



COURT/ESTATE FILE NUMBER 24-2878531

COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL
UNDER SECTION 50.4(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT,
RSC 1985, c B-3, AS AMENDED

APPLICANT NILEX INC. and NILEX USA INC.

DOCUMENT **AFFIDAVIT OF JEFF ALLEN**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
BLAKE, CASSELS & GRAYDON LLP
3500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4J8

Attention: Kelly Bourassa / Alexia Parente
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Facsimile: 403-260-9700
E-mail: kelly.bourassa@blakes.com /
alexia.parente@blakes.com

File Ref.: 99580/8

AFFIDAVIT NO. 4 OF Jeff Allen
Sworn January 30, 2023

I, Jeff Allen, of the City of Edmonton, in the Province of Alberta. **MAKE OATH AND SWEAR THAT:**

INTRODUCTION

1. I am the Vice President, Finance of the Applicant, Nilex Inc. ("**Nilex**"). In this capacity, I am responsible for overseeing the financial operations of Nilex and its wholly owned subsidiary, Nilex USA Inc. ("**Nilex USA**", and together with Nilex, the "**Companies**").
2. I have previously sworn affidavits in these proceedings on October 31, 2022, November 21, 2022, and December 7, 2022. I have personal knowledge of the matters in this Affidavit, except where I state that my knowledge is based on information and belief, in which case I believe my statements to be true.

3. In preparing this Affidavit, I have consulted with members of the Companies' board of directors, senior management team, legal advisors and the Proposal Trustee (defined below).

NATURE OF APPLICATION AND OVERVIEW OF RELIEF SOUGHT

4. This Affidavit is sworn in support of the Companies' application returnable on February 7, 2023 (the "**Application**") before the Court of King's Bench of Alberta (the "**Court**") for an order, among other things:
 - (a) extending the time by which each of the Companies may file a proposal to their creditors pursuant to section 50.4(9) the BIA for a 45-day period from the date following the current deadline to do so, such that the Companies may file a proposal up to and including 11:59 pm (local Edmonton time) on March 24, 2023, or such other date as this Honourable Court may order;
 - (b) approving and ratifying the actions, conduct and activities of KSV Restructuring Inc., the proposal trustee appointed in these proceedings (the "**Proposal Trustee**") as set out in the fourth report of the Proposal Trustee to the Court dated January 30, 2023 (the "**Fourth Report**"); and
 - (c) approving the fees and disbursements of the Proposal Trustee and its counsel as set out in the Fourth Report and the fee affidavits sworn January 30, 2023 and provided to the Court.

INTRODUCTION

5. On October 27, 2022, Nilex filed a notice of intention ("**NOI**") to make a proposal (the "**Nilex NOI Proceeding**") under section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**") and the Proposal Trustee was appointed proposal trustee of Nilex. The NOI was filed in consultation with Nilex's professional advisors to attempt to restructure or sell Nilex as a going concern for the benefit of its stakeholders and after identifying no viable alternative process due to Nilex's insolvency.
6. On November 8, 2022, the Honourable Justice J.S. Little of the Court granted an order which, among other things, extended the time for Nilex to file a proposal to its creditors pursuant to section 50.4(9) of the BIA for a maximum 45-day period ending on January 10, 2023.



7. On November 24, 2022, Nilex USA filed an NOI (the "**Nilex USA NOI Proceeding**" and, together with the Nilex NOI Proceeding, the "**NOI Proceedings**") under section 50.4(1) of the BIA and the Proposal Trustee was appointed proposal trustee of Nilex USA. The commencement of the Nilex USA NOI Proceeding was a condition of the asset purchase agreement ("**APA**") among the Companies, as vendors and Terrafix Geosynthetics Inc. and Hanes Companies, Inc., as purchasers (the "**Purchasers**" and together with the Companies, the "**Parties**") entered into on November 18, 2022, and authorized and approved by the Court on November 28, 2022, as discussed further below.
8. On November 28, 2022, the Honourable Justice M.H. Hollins of the Court granted orders, among other things:
 - (a) extending time for each of the Companies to file a proposal to their creditors pursuant to section 50.4(9) of the BIA to and including February 7, 2023;
 - (b) approving (the "**Approval Order**") the purchase and sale transaction (the "**Transaction**") contemplated in the APA;
 - (c) authorizing the Companies to enter into the transition services agreement (the "**TSA**");
 - (d) procedurally consolidating the NOI Proceedings; and
 - (e) authorizing the Proposal Trustee to act as the foreign representative in respect of the Companies, or either of them, for the purpose of having the NOI Proceedings, or either of them, recognized in the United States of America pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 in the United States Bankruptcy Court for the District of Colorado (the "**US Bankruptcy Court**").
9. All references to dollar amounts contained herein are to Canadian dollars unless otherwise stated.

