

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE PROPOSAL OF
LEGENDARY DEVELOPMENTS (SOUTH SURREY) LTD**

PROPOSAL TO CREDITORS

January 4, 2022

**ARTICLE 1
DEFINITIONS**

In this Proposal, capitalized terms will have the meanings set out in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended, save and except for the terms and definitions set out below:

- (a) “**Act**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (b) “**Business Day**” means any day, other than a Saturday, a Sunday, or a statutory holiday in British Columbia;
- (c) “**Canada Pension Plan**” means the *Canada Pension Plan*, R.S.C. 1985, c. C-8, as amended;
- (d) “**Claim**” means any right or claim of any Person in the bankruptcy of the Debtor in connection with any indebtedness, liability or obligation or any kind whatsoever of the Debtor owed to such Person and any interest accrued thereon or costs, fees or other amounts in respect thereof, whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any claim in the bankruptcy of the Debtor arising from or caused by the repudiation by the Debtor of any contract, lease or other agreement, whether written or oral, the commission of a tort (intentional or unintentional), any breach of duty (legal, statutory, equitable, fiduciary or otherwise), any right of ownership or title to property, employment, contract, a trust or deemed trust, howsoever created, any claim in the bankruptcy of the Debtor through any affiliate, or any right or ability of any Person to advance a claim in the bankruptcy of the Debtor for contribution or indemnity or otherwise with respect to any grievance, matter, action, cause or chose in action, whether existing at present or commenced in the future, in each case based in whole or in part on facts which existed on the Date of Bankruptcy or which would, if unsecured, constitute a claim provable in the bankruptcy of the Debtor within the meaning of the Act. For

greater certainty, Claims include any Claim of a Creditor that holds security against the assets of the Debtor;

- (e) **"Claims Bar Date"** has the meaning given to it in paragraph 5.1;
- (f) **"Court"** means the Supreme Court of British Columbia in Bankruptcy and Insolvency and will have such extended meaning as is set out in section 2 of the Act;
- (g) **"Court Approval Date"** means the date on which the Court approves this Proposal;
- (h) **"Creditor"** means any Person having a Claim and may, if the context requires, mean a trustee, receiver, receiver-manager or other Person acting on behalf or in the name of such Person;
- (i) **"Creditors' Meeting"** means the meeting of the Creditors as outlined in Article 6;
- (j) **"Date of Bankruptcy"** means October 6, 2021;
- (k) **"Debtor"** means Legendary Developments (South Surrey) Ltd.;
- (l) **"Director"** means any person who is, has previously been, or in future may be a director of the Debtor;
- (m) **"Disputed Claim"** means any Claim which has been received by the Proposal Trustee in accordance with the terms of this Proposal and the Act but has not been accepted as proven or which is being disputed in whole or in part by the Debtor, the Proposal Trustee or any other person entitled to do so and has not been resolved by agreement or by order of the Court.
- (n) **"Effective Date"** means the date on which all conditions precedent to this Proposal have been satisfied or waived (as applicable);
- (o) **"Employees"** means natural persons employed by the Debtor at or prior to the date of this Proposal.
- (p) **"Employment Insurance Act"** means the *Employment Insurance Act*, S.C. 1996, c. 23;
- (q) **"Income Tax Act"** means the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp), as amended;
- (r) **"Notice of Final Dividend"** means the notice made pursuant to section 149 of the Act to be sent by the Proposal Trustee to all known Persons having a Claim that have not yet filed a Proof of Claim with the Trustee or the Proposal Trustee, advising such Creditors that if their Claims are not proven within a period of 30 days after the sending of the notice, the Proposal Trustee will proceed to declare a dividend or final dividend without regard to that Creditor's Claim;

- (s) “**Officer**” means any person who is, has previously been, or in future may be an officer of the Debtor;
- (t) “**Person**” means any individual, partnership, joint venture, trust, corporation, unincorporated organization, government, or any agency or instrumentality thereof, or any other entity howsoever designated or constituted;
- (u) “**Preferred Creditors**” means Creditors with Proven Claims which are required by the Act to be paid in priority to all other Claims under a proposal by a debtor (but only in respect of and to the extent of such Proven Claims) and including, without limitation:
 - (i) Employees and former Employees of the Debtor, not to include independent commissioned sales agents or contractors, for amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the Act on the Date of Bankruptcy, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Court approval of the Proposal, together with, in the case of travelling salespersons, disbursements properly incurred by those salespersons in and about the Debtor’s businesses during the same period;
 - (ii) Her Majesty in Right of Canada or a Province for all amounts that were outstanding at the Date of Bankruptcy and are of a kind that could be subject to a demand under,
 - (A) Subsection 224(1.2) of the *Income Tax Act*;
 - (B) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for collection of a contribution, as defined in the Canada Pension Plan, or an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
 - (C) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (I) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*; or
 - (II) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation

establishes a “provincial pension plan” as defined in that subsection;

