

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

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE
MADAM JUSTICE FITZPATRICK

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MONDAY, THE 7TH DAY OF
DECEMBER, 2015

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 7th day of December, 2015 (the "Order Date"); AND ON HEARING Mary I.A. Buttery, ^{Tijana Gavic} Marc Wasserman and Patrick Riesterer, counsel for the Petitioners, Wael Rostom, ^{Land Jamieson Virgin} counsel for KPMG Inc. and those other counsel listed on Schedule "B" hereto; AND UPON READING the material filed, including the First Affidavit of William G. Harvey sworn December 4, 2015 (the "First Affidavit") and the consent of KPMG Inc. to act as Monitor; 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:

JURISDICTION

1. The Petitioners are entities to which the CCAA applies. Although not Petitioners, the partnerships listed on Schedule "C" hereto (collectively with the Petitioners, the "Walter Canada

Group") shall enjoy the benefits of the protections provided herein and shall be subject to the same restrictions hereunder.

SUBSEQUENT HEARING DATE

2. The hearing of the Petitioners' application for an extension of the Stay Period (as defined in paragraph 18 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on ~~Wednesday~~, January ~~6~~, 2015, or such other date as this Court may order.

Tuesday
at 9:00 am *5*

PLAN OF ARRANGEMENT

3. The Petitioners shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement, which may include any one or more of the members of the Walter Canada Group (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY, OPERATIONS AND CASH MANAGEMENT SYSTEM

4. Subject to this Order and any further Order of this Court, the members of the Walter Canada Group shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"), and continue to carry on their business (the "Business") in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Walter Canada Group shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

5. The Walter Canada Group shall be entitled to continue to use the Cash Management System currently in place as defined and described in the First Affidavit or replace it with another substantially similar central cash management system and any present or future bank providing the Cash Management System:

- (a) shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Walter Canada Group of

funds transferred, paid, collected or otherwise dealt with in the Cash Management System;

- (b) shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Walter Canada Group, pursuant to the terms of the documentation applicable to the Cash Management System; and
- (c) shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. The Walter Canada Group is authorized but not directed to continue, on and after the date hereof, to receive the Shared Services (as defined in the First Affidavit) on terms substantially consistent with past practices. If the Walter Canada Group elects to receive such Shared Services after the date hereof, the Walter Canada Group and Walter Energy, Inc. and its affiliates, with the consent of the Monitor, may agree on terms and pricing of such Shared Services or to receive the Shared Services on such other terms or such other pricing as may be agreed among the Walter Canada Group and Walter Energy, Inc. and its affiliates, with the consent of the Monitor. The Walter Canada Group is authorized and directed to pay US\$600,000 in cash in full and final settlement of the outstanding amounts owing in respect of the Shared Services provided in the period from November 1, 2015 to November 30, 2015.

7. The Walter Canada Group shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the Order Date:

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay, and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively "**Wages**");
- (b) the fees and disbursements of any Assistants retained or employed by the Walter Canada Group which are related to the Walter Canada Group's restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Walter Canada Group, whenever and wherever incurred, in respect of:

- (i) these proceedings or any other similar proceedings in other jurisdictions in which the Walter Canada Group or any subsidiaries or affiliated companies of the Walter Canada Group is domiciled;
- (ii) any litigation in which any member of the Walter Canada Group is named as a party or is otherwise involved, whether commenced before or after the Order Date; and
- (iii) any related corporate matters.

8. Except as otherwise provided herein, the Walter Canada Group shall be entitled to pay all expenses reasonably incurred by the Walter Canada Group in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$250,000 shall be approved by the Monitor;
- (b) all obligations incurred by the Walter Canada Group after the Order Date, including without limitation, with respect to goods and services actually supplied to the Walter Canada Group following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Walter Canada Group's obligations incurred prior to the Order Date unless otherwise provided herein); and
- (c) fees and disbursements of the kind referred to in paragraph 7(b) which may be incurred after the Order Date.

