



Court File No.B-200208
Estate No. 11-2638450
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TBA BEVERAGE INC.

NOTICE OF APPLICATION

Name of applicant: TBA Beverage Inc.

To: Service List, attached as **Schedule "A"**

TAKE NOTICE that an application will be made (via teleconference) by the Applicant, TBA Beverage Inc. ("**TBA**"), to the presiding Judge at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on Wednesday, May 13, 2020 at 10:30 a.m. for the Orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An Order, substantially in the form attached hereto as **Schedule "B"**:
 - a. abridging the time for service of this Notice of Application, such that the application is properly returnable on this date;
 - b. extending the time for filing a proposal to June 28, 2020 pursuant to s. 50.4(9) of the *Bankruptcy and Insolvency Act*, R.S.C. 1983 c. B-3 (the "**BIA**");
 - c. extending the stay of proceedings to June 28, 2020;
 - d. approving a process for the sale of TBA's business as a going concern to be conducted by the Proposal Trustee ("**Sales Process**");
 - e. granting a priority charge in favour of the Proposal Trustee, The Bowra Group Inc, ("**Bowra**"), and counsel for TBA in the amount of \$100,000 (One Hundred Thousand Dollars) (the "**Administration Charge**") over the assets of TBA, which charge shall rank in the priority set out in the proposed order; and
2. such further and other relief as this Honourable Court may deem just.

Part 2: FACTUAL BASIS**TBA's operations**

3. TBA is a portfolio beverage company which produces a range of alcoholic products, including beers, wines, and spirits. It operates out of a production facility located at 1575 Vernon Drive, Vancouver, British Columbia.
4. TBA is federally and provincially licensed to produce and store alcoholic beverages and makes:
 - a. its own brands of beer; and
 - b. alcoholic beverages on a contractual basis for third parties.
5. In response to the COVID-19 pandemic TBA has recently begun manufacturing hand sanitizer on a contract basis.
6. TBA commenced operations in 2016 under the name Factory Brewing Ltd. ("Factory"). Factory merged with 0917382 B.C. Ltd. on January 1, 2018 and changed its name to TBA Beverage Inc. on February 11, 2020. TBA operates under the name 'Craft Collective Beerworks'.
7. In 2019 TBA had gross revenues of approximately \$9.3M.
8. TBA has faced challenges in its business resulting from rapid expansion of its operations which grew quickly in a manner out of step with its cash flow requirements. Prior to filing, TBA underwent a management change which refocused its business primarily on its own branded products which has assisted in streamlining its operations.
9. TBA's present cashflow difficulties have been caused by:
 - a. customer contracts that were aggressively quoted by management and resulted in low profit margins;
 - b. contract customers paying invoices after 90 days past due;
 - c. lost productivity due to equipment and production line issues;
 - d. loss of draft beer sales to restaurant and bar customers due to COVID – 19. Draft beer sales have historically accounted for approximately 60% of TBA's revenue; and
 - e. net losses carried over from prior fiscal years.

10. As a result of those issues TBA requires additional debt or equity to fund the current and future operating losses.

Creditors

11. As at April 14, 2020 TBA had creditors with claims of in excess of \$9 million.
12. TBA's day-to-day operations have primarily been funded by the following loan facilities:
 - a. loan agreement dated October 11, 2016 which was amended on November 5, 2019 and further amended on March 16, 2020 (the "**Loan Agreement**"); and
 - b. line of credit agreement dated December 11, 2019 (the "**Line of Credit Agreement**").

(together referred to as the "**Facilities**")
13. The Facilities are secured by way of a general security agreement entered into on October 11, 2016 (the "GSA") pursuant to which TBA granted a security interest over all of its present and after acquired property to secure its obligations under the Loan Agreement and the Line of Credit Agreement.
14. 1241393 B.C. Ltd ("124") is the secured lender under the Facilities and the GSA. As at the date of filing 124 was owed approximately \$6M.
15. 124 is related to certain shareholders and management of TBA.
16. On April 13, 2020 124 delivered to TBA:
 - a. Notice of Default and Demand for Payment under the Loan Agreement, the Line of Credit Agreement and the GGSA; and
 - b. Notice of Intention to Enforce Security, pursuant to s. 244 of the BIA
17. On the same day, TBA and 124 entered into a forbearance agreement the terms of which included that TBA would make reasonable best efforts to position itself for the sale of its assets and/or business during the forbearance period.

NOI filing and post-filing activities

18. On April 14, 2020 TBA filed a Notice of Intention to File a Proposal (the "NOI") pursuant to section 50.4 of the BIA. Bowra was appointed as Proposal Trustee.
19. Management, with the assistance of its advisors, the Proposal Trustee and input from 124, has reviewed its restructuring options. TBA is continuing to operate its business but given the potential for continued losses and funding requirements,

the proposal is likely to be one that results from an investment or a sale of its business as a going concern, in which case it may be a liquidating proposal.