BACKGROUND

10. As set out in the Second Report, the execution of the TSA by the Parties was a condition to closing of the Transaction. Pursuant to the TSA, the Companies will agree to provide the benefit of certain leases, services and employees to the Purchasers at the Purchasers' expense for up to six months following closing.



11. On December 2, 2022, the Proposal Trustee, in its capacity as foreign representative, filed with the US Bankruptcy Court, among other things, a petition for the recognition of the Nilex USA NOI Proceeding.
12. On December 9, 2022, the US Bankruptcy Court granted a preliminary injunction order in respect of Nilex USA and scheduled a hearing date for final recognition of the Nilex USA NOI Proceeding and the Approval Order, as it relates to the Transaction in respect of Nilex USA.
13. The Transaction in respect of Nilex closed on December 19, 2022 (with an effective date of December 16, 2022), and a copy of the Proposal Trustee's certificate of same is attached hereto as **Exhibit "A"**.
14. On January 10, 2023, the Honourable Judge M.E. Romero of the US Bankruptcy Court entered orders, among other things, recognizing the Approval Order and approving the Transaction with respect to Nilex USA.
15. The Transaction in respect of Nilex USA closed on January 27, 2023, and a copy of the Proposal Trustee's certificate of same is attached hereto as **Exhibit "B"**.

RELIEF REQUESTED

Extension of Time to File a Proposal

16. Pursuant to section 50.4(8) of the BIA, each of the Companies is required to file a proposal with the official receiver within 30 days of commencing its respective NOI Proceedings (the "**Initial 30 Days**") unless it otherwise obtains an extension from the Court.
17. Pursuant to section 50.4(9) of the BIA, before the expiry of the Initial 30 Days, each of the Companies may apply to the Court for an order extending the time to file a proposal or proposals by a period not exceeding 45 days and not exceeding in the aggregate five months after the expiry of the Initial 30 Days for any individual extension.
18. Unless the Companies receive extensions of time to file a proposal or proposals, each of the Companies' deadline to file a proposal with the official receiver will expire at 11:59 pm (local Edmonton time) on February 7, 2023, and the Companies will be deemed to have made an assignment in bankruptcy at that time.



19. The extension requested will not cause either of the Companies to exceed the aggregate five-month period after the expiry of the Initial 30 Days, as set out below:

Filing Timeline	Nilex	Nilex USA
Filing Date	October 27, 2022	November 24, 2022
Initial 30 Days pursuant to section 50.4(8) of the BIA	November 26, 2022	December 24, 2022
Extension granted November 8, 2022	January 10, 2023	---
Extension granted November 28, 2022	February 7, 2023 (28-day extension)	February 7, 2023
Extension to be sought on February 7, 2023	March 24, 2023	March 24, 2023
5 months after Initial 30 Days	April 26, 2023	May 24, 2023

20. Since commencing the NOI Proceedings, the Companies have diligently complied with various requirements under the BIA including:

- (a) continuing to operate their businesses in the ordinary course;
- (b) preparing and analyzing creditor lists;
- (c) providing the Proposal Trustee with access to the Companies' senior employees and books and records;
- (d) completing cash flow forecasts; and
- (e) working with the Proposal Trustee, the Companies' sale advisor, Valitas Capital Partners, and the Companies' legal advisors to negotiate and enter into the APA and to close the Transaction in respect of Nilex with a view to maximizing value for the Companies' creditors and stakeholders.

21. The Companies' cash flow forecast for the extension period will be attached to the Fourth Report. It reflects that the Companies have the funding required to preserve the status quo for the extension period.

