

COURT FILE NUMBER                      QBG 1076 of 2021  
COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY  
JUDICIAL CENTRE                          SASKATOON

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
CANADIAN DEVELOPMENT STRATEGIES INC.

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
CROSSROADS ONE INC.

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
OAK AND ASH FARM LTD.

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
1143402 ALBERTA LTD.

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
2061778 ALBERTA LTD.

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
1216699 ALBERTA LTD.

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
DEAN RUNZER

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
LORI

---

BRIEF OF LAW ON BEHALF OF THE APPLICANTS,  
FIRESONG GROUP

---

**MLT AIKINS**

MLT Aikins LLP  
Suite 1201 – 409 3rd Avenue S  
Saskatoon, SK S7K 5R5

## BRIEF OF LAW ON BEHALF OF THE APPLICANTS

### I. INTRODUCTION

1. This Brief of Law is submitted on behalf of the Applicants, Canadian Development Strategies Inc., Crossroads One Inc., Oak and Ash Farm Ltd., 1143402 Alberta Ltd., 1216699 Alberta Ltd., 2061778 Alberta Ltd., Dean Runzer, and Lori Runzer (collectively, the “**FireSong Group**”), in support of their Applications under sections 50.4(9) and 64.1 of the *Bankruptcy and Insolvency Act*<sup>1</sup> (the “**BIA**”) for an Order to:
  - a. extend the period of time within which they are required to file proposals to their creditors under Division I of Part III of the BIA by 45 days, from December 13, 2021 to and including January 26, 2022 (the “**Second Stay Extension**”); and
  - b. grant an administration charge over the property of the FireSong Group in the amount of \$100,000.00 (the “**Administration Charge**”) in favour of MNP Ltd. (the “**Proposal Trustee**”) and legal counsel to the FireSong Group (“**Applicants’ Counsel**”), in order to secure payment of their professional fees and disbursements to assist the FireSong Group in restructuring its business and financial affairs.
2. The facts relied upon by the FireSong Group in support of this Application are those set out in the Affidavits of Lori Runzer sworn on October 21, 2021 and December 6, 2021.<sup>2</sup>
3. Capitalized terms not defined in this Brief of Law have the definitions ascribed to them in the Applicants’ Notice of Application filed with this Honourable Court on December 6, 2021.
4. FireSong Group is the developer and operator of a luxury resort village at Fowler Lake, Saskatchewan.<sup>3</sup> FireSong Group was set to become a premier Canadian travel destination for domestic and international travellers in 2019, receiving both local and international honours from prominent organizations in the hospitality industry.<sup>4</sup> FireSong Group’s fortunes suffered a drastic setback as a result of the COVID-19 pandemic. With local lockdowns and international borders closed, FireSong Group was left without customers for its five newly-built luxury cabins, without resources to finance subsequent stages of its development plan, and without cash flow to support its operations.<sup>5</sup>

---

<sup>1</sup> RSC 1985, c. B-3 [**BIA**].

<sup>2</sup> Affidavit of Lori Runzer sworn October 21, 2021 [**First Runzer Affidavit**]; Affidavit of Lori Runzer sworn December 6, 2021 [**Second Runzer Affidavit**].

<sup>3</sup> First Runzer Affidavit at para 7.

<sup>4</sup> First Runzer Affidavit para 24.

<sup>5</sup> First Runzer Affidavit at para 24.

5. On September 29, 2021, FireSong Group filed Notices of Intention to Make a Proposal to its creditors under section 50.4(1) of the BIA.<sup>6</sup> On October 28, 2021, this Honourable Court granted the First Stay Extension Order, thereby extending the period required to file proposals to the FireSong Group's creditors with the Official Receiver under Division I of Part III of the BIA to and including December 13, 2021 (the "**First Stay Extension Order**").
6. The FireSong Group has expended significant efforts towards developing a plan for restructuring and towards developing proposals to its creditors. The FireSong Group has continued to work towards closing the sale of the Fort Saskatchewan Farmland as quickly as possible.<sup>7</sup> The FireSong Group has also engaged the services of an expert in acquisitions and turnarounds in the Canadian hospitality industry to assist with developing an operating plan going forward and navigating the challenges in the hospitality industry arising from the COVID-19 pandemic.<sup>8</sup> The FireSong has diversified its operations in order to capitalize on the hunting industry, which enjoys international recognition for the quality of, among other things, whitetail deer (the "**Hunting Industry**").<sup>9</sup> Finally, the FireSong Group has continued to pursue opportunities to provide amenities in respect of the kâniyâsihk Culture Camps to provide services and programming to at risk indigenous youth.
7. While the FireSong Group has yet to develop proposals to its creditors, there is a strong likelihood that it will be able to develop viable proposals to continue operating as a going concern that will result in enhanced recovery for its stakeholders if it is provided with additional time within which to file proposals. It is the respectful position of the FireSong Group that it is appropriate for this Honourable Court to grant an Order approving the Second Stay Extension.
8. In respect of the Administration Charge, the Proposal Trustee and legal counsel for the FireSong Group are providing expertise and professional contributions on credit which are essential to a successful restructuring of the business and financial affairs of the FireSong Group. It is the respectful position of the FireSong Group that it is appropriate for this Honourable Court to grant an Order approving the Administration Charge, in order to allow the FireSong Group to continue to retain the professional services that it requires to carry out its restructuring.

## II. ISSUES

9. The FireSong Group respectfully submits that this Application raises the following two issues for determination:

---

<sup>6</sup> First Runzer Affidavit at para 3.

<sup>7</sup> Second Runzer Affidavit at paras 8(a) and 8(b).

<sup>8</sup> Second Runzer Affidavit at paras 8(c) and 8(d), and Exhibit "A".

