

District of Ontario  
Division No. 07 - Hamilton  
Estate No. 32-2683371  
Court No. 32-2683371

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF  
WELLAND FORGE CORP.  
OF THE CITY OF WELLAND,  
IN THE REGIONAL MUNICIPALITY OF NIAGRA,  
IN THE PROVINCE OF ONTARIO.**

**PROPOSAL  
(under section 50 of the *Bankruptcy and Insolvency Act*)**

**WELLAND FORGE CORP.** (hereinafter called the "**Company**") hereby submits the following Proposal (hereinafter referred to as the "**Proposal**") under the *Bankruptcy and Insolvency Act* to all of its creditors.

**DEFINITIONS**

1. For the purposes of this Proposal, the following terms shall have the following meaning:
  - (i) "**Act**" means the *Bankruptcy and Insolvency Act*;
  - (ii) "**Administrative Fees and Expenses**" means the fees and expenses incurred by or on behalf of the Trustee, as more particularly described in paragraph 19 of this Proposal;
  - (iii) "**Court**" means the Ontario Superior Court of Justice in Bankruptcy and Insolvency;
  - (iv) "**Company**" means Welland Forge Corp.;
  - (v) "**Court Approval Date**" means the date on which the Court issues an Order approving this Proposal pursuant to the provisions of the Act, all appeal periods having expired and no appeal therefrom having been dismissed and such dismissal having become final;
  - (vi) "**Date of Filing**" means the 27<sup>th</sup> day of October, 2020, being the date on which the Notice of Intention to Make a Proposal was filed with the Official Receiver in accordance with the Act ;
  - (vii) "**Director**" means James Hacking, a resident of Cambridge, Ontario;

- (viii) **"Former Employee"** means an individual who was an employee of the Company and whose employment with the Company was terminated by the Company prior to the Date of Filing;
- (ix) **"Former Employee Claim"** means the claim, if any, of a Former Employee arising from that Former Employee's termination by the Company, inclusive of wages, vacation pay and pay in lieu of reasonable notice, including, without limitation, any severance, vacation pay, bonuses, commissions, pension contributions, medical or other insurance coverage;
- (x) **"Inspectors"** means the person(s) appointed or elected as inspectors under and pursuant to the Act, in respect of the Proposal;
- (xi) **"Ordinary Creditors"** means those persons with unsecured claims as at the Date of Filing, including contingent or unliquidated claims arising out of any transaction entered into prior to the Date of Filing, which are proven in accordance with the Act and which are not secured or preferred under or pursuant to the Act;
- (xii) **"Pension Plan"** means the defined contribution registered pension plan for which the Company is both the sponsor and administrator of, bearing policy number 55668 and registration number 0577734.
- (xiii) **"Preferred Creditors"** means those creditors of the Company whose claims are entitled to be paid in priority to the claims of Ordinary Creditors as provided under section 136 of the Act;
- (xiv) **"Secured Creditors"** means those creditors of the Company who hold valid and enforceable mortgages, charges, liens, security interests and other encumbrances against any of the property or assets of the Company;
- (xv) **"Trustee"** means BDO Canada Limited or its duly appointed successor; and
- (xvi) **"WEPPA"** means the *Wage Earner Protection Program Act*.

#### GENERAL INTENT

2. The purpose of this Proposal is to effect an orderly wind down of the Company, working co-operatively with the Trustee, with the expectation that all creditors will derive a greater benefit than would result from a bankruptcy of the Company.
3. This Proposal restructures the affairs of the Company and amends the terms of any and all agreements between the Company and the creditors existing as at the Court Approval Date and provides the essential terms on which all claims will be fully and

finally resolved and settled. During the term of this Proposal, and provided that an event of default has not occurred and is continuing hereunder, all creditors will be stayed from commencing or continuing any proceeding or remedy against the Company or any of its property or assets in respect of a claim including, without limitation, any proceeding or remedy to recover payment of any monies owing to creditors, to recover or enforce any judgment against the Company in respect of a claim or to commence any formal proceedings against the Company other than as provided for under this Proposal.

4. This Proposal will, as of the Court Approval Date, be binding on the Company and all creditors.

#### **CANADA REVENUE AGENCY**

5. All amounts owing to Canada Revenue Agency that could be subject to a demand under subsection 224(1.2) of the *Income Tax Act* or under any substantially similar provision of provincial legislation, that were outstanding at the Date of Filing, shall be paid in full within 6 months after the Court Approval Date.

#### **PRESCRIBED PENSION PLAN**

6. Pursuant to section 60(1.5) of the *Bankruptcy and Insolvency Act* ("BIA"), amounts owing for unremitted employee contributions and unpaid employer contributions owing under the Pension Plan at the Date of Filing, if any, shall be paid in full in priority to the claims of the Former Employees and Ordinary Creditors.

#### **SECURED CREDITORS**

7. The claims of Secured Creditors, if any, will be paid in accordance with present arrangements existing between the Company and the holders of such secured claims or as may be mutually arranged between the Company and the holders of secured claims, or the holders of secured claims shall be permitted to realize upon their security. For certainty, **this Proposal is not made to the Secured Creditors** and, notwithstanding anything to the contrary in this Proposal, the claims, security interests, rights and other entitlements of the Secured Creditors shall be unaffected in all respects by this Proposal.

#### **PREFERRED CREDITORS**

8. The claims of Preferred Creditors, if any, shall be without interest, in priority to the claims of Ordinary Creditors in accordance with section 136 of the Act.