22. An extension of time for each of the Companies to file a proposal or proposals is a material component of the NOI Proceedings to allow each the Companies to restructure their affairs following the completion of the Transaction and will permit the Companies to fulfill the terms of the TSA. In this regard:
- (a) each of the Companies has acted and is acting in good faith and with due diligence both in the period prior to and since the commencement of the NOI Proceedings; and
 - (b) an extension of time will enhance the Companies' ability to make a viable proposal or proposals following the completion of the Transaction.

Conclusion

23. I swear this Affidavit in support of the Application and for any other proper purpose in connection with the NOI Proceedings.

SWORN BEFORE ME on the 30th day of January, 2023 at the City of Edmonton, Alberta.

A Commissioner for Oaths in and for Alberta



Jeff Allen



This is Exhibit "A" referred to in the Affidavit of Jeff Allen sworn before me this 30th day of January, 2023.

A Commissioner for Oaths in and for Alberta



COURT FILE NUMBER 24-2878531

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

Clerk's Stamp

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER SECTION 50.4(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

APPLICANTS NILEX INC. AND NILEX USA INC.

DOCUMENT PROPOSAL TRUSTEE'S CERTIFICATE – CANADIAN CLOSING

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Cassels Brock & Blackwell LLP
Suite 3810, 3500 Bankers Hall West
888 3rd Street SW
Calgary, Alberta T2P 5C5

Attention: Jane Dietrich / Danielle Maréchal
Telephone: 416-260-5223 / 403-351-2922
Facsimile: 403-648-1151
Email: jdietrich@cassels.com / dmarechal@cassels.com

RECITALS

- A. Pursuant to the filing of notices of intention to make a proposal under section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) on October 27, 2022 by Nilex Inc. and on November 24, 2022 by Nilex USA Inc., KSV Restructuring Inc. consented to act as the Proposal Trustee.
- B. Pursuant to an Order of the Court dated November 28, 2022, the Court approved the Asset Purchase Agreement dated November 18, 2022 (the "**APA**"), between Nilex Inc. and Nilex USA Inc. (the "**Vendors**") and Terrafix Geosynthetics Inc. and Hanes Companies, Inc. (the "**Purchasers**"), and provided for the vesting in the Purchasers of the Vendors' right, title and interest in and to the Purchased Assets (the "**Transaction**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchasers of a certificate or certificates confirming: (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the APA have been satisfied or waived by the Vendors and the Purchasers; and (iii) the Applicable Transaction has been completed to the satisfaction of the Vendors.

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C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Order (Sale Approval and Vesting).

THE PROPOSAL TRUSTEE CERTIFIES the following:

- 1. The Purchaser (or its nominee) has paid and the Proposal Trustee has received the Canadian Purchase Price for the Purchased Assets payable on the Closing Date for the Canadian Closing pursuant to the APA;
- 2. The conditions to Closing for the Canadian Closing as set out in sections 7.1, 7.2 and 7.3 of the APA have been satisfied or waived by the Vendors and the Purchasers (or their nominee);
- 3. The Applicable Transaction has been completed to the satisfaction of the Vendors and the Vendors have notified the Proposal Trustee of this in writing; and
- 4. This Certificate was delivered by the Proposal Trustee on December 19, 2022 at 11:30 a.m. Edmonton Time.

**KSV RESTRUCTURING INC., IN ITS CAPACITY
AS PROPOSAL TRUSTEE OF NILEX INC. AND
NILEX USA INC. AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY**



Per: _____
Name: Robert Kofman
Title: President



This is Exhibit "B" referred to in the Affidavit of Jeff Allen sworn before me this 30th day of January, 2023.

A Commissioner for Oaths in and for Alberta



COURT FILE NUMBER 24-2878531

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

Clerk's Stamp

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER SECTION 50.4(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

APPLICANTS NILEX INC. AND NILEX USA INC.