<sup>9</sup> Second Runzer Affidavit at paras 8(e) and 8(f), and Exhibit "B".

- a. Is it appropriate to grant an Order approving a further Stay Extension?
  - (i) Has the FireSong Group acted in good faith and with due diligence?
  - (ii) Is FireSong Group likely to be able to make viable proposals to its creditors if the 45-day extension is granted?
  - (iii) Will a creditor of FireSong Group be materially prejudiced if the 45-day extension is granted?
- b. Is it appropriate to grant an Order approving the Administration Charge?

### III. **ARGUMENT**

#### ***A Further Stay Extension Order is Appropriate.***

- 10. The FireSong Group filed Notices of Intention to Make a Proposal to its creditors under section 50.4(1) of the BIA on September 29, 2021.<sup>10</sup> On October 28, 2021, this Honourable Court granted the First Stay Extension Order. However, FireSong Group will be deemed bankrupt under section 50.4(8) of the BIA on December 13, 2021 as a result of 45 days elapsing from the granting of the First Stay Extension Order if an extension of time is not granted for FireSong Group to make such proposals.
- 11. Section 50.4(9) of the BIA provides three necessary requirements that an insolvent person must satisfy in order for the Court to grant an extension of time to file a proposal to creditors. Section 50.4(9) reads as follows:<sup>11</sup>

#### Extension of time for filing proposal

(9) The insolvent person may, before the expiry of the 30-day period referred to in subsection (8) or of any extension granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court, on notice to any interested persons that the court may direct, may grant the extensions, not exceeding 45 days for any individual extension and not exceeding in the aggregate five months after the expiry of the 30-day period referred to in subsection (8), if satisfied on each application that

- (a) the insolvent person has acted, and is acting, in good faith and with due diligence;
- (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (c) no creditor would be materially prejudiced if the extension being applied for were granted.

---

<sup>10</sup> Second Runzer Affidavit at para 6.

<sup>11</sup> *Supra* note 1.

12. As discussed in more detail below, the FireSong Group meets all three requirements necessary to be granted an extension of time for filing proposals to its creditors.

a. **FireSong Group is Acting in Good Faith and With Due Diligence**

13. The FireSong Group has acted and continues to act both in good faith and with due diligence.

14. The FireSong Group has engaged the services of an expert in the Canadian hospitality industry to assist in its restructuring being Mr. Jon Zwickel,<sup>12</sup> continues working to conclude the sale of the Farm Land located at Fort Saskatchewan,<sup>13</sup> has sought out diversified business opportunities in respect of the Hunting Industry and the kâniyâsihk Culture Camps,<sup>14</sup> has filed its updated Projected Cash Flow Statement with the Proposal Trustee, and has communicated in a transparent and timely manner with the Proposal Trustee and its stakeholders.

15. There is nothing to suggest that the FireSong Group is pursuing the Second Stay Extension for an improper purpose or to delay or frustrate creditor recovery. Rather, the FireSong Group has taken tangible steps towards restructuring with a view to recovery and maximizing stakeholder interests and has made progress to that end. The FireSong Group therefore meets the requirements of good faith and due diligence for an extension of time to file proposals under section 50.4(9)(a) of the BIA.

b. **FireSong Group is Likely to Make Viable Proposals to Its Creditors if the 45-Day Extension is Granted**

16. The FireSong Group's progress in developing a plan for restructuring and in developing proposals to its creditors indicates that it is likely that the FireSong Group will be able make viable proposals to its creditors if the 45-day extension is granted.

17. The requirement that an insolvent person prove that it is *likely* that they will be able to make a viable proposal to their creditors if the extension sought is granted must be interpreted in light of the ability for the Court to grant an insolvent person up to an aggregate of 5 months to file a proposal under section 50.4(9) of the BIA. That is, an insolvent person is not required to strictly prove that they will be able to make a viable proposal within the period of the extension, but that there is *some likelihood* a viable proposal will be advanced within the time frame of the extension applied for. Nor is an insolvent person require to prove their major creditors support

---

<sup>12</sup> Second Runzer Affidavit at paras 8(a) and 8(b).

<sup>13</sup> Second Runzer Affidavit at paras 10 and 11.

<sup>14</sup> Second Runzer Affidavit at paras 8(c), 8(d), 8(e) and 8(f), and Exhibits "A" and "B".

the extension being granted. As discussed by Justice Moir of the Nova Scotia Supreme Court in *Re Kocken Technologies Systems Inc.*:<sup>15</sup>

[19] Next is the requirement that a viable proposal is likely to be made.

[20] Ms. Graham swears that the Bank of Montreal "has lost all confidence and trust in current management and ownership". "BMO will not engage in negotiations." She is of the view "that any proposal is doomed to fail". The Bank of Montreal is the primary secured creditor and its support will be necessary when the time comes for a vote.

[21] Such statements by a secured creditor with a veto are not determinative. They are forecasts rather than evidence of present fact. We must not assume intransigence in a world in which misunderstandings occur, they are sometimes corrected, and trust is sometimes restored in whole or in part. Nor may we, in this case, assume that the proposed terms will require a restoration of confidence or trust or a continuing relationship with the Bank of Montreal.

[22] I have some difficulty with the decision of Justice Penny in *NS United Kaiun Kaisha, Ltd. v. Cogent Fibre Inc.*, 2015 ONSC 5139 (Ont. S.C.J.), which suggests that s. 50.4(9)(b) requires at least a hint of what the insolvent will offer to the secured creditor and what the proposal will contain. It is in the nature of proposals that they are developed and, if an extension is needed, the proposal is developing.

