



**FORCE FILED**

NO. S-222758  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF  
0989705 B.C. LTD., ALDERBRIDGE WAY GP LTD., and  
ALDERBRIDGE WAY LIMITED PARTNERSHIP

PETITIONERS

**NOTICE OF APPLICATION**

**Name of applicant:** MNP Ltd. ("MNP") (formerly The Bowra Group Inc. ("TBGI"), in its capacity as Monitor (the "**Monitor**") of Alderbridge Way GP Ltd., Alderbridge Way Limited Partnership and 0989705 B.C. Ltd. (collectively the "**Companies**").

**To:** The Service List, a copy of which is attached hereto as Schedule "A"

TAKE NOTICE that an application will be made by the Applicant to the Honourable Madam Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, B.C. on May 31, 2023 at 9:00 a.m. for the orders set out in **Part 1** below.

**Part 1: ORDERS SOUGHT**

1. An order in substantially the form of draft order attached hereto as Schedule "B":
  - (a) extending the Stay Period, as defined in the Second Amended and Restated Initial Order made by the Honourable Madam Justice Fitzpatrick in these proceedings on August 11, 2022 (the "**SARIO**"), and the other relief granted therein, from June 2 to September 29, 2023; and
  - (b) approving \$2.2 million in additional interim financing (the "**Additional DIP Financing**") to be advanced by Romspen as interim lender and a corresponding

increase in the DIP Financing Charge (as defined herein) from \$3.7 million to \$5.9 million.

## Part 2: FACTUAL BASIS

### BACKGROUND

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the SARIO.
2. Effective December 1, 2022, TBGI merged with MNP and pursuant to a Substitution Order granted December 21, 2022, MNP was substituted as Monitor in place of TBGI in this proceeding.
3. On April 1, 2022, this court made an order (the “**Initial Order**”) under the CCAA granting the Companies protection from their creditors and authorizing the Companies to borrow up to \$850,000 by way of debtor in possession financing and secured by the Interim Financing Charge (as defined in the SARIO).
4. On April 11, 2022, this Court granted an order extending the Stay Period to April 25, 2022.
5. On April 25, 2022, this Court granted the Amended and Restated Initial Order that, among other things:
  - (a) extended the Stay Period to August 3, 2022;
  - (b) substituted TBGI as Monitor in place of Alvarez & Marsal Canada Inc.; and
  - (c) approved an additional \$1.65 million of interim financing to be provided by Romspen Investment Corporation (“**Romspen**”), the Petitioners’ senior secured creditor, and secured by the Romspen Interim Financing Charge #1, which charge ranks *parri passu* with the Interim Financing Charge and behind the Romspen Security (as those terms are defined in the SARIO).
6. Also on April 25, 2022, the Court granted an order (the “**SISP Order**”) authorizing and directing the Monitor to carry out a sales and investment solicitation process (the “**SISP**”) in respect of the development property at 7960 Alderbridge Way, and 5333 and 5411 No. 3 Road, Richmond, British Columbia (the “**Development Project**”).

7. On July 22, 2022, this Court granted an order extending the Stay Period to August 12, 2022.
8. On August 11, 2022, this Court granted the SARIO, which, among other things:
  - (a) expanded and enhanced the Monitor's powers to, among other things, allow it to exercise control over the Development Project;
  - (b) approved an additional \$2.5 million of debtor in possession financing ("**DIP Financing**") to be advanced by Romspen and secured by a corresponding charge in favour of Romspen over the assets, property and undertakings of the Companies (the "**DIP Financing Charge**"), which ranks in priority to the Security (as well as the Interim Financing Charge and the Romspen Interim Financing Charge #1); and
  - (c) extended the Stay Period to October 7, 2022.
9. On October 7, 2022, the Court granted an order extending the Stay Period to December 9, 2022.
10. Effective December 7, 2022, with the consent of Romspen, the Monitor terminated the SISP on the expectation that any offers received by prospective purchasers would be significantly lower if there was no building permit in place or would be made subject to obtaining a building permit.
11. On December 9, 2022, the Court granted an order extending the Stay Period to February 24, 2023.
12. On February 24, 2023, the Court granted an order which, among other things:
  - (a) extended the Stay Period to June 2, 2023;
  - (b) approved an additional \$1.2 million of DIP Financing to be advanced by Romspen and granted a corresponding increase in the DIP Financing Charge; and
  - (c) granted GBL Architects Inc. ("**GBL**") a charge (the "**GBL Charge**") in the amount of \$250,000 over the Property as security for any amounts which the Petitioners are



or become indebted to GBL for the supply of services, which charge ranks third in priority as provided for in paragraph 50 of the SARIO, as amended.

