

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 23rd day of July, 2020.

Before the Honourable Mr. Justice B.S. Scherman on the 23rd 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 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 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 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, the Interim Lenders and the beneficiaries of the Administration Charge, or further Order of this Court.
18. 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.

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.

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ISSUED at Saskatoon, Saskatchewan, this ____ day of July, 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 Kevin N. Hoy
Address of legal firm:	110-21 st Street East Saskatoon, SK S7K 0B6
Telephone number:	(306) 244-2242
Facsimile:	(306) 652-0332
Email:	mrussell@wlawgroup.com / khoy@wlawgroup.com