[23] The requirement is "would likely be able to make a viable proposal", not "has settled on terms likely to be accepted". I think that is the point made by Justice Goodfellow in *H & H Fisheries Ltd., Re*, 2005 NSSC 346 (N.S. S.C.), when he says that s. 50.4(9)(b) means "that a reasonable level of effort dictated by the circumstances must have been made that gives some indication of the likelihood a viable proposal will be advanced within the time frame of the extension applied for." [Emphasis added].

18. The FireSong Group has exerted a level of effort in developing proposals thus far that indicates a likelihood that viable proposals will be advanced within the time frame of the 45-day extension sought. The FireSong Group continues to work towards the sale of the Farm Land.<sup>16</sup> It has also retained the services of Mr. Jon Zwickel to assist in developing an operational plan.<sup>17</sup> The FireSong Group has also sought out diversified business opportunities in respect of the Hunting Industry and the kâniyâsihk Culture Camps.<sup>18</sup> While the specific terms of the FireSong Group's proposals may not be settled, the foundation of the FireSong Group's proposals have been identified.
19. The FireSong Group has made progress in developing its restructuring plan and its proposals to its creditors since October 28, 2021. If the FireSong Group's progress continues at a similar

---

<sup>15</sup> 2017 NSSC 80, 50 CBR (6th) 168.

<sup>16</sup> Second Runzer Affidavit at paras 10 and 11.

<sup>17</sup> Second Runzer Affidavit at paras 8(a) and 8(b).

<sup>18</sup> Second Runzer Affidavit at paras 8(c), 8(d), 8(e) and 8(f), and Exhibits "A" and "B".

rate as it has thus far, there is a strong likelihood that it will advance viable proposals to its creditors before the 45-day extension elapses on January 26, 2021. Accordingly, the FireSong Group meets the requirement of likely being able to make viable proposals to its creditors under section 50.4(9)(b) of the BIA.

**c. No Creditor of the FireSong Group Will Be Materially Prejudiced if the 45-Day Extension is Granted**

20. The proposed 45-day extension of time for the FireSong Group to file proposals to its creditors will not materially prejudice any of the FireSong Group's creditors.
21. The focus of the requirement that an insolvent person show that none of its creditors will be materially prejudiced under section 50.4(9)(c) is on whether the extension *will* cause prejudice to the insolvent person's creditors, and not whether the eventual proposal might cause prejudice to the insolvent person's creditors.<sup>19</sup> Second, the test is one of objective *material* prejudice. As discussed by Justice Steeves of the British Columbia Supreme Court in *Enirgi Group Corp. v Andover Mining Corp.*:<sup>20</sup>

[76] The third requirement under s. 50.4(9) is that no creditor should be materially prejudiced if an extension is granted. As emphasized in *Cantrail* at para. 21 the test is not prejudice but material prejudice. It is also an objective test: *Cumberland* at para. 11. In the subject case there is no evidence that the security in the first promissory note would be less if an extension was granted. Enirgi asserts that Andover is restructuring its assets but there is no evidence of that and, in the event it occurs, remedies are available on short notice. Unlike in *Cumberland*, the debtor here is not converting inventory into cash. It is true that the note (or notes) is non-interest bearing but Enirgi knew that when it became an assignee in March 2013 and the note had not been unpaid since October 2012. I conclude that there is some prejudice to Enirgi but not material prejudice. [Emphasis added]

22. There is no evidence that indicates that a creditor of the FireSong Group will be materially prejudiced by an extension of time for the FireSong Group to file proposals to its creditors.<sup>21</sup> Allowing the FireSong Group to develop and implement a restructuring plan to continue to operate as a going concern will result in a better financial outcome for the stakeholders than the alternative.<sup>22</sup> Further, there is no immediate threat of depreciation or devaluation of the FireSong Group's assets or erosion of the FireSong Group's cash flows that would cause the FireSong Group's creditors to be prejudiced if viable proposals are not developed.<sup>23</sup>

---

<sup>19</sup> *Re Scotian Distribution Services Ltd*, 2020 NSSC 131 at para 22, 78 CBR (6th) 258.

<sup>20</sup> 2013 BCSC 1833, 6 CBR (6th) 32.

<sup>21</sup> Second Runzer Affidavit at para 19(a).

<sup>22</sup> Second Runzer Affidavit at para 19(b).

<sup>23</sup> Second Runzer Affidavit at para 9.

23. The FireSong Group's creditors stand to gain in the form of enhanced recovery from the FireSong Group being provided with additional time to develop a restructuring plan and proposals to its creditors. There is no evidence that the FireSong Group's creditors will be materially prejudiced by the FireSong Group being provided with a 45-day extension to file proposals to its creditors. The FireSong Group therefore respectfully submits that it meets the requirement for an extension of time to file proposals under section 50.4(9)(c) of the BIA.

***An Order Approving the Administration Charge is Appropriate***

24. Section 64.1 of the BIA provides this Honourable Court with the statutory authority to grant the Administrative Charge. The language of section 64.1 reads as follows:<sup>24</sup>

Security or charge relating to director's indemnification

64.1 (1) On application by a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the property of the person is subject to a security or charge — in an amount that the court considers appropriate — in favour of any director or officer of the person to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer after the filing of the notice of intention or the proposal, as the case may be.

Priority

64.1 (2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the person.

25. The Administration Charge serves to secure and protect the Proposal Trustee and Applicants' Counsel regarding payment for their professional services, which services benefit creditors of the FireSong Group. Justice Morawetz of the Ontario Superior Court of Justice so held in *Timminco Limited, Re*:<sup>25</sup>

[44] Counsel to the Applicants submits that without the relief requested, the Timminco Entities will be deprived of the services being provided by the beneficiaries of the charges, to the company's detriment. I accept the submissions of counsel to the Applicants that it is unlikely that the advisors will participate in the CCAA proceedings unless the Administration Charge is granted to secure their fees and disbursements. I also accept the evidence of Mr. Kalins that the role of the advisors is critical to the efforts of the Timminco Entities to restructure. To expect that the advisors will take the business risk of participating in these proceedings without the security of the charge is neither reasonable nor realistic. [Emphasis added]

---

<sup>24</sup> *Supra* note 1.

