

CANADA
PROVINCE OF ONTARIO

SUPERIOR COURT
In Bankruptcy and Insolvency
(Commercial List)

Estate/Court File No.: 31-2363758
31-2363759

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
JONES CANADA, INC. AND NINE WEST
CANADA LP

PROPOSAL

**ARTICLE 1
INTERPRETATION**

1.1 Definitions:

For all purposes relating to the present Proposal, the following terms shall have the following meanings:

- a) **"Administration Order"** means the Administration Order of the Court made April 11, 2018.
- b) **"Bankruptcy Proceeding"** means any deemed assignment into bankruptcy pursuant to section 57 of the BIA and all estate liquidation and administration proceedings related thereto.
- c) **"Bankruptcy Scenario"** means an immediate liquidation of the NW Canada Entities remaining assets and distribution of proceeds of realization in a Bankruptcy Proceeding.
- d) **"BIA"** means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.
- e) **"Business Day"** means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Toronto, Ontario.
- f) **"Chapter 11 Proceedings"** has the meaning ascribed to it in Article 2.1 of this Proposal.



- g) **"Claim"** means any right of any Person against the NW Canada Entities in connection with any indebtedness, liability or obligation of any nature whatsoever, including, without limitation, claims that are liquidated, unliquidated, fixed, contingent, matured, unmatured, legal, equitable, present, future, known, unknown, disputed, undisputed or whether by guarantee, by surety, by subrogation or otherwise incurred and whether or not such a right is executory in nature, incurred or arising or related to the period prior to the Filing Date, or based in whole or in part on facts, contracts or arrangements which occurred or existed prior to the Filing Date, including, for greater certainty: (i) any claim against the NW Canada Entities for indemnification by any Director or Officer; and (ii) any right of any Person against the NW Canada Entities arising pursuant to sections 65.11 or 65.2 of the BIA. For greater certainty, a Claim does not include a Post-Filing Claim.
- h) **"Court"** means the Ontario Superior Court of Justice.
- i) **"Creditors"** means the holders of Claims.
- j) **"Creditors' Fund"** has the meaning ascribed to it in Article 2.3 of this Proposal.
- k) **"Creditors' Meeting"** means the meeting of Creditors to be held for the purpose of considering and voting upon this Proposal, and any adjournment(s) of such meeting.
- l) **"Creditors' Meeting Date"** means such date and time as may be set by the Proposal Trustee, but in any event no later than 21 days following the filing of this Proposal with the Official Receiver.
- m) **"Crown Priority Claims"** means all amounts owing to Canada Revenue Agency that could be subject to a demand under subsection 224(1.2) of the *Income Tax Act* (Canada) or under any substantially similar provision of provincial legislation as at the Filing Date.
- n) **"D&O Claim"** means the right of any Person against one or more of the Directors or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, **unmatured**, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the 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, including any right of



contribution or indemnity, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer.

- o) **"D&O Trust"** means trust indenture dated April 2, 2018, as amended, and funds held in accordance therewith.
- p) **"Directors"** means all current and former directors (or their estates) of the NW Canada Entities, in such capacity, and **"Director"** means any one of them.
- q) **"Disputed Claim"** means any Claim or D&O Claim which has been received by the Proposal Trustee in accordance with the terms of this Proposal and the BIA, but has not been accepted as proven in accordance with section 135 of the BIA or which is being disputed in whole or in part by the Proposal Trustee, or any other person entitled to do so and has not been resolved by agreement or by Order of the Court.
- r) **"Disputed Creditor"** means a Person holding a Disputed Claim to the extent of its Disputed Claim.
- s) **"Effective Date"** means two (2) Business Days following the satisfaction of the conditions listed in Article 4 of this Proposal.
- t) **"Employee Priority Claims"** means Claims of the former employees of the NW Canada Entities to be paid in accordance with section 60(1.3) of the BIA.
- u) **"Employee Priority Creditors"** means the holders of Employee Priority Claims.
- v) **"Filing Date"** means April 6, 2018.
- w) **"Final Contribution"** has the meaning ascribed to it in Article 2.6 of this Proposal.
- x) **"Final Dividend Notice"** has the meaning ascribed to it in Article 3.1 of this Proposal.
- y) **"Initial Fund Contribution"** has the meaning ascribed to it in Article 2.6 of this Proposal.
- z) **"Inspectors"** means the inspectors that are or may be appointed pursuant to section 56 of the BIA.
- aa) **"Jones Canada"** means Jones Canada, Inc.



