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ESTATE NO. 11-2626936
COURT NO. B200171
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY

IN THE MATTER OF THE PROPOSAL OF
FHC ENTERPRISES LTD.

PROPOSAL

OF

FHC ENTERPRISES LTD.

DATED FOR REFERENCE MAY 21, 2020

MADE PURSUANT TO PART III DIVISION 1 OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED

ARTICLE I
DEFINITIONS & INTERPRETATION

1.1 DEFINITIONS

In this Proposal, including the attached schedules:

“**Approval Order**” means the court order made in the Proposal Proceeding approving the Proposal and directing the implementation of the Proposal.

“**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended.

“**Business Day**” means a date other than a Saturday, Sunday or statutory holiday in British Columbia.

“**Claim**” means a claim for an amount alleged by a person to be owed to it, or any obligation, enforceable right, duty or liability, contingent or otherwise, (including any claim whether contingent or accrued on behalf of Her Majesty the Queen in right of the Dominion of Canada or any Province or any municipality), or any cause of action against the Company or its respective assets and property calculated either as at the Filing Date or in the case of claims under executory



contracts arising subsequent to the Filing Date as a result of the termination of such contracts as at the date of such termination.

“**Classes**” means the classes of Creditors created under the Proposal.

“**Company**” means FHC Enterprises Ltd., an Insolvent Person incorporated under the laws of British Columbia.

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

“**CRA**” means Her Majesty the Queen in Right of Canada as represented by the Minister of National Revenue.

“**Creditor**” means a person having a Proven Claim.

“**Disallowed Claimant**” means a person filing a Proof of Claim with the Trustee which is disallowed in whole or in part by the Trustee until either:

- (a) The time period for disputing the Trustee’s disallowance established in the Proposal expires without the filing of a motion to Court by such Disallowed Claimant, in which case the Disallowed Claimant shall not have a claim; or
- (b) A motion has been filed by the Disallowed Claimant disputing the disallowance and either:
 - (i) The Court has upheld the Trustee’s disallowance in which case the Disallowed Claimant shall not have a Claim; or
 - (ii) The Court has varied either in whole or in part, the Trustee’s disallowance, in which the case the amount established by the Court will become a Claim.

“**Filing Date**” means March 6, 2020, the date when the Notice of Intention to Make a Proposal was filed.

“**General Creditors**” means:

- a) Any Creditor who is not a Secured Creditor;
- b) Any Creditor who has any deficiency claim in connection with any security, mortgage, charge or encumbrance;
- c) Any Secured Creditor who has elected to file a proof of claim as an unsecured creditor under section 50.1(3) of the BIA.

“**Implementation Date**” means the first Business Day after the date the Court approves the Proposal.

“**Insolvent Person**” means that definition set out in Section 2 (1) of the BIA.



“Meeting” means the meeting of the General Creditors to be held pursuant to Section 51(1) of the BIA for the purpose of considering, and if thought fit, voting to approve the Proposal, as same may be amended at any such Meeting, and agreeing to the compromise and arrangement constituted thereby, and any adjournment thereof.

“Post Filing Creditor Claims” means all claims of Post Filing Creditors for amounts alleged to be owed to them arising after the Filing Date.

“Post Filing Creditor” means any person who has supplied goods or services to or who has an entitlement to receive sales or excise taxes, source deductions or assessments and premiums from the Company arising subsequent to the Filing Date in relation to any unpaid amounts relating thereto and extends to include the federal or provincial Crown for amounts owed in respect of federal or provincial sales or excise taxes collected subsequent to the Filing Date, or amounts owing in respect of source deductions on account of employee income tax, Canada Pension Plan contributions and Employment Insurance premiums arising subsequent to the Filing Date, and amounts payable to any Workers’ Compensation authority whether as to premiums or assessments accruing due subsequent to the Filing Date.

“Preferred Creditors” means all creditors entitled to priority over the General Creditors pursuant to section 136 of the BIA.

“Proof of Claim” means the prescribed form of document required under the BIA to evidence the Claim of a Creditor under Part III of the BIA prior to the date of the Meeting.

“Proposal” means this Proposal among the Company and the Creditors, as from time to time amended, modified or supplemented pursuant to an order of the Court, or pursuant to an agreement among the Company and any of the Creditors or Class, as provided for herein or pursuant to any Meeting of the Classes, and may be referred to as being the Proposal of the Company dated for reference May 21, 2020.

“Proposal Fund” has the meaning given to it in Article III.