<sup>25</sup> 2012 ONSC 506 at para 44.



26. The FireSong Group supports the granting of an Order approving the Administration Charge, as the expertise and professional contributions of the Proposal Trustee and Applicants' Counsel are essential to the FireSong Group's ability to develop and present viable proposals to its creditors.<sup>26</sup>
27. Orders of Justices of the Insolvency Panel of this Honourable Court granting an Administration Charge on the assets of corporations undergoing restructuring proceeds pursuant to Division I of Part III of the BIA in order to secure payment of the fees and disbursements of the Proposal Trustee and the Applicants' legal counsel are relatively common. Examples include:
- a. February 24, 2015 Order of Mr. Justice R.S. Smith in the Matter of the Proposal of System Built Developments Inc.<sup>27</sup>
  - b. May 14, 2015 Order of Madam Justice A.R. Rothery in the Matter of the Proposal of Boyd Excavating Ltd.;<sup>28</sup>
  - c. July 23, 2020 Order of Mr. Justice B.J. Scherman in the Matter of the Proposal of 10110090 Saskatchewan Ltd.;<sup>29</sup> and
  - d. September 9, 2020 Order of Mr. Justice R.W. Elson in the Matter of the Proposal of D'Amani Stucco Solutions Inc.<sup>30</sup>
28. FireSong Group respectfully submits that it is appropriate to grant the Administration Charge pursuant to section 64.1 of the BIA.

---

<sup>26</sup> Second Runzer Affidavit at para 18.

<sup>27</sup> *System Built Developments Inc., Re*, (24 February 2015). QB No. 1590 of 2014, Judicial Centre of Saskatoon (unreported) (Smith J).

<sup>28</sup> *Boyd Excavating Ltd., Re*, (14 May 2015), QB No. 117 of 2015, Judicial Centre of Saskatoon (unreported) (Rothery J).

<sup>29</sup> *10110090 Saskatchewan Ltd., Re*, (23 July 2020), QB No. 872 of 2020, Judicial Centre of Saskatoon (unreported) (Scherman J).

<sup>30</sup> *D'amani Stucco Solutions Inc. Re*, (9 September 2020), QB No. 1033 of 2020, Judicial Centre of Saskatoon (unreported) (Elson J).

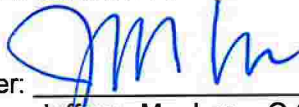
**IV. RELIEF REQUESTED**

29. For all of the foregoing reasons, FireSong Group respectfully requests that this Honourable Court grant an Order:

- a. approving the Second Stay Extension, pursuant to section 50.4(9) of the BIA; and
- b. approving the Administration Charge, pursuant to section 64.1 of the BIA.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at Saskatoon, Saskatchewan, this 6<sup>th</sup> day of December, 2021.

**MLT AIKINS LLP**

Per: 

Jeffrey M. Lee, Q.C. and Dana Nowak,  
Solicitors for the FireSong Group

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

Name of firm:	MLT Aikins LLP
Name of lawyer in charge of file:	Jeffrey M. Lee, Q.C., Dana Nowak
Address of legal firms:	Suite 1201 - 409 3rd Avenue S, Saskatoon SK S7K 5R5
Telephone number:	(306) 975-7136
Fax number:	(306) 975-7145
E-mail address:	JMLee@mltaikins.com / dnowak@mltaikins.com
File No:	153171.1

## **TABLE OF AUTHORITIES**

<b>JURISPRUDENCE</b>	<b>TAB</b>
<i>Kocken Technologies Systems Inc., Re</i> , 2017 NSSC 80, 50 CBR (6th) 168.	<b>CanLII</b>
<i>Scotian Distribution Services Ltd, Re</i> , 2020 NSSC 131, 78 CBR (6th) 258.	<b>CanLII</b>
<i>Enirgi Group Corp. v Andover Mining Corp., Re</i> , 2013 BCSC 1833, 6 CBR (6th) 32.	<b>CanLII</b>
<i>Timminco Limited, Re</i> , 2012 ONSC 506, 85 CBR (5th) 169.	<b>CanLII</b>
February 24, 2015 Order of Mr. Justice R.S. Smith in the Matter of the Proposal of System Built Developments Inc., unreported.	<b>A</b>
May 14, 2015 Order of Madam Justice A.R. Rothery in the Matter of the Proposal of Boyd Excavating Ltd., unreported.	<b>B</b>
July 23, 2020 Order of Mr. Justice B.J. Scherman in the Matter of the Proposal of 101100090 Saskatchewan Ltd., unreported.	<b>C</b>
September 9, 2020 Order of Mr. Justice R.W. Elson in the Matter of the Proposal of D'Aman: Stucco Solutions Inc., unreported.	<b>D</b>

**DUPLICATE  
ORIGINAL**

**COURT NUMBER** 23-1927123  
**ESTATE NUMBER** 23-1927123  
**COURT FILE NUMBER** 1590 of 2014

**COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY**

**JUDICIAL CENTRE** SASKATOON

**IN THE MATTER OF THE PROPOSAL OF SYSTEM BUILT DEVELOPMENTS INC.  
pursuant to Subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3**

**ORDER**

**(Third Filing Extension, Increase of Administrative Charge, Varying and Ratification of  
Disbursement Order, Varying of Priority of Unpaid GST Claim)**

Before the Honourable Mr. Justice R.S. Smith in Chambers the 24<sup>th</sup> day of February, 2015.