- (v) **“Proof of Claim”** means a proof of claim or proof of security, as applicable, required by the Act to be mailed to each known Creditor prior to the Creditors’ Meeting and, for greater certainty, includes all Proofs of Claim filed by creditors in connection with the bankruptcy of the Debtor;
- (w) **“Proposal”** means this Proposal dated January 4, 2022 made pursuant to the Act, as amended or supplemented from time to time;
- (x) **“Proposal Approval Order”** means the order of the Court approving this Proposal, in form and substance satisfactory to the Debtor;
- (y) **“Proposal Fund”** means the sum of \$700,000 to be advanced by the Proposal Sponsor to the Proposal Trustee in accordance with paragraph 3.1;
- (z) **“Proposal Sponsor”** means Essence Properties Inc.;
- (aa) **“Proposal Trustee”** means MNP Ltd, in its capacity as the proposal trustee of the Debtor.
- (bb) **“Proven Claim”** means the amount of the Claim of any Creditor finally determined in accordance with the provisions of the Act;
- (cc) **“Proven Creditor”** means a Creditor with a Proven Claim;
- (dd) **“Superintendent’s Levy”** means the levy exigible on certain amounts distributed by the Proposal Trustee under this Proposal in accordance with section 147 of the Act; and
- (ee) **“Trustee”** means MNP Ltd. In its capacity as licensed insolvency trustee of the estate of the Debtor, or any successor.

1.2 Articles of Reference

The terms “hereof”, “hereunder”, “herein” and similar expressions refer to this Proposal and not to any particular article, section, subsection, clause or paragraph of this Proposal and include any agreements supplemental hereto. In this Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of this Proposal.

1.3 Interpretation Not Affected by Headings

The division of this Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.4 Date for Any Action

In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day that is a Business Day.

1.5 Time

All times expressed herein are local time in Vancouver, British Columbia, Canada unless otherwise stipulated. Where the time for anything pursuant to this Proposal on a particular date is unspecified the time will be deemed to be 5:00 pm local time in Vancouver, British Columbia, Canada.

1.6 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

1.7 Currency

Unless otherwise stated herein, all references to currency in this Proposal are to the lawful money of Canada (“**CAD**”).

Any Claim in a foreign currency will be converted to CAD at the daily exchange rate published by the Bank of Canada on the Date of Bankruptcy.

1.8 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.9 Successor and Assigns

This Proposal will be binding on and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in this Proposal.

ARTICLE 2 GENERAL INTENT

2.1 Purpose of Proposal

The purpose of this Proposal is to obtain the funds from the Proposal Sponsor to settle and compromise the Claims on a fair and equitable basis in accordance with the Act, and to achieve a recovery superior to what Creditors would otherwise attain. Once this Proposal has been fully performed, the bankruptcy of the Debtor will be annulled.

As the Debtor has no assets, all Claims are treated as unsecured notwithstanding certain Creditors may hold security over the assets of the Debtor.

2.2 Overview of Proposal

This Proposal provides for the compromise of the Claims of the Creditors. The Creditors will receive a *pro rata* distribution from the Proposal Fund as set out herein. In order to effect this Proposal, the Debtor has reached an agreement with the Proposal Sponsor for the Proposal Sponsor to advance the Proposal Fund to the Proposal Trustee. Once this Proposal has been fully performed, the bankruptcy of the Debtor will be annulled.

2.3 Persons Affected

This Proposal will, as of the Effective Date, be binding on the Debtor and on all Creditors, including the Crown, to whom this Proposal is made.

ARTICLE 3 THE PROPOSAL FUND

3.1 Proposal Fund

The Proposal Sponsor has agreed to advance the Proposal Fund as a loan to the Debtor to be secured by, *inter alia*, a general security agreement and a pledge of the shares in the Debtor by the shareholder of the Debtor. The Proposal Trustee will establish a segregated, non-interest bearing trust account to hold the Proposal Fund. All amounts comprising the Proposal Fund will be delivered to the Proposal Trustee, and will be held by the Proposal Trustee, in trust, pending distribution to Creditors.