9. The Walter Canada Group is authorized to remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i)

employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;

- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Walter Canada Group in connection with the sale of goods and services by the Walter Canada Group, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date;
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors; and
- (d) any mineral taxes that are required to be remitted by the members of the Walter Canada Group.

10. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Walter Canada Group shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Walter Canada Group and the landlord from time to time ("**Rent**"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including Order Date shall also be paid.

11. Except as specifically permitted herein, the Walter Canada Group is hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Walter Canada Group to any of their creditors as of the Order Date except as authorized by this Order;

- (b) to make no payments in respect of any financing leases which create security interests;
- (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of its Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business only to its customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Walter Canada Group to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

12. Notwithstanding paragraph 11, with the consent of the Monitor, the Walter Canada Group is authorized to pay amounts owing to creditors who hold valid and enforceable possessory or statutory liens against any asset of the Walter Canada Group where the value of such asset exceeds the amount of the possessory or statutory lien or where the asset is deemed critical by the Walter Canada Group to the Business and the Walter Canada Group is also authorized but not directed to:

- (i) pay the entire amount of their obligations to any creditor if the amount of such obligations, as agreed between the Walter Canada Group and the creditor, is \$1,000 or less as of the Order Date; and
- (ii) pay an amount agreed to by the Walter Canada Group and any other creditor where the amount of such obligations exceeds \$1,000, provided that such creditor agrees to accept that amount in full satisfaction of all obligations to such creditor as of the Order Date,

provided that the total amount paid pursuant to the terms of subparagraphs 12(i) and (ii) does not exceed \$200,000.

13. The Walter Canada Group is authorized and directed to fully cash collateralize to the Administrative Agent under the 2011 Credit Agreement (as defined in the First Affidavit) all undrawn letters of credit issued in respect of the Canadian Revolver (as defined in the First Affidavit) in

accordance with the 2011 Credit Agreement within 15 business days of the date a demand is received by the Walter Canada Group for such cash collateralization from the Administrative Agent under the 2011 Credit Agreement (a "**Demand**").

RESTRUCTURING

14. Subject to such requirements as are imposed by the CCAA, the Walter Canada Group shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of their Business or operations and commence marketing efforts in respect of any of their redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$1,000,000 in any one transaction or \$5,000,000 in the aggregate (provided however that the marketing and sale of the Purchased Equipment (defined below) pursuant to this Order is hereby excluded from this subparagraph 14(a));
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as it deems appropriate; and
- (c) pursue all avenues of refinancing and recapitalization of the Business or Property, in whole or part,

all of the foregoing to permit the Walter Canada Group to proceed with an orderly restructuring of the Business (the "**Restructuring**").

15. The Walter Canada Group shall provide each of the relevant landlords with notice of the Walter Canada Group's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Walter Canada Group's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who claim a security interest in the fixtures, such landlord and the Walter Canada Group, or by further Order of this Court upon application by the Walter Canada Group, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If the Walter Canada Group disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in

Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Walter Canada Group's claim to the fixtures in dispute.

16. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Walter Canada Group and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Walter Canada Group, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Walter Canada Group of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

17. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act, as applicable (the "**Relevant Enactment**"), the Walter Canada Group, in the course of these proceedings, is permitted to, and hereby shall, disclose personal information of identifiable individuals in its possession or control to stakeholders, its advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring, or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the members of the Walter Canada Group binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring, or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Walter Canada Group or destroy it. If the Third Parties acquire personal information as part of the Restructuring, or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Walter Canada Group.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

18. Until and including January 6, 2016, or such later date as this Court may order (the "**Stay Period**"), no action, suit or proceeding in any court or tribunal (each, a "**Proceeding**") against or in respect of the Walter Canada Group or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Walter Canada Group and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Walter Canada Group or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

19. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other Group (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Walter Canada Group or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Walter Canada Group and the Monitor or leave of this Court.