On the Application of Jeffrey M. Lee, Q.C., and Mike Russell, counsel on behalf of System Built Developments Inc. ("**SBDI**"); and upon hearing from Mike Russell on behalf of SBDI and counsel present on behalf of any other interested parties; and on reading the Notice of Application on behalf of SBDI dated February 20, 2015, the Fourth Report of the Proposal Trustee and a proposed draft of this Order, all filed;

The Court orders:

**Validation and Abridgment of Service**

1. Service of the Notice of Application on behalf of System Built Developments Inc. and the materials filed in support thereof (collectively, the "**Application Materials**") by electronic mail or facsimile upon those parties listed on the Service List established in these proceedings shall be and is hereby deemed to be good and valid and, further, shall be and is hereby abridged, such that service of such Application Materials shall be and is hereby deemed to be timely and sufficient.

**Extension of Stay of Proceedings**

2. Pursuant to subsection 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**"), the period within which SBDI is required to file a proposal to its creditors with the Official Receiver under subsection 62(1) of the BIA shall be and is hereby extended by a further 45 days, from February 28, 2015, to and including April 14, 2015.

**Varying, Ratification and Confirmation of the Disbursement of Asset Sale Proceeds Order**

3. An Order pursuant to subsection 187(5) of the BIA in regard to the Disbursement of Asset Sale Proceeds Order dated February 4, 2015:
  - (a) varying paragraph 2 by deleting the words "and presently held in trust by the NOI Trustee in the amount of \$50,841.25"; and
  - (b) ratifying and confirming subparagraph 2(b).

Increase of Administrative Charge

4. Pursuant to subsections 64.2(1) and 187(5) of the BIA, the administrative charge on the assets of SBDI (the "Administrative Charge") granted and created pursuant to paragraph 2 of the Interim Financing and Administrative Charge Approval Order dated November 28, 2014 (the "November 28 Order"), to secure payment of the reasonable professional fees and disbursements of Deloitte Restructuring Inc., the Trustee appointed pursuant to the notice of intention to make a proposal to creditors (the "NOI") pursuant to section 50.4 of the BIA filed by SBDI in these proceedings, (the "NOI Trustee") and the reasonable professional fees and disbursements of legal counsel to SBDI, the law firm of MacPherson Leslie & Tyerman LLP, shall be and is hereby increased from the amount of \$65,000.00 to the amount of \$100,000.00.

Varying of November 28 Order in Regard to Priority of Claim for Unpaid GST

5. Pursuant to subsection 187(5) of the BIA, paragraphs 1 and 2 of the November 28 Order shall be and are hereby varied by deleting the words "and unpaid GST", such that the Interim Financing Charge and the Administrative Charge defined, granted and created pursuant to such paragraphs 1 and 2, respectively, shall rank in priority to the claim of Canada Revenue Agency against SBDI for unpaid GST.

Restating and Amending Orders

6. The following Orders, namely:
- (a) the Sale Approval Order dated November 21, 2014, paragraph 5 of which was varied by paragraph 3 of the Disbursement of Asset Sale Proceeds Order dated February 4, 2015;
  - (b) the November 28 Order, paragraphs 1 and 2 of which are varied by paragraphs 4 and 5 of this Order; and
  - (c) the Disbursement of Asset Sale Proceeds Order dated February 4, 2015, paragraph 2 of which is varied, ratified and confirmed by paragraph 3 of this Order,

shall be and are hereby amended and restated in the forms attached hereto as Schedules "A", "B" and "C", respectively.

ISSUED at Saskatoon, in the Province of Saskatchewan, this 25<sup>th</sup> day of February, 2015.

  
\_\_\_\_\_  
(Deputy) Local Registrar

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

Name of firm:	MacPherson Leslie & Tyerman LLP
Name of lawyer in charge of file:	Jeffrey M. Lee, Q.C. and Mike Russell
Address of legal firms:	1500 - 410 22nd Street, Saskatoon SK S7K 5T6
Telephone number:	(306) 975-7100
Fax number:	(306) 975-7145
E-mail address:	<a href="mailto:JMLee@mlt.com">JMLee@mlt.com</a> / <a href="mailto:MRussell@mlt.com">MRussell@mlt.com</a>
File No:	58502.1

COURT NUMBER BKY 117 of 2015

ESTATE NUMBER 22-1984833

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF THE PROPOSAL OF BOYD EXCAVATING LTD.  
pursuant to Subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3

ORDER

(First Extension and Approval of Administrative Charge)

Before the Honourable Madam Justice A.R. Rothery in Chambers the 14<sup>th</sup> day of May, 2015.

On the Application of Jeffrey M. Lee, Q.C., and Mike Russell, lawyers on behalf of Boyd Excavating Ltd. ("BEL" or the "Company"); and upon hearing from Jeffrey M. Lee, Q.C., on behalf of the Company, and counsel present on behalf of other interested parties; and on reading the Notice of Application on behalf of the Company dated May 12, 2015; the Affidavit of Tyler Boyd sworn on May 14, 2015; the First Report of the Proposal Trustee dated May 12, 2015; the Addendum to the First Report of the Proposal Trustee dated May 14, 2015; the Affidavit of Janine Stener sworn on May 13, 2015; the Brief of Law dated April 21, 2015; the Brief of Law dated May 14, 2015; and a proposed draft of this Order, all filed; and the pleadings and proceedings herein:

The Court orders:

Validation and Abridgment of Service

1. Service of the Notice of Application on behalf of the Company and the materials filed in support thereof (collectively, the "Application Materials") by electronic mail or facsimile upon those parties listed on the Service List established in these proceedings shall be and is hereby deemed to be good and valid and, further, shall be and is hereby abridged, such that service of such Application Materials shall be and is hereby deemed to be timely and sufficient.