ARTICLE 4 CLASSIFICATION AND TREATMENT OF CREDITORS

4.1 Classes of Creditors

For the purposes of voting on the Proposal, the Creditors will be composed of one class of Creditors, being those with Claims. All Claims will be treated as unsecured notwithstanding a Creditor may hold security over the assets of the Debtor.

4.2 Fees of the Proposal Trustee

The fees and disbursements of the Proposal Trustee in the preparation and administration of this Proposal including any legal fees (the "**Proposal Trustee's Fees**") will be paid from the Proposal Fund in full in priority to all other Proven Claims, including the Proven Claims of the Preferred Creditors. The Proposal Trustee may take advances of the Proposal Trustee's Fees, subject to final taxation by the Court.

4.3 Preferred Creditors

The Proven Claims of the Preferred Creditors are to be paid by the Proposal Trustee from the Proposal Fund in full in priority to all other Proven Claims except the Proposal Trustee's Fees in accordance with the scheme of distribution set forth in the Act.

4.4 Treatment of Creditors

Each Creditor will receive a distribution equal to their *pro rata* share of the Proposal Fund based on their Proven Claim, after distribution in accordance with paragraph 7.1.

ARTICLE 5 PROCEDURE FOR VALIDATION OF CLAIMS

5.1 Filing of Proofs of Claim

In order to vote on, or to receive a distribution under, this Proposal, each Creditor must file a Proof of Claim in accordance with the Act and as instructed in the Proposal Trustee's mailing to the Creditors with respect to this Proposal.

To be eligible to receive a distribution in accordance with Article 9, Creditors must have filed a Proof of Claim such that it is actually received by the Proposal Trustee in accordance with the Act and by no later than the date that is thirty (30) days from the date on which the Proposal Trustee delivers the Notice of Final Dividend (the "**Claims Bar Date**").

Creditors that fail to file their Proof of Claim with the Proposal Trustee before 5:00 p.m. on the Claims Bar Date will not be eligible for participation in the proposed distribution under this Proposal and their Claims will be forever barred as against the Debtor.

5.2 Valuing Claims

Upon receipt of a completed Proof of Claim, the Proposal Trustee will examine the Proof of Claim and will deal with each claim in accordance with the provisions of the Act. The procedure for valuing Claims and resolving disputes with respect to such Claims will be as set forth in the Act and in this Proposal. The Debtor and the Proposal Trustee reserve the right to seek the assistance of the Court in:

- (a) valuing a Claim, if required, to ascertain the result of any vote on this Proposal or the amount payable or to be distributed to such Creditor under this Proposal; and
- (b) resolving any Disputed Claim.

5.3 Set Off

The law of set-off will be applied to all Claims.

ARTICLE 6 CREDITORS' MEETING

6.1 Creditors' Meeting

The Proposal Trustee will hold the Creditors' Meeting in order for the Creditors to consider and vote upon this Proposal.

6.2 Time and Place of Creditors' Meeting

Unless otherwise ordered by the Court, the Creditors' Meeting will be held at a time and place to be established by the Official Receiver, or the nominee thereof, and confirmed in the Proposal Trustee's notice of meeting to be mailed pursuant to the Act.

6.3 Conduct of Creditors' Meeting

The Official Receiver or the nominee thereof will preside as the chair of the Creditors' Meeting and will decide all matters relating to the conduct of the Creditors' Meeting. The only Persons entitled to attend the Creditors' Meeting are those Persons, including the holders of proxies, entitled to vote at the Creditors' Meeting, and their respective legal counsel, if any, the Trustee, and the officers, directors, auditors and legal counsel of the Debtor, together with such representatives of the Proposal Trustee as the Proposal Trustee may appoint in its discretion, and such scrutineers as may be duly appointed by the chair of such meeting. Any other Person may be admitted on invitation of the chair of the Creditors' Meeting only.

6.4 Adjournment of Creditors' Meeting

The Creditors' Meeting may be adjourned in accordance with section 52 of the Act.

6.5 Voting by Creditors

To the extent provided for herein, each Creditor will be entitled to vote to the extent of the amount that is equal to their respective Proven Claim.