DOCUMENT **PROPOSAL TRUSTEE'S CERTIFICATE – US CLOSING**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Cassels Brock & Blackwell LLP
Suite 3810, 3500 Bankers Hall West
888 3rd Street SW
Calgary, Alberta T2P 5C5

Attention: Jane Dietrich / Danielle Maréchal
Telephone: 416-260-5223 / 403-351-2922
Facsimile: 403-648-1151
Email: jdietrich@cassels.com / dmarechal@cassels.com

RECITALS

- A. Pursuant to the filing of notices of intention to make a proposal under section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) on October 27, 2022 by Nilex Inc. and on November 24, 2022 by Nilex USA Inc., KSV Restructuring Inc. ("**KSV**") consented to act as the Proposal Trustee.
- B. Pursuant to an Order of the Court dated November 28, 2022, the Court approved the Asset Purchase Agreement dated November 18, 2022 (the "**APA**"), between Nilex Inc. ("**Nilex**") and Nilex USA Inc. ("**Nilex USA**" and together with Nilex, the "**Vendors**") and Terrafix Geosynthetics Inc. ("**Terrafix**") and Hanes Companies, Inc. ("**Hanes**" and together with Terrafix, the "**Purchasers**"), and provided for the vesting in the Purchasers of the Vendors' right, title and interest in and to the Purchased Assets (the "**Transaction**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchasers of a certificate or certificates confirming: (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in

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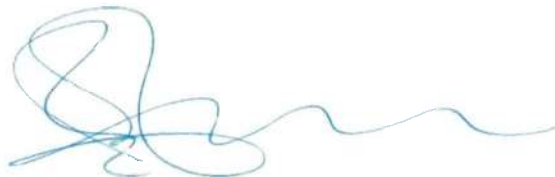
the APA have been satisfied or waived by the Vendors and the Purchasers; and (iii) the Applicable Transaction has been completed to the satisfaction of the Vendors.

- C. Pursuant to an Order of the United States Bankruptcy Court District of Colorado (the “**US Court**”) in Case No. 22-14719KHT filed and entered on January 10, 2023, the US Court approved the transaction contemplated in the APA as it relates to Nilex USA, and provided for the vesting in Hanes of Nilex USA’s right, title and interest in and to the Purchased Assets
- D. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Order (Sale Approval and Vesting).

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. Hanes (or its nominee) has paid and the Proposal Trustee has received the US Purchase Price for the Purchased Assets payable on the Closing Date for the US Closing pursuant to the APA;
2. The conditions to Closing for the US Closing as set out in sections 7.1, 7.2 and 7.3 of the APA have been satisfied or waived by Nilex USA and Hanes (or their nominee);
3. The Applicable Transaction has been completed to the satisfaction of Nilex USA and Nilex USA has notified the Proposal Trustee of this; and
4. This Certificate was delivered by the Proposal Trustee on January 27, 2023 at 12:50 p.m. Edmonton Time.

KSV RESTRUCTURING INC., IN ITS CAPACITY
AS PROPOSAL TRUSTEE OF **NILEX INC.** AND
NILEX USA INC. AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY



Per: _____
Name: Robert Kofman
Title: President

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Clerk's Stamp

COURT/ESTATE FILE NUMBER 24-2878531

COURT COURT OF KING'S BENCH OF ALBERTA
 JUDICIAL CENTRE EDMONTON

IN THE MATTER OF THE NOTICE OF
 INTENTION TO MAKE A PROPOSAL
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File Ref.: 99580/8

AFFIDAVIT NO. 4 OF Jeff Allen
Sworn January 30, 2023

I, Jeff Allen, of the City of Edmonton, in the Province of Alberta, **MAKE OATH AND SWEAR THAT:**

INTRODUCTION

1. I am the Vice President, Finance of the Applicant, Nilex Inc. ("**Nilex**"). In this capacity, I am responsible for overseeing the financial operations of Nilex and its wholly owned subsidiary, Nilex USA Inc. ("**Nilex USA**", and together with Nilex, the "**Companies**").
2. I have previously sworn affidavits in these proceedings on October 31, 2022, November 21, 2022, and December 7, 2022. I have personal knowledge of the matters in this Affidavit, except where I state that my knowledge is based on information and belief, in which case I believe my statements to be true.

- 2 -

3. In preparing this Affidavit, I have consulted with members of the Companies' board of directors, senior management team, legal advisors and the Proposal Trustee (defined below).