“Proposal Proceeding” means the proceeding commenced by the Company under the BIA in Action No. 11- 2626936 in the Vancouver Registry of the Court.

“Proven Claim” means a Claim that has been filed with the Trustee in accordance with the Proposal and has either been accepted and allowed by the Trustee and the Company or has been allowed by the Court, in whole or in part.

“Related Parties” mean 0988474 BC Ltd. and 1007070 BC Ltd. as General Creditors.

“Secured Creditor” means those creditors holding perfected valid security interests against assets or property of the Company or holding a valid mortgage, charge or encumbrance in the assets or property of the Company.



"Trustee" means MNP Ltd., appointed as Licensed Insolvency Trustee in the Proposal Proceedings.

ARTICLE II PURPOSE AND EFFECT OF THE PROPOSAL

2.1 PURPOSE OF THE PROPOSAL

The purpose of the Proposal is to permit the Company to settle payment of its liabilities arising before the Filing Date and to compromise the indebtedness owed to General Creditors of the Company on a fair and equitable basis.

2.2 TRUSTEE UNDER THE PROPOSAL

The Trustee shall act as the administrator for all purposes connected with the Proposal including management of the claims process, administration of the Meeting and any adjournments thereto and distribution of dividends to Creditors.

ARTICLE III CREDITOR CLASSES AND PAYMENTS

3.1 CLASSES OF CREDITORS

There will be two Classes of Creditors for the purpose of considering and voting upon the Proposal consisting of the Secured Creditors and General Creditors.

3.2 SECURED CREDITORS

Secured Creditors including Royal Bank of Canada shall be paid in accordance with the present arrangements existing between the Company and respective Secured Creditors, as amended from time to time, or as may be arranged in the future between the Company and each Secured Creditor respectively.

3.3 PAYMENT

3.3.1 The Company will pay a total of \$1,835,000.00 to the Trustee for the benefit of General Creditors and the Company's obligations pursuant to paragraphs 3.4 of the Proposal and pursuant to the provisions of the *BIA* (the "Proposal Fund") as follows:

- (a) \$26,250.00 upon filing of the Notice of Intention to Make a Proposal;
- (b) \$105,000.00 upon filing of the Proposal;

- (c) \$51,750.00 on or before June 9, 2020; and
- (d) \$1,652,000.00 to be paid by way of 118 payments beginning on July 15, 2020 and ending on May 31, 2025. Each payment shall be in the amount of \$14,000.00 and shall be paid on the 15th day of each month (or the next Business Day if the 15th is not a Business Day) and on the last Business Day of each month.

3.3.2 The Trustee will distribute to General Creditors the Proposal Fund as follows:

- (a) Each General Creditor whose Proven Claim is less than or equal to \$1,500.00, or who elects to reduce their Proven Claim to \$1,500.00, will have their Proven Claim paid in full; and
- (b) Each of the General Creditors whose Proven Claim is greater than \$1,500.00 and who does not elect to reduce their Proven Claim to \$1,500.00 in accordance with paragraph 3.3.2(a), will be paid their proportionate *pro rata* share of the amount of the Proposal Fund which remains after each of the payments described in paragraph 3.4 and 3.3.2(a).

3.3.3 Notwithstanding the foregoing, the Company is obligated to pay only the aggregate amount of all Proven Claims and amounts accruing due to the Trustee pursuant to paragraph 3.4 of the Proposal. If and when the Company pays in full the Proven Claims and amounts accruing due to the Trustee as a Preferred Claim pursuant to paragraph 3.4 of the Proposal, the Company shall be deemed to have fully performed this Proposal and the Company shall not be required to make any further payment to the Trustee.

3.3.4 The Company is at liberty to prepay, without penalty, any amounts payable under this Proposal.

3.4 PREFERRED PAYMENTS IN PRIORITY TO ALL OTHER CREDITORS UNDER THE PROPOSAL

3.4.1 Her Majesty the Queen in Right of Canada or a Province shall be paid in full all amounts of a kind which could be subject to a demand under sub-section 224(1.2) of the *Income Tax Act* or under any substantially similar provision of provincial legislation and that were outstanding at the time of the Filing Date, within six months of the Approval Order.

3.4.2 Provision for payment of all proper fees, expenses and legal costs (the "Trustee's Fees") of the Trustee, and of the Company, of and incidental to the proceedings arising in the Proposal Proceeding together with such fees of the Trustee incidental to and arising from the preparation of this Proposal shall be paid in full in priority to the claims of all Creditors. In the event no Inspectors are appointed, the Trustee may take advances of the Trustee's Fees, subject to final taxation by the Court. Such advances may be taken on a quarterly basis, with the first advance commencing on or after the Implementation Date.