- bb) **"KERA"** means the key employee retention agreement attached as Confidential Appendix "2" to the First Report of the Proposal Trustee dated April 9, 2018 (as same may have been and may be amended from time to time) and approved by the Administration Order.
- cc) **"KERA Beneficiaries"** means those employees or former employees of the NW Canada Entities who are beneficiaries of the KERA and in whose favour the KERA Charge was granted.
- dd) **"KERA Charge"** means the charge approved by the Court in the Administration Order for the benefit of the KERA Beneficiaries.
- ee) **"Liquidation"** has the meaning ascribed to it in Article 2.1 of this Proposal.
- ff) **"NOI"** has the meaning ascribed to it in Article 2.1 of this Proposal.
- gg) **"NW Canada Entities"** means NW Canada LP and Jones Canada.
- hh) **"NW Canada LP"** means Nine West Canada LP.
- ii) **"NW US Entities"** means Nine West Holdings, Inc. and those of its affiliates that, together with Nine West Holdings, Inc., commenced the Chapter 11 Proceedings.
- jj) **"Officers"** means all current and former officers (or their estates) of the NW Canada Entities, in such capacity, and **"Officer"** means any one of them.
- kk) **"Official Receiver"** means a federal government employee in the office of the Superintendent of Bankruptcy who, among other things, accepts and reviews documents that are filed in BIA proposals.
- ll) **"Pension Priority Claims"** means all amounts required to be paid under section 60(1.5) of the BIA, subject to the limitations set out under section 60(1.6) of the BIA.
- mm) **"Person"** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity.



- nn) **"Post-filing Claim"** means a claim arising in respect of goods supplied, services rendered or other consideration given to the NW Canada Entities subsequent to the Filing Date.
- oo) **"Preferred Claims"** means that portion of a Claim that is accepted by the Proposal Trustee as entitling the Preferred Creditor to receive payment in priority to other Proven Creditors as provided in section 136 of the BIA.
- pp) **"Preferred Creditors"** means the holders of Preferred Claims.
- qq) **"Priority Claimants"** means the holders of Crown Priority Claims, Employee Priority Claims and Pension Priority Claims.
- rr) **"Professional Fees"** means all proper fees, expenses, liabilities and obligations of the NW Canada Entities or the Proposal Trustee and their legal fees, accounting fees and consulting fees arising out of the Proposal Proceedings and any claims therein, and includes, for greater certainty, the KERA Beneficiaries and any agents retained by the NW Canada Entities or the Proposal Trustee.
- ss) **"Proof of Claim"** means the form to be delivered by the Creditors to the Proposal Trustee in accordance with the BIA.
- tt) **"Proposal"** means this Proposal, as may be further varied, amended, modified or supplemented in accordance with the provisions hereof and the BIA.
- uu) **"Proposal Approval Order"** means an order of the Court, in form and substance satisfactory to the NW Canada Entities and the Proposal Trustee approving and sanctioning this Proposal in accordance with the provisions hereof and of the BIA.
- vv) **"Proposal Proceedings"** means the restructuring and liquidation sale proceedings commenced by the NW Canada Entities pursuant to section 50.4 of the BIA on the Filing Date.
- ww) **"Proposal Trustee"** means Richter Advisory Group Inc., in its capacity as proposal trustee of the NW Canada Entities in the Proposal Proceedings.
- xx) **"Proven Claim"** means the amount or any portion of a Claim that is accepted as proven by the Proposal Trustee pursuant to section 135 of the BIA and determined for distribution purposes in accordance with the provisions of the BIA or any applicable orders from the Court.
- yy) **"Proven Creditors"** means the holders of Proven Claims.