NATURE OF APPLICATION AND OVERVIEW OF RELIEF SOUGHT

4. This Affidavit is sworn in support of the Companies' application returnable on February 7, 2023 (the "**Application**") before the Court of King's Bench of Alberta (the "**Court**") for an order, among other things:
 - (a) extending the time by which each of the Companies may file a proposal to their creditors pursuant to section 50.4(9) the BIA for a 45-day period from the date following the current deadline to do so, such that the Companies may file a proposal up to and including 11:59 pm (local Edmonton time) on March 24, 2023, or such other date as this Honourable Court may order;
 - (b) approving and ratifying the actions, conduct and activities of KSV Restructuring Inc., the proposal trustee appointed in these proceedings (the "**Proposal Trustee**") as set out in the fourth report of the Proposal Trustee to the Court dated January 30, 2023 (the "**Fourth Report**"); and
 - (c) approving the fees and disbursements of the Proposal Trustee and its counsel as set out in the Fourth Report and the fee affidavits sworn January 30, 2023 and provided to the Court.

INTRODUCTION

5. On October 27, 2022, Nilex filed a notice of intention ("**NOI**") to make a proposal (the "**Nilex NOI Proceeding**") under section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**") and the Proposal Trustee was appointed proposal trustee of Nilex. The NOI was filed in consultation with Nilex's professional advisors to attempt to restructure or sell Nilex as a going concern for the benefit of its stakeholders and after identifying no viable alternative process due to Nilex's insolvency.
6. On November 8, 2022, the Honourable Justice J.S. Little of the Court granted an order which, among other things, extended the time for Nilex to file a proposal to its creditors pursuant to section 50.4(9) of the BIA for a maximum 45-day period ending on January 10, 2023.

- 3 -

7. On November 24, 2022, Nilex USA filed an NOI (the "**Nilex USA NOI Proceeding**" and, together with the Nilex NOI Proceeding, the "**NOI Proceedings**") under section 50.4(1) of the BIA and the Proposal Trustee was appointed proposal trustee of Nilex USA. The commencement of the Nilex USA NOI Proceeding was a condition of the asset purchase agreement ("**APA**") among the Companies, as vendors and Terrafix Geosynthetics Inc. and Hanes Companies, Inc., as purchasers (the "**Purchasers**" and together with the Companies, the "**Parties**") entered into on November 18, 2022, and authorized and approved by the Court on November 28, 2022, as discussed further below.
8. On November 28, 2022, the Honourable Justice M.H. Hollins of the Court granted orders, among other things:
 - (a) extending time for each of the Companies to file a proposal to their creditors pursuant to section 50.4(9) of the BIA to and including February 7, 2023;
 - (b) approving (the "**Approval Order**") the purchase and sale transaction (the "**Transaction**") contemplated in the APA;
 - (c) authorizing the Companies to enter into the transition services agreement (the "**TSA**");
 - (d) procedurally consolidating the NOI Proceedings; and
 - (e) authorizing the Proposal Trustee to act as the foreign representative in respect of the Companies, or either of them, for the purpose of having the NOI Proceedings, or either of them, recognized in the United States of America pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 in the United States Bankruptcy Court for the District of Colorado (the "**US Bankruptcy Court**").
9. All references to dollar amounts contained herein are to Canadian dollars unless otherwise stated.

BACKGROUND

10. As set out in the Second Report, the execution of the TSA by the Parties was a condition to closing of the Transaction. Pursuant to the TSA, the Companies will agree to provide the benefit of certain leases, services and employees to the Purchasers at the Purchasers' expense for up to six months following closing.



- 4 -

11. On December 2, 2022, the Proposal Trustee, in its capacity as foreign representative, filed with the US Bankruptcy Court, among other things, a petition for the recognition of the Nilex USA NOI Proceeding.
12. On December 9, 2022, the US Bankruptcy Court granted a preliminary injunction order in respect of Nilex USA and scheduled a hearing date for final recognition of the Nilex USA NOI Proceeding and the Approval Order, as it relates to the Transaction in respect of Nilex USA.
13. The Transaction in respect of Nilex closed on December 19, 2022 (with an effective date of December 16, 2022), and a copy of the Proposal Trustee's certificate of same is attached hereto as **Exhibit "A"**.
14. On January 10, 2023, the Honourable Judge M.E. Romero of the US Bankruptcy Court entered orders, among other things, recognizing the Approval Order and approving the Transaction with respect to Nilex USA.
15. The Transaction in respect of Nilex USA closed on January 27, 2023, and a copy of the Proposal Trustee's certificate of same is attached hereto as **Exhibit "B"**.