Extension of Stay of Proceedings

2. Pursuant to subsection 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "BIA"), the period within which the Company is required to file a proposal to its creditors with the Official Receiver under subsection 62(1) of the BIA shall be and is hereby extended from May 20, 2015, to and including July 3, 2015.

Adjournment of Application to Increase Amount of Interim Financing and Interim Financing Charge

3. The motion pursuant to subsection 50.6(1) of the BIA for approval of an additional amount of Interim Financing which the Company is authorized to borrow from the Interim Financing Lender and to increase the amount of the Interim Financing Charge (as those three terms are defined in the Order of the Honourable Justice D.P. Ball dated April 22, 2015) shall be and is hereby adjourned *sine die*, to be brought back on at least five days notice.

Approval of Administrative Charge

4. Pursuant to subsection 64.2(1) of the BIA, an administrative charge on the all gravel inventory of the Company (the "Gravel Inventory") in the amount of Fifty Thousand (\$50,000.00) Dollars (the "Administrative Charge") shall be and is hereby granted and created in order to secure payment of the reasonable professional fees and disbursements of the proposal trustee, MNP Ltd. (the "Proposal Trustee"), and the reasonable professional fees and disbursements of legal counsel to the Company in regard to these proceedings by the Company under the BIA, being the law firm of MacPherson Leslie & Tyerman LLP ("MLT"), which Administrative Charge shall rank in priority to all other interests in or claims to the Gravel Inventory (and the proceeds of such Gravel Inventory), save and except for claims of Canada Revenue Agency for unpaid employee source deductions and the Interim Financing Charge.

Validity and Enforceability of Administrative Charge

5. The filing, registration or perfection of the Administrative Charge shall not be required, and the Administrative Charge shall be enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Administrative Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.
6. The Administrative Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Proposal Trustee and MLT thereunder 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, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Company, and notwithstanding any provision to the contrary in any Agreement:
- (a) the creation of the Administrative Charge shall not create or be deemed to constitute a breach by the Company of any Agreement to which it is a party;
  - (b) neither the Proposal Trustee nor MLT 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 Administrative Charge; and
  - (c) the payments made by the Company pursuant to this Order and the granting of the Administrative Charge do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ISSUED at the City of Saskatoon, in the Province of Saskatchewan, this 14<sup>th</sup> day of May, 2015.

  
(Deputy) Local Registrar

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

Name of firm: MacPherson Leslie & Tyerman LLP  
Name of lawyer in charge of file: Jeffrey M. Lee, Q.C. and Mike Russell  
Address of legal firms: 1500 - 410 22nd Street, Saskatoon SK S7K 5T6  
Telephone number: (306) 975-7100  
Fax number: (306) 975-7145  
E-mail address: [JMLee@mlt.com](mailto:JMLee@mlt.com) / [MRussell@mlt.com](mailto:MRussell@mlt.com)  
File No: 60152.1



**DUPLICATE ORIGINAL**

**Form 10-3**  
(Rule 10-3)

**CANADA )**  
**PROVINCE OF SASKATCHEWAN )**

**Court No.: Q.B. No. 872 of 2020**  
**Estate No.: 23-2654754**

**COURT OF QUEEN'S BENCH FOR SASKATCHEWAN**  
**IN BANKRUPTCY AND INSOLVENCY**

**JUDICIAL CENTRE SASKATOON**

**APPLICANT 101100090 SASKATCHEWAN LTD.**

**IN THE MATTER OF SECTION 50.4 OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, C.  
B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 101100090  
SASKATCHEWAN LTD.**

**ORDER**

**(APPLICATION FOR FIRST EXTENSION, INTERIM FINANCING AND ADMINISTRATIVE CHARGE)**

Order made this 23<sup>rd</sup> day of July, 2020.

Before the Honourable Mr. Justice B. J. Scherman on the 23<sup>rd</sup> day of July, 2020.

On the Application of Mike Russell and Kevin Hoy of the W Law Group LLP, lawyers for the Applicant, 101100090 SASKATCHEWAN LTD., and upon reading the Notice of Application dated July 20, 2020 (the "**Application**"), the Service List, the First Report of the Proposal Trustee, THE BOWRA GROUP INC. (the "**Proposal Trustee**") dated July 20, 2020, the affidavit of Ryan Kolibab sworn July 20, 2020, and this Order, all filed; and upon hearing from Mike Russell on behalf of the Applicant; and upon hearing representations from any other interested party represented by counsel at the application;

The Court hereby orders that:

**SERVICE AND DRAFT ORDER**

1. Service of the Applicant's Notice of Application and supporting materials by electronic transmission or facsimile upon those parties listed in the Service List established in these proceedings is hereby validated and declared to be timely and sufficient.
2. Queen's Bench Rule 10-4(2) is hereby waived.

## EXTENSION OF TIME TO FILE PROPOSAL

3. Pursuant to Section 50.4(9) of the *Bankruptcy and Insolvency Act* ("**BIA**"), the period within which the Applicant may file a proposal shall be and is hereby extended to 11:59 p.m. on September 9, 2020.
4. The stay of proceedings in the within matter is extended by 45 days to and including September 9, 2020.