- zz) **"Related Persons"** means "related persons" (as defined in Section 4(2) of the BIA) to the NW Canada Entities, which for greater certainty, includes the NW US Entities.
- aaa) **"Released Claims"** has the meaning ascribed to it in Article 8.1 of this Proposal.
- bbb) **"Released D&O Claims"** means all D&O Claims that are released pursuant to Article 8.1 of this Proposal.
- ccc) **"Released Parties"** has the meaning ascribed to it in Article 8.1 of this Proposal.
- ddd) **"Remaining Assets"** has the meaning ascribed to it in Article 2.3 of this Proposal.
- eee) **"Required Majority"** means a majority in number and two-thirds in value of all Proven Claims of Creditors entitled to vote, who are present and voting at the Creditors' Meeting (whether in person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA.
- fff) **"Secured Claims"** means the Claims of the Secured Creditors, to the extent of the value of the security held by the Secured Creditors.
- ggg) **"Secured Creditors"** means "secured creditors" (as defined in Section 2 of the BIA) of the NW Canada Entities.
- hhh) **"Superintendent's Levy"** has the meaning attributed to it in section 147 of the BIA and is payable to the Superintendent in Bankruptcy.
- iii) **"Superintendent in Bankruptcy"** has the meaning attributed to it in section 5 of the BIA.

1.2 Date for Any Action

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

1.3 Time

All times expressed in this Proposal are local time Toronto, Ontario, Canada, unless stipulated otherwise. Time is of the essence in this Proposal.

1.4 Section References



In this Proposal, a reference to section, clause or paragraph shall, unless otherwise stated, refer to a section, clause or paragraph of the Proposal.

1.5 Statutory References

Any reference in this Proposal to a statute includes all regulations made thereunder and all amendments to such statutes or regulations in force from time to time.

1.6 Monetary References

All references to currency and to "\$" are to Canadian dollars, unless otherwise indicated.

1.7 Gender and Number

Any reference in this Proposal to gender includes all genders. Words importing the singular number only include the plural and vice versa.

ARTICLE 2 PROPOSAL

2.1 Background to Proposal

On April 6, 2018, each of the NW Canada Entities filed a Notice of Intention to File a Proposal ("NOI") under the BIA in order to, among other things, conduct an orderly and supervised liquidation process and wind-down of their operations. The Proposal Trustee was appointed as the proposal trustee for each of the NW Canada Entities.

Following the commencement of separate insolvency proceedings in the United States (the "**Chapter 11 Proceedings**") by the NW US Entities, the NW Canada Entities lost access to critical funding without which they were unable to continue operations. The Chapter 11 Proceedings contemplated a sale of the NW US Entities' intellectual property and certain working capital assets. A sale process was finalized within the Chapter 11 Proceedings and the sale of the NW US Entities' assets was approved and closed on July 3, 2018. The extensive marketing process undertaken by the NW US Entities did not generate any interest in the NW Canada Entities' assets on a going concern or other basis.

On April 11, 2018, the Court approved the Consulting Agreement between the NW Canada Entities and SB360 Capital Partners Inc. which outlined the proposed liquidation of the NW Canada Entities' inventory (the "**Liquidation**"). The Liquidation was completed by June 30, 2018.

The NW Canada Entities, together with their advisors, considered the potential value of seeking to market the NW Canada Entities' real estate leases and have determined that the potential of canvassing the market for recovery from such locations does not



quantifiably warrant an extension to the Proposal Proceedings. Accordingly, the NW Canada Entities disclaimed their leases on a rolling basis in order to minimize claims against their estates. All retail store leases were disclaimed effective on or before June 30, 2018. The head office lease was disclaimed effective on August 11, 2018.

By Order dated April 11, 2018, the Court also ordered that the estates of Jones Canada and NW Canada LP be procedurally and substantively consolidated. Accordingly, this Proposal is being filed jointly on behalf of each of the NW Canada Entities.