6.6 Voting by Creditors with Disputed Claims

If a Creditor has a Disputed Claim and the amount of the Disputed Claim is not finally determined prior to the date of the Creditors' Meeting, that Creditor will be entitled to vote at the Creditors' Meeting on the portion of the Disputed Claim, if any, that has been accepted by the Proposal Trustee for voting purposes without prejudice to the rights of the Proposal Trustee, the Debtor, and that Creditor to have the quantum of the Disputed Claim finally determined.

6.7 Approval by Creditors

In order that this Proposal be binding on all of the Creditors in accordance with the Act, it must first be accepted by the Creditors by a majority in number of the Proven Creditors who actually vote upon the Proposal (in person or by proxy or by voting letter) at the Creditors' Meeting, representing two-thirds in value of the Proven Claims of the Proven Creditors who actually vote upon the Proposal (in person or by proxy or by voting letter) at the Creditors' Meeting.

6.8 Appointment of Inspectors

At the Creditors' Meeting, the Creditors may appoint up to five inspector(s) whose powers will be limited to:

- (a) advising the Proposal Trustee concerning any dispute which may arise as to the validity of Claims; and

- (b) advising the Proposal Trustee from time to time with respect to any other matter that the Proposal Trustee may refer to them.

Any decision, direction or act of the inspector(s) may be referred to the Court by the Proposal Trustee and the Court may confirm, reverse or modify the decision, direction or act and make such order as it thinks just.

The authority and term of office of the inspector(s) will terminate upon the discharge of the Proposal Trustee or such earlier time if the inspector(s) resign(s) by notifying the Proposal Trustee of such resignation in writing.

ARTICLE 7 CONDITIONS PRECEDENT

- 7.1** The performance of this Proposal will be conditional upon the fulfillment or satisfaction, or waiver by the Trustee (where applicable) of the following conditions:
- (a) the receipt by the Proposal Trustee of the Proposal Fund;
 - (b) the approval of this Proposal by the Creditors in accordance with paragraph 6.7; and
 - (c) the Proposal Approval Order being pronounced and entered and not having been successfully appealed, set aside, varied, stayed or waived, and all appeal periods having expired.

ARTICLE 8 EVENTS OF DEFAULT

- 8.1** The non-fulfillment, non-satisfaction or waiver of any conditions precedent in Article 7 will constitute a default under this Proposal for the purposes of section 62.1 of the Act and otherwise under this Proposal.

ARTICLE 9 PROPOSAL TO CREDITORS

- 9.1** The amount to be paid to the Creditors on account of their Proven Claims will be as set out in this section. The Creditors will accept the amounts set out herein in full satisfaction of their Claims and the Creditors will have no other recourse to any other property of the Trustee or the Debtor or against the Trustee or the Debtor otherwise. For greater certainty, this Proposal does not compromise or otherwise affect a Creditor's claim against a third party unless expressly stated herein, including without limitation a guarantor, indemnitor, and covenantor of the obligations of the Debtor.
- 9.2** The Proposal Trustee will remit payments (less the *pro rata* portion of the total amount of the Superintendent's Levy required by the Act to be paid in respect of such payments) to the Creditors from the Proposal Fund in the following manner and order of priority:
- (a) first, to the Proven Claims of the Preferred Creditors, without interest, to be paid in full in accordance with the provisions of paragraph 0. The Proven Claims

under subsection 224(1.2) of the *Income Tax Act* or similar act and legislation will be paid within six (6) months after the Court Approval Date; and

- (b) second, to the Creditors in accordance with paragraph 4.4.

ARTICLE 10 DIRECTORS AND OFFICERS OF THE DEBTOR

- 10.1** Upon the filing of the Certificate of Full Performance provided for in section 65.3 of the Act, each and every Director and Officer will be released from any and all demands, claims, debts, judgments, liens, and other recoveries on account of any potential, contingent or actual statutory liability of whatsoever nature which any person may be entitled to assert against such Director or Officer as at the Date of Bankruptcy, including, without limitation, any and all Claims howsoever related to any obligations of the Debtor where the Director or Officer is or may be liable at law in their capacity as Director or Officer for the payment of such obligations, whether known or unknown, existing or hereafter arising, based in whole or in part on any act, omission, transaction, dealing or other occurrence existing or taking place prior to the Date of Bankruptcy or, with respect to any agreements of the Debtor that have been disclaimed, repudiated or terminated after the Date of Bankruptcy in whole or in part which exist prior to or at the time of such disclaimer, repudiation or termination.
- 10.2** Notwithstanding paragraph 10.1, nothing in this Proposal will release or discharge any Director from the exceptions set out in section 50(14) of the Act and paragraph 10.1 of this Proposal will be strictly interpreted so that it complies with section 50(13) of the Act.
- 10.3** Any release contemplated in paragraph 10.1 will not be obtained or be valid in case of any uncured default in the performance of this Proposal.