20. During the Stay Period, all rights and remedies of any Person against or in respect of the Walter Canada Group, Belcourt Saxon Coal Ltd. or Belcourt Saxon Coal Limited Partnership in relation to the Belcourt Saxon Limited Partnership Agreement dated March 2, 2005 as amended, restated or modified from time to time between Belcourt Saxon Coal Ltd. as general partner (the "**GP**"), Western Canadian Coal Corp., and Nemi Northern Energy & Mining Inc. and the other persons party thereto from time to time (the "**BS LP Agreement**") including any rights in respect of the removal of the GP or the triggering of a sale, assignment or transfer of any rights under the BS LP Agreement are hereby stayed and suspended except with the written consent of the Walter Canada Group and the Monitor or leave of this Court.

21. Nothing in this Order, including paragraphs 18 and 19, shall: (i) empower the Walter Canada Group to carry on any business which the Walter Canada Group is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Walter Canada Group; or (v) prevent or prohibit the Administrative Agent under the 2011 Credit Agreement from making a Demand pursuant to paragraph 13 hereof.

NO INTERFERENCE WITH RIGHTS

22. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Walter Canada Group, except with the written consent of the Walter Canada Group and the Monitor or leave of this Court.

CONTINUATION OF SERVICES

23. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Walter Canada Group or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Walter Canada Group, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Walter Canada Group, and that the Walter Canada Group shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Walter Canada Group in accordance with normal payment practices of the Walter Canada Group or such other practices as may be agreed upon by the supplier or service provider and the Walter Canada Group and the Monitor, or as may be ordered by this Court, provided further that no stay shall apply with respect to the termination of the Shared Services and no such Shared Services shall be required to be provided to the Walter Canada Group, upon consummation of any sale of assets pursuant to the asset sale motion filed in the Chapter 11 Cases (as defined in the First Affidavit) on November 5, 2015.

NON-DEROGATION OF RIGHTS

24. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Walter Canada Group on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

APPROVAL OF SURPLUS EQUIPMENT TRANSACTION

25. Willow Creek Coal Partnership and Brule Coal Partnership (collectively, the "**Vendors**") are authorized to enter into the Bill of Sale between the Vendors and Jim Walter Resources, Inc. (the "**Purchaser**") (the "**Bill of Sale**"), substantially in the form attached as Exhibit "I" to the First Affidavit, and the transaction contemplated therein (the "**Surplus Equipment Transaction**") is commercially reasonable and is hereby approved and the execution of the Bill of Sale by the Vendor is hereby approved. The Vendor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Surplus Equipment Transaction.

26. Provided that a superior offer for the Purchased Equipment is not received within a reasonable period of time as determined by the Monitor, or any such superior offer is met or exceeded by the Purchaser, the Monitor shall deliver to the Purchaser a certificate substantially in the form attached hereto as **Schedule "D"** (the "**Monitor's First Certificate**") and, upon the delivery by the Monitor to the Purchaser of the Monitor's First Certificate (a copy of which Monitor's First Certificate shall be filed with the Court forthwith after the delivery thereof), all of the Vendor's right, title and interest in and to the property that is the subject of the Surplus Equipment Transaction (the "**Purchased Equipment**") shall vest absolutely in the Purchaser in fee simple, subject to the Equipment Charge (as defined below) and free and clear of and from any and all other security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by this Order (other than the Equipment Charge) and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system (the "**Surplus Equipment Encumbrances**").