The time period for the NW Canada Entities to file a proposal pursuant to the BIA and the stay of proceedings under the NW Canada Entities' NOI was extended by Order of the Court to September 17, 2018.

2.2 Overview of Proposal

This Proposal is designed to allow the NW Canada Entities to distribute the net proceeds of the Liquidation and certain other funds to the Proven Creditors in a manner that will result in the Proven Creditors receiving more than would be recovered in a Bankruptcy Scenario.

NW US Entities' Claims

To facilitate approval and implementation of this Proposal, the NW US Entities have agreed to not pursue a portion of their unsecured Claims against the NW Canada Entities without prejudice to their ability to pursue any Claims or receive distributions in a Bankruptcy Scenario. For greater certainty, the NW US Entities have agreed to subordinate \$1million of their unsecured debt only if this Proposal is approved by the Creditors and is implemented.

2.3 Proposed Payments / Contributions

The following amounts (the "**Creditors' Fund**") will be available for distribution in accordance with Article 2.4 of this Proposal:

- a) The NW Canada Entities' cash on hand; and
- b) Net cash proceeds from the realization of the NW Canada Entities' remaining assets ("**Remaining Assets**"), including collection of accounts receivable, withholding tax refunds, HST refunds, balance of D&O Trust, if any, remaining after settlement of GST and other liabilities contemplated by the D&O Trust and miscellaneous prepaid items.

2.4 Proposed Distributions



Subject to the terms and conditions set forth in this Proposal, and the payment of the Superintendent's Levy (as applicable), the following payments will be made from the Creditors' Fund:

- a) Professional Fees: subject to Article 6.2 of this Proposal and the provisions of the BIA, the Professional Fees will be paid in full as they become due.
- b) Crown Priority Claims: all Crown Claims that were outstanding as at the Filing Date, if any, shall be paid in full to Her Majesty in right of Canada or a Canadian province or territory, as applicable, within six months after the issuance of the Proposal Approval Order.
- c) Employee Priority Claims: Employee Priority Claims, if any, will be paid in full in amounts determined by the Proposal Trustee pursuant to section 135 of the BIA.
- d) Pension Priority Claims: all Pension Claims that were outstanding as at the Filing Date, if any, shall be paid in full within six months after the issuance of the Proposal Approval Order.
- e) Superintendent's Levy: the Superintendent's Levy shall be paid in full.
- f) Secured Claims: any Secured Claims will be paid in full in amounts determined by the Proposal Trustee pursuant to section 135 of the BIA.
- g) Preferred Claims: the remaining Preferred Claims (after the payments provided in Articles 2.4(a) to (f) of this Proposal have been made, or reserves taken therefor), if any, shall be paid without interest in priority to the Proven Claims addressed by Article 2.4(h) of this Proposal.
- h) Unsecured Claims: the holders of Proven Claims not addressed by Articles 2.4(a) to (g) of this Proposal will receive an amount from the balance of the Creditors' Fund (subject any reserves taken to satisfy the payments provided in Articles 2.4(a) to (g) of this Proposal) relative to the aggregate value of the Proven Claims not addressed by Articles 2.4(a) to (g) of this Proposal.
- i) Subject to Article 2.2 above, the NW US Entities will not pursue [\$1 million] of their unsecured Claims or receive any distributions in respect of same under this Proposal.

2.5 Landlords' Claims

In the case of any lease of real property disclaimed by the NW Canada Entities pursuant to section 65.2 of the BIA, the landlord affected by the disclaimer may file a Proof of Claim for the lesser of: (i) the total rent set out in the lease for one year after the



disclaimer becomes effective plus 15 percent of the rent for the rest of the term of the lease; and (ii) the total rent set out in the lease for three years after the disclaimer becomes effective.