## THE BUILDING PERMIT APPLICATION

13. The background on the status of the building permit is detailed in the Monitor's Fourth Report to Court dated August 9, 2022, Fifth Report to Court dated October 3, 2022 and Seventh Report to Court dated February 21, 2023.
14. The Monitor remains of the view that it is imperative that the Companies obtain a new building permit as soon as practicable as the alternative scenario includes a loss of density and a resultant decrease in the estimated value of the Development Project, increased contributions to the City, the forfeiture of certain deposits held by the City, as well as a further delay of up to four years.
15. In or around February 15, 2023, the Monitor engaged the architect of record, GBL, and certain development consultants to prepare a feasibility report (the "**Feasibility Report**") with respect to the Development's compliance with the 2018 building code without the need for an amendment to the existing development permit.
16. On May 10, 2023, the Monitor and GBL met with the City of Richmond (the "**City**"), where the City:
  - (a) confirmed its support of the Monitor's submission of a new building permit application; and
  - (b) advised that a building permit application would need to be submitted before November 1, 2023, as a new 2023 building code will be adopted in December 2023.
17. The Monitor has received fee proposals from GBL and the other development consultants for the preparation and submission of the building permit application, which may take up to five months to prepare. Assuming the process begins in the very new future, the Monitor does expect to meet the November 1, 2023 deadline indicated by the City.
18. Based on the fee proposals obtained from the consultants, the Monitor estimates it will cost \$1.9 million for the consultants to prepare and submit the building permit application,

which has been provided for in the cash flow forecast included in the Monitor's Eighth Report to Court dated May 26, 2023 (the "**Eighth Report**").

19. Once the building permit application is submitted, there will be additional fees due to the City before the building permit is issued. The Monitor is working with the City to determine the amount of the fees payable.

#### **INCREASE IN DIP FINANCING**

20. As at the date of the Eighth Report, Romspen has advanced \$2.1 million of the \$3.7 million of the authorized DIP Financing facility leaving \$1.6 million available.
21. The Monitor estimates that it will require up to \$3.8 million during the period June 3 to September 29, 2023, meaning it will be necessary to increase the amount of authorized DIP Financing by \$2.2 million.
22. The proposed Additional DIP Financing does not account for any fees payable to the City after the submission of the building permit application.

#### **EXTENSION OF THE STAY PERIOD**

23. The current Stay Period expires on June 2, 2023, which the Monitor seeks to extend up to and including September 29, 2023.

### **Part 3: LEGAL BASIS**

#### **EXTENSION OF THE STAY PERIOD**

1. The Monitor relies on ss. 11 and 11.02, of the CCAA and the inherent jurisdiction and statutory discretion of this Honourable Court.
2. Subsection 11.02(2) of the CCAA provides that a debtor company may apply for an extension of the stay of proceedings for a period of time that the court considers necessary on any terms that it may impose. Subsection 11.02(3) of the CCAA provides that the court shall not make an order extending the stay period unless it is satisfied that: (a) the circumstances exist that make the order appropriate; and (b) the debtor company has acted and is acting in good faith and with due diligence.

3. The extension of the Stay Period will provide additional time for the Monitor, in consultation with the appropriate consultants, to prepare and submit the development permit application to preserve the value of the Development Project with a goal to completing a sale of the lands for the benefit of the Petitioners' stakeholders.
4. The Monitor seeks to extend the Stay Period until 11:59 p.m. on September 29, 2023. The Monitor recommends that this Court grant the extension being sought, including for the following reasons:
  - (a) the SISP did not result in an acceptable transaction;
  - (b) more time is required to obtain a new building permit application, which will preserve the value of the Development Project;
  - (c) Romspen has consented to an extension of the Stay Period;
  - (d) the Petitioners have been, and are, acting in good faith and with due diligence; and
  - (e) no creditor of the Companies will be materially prejudiced by the extension of the Stay Period being sought.