ARTICLE 11 APPLICATION OF SECTIONS 95-101 OF THE ACT

- 11.1** Sections 95 to 101 of the Act and any provincial statute relating to preference, settlement, fraudulent conveyance or the like will not apply to any dealings by the Debtor during the period prior to the Date of Bankruptcy.

ARTICLE 12 PROPOSAL TRUSTEE

- 12.1** MNP Ltd., in its capacity as proposal trustee, and not in its personal capacity, will be the Proposal Trustee under this Proposal and all monies payable under this Proposal will be paid over to the Proposal Trustee who will make payment of all distributions in accordance with the terms of this Proposal.
- 12.2** Any payments made by the Proposal Trustee to Creditors hereunder will be made by the Proposal Trustee net of any levies payable or due under the Act.
- 12.3** The Proposal Trustee is acting in its capacity as Proposal Trustee and not in its personal capacity and no officer, director, employee or agent of the Proposal Trustee will incur any obligations or liabilities in connection with this Proposal or in respect of the business activities or liabilities of the Debtor.

- 12.4** The Proposal Trustee, in such capacity, will have no liability whatsoever for the Claims arising before, on or after the Date of Bankruptcy.

**ARTICLE 13
FULL PERFORMANCE OF PROPOSAL**

- 13.1** All obligations of the Debtor under this Proposal will commence as of the Effective Date. This Proposal will be fully performed upon full payment to the Proposal Trustee of the Proposal Fund in accordance herewith.
- 13.2** When this Proposal has been fully performed, the Proposal Trustee will issue to the Debtor and the Official Receiver the Certificate of Full Performance as provided for in section 65.3 of the Act, and at which time the bankruptcy of the Debtor will be annulled pursuant to section 61(1) of the Act. For greater certainty, the bankruptcy will not be annulled until all Claims have been fully compromised on the terms in this Proposal, and the Proposal has been fully performed.
- 13.3** During the currency of this Proposal and until the Certificate of Full Performance referred to in paragraph 13.2 is issued by the Proposal Trustee, the Debtor will remain a bankrupt under the Act.
- 13.4** Upon the issuance of the Certificate of Full Performance, all Persons will be deemed to have waived any and all defaults of the Debtor then existing or previously committed by the Debtor or caused by the Debtor, directly or indirectly, or non-compliance with any covenant, positive or negative, pledge, warranty, representation, term, provision, condition or obligation, express or implied, in any contract, credit document, purchase order, agreement for sale, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Debtor arising from the bankruptcy of the Debtor, the filing of this Proposal, or the transactions contemplated by this Proposal.
- 13.5** The provisions of this Proposal will be binding on the Creditors and their respective heirs, executors, administrators, successors, and assigns.

**ARTICLE 14
AMENDMENT OF PROPOSAL**

- 14.1** The Trustee may vary, amend, modify or supplement this Proposal at any and all meetings of the Creditors and at any time and from time to time before or, with leave of the Court, after the final meeting of the Creditors.
- 14.2** If there are any variations, amendments, modifications or supplements to this Proposal made at or prior to the final meeting of the Creditors held to consider this Proposal which the Proposal Trustee determines are for the general benefit of the Creditors, the Proposal Trustee will be entitled to approve such variations, amendments, modifications or supplements by exercising all voting rights its receives from Creditors who have voted in favour of this Proposal and by counting all "yes" votes and "no" votes which have not, to the time the variations, amendments, modifications or supplements are made, been changed, as "yes" votes and "no" votes for the amended or supplemental Proposal.

[Signature page follows]

DATED at the City of Vancouver, British Columbia this 4th day of January, 2022.

**MNP LTD., in its capacity as the Licensed
Insolvency Trustee of the bankruptcy estate of
LEGENDARY DEVELOPMENTS (SOUTH
SURREY) LTD and not in its personal capacity**

Per:

Authorized Signatory