RELIEF REQUESTED

Extension of Time to File a Proposal

16. Pursuant to section 50.4(8) of the BIA, each of the Companies is required to file a proposal with the official receiver within 30 days of commencing its respective NOI Proceedings (the "**Initial 30 Days**") unless it otherwise obtains an extension from the Court.
17. Pursuant to section 50.4(9) of the BIA, before the expiry of the Initial 30 Days, each of the Companies may apply to the Court for an order extending the time to file a proposal or proposals by a period not exceeding 45 days and not exceeding in the aggregate five months after the expiry of the Initial 30 Days for any individual extension.
18. Unless the Companies receive extensions of time to file a proposal or proposals, each of the Companies' deadline to file a proposal with the official receiver will expire at 11:59 pm (local Edmonton time) on February 7, 2023, and the Companies will be deemed to have made an assignment in bankruptcy at that time.

- 5 -

19. The extension requested will not cause either of the Companies to exceed the aggregate five-month period after the expiry of the Initial 30 Days, as set out below:

Filing Timeline	Nilex	Nilex USA
Filing Date	October 27, 2022	November 24, 2022
Initial 30 Days pursuant to section 50.4(8) of the BIA	November 26, 2022	December 24, 2022
Extension granted November 8, 2022	January 10, 2023	---
Extension granted November 28, 2022	February 7, 2023 (28-day extension)	February 7, 2023
Extension to be sought on February 7, 2023	March 24, 2023	March 24, 2023
5 months after Initial 30 Days	April 26, 2023	May 24, 2023

20. Since commencing the NOI Proceedings, the Companies have diligently complied with various requirements under the BIA including:
- (a) continuing to operate their businesses in the ordinary course;
 - (b) preparing and analyzing creditor lists;
 - (c) providing the Proposal Trustee with access to the Companies' senior employees and books and records;
 - (d) completing cash flow forecasts; and
 - (e) working with the Proposal Trustee, the Companies' sale advisor, Valitas Capital Partners, and the Companies' legal advisors to negotiate and enter into the APA and to close the Transaction in respect of Nilex with a view to maximizing value for the Companies' creditors and stakeholders.
21. The Companies' cash flow forecast for the extension period will be attached to the Fourth Report. It reflects that the Companies have the funding required to preserve the status quo for the extension period.

22. An extension of time for each of the Companies to file a proposal or proposals is a material component of the NOI Proceedings to allow each the Companies to restructure their affairs following the completion of the Transaction and will permit the Companies to fulfill the terms of the TSA. In this regard:
- (a) each of the Companies has acted and is acting in good faith and with due diligence both in the period prior to and since the commencement of the NOI Proceedings; and
 - (b) an extension of time will enhance the Companies' ability to make a viable proposal or proposals following the completion of the Transaction.

Conclusion

23. I swear this Affidavit in support of the Application and for any other proper purpose in connection with the NOI Proceedings.

SWORN BEFORE ME on the 30th day of January, 2023 at the City of Edmonton, Alberta.



 A Commissioner for Oaths in and for
 Alberta

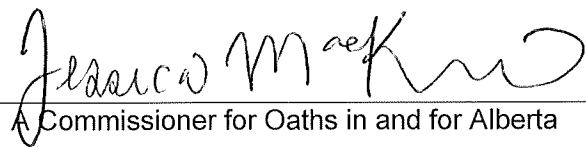
Jessica MacKinnon
Barrister & Solicitor

Jeff Allen

gm

- 7 -

This is Exhibit "A" referred to in the Affidavit of Jeff Allen sworn before me this 30th day of January, 2023.