2.6 Timing and Payment to the Proposal Trustee

Provided that the Proposal is accepted by the Required Majority of the Creditors and that the Proposal Approval Order is granted by the Court:

- a) the NW Canada Entities shall pay their cash on hand, subject to any reserve for Post-filing Claims (collectively, the **"Initial Fund Contribution"**), to the Proposal Trustee within five Business Days following the issuance of the Proposal Approval Order; and
- b) the NW Canada Entities shall pay the net cash proceeds from the realization of the Remaining Assets and any remaining cash on hand (collectively, the **"Final Contribution"**) to the Proposal Trustee as soon as reasonably practicable following receipt.

2.7 Effect of Payment

Upon the NW Canada Entities making the Initial Fund Contribution payment into the Creditors' Fund in accordance with this Proposal, the NW Canada Entities, their successors and assigns, and their directors shall be deemed to have fully satisfied the terms of this Proposal other than with respect to the Final Contribution.

The determination of which payment properly constitutes the Final Contribution into the Creditors' Fund by the NW Canada Entities shall be determined by the NW Canada Entities, acting reasonably, in consultation with the Proposal Trustee.

2.8 Persons Affected

The Proposal provides for a full and final release and discharge of all Claims and Released D&O Claims and a settlement of and consideration for Claims. The Proposal will become effective at 12:01 a.m. (Toronto time) on the Effective Date in accordance with its terms and shall be binding on and enure to the benefit of the NW Canada Entities and other Persons directly or indirectly named or referred to in or subject to the Proposal.

On the Effective Date in accordance with the terms of this Proposal and in accordance with the provisions of the Proposal Approval Order, the treatment of all Claims and Released D&O Claims shall be final and binding on the NW Canada Entities, the Officers and Directors, all Creditors (and their respective heirs, executors, administrators, legal and personal representatives, successors and assigns), and all Claims and Released D&O Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred, and the NW Canada Entities and the



Directors and Officers shall thereupon have no further obligation whatsoever in respect of the Claims and Released D&O Claims; *provided that* nothing herein releases the NW Canada Entities or any other Person from their obligations to make distributions in the manner and to the extent provided for in the Proposal and *provided further* that such discharge and release of the NW Canada Entities and the Directors and Officers shall be without prejudice to the right of a Creditor in respect of a Disputed Claim to prove such Disputed Claim in accordance with the BIA so that such Disputed Claim may become a Proven Claim.

ARTICLE 3 CLAIMS PROCESS, VALUATION OF CLAIMS, CLASSIFICATION OF CREDITORS AND RELATED MATTERS

3.1 Claims Process

In order to be eligible to vote at the Creditors' Meeting, each Creditor shall file a Proof of Claim with the Proposal Trustee in accordance with the applicable provisions of the BIA, and shall specify every Claim and every D&O Claim it asserts against the NW Canada Entities and/or the Directors and Officers, as applicable. Thereafter, pursuant to section 135 of the BIA, the Proposal Trustee shall examine every Proof of Claim and determine whether such Claims are Proven Claims or Disputed Claims, and whether such Claims are Crown Priority Claims, Employee Priority Claims, Pension Priority Claims, Preferred Claims or Secured Claims, as applicable.

In order to receive a distribution from the Creditors' Fund, a Creditor must submit a Proof of Claim prior to the time the Proposal Trustee distributes funds in accordance with the Proposal and the BIA.

In accordance with section 149 of the BIA, prior to the final distribution from the Creditors' Fund, the Proposal Trustee shall give notice (the "**Final Dividend Notice**") by mail to every Person with a Claim of which the Proposal Trustee has notice or actual knowledge but who did not file a Proof of Claim.

3.2 Claims for Voting Purposes

Each Creditor (other than Secured Creditors and Employee Priority Creditors) shall be entitled to a single vote valued at the amount of its Claim or a portion of its Claim, if any, that has been accepted by the Proposal Trustee for voting purposes without prejudice to the rights of the NW Canada Entities, the Proposal Trustee and the Creditor to have the quantum of any Disputed Claim finally determined for the purposes of receiving its share of the Creditors' Fund, if any, or for the purposes of determining whether this Proposal was approved by the Required Majority.