#### **ADDITIONAL INTERIM FINANCING**

5. The Court's jurisdiction under section 11.2 of the CCAA to approve debtor-in-possession financing and grant a corresponding charge also authorizes it to "approve amendments to a DIP agreement and secure all obligations arising from the amended DIP loans with an increased DIP charge". When doing so, a court must be satisfied that the requirements of subsection 11.2(4) of the CCAA support the relief sought.

*Lydian International Limited (Re)*, 2020 ONSC 4006 at para 66.

6. Section 11.2(4) of the CCAA reads, in part, as follows:

11.2 (4) In deciding whether to make an order, the court is to consider, among other things,

- (a) the period during which the company is expected to be subject to proceedings under this Act;
- (b) how the company's business and financial affairs are to be managed during the proceedings;
- (c) whether the company's management has the confidence of its major creditors;



- (d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
- (e) the nature and value of the company's property;
- (f) whether any creditor would be materially prejudiced as a result of the security or charge; and
- (g) the monitor's report referred to in paragraph 23(1)(b), if any.

7. No one factor is determinative. Rather, courts are to balance the interests of the debtor and its stakeholders with a view to ensuring that the financing "will assist the debtor company to obtain the 'breathing room' said to be needed to hopefully achieve a restructuring acceptable to the creditors and the court".

*1057863 B.C. Ltd (Re)*, 2020 BCSC 1359 at para 35.

8. Having regard to the factors enumerated in subsection 11.2(4) of the CCAA, the Additional DIP Financing and the corresponding increase in the DIP Financing Charge are necessary and appropriate given, among other things, that
- (a) the additional funding to be advanced is required to ensure that there is sufficient liquidity to continue to advance these CCAA proceedings, particularly with respect to preparing and submitting the building permit application with the City before the November 1, 2023 deadline;
  - (b) the Additional Dip Financing and the corresponding increase in the DIP Financing Charge are economical and in the best interests of all stakeholders as, in the view of the Monitor, it is necessary to protect the realizable value and effect the eventual sale of the Development Project;
  - (c) no creditor will be materially prejudiced by the proposed Additional DIP Financing or the increase in the DIP Financing Charge;
  - (d) Romspen, the Companies' senior secured creditor, is supportive and has agreed to provide the Additional DIP Financing; and
  - (e) the Monitor is of the view that the Additional DIP Financing and the increase in the DIP Financing Charge are reasonable and warranted in the circumstances.

**Part 4: MATERIAL TO BE RELIED ON**

1. Monitor's Fourth Report to the Court dated August 9, 2022;
2. Monitor's Fifth Report to the Court dated October 3, 2022;
3. Monitor's Sixth Report to the Court dated December 7, 2022;
4. Monitor's Seventh Report to the Court dated February 21, 2023;
5. Monitor's Eighth Report to the Court dated May 26, 2023; and
6. Such further and other materials as counsel may advise and as this Court deems admissible.

The applicant estimates that the application will take 15 minutes.

This matter is not within the jurisdiction of a master.

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 26, 2023



Signature of lawyer for MNP Ltd., in its  
capacity as Monitor  
Kibben Jackson

**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

The Solicitors for the Monitor are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232. (Reference: Kibben Jackson/265884.00015)

**APPENDIX**

**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- 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
- X other

SCHEDULE "A"

SERVICE LIST

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PETITIONERS

**SERVICE LIST**

As at February 22, 2023

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<p>McCarthy Tetrault LLP 745 Thurlow St Suite 2400, Vancouver, BC V6E 0C5</p> <p>Attention: Lance Williams</p> <p>Email: <a href="mailto:lwilliams@mccarthy.ca">lwilliams@mccarthy.ca</a> <a href="mailto:sdanielisz@mccarthy.ca">sdanielisz@mccarthy.ca</a></p> <p>Tel: 604-643-7154</p>	<p><i>Metro-Can Construction (AT) Ltd., Keller Foundations Ltd., Rush Contracting Ltd. and Storm Guard Water Treatment Inc.</i></p>