### **FORMER EMPLOYEES**

9. Former Employees with Former Employee Claims shall constitute their own class of creditors for the purpose of voting on this Proposal.
10. The Company has estimated the claims of each of the Former Employees with a Former Employee Claim, attached as Schedule "A" to this Proposal. In order to determine the amount of each Former Employee Claim, Former Employees are entitled to file a proof of claim in any amount they feel they are entitled to with supporting documentation in accordance with the instructions provided by the Proposal Trustee. For simplicity:
- a. any Former Employee Claim of a Former Employee made in accordance with the amount set out in Schedule "A" for that Former Employee or in an amount that is less than the amount set out in Schedule "A", for that Former Employee, will be admitted by the Proposal Trustee in the amount of the claim made by the said Former Employee; and
  - b. any Former Employee Claim of a Former Employee made in an amount greater than the amount set out in Schedule "A", for that Former Employee, will be reviewed by the Proposal Trustee and the amount by which the Former Employee Claim of the said Former Employee exceeds the amount set out in Schedule "A" for that Former Employee may be allowed or disallowed, in part or in whole, by the Proposal Trustee.

11. Former Employees are entitled to receive a distribution equal to the sum of (i) the Former Employee's maximum entitlement under WEPPA; plus (ii) 20% of:

- the net amount of the Former Employee's proven Former Employee Claim less amounts received under (i) above.

The Company shall cause to be paid to these amounts to the Trustee within 10 days of the Court Approval Date.

### **ORDINARY CREDITORS**

12. The claims of Ordinary Creditors shall be paid from the funds received pursuant to paragraph 13 of this Proposal, after the payment of the Administrative Fees and Expenses under paragraph 19 of this Proposal, the claims of Preferred Creditors under paragraph 8 of this Proposal, any amount owing to Canada Revenue Agency under paragraph 5 of this Proposal, any amount owing to the Prescribed Pension Plan under paragraph 6 of this Proposal and the claims of Former Employees under

paragraph 11 of this Proposal. These funds shall be divided pro rata among all the Ordinary Creditors in full and complete satisfaction of their claims.

#### **PROCEEDS UNDER THE PROPOSAL**

13. The Company shall pay, or cause to be paid, to the Trustee the following amounts:

- (i) An amount equal to Canada Revenue Agency's claim under paragraph 5 of this Proposal, if any. Such amounts shall be paid to the Trustee within 10 days following the Court Approval Date;
- (ii) An amount equal to the priority payable to the Pension Plan under paragraph 6 of this Proposal. Such amounts shall be paid to the Trustee within 10 days following the Court Approval Date;
- (iii) An amount equal to the dividends required under paragraph 8 and 11. Such amounts shall be paid to the Trustee within 10 days following the Court Approval Date;
- (iv) An amount equal to \$150,000 to be divided pro rata among all the Ordinary Creditors under paragraph 12, in full and complete satisfaction of their claims. Such amounts shall be paid to the Trustee within 10 days following the Court Approval Date; and
- (v) An amount equal to the Administrative Fees and Expenses.

#### **CLAIMS AGAINST THE DIRECTOR OF THE COMPANY**

14. The creditors hereby agree not to pursue any assessments against the Company's Director for claims against the Director of the Company that arose prior to the Date of Filing and that relate to the obligations of the Company where the Director is by law liable in their capacity as Director as for the payment of such obligation.

#### **PREFERENCES AND TRANSFERS AT UNDERVALUE**

15. Section 95 through and including section 101 of the Act do not apply to this Proposal.

#### **DISTRIBUTION TO CREDITORS**

16. The Trustee shall make the payment of all dividends in accordance with the Act.

17. All distributions under the Proposal shall be issued by the Trustee and notwithstanding any other provisions therefore, any distributions made by the Trustee in respect of any claims pursuant to the terms hereof shall be made net of the Superintendent's Levy required to be made, pursuant to Section 147 and 60(4) of the Act.

## **INSPECTORS**

18. The creditors may appoint one or more, but not more than five, inspectors under this Proposal whose powers shall be restricted to advising the Trustee in matters that may be referred to them by the Trustee.

## **ADMINISTRATIVE FEES AND EXPENSES**

19. All the fees, expenses and disbursements of the Trustee in and incidental to the proceedings arising out of the Proposal, including the Trustee's legal fees and disbursements, shall be paid in priority to all claims and shall be a first charge on all payments made by the Company under this Proposal. The Trustee may take interim draws from funds paid under paragraph 13 for its administrative fees and expenses as necessary, based on actual time and charges at normal billing rates plus applicable taxes. All draws are subject to final taxation by the Court.
20. Amounts stated with respect to professional fees in this Proposal or any documents relating to it including the reports of the Trustee and the Statement of Estimated Realization, are estimates only, and will not restrict the Trustee or the Trustee's legal counsel from invoicing, taxing, and being paid all of their reasonable fees and charges based upon actual time at normal billable rates. The Trustee's expenses and disbursements include all filing, court and counselling fees, all applicable taxes, and all legal fees or extraordinary costs incidental to the Trustee's administration of this Proposal. Such amounts may be reimbursed to the Trustee at any time.

## **BDO CANADA LIMITED**

21. BDO Canada Limited shall be the Trustee under this Proposal. The Trustee is acting in its capacity as Trustee under this Proposal and not in its personal capacity and shall not be responsible or liable for any obligations of the Company.
22. Upon payment of the dividends provided for in this Proposal, the Trustee will be entitled to be discharged from its obligations under the terms of this Proposal.

Dated at Welland, Ontario this <\*> day of November, 2020

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Witness

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Welland Forge Inc.  
Per: James Hacking  
Authorized signing officer