For greater certainty, Secured Creditors and Employee Priority Creditors shall not be entitled to vote their Secured Claims and Employee Priority Claims, respectively.



Without limiting the foregoing, Disputed Claims shall be tracked by the Proposal Trustee as if such claims were Proven Claims but Disputed Claims will not be considered for the purposes of determining the Required Majority. The Proposal Trustee will report to the Court on the impact on the Required Majority had the Disputed Claims constituted accepted claims for voting purposes.

3.3 Disputed Claims

Any Creditor with a Disputed Claim shall not be entitled to receive any distribution hereunder with respect to such Disputed Claim unless and until such Claim becomes a Proven Claim. Distributions pursuant to Article 2.4 of this Proposal shall be made in respect of any Disputed Claim that is finally determined to be a Proven Claim.

3.4 D&O Claims

All Released D&O Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Effective Date. Any D&O Claim that is not a Released D&O Claim will not be compromised, released, discharged, cancelled and barred. For greater certainty, any Claim of a Director or Officer against the NW Canada Entities for indemnification or contribution in respect of any D&O Claim shall be treated for all purposes under the Proposal as a Claim and will be compromised, released, discharged, cancelled and barred.

3.5 Claims Bar

Any Person who does not file its Claim or D&O Claim within thirty days of the issuance of the Final Dividend Notice, shall forever be barred from making a Claim or D&O Claim or sharing in any dividend hereunder, subject to any exception set out in sections 149(2), (3), (4) and 150 of the BIA, regardless of whether such Person was sent a Final Dividend Notice or whether such Person received such Final Dividend Notice.

3.6 Class of Creditors

For the purpose of considering and voting upon and receiving distributions under this Proposal, there shall be one class of unsecured Creditors.

3.7 Set-Off

The law of set-off applies to all Claims.

3.8 Creditors' Meeting, Proxies and Voting Letters

The Creditors' Meeting will be held on the Creditors' Meeting Date at a location to be determined and provided to all known Creditors in accordance with the BIA.



Proxies, as provided for in the BIA indicating a Person authorized to act on behalf of a Proven Creditor, may be submitted to the Proposal Trustee at, or any time prior to, the commencement of the vote on the Proposal at the Creditors' Meeting.

Voting letters as provided for in the BIA submitted to the Proposal Trustee prior to the Creditors' Meeting must indicate whether the Creditor wishes to cast its vote in favour of or against the Proposal. Voting letters that do not indicate either preference will be deemed to indicate a vote in favour of the Proposal.

Related Persons may vote against but not in favour of the Proposal.

Persons in attendance at the Creditors' Meeting who are eligible to vote shall cast their vote in the manner prescribed by the Proposal Trustee and the BIA. All votes will be recorded and tabulated by the Proposal Trustee, who may seek the assistance of the Court with respect to any dispute arising from or out of the tabulation of votes. For greater certainty, Secured Creditors shall not be entitled to vote the value of their Claims.

A quorum shall be constituted for the Creditors' Meeting or any adjournment thereof if there is one Creditor, entitled to vote, present in person or by proxy or if one Creditor, entitled to vote, has submitted a voting letter in accordance with the provisions of the BIA and this Proposal. If the requisite quorum is not present at the Creditors' Meeting or if the Creditors' Meeting has to be postponed for any reason, then the Creditors' Meeting shall be adjourned by the Proposal Trustee to such date, time and place as determined by the Proposal Trustee.

3.9 Approval by Creditors

In order to be approved, the Proposal must receive the affirmative vote of the Required Majority.

3.10 Modification of the Proposal

Subject to the consent of the Proposal Trustee, at any time prior to the Creditors' Meeting or at any time prior to the date to which the Creditors' Meeting is adjourned, if it is adjourned, the NW Canada Entities reserve the right at any time to file any modification, amendment or supplement of and to the Proposal, by way of amended proposal, and file such amended proposal with the Official Receiver as soon as practical, in which case any such amended proposal or proposals shall, for all purposes, be and be deemed to be part of and incorporated into the Proposal.