27. The Vendors shall be entitled to the benefit of and are hereby granted a first-ranking charge (the "**Equipment Charge**") on the Purchased Equipment, which charge shall not exceed ~~an aggregate amount of USD \$1,200,000~~ plus applicable taxes (the "**Purchase Price**") as security for the payment of the Purchase Price by the Purchaser to the Vendors, which Equipment Charge shall attach and shall be deemed to have attached immediately upon the vesting of the Purchased Equipment in the Purchaser upon delivery of the Monitor's First Certificate.

the amount that the
Purchaser ultimately
pays for the purchased
Equipment,

28. Following the payment of the Purchase Price from the Purchaser to the Vendors, the Equipment Charge shall be extinguished automatically upon delivery by the Monitor to the Purchaser of a certificate substantially in the form attached hereto as **Schedule "E"** (the "**Monitor's Second Certificate**"), a copy of which Monitor's Second Certificate shall be filed with the Court forthwith after the delivery thereof, certifying that payment has been made.

29. For the purposes of determining the nature and priority of any claims in respect of the Purchased Equipment, (i) prior to the payment of the Purchase Price for the Purchased Equipment, the Equipment Charge shall, and, (ii) after the payment of the Purchase Price, the net proceeds from the Surplus Equipment Transaction shall, stand in the place and stead of the Purchased Equipment, and from and after the delivery of the Monitor's Certificate all claims shall attach to the net proceeds from the Surplus Equipment Transaction with the same priority as they had with respect to the Purchased Equipment immediately prior to the sale, as if the Purchased Equipment had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.

30. In the event that the Vendors are not in receipt of the Purchase Price on the day that is 90 days following the date of Bill of Sale: (i) ownership of the Purchased Equipment shall be deemed to have reverted back to the Vendors and all of the Surplus Equipment Encumbrances relating thereto shall be deemed to attach to the Purchased Equipment as if the Surplus Equipment Transaction had not occurred; (ii) the Purchase Price shall no longer be owing from the Purchaser to the Vendors; and (iii) Equipment Charge shall be automatically extinguished.

31. Notwithstanding:

- (a) these proceedings;
- (b) any applications for a bankruptcy order in respect of the Vendor now or hereafter made pursuant to the BIA and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made by or in respect of the Vendor,

the vesting of the Purchased Equipment in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendor and shall not be void or voidable by creditors of the Vendor, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable

transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

32. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Walter Canada Group with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Walter Canada Group whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Walter Canada Group, if one is filed, is sanctioned by this Court and implemented by the Walter Canada Group or is refused by the creditors of the Walter Canada Group or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Walter Canada Group that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE

33. The Walter Canada Group shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Walter Canada Group after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

34. The directors and officers of the Walter Canada Group shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$2,500,000, as security for the indemnity provided in paragraph 33 of this Order. The Directors' Charge shall have the priority set out in paragraphs 46 and 47 hereof.

35. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Walter Canada Group's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance

policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 33 of this Order.

APPOINTMENT OF MONITOR

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

37. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor and approve the Walter Canada Group's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;
- (c) assist the Walter Canada Group in preparing and advise the Walter Canada Group in their preparation of the Walter Canada Group's cash flow statements and any other reporting to the Court or otherwise;
- (d) advise the Walter Canada Group in their development of the Plan and any amendments to the Plan;
- (e) assist the Walter Canada Group, to the extent required by the Walter Canada Group, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) have full and complete access to the Property, including the premises, books, Records, data, including data in electronic form, and other financial documents of the Walter Canada Group, and any person in possession or control thereof, including any entity that is not a Petitioner in these proceedings, is hereby directed to grant to

the Monitor unfettered access thereto to the extent that is necessary to adequately assess the Walter Canada Group's business and financial affairs or to perform its duties arising under this Order;

- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (h) review and monitor the provision of and payment for all Shared Services, assist the Walter Canada Group in negotiations with Walter Energy, Inc. and its affiliates regarding changes to existing Shared Services arrangements and assist the Walter Canada Group in developing alternatives to the Shared Services, including with respect to sourcing new service providers with respect to any or all services that are currently Shared Services, in each case in such manner as the Walter Canada Group in consultation with the Monitor, consider appropriate;
- (i) conduct such further or other marketing of the Purchased Equipment as the Monitor deems appropriate; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