20. Management and the Proposal Trustee are both of the view that the implementation of the Sales Process for the sale of the business as a going concern will likely result in a greater recovery to the widest group of stakeholders. The sale of the operating business will, in addition to providing maximum recovery to its secured creditor (and potentially unsecured creditors), provide opportunities for its landlord and employees as it is anticipated that prospective purchasers will seek to obtain assignments of the lease and offer continued employment to employees.
21. In those circumstances, TBA and the Proposal Trustee believe that the best option to preserve the business as a going concern would be to pursue the implementation of a sale transaction (or other restructuring alternative) through a proposal proceeding under the BIA.
22. TBA is currently funding its ongoing post-filing obligations via funds by 124 and has its support to conduct the proposed Sales Process through the Proposal Trustee.
23. TBA has been actively reducing its costs and overhead, since the filing of the NOI.
24. The time period in which TBA is required to file a proposal, and the stay of proceedings, expires May 14, 2020

Sales Process

25. The Sales Process contemplates that the Proposal Trustee, with the assistance of management, will conduct a sales process for the sale of the business as a going concern. In general terms, and subject to the court's approval, the Sales Process contemplates the following timeline:
 - a. April 14, 2020 to May 8, 2020 – Compile information for a data room to prepare a Teaser Letter and Confidential Information Memorandum (“CIM”);
 - b. April 14, 2020 to May 8, 2020 – Compile a target list of prospective purchasers and investor groups;
 - c. week of May 11, 2020 – Teaser Letter and CIM are completed for prospective investors and or purchasers;
 - d. May 14, 2020 - Commence marketing by contacting prospective purchasers and investors;

- e. May 14, 2020 and onwards – The Proposal Trustee will obtain confidentially and non-disclosure agreements from prospective purchasers and investors that wish to pursue this opportunity to grant them access to the TBA data room for due diligence purposes. The prospective purchasers and investors will need to demonstrate that they have the financial wherewithal to participate in this process;
 - f. July 14, 2020 – Deadline for offers to be submitted to the Proposal Trustee;
 - g. July 15, 2020 to July 22, 2020 – Final negotiations with select purchasers; and
 - h. July 22, 2020 – Execute final agreement with purchaser.
26. TBA and the Proposal Trustee are of the view that the marketability and value of TBA's assets is likely to be significantly higher if the business is sold as a going concern and not in a liquidation. As such, the Sales Process will likely result in a greater recovery and likelihood of a proposal to the creditors than a liquidation of TBA's assets in a bankruptcy.
27. In addition, the Sales Process contemplates that potential purchasers could take over the lease, employment and other contracts such that, even if this results in a liquidating proposal, the process will result in a benefit to employees and suppliers as a result of an ongoing operating entity versus a shutdown scenario and realisation in a bankruptcy.

Extension of Time for Filing Proposal

28. Since the date of the filing of the NOI and the appointment of the Proposal Trustee, the Proposal Trustee has been monitoring the business and financial affairs of TBA.
29. TBA has worked cooperatively with the Proposal Trustee in updating its creditor list, providing information on its financial affairs, maintaining cash flow records and financial reporting compiling information for the purposes of the proposed Sales Process.
30. The Proposal Trustee is not aware of any material negative changes to the cash-flow statements since their filing.
31. The Proposal Trustee is satisfied that:
- a. TBA has acted, and is acting, in good faith and with due diligence;
 - b. TBA's ability to make a viable proposal will be maximized if the extension being applied for is granted; and

- c. no creditor will be materially prejudiced if the extension being applied for was granted.

The Administration Charge

- 32. TBA will require the participation of the Proposal Trustee and its own legal counsel to assist with these proceedings and the Sales Process. TBA is seeking the Administration Charge to secure payment of their reasonable fees and expenses.
- 33. The requested court-ordered charges are fair and reasonable in the circumstances and are necessary to secure the assistance of professionals to assist TBA in pursuing its objectives in this proceeding.
- 34. 124 is the secured creditor likely to be affected by the proposed Administration Charge and is supportive of it.

Part 3:LEGAL BASIS

- 35. TBA relies on:
 - a. Part III, Division I and s. 183 of the BIA;
 - b. Rule 3 of the BIA Rules; and
 - c. the inherent jurisdiction of this Honourable Court.