At the Creditors' Meeting, the Proposal Trustee shall provide all Creditors in attendance with details of any modifications or amendments of and to the Proposal prior to the vote being taken to approve the Proposal. After the Creditors' Meeting (and both prior to and subsequent to the issuance of the Proposal Approval Order) and subject to the consent of the Proposal Trustee, the NW Canada Entities may at any time and from time to time



vary, amend, modify or supplement the Proposal if the Court determines that such variation, amendment, modification or supplement is of a minor, immaterial or technical nature or would not be materially prejudicial to the interest of any of the Creditors under the Proposal and is necessary in order to give effect to the substance of the Proposal or the Proposal Approval Order.

ARTICLE 4 CONDITIONS PRECEDENT

4.1 Conditions Precedent to the Implementation of the Proposal

The implementation of the Proposal and distribution thereunder is subject to the satisfaction of the following conditions precedents:

- a) The Proposal is approved by the Required Majority;
- b) The Proposal Approval Order has been issued and has not been stayed and there is no outstanding appeal therefrom; and
- c) All other actions, documents and agreements necessary to implement the Proposal, including, without limitation, payment to the Proposal Trustee of the Initial Fund Contribution as required herein, shall have been effected and executed.

With respect to the Proposal Approval Order, if approval by the Required Majority is obtained, the Proposal Trustee shall file with the Court an application for the Proposal Approval Order no later than five Business Days following the Creditors' Meeting or such other date as the Court may order, which application shall be heard as soon as possible according to the procedure set out in Section 58 of the BIA.

ARTICLE 5 BINDING EFFECT

5.1 Binding Effect

On the Effective Date, this Proposal will become effective and binding on and enure to the benefit of the NW Canada Entities and all creditors affected by this Proposal and all other Persons named or referred to in, or subject to, this Proposal, and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

ARTICLE 6 PROPOSAL TRUSTEE, MONITORING AND ADMINISTRATIVE COSTS

6.1 The Proposal Trustee is acting in its capacity as Proposal Trustee and not in its personal capacity and no officer, director, employee or agent of the Proposal Trustee shall incur any obligations or liabilities in connection with the Proposal or in connection



with the business or liabilities of the NW Canada Entities.

6.2 The Proposal Trustee's fees and disbursements, including, without limitation, the Proposal Trustee's legal costs, arising out of this Proposal and under the BIA shall be paid by the NW Canada Entities as Professional Fees under this Proposal. The fees for the Proposal Trustee's services will be based on time spent by the Proposal Trustee and the various members of its staff at their respective billing rates plus any direct out of pocket expenses incurred. The Proposal Trustee's legal costs will be based on time spent by the Proposal Trustee's legal counsel and the various members of such legal counsel's staff at their respective billing rates plus any direct out of pocket expenses incurred. The Court shall review and approve the Proposal Trustee's fees and disbursements. The Proposal Trustee will be entitled to take regular interim fees upon Creditor, Inspector or Court approval.

6.3 The Proposal Trustee shall be indemnified in full by the NW Canada Entities for all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence.

ARTICLE 7 INSPECTORS

7.1 At the Creditors' Meeting, the Creditors will be entitled to appoint one or more, but not exceeding five, Inspectors, whose powers shall be as follows:

- a. advising the Proposal Trustee in respect of such matters as may be referred to the Inspectors by the Proposal Trustee;
- b. advising the Proposal Trustee concerning any dispute that may arise as to the validity of the Claims asserted in this Proposal;
- c. exercising all powers given to the Inspectors of a bankrupt estate appointed pursuant to the provisions of the BIA; and
- d. altering or extending the time for payments to be made pursuant to this Proposal, but not the total amount paid.

The Inspectors shall not have liability to the Creditors or the NW Canada Entities for exercising any of the powers given to them under this Proposal or the BIA.