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<p>Deputy Attorney General  British Columbia Regional Office  Department of Justice Canada  National Litigation Sector  900 - 840 Howe Street  Vancouver, BC V6Z 2S9</p> <p>Attention: Jason Levine</p> <p>E-mail: <a href="mailto:jason.levine@justice.gc.ca">jason.levine@justice.gc.ca</a></p> <p>Tel.: (604) 666-0632  Fax: (604) 666-1462</p>	<p><i>Her Majesty The Queen in Right of Canada</i></p>
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SCHEDULE "B"

DRAFT ORDER

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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PETITIONERS

**ORDER MADE AFTER APPLICATION**  
**(STAY EXTENSION ORDER)**

)	)	
)	)	
BEFORE )	THE HONOURABLE )	
)	MADAM JUSTICE FITZPATRICK )	May 31, 2023
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ON THE APPLICATION OF MNP Ltd. (formerly The Bowra Group Inc.) (the “**Monitor**”) in its capacity as Monitor of Alderbridge Way GP Ltd., Alderbridge Way Limited Partnership and 0989705 B.C. Ltd. (collectively the “**Companies**”) coming on for hearing at Vancouver, British Columbia on this date; AND ON HEARING Kibben Jackson and Mishaal Gill, counsel for the Monitor, and those other counsel listed in Schedule “A” hereto; AND UPON READING the materials filed, including the Monitor’s Eighth Report to Court, dated May 26, 2023; AND PURSUANT to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”) and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the Monitor’s Notice of Application dated May 26, 2023, is abridged such that it is properly returnable today.



2. All capitalized terms not otherwise defined have the meanings ascribed to them in the Second Amended And Restated Initial Order of this court made herein on August 11, 2022 (the “SARIO”).

STAY PERIOD EXTENSION

3. All relief granted under the SARIO, including the Stay Period provided for in paragraph 18 therein, is hereby extended until September 29, 2023.

INCREASE IN INTERIM FINANCING

4. Paragraph 44 of the SARIO, as amended by the February 24, 2023 order of this court, is hereby further amended so as to read as follows:

44. The Monitor, on behalf of the Petitioners, is hereby authorized and empowered to obtain and borrow under an additional credit facility from the Romspen Interim Lender in order to finance the continuation of the Business and preservation of the Property, provided that borrowings under such credit facility shall not exceed \$5,900,000 unless permitted by further Order of this Court.

5. Endorsement of this order by counsel appearing on this application, other than counsel for the Monitor, 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:

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Signature of Kibben Jackson  
Lawyer for the Monitor

BY THE COURT

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REGISTRAR

**SCHEDULE "A"**

Counsel Appearing

<b>Name of Party</b>	<b>Counsel Name</b>
0989705 B.C. LTD., Alderbridge Way Gp Ltd. and Alderbridge Way Limited Partnership <i>Petitioners</i>	Valerie Cross
The Bowra Group Inc. <i>Monitor</i>	Kibben Jackson Mishaal Gill
Romspen Investment Corporation <i>Senior Secured Creditor</i>	Peter Rubin
CIBT Education Group Inc., GEC Education City (Richmond) Limited Partnership and GEC (Richmond) GP Inc.	Salman Bhura John Sullivan
JV Driver Investments Inc.	Chelsea Tolppanen

No. S-222758  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT,

R.S.C. 1985, C. C-36, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND  
ARRANGEMENT OF

0989705 B.C. LTD., ALDERBRIDGE WAY GP LTD., AND  
ALDERBRIDGE WAY LIMITED PARTNERSHIP

PETITIONERS

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**ORDER MADE AFTER APPLICATION  
(STAY EXTENSION AND INTERIM FINANCING)**

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**FASKEN MARTINEAU DuMOULIN LLP**

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Counsel: Kibben Jackson  
Matter No: 265884.00015