Extension of Time for Filing Proposal

- 36. An insolvent person may, before the expiry of the 30-day period after the day the NOI was filed, apply to the court for an extension of that period, and the court, on notice to any interested persons that the court may direct, may grant an extension not exceeding 45 days for any individual extension, if satisfied that:
 - a. the insolvent person has acted, and is acting, in good faith and with due diligence;
 - b. the insolvent person will likely be able to make a viable proposal if the extension being applied for is granted; and
 - c. no creditor will be materially prejudiced if the extension being applied for is granted.

BIA, Section 50.4(9)

- 37. TBA bears the onus, on the balance of probabilities, of demonstrating that it satisfies each of those elements before an extension is justified.

Re H &H Fisheries Limited, Re, 2005 NSSC 346, paras 12 & 13

38. TBA has acted, and continues to act, in good faith and with due diligence and continues to seek the completion of a sale transaction or investment that will lead to a proposal being filed and submitted to the creditors.
39. The court must be satisfied that TBA would likely be in a position to put forward a viable proposal. The Proposal Trustee's report clearly demonstrates that TBA has made reasonable efforts, as dictated by the circumstances, which indicate that it is moving towards that goal.

Re H &H Fisheries Limited, ibid, paras 22 & 33

40. The Sales Process is a necessary step in determining TBA's ability to make a proposal and the alternative, in the event that an extension is not granted, will be the bankruptcy of TBA, the loss of jobs for its employees and the inevitable reduction in recovery to the creditors. Such a result would not serve the interests of TBA, its stakeholders or the public interest in facilitating the survival of companies supplying goods, preserving jobs and avoiding the social and economic costs of liquidating assets.

Century Services Inc. v. Canada (Attorney General), 2010 SCC 60, paras 12-25

41. TBA is not aware of any creditor which would be materially prejudiced if the extension being applied for is granted.
42. There is a difference between 'prejudice' and 'material prejudice' and there must be evidence that a creditor will be substantially or considerably prejudiced if the extension being applied for is granted.

Cantrail Coach Lines Ltd. 2005 BCSC 351, para 21 & 22

43. TBA submits that, in the circumstances, the extension sought is appropriate and necessary.

Sales process

44. The BIA does not expressly provide a proposal trustee with the power to oversee a sale process. However, TBA submits that it is within the inherent jurisdiction of the court to grant the Proposal Trustee enhanced powers to oversee and control the Sales Process in which TBA will remain the seller.
45. Section 65.13 of the BIA grants the court the power to authorize the sale or disposition, outside the ordinary course of business, of assets and requires consideration of the following factors:
- a. whether the process leading to the proposed sale was reasonable in the circumstances;
 - b. whether the trustee approved the process leading to the proposed sale;

- c. whether the trustee has filed a report to the court stating that the sale or disposition will be more beneficial to the creditors than a sale under the bankruptcy;
 - d. the extent to which the creditors were consulted;
 - e. the effects of the proposed sale or disposition on the creditors and other interested parties; and
 - f. whether the consideration to be received for the asset is reasonable and fair, taking into account their market value.
46. Although approval of a sale is not presently sought, approving the Sales Process and granting the Proposal Trustee enhanced powers to oversee and control that process will:
- a. provide oversight and transparency to the process;
 - b. safeguard the integrity of the Sales Process;
 - c. ensure that management can focus on continuity of operations;
 - d. allow the Sales Process to continue without interruption if any members of the TBA's existing management team elect to participate in the Sales Process; and
 - e. assist the court in consideration of any approval application which brought under s. 65.13.
47. To that extent the exercise of the court's inherent jurisdiction to grant the Proposal Trustee enhanced powers is consistent with the policy considerations codified in s.65.13.

The Administrative Charge

48. The court may make an order declaring that all or part of the property of a person in respect of whom a notice of intention is filed (under s. 50.4 or a proposal is filed under s. 62(1)) is subject to a security or charge, in an amount that the court considers appropriate, in respect of the fees and expenses of:
- a. the trustee, including the fees and expenses of any financial, legal or other experts engaged by the trustee in the performance of the trustee's duties;
 - b. any financial, legal or other experts engaged by the person for the purpose of proceedings under this Division; and
 - c. any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for

the effective participation of that person in proceedings under this Division.

49. The court may order that the security or charge rank in priority over the claim of any secured creditor.

BIA, Section 64.2(1), Section 64.2(2)

50. An application under s.64.2(1) must be brought on notice to the secured creditors who are likely to be affected by the security or charge.
51. 124 is aware of this application and supports the relief sought.
52. There is significant uncertainty as to the value that appears to be available to the unsecured creditors in an orderly restructuring process and given the lack of liquidity in the Company. The Proposal Trustee is of the view that an Administrative Charge is appropriate to ensure the continued support of the professionals in this process.

Part 4: MATERIAL TO BE RELIED ON

53. The First Report of the Proposal Trustee dated May 7, 2020; and
54. Such further and other material as counsel may advise and this Honourable Court permits.

The Applicant estimates that the application will take 40 minutes.

[] This matter is within the jurisdiction of a master.

[X] This matter is not within the jurisdiction of a master **as it seeks the exercise of the court's inherent jurisdiction.**

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application:

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that:
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

- (i) a copy of the filed application response;
- (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date: May 8, 2020



Signature of Jeremy D. West
Counsel for the TBA Beverage Inc.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____. of Part 1 of this notice of application

with the following variations and additional terms:

Date: _____

Signature of Judge Master

APPENDIX**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

Schedule "A"

Court File No.B-200208
Estate No. 11-2638450
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF TBA
BEVERAGE INC.

SERVICE LIST

Updated: May 8, 2020

<p>The Bowra Group Inc. PO Box 72, Bentall One #430 - 505 Burrard St Vancouver, BC V7X 1M3</p> <p>Attention: Mario Mainella & Chris Bowra</p> <p>Emails: mmainella@bowragroup.com & cbowra@bowragroup.com</p> <p><i>Proposal Trustee</i></p>	<p>Watson Goepel LLP 1200 - 1075 West Georgia Street Vancouver, BC V6E 3C9</p> <p>Attention: Jeremy West Assistant: Chelsey Cochrane</p> <p>Emails: jwest@watsongoepel.com & ccochrane@watsongoepel.com</p> <p><i>Counsel for TBA Beverage Inc.</i></p>
<p>1241393 B.C. Ltd. 201-803 East Hastings Street Vancouver, BC V5A 1R8</p> <p>Attention:</p> <p>Email:</p> <p><i>Secured Creditor</i></p>	<p>Office of the Superintendent of Bankruptcy 300 Georgia Street W, Suite 2000 Vancouver, BC V6B 6E1</p> <p>Attention:</p> <p>Email:</p> <p><i>Superintendent of Bankruptcy</i></p>

Schedule "B"

Court File No.B-200208
Estate No. 11-2638450
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF TBA
BEVERAGE INC.

ORDER MADE AFTER APPLICATION

BEFORE) THE 13th DAY OF MAY, 2020
)
)

ON THE APPLICATION of TBA Beverage Inc. ("**TBA**"), coming on for hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on the 13th day of May, 2020 and on hearing Jeremy West, counsel for TBA Beverage Inc. and those other counsel listed on **Schedule "A"** hereto, AND UPON READING the materials filed herein; AND PURSUANT TO the *Bankruptcy and Insolvency Act*, R.S.C. 1983 c. 8-3 (the "**BIA**") and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS that:

1. The time for service of the Notice of Application herein be and is hereby abridged such that the Notice of Application is properly returnable today and service thereof on any interested party is hereby dispensed with.

Extension of time to file a Proposal and Stay

2. The time for the filing of a Proposal by TBA be extended from May 14, 2020 to 11:59 p.m. June 28, 2020.
3. The stay of proceedings be extended from May 14, 2020 to 11:59 p.m., June 28, 2020.

Administrative Charge

4. An administrative charge in favour of the Proposal Trustee, its legal counsel, and TBA's legal counsel, not to exceed the amount of \$100,000.00 (the "**Administrative Charge**"), as security for their professional fees and disbursements incurred in this proceeding at their standard rates, both before and after the making of this order, is hereby approved.

5. The filing, registration or perfection of the Administrative Charge shall not be required, and the Administrative Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administrative Charge coming into existence, notwithstanding any such failure to file, register, record or perfect, and that the Administrative Charge shall immediately attach to all of the TBA's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the "**Property**").
6. The Administrative Charge shall constitute a charge on the Property and such charge shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, or other secured claims (collectively, "**Encumbrances**") in favour of any person or entity (a "**Person**").
7. Except as otherwise expressly provided for herein, or as may be approved by this Court, TBA shall not grant any Encumbrances over any Property that ranks in priority to, or *pari passu* with the Administrative Charge.

Approval of Sales Process

8. TBA is hereby authorized to take steps to market and sell its assets and undertakings (the "**Property**") and engage in a sales process substantially in the form as set out in **Schedule "B"** to this Order (the "**Sale Process**").
9. For the purpose of undertaking the Sales Process, the Proposal Trustee is hereby authorized to take all steps and actions as may be necessary to carry out the Sales Process for and on behalf of TBA, including without limitation the following:
 - a. execute, assign, issue and endorse documents of whatever nature in connection with the Sales Process, whether in the Proposal Trustee's name or in the name and on behalf of TBA, for any purpose pursuant to this Order;
 - b. market any or all of the Property pursuant to and in accordance with the Sales Process, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Proposal Trustee considers appropriate; and
 - c. apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances.

and in each case where Proposal Trustee takes any such actions or steps, it shall be authorized and empowered to do so, and in the event of conflict between the actions or steps taken or proposed to be taken by the Proposal Trustee and TBA, or opinion as to how any of the above shall be undertaken or proposed to be undertaken, the actions, steps and opinion of the Proposal Trustee shall prevail.

10. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, TBA and the Proposal Trustee may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors (collectively, “**Potential Bidders**”), but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Proposal Trustee, or in the alternative destroy all such information and provide proof of same. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by TBA, and shall return all other personal information to the Proposal Trustee, or ensure that all other personal information is destroyed, and provide proof of same.
11. From and after the date of this Order, all communications and information requests made by Potential Bidders will be made to the Proposal Trustee.
12. Except upon request by, or with the consent of, the Proposal Trustee, no director, officer or employee of TBA shall engage in any communications with any Potential Bidder regarding the Sales Process, an actual or potential bid for the assets of TBA, or any other matter relating to the Sale Process.
13. The Proposal Trustee shall incur no liability or obligation as a result of it carrying out the Sales Process, save and except in the event of any gross negligence or willful misconduct on its part.

SERVICE AND NOTICE

14. TBA and the Proposal Trustee be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to any of TBA’s creditors or other interested parties at their respective addresses as last shown on the records of TBA and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on

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

15. TBA, the Proposal Trustee, and any party who has filed an Application Response may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsel's email addresses as recorded on the Service List from time to time.

GENERAL

16. TBA or the Proposal Trustee may, from time to time, apply to this Honourable Court for advice and directions in connection with the Sales Process or the discharge of their powers and duties hereunder.
17. Endorsement of this Order by counsel appearing on this application, other than counsel for TBA, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Jeremy D West
Solicitor for TBA Beverage Inc.

By the Court.

Registrar

Schedule "A"- List of Counsel Appearing

Jeremy D. West	Counsel for TBA Beverage Inc.

SCHEDULE “B”

SALES PROCESS

On April 14, 2020, TBA Beverage Inc. (“**TBA or the Company**”) filed a notice of intention to make a proposal (the “**NOI**”) under the *Bankruptcy and Insolvency Act* (the “**BIA**”).

The Sales Process Order and this Sales Process shall exclusively govern the process for soliciting and selecting bids for the sale of all or substantially all of the assets or business of TBA.

Unless otherwise indicated, any event occurring on a day that is not a Business Day shall be deemed to occur on the next Business Day.

Defined Terms

“*Bid Package*” means the package of information to be provided by the Proposal Trustee to each Potential Bidder, which shall describe the opportunity to acquire all or substantially all of the Company Property or to invest in the Company;

“*Business Day*” means any day other than (a) a Saturday or Sunday; or (b) a day that is a statutory holiday in Vancouver, British Columbia;

“*Company Business*” means the business carried on by TBA;

“*Company Property*” means the property, assets and undertakings of TBA;

“*Court*” means the Supreme Court of British Columbia;

“*Investment Agreement*” means any agreement entered into for the purposes of making a financial investment in TBA.

“*Purchase Agreement*” means any agreement entered into for the purposes of purchasing of some or all of the Company Business or the Company Property.

“*Proposal Trustee*” means The Bowra Group Inc.;

“*Sale Proposal*” means an offer or proposal to purchase all or substantially all, or any specified portion, of the Company Property or the Company Business;

“*Sales Process*” means this Sales Process;

“*Sales Process Order*” means the Order of the Court pronounced May 13, 2020 approving this Sales Process and making other related orders and directions;

Solicitation Process

1. This Sales Process describes, among other things, the TBA property, assets and undertakings available for sale, the manner in which prospective bidders may gain access

to due diligence materials concerning TBA, the manner in which bids and investment offers are to be submitted, the receipt and negotiation of bids and investment offers received, the ultimate selection of one or more successful bids, and the approval thereof by the Court (collectively, the “**Sales Process**”).

2. The Proposal Trustee, acting as agent on behalf of, and with the assistance of, TBA shall conduct the Sales Process. In addition, the closing of any sale transaction may involve additional intermediate steps or transactions to facilitate completion of such sale or investment, including additional Court filings.
3. In the event that there is a disagreement or clarification required as to the interpretation or application of this Sales Process, the Sales Process Order or the responsibilities the Proposal Trustee, the Court will have the jurisdiction to hear such matters and provide advice and directions upon the application of TBA or the Proposal Trustee with a hearing on no less than two (2) Business Days’ notice.