ARTICLE 8 RELEASES

8.1 Proposal Releases

On the Effective Date, (i) the NW Canada Entities' employees and contractors, each Director and Officer of the NW Canada Entities, and their respective heirs and assigns, and (ii) the Proposal Trustee, the Proposal Trustee's counsel, and each and every present and former shareholder, affiliate, subsidiary, director, officer, member, partner, employee, auditor, financial advisor, legal counsel and agent of any of the foregoing Persons (each of the Persons named in (i) or (ii) of this Article 8.1, in their capacity as



such, being herein referred to individually as a **"Released Party"** and all referred to collectively as **"Released Parties"**) shall be released and discharged from any and all demands, 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, encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, including claims for contribution or indemnity which any Creditor or other Person may be entitled to assert, including claims that are liquidated, unliquidated, fixed, contingent, matured, unmatured, legal, equitable, present, future, known, unknown, disputed, undisputed or whether by guarantee, by surety, by subrogation or otherwise incurred and whether or not such a right is executory in nature, including, for greater certainty, any Claim against the NW Canada Entities for indemnification by any Director or Officer, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, negligence, breach of fiduciary duty, dealing or other occurrence existing or taking place on or prior to the Effective Date that constitute or are in any way relating to, arising out of or in connection with any Claims, and any indemnification obligations with respect thereto, the business and affairs of the NW Canada Entities whenever or however conducted, the administration and/or management of the NW Canada Entities, the Proposal, or any document, instrument, matter or transaction involving the NW Canada Entities taking place in connection with the Proposal (referred to collectively as the **"Released Claims"**), shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, all to the fullest extent permitted by governing law; provided that nothing herein will waive, discharge, release, cancel or bar (a) the right to enforce the NW Canada Entities' obligations under the Proposal, or (b) any D&O Claim that is not permitted to be released pursuant to section 50(14) of the BIA.

ARTICLE 9 CONSENTS WAIVERS AND AGREEMENTS

9.1 On the Effective Date, all Creditors shall be deemed to have consented and agreed to all of the provisions of the Proposal in its entirety. Each Creditor will be deemed to have waived any default by the NW Canada Entities in any provision, express or implied or in any agreement (other than the Proposal) existing between the Creditor and the NW Canada Entities that occurred on or prior to the Effective Date. Each Creditor will be deemed to have agreed that, to the extent there is any conflict between the provisions of any such agreement and the provisions of the Proposal, the provisions of the Proposal take precedence and priority and the provisions of any such agreement are amended accordingly.

ARTICLE 10 GENERAL

10.1 Post-filing Claims

Post-filing Claims shall be paid in full by the NW Canada Entities in the ordinary



course of business, and on regular trade terms, prior to the payment of the Final Contribution into the Creditors' Fund to the Proposal Trustee.

10.2 Reviewable Transactions

The provisions of Sections 95 to 101, inclusively, of the BIA and any similar provision of any federal or provincial statute shall not apply to this Proposal.

10.3 Paramountcy

From and after the Effective Date, any conflict between the covenants, warranties, representations, terms, conditions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, by-laws of the NW Canada Entities, lease or other agreement, whether written or oral, and any and all amendments or supplements thereto existing between any third party and the NW Canada Entities as at the Effective Date will be deemed to be governed by the terms, conditions and provisions of the Proposal, which shall take precedence and priority.

10.4 Further Assurances

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

10.5 Governing Law

This Proposal will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

10.6 Report of the Proposal Trustee

The Proposal Trustee will prepare a report on the Proposal, which will be filed with the Official Receiver and the Court and distributed to Creditors pursuant to the BIA.

10.7 Annulment

If the Proposal is annulled by an Order of the Court, all payments on account of Claims made pursuant to the terms of this Proposal will reduce the Claims of the applicable Creditors.

[SIGNATURE PAGE FOLLOWS]



DATED AT CITY OF NEW YORK, STATE OF NEW YORK

this 14th day of September, 2018

JONES CANADA, INC.

Per:

Name:

Title:



DATED AT CITY OF NEW YORK, STATE OF NEW YORK

this 14th day of September, 2018

**NINE WEST CANADA LP. by its general partner
Jones Canada, Inc.**

Per:

Name:

Title:

