plan of Compromise and Arrangement, as amended, supplemented or restated from time to time in accordance with the terms hereof.

“**CCAA Proceedings**” means the CCAA proceedings bearing Supreme Court of British Columbia Vancouver Registry No. S-1510120.

“**Charges**” means the Administration Charge, the Directors’ Charge, the Success Fee Charge and the KERF Charge.

“**Claim**” means any right or claim of any Person, including an Equity Claim, that may be asserted or made in whole or in part against any member of the New Walter Canada Group or any member of the Walter Canada Group, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever (including any royalty), and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or

obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts arising prior to the Unresolved Restructuring Claims Bar Date; (B) relates to a time period prior to the Unresolved Restructuring Claims Bar Date; or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA had any member of the New Walter Canada Group or any member of the Walter Canada Group become bankrupt on the Unresolved Restructuring Claims Bar Date and, for greater certainty, includes any "claim" within the meaning of subsection 2(1) of the CCAA and all "Claims" as defined in the Claims Process Order.

**"Claims Bar Date"** means October 5, 2016 at 5:00 p.m. (Vancouver time).

**"Claims Process"** means the process set out in the Claims Process Order with respect to the solicitation and determination of all Claims, D&O Claims and Unresolved Restructuring Claims.

**"Claims Process Order"** means the Order of the Court pronounced August 16, 2016 and styled "Claims Process Order" (as amended and restated from time to time, including by the Order of the Court pronounced on August 15, 2017).

**"Court"** means the Supreme Court of British Columbia.

**"CRO"** means BlueTree Advisors, Inc. and William E. Aziz, in the capacity of Chief Restructuring Officer of the New Walter Canada Group and former Chief Restructuring Officer of the Walter Canada Group.

**"Crown Claims"** means all amounts of a kind that could be subject to a demand under Section 6(3) of the CCAA that were outstanding on the Filing Date and which have not been paid by the Plan Implementation Date.

**"Deemed Interest Claim"** means Warrior's claim for 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) of the BIA Proposal exceeds (ii) the amount of all Claims that were deemed to be Claims against New Walter pursuant to Section 4.1(f) of the BIA Proposal, provided however that, for the purpose of the calculation of such maximum amount, the amount of such Claims shall not include the 1974 Plan Claim.

**"Deemed Interest Claim Distribution"** has the meaning given to that term in Section 6.5 of the CCAA Plan.

**“Deemed Interest Claim Distribution Cash Pool”** means the cash pool established out of Available Funds in accordance with Section 5.7 of the CCAA Plan to pay the Deemed Interest Claim and to make certain payments to the 1974 Plan as more fully set out in Section 6.5 of the CCAA Plan.

**“Deemed Interest Claim Resolution”** means the resolution of Warrior deemed to have been made pursuant to the Meeting Order to approve the CCAA Plan.

**“Director”** means any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of a Petitioner and any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any member of the Walter Canada Group up to and including the date that any remaining directors and officers of the Walter Canada Group resigned or were deemed to resign pursuant to Section 4.1(h) of the BIA Proposal.

**“Directors’ Charge”** has the meaning given to that term in the Initial Order.

**“Distribution Date”** means any date after the Plan Implementation Date from time to time set by the Petitioners and the Monitor in accordance with the provisions of the CCAA Plan to effect distributions from the Available Funds to Affected Creditors in respect of their Proven Claims and/or Deemed Interest Claim Distributions, which, for greater certainty, shall include the Final Distribution Date but shall not include the Plan Implementation Date.

**“D&O Claim”** means (i) any right or claim of any Person that might have been asserted or made in whole or in part against one or more of the Directors or Officers that relates to a Claim for which such Directors or Officers are by law liable to pay in their capacity as Directors or Officers, or (ii) any right or claim of any Person that might have been asserted or made in whole or in part against one or more of the Directors or Officers, in that capacity, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof, is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity from any such Director or Officer or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts arising prior to the Unresolved Restructuring Claims Bar Date; or (B) relates to a time period prior to the Unresolved Restructuring Claims Bar Date, and, for greater certainty, includes any “claim”



within the meaning of subsection 2(1) of the CCAA and all “Directors/Officers Claims” as defined in the Claims Process Order but does not include an Excluded Claim.

“**Effective Time**” means 12:01 a.m. on the Plan Implementation Date or such other time on such date as the Petitioners and the Monitor may agree.

“**Employee**” has the meaning given to that term in the Claims Process Order.

“**Employee Claim**” has the meaning given to that term in the Claims Process Order.

“**Employee Claimant**” has the meaning given to that term in the Claims Process Order.

“**Energybuild**” means, as the context requires any of Energybuild Group Limited, Energybuild Holdings Limited, Energybuild Opencast Limited, or all such entities collectively, but only where such entities are still owned, directly or indirectly, by a Petitioner and have not been finally wound-up, dissolved or liquidated.

“**Equity Claim**” has the meaning set forth in Section 2(1) of the CCAA.

“**ERISA**” means the statute of the United States of America titled the Employee Retirement Income Security Act of 1974.

“**Excluded Claim**” means:

- (a) Crown Claims;
- (b) Any Claim that cannot be compromised pursuant to Section 5.1(2) or Section 19(2) of the CCAA;
- (c) any Claim entitled to the benefit of any of the Charges;
- (d) any Intercompany Claim, any Claim of one Petitioner against another Petitioner and any Claim entitled to the benefit of the Intercompany Charge;
- (e) any Claim in respect of Assumed Liabilities, excluding any such Claim or portion thereof that is recoverable as against any member of the New Walter Canada Group, the Walter Canada Group, a Director or an Officer, as applicable; and
- (f) any Claim entitled to the benefit of any applicable insurance policy, excluding any such Claim or portion thereof that is recoverable as against any member of the New Walter Canada Group, the Walter Canada Group, a Director or an Officer, as applicable.

“**Filing Date**” means December 7, 2015.

“**Final Distribution Date**” means the date determined by the Petitioners and the Monitor, acting reasonably, following the payment in full of all Affected Claims, the resolution of all Unresolved Claims, the payment in full of all amounts that may become due or payable in connection with the Insurance Reserve and the Wind-Down Reserve, and the payment in full of all Administrative Costs.

**“Financial Advisor”** means PJT Partners LP.

**“Government Authority”** means any governmental, regulatory or administrative authority, department, agency, commission, bureau, official, minister, board, panel, tribunal, Crown corporation, Crown ministry, court or dispute settlement panel or other law, rule or regulation-making or enforcing entity having or purporting to have jurisdiction on behalf of any nation, or province, territory or state or other subdivision thereof or any municipality, district or other subdivision thereof or other geographic or political subdivision of any of them or exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

**“Initial Order”** means the Order of the Court pronounced December 7, 2015 in the CCAA Proceedings, as amended and restated from time to time.

**“Insurance Reserve”** means the cash reserve established out of Available Funds in accordance with **Section 5.3** of the CCAA Plan.

**“Intercompany Charge”** has the meaning given to that term in the SISP Order, as amended by the Order of the Court in the CCAA Proceedings pronounced March 30, 2016.

**“Intercompany Claims”** means all Claims owing by one member of the Walter Canada Group to any other member of the Walter Canada Group on or prior to the Proposal Commencement Date, including any amounts secured by the Intercompany Charge as of such date;

**“KERP Charge”** has the meaning given to that term in the SISP Order.

**“May 1 Order”** means the Order of the Court pronounced on May 1, 2017 denying the 1974 Plan Claim.

**“Meeting Order”** means the Order of the Court pronounced May 31, 2018 under the CCAA that, among other things, sets the date for the Affected Creditors’ Meeting and the process for obtaining the Deemed Interest Claim Resolution, as same may be amended, restated or varied from time to time.

**“Monitor”** means KPMG Inc. in its capacity as “monitor” in the CCAA Proceedings.

**“Monitor’s Certificate”** means the certificate of the Monitor which states that all conditions precedent set out in **Section 10.3** of the CCAA Plan have been satisfied or waived.

**“Monitor’s Website”** means [www.kpmg.com/ca/walterenergycanada](http://www.kpmg.com/ca/walterenergycanada).

**“New Brule”** means New Brule Coal Corp.

**“New Walter”** means New Walter Energy Canada Holdings, Inc.

**“New Walter Canada Group”** means, collectively, New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine and Cambrian.

**“New WCCC”** means New Walter Canadian Coal Corp.

**“New Willow Creek”** means New Willow Creek Coal Corp.

**“New Wolverine”** means New Wolverine Coal Corp.

**“Notice of Dispute”** has the meaning given to that term in the Claims Process Order.

**“Notice of Dispute of Employee Claim”** has the meaning given to that term in the Claims Process Order.

**“Officer”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of a Petitioner and any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any member of the Walter Canada Group up to and including the date that any remaining directors and officers of the Walter Canada Group resigned or were deemed to resign pursuant to Section 4.1(h) of the BIA Proposal.

**“Order”** means any order of the Court in the CCAA Proceedings.

**“Original Petitioners”** means, collectively, WECH, Cambrian, Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal, Ltd., and 0541237 B.C. Ltd.

**“Outside Date”** means the day that is nine (9) months from the day that the Sanction Order is pronounced, or such later date as may be agreed to by the Petitioners, the Monitor and Warrior, acting reasonably.

**“Person”** is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, Government Authority or any agency, regulatory body, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity.

**“Petitioners”** means, collectively, New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine and Cambrian and **“Petitioner”** means any one of New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine or Cambrian.

**“Plan Implementation Date”** means the date on which the CCAA Plan becomes effective, which shall be the Business Day on which the Monitor has delivered to the Petitioners the Monitor’s Certificate.

**“Plan Sanction Date”** means the date the Sanction Order is made by the Court.

**“Promissory Note”** means the Promissory Note dated April 1, 2011 issued by WECH to Walter Energy, Inc.

**“Proof of Claim”** means any proof of claim in respect of an Affected Claim filed in accordance with the Claims Process Order.

**“Proposal Commencement Date”** has the meaning given to that term in the BIA Proposal.

**“Proven Claim”** means (i) each Affected Claim (including the Shared Services Claim) that has been accepted as an Allowed Claim by the Monitor or, in the case of an Unresolved Claim, has been finally adjudicated in accordance with the Claims Process Order, settled or accepted by the Monitor and has become an Allowed Claim, in each case, for the amount settled, accepted or adjudicated as being owing; and (ii) the Deemed Interest Claim.

**“Proven Claim Amount”** has the meaning given to that term in Section 7.2 of the CCAA Plan.

**“Releasees”** has the meaning given to that term in Section 9.1 of the CCAA Plan.

**“Restructuring Claims Bar Date”** has the meaning given to that term in the Claims Process Order.

**“Sanction Order”** means an order by the Court which, among other things, shall sanction and approve the CCAA Plan under the CCAA and shall include provisions as may be necessary or appropriate to give effect to the CCAA Plan, including provisions in substance similar to those set out in Section 10.2 of the CCAA Plan.

**“Settlement Term Sheet”** means the Settlement Term Sheet re Plan of Compromise and Arrangement executed on October 10, 2017 by the Petitioners, the 1974 Plan and Warrior, which sets out the principal terms of a plan of compromise or arrangement to be approved and implemented in the CCAA Proceedings.

**“Shared Services Claim”** means the Claim in the amount of CDN\$9,892,193.32 that Warrior acquired from Walter Energy, Inc. in respect of shared services provided to the Walter Canada Group,

**“SISP Order”** means the Order of the Court pronounced January 5, 2016, as amended and restated from time to time, pursuant to which the Petitioners were authorized to conduct a Sale and Investor Solicitation Process.

**“Success Fee Charge”** has the meaning given to that term in the SISP Order.

**“Tax Statutes”** means all legislative or administrative enactments governing federal, provincial, local, or foreign income, premium, property (real or personal), sales, excise, employment, payroll, withholding, gross receipts, license, severance, stamp, occupation, windfall profits, environmental, customs duties, capital stock, franchise, profits, social security (or similar), unemployment, disability, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax of any kind or any charge of any kind in the nature of (or similar to) taxes whatsoever, including any interest, penalty or addition thereto, including, without limiting the generality of the foregoing, section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada); section 117 of the *Taxation Act, 2007* (Ontario); section 107 of the *Corporations Tax Act* (Ontario);

section 22 of the *Retail Sales Tax Act* (Ontario); section 34 of the *Income Tax Act* (British Columbia); section 222 of the *Provincial Sales Tax Act* (British Columbia); section 49 of the *Alberta Corporate Tax Act*; section 85 of the *Income Tax Act, 2000* (Saskatchewan); section 48 of the *Revenue and Financial Services Act* (Saskatchewan); section 22 of the *Income Tax Act* (Manitoba); section 73 of the *Tax Administration and Miscellaneous Taxes Act* (Manitoba); section 14 of the *Tax Administration Act* (Quebec); and section 313 of the *Act Respecting the Quebec Sales Tax*.

“**Transferred Assets**” means all the assets of the Walter Canada Group other than Cambrian’s assets and certain residual assets as more fully set out in the BIA Proposal.

“**Unresolved Claim**” means an Affected Claim, in the amount specified in the corresponding Proof of Claim, Notice of Dispute or Notice of Dispute of Employee Claim, that has not been finally determined as a Proven Claim in accordance with the Claims Process Order and the Meeting Order.

“**Unresolved Claims Reserve**” means the cash reserve established out of Available Funds in accordance with Section 5.5 of the CCAA Plan in an amount sufficient to pay any Unresolved Claim.

“**Unresolved Restructuring Claim**” has the meaning given to that term in the Order of the Court in the CCAA Proceedings pronounced August 15, 2017.

“**Unresolved Restructuring Claims Bar Date**” means October 6, 2017 at 5:00 p.m. (Vancouver time).

“**USW**” means the United Steel, Paper and Forestry, Rubber, Manufacturing, Allied Industrial and Service Workers International Union, Local 1-424.

“**USW Settlement Amount**” means the amount of CDN\$75,000.00 payable to the USW pursuant to the Settlement Term Sheet.

“**Walter Canada Group**” means, collectively, the Original Petitioners and Walter Canadian Coal Partnership, Brule Coal Partnership, Wolverine Coal Partnership and Willow Creek Coal Partnership.

“**Warrior**” means Warrior Met Coal, Inc.

“**Waterfall Agreement**” means the agreement among the members of the New Walter Canada Group contemplated by the CCAA Continuity and Vesting Order and the BIA Proposal regarding the transfer of the Transferred Assets, as such agreement may have been amended and restated from time to time.

“**WECH**” means Walter Energy Canada Holdings, Inc.

“**Wind-Down Reserve**” means costs outstanding on the Plan Implementation Date (or arising thereafter) falling within one or more categories to be specified by the Monitor, in consultation with the Petitioners, including, without limitation, (a) amounts in respect of existing or future taxes, expenses and other disbursements that are or may become payable; (b) amounts, if any, in respect of outstanding Crown Claims; (c) any amounts held by or

on behalf of Energybuild, including as a result of the sale of Energybuild Limited, Energybuild Mining Limited and Mineral Extraction and Handling Limited, which shall be retained in accordance with the Settlement Term Sheet to address the orderly wind-down or other process at the discretion of the New Walter Canada Group for Energybuild in a cost effective and tax efficient manner that protects Energybuild's directors and officers from liability to the fullest extent possible, including the purchase of any reasonable director and officer insurance and "run off" coverage, and otherwise paid to Energybuild's creditors, including Warrior; and (d) amounts in respect of general contingency costs.

"**Withholding Obligation**" has the meaning given to that term in Section 6.14 of the CCAA Plan.

## **1.2 Certain Rules of Interpretation**

For the purposes of the CCAA Plan:

- (a) any reference in the CCAA Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions;
- (b) any reference in the CCAA Plan to an Order or an existing document or exhibit filed or to be filed means such Order, document or exhibit as it may have been or may be amended, modified, or supplemented;
- (c) unless otherwise specified, all references to currency are to Canadian dollars;
- (d) the division of the CCAA Plan into "Articles" and "Sections" and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the CCAA Plan, nor are the descriptive headings of "Articles" and "Sections" intended as complete or accurate descriptions of the content thereof;
- (e) the use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of the CCAA Plan or a Schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) unless otherwise specified, all references as to time herein and any document issued pursuant hereto shall mean local time in Vancouver, British Columbia, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Vancouver time) on such Business Day;

- (h) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (i) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (j) references to a specified "Article" or "Section" shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified Article or Section of the CCAA Plan, whereas the terms "the CCAA Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to the CCAA Plan and not to any particular "article", "section" or other portion of the CCAA Plan and include any documents supplemental hereto; and
- (k) the word "or" is not exclusive.

### **1.3 Successors and Assigns**

The CCAA Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal representatives, successors and assigns of any Person or party named or referred to in the CCAA Plan, including the Petitioners, the Directors and Officers, all Affected Creditors and the Releasees.

### **1.4 Governing Law**

The CCAA Plan 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. All questions as to the interpretation or application of the CCAA Plan and all proceedings taken in connection with the CCAA Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

### **1.5 Schedules**

The following are the Schedules to the CCAA Plan, which are incorporated by reference into the CCAA Plan and form a part of it:

Schedule "A"                      Specified Plan Implementation Date Steps

## **ARTICLE 2 PURPOSE AND EFFECT OF THE CCAA PLAN**

### **2.1 Purpose**

The purpose of the CCAA Plan is to:

- (a) permit the satisfaction, settlement, extinguishment, release and discharge of all Affected Claims in accordance with the Claims Process Order, the Meeting Order and this CCAA Plan;
- (b) provide for the distribution of a sufficient amount of the Available Funds to Affected Creditors with Proven Claims to satisfy the Proven Claims of Affected Creditors in full;
- (c) fully and finally compromise, resolve, release and settle the 1974 Plan Claim;
- (d) provide for the payment of 1974 Plan Settlement Amount and the payment of the USW Settlement Amount; and
- (e) provide for the distribution of any surplus of the Available Funds, free and clear of any Claims of Affected Creditors, to fully and finally satisfy, compromise, extinguish, release and discharge the Deemed Interest Claim.

## **2.2 Persons Affected**

The CCAA Plan provides for the complete satisfaction of all Proven Claims of Affected Creditors and the satisfaction, settlement, extinguishment, release and discharge of all Affected Claims. The CCAA Plan also provides for distributions to the 1974 Plan and USW in accordance with the Settlement Term Sheet and distributions from time to time from the Deemed Interest Claim Distribution Cash Pool to Warrior in satisfaction of the Deemed Interest Claim to the extent that there are Available Funds to fund such distribution, following which the Deemed Interest Claim will be satisfied, compromised, extinguished, released and discharged. The CCAA Plan will become effective at the Effective Time on the Plan Implementation Date and shall be binding on and enure to the benefit of the Petitioners, the Affected Creditors, Warrior, USW, the Directors and Officers, the Releasees and all other Persons named or referred to in, or subject to, the CCAA Plan.

## **2.3 Persons Not Affected**

For greater certainty, the CCAA Plan does not affect the holders of Excluded Claims with respect to and to the extent of their Excluded Claims. Nothing in the CCAA Plan shall affect the Petitioners' rights and defenses, both legal and equitable, with respect to any Excluded Claims, including, but not limited to, all rights with respect to legal and equitable defenses or entitlements to set-offs or recoupment against such Excluded Claims.

## **2.4 Intercompany Claims**

The Intercompany Claims shall be dealt with as provided for in the Waterfall Agreement.



**ARTICLE 3**  
**CLASSIFICATION OF CREDITORS, VOTING OF AFFECTED CLAIMS AND**  
**RELATED MATTERS**

**3.1 Claims Process**

The procedure for determining the validity and quantum of the Affected Claims for voting and distribution purposes under the CCAA Plan shall be governed by the Claims Process Order, the Meeting Order, any other applicable Order, the CCAA and the CCAA Plan.

**3.2 Classification of Creditors**

For the purposes of voting on the CCAA Plan, there will be two classes of creditors, (i) the class of Affected Creditors, which will be composed of all Persons to the extent such Persons hold Affected Claims; and (ii) Warrior, solely with respect to the Deemed Interest Claim.

**3.3 Claims of Affected Creditors**

Affected Creditors shall:

- (a) prove their Affected Claims in accordance with the Claims Process Order and any other applicable Order;
- (b) be deemed to vote their Proven Claims or Unresolved Claims, as the case may be, at the Affected Creditors' Meeting in favour of the resolution to approve the CCAA Plan as set out in the Meeting Order; and
- (c) receive the rights and distributions provided for under and pursuant to the CCAA Plan and the Sanction Order.

**3.4 Affected Creditors' Meeting**

The Affected Creditors' Meeting shall be held in accordance with the CCAA Plan, the Meeting Order, the Claims Process Order and the any other applicable Order.

**3.5 Voting**

Pursuant to the Meeting Order: (a) the Affected Creditors' Meeting shall be deemed to have been duly called and held on June 27, 2018; (b) each Affected Creditor shall be deemed to have voted its entire Affected Claim in favour of a resolution to approve the CCAA Plan at the Affected Creditors' Meeting; and (c) the vote on the CCAA Plan at the Affected Creditors' Meeting shall be deemed to have been decided unanimously in favour of the resolution to approve the CCAA Plan.

**3.6 Guarantees and Similar Covenants**

No Person who has a Claim under any guarantee, surety, indemnity or similar covenant in respect of any Claim which is affected pursuant to the CCAA Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim which is

affected pursuant to the CCAA Plan shall be entitled to any greater rights as against the Petitioners than the Person whose Claim is affected pursuant to the CCAA Plan.

### **3.7 Set-Off**

The law of set-off applies to all Affected Claims, provided, however, that nothing in this section or in the CCAA Plan shall reduce the 1974 Plan Settlement Amount to be received by the 1974 Plan.

## **ARTICLE 4 DEEMED INTEREST CLAIM: VOTING AND RELATED MATTERS**

### **4.1 Voting Procedure**

The procedure for obtaining the Deemed Interest Claim Resolution shall be governed by the Meeting Order, the CCAA and the CCAA Plan.

### **4.2 Meeting regarding the Deemed Interest Claim**

A meeting to obtain the Deemed Interest Claim Resolution will be deemed to have been called and held on June 27, 2018 pursuant to the Meeting Order.

### **4.3 Voting**

Warrior shall be entitled to one vote with a weight equal to the Deemed Interest Claim, which vote shall be deemed to have been made in favour of the Deemed Interest Claim Resolution to approve the CCAA Plan.

### **4.4 Guarantees and Similar Covenants**

No Person who holds an interest in the Deemed Interest Claim under any guarantee, surety, indemnity or similar covenant or who has any right to claim over in respect of or to be subrogated to the rights of Warrior in respect of the Deemed Interest Claim being affected pursuant to the CCAA Plan shall be entitled to any greater rights as against the Petitioners than Warrior.

## **ARTICLE 5 AVAILABLE FUNDS, RESERVES AND CASH POOLS**

### **5.1 Available Funds**

Commencing on the Plan Implementation Date, the Monitor shall hold the Available Funds, on behalf of the Petitioners, in one or more separate interest-bearing accounts or guaranteed investment certificates for each of the following reserves and pools (each as more particularly described herein): (a) Administrative Costs Reserve; (b) Insurance Reserve; (c) Wind-Down Reserve; (d) Unresolved Claims Reserve; (e) Affected Creditors' Distribution Cash Pool; and (f) Deemed Interest Claim Distribution Cash Pool.

## **5.2 Administrative Costs Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Administrative Costs Reserve shall be established out of the Available Funds in the amount of CDN\$1,250,000.00. The Administrative Costs Reserve is to be held by the Monitor, on behalf of the Petitioners, for the purpose of paying the Administrative Costs.

## **5.3 Insurance Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Insurance Reserve shall be established out of the Available Funds in the amount of CDN\$275,000.00, which is to be held by the Monitor, on behalf of the Petitioners, for the purpose of purchasing any reasonable “run off” or “tail” insurance for the Directors and Officers and the payment of any deductibles required in connection with claims made in respect thereof.

## **5.4 Wind-Down Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Wind-Down Reserve shall be established out of the Available Funds (i) in the amount of CDN\$3,000,000.00, which is to be held by the Monitor, on behalf of the Petitioners, for the purpose of funding the payment of any (a) amounts in respect of existing or future taxes, expenses and other disbursements that are or may become payable by the New Walter Canada Group; (b) amounts, if any, in respect of outstanding Crown Claims; (c) amounts to address the orderly wind-down or other process at the discretion of the New Walter Canada Group for Energybuild in a cost effective and tax efficient manner that protects Energybuild’s directors and officers from liability to the fullest extent possible, including the purchase of any reasonable director and officer insurance and “run off” coverage; and (d) amounts in respect of general contingency costs, plus (ii) any amounts held by or on behalf of Energybuild, including as a result of the sale of Energybuild Limited, Energybuild Mining Limited and Mineral Extraction and Handling Limited, which shall be retained in accordance with the Settlement Term Sheet.

## **5.5 Unresolved Claims Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Unresolved Claims Reserve shall be established out of the Available Funds and be held by the Monitor, on behalf of the Petitioners, in escrow in accordance with the CCAA Plan in an amount equal to the aggregate amount that would have been paid to all Affected Creditors holding Unresolved Claims in accordance with the CCAA Plan (calculated on the basis of the amounts specified in such Affected Creditors’ Proofs of Claim) if such Unresolved Claims had been Proven Claims on the Plan Implementation Date.

## **5.6 Affected Creditors’ Distribution Cash Pool**

On the Plan Implementation Date, the Affected Creditors’ Distribution Cash Pool shall be established from the Available Funds in an amount equal to all Proven Claims of Affected

Creditors, which shall be denominated in Canadian dollars and shall, if necessary, be converted to Canadian dollars in accordance with the Claims Process Order, plus the USW Settlement Amount. For greater certainty, Warrior shall be an Affected Creditor with respect to the Shared Services Claim, but shall not be an Affected Creditor with respect to the Deemed Interest Claim.

#### **5.7 Deemed Interest Claim Distribution Cash Pool**

On the Plan Implementation Date, the Deemed Interest Claim Distribution Cash Pool shall be established out of the Available Funds in an amount equal to the Available Funds less the amounts used to fund the: (a) Administrative Costs Reserve; (b) Insurance Reserve; (c) Wind-Down Reserve; (d) Unresolved Claims Reserve; and (e) Affected Creditors' Distribution Cash Pool. The Monitor shall hold the Deemed Interest Claim Distribution Cash Pool in two or more separate interest-bearing accounts or guaranteed investment certificates in escrow for distribution in accordance with the CCAA Plan, including one in Canadian dollars and one in U.S. dollars. The Deemed Interest Claim shall be equal to the amount of remaining funds in Canadian currency, U.S. currency or pounds sterling held by, on behalf of, or in trust for New Walter following the payment of all Proven Claims of Affected Creditors in full and the payment of all amounts for which reserves are to be taken hereunder, any transfer of funds pursuant to **Section 6.1** and the deemed transfer of funds contemplated in **Section 5.8**. Funds held in any currency may be distributed by the Monitor to Warrior pursuant to **Section 6.5** in satisfaction of the Deemed Interest Claim or, at Warrior's request, converted by the Monitor to either Canadian dollars or U.S. dollars at the best available exchange rate from the applicable financial institution as at the date of conversion.

#### **5.8 Remaining Funds**

Any final remaining balance in the Administrative Costs Reserve, the Insurance Reserve, the Wind-Down Reserve, the Unresolved Claims Reserve or the Affected Creditors Distribution Cash Pool that have not been distributed on or before the Final Distribution Date shall be transferred or deemed transferred to the Deemed Interest Claim Distribution Cash Pool and distributed to Warrior in accordance with **Section 6.5**.

### **ARTICLE 6 PROVISIONS REGARDING DISTRIBUTIONS AND PAYMENTS**

#### **6.1 Payment of Administrative Costs**

On the Plan Implementation Date, the Administrative Costs Reserve will be funded in accordance with **Section 5.2** of the CCAA Plan and shall be administered in accordance with the CCAA Plan. The Monitor may, on behalf of and in consultation with the Petitioners, pay any Administrative Costs as and when due.

The Monitor, on behalf of the Petitioners, may, in circumstances where the Monitor determines, in consultation with the Petitioners and Warrior, that there are funds in the Administrative Costs Reserve sufficiently in excess of the amount of all Administrative Costs, transfer such excess Administrative Costs Reserve funds to the Deemed Interest Claim Distribution Cash Pool and declare a Distribution Date in respect thereof.

## **6.2 Payment of Insurance Reserve Costs**

On the Plan Implementation Date, the Insurance Reserve will be funded in accordance with **Section 5.3** of the CCAA Plan and shall be administered in accordance with the CCAA Plan and the Sanction Order. The Petitioners, in consultation with the Monitor, may purchase any reasonable “run off” or “tail” insurance for the Directors and Officers and pay any deductibles required in connection with any claims made in respect thereof.

In the event that there is a deductible payable in connection with such insurance, the Monitor may pay, on behalf of the Petitioners, any D&O Claim entitled to the benefit of any applicable insurance policy directly from the Insurance Reserve rather than paying any deductible in respect of such D&O Claim if, in the opinion of the Petitioners and the Monitor, the amount of such D&O Claim is less than or comparable to the deductible payable in respect of such D&O Claim or the Petitioners and the Monitor determine, for any other reason, that it is inadvisable to pay an amount in respect of the deductible for such D&O Claim and provided that sufficient funds remain in the Insurance Reserve to fund the deductible for any other D&O Claims that have been or are likely to be made that are entitled to the benefit of any applicable insurance policy.

The Monitor, on behalf of the Petitioners, may, in circumstances where the Monitor determines, in consultation with the Petitioners and Warrior, that there are funds in the Insurance Reserve sufficiently in excess of the amount of all costs payable from such reserve, transfer such excess Insurance Reserve funds to the Deemed Interest Claim Distribution Cash Pool.

## **6.3 Payment of Wind-Down Reserve Costs**

On the Plan Implementation Date, the Wind-Down Reserve will be funded in accordance with **Section 5.4** of the CCAA Plan and shall be administered in accordance with the CCAA Plan and the Sanction Order. The Monitor may, on behalf of and in consultation with the Petitioners and Energybuild, pay any costs covered by the Wind-Down Reserve as and when due.

The Monitor, on behalf of the Petitioners, may, in circumstances where the Monitor determines, in consultation with the Petitioners and Warrior, that there are funds in the Wind-Down Reserve sufficiently in excess of the amount of all costs payable from such reserve (other than any portion of the Wind-Down Reserve consisting of amounts held by or on behalf of Energybuild, which shall be distributed to Warrior in accordance with the Settlement Term Sheet), transfer such excess Wind-Down Reserve funds to the Deemed Interest Claim Distribution Cash Pool.

## **6.4 Distributions from the Affected Creditors' Distribution Cash Pool**

The Affected Creditors' Distribution Cash Pool shall be distributed by the Monitor, on behalf and for the account of the Petitioners, on the Plan Implementation Date or on any Distribution Date, as the case may be, to each Affected Creditor in the amount of such Affected Creditor's Proven Claim by way of cheque sent by prepaid ordinary mail to the address for such Affected Creditor specified in the Proof of Claim filed by such Affected Creditor or to such other address of such Affected Creditor as the Monitor may have acquired, including the addresses of Employee Claimants, or, at the discretion of the Monitor, by wire transfer of immediately available funds in accordance with wire transfer instructions satisfactory to the Monitor and delivered to the

Monitor at least three (3) Business Days in advance of the Plan Implementation Date or any Distribution Date.

Distributions to Employee Claimants in respect of Employee Claims will be made following review by Service Canada and net of any employment insurance overpayment deductions or other amounts required by Applicable Law to be withheld from the amount to be distributed to Employee Claimants and remitted or paid to Service Canada or any other Government Authority. Distributions to Employee Claimants shall not be made by the Monitor until the Service Canada review is complete and the amount of any remittance or payment due to Service Canada has been determined. Within five (5) Business Days of making any distribution to an Employee Claimant in respect of an Employee Claim, the Monitor shall make a distribution to Service Canada and any other Government Authority equal to the amount required by Applicable Law to be remitted or paid to Service Canada or such Government Authority and such distribution shall be deemed to be a remittance or payment, as applicable, made to Service Canada or such Government Authority by the applicable Petitioner or Employee.

On the Plan Implementation Date, the Monitor shall pay the USW Settlement Amount to the USW on account of USW's costs in the CCAA Proceedings by wire transfer of immediately available funds in accordance with wire transfer instructions satisfactory to the Monitor and delivered by the USW to the Monitor at least three (3) Business Days in advance of the proposed date of such payment.

Following the distribution to be made by the Monitor, on behalf of the Petitioners, to Affected Creditors on the Plan Implementation Date or on a Distribution Date pursuant to, and in accordance with, **Section 8.2** of the CCAA Plan, the Monitor shall have no further obligation to make any payment out of the Affected Creditors' Distribution Cash Pool.

#### **6.5 Distributions from the Deemed Interest Claim Distribution Cash Pool**

The following payments shall be made:

- (a) On the Plan Implementation Date, or as soon as reasonably practicable thereafter as may be determined by the Monitor and the Petitioners, in their discretion, the Monitor shall pay the 1974 Plan Settlement Amount from the Deemed Interest Claim Distribution Cash Pool to the 1974 Plan by wire transfer of immediately available funds in accordance with wire transfer instructions satisfactory to the Monitor and delivered by the 1974 Plan to the Monitor at least three (3) Business Days in advance of the proposed date of such payment and the 1974 Plan Claim shall be fully and finally satisfied, settled, extinguished, released and discharged immediately upon the 1974 Plan Settlement Amount being paid to the 1974 Plan.
- (b) On the Plan Implementation Date or on any Distribution Date, as the case may be, the Monitor shall transfer amounts as determined by the Petitioners and the Monitor in consultation with Warrior in accordance with the CCAA Plan, on behalf and for the account of the applicable Petitioner, from the Deemed Interest Claim Distribution Cash Pool (each such transfer being a "**Deemed Interest Claim Distribution**") (i) as successive capital contributions by New Walter to New WCCC, by New WCCC to Cambrian and by Cambrian to Energybuild Group Limited in an amount not to exceed the amount owing to Warrior by

Energybuild Group Limited (in the maximum amount of US\$6,976,591.45) and provided that Energybuild Group Limited shall direct Cambrian to pay such amount to Warrior on account of Energybuild Group Limited's debt to Warrior; and/or (ii) directly to Warrior by wire transfer of immediately available funds to such account as Warrior shall specify.

#### **6.6 Cancellation of Instruments Evidencing Affected Claims**

Following completion of the steps and transactions in the sequence set forth in **Section 8.2** of the CCAA Plan, all agreements, invoices and other instruments evidencing Affected Claims will not entitle any holder thereof to any compensation or participation other than as expressly provided for in the CCAA Plan and will be cancelled and will be null and void.

#### **6.7 Crown Priority Claims**

Within six (6) months after the Plan Sanction Date, the Monitor, on behalf of the Petitioners, shall pay in full to Her Majesty in Right of Canada or any province all Crown Claims.

#### **6.8 Currency**

Unless specifically provided for in the CCAA Plan or the Sanction Order, for the purposes of distribution, an Affected Claim shall be denominated in Canadian currency. If a Proof of Claim sets forth the amount of an Affected Claim in any other currency, such Affected Claim shall be converted to an amount in Canadian currency in accordance with the Claims Process Order. For greater certainty, the Deemed Interest Claim shall not be converted to Canadian currency.

#### **6.9 Interest**

No interest shall be paid on any Proven Claim unless so specified in the applicable Proof of Claim. No interest will be paid on any Proven Claim for the period from and after the Filing Date.

#### **6.10 Treatment of Undeliverable Distributions**

If any Affected Creditor's distribution by way of cheque is returned as undeliverable or is not cashed, no further distributions to such Affected Creditor shall be made unless and until the Petitioners and the Monitor are notified by such Affected Creditor of such Affected Creditor's current address, at which time all such distributions shall be made to such Affected Creditor without interest accruing on account of the cheque being undeliverable or not cashed. All claims for undeliverable or uncashed distributions in respect of Proven Claims of any Affected Creditors will expire twelve (12) months after the date of such distribution, after which date the Proven Claims of any Affected Creditor or successor of such Affected Creditor with respect to such unclaimed or uncashed distributions shall be forever discharged and forever barred, without any compensation therefor, notwithstanding any federal, state, provincial or territorial laws to the contrary, at which time the cash amount held by the Monitor in relation to such Proven Claims will be, or will be deemed to be, transferred to the Deemed Interest Claim Distribution Cash Pool. Nothing contained in the CCAA Plan shall require the Petitioners or the Monitor to attempt to locate any Affected Creditor.

## **6.11 Assignment of Claims for Voting and Distribution Purposes**

### *(a) Assignment of Claims Prior to the Affected Creditors' Meeting*

Subject to any restrictions contained in Applicable Laws, Affected Creditors other than the 1974 Plan may transfer or assign the whole of their Affected Claims (or where an Affected Claim includes an indemnity claim, the whole of their Affected Claims other than that part of the Affected Claim relative to the indemnity) prior to the Affected Creditors' Meeting provided that the Petitioners and the Monitor shall not be obliged to deal with any transferee or assignee as an Affected Creditor in respect thereof unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment has been given to the Petitioners and the Monitor by 5:00 p.m. (Vancouver time) on the day that is at least five (5) Business Days immediately prior to the Affected Creditors' Meeting, or such other date as the Petitioners and the Monitor may agree. In the event of such notice of transfer or assignment prior to the Affected Creditors' Meeting, the transferee or assignee shall, for all purposes, be treated as the Affected Creditor of the assigned or transferred Affected Claim, will be bound by any and all notices previously given to the transferor or assignor in respect of such Affected Claim and shall be bound, in all respects, by any and all notices given and by the Orders of the Court in the CCAA Proceedings. For greater certainty, other than as described above, the Petitioners shall not recognize partial transfers or assignments of Affected Claims.

### *(b) Assignment of Claims Subsequent to the Affected Creditors' Meeting*

Subject to any restrictions contained in Applicable Laws, Affected Creditors other than the 1974 Plan may transfer or assign the whole of their Affected Claims (or where an Affected Claim includes an indemnity claim, the whole of their Affected Claims other than that part of the Affected Claim relative to the indemnity) after the Affected Creditors' Meeting provided that the Petitioners and the Monitor shall not be obliged to deal with any transferee or assignee as an Affected Creditor and the Monitor shall not be obliged to make any distributions to the transferee or assignee in respect thereof unless and until actual notice of the transfer or assignment, together with evidence of the transfer or assignment and a letter of direction executed by the transferor or assignor, all satisfactory to the Petitioners and the Monitor, has been given to the Petitioners and the Monitor by 5:00 p.m. (Vancouver time) on the day that is at least five (5) Business Days immediately prior to the Plan Implementation Date or any Distribution Date(s), as the case may be, or such other date as the Petitioners and the Monitor may agree. Thereafter, the transferee or assignee shall, for all purposes, be treated as the Affected Creditor of the assigned or transferred Affected Claim, will be bound by any notices previously given to the transferor or assignor in respect of such Affected Claim and shall be bound, in all respects, by notices given and steps taken, and by the orders of the Court in the CCAA Proceedings. For greater certainty, other than as described above, the Petitioners shall not recognize partial transfers or assignments of Affected Claims.

## **6.12 Assignment of the Deemed Interest Claim and 1974 Plan Claim**

Warrior shall not transfer or assign all or any part of the Deemed Interest Claim and the 1974 Plan shall not transfer or assign all or any part of the 1974 Plan Claim or its entitlement to the 1974 Plan Settlement Amount and no transfer or assignment of such Claims or entitlements shall be recognized by the Petitioners or the Monitor and the Petitioners and the Monitor shall not be obliged to deal with any transferee or assignee of all or any portion of the Deemed Interest Claim, the 1974 Plan Claim or any entitlement to the 1974 Plan Settlement Amount, in each case



until such time as any proposed assignee executes an agreement in form and substance satisfactory to New Walter setting out such person's agreement to support the approval and implementation of the Plan, in each case as contemplated herein.

### **6.13 Allocation of Distributions**

All distributions made by the Monitor, on behalf of the Petitioners, pursuant to the CCAA Plan shall be first in consideration for the outstanding principal amount of the Claims and secondly, subject to **Section 6.9**, in consideration for accrued and unpaid interest and penalties, if any, which forms part of such Claims. No interest will be paid on any Claim for the period from and after the Filing Date.

### **6.14 Withholding and Reporting Requirements**

The Petitioners and the Monitor shall be entitled to deduct and withhold from any distribution, payment or consideration otherwise payable to an Affected Creditor, the 1974 Plan in respect of the 1974 Plan Settlement Amount, USW in respect of the USW Settlement Amount or Warrior in respect of the Deemed Interest Claim, such amounts (a "**Withholding Obligation**") as the Petitioners or the Monitor, as the case may be, are reasonably required or entitled to deduct and withhold with respect to such payment under the *Income Tax Act* (Canada), or any other provision of any Applicable Law; provided, however, that the 1974 Plan Settlement Amount and any Withholding Obligation in respect thereof shall be calculated such that the 1974 Plan receives \$13 million, and any Withholding Obligation shall be in addition to such amount. To the extent that amounts are so deducted or withheld and remitted to the applicable Government Authority or as required by Applicable Law, such amounts deducted or withheld shall be treated for all purposes of the CCAA Plan as having been paid to such Person as the remainder of the payment in respect of which such withholding and deduction were made. For greater certainty, no distribution, payment or other consideration shall be made to or on behalf of an Affected Creditor with a Proven Claim, the Deemed Interest Claim or the 1974 Plan Settlement Amount pursuant to the CCAA Plan unless and until such Person has delivered to the Monitor such documentation prescribed by Applicable Law or otherwise reasonably required by the Monitor as will enable the Monitor to determine whether or not, and to what extent, such distribution, payment or consideration to such Person is subject to any Withholding Obligation imposed by any Government Authority.

## **ARTICLE 7**

### **PROCEDURE FOR DISTRIBUTIONS REGARDING UNRESOLVED CLAIMS**

#### **7.1 No Distribution Pending Allowance**

Notwithstanding any other provision of the CCAA Plan, no payments or distributions shall be made with respect to all or any portion of an Unresolved Claim unless and to the extent it has become a Proven Claim, in whole or in part.

#### **7.2 Distributions After Unresolved Claims Resolved**

The Unresolved Claims shall be finally determined in accordance with the Claims Process Order and any other applicable Order. If, after the Plan Implementation Date, an Affected Creditor's Unresolved Claim is finally determined to be a Proven Claim pursuant to and in accordance with the Claims Process Order or if an Affected Creditor's Unresolved Claim is

accepted, in each case, in whole or in part, (a) the Monitor, on behalf of the Petitioners, shall distribute the amount from the Unresolved Claims Reserve equal to such Affected Creditor's Proven Claim, if any, that would have been distributed on the Plan Implementation Date had such Affected Claim been a Proven Claim on that date (the "**Proven Claim Amount**") to such Affected Creditor in full satisfaction, payment, settlement, release and discharge of such Affected Creditor's Proven Claim; and (b) that Proven Claim Amount shall be deemed to have first been transferred to the Affected Creditors' Distribution Cash Pool and then paid therefrom by the Monitor, on behalf of the Petitioners. When all Unresolved Claims have been finally determined in accordance with the Claims Process Order and any other applicable Order and when all Proven Claim Amounts have been paid, any balance that remains in the Unresolved Claims Reserve will be deemed to be transferred to the Administrative Costs Reserve.

## **ARTICLE 8 COMPANY REORGANIZATION**

### **8.1 Corporate Authorizations**

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the CCAA Plan involving corporate action of the Petitioners will occur and be effective as of the Plan Implementation Date, and will be authorized and approved under the CCAA Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by any shareholder, Director, Officer or any other Person. All necessary approvals to take actions shall be deemed to have been obtained from the Directors, Officers and shareholders of the Petitioners, as applicable, including the deemed passing by any shareholder of any resolution or special resolution and no shareholders' agreement or agreement between a shareholder and another Person limiting in any way the right to vote shares held by such shareholder(s) with respect to any of the steps contemplated by the CCAA Plan shall be deemed to be effective and shall have no force and effect.

### **8.2 Plan Implementation Date Steps and Transactions**

The steps, transactions, settlements and releases to be effected in the implementation of the CCAA Plan shall occur, and be deemed to have occurred, in the following order without any further act of formality, beginning at the Effective Time on the Plan Implementation Date:

- (a) the Monitor, on behalf of the Petitioners, shall use the Available Funds to fund the following reserves and distribution cash pools in the order specified below:
  - (i) Administrative Costs Reserve;
  - (ii) Insurance Reserve;
  - (iii) Wind-Down Reserve;
  - (iv) Unresolved Claims Reserve;
  - (v) Affected Creditors' Distribution Cash Pool; and
  - (vi) Deemed Interest Claim Distribution Cash Pool,

and shall administer such reserves and distribution cash pools pursuant to and in accordance with the CCAA Plan;

- (b) The Charges and the Intercompany Charge shall be released and discharged as against the funds in the Insurance Reserve, Wind-Down Reserve, Unresolved Claims Reserve, Affected Creditors' Distribution Cash Pool and Deemed Interest Claim Distribution Cash Pool, but, for greater certainty, shall remain attached to the funds in the Administrative Costs Reserve and to any other asset of the Petitioners;
- (c) the Monitor, on behalf of the Petitioners, shall pay from the Administrative Costs Reserve to the Financial Advisor any remaining amount due in connection with the Success Fee Charge and the Success Fee Charge, the KERP Charge and the Intercompany Charge shall be released and discharged;
- (d) the steps, distributions, transfers, payments, settlements and releases set out in Schedule "A" of the CCAA Plan shall be deemed to be completed in the order and at the times specified therein; and
- (e) the releases referred to in **Section 9.1** and the injunctions referred to in **Section 9.2** of the CCAA Plan shall become effective in accordance with the CCAA Plan.

### **8.3 Post-Plan Implementation Date Transactions**

As specified herein, each of the Petitioners, or the Monitor on their behalf, as the case may be, shall take the following steps after the Plan Implementation Date:

- (a) the Monitor, on behalf of the Petitioners, shall take all steps necessary to further fund any of the reserves, to pay any amounts required to be paid to an Affected Creditor or in respect of the Deemed Interest Claim on any Distribution Date, or to make any payment to any other Person, in each case pursuant to, and in accordance with, this CCAA Plan; and
- (b) (i) the Monitor, on behalf of the Petitioners, shall take all steps necessary to make any distributions, payments, or transfers of funds in order to fund, or otherwise in connection with, the making of the payments referred to in subparagraph (a) above; and (ii) the Petitioners, in consultation with the Monitor, shall take all steps necessary to undertake any other transactions as between the Petitioners or any other Person in order to fund, or otherwise take steps in connection with, the making of the payments referred to in subparagraph (a) above,

in each case, as tax efficiently for the Petitioners as is reasonably possible, as determined by the Petitioners.

### **8.4 On-Going Matters**

Following the Plan Implementation Date, the Petitioners, in consultation with the Monitor and Warrior, shall continue to seek an orderly wind-down or other process acceptable to the New Walter Canada Group for Energybuild and address any other matters that arise in connection with

the CCAA Proceedings. The Monitor shall, on a no less than monthly basis, provide detailed reporting to Warrior with respect to distributions made or to be made pursuant to this CCAA Plan, including the payments, current balance and expected payments made or to be made from the various reserves described in the CCAA Plan.

## **ARTICLE 9 RELEASES**

### **9.1 CCAA Plan Releases**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Petitioners, the Monitor, KPMG Inc. and its affiliates, the CRO, the Financial Advisor (solely with respect to its activities in respect of the Sale and Investor Solicitation Process conducted in connection with the SISP Order), Philip L. Evans Jr., in his capacity as consultant to the Petitioners and the Walter Canada Group, the Directors and the Officers, each and every present and former Employee who filed or could have filed an indemnity claim against the Walter Canada Group or the Petitioners, each and every affiliate, subsidiary, partner, member (including members of any committee or governance council) and legal counsel thereof and any Person claiming to be liable derivatively through any or all of the foregoing Persons (the “**Releasees**”) shall be released and discharged from any and all demands, claims (including any Claims), actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, including any and all claims in respect of the payment and receipt of proceeds and statutory liabilities of Directors, Officers and Employees and any alleged fiduciary or other duty (whether acting as a Director, Officer, member or Employee or acting in any other capacity in connection with the Walter Canada Group’s business, the Petitioners’ business, an individual member of the Walter Canada Group or an individual Petitioner), whether known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the later of the Plan Implementation Date and the date on which actions are taken to implement the CCAA Plan that are in any way related to, or arising out of or in connection with the Claims (including Unresolved Claims, Proven Claims, the Deemed Interest Claim and any Claim that has been barred or extinguished pursuant to the Claims Process Order or any other applicable Order), the Walter Canada Group’s business and affairs whenever or however conducted, the Petitioners’ business and affairs whenever or however conducted, the CCAA Plan and the CCAA Proceedings, and all claims arising out of such actions or omissions shall be forever waived and released (other than the right to enforce the Petitioners’ obligations under the CCAA Plan or any related document), all to the fullest extent permitted by Applicable Law, provided that nothing in the CCAA Plan shall release or discharge any Petitioner from any Excluded Claim, any Director from any Claim that cannot be compromised pursuant to Section 5.1(2) of the CCAA, any Releasee other than the Petitioners and any present and former Employee who filed or could have filed an indemnity claim against the Walter Canada Group from liability for gross negligence or willful misconduct, or any Releasee from any obligation created by or existing under the CCAA Plan or any related document and provided that any Unresolved Claim shall remain a Claim on the Unresolved Claims Reserve until such time as such Unresolved Claim is finally determined in

accordance with the Claims Process Order and any other Order and, if such Unresolved Claim becomes a Proven Claim, such Proven Claim is paid as contemplated by this CCAA Plan.

## **9.2 Injunctions**

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all of the Releasees in respect of any matter in any way related to, or arising out of or in connection with the Claims (including Unresolved Claims, Proven Claims, the Deemed Interest Claim and any Claim that has been barred or extinguished pursuant to the Claims Process Order or any other applicable Order), the Walter Canada Group's business and affairs whenever or however conducted, the Petitioners' business and affairs whenever or however conducted, the CCAA Plan and the CCAA Proceedings, 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 Releasees; (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 any Releasee or its 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, breach of trust or breach of fiduciary duty 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 Releasees; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against any Releasee or its property; or (v) taking any actions to interfere with the implementation or consummation of the CCAA Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the CCAA Plan.

## **ARTICLE 10**

### **COURT SANCTION, CONDITIONS PRECEDENT AND IMPLEMENTATION**

#### **10.1 Application for Sanction Order**

Following the Affected Creditors Meeting and the making of the Deemed Interest Claim Resolution approving the CCAA Plan, the Petitioners shall apply for the Sanction Order.

#### **10.2 Sanction Order**

The Sanction Order shall, among other things, include provisions in substance similar to the following:

- (a) declare that the Affected Creditors' Meeting shall have been duly called and held in accordance with the Meeting Order and that the Deemed Interest Claim Resolution shall have been duly obtained in accordance with the Meeting Order;
- (b) declare that (i) the CCAA Plan has been unanimously approved by the Affected Creditors in conformity with the CCAA; (ii) the CCAA Plan has been approved pursuant to Deemed Interest Claim Resolution in conformity with the CCAA; (iii)

the activities of the Petitioners have been in reasonable compliance with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects; (iv) the Court is satisfied that the Petitioners have not done or purported to do anything that is not authorized by the CCAA; and (v) the CCAA Plan and the transactions contemplated thereby are fair and reasonable;

- (c) declare that as of the Effective Time, the CCAA Plan and all associated steps, settlements, transactions, arrangements and releases effected thereby are approved, binding and effective upon the Petitioners, all Affected Creditors, the Directors and Officers, the Releasees and all other Persons named or referred to in, or subject to, the CCAA Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (d) declare that the steps to be taken and the releases to be effective on the Plan Implementation Date are deemed to occur and be effected in the sequential order contemplated by the CCAA Plan on the Plan Implementation Date, beginning at the Effective Time;
- (e) release and discharge the Petitioners and the Directors and Officers from the Deemed Interest Claim and any and all Affected Claims of any nature in accordance with the CCAA Plan, and declare that the ability of any Person to proceed against the Petitioners or the Directors or Officers in respect of or relating to the Deemed Interest Claim or any Affected Claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims are permanently stayed, subject only to (i) the right of Affected Creditors with Unresolved Claims to continue pursuing such Unresolved Claims in accordance with the Claims Process Order and the CCAA Plan until such time as such Unresolved Claim is finally determined in accordance with the Claims Process Order and any other Order and, if such Unresolved Claim becomes a Proven Claim, such Proven Claim is paid as contemplated by this CCAA Plan; and (ii) the right of Affected Creditors with Proven Claims and of Warrior in respect of the Deemed Interest Claim to receive payments and distributions pursuant to the CCAA Plan;
- (f) stay the commencing, taking, applying for or issuing or continuing of any and all steps or proceedings, including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Releasee in respect of all Claims and any matter which is released pursuant to the CCAA Plan;
- (g) declare that on or following the Plan Implementation Date, the Monitor shall be and is authorized and directed to make payments out of the Administrative Costs Reserve, on behalf of the Petitioners, in respect of the payment of Administrative Costs, and to make payments out of the Insurance Reserve and the Wind-Down Reserve, on behalf of the Petitioners, in respect of the payment of costs covered by such reserves, in each case by way of cheque (sent by prepaid ordinary mail to the Monitor's last known address for such recipient Persons) or by wire transfer (in accordance with wire transfer instructions, if provided by such recipient

Persons to the Monitor at least three (3) Business Days prior to the payment date set by the Monitor);

- (h) declare that all payments and distributions by or at the direction of the Monitor, in each case on behalf of the Petitioners or any other Person, as applicable, under the CCAA Plan are for the account of the Petitioners or such other Person, as applicable, and the fulfillment of their obligations under CCAA Plan;
- (i) declare that the Monitor shall not incur any liability under the Tax Statutes as a result of the completion of the steps or transactions contemplated by the CCAA Plan, including in respect of its making any payments or distributions ordered or permitted under the CCAA Plan or the Sanction Order and including any steps or transactions contemplated by **Section 8.3** of this CCAA Plan, and are released, remised and discharged from any claims against them under or pursuant to the Tax Statutes or otherwise at law, arising in respect of the completion of the steps or transactions contemplated by the CCAA Plan, including in respect of making any payments or distributions ordered or permitted under the CCAA Plan or the Sanction Order and including any steps or transactions contemplated by **Section 8.3** of this CCAA Plan, and that any claims of such a nature are forever barred and extinguished;
- (j) declare that any Affected Claims for which a Proof of Claim or Notice of Dispute of Employee Claim was required to be delivered to the Monitor pursuant to the Claims Process Order has not been filed by the Claims Bar Date, the Restructuring Claims Bar Date or the Unresolved Restructuring Claims Bar Date, as applicable, shall be forever barred and extinguished;
- (k) authorize and direct the Petitioners and the Monitor to, on and after the Plan Implementation Date, (i) complete the Claims Process established in the Claims Process Order; and (ii) take such further steps and seek such amendments to the Claims Process Order or additional Orders of the Court as the Petitioners, in consultation with the Monitor, consider necessary or appropriate in order to fully determine, resolve or deal with any Claims;
- (l) declare that, in addition to its prescribed rights under the CCAA and the powers granted by the Court, the powers granted to the Monitor are expanded as may be required to, and the Monitor is empowered and authorized on and after the Plan Implementation Date to, take such additional actions, as the Monitor, in consultation with the Petitioners, considers necessary or desirable in order to perform its functions and fulfill its obligations under the CCAA Plan, the Sanction Order and any order of the Court in the CCAA Proceedings and to facilitate the implementation of the CCAA Plan;
- (m) declare that the Petitioners, the CRO and the Monitor may apply to the Court for advice and direction in respect of any matters arising from or under the CCAA Plan; and
- (n) such other relief which the Petitioners or the Monitor may request.

### 10.3 Conditions Precedent to Implementation of the CCAA Plan

The implementation of the CCAA Plan shall be conditional upon the fulfillment (or, in the case of paragraph (c), waiver) of the following conditions on or prior to the Plan Implementation Date, as the case may be:

(a) *CCAA Plan Approval*

The Affected Creditors shall have been deemed to have unanimously voted in favour of the CCAA Plan at the Affected Creditors' Meeting and the Deemed Interest Claim Resolution shall have been deemed to have been obtained to approve the CCAA Plan.

(b) *Plan Sanction Order*

The Sanction Order shall have been made and be in full force and effect, and all applicable appeal periods in respect thereof shall have expired and any appeals therefrom shall have been finally disposed of, leaving the Sanction Order wholly operable.

(c) *Resolution of Certain Liabilities*

The Petitioners shall be satisfied that (i) all material consents, declarations, rulings, certificates, or approvals of any Government Authority as may be considered necessary by the Petitioners and the Monitor in respect of the transactions contemplated by the CCAA Plan shall have been obtained, provided that, without limiting the generality of the forgoing, and notwithstanding any other provision of the CCAA Plan, no distributions shall be made by the Monitor from any of the Unresolved Claims Reserve, Affected Creditors' Distribution Cash Pool or the Deemed Interest Claim Distribution Pool unless and until one of the following conditions have been met to the satisfaction of, or waived by, the Monitor, in its sole discretion: (a) certificates have been issued by or on behalf of the Minister of National Revenue (Canada) ("CRA") pursuant to section 159 of the *Income Tax Act* (Canada) in respect each of the members of the New Walter Canada Group, or (b) the Monitor has received written confirmation from the CRA that it may distribute the property of the New Walter Canada Group without any personal liability; (ii) all tax returns required to be filed by or on behalf of the Petitioners have been or will be duly filed in all appropriate jurisdictions; and (iii) all taxes required to be paid in respect thereof have been or will be paid.

(d) *Outside Date*

The Plan Implementation Date shall have occurred no later than the Outside Date and the Petitioners and the Monitor shall be satisfied that there will be sufficient Available Funds to pay all Proven Claims of Affected Creditors, the USW Settlement Amount and the 1974 Plan Settlement Amount.



#### **10.4 Monitor's Certificate**

Upon the Petitioners advising the Monitor in writing that the conditions to implementation of the CCAA Plan set out in **Section 10.3** have been satisfied or waived (provided however that the Petitioners shall only be permitted to waive the condition to implementation set out in **Section 10.3(c)(i)** with the consent of the Monitor), the Monitor shall deliver to the Petitioners the Monitor's Certificate. Following the Plan Implementation Date, the Monitor shall file the Monitor's Certificate with the Court.

### **ARTICLE 11 GENERAL**

#### **11.1 Binding Effect**

On the Plan Implementation Date:

- (a) the CCAA Plan will become effective at the Effective Time;
- (b) the treatment of Affected Claims, USW, the 1974 Plan and the Deemed Interest Claim under the CCAA Plan shall be final and binding for all purposes and enure to the benefit of the Petitioners, all Affected Creditors, the Directors and Officers, the Releasees and all other Persons and parties named or referred to in, or subject to, the CCAA Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (c) all Affected Claims (including the 1974 Plan Claim) shall be forever discharged and released, excepting only (i) the right of Affected Creditors with Unresolved Claims to continue pursuing such Unresolved Claims in accordance with the Claims Process Order, any other applicable Order and the CCAA Plan; and (ii) the obligation of the Petitioners to make payments and distributions in respect of such Affected Claims in the manner and to the extent provided for in the CCAA Plan;
- (d) the Deemed Interest Claim shall be forever discharged and released, excepting only the obligation of the Petitioners to make payments and distributions in respect of such Deemed Interest Claim (including to the 1974 Plan) in the manner and to the extent provided for in the CCAA Plan;
- (e) each Affected Creditor will be deemed to have consented and agreed to all of the provisions of the CCAA Plan, in its entirety;
- (f) Warrior will be deemed, in respect of the Deemed Interest Claim, to have consented and agreed to all of the provisions of the CCAA Plan, in its entirety; and
- (g) each Affected Creditor, and Warrior in respect of the Deemed Interest Claim, shall be deemed to have executed and delivered to the Petitioners all consents, directions, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the CCAA Plan in its entirety.

## **11.2 Waiver of Defaults**

From and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of the Petitioners then existing or previously committed by the Petitioners or caused by the Petitioners, caused by any of the provisions in the CCAA Plan or steps contemplated in the CCAA Plan, and any non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Petitioners and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse the Petitioners from performing their obligations under the CCAA Plan or be a waiver of defaults by the Petitioners under the CCAA Plan and the related documents. This Section does not affect the rights of any Person to pursue any recoveries for an Affected Claim that may be obtained from a guarantor and any security granted by such guarantor, provided that no Person shall have any right of subrogation or other Claim whatsoever against the Petitioners or the Directors and Officers in respect of any such guarantee or security.

## **11.3 Claims Bar Date, Restructuring Claims Bar Date and Unresolved Restructuring Claims Bar Date**

Nothing in the CCAA Plan extends or shall be interpreted as extending or amending the Claims Bar Date, the Restructuring Claims Bar Date or the Unresolved Restructuring Claims Bar Date, as applicable, or gives or shall be interpreted as giving any rights to any Person in respect of Affected Claims that have been barred or extinguished pursuant to the Claims Process Order or any other Order of the Court.

## **11.4 Deeming Provisions**

In the CCAA Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

## **11.5 Non-Consummation**

The Petitioners reserve the right to revoke or withdraw the CCAA Plan at any time prior to the Plan Sanction Date. If the Petitioners revoke or withdraw the CCAA Plan, if the Sanction Order is not issued, or if the Plan Implementation Date does not occur by the Outside Date, (a) the CCAA Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the CCAA Plan including the fixing or limiting to an amount certain any Claim, or any document or agreement executed pursuant to the CCAA Plan shall be deemed null and void, and (c) nothing contained in the CCAA Plan, and no acts taken in preparation for consummation of the CCAA Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Affected Claims or the Deemed Interest Claim by or against the Petitioners or any other Person; (ii) prejudice in any manner the rights of the Petitioners or any other Person in any further proceedings involving the Petitioners; or (iii) constitute an admission of any sort by the Petitioners or any other Person. Notwithstanding the foregoing, a revocation or withdrawal of the CCAA Plan shall not be or be deemed to be a revocation, withdrawal or termination of the Settlement Term Sheet or shall extend or amend the Claims Bar Date, the Restructuring Claims Bar Date or the Unresolved Restructuring

Claims Bar Date, as applicable, or give or shall be interpreted as giving any rights to any Person in respect of Affected Claims that have been barred or extinguished pursuant to the Claims Process Order or any other Order of the Court.

#### **11.6 Modification or Withdrawal of the CCAA Plan**

- (a) The Petitioners reserve the right, at any time and from time to time, to amend, restate, modify and/or supplement the CCAA Plan, provided that any such amendment, restatement, modification or supplement must be contained in a written document which is filed with the Court, be consistent with the Settlement Term Sheet, and (i) if made prior to the Affected Creditors' Meeting and/or the making of the Deemed Interest Claim Resolution, communicated to the Affected Creditors and/or Warrior in respect of the Deemed Interest Claim, as applicable, in the manner required by the Court (if so required); and (ii) if made following the Affected Creditors' Meeting and/or the making of the Deemed Interest Claim Resolution, approved by the Court following notice to the Affected Creditors and/or Warrior in respect of the Deemed Interest Claim, as applicable.
- (b) Notwithstanding **Section 11.6(a)**, any amendment, restatement, modification or supplement may be made by the Petitioners with the consent of the Monitor or pursuant to an Order following the Plan Sanction Date, provided that it concerns a matter which, in the opinion of the Petitioners, acting reasonably, is of an administrative nature required to better give effect to the implementation of the CCAA Plan, the Settlement Term Sheet and the Sanction Order or to cure any errors, omissions or ambiguities and is not materially adverse to the financial or economic interests of the Affected Creditors, or Warrior in respect of the Deemed Interest Claim.
- (c) Any amended, restated, modified or supplementary plan or plans of compromise filed with the Court and, if required by this Section, approved by the Court, shall, for all purposes, be and be deemed to be a part of and incorporated in the CCAA Plan.
- (d) In the event that this CCAA Plan is amended, restated, modified or supplemented, the Monitor shall post such amended restated, modified or supplementary CCAA Plan on the Monitor's Website and such posting shall constitute adequate notice of such amendment.

#### **11.7 Paramountcy**

From and after the Effective Time on the Plan Implementation Date, if there is any express conflict between:

- (a) the CCAA Plan and the Sanction Order; and
- (b) the Meeting Order, the Settlement Term Sheet and the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, articles or bylaws of the

Petitioners, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between one or more of the Affected Creditors or Warrior in respect of the Deemed Interest Claim, as the case may be, and the Petitioners as at the Plan Implementation Date,

such conflict will be deemed to be governed by the terms, conditions and provisions of the CCAA Plan and the Sanction Order, which shall take precedence and priority.

#### **11.8 Severability of Plan Provisions**

If, prior to the Plan Sanction Date, any term or provision of the CCAA Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Petitioners, shall have the power to either (a) sever such term or provision from the balance of the CCAA Plan and provide the Petitioners with the option to proceed with the implementation of the balance of the CCAA Plan as of and with effect from the Plan Implementation Date, or (b) 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, and provided that the Petitioners proceed with the implementation of the CCAA Plan, the remainder of the terms and provisions of the CCAA Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

#### **11.9 Reviewable Transactions**

Section 36.1 of the CCAA, sections 38 and 95 to 101 of the BIA and any other federal or provincial law relating to preferences, fraudulent conveyances or transfers at undervalue, shall not apply to the CCAA Plan or to any payments or distributions made in connection with transactions entered into by or on behalf of the Petitioners, whether before or after the Filing Date, including to any and all of the payments, distributions and transactions contemplated by and to be implemented pursuant to the CCAA Plan.

#### **11.10 Responsibilities of the Monitor**

KPMG Inc. is acting in its capacity as Monitor in the CCAA Proceedings with respect to the Petitioners and the CCAA Plan and not in its personal or corporate capacity, and will not be responsible or liable for any obligations of the Petitioners under the CCAA Plan, arising from implementation of the CCAA Plan or otherwise.

#### **11.11 Different Capacities**

Persons who are affected by the CCAA Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by the Person in writing or unless its Claims overlap or are otherwise duplicative.

## 11.12 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the CCAA Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

If to the Petitioners:

c/o Osler, Hoskin & Harcourt  
1055 W Hastings St  
Suite 1700  
Vancouver, BC V6E 2E9  
Attention: Chief Restructuring Officer  
Email: baziz@bluetreeadvisors.com

with a copy to:

Osler, Hoskin & Harcourt LLP  
100 King Street West  
1 First Canadian Place, Suite 6100, P.O. Box 50  
Toronto, Ontario M5X 1B8  
Attention: Marc S. Wasserman / Patrick Riesterer  
Fax: (416) 862-6666  
Email: mwasserman@osler.com / priesterer@osler.com

If to an Affected Creditor:

to the address or facsimile number or email address for Warrior or such Affected Creditor specified in the Proof of Claim filed by Warrior or such Affected Creditor or to such other address of such Affected Creditor as the Monitor may have acquired, including the addresses of Employee Claimants;

If to the Monitor:

KPMG Inc.  
777 Dunsmuir Street, PO Box 10426  
Vancouver, British Columbia V7Y 1K3  
Attention: Anthony Tillman / Mark Kemp-Gee / Mike Clark  
Facsimile: (604) 691-3036  
Email: atillman@kpmg.ca / mkempgee@kpmg.ca / maclark@kpmg.ca

with a copy to:

McMillan LLP  
181 Bay Street, Suite 4400  
Toronto, ON M5J 2T3  
Attention: Wael Rostom / Peter Reardon / Vicki Tickle  
Facsimile: 416.865.7048  
Email: wael.rostom@mcmillan.ca / peter.reardon@mcmillan.ca /

vicki.tickle@mcmillan.ca

or to such other address as any party may from time to time notify the others in accordance with this Section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 5:00 p.m. (Vancouver time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

If, during any period during which notices or other communications are being given pursuant to this CCAA Plan, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of the Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery or electronic or digital transmission in accordance with this Order.

#### **11.13 Further Assurances**

Each of the Persons named or referred to in, or subject to, the CCAA Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the CCAA Plan and to give effect to the transactions contemplated herein.

**DATED** as of June 22, 2018.

**SCHEDULE "A"**  
**SPECIFIED PLAN IMPLEMENTATION DATE STEPS**

In order to facilitate the satisfaction of Proven Claims of Affected Creditors and a distribution by the Petitioners to Warrior, USW and the 1974 Plan pursuant to and in accordance with the CCAA Plan, the following steps, assumptions, distributions, transfers, payments, contributions, reductions of capital, settlements and releases shall be deemed to occur (a) immediately after the completion of the step set out in Section 8.2(c) of the CCAA Plan; (b) in the order specified in this Schedule "A"; and (c) in the manner specified in this Schedule "A".

- (a) Step 1: Each of New Walter, New WCCC, New Willow Creek, New Brule and New Wolverine shall have ratified the Waterfall Agreement.
- (b) Step 2: New Walter shall fund (or cause its subsidiaries to fund) the Administrative Cost Reserve, the Insurance Reserve and the Wind-Down Reserve.
- (c) Step 3: New WCCC and New Walter shall pay cash into the Unresolved Claims Reserve in an amount sufficient to pay the Proven Claim Amount in respect of all Unresolved Claims. Such cash shall come (i) first from the proceeds of sale received by New WCCC of Belcourt Saxon Coal Limited Partnership and Belcourt Saxon Coal Ltd., (ii) second, if necessary, from New WCCC's other funds; and (iii) third, if necessary, from New Walter's funds.
- (d) Step 4:
  - (i) Each of New Walter, New WCCC, New Willow Creek, New Brule and New Wolverine shall pay into the Affected Creditors' Distribution Cash Pool cash in an amount sufficient to pay such Petitioner's portion of all Proven Claims of Affected Creditors that were Allowed Claims on the Proposal Commencement Date in full in cash. To the extent that the payment into the Affected Creditors' Distribution Cash Pool by any of New Willow Creek, New Brule and New Wolverine is insufficient to pay any Affected Creditor's Proven Claim against such Petitioner in full in cash, New WCCC shall pay cash sufficient to satisfy such Claim into the Affected Creditors' Distribution Cash Pool. Such cash shall come (A) first from the proceeds of sale to New WCCC of Belcourt Saxon Coal Limited Partnership and Belcourt Saxon Coal Ltd., and (B) second, if necessary, from New WCCC's other funds.
  - (ii) To the extent New WCCC does not have sufficient cash to make the foregoing payments, New Walter shall pay into the Affected Creditors' Distribution Cash Pool cash sufficient to satisfy such Claim in full in cash.
  - (iii) New Walter shall also pay into the Affected Creditors' Distribution Cash Pool an amount equal to all amounts needed to pay any Claims that are Proven Claims of Affected Creditors as of the Plan Implementation Date that were not Allowed Claims on the Proposal Commencement Date.

- (e) Step 5: Each of New Willow Creek, New Brule and New Wolverine shall pay to New WCCC and New Walter the amount (if any) retained by such Petitioner following the payments set out in Step 4 as its respective contribution to the professional fees and other costs and expenses paid by New WCCC and New Walter, including under Steps 2, 3 & 4, on behalf of New Willow Creek, New Brule and New Wolverine. Cambrian shall pay to New WCCC and New Walter all remaining cash in its possession (if any) towards the professional fees and other costs and expenses paid by New WCCC and New Walter on behalf of Cambrian.
- (f) Step 6: New WCCC shall pay the amounts received under Step 5 plus the amount (if any) retained by New WCCC following the payments set out in Steps 3 & 4 to New Walter as its contribution to the professional fees and other costs and expenses paid by New Walter, including under Steps 2, 3 & 4, on behalf of New WCCC.
- (g) Step 7: New Walter shall pay all its remaining funds after the satisfaction of the payments set out in Steps 1-4 and after receipt of any funds pursuant to Step 5 & 6 into the Deemed Interest Claim Distribution Cash Pool.
- (h) Step 8: The Monitor shall make the required distributions from the Affected Creditors' Distribution Cash Pool to Affected Creditors with Claims that are or that become Proven Claims in accordance with the CCAA Plan in full and final satisfaction of all Affected Claims other than Excluded Claims and any remaining Unresolved Claims and shall pay the the USW Settlement Amount to USW.
- (i) Step 9: The Monitor shall make the required distributions from the Deemed Interest Claim Distribution Cash Pool in accordance with the CCAA Plan, including, (A) the payment of the 1974 Plan Settlement Amount to the 1974 Plan, and (B) (I) as successive capital contributions by New Walter to New WCCC, by New WCCC to Cambrian and by Cambrian to Energybuild Group Limited in an amount not to exceed the amount owing to Warrior by Energybuild Group Limited (in the maximum amount of US\$6,976,591.45) and provided that Energybuild Group Limited shall direct Cambrian to pay such amount to Warrior on account of Energybuild Group's debt to Warrior; and/or (II) directly to Warrior.
- (j) Step 10:
  - (i) The Monitor shall have the discretion to make partial distributions to Warrior at such times as the Monitor, in consultation with New Walter and Warrior, may determine is advisable, which may include transfers of funds held in any of the reserves (following a determination that such funds are no longer needed) to the Deemed Interest Claim Distribution Cash Pool for distribution to Warrior.
  - (ii) At such time as (i) all Unresolved Claims are resolved, and, if applicable, paid, and (ii) the Monitor, in consultation with the Petitioners and Warrior, have determined that the remaining funds in the Insurance Reserve, the



Unresolved Claims Reserve, the Wind-Down Reserve and the Administrative Costs Reserve are no longer needed, such funds shall be transferred or deemed transferred to the Deemed Interest Claim Distribution Cash Pool and New Walter shall pay all remaining funds into the Deemed Interest Claim Distribution Cash Pool to Warrior in accordance with the CCAA Plan in full and final satisfaction of the Deemed Interest Claim and such Deemed Interest Claim shall be extinguished.

NO. S-1510120  
VANCOUVER REGISTRY

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

AND

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

AND

**IN THE MATTER OF THE PLAN OF COMPROMISE AND**  
**ARRANGEMENT OF NEW WALTER ENERGY CANADA**  
**HOLDINGS, INC., NEW WALTER CANADIAN COAL CORP.,**  
**NEW BRULE COAL CORP., NEW WILLOW CREEK COAL**  
**CORP., NEW WOLVERINE COAL CORP. AND CAMBRIAN**  
**ENERGYBUILD HOLDINGS ULC**

PETITIONERS

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**AMENDED AND RESTATED**  
**PLAN OF COMPROMISE AND ARRANGEMENT**

**concerning, affecting and involving**

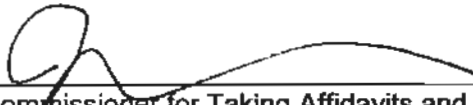
**NEW WALTER ENERGY CANADA HOLDINGS, INC.,**  
**NEW WALTER CANADIAN COAL CORP., NEW**  
**BRULE COAL CORP., NEW WILLOW CREEK COAL**  
**CORP., NEW WOLVERINE COAL CORP. AND**  
**CAMBRIAN ENERGYBUILD HOLDINGS ULC**

---

**OSLER HOSKIN & HARCOURT LLP**  
Barristers & Solicitors  
1055 West Hastings Street  
Suite 1700, The Guinness Tower  
Vancouver, BC V6E 2E9

Tel. No. 416.862.4924  
Fax No. 416.862.6666

This is Exhibit "B" referred to in Affidavit #23 of **William E. Aziz** sworn June 26, 2018 at Oakville, Ontario.



Commissioner for Taking Affidavits and  
Notary Public in the Province of Ontario

NO. S-1510120  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**AND**

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

**AND**

**IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF NEW  
WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL  
CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP., NEW  
WOLVERINE COAL CORP. AND CAMBRIAN ENERGYBUILD HOLDINGS ULC**

**PETITIONERS**

---

**AMENDED AND RESTATED  
PLAN OF COMPROMISE AND ARRANGEMENT**

**concerning, affecting and involving**

**NEW WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN  
COAL CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP.,  
NEW WOLVERINE COAL CORP. AND CAMBRIAN ENERGYBUILD HOLDINGS ULC**

---

**PURSUANT TO THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT* (CANADA)  
AND THE  
*BUSINESS CORPORATIONS ACT* (BRITISH COLUMBIA)**

**May 29, June 22, 2018**

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**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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**IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF NEW  
WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL  
CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP., NEW  
WOLVERINE COAL CORP. AND CAMBRIAN ENERGYBUILD HOLDINGS ULC**

**AMENDED AND RESTATED**  
**PLAN OF COMPROMISE AND ARRANGEMENT**

**WHEREAS** New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine and Cambrian are insolvent;

**AND WHEREAS** WECH, Cambrian, Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal, Ltd., and 0541237 B.C. Ltd. applied for and were granted protection under the CCAA pursuant to an Initial Order of the Court pronounced December 7, 2015 in the CCAA Proceedings and the benefits and protections of the CCAA and the Initial Order were extended to Walter Canadian Coal Partnership, Brule Coal Partnership, Wolverine Coal Partnership and Willow Creek Coal Partnership.

**AND WHEREAS** KPMG Inc. was appointed as Monitor pursuant to the Initial Order;

**AND WHEREAS** Walter Energy, Inc. sold certain claims it had against the Walter Canada Group to Warrior, including (a) the Shared Services Claim and (b) a claim in relation to that certain secured promissory note among Walter Energy, Inc. and WECH dated April 1, 2011 and related documents;

**AND WHEREAS** the 1974 Plan has asserted a claim against the Walter Canada Group throughout the CCAA Proceedings pursuant to certain "controlled group" provisions of the US Employee Retirement Income Security Act of 1974;

**AND WHEREAS** the Walter Canada Group obtained from the Court the Claims Process Order, which established a Claims Process in respect of the Walter Canada Group, including a Claims



Bar Date, a Restructuring Claims Bar Date and related matters, and included a specific process for the determination of the validity of the 1974 Plan Claim;

**AND WHEREAS** pursuant to and in accordance with the SISP Order pronounced January 5, 2016, the Walter Canada Group was authorized to conduct a Sale and Investor Solicitation Process for the purpose of soliciting bids for the purchase of all or part of the Walter Canada Group's business, operations and assets;

**AND WHEREAS** the Walter Canada Group and the New Walter Canada Group have completed a number of transactions pursuant to the SISP Order and additional Orders of the Court, including (A) the Order of the Court pronounced December 7, 2016 in the CCAA Proceedings (styled the "CCAA Procedure Order") pursuant to which the Petitioners were formed and became petitioners in the CCAA Proceedings and (B) the CCAA Continuity and Vesting Order pronounced December 21, 2016 in the CCAA Proceedings, which, in combination with the BIA Proposal caused (i) Cambrian and all the assets of the Walter Canada Group (other than Cambrian's assets and certain residual assets) to be transferred to the members of the New Walter Canada Group, subject to any agreement among the members of the New Walter Canada Group regarding the transfer of the Transferred Assets, and (ii) all Claims against the Walter Canada Group (other than against Cambrian) to be deemed to be Claims against one or more of the members of the New Walter Canada Group;

**AND WHEREAS** the New Walter Canada Group entered into the Waterfall Agreement contemplated by the CCAA Continuity and Vesting Order and the BIA Proposal regarding the transfer of the Transferred Assets, which provides that (i) all Transferred Assets are transferred to New Walter in consideration for New Walter agreeing to become liable for the Deemed Claims (as defined in the Proposal), for making (or causing New WCCC to make) certain transfers of Transferred Assets to other members of the New Walter Canada Group, and otherwise as a contribution of surplus; (ii) all Intercompany Claims are fully subordinated to the Claims of arm's length creditors; and (iii) all amounts held by any Petitioner shall be deemed to be held by or on behalf of such Petitioner in trust for New Walter or such other applicable Petitioner as more fully set out in the Waterfall Agreement;

**AND WHEREAS** New Walter retained approximately \$38 million of cash pursuant to the CCAA Continuity and Vesting Order and the Waterfall Agreement;

**AND WHEREAS** on May 1, 2017, the Court ruled that the 1974 Plan did not have a valid Claim against the Walter Canada Group or the New Walter Canada Group;

**AND WHEREAS** the British Columbia Court of Appeal granted the 1974 Plan leave to appeal the May 1 Order and the Appeal was scheduled to be heard on August 16, 2017;

**AND WHEREAS** by Order of the Court pronounced October 6, 2017 in the CCAA Proceedings, the Court approved a settlement of all outstanding matters among the Petitioners, Energybuild, the 1974 Plan and Warrior, and supported by the Monitor, on the terms set out in the Settlement Term Sheet;

**AND WHEREAS** the Petitioners have completed the Claims Process as required by the Settlement Term Sheet and the Claims Process Order, except for Unresolved Claims, and the Petitioners and the Monitor have determined that the Petitioners will have sufficient funds, after

taking reserves for Unresolved Claims and other matters as set out herein, to make the payments contemplated by the Settlement Term Sheet;

**AND WHEREAS** the Available Funds and the shares of Energybuild Group Limited represent the entire estate available for the benefit of the creditors of the Petitioners;

**AND WHEREAS** the CCAA Plan will facilitate distributions to Affected Creditors in respect of their Proven Claims and to USW in respect of the USW Settlement Amount, and, provided that there are sufficient Available Funds to satisfy all Proven Claims of Affected Creditors and to pay the USW Settlement Amount, to Warrior in respect of the Deemed Interest Claim and to the 1974 Plan in respect of the 1974 Plan Settlement Amount;

**AND WHEREAS** the Court pronounced the Meeting Order which, among other things, accepted the Petitioners' plan of compromise and arrangement dated May 29, 2018 for filing and the Petitioners have since amended and restated such plan of compromise and arrangement in its entirety in accordance with the terms thereof and of the Meeting Order;

**NOW THEREFORE** the Petitioners hereby propose this CCAA Plan to the Affected Creditors and Warrior in respect of the Deemed Interest Claim under and pursuant to the CCAA:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

For the purposes of the CCAA Plan, terms not otherwise defined herein shall have the following meanings ascribed thereto:

**"1974 Plan"** means the United Mine Workers of America 1974 Pension Plan and Trust.

**"1974 Plan Claim"** means the Claim asserted against the Walter Canada Group by the 1974 Plan throughout the CCAA Proceedings pursuant to certain "controlled group" provisions of ERISA.