“As Is, Where Is”

4. The sale of the Company Property and/or the Company Business will be on an “as is, where is” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature or description by TBA, the Proposal Trustee, or any of their agents, advisors, professionals or otherwise, except to the extent expressly set forth in any relevant Purchase Agreement or Investment Agreement.

“Free of any and all Claims and Interests”

5. In the event of a sale, all of the rights, titles and interests of TBA in and to the property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, royalties and interests thereon and there against (collectively, the “**Claims and Interests**”) pursuant to approval and vesting orders made by the Court. Contemporaneously with such approval and vesting orders being made, all such Claims and Interests, to the extent valid and enforceable, shall attach to the net proceeds of the sale of such property (without prejudice to any claims or causes of action regarding priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant sale agreement with a Successful Bidder.

Solicitation of Interest

6. As soon as reasonably practicable, the Proposal Trustee will finalize a list of prospective purchaser and investor groups (the “**Known Potential Bidders**”) for an investment in TBA or the purchase of some or all of the Company Business or the Company Property. Such list will include parties who, in the Proposal Trustee’s reasonable business judgment, may be interested in acquiring the Company Business or the Company Property.
7. Commencing May 14, 2020 the Proposal Trustee shall deliver a Teaser Letter of the assets being offered for sale to the Known Potential Bidders, along with a copy of this Sales Process.

8. In addition, the Proposal Trustee may place advertising with such publications as it, in its reasonable business judgment, believes may assist in locating other interested parties.
9. Any prospective purchasers that contact the Proposal Trustee will be sent a blank confidentiality and non-disclosure agreement (the “NDA”) in form and substance acceptable to the Proposal Trustee, which shall inure to the benefit of TBA and any purchaser of the Company Business or Company Property.

Participation Requirements

10. Unless otherwise ordered by the Court, in order to receive the Bid Package, conduct its due diligence and participate in the Sales Process, an interested party must deliver to the Proposal Trustee an executed NDA, and upon doing so each such interested party shall be deemed to be a “**Potential Bidder**”.

Due Diligence

11. The Proposal Trustee will provide to each Potential Bidder a Bid Package, including a Confidential Information Memorandum (“CIM”) prepared in consultation with TBA, describing the opportunity to acquire all, or substantially all, of the Company Business or the Company Property, or to invest in the Company.
12. Each Potential Bidder shall have such access to materials and information relating to the Company Property and the Company Business for the purpose of conducting due diligence as the Proposal Trustee, in its reasonable business judgment, deems appropriate. TBA and the Proposal Trustee shall not be obligated to furnish any due diligence information after the Bid Deadline.
13. TBA and the Proposal Trustee (and their respective officers, directors, employees, agents, counsel and professionals) are not responsible for, and will have no liability with respect to, any information obtained by any Known Potential Bidder, Potential Bidder or Qualified Bidder in connection with the Company Business or the Company Property. TBA and the Proposal Trustee (and their respective officers, directors, employees, agents, counsel and professionals) do not make any representations or warranties whatsoever as to the information or the material provided, except in the case of TBA to the extent expressly provided.
14. Prior to the Bid Deadline, the Proposal Trustee may engage in discussions with any or all of the Potential Bidders to determine and explore the level of interest of any such Potential Bidder and may request from any such Potential Bidder such further information as TBA and the Proposal Trustee deem appropriate.

Sale Bidding Process

15. In order to qualify as a “**Qualified Bidder**”, a Potential Bidder must deliver a Qualified Bid to the Proposal Trustee **so as to be received by the Notice Parties no later than 4:00 p.m. PST on July 14, 2020** (the “**Bid Deadline**”).

16. A Sale Proposal will be considered a “**Qualified Bid**” only if the Sale Proposal complies with all of the following:
- a. It includes a letter stating that the Sale Proposal is irrevocable until the earlier of the approval by the Court of a Successful Bid; and (b) 30 days following the Bid Deadline; provided however that if such Sale Proposal is selected as the Successful Bid it shall remain irrevocable until the closing of the Successful Bid;
 - b. It includes a duly authorized and executed purchase and sale agreement (the “**Purchase Agreement**”) substantially in a form to be approved by the Proposal Trustee (and delivered with the Bid Package) specifying the assets being purchased, the purchase price, how the purchase price is to be paid, and requiring a closing of the purchase transaction no later than **15 business days** after court approval;
 - c. It does not include any request or entitlement to any break-fee, expense reimbursement or similar type of payment;
 - d. It includes evidence, satisfactory to the Proposal Trustee, to allow it to make a reasonable determination as to the Potential Bidder’s (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Sale Proposal;
 - e. It is not conditioned on (i) the outcome of unperformed due diligence by the Potential Bidder; and/or (ii) obtaining any financing and includes an acknowledgement and representation that the Potential Bidder has had an opportunity to conduct any and all required due diligence prior to making its Sale Proposal;
 - f. It fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the Sale Proposal, including the identification of the Potential Bidder’s direct and indirect owners and their principals, and the complete terms of any such participation;
 - g. It includes an acknowledgement and representation that the Potential Bidder will assume the obligations of the Company under any executory contracts and unexpired leases proposed to be assigned and, to the extent applicable, contains full details of the Potential Bidder’s proposal for the treatment thereof; and it identifies with particularity any executory contract or unexpired leases the assumption and assignment of which is a condition to closing;
 - h. It includes an acknowledgement and representation that the Potential Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents, information and other due diligence materials, and/or the assets to be acquired and liabilities to be assumed in making its Sale Proposal; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the