38. The Monitor, in addition to the above, is hereby empowered and authorized, but not required to:

- (a) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to transactions, intercompany funding and other processes and services as between and amongst the Walter Canada Group and as between the Walter Canada Group and any members of the Walter Group (as defined in the First Affidavit) (the "**Intercompany Transactions**")
- (b) develop, in consultation with the Walter Canada Group, such principles and policies and procedures as are satisfactory to the Monitor to govern the Intercompany Transactions and to address any matters arising therefrom; and
- (c) participate in any discussions with the Walter Canada Group's various stakeholders, including any unions, governmental authorities or other stakeholders, regarding all

matters relating to the Property, the Business, the Plan and/or these CCAA proceedings.

39. The Monitor shall not take possession or control of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of its powers or performance of its duties under this Order, be deemed to have occupied or taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor 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, for any purpose whatsoever.

40. Nothing herein contained shall require or allow the Monitor to occupy, operate or to take control, care, charge, possession, or management (separately and/or collectively, "**Possession**") of any of the Property that might now be or might otherwise become environmentally contaminated, might be a pollutant or a contaminant (including, without limitation, Possession of any pollutant, waste, contaminant or substance that may be present in, on or under the Property), or might cause, permit, authorize, contribute to, or result in, or increase the likelihood or risk of, a spill, discharge, release or deposit of any pollutant, waste, contaminant or substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal, management or handling of waste, substances or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Species at Risk Act*, the *British Columbia Environmental Management Act*, the *British Columbia Water Act*, ~~the *British Columbia Fish Protection Act*~~, the *British Columbia Water Protection Act*, the *British Columbia Forest Act*, the *British Columbia Fish Protection Act*, the *British Columbia Mines Act*, the *Health, Safety and Reclamation Code for Mines in British Columbia* or any similar legislation, and regulations, policies, guidelines or codes of practice thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty of the Monitor to report or make disclosure imposed by section 11.8(4) of the CCAA. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession. nl

41. The Monitor shall provide any creditor of the Walter Canada Group and counsel to the Steering Committee (as defined in the First Affidavit) with information provided by the Walter Canada

Group in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Walter Canada Group is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Walter Canada Group may agree.

42. In addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded to the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

43. The Monitor, counsel to the Monitor, and counsel to the Walter Canada Group shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Walter Canada Group as part of the cost of these proceedings. The Walter Canada Group is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, and the Walter Canada Group's counsel, on a periodic basis and, in addition, the Walter Canada Group is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Walter Canada Group, retainers in the aggregate amount of up to \$800,000 to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.


44. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

45. The Monitor, counsel to the Monitor and counsel to the Walter Canada Group shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$2,500,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel or such person, both before and after the making of this Order which are related to the Walter Canada Group's restructuring. The Administration Charge shall have the priority set out in paragraphs 46 and 47 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

46. The priorities of the Administration Charge and the Directors' Charge, as among them, shall be as follows:

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

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

47. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge, the Directors' 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) 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.

48. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property (or the Purchased Equipment) 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.

49. 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.

50. 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 the declarations of insolvency made herein; (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 payments made by the Walter Canada Group pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

51. 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.

SERVICE AND NOTICE

52. The Monitor shall (i) without delay, publish in the Vancouver Sun, the Globe and Mail (National Edition) and the Tumbler Ridge News a notice containing the information prescribed under the CCAA, (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Walter Canada Group of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

53. The Walter Canada Group and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Walter Canada Group's creditors or other interested parties at their respective addresses as last shown on the records of the Walter Canada Group and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business

day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

54. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: www.kpmg.com/walterenergycanada.

(CA) 2

55. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on its website at: www.kpmg.com/walterenergycanada.

(CA) 2

56. Notwithstanding paragraphs 54 and 55 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.

GENERAL

57. The Walter Canada Group or the Monitor may from time to time apply to this Court for directions in the discharge of its powers and duties hereunder.

58. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any member of the Walter Canada Group, the Business or the Property.

59. 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.

60. 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.

61. Any member of the Walter Canada Group may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Walter Canada Group determine that such a filing is appropriate and the Monitor is authorized but not directed, on behalf of any member of the Walter Canada Group, (subject to the provisions of the CCAA and the BIA) file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if such member of the Walter Canada Group cannot do so on its own account and the Monitor determines that such a filing is appropriate.

62. The Walter Canada Group is hereby at liberty to apply for such further interim or interlocutory relief as it deems advisable within the time limited for Persons to file and serve Responses to the Petition.

63. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

64. Any interested party (including the Walter Canada Group and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

66. 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 Patrick Riesterer)

and

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

BY THE COURT



REGISTRAR

AS TO FORM
TL

SCHEDULE "A"

Petitioners

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

SCHEDULE "B"

COUNSEL LIST	
NAME	PARTY REPRESENTED
Steve Dvorak (in person), Ryan Jacobs (by phone) <i>Matthew Nied (in person)</i>	Steering Committee of First Lien Creditors of Walter Energy Inc.
Caitlin Fell (by phone)	KPMG Inc., Proposed Monitor

SCHEDULE "C"

Partnerships

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

SCHEDULE "D"

Monitor's Certificate

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

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

AND

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

PETITIONERS

MONITOR'S FIRST CERTIFICATE

RECITALS

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

B. Pursuant to the Initial Order, the Court approved the Bill of Sale and the Surplus Equipment Transaction contemplated therein and provided for the vesting in the Purchaser of the Purchased Equipment.

C. The Monitor stated an intention in its Pre-Filing Report dated December 4, 2015 that it would expand upon the marketing process for the Purchased Equipment.

D. All capitalized terms used but not defined herein shall have the meaning given in the Initial Order.

THE MONITOR CERTIFIES the following:

1. The Monitor has expanded upon the marketing process for the Purchased Equipment and confirms that no superior offer for the Purchased Equipment has been received, or that the Purchaser has agreed to meet or exceed any such superior offer.
2. The conditions precedent to the application of paragraphs 26 and 27 of the Initial Order have been satisfied to the satisfaction of the Monitor.

This Certificate was delivered by the Monitor at _____ on _____, 2015.

**KPMG Inc., in its capacity as Monitor of Walter
Energy Canada Holdings, Inc., and not in its
personal capacity**

Per: _____
Name:
Title:

SCHEDULE "E"

Monitor's Certificate

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

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

AND

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

PETITIONERS

MONITOR'S SECOND CERTIFICATE

RECITALS

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

B. Pursuant to the Initial Order, the Court approved the Bill of Sale and the Surplus Equipment Transaction contemplated therein and provided for the vesting in the Purchaser of the Purchased Equipment.

C. The Monitor has delivered to the Purchaser and has filed with the Court the Monitor's First Certificate, pursuant to which the Purchased Assets vested in the Purchaser free and clear of any Surplus Equipment Encumbrances other than the Equipment Charge and subject to the terms of the Initial Order.

D. The Vendors have provided evidence to the Monitor that they have received the Purchase Price for the Purchased Equipment.

E. All capitalized terms used but not defined herein shall have the meaning given in the Initial Order.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Monitor confirms that the Vendors have received the Purchase Price for the Purchased Equipment.

2. The Surplus Equipment Transaction has been completed to the satisfaction of the Monitor and the condition precedent to the discharge of the Equipment Charge has been satisfied.

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

KPMG Inc., in its capacity as Monitor of Walter Energy Canada Holdings, Inc., and not in its personal capacity

Per: _____

Name:

Title:

NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

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

ORDER MADE AFTER APPLICATION

DLA PIPER (CANADA) LLP

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Client Matter No. 15375-00001

TAG/mlf