## INTERIM FINANCING

5. The Applicant is hereby authorized to obtain and borrow the following amounts from the respective lenders, namely:
  - a. the amount of \$75,000.00 from Bernie Kolibab and Patricia Kolibab (the "**Kolibab Facility**") pursuant to the terms of a Promissory Note dated July 23, 2020 (the "**Kolibab Promissory Note**"); and
  - b. the amount of \$75,000.00 from Specific Consulting Corp. (the "**SCC Facility**") pursuant to the terms of a Promissory Note dated July 23, 2020 (the "**SCC Promissory Note**"),provided that the aggregate borrowings under the Kolibab Facility and the SCC Facility (collectively, the "**Interim Lending Facility**") shall not exceed the maximum principal amount of \$150,000.00 without further Order of this Court.
6. The Applicant is hereby authorized and empowered to execute and deliver Kolibab Promissory Note and the SCC Promissory Note (collectively, the "**Promissory Notes**"), and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liability and obligations under and pursuant to the Promissory Notes as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
7. Pursuant to Section 50.6 of the BIA, The Bernie Kolibab, Patricia Kolibab and Specific Consulting Corp. (collectively, the "**Interim Lenders**") shall be entitled, *pari passu*, to the benefits of a charge (the "**Interim Lender Charge**") on the Applicant's current and future assets, undertakings and property of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the "**Property**"), which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Promissory Notes and which charge shall not secure an obligation that exists before this Order is made. The Interim Lender Charge shall have the priority established by paragraphs 13 and 17 hereof.

8. Notwithstanding any other provisions of this Order or the provisions of Section 69 of the BIA:
- a. upon the dates of demand set forth in the Promissory Notes, each of the Interim Lenders will be entitled to exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Promissory Notes, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the Interim Lenders to the Applicant against the obligations of the Applicant to the Interim Lenders under the Promissory Notes or the Interim Lender Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
  - b. the foregoing rights and remedies of the Interim Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.
9. The Interim Lenders shall be treated as unaffected in any proposal filed by the Applicant under the BIA with respect to any advances made under the Promissory Notes or the Interim Lender Charge.
10. The Interim Lender Charge created by this Order over leases of real property in Canada shall not be a charge in the Applicant's interest in such real property leases.

#### **ADMINISTRATION CHARGE**

11. The Applicant shall pay the reasonable fees and disbursements of the Proposal Trustee, counsel for the Proposal Trustee and the Applicant's legal counsel (collectively, the "**Professionals**"), which are directly related to these proceedings, as defined in the Application, whether incurred before or after this Order (collectively, the "**Professional Fees**").
12. The Professionals shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$50,000.00, as security for the payment of the Professional Fees. The Administration Charge shall have the priority set out in paragraphs 13 and 17 hereof.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

13. The priorities of the Administration Charge and the Interim Lender Charge (collectively the "**Charges**") as between them with respect to any Property to which they apply, shall be as

follows:

- a. First – Administration Charge; and
  - b. Second – Interim Lender Charge.
14. Notwithstanding paragraphs 13 and 17 hereof, the Charges shall not rank in priority to or equal with any security interest or charge in the property of the Applicant held by Affinity Credit Union 2013. Notwithstanding the foregoing, the Applicant shall have leave, on 7 days' notice, or in any application seeking a further extension of these proceedings pursuant to section 50.4(9) of the BIA, to apply to this Court for a further Order subordinating any security interest or in the Property of the Applicant held by Affinity Credit Union 2013 to the Charges, as ranked in paragraph 13 and 17 hereof.
  15. If the persons sharing in the benefit of one of the Charges (the "**Chargees**") have claims that, in the aggregate, exceed the maximum authorized amount of that Charge, such Chargees shall share in the benefit of that Charge (as between themselves) on a *pro rata* basis to the maximum aggregate authorized amount of such Charge.
  16. The filing, registration or perfection of the Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any failure or delay to file, register, record or perfect the Charges.
  17. Each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any person.
  18. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrance over any Property that purports to rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Proposal Trustee, the Interim Lenders and the beneficiaries of the Administration Charge, or further Order of this Court.
  19. The Charges and the Promissory Notes shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees entitled to the benefit of the Charges and/or the Interim Lenders thereunder shall not otherwise be limited or impaired in any way by:
    - a. the pendency of these proceedings and the declarations of insolvency made in this Order;

- 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 document, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
  - i. neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Interim Lender Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
  - ii. 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 or the entering into, execution, delivery or performance of the Interim Lender Documents; and
  - iii. the payments made by the Applicant pursuant to this Order and the Promissory Notes 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.

20. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant, Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Applicant and the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant, the Proposal Trustee and its agents in carrying out the terms of this Order.

21. The Order and all other orders in these proceedings are declared to have full force and effect in all provinces and territories in Canada.

22. This Order shall be served on the Service List established in these proceedings.

ISSUED at Saskatoon, Saskatchewan, this 24<sup>th</sup> day of July, 2020.



\_\_\_\_\_  
Local Registrar

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

Name of Firm:	<b>The W Law Group LLP</b>
Name of lawyer in charge of file:	Michael Russell and Kevin N. Hoy
Address of legal firm:	110-21 <sup>st</sup> Street East Saskatoon, SK S7K 0B6
Telephone number:	(306) 244-2242
Facsimile:	(306) 652-0332
Email:	mrussell@wlawgroup.com / khoy@wlawgroup.com

**Form 10-3**  
(Rule 10-3)

**CANADA )  
PROVINCE OF SASKATCHEWAN )**

**Court No.: Q.B. No. 1033 of 2020  
Estate No.: 23-2664678**

**COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY**

**JUDICIAL CENTRE**

**SASKATOON**

**APPLICANT**

**D'AMANI STUCCO SOLUTIONS INC.**

**IN THE MATTER OF SECTION 50.4 OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, C.  
B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF D'AMANI  
STUCCO SOLUTIONS INC.**

**ORDER**

**(First Extension, Interim Financing Charge and Administrative Charge)**

Order made this 9<sup>th</sup> day of September, 2020.

Before the Honourable Mr. Justice R.W. Elson on the 9<sup>th</sup> day of September, 2020.