**"1974 Plan Settlement Amount"** means the amount of CDN\$13,000,000.00 payable to the 1974 Plan pursuant to the Settlement Term Sheet.

**"Administration Charge"** has the meaning given to that term in the Initial Order, as amended by the SISP Order.

**"Administrative Costs"** means administrative claims and costs outstanding on the Plan Implementation Date (or arising thereafter) falling within one or more categories to be specified by the Petitioners, in consultation with the Monitor, including, without limitation: (a) amounts in respect of the fees and costs to be incurred by (i) the CRO; (ii) the Petitioners, their counsel and their advisors; and (iii) the Monitor, its counsel and its advisors, in each case on a solicitor and own client full indemnity basis (as applicable) with respect to the performance of such parties' duties and obligations whether arising before or after the Plan Implementation Date; (b) an amount equal to the Petitioner's estimate of any potential cost award to an Affected Creditor with an Unresolved Claim in

respect of any litigation associated with such Unresolved Claims; and (c) amounts, if any, secured by the Charges that remain owing on the Plan Implementation Date.

**“Administrative Costs Reserve”** means the cash reserve established out of Available Funds in accordance with Section 5.2 of the CCAA Plan to pay Administrative Costs.

**“Affected Claim”** means any Claim, whether or not such Claim is or becomes an Allowed Claim and includes, for greater certainty, any Unresolved Restructuring Claim, any D&O Claim, any Employee Claim, the Shared Service Claim, the 1974 Plan Claim, and any other Claim under ERISA, but does not include the Deemed Interest Claim or any Excluded Claim.

**“Affected Creditor”** means any Person having an Affected Claim, but only with respect to and to the extent of such Affected Claim, and includes, without limitation, the transferee or assignee of an Affected Claim that has been or is transferred and recognized in accordance with the Claims Process Order or the CCAA Plan or a trustee, executor, liquidator, receiver, receiver and manager or other Person acting on behalf of or through such Person.

**“Affected Creditors’ Distribution Cash Pool”** means the cash pool established out of Available Funds in accordance with Section 5.6 of the CCAA Plan to pay the Proven Claims of Affected Creditors and the USW Settlement Amount.

**“Affected Creditors’ Meeting”** means the meeting of Affected Creditors that will be deemed to occur pursuant to the Meeting Order with a deemed vote of Affected Creditors in favour of a resolution to approve the CCAA Plan.

**“Allowed Claim”** has the meaning given to that term in the Claims Process Order.

**“Appeal”** means the appeal of the May 1 Order that was scheduled to be heard on August 16, 2017 and subsequently adjourned.

**“Applicable Law”** means, in respect of any Person, property, transaction, event or other matter, any law, statute, regulation, code, ordinance, principle of common law or equity, municipal by-law, treaty, or order, domestic or foreign, applicable to that Person, property, transaction, event or other matter and all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines, and policies, in each case, having the force of law, of any Government Authority having or purporting to have authority over that Person, property, transaction, event or other matter and regarded by such Government Authority as requiring compliance.

**“Assumed Liabilities”** means the liabilities that were or were to be assumed, fulfilled, performed or discharged by any of Conuma Coal Resources Limited, 1098138 B.C. Ltd., Amacon Land Corporation, Peace River Coal Inc. or any other Person pursuant to the BIA Proposal or pursuant to any applicable agreement among such Person and any one or more member of the Old Walter Canada Group or the New Walter Canada Group.

**“Available Funds”** means the total of (i) the proceeds of any sale or disposition of any of the assets of the Walter Canada Group or the Petitioners that have been paid to the

Monitor on behalf of the Walter Canada Group or the Petitioners and are being held by the Monitor; (ii) the proceeds of the transaction set out in the CCAA Continuity and Vesting Order; (iii) all other monies held by the Monitor, on behalf of the Petitioners, that are in the hands of the Monitor at the Effective Time on the Plan Implementation Date; and (iv) all monies received by the Monitor, on behalf of the Petitioners, following the Effective Time on the Plan Implementation Date.

“**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

“**BIA Proposal**” means the proposal made by the Walter Canada Group (other than Cambrian) under the BIA and approved by the Court on December 21, 2016.

“**Business Day**” means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Vancouver, British Columbia.

“**Cambrian**” means Cambrian Energybuild Holdings ULC.

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada), R.S.C. 1985, c. C-36, as amended.

“**CCAA Continuity and Vesting Order**” means the Order of the Court pronounced December 21, 2016 in the CCAA Proceedings which, in combination with the BIA Proposal caused (i) Cambrian and all the Transferred Assets to be transferred to the applicable member of the New Walter Canada Group, subject to any agreement among the members of the New Walter Canada Group regarding the transfer of the Transferred Assets, and (ii) all Claims against the Walter Canada Group (other than against Cambrian) to be deemed to be Claims against one or more of the members of the New Walter Canada Group.

“**CCAA Plan**” means this Amended and Restated Plan of Compromise and Arrangement, as amended, supplemented or restated from time to time in accordance with the terms hereof.

“**CCAA Proceedings**” means the CCAA proceedings bearing Supreme Court of British Columbia Vancouver Registry No. S-1510120.

“**Charges**” means the Administration Charge, the Directors’ Charge, the Success Fee Charge and the KERP Charge.

“**Claim**” means any right or claim of any Person, including an Equity Claim, that may be asserted or made in whole or in part against any member of the New Walter Canada Group or any member of the Walter Canada Group, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever (including any royalty), and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any

indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts arising prior to the Unresolved Restructuring Claims Bar Date; (B) relates to a time period prior to the Unresolved Restructuring Claims Bar Date; or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA had any member of the New Walter Canada Group or any member of the Walter Canada Group become bankrupt on the Unresolved Restructuring Claims Bar Date and, for greater certainty, includes any "claim" within the meaning of subsection 2(1) of the CCAA and all "Claims" as defined in the Claims Process Order.

**"Claims Bar Date"** means October 5, 2016 at 5:00 p.m. (Vancouver time).

**"Claims Process"** means the process set out in the Claims Process Order with respect to the solicitation and determination of all Claims, D&O Claims and Unresolved Restructuring Claims.

**"Claims Process Order"** means the Order of the Court pronounced August 16, 2016 and styled "Claims Process Order" (as amended and restated from time to time, including by the Order of the Court pronounced on August 15, 2017).

**"Court"** means the Supreme Court of British Columbia.

**"CRO"** means BlueTree Advisors, Inc. and William E. Aziz, in the capacity of Chief Restructuring Officer of the New Walter Canada Group and former Chief Restructuring Officer of the Walter Canada Group.

**"Crown Claims"** means all amounts of a kind that could be subject to a demand under Section 6(3) of the CCAA that were outstanding on the Filing Date and which have not been paid by the Plan Implementation Date.

**"Deemed Interest Claim"** means Warrior's claim for 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) of the BIA Proposal exceeds (ii) the amount of all Claims that were deemed to be Claims against New Walter pursuant to Section 4.1(f) of the BIA Proposal, provided however that, for the purpose of the calculation of such maximum amount, the amount of such Claims shall not include the 1974 Plan Claim.

**"Deemed Interest Claim Distribution"** has the meaning given to that term in Section 6.5 of the CCAA Plan.

**“Deemed Interest Claim Distribution Cash Pool”** means the cash pool established out of Available Funds in accordance with Section 5.7 of the CCAA Plan to pay the Deemed Interest Claim and to make certain payments to the 1974 Plan as more fully set out in Section 6.5 of the CCAA Plan.

**“Deemed Interest Claim Resolution”** means the resolution of Warrior deemed to have been made pursuant to the Meeting Order to approve the CCAA Plan.

**“Director”** means any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of a Petitioner and any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any member of the Walter Canada Group up to and including the date that any remaining directors and officers of the Walter Canada Group resigned or were deemed to resign pursuant to Section 4.1(h) of the BIA Proposal.

**“Directors’ Charge”** has the meaning given to that term in the Initial Order.

**“Distribution Date”** means any date after the Plan Implementation Date from time to time set by the Petitioners and the Monitor in accordance with the provisions of the CCAA Plan to effect distributions from the Available Funds to Affected Creditors in respect of their Proven Claims and/or Deemed Interest Claim Distributions, which, for greater certainty, shall include the Final Distribution Date but shall not include the Plan Implementation Date.

**“D&O Claim”** means (i) any right or claim of any Person that might have been asserted or made in whole or in part against one or more of the Directors or Officers that relates to a Claim for which such Directors or Officers are by law liable to pay in their capacity as Directors or Officers, or (ii) any right or claim of any Person that might have been asserted or made in whole or in part against one or more of the Directors or Officers, in that capacity, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof, is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity from any such Director or Officer or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts arising prior to the Unresolved Restructuring Claims Bar Date; or (B) relates to a time period prior to the

Unresolved Restructuring Claims Bar Date, and, for greater certainty, includes any “claim” within the meaning of subsection 2(1) of the CCAA and all “Directors/Officers Claims” as defined in the Claims Process Order but does not include an Excluded Claim.

“**Effective Time**” means 12:01 a.m. on the Plan Implementation Date or such other time on such date as the Petitioners and the Monitor may agree.

“**Employee**” has the meaning given to that term in the Claims Process Order.

“**Employee Claim**” has the meaning given to that term in the Claims Process Order.

“**Employee Claimant**” has the meaning given to that term in the Claims Process Order.

“**Energybuild**” means, as the context requires any of Energybuild Group Limited, Energybuild Holdings Limited, Energybuild Opencast Limited, or all such entities collectively, but only where such entities are still owned, directly or indirectly, by a Petitioner and have not been finally wound-up, dissolved or liquidated.

“**Equity Claim**” has the meaning set forth in Section 2(1) of the CCAA.

“**ERISA**” means the statute of the United States of America titled the Employee Retirement Income Security Act of 1974.

“**Excluded Claim**” means:

- (a) Crown Claims;
- (b) Any Claim that cannot be compromised pursuant to Section 5.1(2) or Section 19(2) of the CCAA;
- (c) any Claim entitled to the benefit of any of the Charges;
- (d) any Intercompany Claim, any Claim of one Petitioner against another Petitioner and any Claim entitled to the benefit of the Intercompany Charge;
- (e) any Claim in respect of Assumed Liabilities, excluding any such Claim or portion thereof that is recoverable as against any member of the New Walter Canada Group, the Walter Canada Group, a Director or an Officer, as applicable; and
- (f) any Claim entitled to the benefit of any applicable insurance policy, excluding any such Claim or portion thereof that is recoverable as against any member of the New Walter Canada Group, the Walter Canada Group, a Director or an Officer, as applicable.

“**Filing Date**” means December 7, 2015.

“**Final Distribution Date**” means the date determined by the Petitioners and the Monitor, acting reasonably, following the payment in full of all Affected Claims, the resolution of all Unresolved Claims, the payment in full of all amounts that may become due or

payable in connection with the Insurance Reserve and the Wind-Down Reserve, and the payment in full of all Administrative Costs.

**“Financial Advisor”** means PJT Partners LP.

**“Government Authority”** means any governmental, regulatory or administrative authority, department, agency, commission, bureau, official, minister, board, panel, tribunal, Crown corporation, Crown ministry, court or dispute settlement panel or other law, rule or regulation-making or enforcing entity having or purporting to have jurisdiction on behalf of any nation, or province, territory or state or other subdivision thereof or any municipality, district or other subdivision thereof or other geographic or political subdivision of any of them or exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

**“Initial Order”** means the Order of the Court pronounced December 7, 2015 in the CCAA Proceedings, as amended and restated from time to time.

**“Insurance Reserve”** means the cash reserve established out of Available Funds in accordance with Section 5.3 of the CCAA Plan.

**“Intercompany Charge”** has the meaning given to that term in the SISP Order, as amended by the Order of the Court in the CCAA Proceedings pronounced March 30, 2016.

**“Intercompany Claims”** means all Claims owing by one member of the Walter Canada Group to any other member of the Walter Canada Group on or prior to the Proposal Commencement Date, including any amounts secured by the Intercompany Charge as of such date;

**“KERP Charge”** has the meaning given to that term in the SISP Order.

**“May 1 Order”** means the Order of the Court pronounced on May 1, 2017 denying the 1974 Plan Claim.

**“Meeting Order”** means the Order of the Court pronounced May 31, 2018 under the CCAA that, among other things, sets the date for the Affected Creditors’ Meeting and the process for obtaining the Deemed Interest Claim Resolution, as same may be amended, restated or varied from time to time.

**“Monitor”** means KPMG Inc. in its capacity as “monitor” in the CCAA Proceedings.

**“Monitor’s Certificate”** means the certificate of the Monitor which states that all conditions precedent set out in Section 10.3 of the CCAA Plan have been satisfied or waived.

**“Monitor’s Website”** means [www.kpmg.com/ca/walterenergycanada](http://www.kpmg.com/ca/walterenergycanada).

**“New Brule”** means New Brule Coal Corp.



**“New Walter”** means New Walter Energy Canada Holdings, Inc.

**“New Walter Canada Group”** means, collectively, New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine and Cambrian.

**“New WCCC”** means New Walter Canadian Coal Corp.

**“New Willow Creek”** means New Willow Creek Coal Corp.

**“New Wolverine”** means New Wolverine Coal Corp.

**“Notice of Dispute”** has the meaning given to that term in the Claims Process Order.

**“Notice of Dispute of Employee Claim”** has the meaning given to that term in the Claims Process Order.

**“Officer”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of a Petitioner and any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any member of the Walter Canada Group up to and including the date that any remaining directors and officers of the Walter Canada Group resigned or were deemed to resign pursuant to Section 4.1(h) of the BIA Proposal.

**“Order”** means any order of the Court in the CCAA Proceedings.

**“Original Petitioners”** means, collectively, WECH, Cambrian, Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Willow Creek Coal ULC, Pine Valley Coal, Ltd., and 0541237 B.C. Ltd.

**“Outside Date”** means the day that is nine (9) months from the day that the Sanction Order is pronounced, or such later date as may be agreed to by the Petitioners, the Monitor and Warrior, acting reasonably.

**“Person”** is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, Government Authority or any agency, regulatory body, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity.

**“Petitioners”** means, collectively, New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine and Cambrian and **“Petitioner”** means any one of New Walter, New WCCC, New Brule, New Willow Creek, New Wolverine or Cambrian.

**“Plan Implementation Date”** means the date on which the CCAA Plan becomes effective, which shall be the Business Day on which the Monitor has delivered to the Petitioners the Monitor’s Certificate.

**“Plan Sanction Date”** means the date the Sanction Order is made by the Court.

**“Promissory Note”** means the Promissory Note dated April 1, 2011 issued by WECH to Walter Energy, Inc.

**“Proof of Claim”** means any proof of claim in respect of an Affected Claim filed in accordance with the Claims Process Order.

**“Proposal Commencement Date”** has the meaning given to that term in the BIA Proposal.

**“Proven Claim”** means (i) each Affected Claim (including the Shared Services Claim) that has been accepted as an Allowed Claim by the Monitor or, in the case of an Unresolved Claim, has been finally adjudicated in accordance with the Claims Process Order, settled or accepted by the Monitor and has become an Allowed Claim, in each case, for the amount settled, accepted or adjudicated as being owing; and (ii) the Deemed Interest Claim.

**“Proven Claim Amount”** has the meaning given to that term in Section 7.2 of the CCAA Plan.

**“Releasees”** has the meaning given to that term in Section 9.1 of the CCAA Plan.

**“Restructuring Claims Bar Date”** has the meaning given to that term in the Claims Process Order.

**“Sanction Order”** means an order by the Court which, among other things, shall sanction and approve the CCAA Plan under the CCAA and shall include provisions as may be necessary or appropriate to give effect to the CCAA Plan, including provisions in substance similar to those set out in Section 10.2 of the CCAA Plan.

**“Settlement Term Sheet”** means the Settlement Term Sheet re Plan of Compromise and Arrangement executed on October 10, 2017 by the Petitioners, the 1974 Plan and Warrior, which sets out the principal terms of a plan of compromise or arrangement to be approved and implemented in the CCAA Proceedings.

**“Shared Services Claim”** means the Claim in the amount of CDN\$9,892,193.32 that Warrior acquired from Walter Energy, Inc. in respect of shared services provided to the Walter Canada Group,

**“SISP Order”** means the Order of the Court pronounced January 5, 2016, as amended and restated from time to time, pursuant to which the Petitioners were authorized to conduct a Sale and Investor Solicitation Process.

**“Success Fee Charge”** has the meaning given to that term in the SISP Order.

**“Tax Statutes”** means all legislative or administrative enactments governing federal, provincial, local, or foreign income, premium, property (real or personal), sales, excise, employment, payroll, withholding, gross receipts, license, severance, stamp, occupation, windfall profits, environmental, customs duties, capital stock, franchise, profits, social security (or similar), unemployment, disability, use, transfer, registration, value added,

alternative or add-on minimum, estimated or other tax of any kind or any charge of any kind in the nature of (or similar to) taxes whatsoever, including any interest, penalty or addition thereto, including, without limiting the generality of the foregoing, section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada); section 117 of the *Taxation Act, 2007* (Ontario); section 107 of the *Corporations Tax Act* (Ontario); section 22 of the *Retail Sales Tax Act* (Ontario); section 34 of the *Income Tax Act* (British Columbia); section 222 of the *Provincial Sales Tax Act* (British Columbia); section 49 of the *Alberta Corporate Tax Act*; section 85 of the *Income Tax Act, 2000* (Saskatchewan); section 48 of the *Revenue and Financial Services Act* (Saskatchewan); section 22 of the *Income Tax Act* (Manitoba); section 73 of the *Tax Administration and Miscellaneous Taxes Act* (Manitoba); section 14 of the *Tax Administration Act* (Quebec); and section 313 of the *Act Respecting the Quebec Sales Tax*.

“**Transferred Assets**” means all the assets of the Walter Canada Group other than Cambrian’s assets and certain residual assets as more fully set out in the BIA Proposal.

“**Unresolved Claim**” means an Affected Claim, in the amount specified in the corresponding Proof of Claim, Notice of Dispute or Notice of Dispute of Employee Claim, that has not been finally determined as a Proven Claim in accordance with the Claims Process Order and the Meeting Order.

“**Unresolved Claims Reserve**” means the cash reserve established out of Available Funds in accordance with Section 5.5 of the CCAA Plan in an amount sufficient to pay any Unresolved Claim.

“**Unresolved Restructuring Claim**” has the meaning given to that term in the Order of the Court in the CCAA Proceedings pronounced August 15, 2017.

“**Unresolved Restructuring Claims Bar Date**” means October 6, 2017 at 5:00 p.m. (Vancouver time).

“**USW**” means the United Steel, Paper and Forestry, Rubber, Manufacturing, Allied Industrial and Service Workers International Union, Local 1-424.

“**USW Settlement Amount**” means the amount of CDN\$75,000.00 payable to the USW pursuant to the Settlement Term Sheet.

“**Walter Canada Group**” means, collectively, the Original Petitioners and Walter Canadian Coal Partnership, Brule Coal Partnership, Wolverine Coal Partnership and Willow Creek Coal Partnership.

“**Warrior**” means Warrior Met Coal, Inc.

“**Waterfall Agreement**” means the agreement among the members of the New Walter Canada Group contemplated by the CCAA Continuity and Vesting Order and the BIA Proposal regarding the transfer of the Transferred Assets, as such agreement may have been amended and restated from time to time.

“**WECH**” means Walter Energy Canada Holdings, Inc.

**“Wind-Down Reserve”** means costs outstanding on the Plan Implementation Date (or arising thereafter) falling within one or more categories to be specified by the Monitor, in consultation with the Petitioners, including, without limitation, (a) amounts in respect of existing or future taxes, expenses and other disbursements that are or may become payable; (b) amounts, if any, in respect of outstanding Crown Claims; (c) any amounts held by or on behalf of Energybuild, including as a result of the sale of Energybuild Limited, Energybuild Mining Limited and Mineral Extraction and Handling Limited, which shall be retained in accordance with the Settlement Term Sheet to address the orderly wind-down or other process at the discretion of the New Walter Canada Group for Energybuild in a cost effective and tax efficient manner that protects Energybuild’s directors and officers from liability to the fullest extent possible, including the purchase of any reasonable director and officer insurance and “run off” coverage, and otherwise paid to Energybuild’s creditors, including Warrior; and (d) amounts in respect of general contingency costs.

**“Withholding Obligation”** has the meaning given to that term in Section 6.14 of the CCAA Plan.

## **1.2 Certain Rules of Interpretation**

For the purposes of the CCAA Plan:

- (a) any reference in the CCAA Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions;
- (b) any reference in the CCAA Plan to an Order or an existing document or exhibit filed or to be filed means such Order, document or exhibit as it may have been or may be amended, modified, or supplemented;
- (c) unless otherwise specified, all references to currency are to Canadian dollars;
- (d) the division of the CCAA Plan into “Articles” and “Sections” and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the CCAA Plan, nor are the descriptive headings of “Articles” and “Sections” intended as complete or accurate descriptions of the content thereof;
- (e) the use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of the CCAA Plan or a Schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) the words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;

- (g) unless otherwise specified, all references as to time herein and any document issued pursuant hereto shall mean local time in Vancouver, British Columbia, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Vancouver time) on such Business Day;
- (h) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (i) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (j) references to a specified "Article" or "Section" shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified Article or Section of the CCAA Plan, whereas the terms "the CCAA Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to the CCAA Plan and not to any particular "article", "section" or other portion of the CCAA Plan and include any documents supplemental hereto; and
- (k) the word "or" is not exclusive.

### **1.3 Successors and Assigns**

The CCAA Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal representatives, successors and assigns of any Person or party named or referred to in the CCAA Plan, including the Petitioners, the Directors and Officers, all Affected Creditors and the Releasees.

### **1.4 Governing Law**

The CCAA Plan 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. All questions as to the interpretation or application of the CCAA Plan and all proceedings taken in connection with the CCAA Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

### **1.5 Schedules**

The following are the Schedules to the CCAA Plan, which are incorporated by reference into the CCAA Plan and form a part of it:

Schedule "A"            Specified Plan Implementation Date Steps

**ARTICLE 2  
PURPOSE AND EFFECT OF THE CCAA PLAN**

**2.1 Purpose**

The purpose of the CCAA Plan is to:

- (a) permit the satisfaction, settlement, extinguishment, release and discharge of all Affected Claims in accordance with the Claims Process Order, the Meeting Order and this CCAA Plan;
- (b) provide for the distribution of a sufficient amount of the Available Funds to Affected Creditors with Proven Claims to satisfy the Proven Claims of Affected Creditors in full;
- (c) fully and finally compromise, resolve, release and settle the 1974 Plan Claim;
- (d) provide for the payment of 1974 Plan Settlement Amount and the payment of the USW Settlement Amount; and
- (e) provide for the distribution of any surplus of the Available Funds, free and clear of any Claims of Affected Creditors, to fully and finally satisfy, compromise, extinguish, release and discharge the Deemed Interest Claim.

**2.2 Persons Affected**

The CCAA Plan provides for the complete satisfaction of all Proven Claims of Affected Creditors and the satisfaction, settlement, extinguishment, release and discharge of all Affected Claims. The CCAA Plan also provides for distributions to the 1974 Plan and USW in accordance with the Settlement Term Sheet and distributions from time to time from the Deemed Interest Claim Distribution Cash Pool to Warrior in satisfaction of the Deemed Interest Claim to the extent that there are Available Funds to fund such distribution, following which the Deemed Interest Claim will be satisfied, compromised, extinguished, released and discharged. The CCAA Plan will become effective at the Effective Time on the Plan Implementation Date and shall be binding on and enure to the benefit of the Petitioners, the Affected Creditors, Warrior, USW, the Directors and Officers, the Releasees and all other Persons named or referred to in, or subject to, the CCAA Plan.

**2.3 Persons Not Affected**

For greater certainty, the CCAA Plan does not affect the holders of Excluded Claims with respect to and to the extent of their Excluded Claims. Nothing in the CCAA Plan shall affect the Petitioners' rights and defenses, both legal and equitable, with respect to any Excluded Claims, including, but not limited to, all rights with respect to legal and equitable defenses or entitlements to set-offs or recoupment against such Excluded Claims.

**2.4 Intercompany Claims**

The Intercompany Claims shall be dealt with as provided for in the Waterfall Agreement.

**ARTICLE 3  
CLASSIFICATION OF CREDITORS, VOTING OF AFFECTED CLAIMS AND  
RELATED MATTERS**

**3.1 Claims Process**

The procedure for determining the validity and quantum of the Affected Claims for voting and distribution purposes under the CCAA Plan shall be governed by the Claims Process Order, the Meeting Order, any other applicable Order, the CCAA and the CCAA Plan.

**3.2 Classification of Creditors**

For the purposes of voting on the CCAA Plan, there will be two classes of creditors, (i) the class of Affected Creditors, which will be composed of all Persons to the extent such Persons hold Affected Claims; and (ii) Warrior, solely with respect to the Deemed Interest Claim.

**3.3 Claims of Affected Creditors**

Affected Creditors shall:

- (a) prove their Affected Claims in accordance with the Claims Process Order and any other applicable Order;
- (b) be deemed to vote their Proven Claims or Unresolved Claims, as the case may be, at the Affected Creditors' Meeting in favour of the resolution to approve the CCAA Plan as set out in the Meeting Order; and
- (c) receive the rights and distributions provided for under and pursuant to the CCAA Plan and the Sanction Order.

**3.4 Affected Creditors' Meeting**

The Affected Creditors' Meeting shall be held in accordance with the CCAA Plan, the Meeting Order, the Claims Process Order and the any other applicable Order.

**3.5 Voting**

Pursuant to the Meeting Order: (a) the Affected Creditors' Meeting shall be deemed to have been duly called and held on June 27, 2018; (b) each Affected Creditor shall be deemed to have voted its entire Affected Claim in favour of a resolution to approve the CCAA Plan at the Affected Creditors' Meeting; and (c) the vote on the CCAA Plan at the Affected Creditors' Meeting shall be deemed to have been decided unanimously in favour of the resolution to approve the CCAA Plan.

**3.6 Guarantees and Similar Covenants**

No Person who has a Claim under any guarantee, surety, indemnity or similar covenant in respect of any Claim which is affected pursuant to the CCAA Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim which is

affected pursuant to the CCAA Plan shall be entitled to any greater rights as against the Petitioners than the Person whose Claim is affected pursuant to the CCAA Plan.

### **3.7 Set-Off**

The law of set-off applies to all Affected Claims, provided, however, that nothing in this section or in the CCAA Plan shall reduce the 1974 Plan Settlement Amount to be received by the 1974 Plan.

## **ARTICLE 4 DEEMED INTEREST CLAIM: VOTING AND RELATED MATTERS**

### **4.1 Voting Procedure**

The procedure for obtaining the Deemed Interest Claim Resolution shall be governed by the Meeting Order, the CCAA and the CCAA Plan.

### **4.2 Meeting regarding the Deemed Interest Claim**

A meeting to obtain the Deemed Interest Claim Resolution will be deemed to have been called and held on June 27, 2018 pursuant to the Meeting Order.

### **4.3 Voting**

Warrior shall be entitled to one vote with a weight equal to the Deemed Interest Claim, which vote shall be deemed to have been made in favour of the Deemed Interest Claim Resolution to approve the CCAA Plan.

### **4.4 Guarantees and Similar Covenants**

No Person who holds an interest in the Deemed Interest Claim under any guarantee, surety, indemnity or similar covenant or who has any right to claim over in respect of or to be subrogated to the rights of Warrior in respect of the Deemed Interest Claim being affected pursuant to the CCAA Plan shall be entitled to any greater rights as against the Petitioners than Warrior.

## **ARTICLE 5 AVAILABLE FUNDS, RESERVES AND CASH POOLS**

### **5.1 Available Funds**

Commencing on the Plan Implementation Date, the Monitor shall hold the Available Funds, on behalf of the Petitioners, in one or more separate interest-bearing accounts or guaranteed investment certificates for each of the following reserves and pools (each as more particularly described herein): (a) Administrative Costs Reserve; (b) Insurance Reserve; (c) Wind-Down Reserve; (d) Unresolved Claims Reserve; (e) Affected Creditors' Distribution Cash Pool; and (f) Deemed Interest Claim Distribution Cash Pool.



## **5.2 Administrative Costs Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Administrative Costs Reserve shall be established out of the Available Funds in the amount of CDN\$1,250,000.00. The Administrative Costs Reserve is to be held by the Monitor, on behalf of the Petitioners, for the purpose of paying the Administrative Costs.

## **5.3 Insurance Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Insurance Reserve shall be established out of the Available Funds in the amount of CDN\$275,000.00, which is to be held by the Monitor, on behalf of the Petitioners, for the purpose of purchasing any reasonable “run off” or “tail” insurance for the Directors and Officers and the payment of any deductibles required in connection with claims made in respect thereof.

## **5.4 Wind-Down Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Wind-Down Reserve shall be established out of the Available Funds (i) in the amount of CDN\$3,000,000.00, which is to be held by the Monitor, on behalf of the Petitioners, for the purpose of funding the payment of any (a) amounts in respect of existing or future taxes, expenses and other disbursements that are or may become payable by the New Walter Canada Group; (b) amounts, if any, in respect of outstanding Crown Claims; (c) amounts to address the orderly wind-down or other process at the discretion of the New Walter Canada Group for Energybuild in a cost effective and tax efficient manner that protects Energybuild’s directors and officers from liability to the fullest extent possible, including the purchase of any reasonable director and officer insurance and “run off” coverage; and (d) amounts in respect of general contingency costs, plus (ii) any amounts held by or on behalf of Energybuild, including as a result of the sale of Energybuild Limited, Energybuild Mining Limited and Mineral Extraction and Handling Limited, which shall be retained in accordance with the Settlement Term Sheet.

## **5.5 Unresolved Claims Reserve**

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in **Section 8.2** of the CCAA Plan, the Unresolved Claims Reserve shall be established out of the Available Funds and be held by the Monitor, on behalf of the Petitioners, in escrow in accordance with the CCAA Plan in an amount equal to the aggregate amount that would have been paid to all Affected Creditors holding Unresolved Claims in accordance with the CCAA Plan (calculated on the basis of the amounts specified in such Affected Creditors’ Proofs of Claim) if such Unresolved Claims had been Proven Claims on the Plan Implementation Date.

## **5.6 Affected Creditors’ Distribution Cash Pool**

On the Plan Implementation Date, the Affected Creditors’ Distribution Cash Pool shall be established from the Available Funds in an amount equal to all Proven Claims of Affected

Creditors, which shall be denominated in Canadian dollars and shall, if necessary, be converted to Canadian dollars in accordance with the Claims Process Order, plus the USW Settlement Amount. For greater certainty, Warrior shall be an Affected Creditor with respect to the Shared Services Claim, but shall not be an Affected Creditor with respect to the Deemed Interest Claim.

#### **5.7 Deemed Interest Claim Distribution Cash Pool**

On the Plan Implementation Date, the Deemed Interest Claim Distribution Cash Pool shall be established out of the Available Funds in an amount equal to the Available Funds less the amounts used to fund the: (a) Administrative Costs Reserve; (b) Insurance Reserve; (c) Wind-Down Reserve; (d) Unresolved Claims Reserve; and (e) Affected Creditors' Distribution Cash Pool. The Monitor shall hold the Deemed Interest Claim Distribution Cash Pool in two or more separate interest-bearing accounts or guaranteed investment certificates in escrow for distribution in accordance with the CCAA Plan, including one in Canadian dollars and one in U.S. dollars. The Deemed Interest Claim shall be equal to the amount of remaining funds in Canadian currency, U.S. currency or pounds sterling held by, on behalf of, or in trust for New Walter following the payment of all Proven Claims of Affected Creditors in full and the payment of all amounts for which reserves are to be taken hereunder, any transfer of funds pursuant to Section 6.1 and the deemed transfer of funds contemplated in Section 5.8. Funds held in any currency may be distributed by the Monitor to Warrior pursuant to Section 6.5 in satisfaction of the Deemed Interest Claim or, at Warrior's request, converted by the Monitor to either Canadian dollars or U.S. dollars at the best available exchange rate from the applicable financial institution as at the date of conversion.

#### **5.8 Remaining Funds**

Any final remaining balance in the Administrative Costs Reserve, the Insurance Reserve, the Wind-Down Reserve, the Unresolved Claims Reserve or the Affected Creditors Distribution Cash Pool that have not been distributed on or before the Final Distribution Date shall be transferred or deemed transferred to the Deemed Interest Claim Distribution Cash Pool and distributed to Warrior in accordance with Section 6.5.

### **ARTICLE 6 PROVISIONS REGARDING DISTRIBUTIONS AND PAYMENTS**

#### **6.1 Payment of Administrative Costs**

On the Plan Implementation Date, the Administrative Costs Reserve will be funded in accordance with Section 5.2 of the CCAA Plan and shall be administered in accordance with the CCAA Plan. The Monitor may, on behalf of and in consultation with the Petitioners, pay any Administrative Costs as and when due.

The Monitor, on behalf of the Petitioners, may, in circumstances where the Monitor determines, in consultation with the Petitioners and Warrior, that there are funds in the Administrative Costs Reserve sufficiently in excess of the amount of all Administrative Costs, transfer such excess Administrative Costs Reserve funds to the Deemed Interest Claim Distribution Cash Pool and declare a Distribution Date in respect thereof.

## **6.2 Payment of Insurance Reserve Costs**

On the Plan Implementation Date, the Insurance Reserve will be funded in accordance with Section 5.3 of the CCAA Plan and shall be administered in accordance with the CCAA Plan and the Sanction Order. The Petitioners, in consultation with the Monitor, may purchase any reasonable “run off” or “tail” insurance for the Directors and Officers and pay any deductibles required in connection with any claims made in respect thereof.

In the event that there is a deductible payable in connection with such insurance, the Monitor may pay, on behalf of the Petitioners, any D&O Claim entitled to the benefit of any applicable insurance policy directly from the Insurance Reserve rather than paying any deductible in respect of such D&O Claim if, in the opinion of the Petitioners and the Monitor, the amount of such D&O Claim is less than or comparable to the deductible payable in respect of such D&O Claim or the Petitioners and the Monitor determine, for any other reason, that it is inadvisable to pay an amount in respect of the deductible for such D&O Claim and provided that sufficient funds remain in the Insurance Reserve to fund the deductible for any other D&O Claims that have been or are likely to be made that are entitled to the benefit of any applicable insurance policy.

The Monitor, on behalf of the Petitioners, may, in circumstances where the Monitor determines, in consultation with the Petitioners and Warrior, that there are funds in the Insurance Reserve sufficiently in excess of the amount of all costs payable from such reserve, transfer such excess Insurance Reserve funds to the Deemed Interest Claim Distribution Cash Pool.

## **6.3 Payment of Wind-Down Reserve Costs**

On the Plan Implementation Date, the Wind-Down Reserve will be funded in accordance with Section 5.4 of the CCAA Plan and shall be administered in accordance with the CCAA Plan and the Sanction Order. The Monitor may, on behalf of and in consultation with the Petitioners and Energybuild, pay any costs covered by the Wind-Down Reserve as and when due.

The Monitor, on behalf of the Petitioners, may, in circumstances where the Monitor determines, in consultation with the Petitioners and Warrior, that there are funds in the Wind-Down Reserve sufficiently in excess of the amount of all costs payable from such reserve (other than any portion of the Wind-Down Reserve consisting of amounts held by or on behalf of Energybuild, which shall be distributed to Warrior in accordance with the Settlement Term Sheet), transfer such excess Wind-Down Reserve funds to the Deemed Interest Claim Distribution Cash Pool.

## **6.4 Distributions from the Affected Creditors’ Distribution Cash Pool**

The Affected Creditors’ Distribution Cash Pool shall be distributed by the Monitor, on behalf and for the account of the Petitioners, on the Plan Implementation Date or on any Distribution Date, as the case may be, to each Affected Creditor in the amount of such Affected Creditor’s Proven Claim by way of cheque sent by prepaid ordinary mail to the address for such Affected Creditor specified in the Proof of Claim filed by such Affected Creditor or to such other address of such Affected Creditor as the Monitor may have acquired, including the addresses of Employee Claimants, or, at the discretion of the Monitor, by wire transfer of immediately available funds in accordance with wire transfer instructions satisfactory to the Monitor and

delivered to the Monitor at least three (3) Business Days in advance of the Plan Implementation Date or any Distribution Date.

Distributions to Employee Claimants in respect of Employee Claims will be made following review by Service Canada and net of any employment insurance overpayment deductions or other amounts required by Applicable Law to be withheld from the amount to be distributed to Employee Claimants and remitted or paid to Service Canada or any other Government Authority. Distributions to Employee Claimants shall not be made by the Monitor until the Service Canada review is complete and the amount of any remittance or payment due to Service Canada has been determined. Within five (5) Business Days of making any distribution to an Employee Claimant in respect of an Employee Claim, the Monitor shall make a distribution to Service Canada and any other Government Authority equal to the amount required by Applicable Law to be remitted or paid to Service Canada or such Government Authority and such distribution shall be deemed to be a remittance or payment, as applicable, made to Service Canada or such Government Authority by the applicable Petitioner or Employee.

On the Plan Implementation Date, the Monitor shall pay the USW Settlement Amount to the USW on account of USW's costs in the CCAA Proceedings by wire transfer of immediately available funds in accordance with wire transfer instructions satisfactory to the Monitor and delivered by the USW to the Monitor at least three (3) Business Days in advance of the proposed date of such payment.

Following the distribution to be made by the Monitor, on behalf of the Petitioners, to Affected Creditors on the Plan Implementation Date or on a Distribution Date pursuant to, and in accordance with, Section 8.2 of the CCAA Plan, the Monitor shall have no further obligation to make any payment out of the Affected Creditors' Distribution Cash Pool.

#### **6.5 Distributions from the Deemed Interest Claim Distribution Cash Pool**

The following payments shall be made:

- (a) On the Plan Implementation Date, or as soon as reasonably practicable thereafter as may be determined by the Monitor and the Petitioners, in their discretion, the Monitor shall pay the 1974 Plan Settlement Amount from the Deemed Interest Claim Distribution Cash Pool to the 1974 Plan by wire transfer of immediately available funds in accordance with wire transfer instructions satisfactory to the Monitor and delivered by the 1974 Plan to the Monitor at least three (3) Business Days in advance of the proposed date of such payment and the 1974 Plan Claim shall be fully and finally satisfied, settled, extinguished, released and discharged immediately upon the 1974 Plan Settlement Amount being paid to the 1974 Plan.
- (b) On the Plan Implementation Date or on any Distribution Date, as the case may be, the Monitor shall transfer amounts as determined by the Petitioners and the Monitor in consultation with Warrior in accordance with the CCAA Plan, on behalf and for the account of the applicable Petitioner, from the Deemed Interest Claim Distribution Cash Pool (each such transfer being a "**Deemed Interest Claim Distribution**") (i) as successive capital contributions by New Walter to New WCCC, by New WCCC to Cambrian and by Cambrian to Energybuild

Group Limited in an amount not to exceed the amount owing to Warrior by Energybuild Group Limited (in the maximum amount of US\$6,976,591.45) and provided that Energybuild Group Limited shall direct Cambrian to pay such amount to Warrior on account of Energybuild Group Limited's debt to Warrior; and/or (ii) directly to Warrior by wire transfer of immediately available funds to such account as Warrior shall specify.

#### **6.6 Cancellation of Instruments Evidencing Affected Claims**

Following completion of the steps and transactions in the sequence set forth in Section 8.2 of the CCAA Plan, all agreements, invoices and other instruments evidencing Affected Claims will not entitle any holder thereof to any compensation or participation other than as expressly provided for in the CCAA Plan and will be cancelled and will be null and void.

#### **6.7 Crown Priority Claims**

Within six (6) months after the Plan Sanction Date, the Monitor, on behalf of the Petitioners, shall pay in full to Her Majesty in Right of Canada or any province all Crown Claims.

#### **6.8 Currency**

Unless specifically provided for in the CCAA Plan or the Sanction Order, for the purposes of distribution, an Affected Claim shall be denominated in Canadian currency. If a Proof of Claim sets forth the amount of an Affected Claim in any other currency, such Affected Claim shall be converted to an amount in Canadian currency in accordance with the Claims Process Order. For greater certainty, the Deemed Interest Claim shall not be converted to Canadian currency.

#### **6.9 Interest**

No interest shall be paid on any Proven Claim unless so specified in the applicable Proof of Claim. No interest will be paid on any Proven Claim for the period from and after the Filing Date.

#### **6.10 Treatment of Undeliverable Distributions**

If any Affected Creditor's distribution by way of cheque is returned as undeliverable or is not cashed, no further distributions to such Affected Creditor shall be made unless and until the Petitioners and the Monitor are notified by such Affected Creditor of such Affected Creditor's current address, at which time all such distributions shall be made to such Affected Creditor without interest accruing on account of the cheque being undeliverable or not cashed. All claims for undeliverable or uncashed distributions in respect of Proven Claims of any Affected Creditors will expire twelve (12) months after the date of such distribution, after which date the Proven Claims of any Affected Creditor or successor of such Affected Creditor with respect to such unclaimed or uncashed distributions shall be forever discharged and forever barred, without any compensation therefor, notwithstanding any federal, state, provincial or territorial laws to the contrary, at which time the cash amount held by the Monitor in relation to such Proven Claims will be, or will be deemed to be, transferred to the Deemed Interest Claim Distribution Cash

Pool. Nothing contained in the CCAA Plan shall require the Petitioners or the Monitor to attempt to locate any Affected Creditor.

#### **6.11 Assignment of Claims for Voting and Distribution Purposes**

##### *(a) Assignment of Claims Prior to the Affected Creditors' Meeting*

Subject to any restrictions contained in Applicable Laws, Affected Creditors other than the 1974 Plan may transfer or assign the whole of their Affected Claims (or where an Affected Claim includes an indemnity claim, the whole of their Affected Claims other than that part of the Affected Claim relative to the indemnity) prior to the Affected Creditors' Meeting provided that the Petitioners and the Monitor shall not be obliged to deal with any transferee or assignee as an Affected Creditor in respect thereof unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment has been given to the Petitioners and the Monitor by 5:00 p.m. (Vancouver time) on the day that is at least five (5) Business Days immediately prior to the Affected Creditors' Meeting, or such other date as the Petitioners and the Monitor may agree. In the event of such notice of transfer or assignment prior to the Affected Creditors' Meeting, the transferee or assignee shall, for all purposes, be treated as the Affected Creditor of the assigned or transferred Affected Claim, will be bound by any and all notices previously given to the transferor or assignor in respect of such Affected Claim and shall be bound, in all respects, by any and all notices given and by the Orders of the Court in the CCAA Proceedings. For greater certainty, other than as described above, the Petitioners shall not recognize partial transfers or assignments of Affected Claims.

##### *(b) Assignment of Claims Subsequent to the Affected Creditors' Meeting*

Subject to any restrictions contained in Applicable Laws, Affected Creditors other than the 1974 Plan may transfer or assign the whole of their Affected Claims (or where an Affected Claim includes an indemnity claim, the whole of their Affected Claims other than that part of the Affected Claim relative to the indemnity) after the Affected Creditors' Meeting provided that the Petitioners and the Monitor shall not be obliged to deal with any transferee or assignee as an Affected Creditor and the Monitor shall not be obliged to make any distributions to the transferee or assignee in respect thereof unless and until actual notice of the transfer or assignment, together with evidence of the transfer or assignment and a letter of direction executed by the transferor or assignor, all satisfactory to the Petitioners and the Monitor, has been given to the Petitioners and the Monitor by 5:00 p.m. (Vancouver time) on the day that is at least five (5) Business Days immediately prior to the Plan Implementation Date or any Distribution Date(s), as the case may be, or such other date as the Petitioners and the Monitor may agree. Thereafter, the transferee or assignee shall, for all purposes, be treated as the Affected Creditor of the assigned or transferred Affected Claim, will be bound by any notices previously given to the transferor or assignor in respect of such Affected Claim and shall be bound, in all respects, by notices given and steps taken, and by the orders of the Court in the CCAA Proceedings. For greater certainty, other than as described above, the Petitioners shall not recognize partial transfers or assignments of Affected Claims.

#### **6.12 Assignment of the Deemed Interest Claim and 1974 Plan Claim**

Warrior shall not transfer or assign all or any part of the Deemed Interest Claim and the 1974 Plan shall not transfer or assign all or any part of the 1974 Plan Claim or its entitlement to

the 1974 Plan Settlement Amount and no transfer or assignment of such Claims or entitlements shall be recognized by the Petitioners or the Monitor and the Petitioners and the Monitor shall not be obliged to deal with any transferee or assignee of all or any portion of the Deemed Interest Claim, the 1974 Plan Claim or any entitlement to the 1974 Plan Settlement Amount, in each case until such time as any proposed assignee executes an agreement in form and substance satisfactory to New Walter setting out such person's agreement to support the approval and implementation of the Plan, in each case as contemplated herein.

### **6.13 Allocation of Distributions**

All distributions made by the Monitor, on behalf of the Petitioners, pursuant to the CCAA Plan shall be first in consideration for the outstanding principal amount of the Claims and secondly, subject to **Section 6.9**, in consideration for accrued and unpaid interest and penalties, if any, which forms part of such Claims. No interest will be paid on any Claim for the period from and after the Filing Date.

### **6.14 Withholding and Reporting Requirements**

The Petitioners and the Monitor shall be entitled to deduct and withhold from any distribution, payment or consideration otherwise payable to an Affected Creditor, the 1974 Plan in respect of the 1974 Plan Settlement Amount, USW in respect of the USW Settlement Amount or Warrior in respect of the Deemed Interest Claim, such amounts (a "**Withholding Obligation**") as the Petitioners or the Monitor, as the case may be, are reasonably required or entitled to deduct and withhold with respect to such payment under the *Income Tax Act* (Canada), or any other provision of any Applicable Law; provided, however, that the 1974 Plan Settlement Amount and any Withholding Obligation in respect thereof shall be calculated such that the 1974 Plan receives \$13 million, and any Withholding Obligation shall be in addition to such amount. To the extent that amounts are so deducted or withheld and remitted to the applicable Government Authority or as required by Applicable Law, such amounts deducted or withheld shall be treated for all purposes of the CCAA Plan as having been paid to such Person as the remainder of the payment in respect of which such withholding and deduction were made. For greater certainty, no distribution, payment or other consideration shall be made to or on behalf of an Affected Creditor with a Proven Claim, the Deemed Interest Claim or the 1974 Plan Settlement Amount pursuant to the CCAA Plan unless and until such Person has delivered to the Monitor such documentation prescribed by Applicable Law or otherwise reasonably required by the Monitor as will enable the Monitor to determine whether or not, and to what extent, such distribution, payment or consideration to such Person is subject to any Withholding Obligation imposed by any Government Authority.

## **ARTICLE 7**

### **PROCEDURE FOR DISTRIBUTIONS REGARDING UNRESOLVED CLAIMS**

#### **7.1 No Distribution Pending Allowance**

Notwithstanding any other provision of the CCAA Plan, no payments or distributions shall be made with respect to all or any portion of an Unresolved Claim unless and to the extent it has become a Proven Claim, in whole or in part.

## **7.2 Distributions After Unresolved Claims Resolved**

The Unresolved Claims shall be finally determined in accordance with the Claims Process Order and any other applicable Order. If, after the Plan Implementation Date, an Affected Creditor's Unresolved Claim is finally determined to be a Proven Claim pursuant to and in accordance with the Claims Process Order or if an Affected Creditor's Unresolved Claim is accepted, in each case, in whole or in part, (a) the Monitor, on behalf of the Petitioners, shall distribute the amount from the Unresolved Claims Reserve equal to such Affected Creditor's Proven Claim, if any, that would have been distributed on the Plan Implementation Date had such Affected Claim been a Proven Claim on that date (the "Proven Claim Amount") to such Affected Creditor in full satisfaction, payment, settlement, release and discharge of such Affected Creditor's Proven Claim; and (b) that Proven Claim Amount shall be deemed to have first been transferred to the Affected Creditors' Distribution Cash Pool and then paid therefrom by the Monitor, on behalf of the Petitioners. When all Unresolved Claims have been finally determined in accordance with the Claims Process Order and any other applicable Order and when all Proven Claim Amounts have been paid, any balance that remains in the Unresolved Claims Reserve will be deemed to be transferred to the Administrative Costs Reserve.

## **ARTICLE 8 COMPANY REORGANIZATION**

### **8.1 Corporate Authorizations**

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the CCAA Plan involving corporate action of the Petitioners will occur and be effective as of the Plan Implementation Date, and will be authorized and approved under the CCAA Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by any shareholder, Director, Officer or any other Person. All necessary approvals to take actions shall be deemed to have been obtained from the Directors, Officers and shareholders of the Petitioners, as applicable, including the deemed passing by any shareholder of any resolution or special resolution and no shareholders' agreement or agreement between a shareholder and another Person limiting in any way the right to vote shares held by such shareholder(s) with respect to any of the steps contemplated by the CCAA Plan shall be deemed to be effective and shall have no force and effect.

### **8.2 Plan Implementation Date Steps and Transactions**

The steps, transactions, settlements and releases to be effected in the implementation of the CCAA Plan shall occur, and be deemed to have occurred, in the following order without any further act of formality, beginning at the Effective Time on the Plan Implementation Date:

- (a) the Monitor, on behalf of the Petitioners, shall use the Available Funds to fund the following reserves and distribution cash pools in the order specified below:
  - (i) Administrative Costs Reserve;
  - (ii) Insurance Reserve;



- (iii) Wind-Down Reserve;
- (iv) Unresolved Claims Reserve;
- (v) Affected Creditors' Distribution Cash Pool; and
- (vi) Deemed Interest Claim Distribution Cash Pool,

and shall administer such reserves and distribution cash pools pursuant to and in accordance with the CCAA Plan;

- (b) The Charges and the Intercompany Charge shall be released and discharged as against the funds in the Insurance Reserve, Wind-Down Reserve, Unresolved Claims Reserve, Affected Creditors' Distribution Cash Pool and Deemed Interest Claim Distribution Cash Pool, but, for greater certainty, shall remain attached to the funds in the Administrative Costs Reserve and to any other asset of the Petitioners;
- (c) the Monitor, on behalf of the Petitioners, shall pay from the Administrative Costs Reserve to the Financial Advisor any remaining amount due in connection with the Success Fee Charge and the Success Fee Charge, the KERF Charge and the Intercompany Charge shall be released and discharged;
- (d) the steps, distributions, transfers, payments, settlements and releases set out in Schedule "A" of the CCAA Plan shall be deemed to be completed in the order and at the times specified therein; and
- (e) the releases referred to in **Section 9.1** and the injunctions referred to in **Section 9.2** of the CCAA Plan shall become effective in accordance with the CCAA Plan.

### **8.3 Post-Plan Implementation Date Transactions**

As specified herein, each of the Petitioners, or the Monitor on their behalf, as the case may be, shall take the following steps after the Plan Implementation Date:

- (a) the Monitor, on behalf of the Petitioners, shall take all steps necessary to further fund any of the reserves, to pay any amounts required to be paid to an Affected Creditor or in respect of the Deemed Interest Claim on any Distribution Date, or to make any payment to any other Person, in each case pursuant to, and in accordance with, this CCAA Plan; and
- (b) (i) the Monitor, on behalf of the Petitioners, shall take all steps necessary to make any distributions, payments, or transfers of funds in order to fund, or otherwise in connection with, the making of the payments referred to in subparagraph (a) above; and (ii) the Petitioners, in consultation with the Monitor, shall take all steps necessary to undertake any other transactions as between the Petitioners or any other Person in order to fund, or otherwise take steps in connection with, the making of the payments referred to in subparagraph (a) above,

in each case, as tax efficiently for the Petitioners as is reasonably possible, as determined by the Petitioners.

#### 8.4 On-Going Matters

Following the Plan Implementation Date, the Petitioners, in consultation with the Monitor and Warrior, shall continue to seek an orderly wind-down or other process acceptable to the New Walter Canada Group for Energybuild and address any other matters that arise in connection with the CCAA Proceedings. The Monitor shall, on a no less than monthly basis, provide detailed reporting to Warrior with respect to distributions made or to be made pursuant to this CCAA Plan, including the payments, current balance and expected payments made or to be made from the various reserves described in the CCAA Plan.

### ARTICLE 9 RELEASES

#### 9.1 CCAA Plan Releases

On the Plan Implementation Date and in accordance with the Plan Implementation Date steps and transactions set out in Section 8.2 of the CCAA Plan, the Petitioners, the Monitor, KPMG Inc. and its affiliates, the CRO, the Financial Advisor (solely with respect to its activities in respect of the Sale and Investor Solicitation Process conducted in connection with the SISP Order), Philip L. Evans Jr. in his capacity as consultant to the Petitioners and the Walter Canada Group, the Directors and the Officers, each and every present and former Employee who filed or could have filed an indemnity claim against the Walter Canada Group or the Petitioners, each and every affiliate, subsidiary, partner, member (including members of any committee or governance council), ~~auditor, financial advisor, and legal counsel, consultant, and agent thereof~~ and any Person claiming to be liable derivatively through any or all of the foregoing Persons (the "Releasees") shall be released and discharged from any and all demands, claims (including any Claims), actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, including any and all claims in respect of the payment and receipt of proceeds and statutory liabilities of Directors, Officers and Employees and any alleged fiduciary or other duty (whether acting as a Director, Officer, member or Employee or acting in any other capacity in connection with the Walter Canada Group's business, the Petitioners' business, an individual member of the Walter Canada Group or an individual Petitioner), whether known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the later of the Plan Implementation Date and the date on which actions are taken to implement the CCAA Plan that are in any way related to, or arising out of or in connection with the Claims (including Unresolved Claims, Proven Claims, the Deemed Interest Claim and any Claim that has been barred or extinguished pursuant to the Claims Process Order or any other applicable Order), the Walter Canada Group's business and affairs whenever or however conducted, the Petitioners' business and affairs whenever or however conducted, the CCAA Plan and the CCAA Proceedings, and all claims arising out of such actions or omissions shall be forever waived and released (other than the right to enforce the Petitioners' obligations under the CCAA Plan or any

related document), all to the fullest extent permitted by Applicable Law, provided that nothing in the CCAA Plan shall release or discharge any Petitioner from any Excluded Claim, any Director from any Claim that cannot be compromised pursuant to Section 5.1(2) of the CCAA, any Releasee other than the Petitioners and any present and former Employee who filed or could have filed an indemnity claim against the Walter Canada Group from liability for gross negligence or willful misconduct, or any Releasee from any obligation created by or existing under the CCAA Plan or any related document and provided that any Unresolved Claim shall remain a Claim on the Unresolved Claims Reserve until such time as such Unresolved Claim is finally determined in accordance with the Claims Process Order and any other Order and, if such Unresolved Claim becomes a Proven Claim, such Proven Claim is paid as contemplated by this CCAA Plan.

## **9.2 Injunctions**

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all of the Releasees in respect of any matter in any way related to, or arising out of or in connection with the Claims (including Unresolved Claims, Proven Claims, the Deemed Interest Claim and any Claim that has been barred or extinguished pursuant to the Claims Process Order or any other applicable Order), the Walter Canada Group's business and affairs whenever or however conducted, the Petitioners' business and affairs whenever or however conducted, the CCAA Plan and the CCAA Proceedings, 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 Releasees; (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 any Releasee or its 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, breach of trust or breach of fiduciary duty 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 Releasees; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against any Releasee or its property; or (v) taking any actions to interfere with the implementation or consummation of the CCAA Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the CCAA Plan.

## **ARTICLE 10**

### **COURT SANCTION, CONDITIONS PRECEDENT AND IMPLEMENTATION**

#### **10.1 Application for Sanction Order**

Following the Affected Creditors Meeting and the making of the Deemed Interest Claim Resolution approving the CCAA Plan, the Petitioners shall apply for the Sanction Order.

#### **10.2 Sanction Order**

The Sanction Order shall, among other things, include provisions in substance similar to the following:

- (a) declare that the Affected Creditors' Meeting shall have been duly called and held in accordance with the Meeting Order and that the Deemed Interest Claim Resolution shall have been duly obtained in accordance with the Meeting Order;
- (b) declare that (i) the CCAA Plan has been unanimously approved by the Affected Creditors in conformity with the CCAA; (ii) the CCAA Plan has been approved pursuant to Deemed Interest Claim Resolution in conformity with the CCAA; (iii) the activities of the Petitioners have been in reasonable compliance with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects; (iv) the Court is satisfied that the Petitioners have not done or purported to do anything that is not authorized by the CCAA; and (v) the CCAA Plan and the transactions contemplated thereby are fair and reasonable;
- (c) declare that as of the Effective Time, the CCAA Plan and all associated steps, settlements, transactions, arrangements and releases effected thereby are approved, binding and effective upon the Petitioners, all Affected Creditors, the Directors and Officers, the Releasees and all other Persons named or referred to in, or subject to, the CCAA Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (d) declare that the steps to be taken and the releases to be effective on the Plan Implementation Date are deemed to occur and be effected in the sequential order contemplated by the CCAA Plan on the Plan Implementation Date, beginning at the Effective Time;
- (e) release and discharge the Petitioners and the Directors and Officers from the Deemed Interest Claim and any and all Affected Claims of any nature in accordance with the CCAA Plan, and declare that the ability of any Person to proceed against the Petitioners or the Directors or Officers in respect of or relating to the Deemed Interest Claim or any Affected Claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims are permanently stayed, subject only to (i) the right of Affected Creditors with Unresolved Claims to continue pursuing such Unresolved Claims in accordance with the Claims Process Order and the CCAA Plan until such time as such Unresolved Claim is finally determined in accordance with the Claims Process Order and any other Order and, if such Unresolved Claim becomes a Proven Claim, such Proven Claim is paid as contemplated by this CCAA Plan; and (ii) the right of Affected Creditors with Proven Claims and of Warrior in respect of the Deemed Interest Claim to receive payments and distributions pursuant to the CCAA Plan;
- (f) stay the commencing, taking, applying for or issuing or continuing of any and all steps or proceedings, including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Releasee in respect of all Claims and any matter which is released pursuant to the CCAA Plan;

- (g) declare that on or following the Plan Implementation Date, the Monitor shall be and is authorized and directed to make payments out of the Administrative Costs Reserve, on behalf of the Petitioners, in respect of the payment of Administrative Costs, and to make payments out of the Insurance Reserve and the Wind-Down Reserve, on behalf of the Petitioners, in respect of the payment of costs covered by such reserves, in each case by way of cheque (sent by prepaid ordinary mail to the Monitor's last known address for such recipient Persons) or by wire transfer (in accordance with wire transfer instructions, if provided by such recipient Persons to the Monitor at least three (3) Business Days prior to the payment date set by the Monitor);
- (h) declare that all payments and distributions by or at the direction of the Monitor, in each case on behalf of the Petitioners or any other Person, as applicable, under the CCAA Plan are for the account of the Petitioners or such other Person, as applicable, and the fulfillment of their obligations under CCAA Plan;
- (i) declare that the Monitor shall not incur any liability under the Tax Statutes as a result of the completion of the steps or transactions contemplated by the CCAA Plan, including in respect of its making any payments or distributions ordered or permitted under the CCAA Plan or the Sanction Order and including any steps or transactions contemplated by Section 8.3 of this CCAA Plan, and are released, remised and discharged from any claims against them under or pursuant to the Tax Statutes or otherwise at law, arising in respect of the completion of the steps or transactions contemplated by the CCAA Plan, including in respect of making any payments or distributions ordered or permitted under the CCAA Plan or the Sanction Order and including any steps or transactions contemplated by Section 8.3 of this CCAA Plan, and that any claims of such a nature are forever barred and extinguished;
- (j) declare that any Affected Claims for which a Proof of Claim or Notice of Dispute of Employee Claim was required to be delivered to the Monitor pursuant to the Claims Process Order has not been filed by the Claims Bar Date, the Restructuring Claims Bar Date or the Unresolved Restructuring Claims Bar Date, as applicable, shall be forever barred and extinguished;
- (k) authorize and direct the Petitioners and the Monitor to, on and after the Plan Implementation Date, (i) complete the Claims Process established in the Claims Process Order; and (ii) take such further steps and seek such amendments to the Claims Process Order or additional Orders of the Court as the Petitioners, in consultation with the Monitor, consider necessary or appropriate in order to fully determine, resolve or deal with any Claims;
- (l) declare that, in addition to its prescribed rights under the CCAA and the powers granted by the Court, the powers granted to the Monitor are expanded as may be required to, and the Monitor is empowered and authorized on and after the Plan Implementation Date to, take such additional actions, as the Monitor, in consultation with the Petitioners, considers necessary or desirable in order to perform its functions and fulfill its obligations under the CCAA Plan, the

Sanction Order and any order of the Court in the CCAA Proceedings and to facilitate the implementation of the CCAA Plan;

- (m) declare that the Petitioners, the CRO and the Monitor may apply to the Court for advice and direction in respect of any matters arising from or under the CCAA Plan; and
- (n) such other relief which the Petitioners or the Monitor may request.

### **10.3 Conditions Precedent to Implementation of the CCAA Plan**

The implementation of the CCAA Plan shall be conditional upon the fulfillment (or, in the case of paragraph (c), waiver) of the following conditions on or prior to the Plan Implementation Date, as the case may be:

(a) *CCAA Plan Approval*

The Affected Creditors shall have been deemed to have unanimously voted in favour of the CCAA Plan at the Affected Creditors' Meeting and the Deemed Interest Claim Resolution shall have been deemed to have been obtained to approve the CCAA Plan.

(b) *Plan Sanction Order*

The Sanction Order shall have been made and be in full force and effect, and all applicable appeal periods in respect thereof shall have expired and any appeals therefrom shall have been finally disposed of, leaving the Sanction Order wholly operable.

(c) *Resolution of Certain Liabilities*

The Petitioners shall be satisfied that (i) all material consents, declarations, rulings, certificates, or approvals of any Government Authority as may be considered necessary by the Petitioners and the Monitor in respect of the transactions contemplated by the CCAA Plan shall have been obtained, provided that, without limiting the generality of the forgoing, and notwithstanding any other provision of the CCAA Plan, no distributions shall be made by the Monitor from any of the Unresolved Claims Reserve, Affected Creditors' Distribution Cash Pool or the Deemed Interest Claim Distribution Pool unless and until one of the following conditions have been met to the satisfaction of, or waived by, the Monitor, in its sole discretion: (a) certificates have been issued by or on behalf of the Minister of National Revenue (Canada) ("CRA") pursuant to section 159 of the *Income Tax Act* (Canada) in respect each of the members of the New Walter Canada Group, or (b) the Monitor has received written confirmation from the CRA that it may distribute the property of the New Walter Canada Group without any personal liability; (ii) all tax returns required to be filed by or on behalf of the Petitioners have been or will be duly filed in all appropriate jurisdictions; and (iii) all taxes required to be paid in respect thereof have been or will be paid.

(d) *Outside Date*

The Plan Implementation Date shall have occurred no later than the Outside Date and the Petitioners and the Monitor shall be satisfied that there will be sufficient Available Funds to pay all Proven Claims of Affected Creditors, the USW Settlement Amount and the 1974 Plan Settlement Amount.

**10.4 Monitor's Certificate**

Upon the Petitioners advising the Monitor in writing that the conditions to implementation of the CCAA Plan set out in Section 10.3 have been satisfied or waived (provided however that the Petitioners shall only be permitted to waive the condition to implementation set out in Section 10.3(c)(i) with the consent of the Monitor), the Monitor shall deliver to the Petitioners the Monitor's Certificate. Following the Plan Implementation Date, the Monitor shall file the Monitor's Certificate with the Court.

**ARTICLE 11  
GENERAL**

**11.1 Binding Effect**

On the Plan Implementation Date:

- (a) the CCAA Plan will become effective at the Effective Time;
- (b) the treatment of Affected Claims, USW, the 1974 Plan and the Deemed Interest Claim under the CCAA Plan shall be final and binding for all purposes and enure to the benefit of the Petitioners, all Affected Creditors, the Directors and Officers, the Releasees and all other Persons and parties named or referred to in, or subject to, the CCAA Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (c) all Affected Claims (including the 1974 Plan Claim) shall be forever discharged and released, excepting only (i) the right of Affected Creditors with Unresolved Claims to continue pursuing such Unresolved Claims in accordance with the Claims Process Order, any other applicable Order and the CCAA Plan; and (ii) the obligation of the Petitioners to make payments and distributions in respect of such Affected Claims in the manner and to the extent provided for in the CCAA Plan;
- (d) the Deemed Interest Claim shall be forever discharged and released, excepting only the obligation of the Petitioners to make payments and distributions in respect of such Deemed Interest Claim (including to the 1974 Plan) in the manner and to the extent provided for in the CCAA Plan;
- (e) each Affected Creditor will be deemed to have consented and agreed to all of the provisions of the CCAA Plan, in its entirety;

- (f) Warrior will be deemed, in respect of the Deemed Interest Claim, to have consented and agreed to all of the provisions of the CCAA Plan, in its entirety; and
- (g) each Affected Creditor, and Warrior in respect of the Deemed Interest Claim, shall be deemed to have executed and delivered to the Petitioners all consents, directions, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the CCAA Plan in its entirety.

## **11.2 Waiver of Defaults**

From and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of the Petitioners then existing or previously committed by the Petitioners or caused by the Petitioners, caused by any of the provisions in the CCAA Plan or steps contemplated in the CCAA Plan, and any non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Petitioners and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse the Petitioners from performing their obligations under the CCAA Plan or be a waiver of defaults by the Petitioners under the CCAA Plan and the related documents. This Section does not affect the rights of any Person to pursue any recoveries for an Affected Claim that may be obtained from a guarantor and any security granted by such guarantor, provided that no Person shall have any right of subrogation or other Claim whatsoever against the Petitioners or the Directors and Officers in respect of any such guarantee or security.

## **11.3 Claims Bar Date, Restructuring Claims Bar Date and Unresolved Restructuring Claims Bar Date**

Nothing in the CCAA Plan extends or shall be interpreted as extending or amending the Claims Bar Date, the Restructuring Claims Bar Date or the Unresolved Restructuring Claims Bar Date, as applicable, or gives or shall be interpreted as giving any rights to any Person in respect of Affected Claims that have been barred or extinguished pursuant to the Claims Process Order or any other Order of the Court.

## **11.4 Deeming Provisions**

In the CCAA Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

## **11.5 Non-Consummation**

The Petitioners reserve the right to revoke or withdraw the CCAA Plan at any time prior to the Plan Sanction Date. If the Petitioners revoke or withdraw the CCAA Plan, if the Sanction Order is not issued, or if the Plan Implementation Date does not occur by the Outside Date, (a) the CCAA Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the CCAA Plan including the fixing or limiting to an amount certain any Claim, or



any document or agreement executed pursuant to the CCAA Plan shall be deemed null and void, and (c) nothing contained in the CCAA Plan, and no acts taken in preparation for consummation of the CCAA Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Affected Claims or the Deemed Interest Claim by or against the Petitioners or any other Person; (ii) prejudice in any manner the rights of the Petitioners or any other Person in any further proceedings involving the Petitioners; or (iii) constitute an admission of any sort by the Petitioners or any other Person. Notwithstanding the foregoing, a revocation or withdrawal of the CCAA Plan shall not be or be deemed to be a revocation, withdrawal or termination of the Settlement Term Sheet or shall extend or amend the Claims Bar Date, the Restructuring Claims Bar Date or the Unresolved Restructuring Claims Bar Date, as applicable, or give or shall be interpreted as giving any rights to any Person in respect of Affected Claims that have been barred or extinguished pursuant to the Claims Process Order or any other Order of the Court.

#### **11.6 Modification or Withdrawal of the CCAA Plan**

- (a) The Petitioners reserve the right, at any time and from time to time, to amend, restate, modify and/or supplement the CCAA Plan, provided that any such amendment, restatement, modification or supplement must be contained in a written document which is filed with the Court, be consistent with the Settlement Term Sheet, and (i) if made prior to the Affected Creditors' Meeting and/or the making of the Deemed Interest Claim Resolution, communicated to the Affected Creditors and/or Warrior in respect of the Deemed Interest Claim, as applicable, in the manner required by the Court (if so required); and (ii) if made following the Affected Creditors' Meeting and/or the making of the Deemed Interest Claim Resolution, approved by the Court following notice to the Affected Creditors and/or Warrior in respect of the Deemed Interest Claim, as applicable.
- (b) Notwithstanding Section 11.6(a), any amendment, restatement, modification or supplement may be made by the Petitioners with the consent of the Monitor or pursuant to an Order following the Plan Sanction Date, provided that it concerns a matter which, in the opinion of the Petitioners, acting reasonably, is of an administrative nature required to better give effect to the implementation of the CCAA Plan, the Settlement Term Sheet and the Sanction Order or to cure any errors, omissions or ambiguities and is not materially adverse to the financial or economic interests of the Affected Creditors, or Warrior in respect of the Deemed Interest Claim.
- (c) Any amended, restated, modified or supplementary plan or plans of compromise filed with the Court and, if required by this Section, approved by the Court, shall, for all purposes, be and be deemed to be a part of and incorporated in the CCAA Plan.
- (d) In the event that this CCAA Plan is amended, restated, modified or supplemented, the Monitor shall post such amended restated, modified or supplementary CCAA Plan on the Monitor's Website and such posting shall constitute adequate notice of such amendment.

### **11.7 Paramourncy**

From and after the Effective Time on the Plan Implementation Date, if there is any express conflict between:

- (a) the CCAA Plan and the Sanction Order; and
- (b) the Meeting Order, the Settlement Term Sheet and the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, articles or bylaws of the Petitioners, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between one or more of the Affected Creditors or Warrior in respect of the Deemed Interest Claim, as the case may be, and the Petitioners as at the Plan Implementation Date,

such conflict will be deemed to be governed by the terms, conditions and provisions of the CCAA Plan and the Sanction Order, which shall take precedence and priority.

### **11.8 Severability of Plan Provisions**

If, prior to the Plan Sanction Date, any term or provision of the CCAA Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Petitioners, shall have the power to either (a) sever such term or provision from the balance of the CCAA Plan and provide the Petitioners with the option to proceed with the implementation of the balance of the CCAA Plan as of and with effect from the Plan Implementation Date, or (b) 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, and provided that the Petitioners proceed with the implementation of the CCAA Plan, the remainder of the terms and provisions of the CCAA Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

### **11.9 Reviewable Transactions**

Section 36.1 of the CCAA, sections 38 and 95 to 101 of the BIA and any other federal or provincial law relating to preferences, fraudulent conveyances or transfers at undervalue, shall not apply to the CCAA Plan or to any payments or distributions made in connection with transactions entered into by or on behalf of the Petitioners, whether before or after the Filing Date, including to any and all of the payments, distributions and transactions contemplated by and to be implemented pursuant to the CCAA Plan.

### **11.10 Responsibilities of the Monitor**

KPMG Inc. is acting in its capacity as Monitor in the CCAA Proceedings with respect to the Petitioners and the CCAA Plan and not in its personal or corporate capacity, and will not be responsible or liable for any obligations of the Petitioners under the CCAA Plan, arising from implementation of the CCAA Plan or otherwise.

### 11.11 Different Capacities

Persons who are affected by the CCAA Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by the Person in writing or unless its Claims overlap or are otherwise duplicative.

### 11.12 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the CCAA Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

If to the Petitioners:

c/o Osler, Hoskin & Harcourt  
1055 W Hastings St  
Suite 1700  
Vancouver, BC V6E 2E9  
Attention: Chief Restructuring Officer  
Email: baziz@bluetreadvisors.com

with a copy to:

Osler, Hoskin & Harcourt LLP  
100 King Street West  
1 First Canadian Place, Suite 6100, P.O. Box 50  
Toronto, Ontario M5X 1B8  
Attention: Marc S. Wasserman / Patrick Riesterer  
Fax: (416) 862-6666  
Email: mwasserman@osler.com / priesterer@osler.com

If to an Affected Creditor:

to the address or facsimile number or email address for Warrior or such Affected Creditor specified in the Proof of Claim filed by Warrior or such Affected Creditor or to such other address of such Affected Creditor as the Monitor may have acquired, including the addresses of Employee Claimants;

If to the Monitor:

KPMG Inc.  
777 Dunsmuir Street, PO Box 10426  
Vancouver, British Columbia V7Y 1K3  
Attention: Anthony Tillman / Mark Kemp-Gee / Mike Clark  
Facsimile: (604) 691-3036  
Email: atillman@kpmg.ca / mkempgee@kpmg.ca / maclark@kpmg.ca

with a copy to:

McMillan LLP  
181 Bay Street, Suite 4400  
Toronto, ON M5J 2T3  
Attention: Wael Rostom / Peter Reardon / Vicki Tickle  
Facsimile: 416.865.7048  
Email: wael.rostom@mcmillan.ca / peter.reardon@mcmillan.ca /  
vicki.tickle@mcmillan.ca

or to such other address as any party may from time to time notify the others in accordance with this Section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 5:00 p.m. (Vancouver time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

If, during any period during which notices or other communications are being given pursuant to this CCAA Plan, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of the Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery or electronic or digital transmission in accordance with this Order.

### **11.13 Further Assurances**

Each of the Persons named or referred to in, or subject to, the CCAA Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the CCAA Plan and to give effect to the transactions contemplated herein.

**DATED** as of ~~the May 29~~, June 22, 2018.

**SCHEDULE "A"**  
**SPECIFIED PLAN IMPLEMENTATION DATE STEPS**

In order to facilitate the satisfaction of Proven Claims of Affected Creditors and a distribution by the Petitioners to Warrior, USW and the 1974 Plan pursuant to and in accordance with the CCAA Plan, the following steps, assumptions, distributions, transfers, payments, contributions, reductions of capital, settlements and releases shall be deemed to occur (a) immediately after the completion of the step set out in Section 8.2(c) of the CCAA Plan; (b) in the order specified in this Schedule "A"; and (c) in the manner specified in this Schedule "A".

- (a) Step 1: Each of New Walter, New WCCC, New Willow Creek, New Brule and New Wolverine shall have ratified the Waterfall Agreement.
- (b) Step 2: New Walter shall fund (or cause its subsidiaries to fund) the Administrative Cost Reserve, the Insurance Reserve and the Wind-Down Reserve.
- (c) Step 3: New WCCC and New Walter shall pay cash into the Unresolved Claims Reserve in an amount sufficient to pay the Proven Claim Amount in respect of all Unresolved Claims. Such cash shall come (i) first from the proceeds of sale received by New WCCC of Belcourt Saxon Coal Limited Partnership and Belcourt Saxon Coal Ltd., (ii) second, if necessary, from New WCCC's other funds; and (iii) third, if necessary, from New Walter's funds.
- (d) Step 4:
  - (i) Each of New Walter, New WCCC, New Willow Creek, New Brule and New Wolverine shall pay into the Affected Creditors' Distribution Cash Pool cash in an amount sufficient to pay such Petitioner's portion of all Proven Claims of Affected Creditors that were Allowed Claims on the Proposal Commencement Date in full in cash. To the extent that the payment into the Affected Creditors' Distribution Cash Pool by any of New Willow Creek, New Brule and New Wolverine is insufficient to pay any Affected Creditor's Proven Claim against such Petitioner in full in cash, New WCCC shall pay cash sufficient to satisfy such Claim into the Affected Creditors' Distribution Cash Pool. Such cash shall come (A) first from the proceeds of sale to New WCCC of Belcourt Saxon Coal Limited Partnership and Belcourt Saxon Coal Ltd., and (B) second, if necessary, from New WCCC's other funds.
  - (ii) To the extent New WCCC does not have sufficient cash to make the foregoing payments, New Walter shall pay into the Affected Creditors' Distribution Cash Pool cash sufficient to satisfy such Claim in full in cash.
  - (iii) New Walter shall also pay into the Affected Creditors' Distribution Cash Pool an amount equal to all amounts needed to pay any Claims that are Proven Claims of Affected Creditors as of the Plan Implementation Date that were not Allowed Claims on the Proposal Commencement Date.

- (e) Step 5: Each of New Willow Creek, New Brule and New Wolverine shall pay to New WCCC and New Walter the amount (if any) retained by such Petitioner following the payments set out in Step 4 as its respective contribution to the professional fees and other costs and expenses paid by New WCCC and New Walter, including under Steps 2, 3 & 4, on behalf of New Willow Creek, New Brule and New Wolverine. Cambrian shall pay to New WCCC and New Walter all remaining cash in its possession (if any) towards the professional fees and other costs and expenses paid by New WCCC and New Walter on behalf of Cambrian.
- (f) Step 6: New WCCC shall pay the amounts received under Step 5 plus the amount (if any) retained by New WCCC following the payments set out in Steps 3 & 4 to New Walter as its contribution to the professional fees and other costs and expenses paid by New Walter, including under Steps 2, 3 & 4, on behalf of New WCCC.
- (g) Step 7: New Walter shall pay all its remaining funds after the satisfaction of the payments set out in Steps 1-4 and after receipt of any funds pursuant to Step 5 & 6 into the Deemed Interest Claim Distribution Cash Pool.
- (h) Step 8: The Monitor shall make the required distributions from the Affected Creditors' Distribution Cash Pool to Affected Creditors with Claims that are or that become Proven Claims in accordance with the CCAA Plan in full and final satisfaction of all Affected Claims other than Excluded Claims and any remaining Unresolved Claims and shall pay the the USW Settlement Amount to USW.
- (i) Step 9: The Monitor shall make the required distributions from the Deemed Interest Claim Distribution Cash Pool in accordance with the CCAA Plan, including, (A) the payment of the 1974 Plan Settlement Amount to the 1974 Plan, and (B) (I) as successive capital contributions by New Walter to New WCCC, by New WCCC to Cambrian and by Cambrian to Energybuild Group Limited in an amount not to exceed the amount owing to Warrior by Energybuild Group Limited (in the maximum amount of US\$6,976,591.45) and provided that Energybuild Group Limited shall direct Cambrian to pay such amount to Warrior on account of Energybuild Group's debt to Warrior; and/or (II) directly to Warrior.
- (j) Step 10:
  - (i) The Monitor shall have the discretion to make partial distributions to Warrior at such times as the Monitor, in consultation with New Walter and Warrior, may determine is advisable, which may include transfers of funds held in any of the reserves (following a determination that such funds are no longer needed) to the Deemed Interest Claim Distribution Cash Pool for distribution to Warrior.
  - (ii) At such time as (i) all Unresolved Claims are resolved, and, if applicable, paid, and (ii) the Monitor, in consultation with the Petitioners and Warrior,

have determined that the remaining funds in the Insurance Reserve, the Unresolved Claims Reserve, the Wind-Down Reserve and the Administrative Costs Reserve are no longer needed, such funds shall be transferred or deemed transferred to the Deemed Interest Claim Distribution Cash Pool and New Walter shall pay all remaining funds into the Deemed Interest Claim Distribution Cash Pool to Warrior in accordance with the CCAA Plan in full and final satisfaction of the Deemed Interest Claim and such Deemed Interest Claim shall be extinguished.

NO. S-1510120

VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**AND**

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

**AND**

**IN THE MATTER OF THE PLAN OF COMPROMISE AND  
ARRANGEMENT OF NEW WALTER ENERGY CANADA  
HOLDINGS, INC., NEW WALTER CANADIAN COAL CORP.,  
NEW BRULE COAL CORP., NEW WILLOW CREEK COAL  
CORP., NEW WOLVERINE COAL CORP. AND CAMBRIAN  
ENERGYBUILD HOLDINGS ULC**

**PETITIONERS**

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**CONSOLIDATED-AMENDED AND RESTATED  
PLAN OF COMPROMISE AND ARRANGEMENT**

**concerning, affecting and involving**

**NEW WALTER ENERGY CANADA HOLDINGS, INC.,  
NEW WALTER CANADIAN COAL CORP., NEW BRULE  
COAL CORP., NEW WILLOW CREEK COAL CORP.,  
NEW WOLVERINE COAL CORP. AND CAMBRIAN  
ENERGYBUILD HOLDINGS ULC**

---

**OSLER HOSKIN & HARCOURT LLP**



**Barristers & Solicitors**

**1055 West Hastings Street**

**Suite 1700, The Guinness Tower**

**Vancouver, BC V6E 2E9**

**Tel. No. 416.862.4924**

**Fax No. 416.862.6666**

**Client Matter No. 1164807**

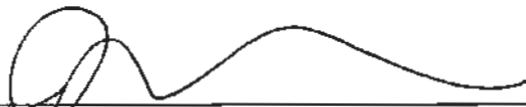
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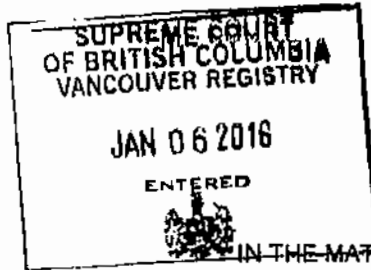
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This is Exhibit "C" referred to in Affidavit #23 of **William E. Aziz** sworn June 26, 2018 at Oakville, Ontario.



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Commissioner for Taking Affidavits and  
Notary Public in the Province of Ontario



NO. S-1510120  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

**ORDER MADE AFTER APPLICATION**

BEFORE THE HONOURABLE )  
MADAM JUSTICE FITZPATRICK ) TUESDAY, THE 5<sup>TH</sup> DAY OF  
 ) JANUARY, 2016

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 5<sup>th</sup> day of January, 2016 (the "Order Date"); AND ON HEARING Mary I.A. Buttery, Tijana Gavric, Marc Wasserman and Joshua Hurwitz, counsel for the Petitioners and the Partnerships listed on Schedule "A" hereto (collectively, the "Walter Canada Group"), Peter Reardon, counsel for KPMG Inc. and those other counsel listed on Schedule "B" hereto; AND UPON READING the material filed, including the Second Affidavit of William G. Harvey sworn December 31, 2015 (the "Second Affidavit"), the Confidential Third Affidavit of William G. Harvey sworn December 31, 2015 (the "Third Affidavit") and the First Report of the Monitor dated December 31, 2015; AND UPON BEING ADVISED that the secured creditors who are likely to be affected by the charges created herein were given notice; AND pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985 c. C-36, as amended (the "CCAA"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

**SERVICE AND DEFINITIONS**

1. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.

2. Any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Order of this Honourable Court granted on December 7, 2015 in these CCAA proceedings (the "Initial Order").

#### **STAY EXTENSION**

3. The Stay Period, as defined in paragraph 18 of the Initial Order, is hereby further extended up to and including April 5, 2016.

#### **MONITOR'S POWERS**

4. In addition to the Monitor's powers granted in the Initial Order, the Monitor is authorized but not directed to assist the Walter Canada Group with the execution of administrative back office support including, assisting with (but not authorizing) the processing of disbursements and payments authorized to be made by the Walter Canada Group, assisting the Walter Canada Group in preparing and filing tax returns, assisting with communication of Walter Canada Group management's directives to external payroll providers and other back office support functions for which the Walter Canada Group requires administrative assistance.
5. To the extent the Monitor exercises any of these additional powers, the Monitor shall not be in management or control of the Walter Canada Group and shall have the full benefit of all of the protections under the CCAA and contained in the Initial Order, including without limitation, paragraphs 39, 40, 41 and 42 thereof.

#### **FINANCIAL ADVISOR**

6. The engagement of PJT Partners LP as financial advisor to the Walter Canada Group (the "Financial Advisor") pursuant to an engagement letter dated December 30, 2015 between the Financial Advisor and Walter Energy Canada Holdings, Inc. ("Walter Energy Canada") (the "FA Engagement Letter") attached as Exhibit "D" to the Second Affidavit is hereby approved. Walter Energy Canada is authorized, nunc pro tunc, to enter into the FA Engagement Letter and is directed to carry out and perform its obligations thereunder (including payment of amounts due to be paid pursuant to the terms of the FA Engagement Letter) and the FA Engagement Letter shall be binding upon the Walter Canada Group.
7. All claims of the Financial Advisor pursuant to the FA Engagement Letter are not claims that may be compromised pursuant to the Plan, any proposal under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") or any other restructuring and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the FA Engagement Letter.

8. The Financial Advisor, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by Walter Energy Canada as Financial Advisor or any matter referred to in the FA Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the FA Engagement Letter.

#### APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

9. A chief restructuring officer shall be appointed on the following terms:

(a) the agreement dated as of December 30, 2015, <sup>as amended,</sup> pursuant to which Walter Energy Canada has engaged BlueTree Advisors Inc. ("BlueTree") to provide the services of William E. Aziz to act as chief restructuring officer to the Walter Canada Group (the "CRO"), a copy of which is ~~attached~~ as ~~Exhibit "E" to the Second Affidavit~~ (the "CRO Engagement Letter"), and the appointment of the CRO pursuant to the terms thereof is hereby approved, including, without limitation, the payment of the fees and expenses contemplated thereby;

(b) the CRO shall be responsible for directing the SISP (as defined below) for the benefit of all the members of the Walter Canada Group, reporting to the Court concerning the SISP and otherwise performing the functions set out in the CRO Engagement Letter. The CRO shall provide timely updates to the Monitor in respect of his activities.

(c) the CRO shall not be or be deemed to be a director, de facto director, or employee of any entity in the Walter Canada Group;

(d) nothing in this Order shall be construed as resulting in BlueTree or the CRO being an employer, successor employer, a responsible person, operator or person with apparent authority within the meaning of any statute, regulation or rule of law, or equity (including any Environmental Legislation) for any purpose whatsoever;

(e) neither BlueTree nor the CRO shall, as a result of the performance of their respective obligations and duties in accordance with the terms of the CRO Engagement Letter, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation; provided however, if BlueTree or the CRO is nevertheless later found to be in Possession of any Property, then BlueTree or the CRO, as the case may be, shall be entitled to the benefits and protections in relation to the Walter Canada Group and such Property as are provided to a monitor under section 11.8(3) of the CCAA; provided further however, that nothing in this sub-

paragraph shall exempt BlueTree or the CRO from any duty to report or make disclosure imposed by a law and incorporated by reference in section 11.8(4) of the CCAA;

(f) BlueTree and the CRO shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on the part of BlueTree or the CRO, provided further that in no event shall the liability of BlueTree or the CRO exceed the quantum of the fees paid to BlueTree and the CRO. Notwithstanding the foregoing, neither BlueTree nor the CRO shall have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, arising prior to the appointment of the CRO;

(g) no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of BlueTree or the CRO, and all rights and remedies of any Person against or in respect of them are hereby stayed and suspended, except with the written consent of the CRO or with leave of this Court on notice to the Walter Canada Group, the Monitor and the CRO, provided, however, that nothing in this order, including this paragraph 9(g) shall affect such investigations, actions, suits or proceedings by a regulatory body that are permitted by section 11.1 of the CCAA. Notice of any such motion seeking leave of this Court shall be served upon the Walter Canada Group, the Monitor and the CRO at least seven (7) days prior to the return date of any such motion for leave;

(h) the obligations of Walter Energy Canada to BlueTree and the CRO pursuant to the CRO Engagement Letter, are not claims that may be compromised pursuant to the Plan, any proposal under the BIA or any other restructuring and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to BlueTree and the CRO pursuant to the terms of the CRO Engagement Letter;

(i) if, but for the orders in the preceding subparagraphs of this paragraph 9, BlueTree or the CRO would have liability with respect to any losses, claims, damages or liabilities to Her Majesty the Queen in right of the Province of British Columbia or would have incurred an obligation under any enactment of British Columbia or Canada (including any Environmental Legislation), such liability or obligation shall be deemed to be a liability or obligation of the Walter Canada Group; and

(j) the CRO shall be authorized but not directed to conduct a financial review (not an audit) of, Energybuild Group Limited, Energybuild Holdings Ltd., Energybuild Opencast Ltd., Energybuild Mining Ltd., Energybuild Ltd., Mineral Extraction and Handling Ltd. (collectively, the "Walter U.K. Group"), to develop a view on options for the Walter U.K. Group, including, the

potential restructuring, sale or wind down and liquidation of the Walter U.K. Group. For the purposes of carrying out any such review, the CRO (a) shall have full and complete access to the property of the Walter U.K. Group, including the premises, books, records, data (including data in electronic format) and other financial documents of the Walter U.K. Group, (b) is hereby authorized to meet with any employee, director, representative or agent of the Walter U.K. Group, and (c) shall be authorized to retain such assistants (including the Monitor's U.K. affiliates) as it deems necessary in connection therewith. The employees, directors, representatives and agents of the Walter U.K. Group are hereby directed to fully cooperate with the CRO in connection with any such assessments.

#### **FINANCIAL ADVISOR AND CRO SUCCESS FEE CHARGE**

10. The Financial Advisor and the CRO are hereby granted a charge (the "**Success Fee Charge**") in the maximum amount of \$10,000,000 over the Property, which charge shall be security solely for (a) with respect to the Financial Advisor, the Capital Raising Fee and the Transaction Fee (each as defined in the FA Engagement Letter) due to be paid to the Financial Advisor pursuant to the terms of the FA Engagement Letter (collectively, the "**FA Success Fee**"); and (b) with respect to the CRO, the Success Fee (as defined in the CRO Engagement Letter) due to be paid to the CRO pursuant to the terms of the CRO Engagement Letter, (collectively, the "**CRO Success Fee**", and together with the FA Success Fee, the "**Advisor Success Fees**"). For greater certainty, the Success Fee Charge shall not secure any other fees or indemnity obligations incurred pursuant to the FA Engagement Letter or the CRO Engagement Letter.
11. The Success Fee Charge shall have the priority as is set out in paragraphs 21 and 23 herein.
12. Both the Financial Advisor and the CRO shall be entitled to the benefit of the Administration Charge as security for, (a) with respect to the Financial Advisor, the Monthly Fee (as defined in the FA Engagement Letter) and (b) with respect to the CRO, the Work Fee (as defined in the CRO Engagement Letter) and in each case for the Financial Advisor's and the CRO's other professional fees and disbursements incurred under the applicable engagement letter. For greater certainty, the Administration Charge shall not secure any indemnity obligations incurred pursuant to the FA Engagement Letter or the CRO Engagement Letter.
13. The CRO and the Financial Advisor shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioners as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the CRO and the Financial Advisor on a monthly basis, or on such basis as otherwise agreed by the Petitioners and the applicable payee.



#### **APPROVAL OF SISP**

14. The sale and investment solicitation process as described in the form attached hereto as **Schedule "C"** (the "**SISP**"), is hereby approved and the CRO, the Walter Canada Group, the Monitor and the Financial Advisor are authorized and directed to carry out the SISP in accordance with its terms and this Order and are hereby authorized and directed to take such steps as they consider necessary or desirable in carrying out each of their obligations thereunder.
15. The CRO, the Walter Canada Group, the Monitor, or the Financial Advisor may, from time to time, apply to this Honourable Court for advice and directions in the discharge of their powers and duties hereunder.

#### **KEY EMPLOYEE RETENTION PLAN**

16. The Key Employee Retention Plan (the "**KERP**") described in the Third Affidavit and the confidential KERP letter attached as Exhibit "A" thereto (the "**Confidential KERP Letter**") are hereby authorized and approved, and the Petitioners are hereby authorized and directed to make the payments contemplated therein. The Third Affidavit and the Confidential KERP Letter shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all contents in the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order.
17. The beneficiary of the KERP is hereby granted a charge (the "**KERP Charge**") on the Property in such amounts and in such priority as is set out in paragraphs 21 and 23 herein.

#### **CASH COLLATERALIZATION OF LETTERS OF CREDIT**

18. The agreement among Bank of Nova Scotia ("**BNS**"), Morgan Stanley Senior Funding, Inc. (the "**Agent**"), Walter Energy Canada and Brule Coal Partnership dated January 4, 2011 (the "**Cash Collateralization Agreement**") and attached as Exhibit "A" to the Second Affidavit including without limitation the payment of any LC Indebtedness (as defined in the Cash Collateralization Agreement) of Walter Energy Group to BNS or the Agent when due under the Cash Collateralization Agreement by way of set off or application of LC Cash Collateral (as defined below) in accordance therewith is hereby approved.
19. The cash collateral (the "**LC Cash Collateral**") provided or to be provided by Brule Coal Partnership to BNS pursuant to paragraph 13 of the Initial Order and the Cash Collateral Agreement in the aggregate amount of \$22,570,404.00 (the "**LC Exposure**") in respect of those certain pre-filing letters of credit issued by the BNS under the 2011 Credit Agreement (as defined

in the First Affidavit) is and shall be deemed to be subject to the security interest in favour of the Agent in the same priority as existed on the date of the Initial Order. The Charges as may attach to the LC Cash Collateral, including by operation of law or otherwise, (i) shall rank junior in priority to the liens, security, charges and security interests currently existing in favour of the Agent in respect of the LC Cash Collateral and (ii) shall attach to the LC Cash Collateral only to the extent of the rights of any member of the Walter Canada Group to the return of any LC Cash Collateral from BNS following (A) the payment, satisfaction or extinguishment of all LC Exposure and (B) the exercise by BNS or the Agent of any rights of set-off in respect of the LC Cash Collateral, in each case notwithstanding anything to the contrary contained herein or in the Initial Order.

#### **INTERCOMPANY CHARGES**

20. To the extent that any member of the Walter Canada Group makes any payment or incurs or discharges any obligation with respect to any letter of credit obligation (the "**Protected WC Entity**") on behalf of any other member of the Walter Canada Group (the "**Beneficiary WC Entity**"), each such Protected WC Entity is hereby granted a charge (the "**Intercompany Charge**") on all of the assets of each such Beneficiary WC Entity in the amount of such payment or such obligation up to the maximum amount and in such priority as set out in paragraphs 21 and 23 herein as security for any payments made by each such Protected WC Entity on behalf of each such Beneficiary WC Entity, provided, however, that the Intercompany Charge shall not be enforceable as against the Agent, BNS or any other lender under the 2011 Credit Agreement with respect to any claim of the Agent, BNS or such other lender under the 2011 Credit Agreement (collectively with BNS, the "**Lenders**") until (a) all obligations under the 2011 Credit Agreement and the Security Documents (as defined in the 2011 Credit Agreement) are indefeasibly paid in full in cash and there are no Letters of Credit outstanding thereunder; (b) the Lenders consent, in accordance with the 2011 Credit Agreement, to the enforcement of the Intercompany Charge; or (c) further order of the Court. Any such payments by each such Protected WC Entity on behalf of each such Beneficiary WC Entity shall be recorded and shall be treated as a loan to the applicable Beneficiary WC Entity. Each Beneficiary WC Entity shall not be entitled to set-off any pre-filing amounts owing by any Protected WC Entity to any Beneficiary WC Entity against post-filing amounts owing by any Beneficiary WC Entity to a Protected WC Entity.

## VALIDITY AND PRIORITY OF CHARGES

21. The priorities of the Administration Charge, the Directors' Charge, the KERP Charge, the Success Fee Charge and the Intercompany Charge, as among them, shall be as follows, as of this date:

First – Administration Charge (to the maximum amount of \$2,500,000);

Second – Directors' Charge (to the maximum amount of \$2,500,000);

Third – KERP Charge (to the maximum KERP amount contained in the Confidential KERP Letter);

Fourth – Success Fee Charge (to the maximum amount of \$10,000,000 but only in respect of the Advisor Success Fees (which shall be in the maximum amount of \$5,000,000 for the CRO and \$5,000,000 for the Financial Advisor)); and

Fifth – Intercompany Charge (to the maximum amount of \$25,000,000).

22. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge, the Directors' Charge, the KERP Charge, the Success Fee Charge, the Intercompany Charge or the Equipment Charge (collectively, the "Charges") shall not be required, and that the Charges shall be effective as against the Property (or the Purchased Equipment, as applicable) and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.
23. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property (or the Purchased Equipment, as applicable) and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "Encumbrances"), in favour of any Person, other than (a) any person with a properly perfected purchase money security interest under the British Columbia Personal Property Registry or such other applicable provincial legislation; and (b) statutory super-priority deemed trusts and liens for unpaid employee source deductions.
24. Except as otherwise expressly provided herein, or as may be approved by this Court, the Walter Canada Group shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to or *pari passu* with the Charges, unless the Walter Canada Group obtains the prior written consent of the Monitor and the beneficiaries of the Charges.

25. The Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and any declaration of insolvency made in connection therewith; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Walter Canada Group; and notwithstanding any provision to the contrary in any Agreement:

(a) the Charges shall not create or be deemed to constitute a breach by the Walter Canada Group of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

(c) the granting of the Charges, does not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

26. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Walter Canada Group's interest in such real property leases.

#### GENERAL

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

28. Each of the Walter Canada Group and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located,

for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Walter Canada Group 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.

29. Endorsement of this Order by counsel appearing, other than counsel for the Petitioners, is hereby dispensed with.
30. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

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



\_\_\_\_\_  
Lawyers for the Petitioners

Osler, Hoskin & Harcourt LLP  
(Marc Wasserman and Joshua Hurwitz)

and

DLA Piper (Canada) LLP  
(Mary I.A. Buttery and Tijana Gavric)



BY THE COURT

\_\_\_\_\_  
Registrar



## **SCHEDULE "A"**

### **Petitioners**

1. **Walter Energy Canada Holdings, Inc.**
2. **Walter Canadian Coal ULC**
3. **Brule Coal ULC**
4. **Willow Creek Coal ULC**
5. **Wolverine Coal ULC**
6. **Cambrian Energybuild Holdings ULC**
7. **Pine Valley Coal Ltd.**
8. **0541237 B.C. Ltd.**

### **Partnerships**

9. **Walter Canadian Coal Partnership**
10. **Brule Coal Partnership**
11. **Willow Creek Coal Partnership**
12. **Wolverine Coal Partnership**

SCHEDULE "B"

COUNSEL LIST	
NAME	PARTY REPRESENTED
John Sandrelli (in person) Tevia Jeffries (in person) Julia Frost-Davies (by phone)	United Mine Workers of America 1974 Pension Plan and Trust
Matthew Nied	Steering Committee of First Lien Creditors of Walter Energy, Inc.
Aaron Welch	Her Majesty the Queen in right of the Province of British Columbia
Kathryn Esaw (by phone)	Morgan Stanley Senior Funding, Inc. (Canadian counsel)
Elizabeth Feld (by phone)	Morgan Stanley Senior Funding, Inc. (U.S. counsel)
Emmanuel Pressman (by phone)	Petitioners
Wael Rostom (by phone) Caitlin Fell (by phone)	KPMG Inc., Monitor
Neva Beckie	Canada Revenue Agency
William Aziz	proposed Chief Restructuring Officer

Stephanie Drake

United Steelworkers, Local 1-424

**SCHEDULE "C"**

(see attached)



## SALE AND INVESTMENT SOLICITATION PROCESS

### INTRODUCTION

1. Walter Energy Canada Holdings, Inc. (“WECH”) and its subsidiaries and partnerships listed on Schedule “A” to the Initial Order (as defined below) (collectively, “Walter Energy Canada”) are leading producers and exporters of metallurgical coal for the global steel industry, with Canadian mines producing hard coking and PCI coal (the “Business”).
2. Walter Energy Canada applied for and was granted protection under the *Companies’ Creditors Arrangement Act* (the “CCAA”) pursuant to an Initial Order dated December 7, 2015 (as amended and restated from time to time, the “Initial Order”) of the Supreme Court of British Columbia (the “Court”). Pursuant to the Initial Order, KPMG Inc. was appointed as Monitor of Walter Energy Canada (the “Monitor”) in the CCAA proceedings bearing Court File No. S-1510120 (the “CCAA Proceedings”).
3. The purpose of this sale and investment solicitation process (the “SISP”) is to seek LOIs and Bids (each as defined below) and to implement one or more Successful Bids (as defined below), the whole as more fully detailed below.
4. Capitalized terms used in this SISP have the meanings given to them herein.

### SISP Order

5. On ●, 2016, the Court issued an order (the “SISP Order”) which, *inter alia*: (a) approved the appointment of PJT Partners LP as Walter Energy Canada’s financial advisor in the CCAA Proceedings (the “Financial Advisor”) to implement the terms of this SISP; (b) approved the appointment of BlueTree Advisors Inc. as the Chief Restructuring Officer (the “CRO”) in the CCAA Proceedings to manage and direct the implementation of this SISP and the restructuring; (c) approved a solicitation process pursuant to which the Financial Advisor and the CRO, under the supervision of the Monitor, will solicit offers for a potential Investment Proposal and/or a Sale Proposal (as both terms are defined below) in accordance with the terms of this SISP.
6. Accordingly, this SISP shall govern the solicitation by the Financial Advisor of LOIs and Bids for all or part of the Business and/or Assets (as defined below) and the selection by the CRO, in consultation with the Monitor, of one or more Successful Bids.

### Supervision of the SISP

7. The Monitor will oversee, in all respects, the performance and conduct of the SISP by the CRO and the Financial Advisor. Nothing in this SISP is intended to limit the supervisory role of the Monitor. Walter Energy Canada and the Financial Advisor will assist and support the efforts of the CRO as provided for herein. The CRO, in consultation with the Monitor, shall have the authority to select one or more Successful Bids and effect a sale, subject to approval by the Court, of Walter Energy Canada’s Business and/or Assets (or any portion thereof) on behalf of Walter Energy Canada.

8. In the event that there is disagreement or clarification required as to the interpretation or application of this SISP or the responsibilities of the Monitor, the CRO, the Financial Advisor or Walter Energy Canada, the Court will have jurisdiction to hear such matter and provide advice and directories, upon the application of the Monitor or Walter Energy Canada.

#### Investment Proposal or Sale Proposal

9. A Prospective Bidder (as defined below) may, at the option of such Prospective Bidder, submit an LOI or a Bid involving one or more of the following:
  - (a) A restructuring, recapitalization or other form of reorganization of the Business of Walter Energy Canada as a going concern or a purchase of any or all equity interests held by WECH (collectively, an "Investment Proposal"); and/or
  - (b) A purchase of all or substantially all or any portion of the Assets of Walter Energy Canada (a "Sale Proposal"). For greater certainty, a Sale Proposal shall not include an offer to auction or liquidate any Assets of Walter Energy Canada provided however that Walter Energy Canada and the Monitor may seek such liquidation offers independently of this SISP.

#### Assets Subject to Sale

10. With respect to a Sale Proposal, the assets available to be sold include substantially all of the assets, Property (as defined in the Initial Order) and undertakings of Walter Energy Canada, wherever situated (including the Wolverine, Brule, and Willow Creek mines) (the "Assets").
11. Notwithstanding anything else contained herein, at any time after entry of the SISP Order, the CRO, in its reasonable business judgment and in consultation with the Financial Advisor and the Monitor, and upon notice to any Prospective Bidder, may, from time to time, withdraw any Assets from this SISP.

#### As is, where is

12. Any sale of the Assets or Business will be completed on an "as is, where is" basis and without representations, warranties, covenants or indemnities of any kind, nature, or description by the Financial Advisor, the CRO, Walter Energy Canada, or the Monitor or any of their respective agents, directors, officers, employees, professionals, advisors, or otherwise, except to the extent set forth in the executed definitive sale agreement(s) with the Successful Bidder(s) and any orders of the Court.

#### Free of Any And All Claims and Interests

13. All of the rights, title and interests of Walter Energy Canada in and to the Assets, or any portion thereof, to be acquired will be sold free and clear of all security, charges, pledges, liens, encumbrances, claims or other restrictions thereon and there against including for greater certainty any charges or encumbrances created by the Initial Order or subsequent orders of the Court in the CCAA Proceedings (collectively, the "Encumbrances"),

except for those liens and encumbrances expressly to be assumed by the Successful Bidder(s) and permitted encumbrances, pursuant to an Approval and Vesting Order(s) in a form satisfactory to the Successful Bidder(s), the CRO, the Financial Advisor, and the Monitor, and granted by the Court. The Encumbrances shall attach to the net proceeds of the sale of such Assets, as applicable without prejudice to any claims or causes of action regarding priority, validity or enforceability thereof.

#### Solicitation

14. As soon as reasonably practicable, the Financial Advisor will prepare, in consultation and with the Monitor and the CRO: (a) a list of potential bidders who may be interested in submitting an Investment Proposal and/or a Sale Proposal (the "Prospect List") including both strategic and financial parties who, in the Financial Advisor's judgment (after consultation with the Monitor), may be interested in effecting a transaction; (b) an initial offering summary (the "Teaser Letter") to notify each party on the Prospect List of the solicitation process under this SISP and to invite each such party to make an Investment Proposal and/or a Sale Proposal; and (c) a form of confidentiality agreement, which shall include an agreement to be bound by the provisions of this SISP (the "Confidentiality Agreement").
15. As soon as reasonably practicable, but in any event no later than January 18, 2016, the Financial Advisor shall send the Teaser Letter, a copy of the SISP Order and the form of Confidentiality Agreement to those persons on the Prospect List (the "Phase 1 Commencement Date") and, as soon as reasonably practicable thereafter, to any other person who expresses an interest in this SISP, who requests a copy of the Teaser Letter or who is identified to Walter Energy Canada, the CRO or the Monitor as a potential bidder.

#### SISP – PHASE 1

16. For a period of sixty (60) calendar days following the Phase 1 Commencement Date, or for such longer period as the CRO, in consultation with the Financial Advisor and the Monitor, may determine, acting reasonably ("Phase 1"), the Financial Advisor will solicit non-binding indications of interest in the form of non-binding letters of intent (each an "LOI") from each potential bidder on the Prospect List as well as any other interested party to effect an Investment Proposal or a Sale Proposal.
17. As soon as reasonably practicable after the granting of the SISP Order, but in any event no more than eight (8) business days after the issuance of the SISP Order, the Monitor will cause a notice of the SISP (and such other information the Monitor, in consultation with the Financial Advisor, considers appropriate) to be published in The Vancouver Sun, The Globe and Mail (National Edition), the Wall Street Journal and any other newspaper or trade journal as the Monitor and the Financial Advisor consider appropriate. On the same date, Walter Energy, Inc. will issue a press release setting out the notice of the SISP and such other information as may be advisable.
18. Interested parties that execute and deliver to the Financial Advisor the Confidentiality Agreement shall receive a detailed confidential information memorandum prepared by the Financial Advisor, in consultation with the CRO and the Monitor, describing the opportunity to effect an Investment Proposal and/or a Sale Proposal. Additionally, such

parties shall receive access to an electronic due diligence database (the “**Due Diligence Access**”). The Due Diligence Access for each party shall terminate upon the Phase 1 LOI Deadline (as defined below) in the event that such party fails to deliver an LOI in accordance with the instructions contained in the “Phase 1 Timing” section below.

19. The Financial Advisor, with the assistance of the Monitor, will designate a representative to coordinate all reasonable requests for Due Diligence Access for all parties eligible to receive such access in accordance with this section. The Financial Advisor, the Monitor, the CRO and Walter Energy Canada are not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the Business or the Assets and do not make any representations or warranties as to the information or materials provided.
20. In respect of information requests or any other matters concerning an Investment Proposal and/or a Sale Proposal, Prospective Bidders must communicate with Steve Zelin of PJT Partners LP, or with such other individual or individuals as he may authorize in writing and Anthony Tillman of the Monitor or such other individuals as the Monitor may authorize in writing. Without the prior written consent of the CRO, no Prospective Bidders or representatives of Prospective Bidders may initiate or cause to be initiated or maintain any communication with any officer, director, agent, employee, affiliate, creditor, shareholder, customer or supplier of Walter Energy Canada concerning Walter Energy Canada’s Business, Assets, operations, prospects or finances, or any matters relating to an Investment Proposal and/or a Sale Proposal.

Phase 1 Timing

21. Potential bidders that wish to pursue an Investment Proposal and/or a Sale Proposal (a “**Prospective Bidder**”) must deliver a non-binding LOI in writing via email or by personal delivery to the Financial Advisor, the CRO and the Monitor so that they are actually received by no later than 5:00 PM (Toronto time) on or before March 18, 2016, or such later date as determined by the CRO, in consultation with the Monitor and the Financial Advisor (the “**Phase 1 LOI Deadline**”) at:

PJT Partners LP  
280 Park Ave  
New York, NY 10017

Attention: Steve Zelin  
Email: [Zelin@pjtpartners.com](mailto:Zelin@pjtpartners.com)

With a copy delivered by email to the CRO:

Attention: William E. Aziz  
Email: [waziz@bluetreadvisors.com](mailto:waziz@bluetreadvisors.com)

and a copy to counsel to Walter Energy Canada:

Osler, Hoskin & Harcourt LLP  
100 King Street West

1 First Canadian Place  
Toronto, ON M5X 1B8

Attention: Marc Wasserman and Patrick Rjesterer  
Email: mwasserman@osler.com and priesterer@osler.com

With a copy to the Monitor:

KPMG Inc.  
Bay Adelaide Centre  
333 Bay Street, Suite 4600  
Toronto, ON M5H 2S5

Attention: Philip J. Reynolds and Anthony Tillman  
Email: pjreynolds@kpmg.ca and atillman@kpmg.ca

and a copy to counsel to the Monitor:

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

Attention: Wael Rostom and Caitlin Fell  
Email: wael.rostom@mcmillan.ca and caitlin.fell@mcmillan.ca

Non-Binding Letters of Intent Requirements

22. An LOI will be considered a qualified LOI (a “Qualified LOI”) only if:
- (a) it is submitted on or before the Phase 1 LOI Deadline;
  - (b) it contains an executed Confidentiality Agreement (if not already delivered);
  - (c) it indicates whether the LOI involves a Sale Proposal and/or an Investment Proposal.
  - (d) it identifies the Prospective Bidder and representatives thereof who are authorized to appear and act on behalf of the Prospective Bidder for all purposes regarding the contemplated transaction and it must fully disclose the identity of each entity that will be sponsoring, participating in or benefiting from the transaction contemplated by the LOI and the complete terms of such participation, including, in the case of an entity formed or to be formed for the purpose of entering into the transaction contemplated by the LOI, the identity of each actual or anticipated direct or indirect equity holder or beneficiary of such entity and the percentage of such equity holder or beneficiary’s interest in the transaction contemplated by the LOI;
  - (e) it describes the structure and financing of the proposed transaction (including, but not limited to, a specific indication of the sources of financing for the purchase

price, and preliminary evidence of the availability of such financing and the steps necessary and associated timing to obtain such financing and consummate the proposed transaction in each case in sufficient detail to permit the Financial Advisor, the CRO and the Monitor to make a reasonable business or professional judgment as to the Prospective Bidder's financial or other capabilities to consummate the transaction);

- (f) it describes the conditions and approvals required for a final and binding offer, including any anticipated corporate, security holder, internal or regulatory approvals required to close the transaction, and an estimate of the anticipated timeframe and any anticipated impediments for obtaining such approvals;
- (g) it describes any additional due diligence required to be conducted during Phase 2 (as defined below);
- (h) it identifies all conditions to closing to be imposed by the Prospective Bidder including, without limitation, any form of agreement required from a government body, stakeholder or other third party;
- (i) it contains such other information reasonably requested by the Financial Advisor, the CRO or the Monitor;
- (j) in the case of a Sale Proposal, it identifies or contains the following:
  - (i) the purchase price (or range thereof) in Canadian dollars, including details of any liabilities to be assumed by the Prospective Bidder;
  - (ii) the Assets that are to be purchased as part of the transaction;
  - (iii) the Assets that are to be excluded from the transaction;
  - (iv) a description of the Prospective Bidder's intended use of the Assets that are to be purchased as part of the transaction; and
  - (v) any other terms or conditions of the Sale Proposal that the Prospective Bidder believes are material to the transaction;
- (k) in the case of an Investment Proposal, it identifies or contains the following:
  - (i) a detailed description of the structure of the transaction including the direct or indirect investment target;
  - (ii) the aggregate amount of the equity and debt investment to be made in the Business;
  - (iii) equity, if any, to be allocated to the secured and unsecured creditors of Walter Energy Canada;
  - (iv) key assumptions supporting the valuation;

- (v) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interest or dividend rates, amortization, voting rights or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);
  - (vi) a description of the Prospective Bidder's intended use of the Assets that are to be purchased as part of the transaction; and
  - (vii) any other terms or conditions of the Investment Proposal that the Prospective Bidder believes are material to the transaction;
23. An LOI received by the Financial Advisor, the CRO, and the Monitor after the Phase 1 LOI Deadline shall not constitute a Qualified LOI, it being understood that the CRO, in consultation with the Financial Advisor and the Monitor, shall have the right to deem an LOI received after the Phase 1 LOI Deadline a Qualified LOI.

Assessment of Qualified LOIs and Continuation or Termination of Solicitation Process

24. Following the Phase 1 LOI Deadline, the CRO, the Financial Advisor and the Monitor will assess the Qualified LOIs received during Phase 1, if any, and will determine whether there is a reasonable prospect of obtaining a Bid. For the purpose of such consultations and evaluations, the Financial Advisor, the Monitor or the CRO may request clarification of the terms of any Qualified LOI submitted by a Prospective Bidder.
25. In assessing the Qualified LOIs submitted in Phase 1, the Financial Advisor, the Monitor and the CRO may consider, among other things, the following:
- (a) the form and amount of consideration being offered and the net value to Walter Energy Canada (including any assumed liabilities or other obligations to be performed by the Prospective Bidder);
  - (b) whether the Qualified LOI maximizes value for the Business and/or the Assets;
  - (c) the demonstrated financial capability of the Prospective Bidder to consummate the proposed transaction;
  - (d) the identity of the Prospective Bidder;
  - (e) the costs and risks associated with entering into a transaction with a Prospective Bidder;
  - (f) any transition services required in respect of the transaction contemplated by the Qualified LOI;
  - (g) any monetary value that may reasonably be attributed to any non-cash consideration provided by a Prospective Bidder;

- (h) the conditions to closing of the proposed transaction (including any required regulatory approvals and any other factors affecting the speed, certainty and value of the transaction);
  - (i) the treatment of the Walter Energy Canada employees (whether active or inactive);
  - (j) whether a claim is likely to be created by the Qualified LOI and a comparison of any such claims to claims likely to be created by any other Qualified LOI;
  - (k) the terms of the Qualified LOI (including, but not limited to, the anticipated counterparties to the transaction, the anticipated closing date, and the planned treatment of the Walter Energy Canada mines);
  - (l) the estimated time required to complete the proposed transaction and whether, in the Financial Advisor's, the CRO's and the Monitor's judgment, it is reasonably likely to close on or before the Outside Termination Date (as defined below); and
  - (m) such other criteria as the Financial Advisor, the CRO and the Monitor may determine.
26. If one or more Qualified LOIs are received and the CRO, in consultation with the Monitor and the Financial Advisor, determines there is a reasonable prospect of obtaining a Bid, the Financial Advisor shall notify the Prospective Bidders that the SISP shall progress to phase 2 (the date such notification being the "**Phase 2 Commencement Date**") and the solicitation process shall be continued in accordance with this SISP for a further sixty (60) calendar days following the Phase 2 Commencement Date or for such longer period as the CRO, in consultation with the Monitor and the Financial Advisor, may determine ("**Phase 2**").
27. If the CRO, in consultation with the Monitor and the Financial Advisor, determines:
- (a) there are no Qualified LOIs received by the Phase 1 LOI Deadline; or
  - (b) there are Qualified LOIs received by the Phase 1 LOI Deadline but the CRO, in its reasonable business judgment and in consultation with the Monitor and the Financial Advisor, determines that such Qualified LOIs fail to maximize the recovery on the Business and the Assets given the circumstances and there is not a reasonable prospect of obtaining a Bid,
- then the CRO may determine, in consultation with the Monitor, not to permit the SISP to progress to Phase 2 and Walter Energy Canada may apply to the Court for authorization to terminate this SISP immediately after such determination is made.
28. If the CRO, in consultation with the Monitor and the Financial Advisor, determines that there is at least one Qualified LOI received by the Phase 1 LOI Deadline, and the CRO, in its reasonable business judgment and in consultation with the Monitor and the Financial Advisor, determines that such Qualified LOI maximizes the recovery on the Business and the Assets given the circumstances, then the CRO shall be authorized to



negotiate with such Prospective Bidders to consummate a sale transaction with respect to the Business and/or the Assets (and notwithstanding anything contained herein, such Prospective Bidder shall thereafter be deemed to be the Successful Bidder), following which Walter Energy Canada shall seek Court approval of such agreement at a Sale Motion (as defined below) without having this SISP progress to Phase 2.

#### **SISP – PHASE 2**

29. In the event that the CRO, in consultation with the Financial Advisor and the Monitor, determines that this SISP shall progress to Phase 2, each Prospective Bidder that: (a) submits a Qualified LOI; and (b) is not eliminated from the solicitation process by the CRO, the Financial Advisor or the Monitor after the assessment of whether such Qualified LOI meets the criteria outlined above, will be invited to participate in Phase 2 (a “**Bidder**”).
30. With respect to the Due Diligence Access referenced above, each Bidder’s Due Diligence Access shall continue into Phase 2 and shall terminate upon the earliest of the following events to occur:
  - (a) such party does not submit a Bid by the Phase 2 Bid Deadline (as defined below);
  - (b) such party submits a Bid by the Phase 2 Bid Deadline but the CRO, in consultation with the Financial Advisor and the Monitor, determines that such party does not constitute a Qualified Bidder (as defined below);
  - (c) the closing of the transaction contemplated by the Successful Bid.
31. By the later of the Phase 2 Commencement Date or (if the Phase 2 Commencement Date has occurred) March 28, 2016, the Financial Advisor shall post a form of asset purchase agreement on the Due Diligence Access site (the “**APA Form**”) for Bidders who wish to submit Sale Proposals.

#### **Phase 2 Timing**

32. All Bids must be delivered in writing by email or personal delivery so that they are actually received by the Financial Advisor, the CRO and the Monitor by no later than 10:00 a.m. (Toronto time) on the day that is sixty (60) calendar days following the Phase 2 Commencement Date, or such later date or time as may be determined by the CRO, in consultation with the Financial Advisor and the Monitor, or the Court in accordance with the terms of this SISP (the “**Phase 2 Bid Deadline**”) at the addresses specified above in the section entitled “Non-Binding Letters of Intent from Prospective Bidders”.
33. A Bid received by the Financial Advisor, the CRO and the Monitor after the Bid Deadline shall not constitute a Qualified Bid (as defined below), unless the CRO, in consultation with the Financial Advisor and the Monitor, in its discretion, deems a Bid received after the Bid Deadline a Qualified Bid.

**Bid Requirements**

34. To be eligible to be a Qualified Bidder (as defined below) a Bidder must deliver a bid (a "Bid") to the Financial Advisor, the CRO and the Monitor by the Phase 2 Bid Deadline which satisfies each of the following conditions (a "Qualified Bid" and the party submitting such Qualified Bid, a "Qualified Bidder"):
- (a) **Confidentiality.** The Bidder must deliver an executed Confidentiality Agreement (if not already delivered);
  - (b) **Identification.** The Bid must identify the Bidder and representatives thereof who are authorized to appear and act on behalf of the Bidder for all purposes regarding the contemplated transaction and it must fully disclose the identity of each entity that will be sponsoring, participating or benefiting from the transaction contemplated by in the Bid and the complete terms of such participation, including, in the case of an entity formed or to be formed for the purpose of entering into the transaction contemplated by the Bid, the identity of each actual or anticipated direct or indirect equity holder or beneficiary of such entity and the percentage of such equity holder or beneficiary's interest in the transaction contemplated by the Bid;
  - (c) **Form and Content.** In the case of a Sale Proposal, the Bid must be in the same form as the APA Form and executed by the Bidder (each, a "Proposed Purchase Agreement"), together with all exhibits and schedules thereto and such ancillary agreements as may be required by the Bidder with all exhibits and schedules thereto. Any changes and modifications to the APA Form are to be indicated on a blackline to the APA Form (including, if applicable, any modifications made to reflect the Assets or parts thereof sought to be purchased). In the case of an Investment Proposal, the Bid must be in a form to be agreed upon by the CRO and the Qualified Bidder (the "Investment Form") and executed by the Bidder (each, a "Proposed Investment Agreement") together with all exhibits and schedules thereto and such ancillary agreements as may be required by the Bidder with all exhibits and schedules thereto. Any changes and modifications to the Investment Form are to be indicated on a blackline to the Investment Form;
  - (d) **Treatment of Contracts.** The Bid must identify, with particularity, the contracts, permits, licenses and/or leases the Bidder wishes to assume and those it wishes to reject and must contain full details of the Bidder's proposal for the treatment of related cure costs;
  - (e) **Approvals.** The Bid must outline any anticipated regulatory and other approvals required to close the transaction and the anticipated timeframe and any anticipated impediments for obtaining such approvals;
  - (f) **Corporate Authorizations.** The Bid must include evidence, in form and substance reasonably satisfactory to the CRO, the Financial Advisor and the Monitor, of authorization and approval from the Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Bid;

- (g) Good Faith Deposit. The Bid must be accompanied by a cash deposit equal to at least ten percent (10%) of the total value of the consideration contemplated by the Bid (the “**Good Faith Deposit**”), and the Good Faith Deposit shall be paid to the Monitor in accordance with wire instructions provided by the Monitor, and shall be held by the Monitor in accordance with this SISP;
- (h) Financial Wherewithal. The Bid must include evidence satisfactory to the CRO, the Financial Advisor and the Monitor of the Bidder’s financial ability to complete the Investment Proposal and/or Sale Proposal and close the transaction(s) on a closing date (the “**Closing Date**”);
- (i) Closing Date. The Bid must contain a binding commitment by the Bidder to close on the terms and conditions set forth in the Proposed Purchase Agreement or the Proposed Investment Agreement, as applicable, as soon as practicable after satisfaction or waiver of all conditions; provided that the Closing Date must take place by no later than June 30, 2016, or such later date as agreed to by the CRO, the Financial Advisor, the Monitor and the Bidder (the “**Outside Termination Date**”);
- (j) Closing Timeline. The Bid must provide a timeline for the closing of the transaction, which includes critical milestones;
- (k) Irrevocable. The Bid must be accompanied by a letter which confirms that the Bid: (i) may be accepted by the CRO, on behalf of Walter Energy Canada, by countersigning the Proposed Purchase Agreement or the Proposed Investment Agreement, as applicable, and (ii) is irrevocable and capable of acceptance until the earlier of (A) the day on which the Bidder is notified that the Bid is not a Qualified Bid; (B) the day on which the transaction contemplated by the Successful Bid(s) is/are closed, if the Bid is not the Successful Bid; and (C) the Outside Termination Date;
- (l) No Representations and Warranties. A Bid shall include an “as is, where is” clause substantially on the same terms as the “as is, where is” clause set out in the APA Form and the Investment Form;
- (m) Acknowledgment: A Bid shall include an acknowledgment and representation that the Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets to be acquired and liabilities to be assumed in making its Bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied (by operation of law or otherwise), regarding the Assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the Proposed Purchase Agreement or the Proposed Investment Agreement, as applicable;
- (n) Contingencies. The Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence;

- (o) No Fees Payable to Bidder. The Bid may not request or entitle the Bidder to any break-up fee, expense reimbursement, termination or similar type of fee or payment. Further, by submitting a Bid, a Bidder shall be deemed to irrevocably waive any right to pursue a claim in any way related to the submission of its Bid or this SISP; and
  - (p) Other Information. A Bid shall contain such other information reasonably requested by the CRO, the Financial Advisor or the Monitor.
35. Each Bidder shall comply with all reasonable requests for additional information by the CRO, the Financial Advisor or the Monitor regarding such Bidder and its contemplated transaction. Failure by the Bidder to comply with requests for additional information will be a basis for the CRO, in consultation with the Monitor and the Financial Advisor, to determine that the Bidder is not a Qualified Bidder.
36. The CRO, the Financial Advisor and the Monitor may discuss, negotiate or seek clarification of any Bid. A Bidder may not modify, amend or withdraw its Bid without the written consent of the CRO, the Financial Advisor and the Monitor. Any such modification, amendment or withdrawal of a Bid by a Bidder without the written consent of the CRO, the Financial Advisor and the Monitor shall result in a forfeiture of such Bidder's Good Faith Deposit as liquidated damages and not as a penalty.

### SISP – PHASE 3

37. If one or more Qualified Bids are received in accordance with this SISP, the CRO, in consultation with the Financial Advisor and the Monitor, may choose to:
- (a) accept one Qualified Bid or multiple sets of non-overlapping Qualified Bids with respect to the Business and/or the Assets (the “**Successful Bid(s)**”, and the party or parties submitting such Successful Bid(s), the “**Successful Bidder(s)**”) and take such steps as are necessary to finalize and complete an agreement for the Successful Bid(s) with the selected Qualified Bidder(s);
  - (b) continue negotiations with a selected number of Qualified Bidders with a view to finalizing an agreement with one or more Qualified Bidder(s) such that such Qualified Bidder(s) becomes the Successful Bidder(s); or
  - (c) conduct an auction to determine which Qualified Bidder(s) shall become the Successful Bidder(s) (the “**Auction**”), with the rules of such Auction to be established by the CRO, in consultation with the Financial Advisor and the Monitor, and to be delivered to each such Qualified Bidder that the CRO, in consultation with the Financial Advisor and the Monitor, determines should participate in any Auction should the CRO, in its discretion, decide to proceed in that manner.
38. Evaluation criteria for the Successful Bid(s) may include, but are not limited to, the factors listed in the “Assessment of Qualified LOIs and Continuation or Termination of Solicitation Process” section above (except such factors will be applied to an evaluation of the Qualified Bids, as opposed to the Qualified LOIs).

## OTHER TERMS

### CRO's, Monitor's, and Financial Advisor's Reservation of Rights

39. In addition to the other reservations of rights set out herein, the CRO, in consultation with the Financial Advisor and the Monitor, shall have the right in its discretion to: (a) waive strict compliance with any one or more of the LOI or Bid requirements specified herein, and deem such non-compliant LOIs to be Qualified LOIs or non-compliant Bids to be Qualified Bids, as the case may be, provided that such non-compliance is not material in nature; (b) reject any or all LOIs or Bids if, in the CRO's judgment, no LOI or Bid complies with the minimum requirements or for any other reasons; (c) adopt such ancillary and procedural rules not otherwise set out herein (including rules that may depart from those set forth herein) that in the CRO's judgment will better promote the goals of this SISP and facilitate the Auction and/or (d) terminate this SISP at any point in time. To the extent that any notice of changes to this SISP or related dates, times, or locations is required or otherwise appropriate, the Monitor may publish such notice on the Monitor's public website and such notice shall be deemed satisfactory, subject to any other notice requirements specifically set forth herein or as required by the Court.
40. The CRO, the Monitor and the Financial Advisor shall consult regularly with Walter Energy Canada with respect to the conduct and status of this SISP, and shall provide Walter Energy Canada with information reasonably requested from time to time by Walter Energy Canada in respect of the conduct and status of this SISP.

### Discussions with Third Party Stakeholders

41. If it is determined by the CRO, in consultation with the Financial Advisor and the Monitor, that it would be worthwhile to facilitate a discussion between a Prospective Bidder or a Qualified Bidder, as applicable, and a stakeholder or other third party (such as a governmental or regulatory authority) as a consequence of a condition to a potential transaction or potential closing condition identified by such Prospective Bidder or Qualified Bidder, the CRO may provide such Prospective Bidder or Qualified Bidder with the opportunity to meet with the relevant stakeholder or third party to discuss such condition or potential condition, with a view to enabling such Prospective Bidder or Qualified Bidder to seek to satisfy the condition or assess whether the condition is not required or can be waived. Any such meetings or other form of communication will take place on terms and conditions considered appropriate by the CRO, in consultation with the Financial Advisor and the Monitor.

### Sale Motion

42. Walter Energy Canada shall promptly apply to the Court for an order approving the Successful Bid(s) and authorizing the Investment Proposal and/or the sale of the applicable Assets to the Successful Bidder(s) free and clear of all liens and encumbrances, other than those liens and encumbrances expressly to be assumed by the Successful Bidder(s) (the "Sale Motion"). The Sale Motion shall be scheduled with the Court as soon as possible thereafter at 800 Smithe Street, Vancouver, B.C. The Sale Motion may be adjourned or re-scheduled by Walter Energy Canada, the Monitor, and/or the CRO without further notice by an announcement of the adjourned date at the Sale

Motion. Notwithstanding the foregoing, in the event that there is more than one Successful Bid, the CRO, in consultation with the Monitor, reserves the right to impose a condition in each Successful Bid that Walter Energy Canada shall have the right to seek to have any Sale Motion heard on the same day as any other Sale Motion(s).

Consent to Jurisdiction as Condition to Bid

43. All Prospective Bidder and Qualified Bidders shall be deemed to have consented to the exclusive jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to this SISP and the construction and enforcement of the relevant transaction documents, as applicable.

SISP Participant Fees

44. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them for any reason whatsoever, including but not limited to, in connection with the submission of any LOI, Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.

Closing the Successful Bid

45. The CRO and the Successful Bidder(s) shall take all reasonable steps to complete the transaction contemplated by the Successful Bid(s) as soon as possible after the Successful Bid(s) are approved by the Court. Notwithstanding the foregoing, in the event that there is more than one Successful Bid, the CRO reserves the right to impose a condition in each Successful Bid that the obligation of Walter Energy Canada to complete the transaction contemplated by each Successful Bid is conditional upon the completion of the transaction(s) contemplated by each other Successful Bid. Walter Energy Canada will be deemed to have accepted the Successful Bid(s) only when the Successful Bid(s) has/have been approved by the Court.
46. If the transaction(s) contemplated by the Successful Bid(s) has/have not closed by the Outside Termination Date, or such Successful Bid(s) is/are terminated for any reason prior to the Outside Termination Date, then this SISP shall be terminated.

Return of Good Faith Deposit

47. All Good Faith Deposits shall be held by the Monitor in an interest-bearing account until returned to the applicable Bidder or otherwise dealt with in accordance with this SISP. Good Faith Deposits of all Bidders who are determined not to be Qualified Bidders shall be returned to such Bidders ten (10) business days after the day on which the Bidder is notified that it is not a Qualified Bidder. Good Faith Deposits of all Qualified Bidders other than the Successful Bidder(s) shall be returned to such Qualified Bidders ten (10) business days after the day on which the transaction(s) contemplated by the Successful Bid(s) closes.
48. The Good Faith Deposit(s) of the Successful Bidder(s) shall be applied to the purchase price of its transaction(s) at closing. If the Successful Bid(s) fail(s) to close by the Outside Termination Date because of a breach or failure to perform on the part of the

Successful Bidder(s), Walter Energy Canada shall be entitled to retain the Good Faith Deposit of the applicable Successful Bidder(s) as part of its liquidated damages resulting from the breach or failure to perform by the applicable Successful Bidder(s) (and not as a penalty). The Good Faith Deposit of the Successful Bidder(s) shall otherwise be returned to the Successful Bidder(s) in accordance with the terms of the Successful Bid(s).

No Amendment

49. There will be no amendments to this SISIP without the written consent of the CRO and the Monitor, each acting reasonably, or, in the absence of consent, the approval of the Court. This SISIP does not, and will not be interpreted to, create any contractual or other legal relationship between Walter Energy Canada, the CRO, the Monitor, the Financial Advisor and any Prospective Bidder or Bidder. At any time during the implementation of this SISIP, the CRO, Walter Energy Canada, the Monitor, or the Financial Advisor may apply to the Court for advice and directions with respect to the discharge of their powers and duties hereunder.

No Acceptance Obligation

50. The CRO, in consultation with the Financial Advisor and the Monitor, shall be under no obligation to accept the highest Qualified LOI and/or the highest Qualified Bid or any Qualified LOI and/or Qualified Bid, and reserves the right to reject any or all Qualified LOIs and/or Qualified Bids. The selection of the Successful Bid(s) shall be in the sole discretion of the CRO, in consultation with the Financial Advisor and the Monitor.

Summary of Key Dates

51. The following chart summarizes the key dates provided for in this SISIP, which dates are subject to extension or modification by the CRO, in consultation with the Financial Advisor and the Monitor, in accordance with the terms hereof.

Phase 1 Commencement Date / Teaser Letters sent to Prospect List	January 18, 2016
Phase 1 LOI Deadline	March 18, 2016
Phase 2 Commencement Date / APA Form posted to Due Diligence Access site	March 28, 2016
Phase 2 Bid Deadline	May 27, 2016
Outside Termination Date	June 30, 2016

NO. S-1510120  
VANCOUVER REGISTRY

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

AND

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

AND

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

PETITIONERS

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**ORDER MADE AFTER APPLICATION**

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**DLA PIPER (CANADA) LLP**  
Barristers & Solicitors  
2800 Park Place  
666 Burrard Street  
Vancouver BC V6C 2Z7

Tel. No. 604.687.9444  
Fax No. 604.687.1612

Client Matter No. 15375-00001

TAG/mlf



NO. S-1510120  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

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

AND

IN THE MATTER OF THE PLAN OF COMPROMISE OR  
ARRANGEMENT OF NEW WALTER ENERGY  
CANADA HOLDINGS, INC., NEW WALTER CANADIAN  
COAL CORP., NEW BRULE COAL CORP., NEW  
WILLOW CREEK COAL CORP., NEW WOLVERINE  
COAL CORP. AND CAMBRIAN ENERGYBUILD  
HOLDINGS ULC

PETITIONERS

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**AFFIDAVIT #23 OF WILLIAM E. AZIZ**

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**OSLER HOSKIN & HARCOURT LLP**  
Barristers & Solicitors  
1055 West Hastings Street  
Suite 1700, The Guinness Tower  
Vancouver, BC V6E 2E9

Tel. No. 416.862.4924  
Fax No. 416.862.6666

Client Matter No. 1164807