Commissioner for Oaths in and for Alberta

Jessica MacKinnon
Barrister & Solicitor



COURT FILE NUMBER 24-2878531

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

Clerk's Stamp

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER SECTION 50.4(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

APPLICANTS NILEX INC. AND NILEX USA INC.

DOCUMENT **PROPOSAL TRUSTEE'S CERTIFICATE – CANADIAN CLOSING**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION
OF PARTY FILING
THIS DOCUMENT

Cassels Brock & Blackwell LLP
Suite 3810, 3500 Bankers Hall West
888 3rd Street SW
Calgary, Alberta T2P 5C5

Attention: Jane Dietrich / Danielle Maréchal
Telephone: 416-260-5223 / 403-351-2922
Facsimile: 403-648-1151
Email: jdietrich@cassels.com /
dmarechal@cassels.com

RECITALS

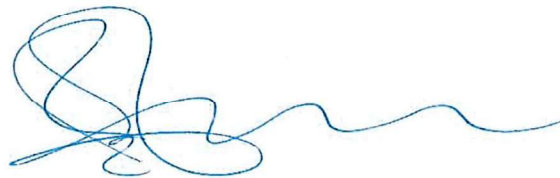
- A. Pursuant to the filing of notices of intention to make a proposal under section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) on October 27, 2022 by Nilex Inc. and on November 24, 2022 by Nilex USA Inc., KSV Restructuring Inc. consented to act as the Proposal Trustee.
- B. Pursuant to an Order of the Court dated November 28, 2022, the Court approved the Asset Purchase Agreement dated November 18, 2022 (the "**APA**"), between Nilex Inc. and Nilex USA Inc. (the "**Vendors**") and Terraflux Geosynthetics Inc. and Hanes Companies, Inc. (the "**Purchasers**"), and provided for the vesting in the Purchasers of the Vendors' right, title and interest in and to the Purchased Assets (the "**Transaction**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchasers of a certificate or certificates confirming: (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the APA have been satisfied or waived by the Vendors and the Purchasers; and (iii) the Applicable Transaction has been completed to the satisfaction of the Vendors.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Order (Sale Approval and Vesting).

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Proposal Trustee has received the Canadian Purchase Price for the Purchased Assets payable on the Closing Date for the Canadian Closing pursuant to the APA;
2. The conditions to Closing for the Canadian Closing as set out in sections 7.1, 7.2 and 7.3 of the APA have been satisfied or waived by the Vendors and the Purchasers (or their nominee);
3. The Applicable Transaction has been completed to the satisfaction of the Vendors and the Vendors have notified the Proposal Trustee of this in writing; and
4. This Certificate was delivered by the Proposal Trustee on December 19, 2022 at 11:30 a.m. Edmonton Time.

**KSV RESTRUCTURING INC., IN ITS CAPACITY
AS PROPOSAL TRUSTEE OF NILEX INC. AND
NILEX USA INC. AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY**



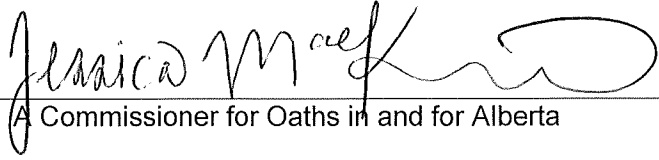
Per: _____

Name: Robert Kofman

Title: President



This is Exhibit "B" referred to in the Affidavit of Jeff Allen sworn before me this 30th day of January, 2023.


A Commissioner for Oaths in and for Alberta

Jessica MacKinnon
Barrister & Solicitor



COURT FILE NUMBER 24-2878531

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

Clerk's Stamp

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER SECTION 50.4(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

APPLICANTS NILEX INC. AND NILEX USA INC.