completeness of any information provided in connection therewith, including by the Company, the Proposal Trustee or the Financial Advisor (and their respective officers, directors, employees, agents, counsel and professionals), except as expressly stated in the Purchase Agreement submitted by it; (iii) is a sophisticated party capable of making its own assessments in respect of making its Sale Proposal; and (iv) has had the benefit of independent legal, tax, accounting and other relevant professional advice in connection with its Sale Proposal;

- i. It is accompanied by a refundable deposit (the “**Deposit**”), in a form and amount acceptable to the Proposal Trustee, to be held in accordance with paragraph 27;
 - j. It includes evidence, in form and substance reasonably satisfactory to the Proposal Trustee, of compliance or anticipated compliance with any and all applicable regulatory approvals (including regulatory approval from Liquor and Cannabis Regulation Branch and the requirements of the *Liquor Control and Licensing Act*, SBC 2015, c19) or the anticipated time frame for such compliance and any outstanding conditions or anticipated impediments for obtaining such approvals; and
 - k. It contains any other information reasonably requested by the Proposal Trustee.
17. Notwithstanding paragraphs 14 and 15, the Proposal Trustee may waive compliance with any one or more of the Qualified Bid requirements specified above and deem such non-compliant bids to be Qualified Bids.

No Qualified Bids

18. The Proposal Trustee, will assess the Qualified Bids received, if any, and will determine whether it is likely that the transactions contemplated by such Qualified Bids are likely to be consummated and whether proceeding with this Sales Process is in the best interests of the Company and its stakeholders. Such assessments will be made as promptly as practicable but no later than five (5) Business Days after the Bid Deadline.
19. If the Proposal Trustee determines that (a) no Qualified Bid was received, (b) at least one Qualified Bid was received but it is not likely that the transactions contemplated in any such Qualified Bids will be consummated; or (c) proceeding with this Sales Process is not in the best interests of the Company and its stakeholders, the Proposal Trustee shall forthwith (i) terminate this Sales Process; (ii) notify each Potential Bidder (including any Qualified Bidder(s)) that this Sales Process has been terminated; (iii) consult with the TBA’s stakeholders regarding TBA’s next steps; and (iv) report to the Court if it considers it appropriate to do so.
20. If the Proposal Trustee determines that (a) one or more Qualified Bids were received, (b) it is likely that the transactions contemplated by one or more of such Qualified Bids will be consummated, and (c) proceeding with this Sales Process is in the best interests of TBA and its stakeholders, this Sales Process will not be terminated and the Company, the Proposal Trustee, will proceed to negotiate with one or more of the Qualified Bidders in

an attempt to conclude a transaction by **July 22, 2020**.

Selection Criteria

21. In selecting any bid, the Proposal Trustee will review each Qualified Bid. In determining the highest and best offer among Qualified Bids, a single Qualified Bid for all or substantially all of the Company Property and/or Company Business generally will be viewed as preferable to a combination of Qualified Bids.
22. Evaluation criteria with respect to any Qualified Bid may include, but are not limited to, items such as (a) the purchase price and the net value, including assumed liabilities or other obligations to be performed or assumed by the bidder; (b) the claims likely to be created by such bid in relation to the other bids; (c) the counterparties to the transaction; (d) the terms of the proposed Purchase Agreement and other transaction documents; (e) other factors affecting the speed, certainty and value of the transaction, including conditions and any regulatory approvals required to close the transaction; (f) the assets included or excluded from the bid and the transaction costs and risks associated with closing multiple transactions versus a single transaction for all or substantially all of the Company Property and/or the Company Business; (g) the estimated number of employees of the Company that will be offered post-closing employment by the bidder and any proposed measures associated with their continued employment; (h) the transition services required from the Company post-closing and any related restructuring costs; and (i) the likelihood and timing of consummating the transaction.
23. Upon the conclusion of the bidding, the Proposal Trustee will identify the highest or otherwise best Qualified Bid received (such offer, the “**Successful Bid**”, and the Qualified Bidder(s) who made the Successful Bid is the “**Successful Bidder**”). By **July 22, 2020** the Proposal Trustee will notify the Qualified Bidders of the identities of the Successful Bidder.
24. The Proposal Trustee, for and on behalf of the Company, shall finalize any further ancillary or definitive documents required to fulfil the obligations set out in the purchase agreement in respect of the Successful Bid, if any, conditional upon the approval of the Court.
25. All Qualified Bids (other than the Successful Bid) shall be deemed rejected by the Company and the Proposal Trustee on and as of the date of approval of the Successful Bid by the Court.