On the Application of Mike Russell and Fraiba Jalal of the W Law Group LLP, lawyers for the Applicant, D'AMANI STUCCO SOLUTIONS INC., and upon reading the Notice of Application dated September 4, 2020 (the "**Application**"), the Service List, the First Report of the Proposal Trustee, THE BOWRA GROUP INC. (the "**Proposal Trustee**") dated September 4, 2020, the Affidavit of Tomas Sabau sworn September 4, 2020, Brief of Law dated September 4, 2020, and this Order, all filed; and upon hearing from Mike Russell on behalf of the Applicant; and upon hearing representations from any other interested party represented by counsel at the application;

The Court hereby orders that:

**SERVICE AND WAIVER OF RULE 10-4(2)**

1. Service of the Application and supporting materials upon all parties listed on the Service List established in these proceedings by electronic service shall be and is hereby deemed to be good, timely and sufficient.
2. Queen's Bench Rule 10-4(2) is hereby waived.

### **EXTENSION OF TIME TO FILE PROPOSAL**

3. Pursuant to Section 50.4(9) of the *Bankruptcy and Insolvency Act* ("**BIA**"), the period within which the Applicant may file a proposal shall be and is hereby extended to 11:59 p.m. on October 28, 2020.
4. The stay of proceedings in the within matter is extended by 45 days to and including October 28, 2020.

### **INTERIM FINANCING**

5. The Applicant is hereby authorized to obtain and borrow the amount of up to \$200,000.00 from Adexmat Inc. (the "**Adexmat Facility**") pursuant to the terms of the loan and security documents (collectively, the "**Interim Financing Documents**") executed or to be executed between the Applicant and Adexmat Inc. in regard to the Adexmat Facility, provided that the aggregate borrowings under the Adexmat Facility shall not exceed the maximum principal amount of \$200,000.00 without further Order of this Court.
6. The Applicant is hereby authorized and empowered to execute and deliver promissory notes to Adexmat Inc. in accordance the Interim Financing Documents, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liability and obligations under and pursuant to the Interim Financing Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
7. Pursuant to Section 50.6 of the BIA, Adexmat Inc. shall be entitled to the benefits of a charge (the "**Interim Lender Charge**") on the Applicant's current and future assets, undertakings and property of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the "**Property**"), which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Interim Financing Documents and which charge shall not secure an obligation that exists before this Order is made. The Interim Lender Charge shall have the priority established by paragraphs 13 and 16 hereof.
8. Notwithstanding any other provisions of this Order or the provisions of Section 69 of the BIA:
  - a. upon the dates of demand set forth in the Interim Financing Documents, Adexmat Inc. shall be entitled to exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Interim Financing Documents, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by Adexmat Inc. to the Applicant against the obligations of the Applicant



to Adexmat Inc. under the Interim Financing Documents or the Interim Lender Charge, to make demands, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and

- b. the foregoing rights and remedies of Adexmat Inc. shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.
9. Adexmat Inc. shall be treated as unaffected in any proposal filed by the Applicant under the BIA with respect to any advances made under the Interim Financing Documents or the Interim Lender Charge.
10. The Interim Lender Charge created by this Order over leases of real property in Canada shall not be a charge in the Applicant's interest in such real property leases.

#### **ADMINISTRATION CHARGE**

11. The Applicant shall pay the reasonable fees and disbursements of the Proposal Trustee, counsel for the Proposal Trustee (if any) and the Applicant's legal counsel (collectively, the "**Professionals**"), which are directly related to these proceedings, as defined in the Application, whether incurred before or after this Order (collectively, the "**Professional Fees**").
12. The Professionals shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$50,000.00, as security for the payment of the Professional Fees. The Administration Charge shall have the priority set out in paragraphs 13 and 16 hereof.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

13. The priorities of the Administration Charge and the Interim Lender Charge (collectively the "**Charges**") as between them with respect to any Property to which they apply, shall be as follows:
- a. First – Administration Charge; and
  - b. Second – Interim Lender Charge.
14. If the persons sharing in the benefit of one of the Charges (the "**Chargees**") have claims that, in the aggregate, exceed the maximum authorized amount of that Charge, such Chargees shall

share in the benefit of that Charge (as between themselves) on a *pro rata* basis to the maximum aggregate authorized amount of such Charge.

15. The filing, registration or perfection of the Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any failure or delay to file, register, record or perfect the Charges.
16. Each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any person.
17. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrance over any Property that purports to rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Proposal Trustee, Adexmat Inc. and the beneficiaries of the Administration Charge, or further Order of this Court.
18. The Charges and the Loan Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees entitled to the benefit of the Charges and/or Adexmat Inc. thereunder shall not otherwise be limited or impaired in any way by:
  - a. the pendency of these proceedings and the declarations of insolvency made in this Order;
  - 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 document, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
    - i. neither the creation of the Charges nor the execution, delivery, perfection,

registration or performance of the Loan Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

- ii. 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 or the entering into, execution, delivery or performance of the Loan Documents; and
- iii. the payments made by the Applicant pursuant to this Order and the Loan Documents 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.

19. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant, Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Applicant and the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant, the Proposal Trustee and its agents in carrying out the terms of this Order.

20. The Order and all other orders in these proceedings are declared to have full force and effect in all provinces and territories in Canada.

21. This Order shall be served on the Service List established in these proceedings.

**[Space Intentionally Left Blank]**

ISSUED at Saskatoon, Saskatchewan, this 9<sup>th</sup> day of September, 2020.

  
Local Registrar

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

Name of Firm:

**The W Law Group LLP**

Name of lawyer in charge of file:

Michael Russell and Fraiba Jalal

Address of legal firm:

110-21<sup>st</sup> Street East

Saskatoon, SK

S7K 0B6

Telephone number:

(306) 244-2242

Facsimile:

(306) 652-0332

Email:

mrussell@wlawgroup.com / fjalal@wlawgroup.com