DOCUMENT **PROPOSAL TRUSTEE'S CERTIFICATE – US CLOSING**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION
OF PARTY FILING
THIS DOCUMENT

Cassels Brock & Blackwell LLP
Suite 3810, 3500 Bankers Hall West
888 3rd Street SW
Calgary, Alberta T2P 5C5

Attention: Jane Dietrich / Danielle Maréchal
Telephone: 416-260-5223 / 403-351-2922
Facsimile: 403-648-1151
Email: jdietrich@cassels.com /
dmarechal@cassels.com

RECITALS

- A. Pursuant to the filing of notices of intention to make a proposal under section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) on October 27, 2022 by Nilex Inc. and on November 24, 2022 by Nilex USA Inc., KSV Restructuring Inc. ("**KSV**") consented to act as the Proposal Trustee.
- B. Pursuant to an Order of the Court dated November 28, 2022, the Court approved the Asset Purchase Agreement dated November 18, 2022 (the "**APA**"), between Nilex Inc. ("**Nilex**") and Nilex USA Inc. ("**Nilex USA**" and together with Nilex, the "**Vendors**") and Terrafix Geosynthetics Inc. ("**Terrafix**") and Hanes Companies, Inc. ("**Hanes**" and together with Terrafix, the "**Purchasers**"), and provided for the vesting in the Purchasers of the Vendors' right, title and interest in and to the Purchased Assets (the "**Transaction**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchasers of a certificate or certificates confirming: (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in

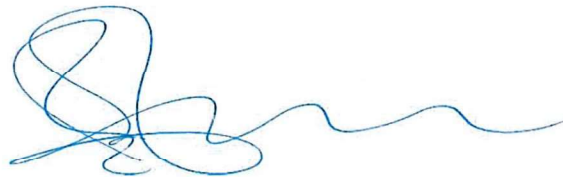
the APA have been satisfied or waived by the Vendors and the Purchasers; and (iii) the Applicable Transaction has been completed to the satisfaction of the Vendors.

- C. Pursuant to an Order of the United States Bankruptcy Court District of Colorado (the “**US Court**”) in Case No. 22-14719KHT filed and entered on January 10, 2023, the US Court approved the transaction contemplated in the APA as it relates to Nilex USA, and provided for the vesting in Hanes of Nilex USA’s right, title and interest in and to the Purchased Assets
- D. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Order (Sale Approval and Vesting).

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. Hanes (or its nominee) has paid and the Proposal Trustee has received the US Purchase Price for the Purchased Assets payable on the Closing Date for the US Closing pursuant to the APA;
2. The conditions to Closing for the US Closing as set out in sections 7.1, 7.2 and 7.3 of the APA have been satisfied or waived by Nilex USA and Hanes (or their nominee);
3. The Applicable Transaction has been completed to the satisfaction of Nilex USA and Nilex USA has notified the Proposal Trustee of this; and
4. This Certificate was delivered by the Proposal Trustee on January 27, 2023 at 12:50 p.m. Edmonton Time.

**KSV RESTRUCTURING INC., IN ITS CAPACITY
AS PROPOSAL TRUSTEE OF NILEX INC. AND
NILEX USA INC. AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY**



Per: _____

Name: Robert Kofman

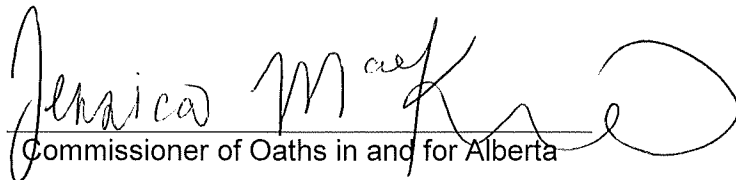
Title: President

Certificate of Commissioning by Videoconference

I, Jessica MacKinnon, Commissioner of Oaths in and for Alberta, took the Affidavit of Records of Jeff Allen sworn via videoconference on January 30, 2023, (the "**Affidavit of Records**").

The affiant and I followed the process outlined by the Alberta Court of King's Bench in Notice to the Profession and Public #2020-02 dated March 25, 2020. In addition to the steps described in the Affidavit of Records, I compared each page of the copy I received from the affiant with the initialed copy that was before me while I was linked by videoconference with the affiant. Upon being satisfied that the two copies were identical, I affixed my name to the jurat.

On March 17, 2020, the Government of Alberta declared a state of public health emergency pursuant to the Alberta *Public Health Act* in response to the COVID-19 pandemic. The Government of Alberta also strongly recommends that all individuals stay home and avoid contact with others whenever possible. I am satisfied that this process was necessary.


Commissioner of Oaths in and for Alberta

Jessica MacKinnon
Barrister & Solicitor