Approval Hearing

26. Within **five Business Days** of the date of the definitive agreement(s) with the Successful Bidder), the Company shall seek a hearing to be held on a date, no later than **July 27, 2020**, or such other date as the court may assign, (the “**Approval Hearing**”) to authorize TBA to enter into an agreement with the Qualified Bidder or in respect to the Successful Bid (the “**Approval Order**”). The Approval Hearing may be adjourned or rescheduled by the Proposal Trustee, in consultation with TBA, without further notice, by notice to

the service list maintained by TBA.

Deposits

27. All Deposits shall be retained by the Proposal Trustee and invested in an interest-bearing trust account in a Schedule I Bank in Canada. Upon closing of the transaction with the Successful Bidder, the Deposit (plus accrued interest) paid by the Successful Bidder shall be released by the Proposal Trustee to TBA (and/or to other third parties as otherwise directed by Court Order) and applied to the purchase price to be paid by the Successful Bidder. The Deposits (plus applicable interest) of all Qualified Bidders not selected as the Successful Bidder shall be returned to such bidders within **five Business Days** of the date upon which the Successful Bid is approved by the Court. If the Sales Process is terminated in accordance with the terms in this document, all Deposits shall be returned to the bidders within **five Business Days** of the date upon which it is determined that this Sales Process is terminated.
28. If the Successful Bidder breaches its obligations to close, it shall forfeit its Deposit to TBA, provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that TBA has against such breaching entity, and the party holding the deposit shall be obligated to release the funds to TBA, subject to the claims of TBA's creditors.

Approvals

29. For greater certainty, the approvals required pursuant to the terms of this Sales Process are in addition to and not in substitution for any other approvals required by the BIA or any other statute or are otherwise required at law in order to implement a definitive agreement with a Successful Bidder, as the case may be.

Notice Parties

30. As used herein, the "**Notice Party**" is the Proposal Trustee and TBA. The addresses to be used for delivering documents to the Notice Party is as follows:

The Bowra Group Inc.
Suite 430-505 Burrard St,
Vancouver, BC V7X 1M3

Attention: Mario Mainella/Chris Bowra
Email: mmainella@bowragroup.com
cbowra@bowragroup.com

31. A bid shall be delivered to all Notice Parties at the same time by electronic mail, personal delivery or courier.

Reservation of Rights

32. TBA, at the direction of the Proposal Trustee, and not in its sole discretion:

- a. may reject, at any time any bid that is (i) inadequate or insufficient; (ii) not in conformity with the requirements of the BIA, this Sales Process or any orders of the Court applicable to TBA; and/or (iii) contrary to the interests of TBA, its estate or stakeholders, as determined by TBA and the Proposal Trustee;
 - b. in accordance with the terms hereof, may impose additional terms and conditions and otherwise seek to modify this Sales Process at any time in order to maximize the results obtained;
 - c. in accordance with the terms hereof, may accept bids not in conformity with this Sales Process to the extent that TBA and the Proposal Trustee determine, in their reasonable business judgment, that doing so will benefit TBA, its estate and its stakeholders; and,
 - d. extend the deadlines contained in this Sales Process, provided that the Bid Deadline shall not be extended beyond July 14, 2020.
33. At or before the Approval Hearing, the Proposal Trustee may impose such other terms and conditions in the negotiation of a Purchase Agreement, as applicable, as the Proposal Trustee may, in consultation with TBA, determine to be in the best interest of TBA and its stakeholders, provided that such terms and conditions are not inconsistent with this Sales Process.
34. This Sales Process does not, and shall not be interpreted to, create any contractual or other legal relationship between TBA, the Proposal Trustee and any other party, other than as specifically set forth in definitive agreements that may be executed by TBA.

No Amendment

35. Except as provided herein, there shall be no amendments to this Sales Process, including for greater certainty the process and procedures set out in this document, without the prior written consent of the Proposal Trustee unless otherwise ordered by the Court upon application and appropriate notice.

Further Orders

36. At any time during this Sales Process, TBA or the Proposal Trustee may apply to the Court for advice and directions with respect to the discharge of their powers and duties hereunder.