3.4.3 Immediately after Court approval of the Proposal, employees and former employees of the Company shall be paid amounts equal to the amounts they would be qualified to receive under paragraph 136(1)(d) of the *BIA* had the Company become bankrupt on the date of Court approval of the Proposal as well as wages, salaries, commissions or compensation for services rendered after the date of the Filing Date and the date of the Approval Order.

3.4.4 Preferred claims (which include claims of employees) are to be paid in priority to all claims of General Creditors pursuant to sections 60(1) and 136 of the *BIA*.

3.5 EFFECT ON CREDITORS

Effective as of the Implementation Date, upon satisfaction of the claims of Creditors in the manner described in this Proposal, the Company shall be released from all claims, liabilities and obligations to all General Creditors.

3.6 WAIVER OF PAYMENT BY RELATED PARTIES

Within seven (7) days of the date of the Approval Order, Related Parties shall waive their respective right to payment from the Proposal Fund for monies owed to them by the Company as General Creditors.

ARTICLE IV DELIVERY OF PROOFS OF CLAIM

4.1 DELIVERING PROOFS OF CLAIM

The Creditors shall deliver their Proofs of Claim for review by the Trustee and the Company by faxing the completed Proof of Claim to the Trustee at Fax No. (604) 904-8628, Attention: Patty Wood or by e-mailing the completed Proof of Claim to the Trustee at: Patty.Wood@mnp.ca or mailing the Proof of Claim to the address of the Trustee set out in Article 10.2., or by depositing such a Proof of Claim with the Trustee prior to the commencement of the Meeting.

4.2 FAILURE TO FILE PROOFS OF CLAIM PRIOR TO MEETING

If a Creditor fails to either deliver a Proof of Claim to be received by the Trustee prior to 5:00 pm on the day before the date for the Meeting for the Classes, or fails to deposit a Proof of Claim with the Trustee or his nominee on or before the time for commencement of the Meeting, the Creditor shall have no right to vote in respect of the Proposal. Subject to Article 4.3, failure by a Creditor to file a Proof of Claim by that deadline shall not disentitle such Creditor from receiving any future payment to be made under the Proposal.

4.3 DISPUTED PROOFS OF CLAIM

4.3.1 In the event that the Company disputes any Proof of Claim as to entitlement to participate in the Classes or as to amount of the Claim set out in the Proof of Claim the Trustee may:

- (a) disallow the Proof of Claim;
- (b) allow the Proof of Claim as presented for the purposes of voting at the Meeting but disallow the Proof of Claim for distribution purposes; or
- (c) allow the Proof of Claim for voting and distribution purposes in such amount as it determines appropriate.

4.3.2 If the Trustee disallows a Proof of Claim for any reason or allows the Proof of Claim for an amount less than that set out in the Proof of Claim, the Creditor shall be deemed to accept the determination of the Company unless the Creditor shall have filed with the Court a motion to value its Claim within thirty (30) days of the date that the disallowance notice is forwarded to the Creditor by the Trustee.

ARTICLE V MEETING OF THE CREDITORS

5.1 GENERAL

5.1.1 At the Meeting of the Creditors held to consider this Proposal the Creditors may appoint one or more but not exceeding five inspectors (the "Inspectors") under this Proposal whose duties will be restricted to the following:

- (a) to advise the Trustee in connection with its actions under this Proposal or any amendment thereto as the Trustee may, from time to time, request;
- (b) To advise the Trustee concerning any dispute which may arise as to the validity of claims of Creditors under this Proposal;
- (c) To advise the Trustee in respect of such other matters as may be referred to the Inspectors by the Trustee; and
- (d) If in the opinion of a majority of the Inspectors it is in the interests of the Creditors that the time for payment of their Proven Claims be extended, the Inspectors will be entitled, without further reference or notice to the Creditors, to extend the time for payment of their Proven Claims.

5.1.2 The Trustee, and the Inspectors, should any be appointed, shall be exempt from all personal liability in fulfilling any duties or exercising any powers conferred upon them by this Proposal or generally in carrying out of the terms of this Proposal by wrongful act, default or neglect.

5.1.3 Upon payment to the Trustee as provided in Article III, this Proposal shall be fulfilled and the Creditors shall have no further claims against the Company.



5.2 MEETING

The Meeting shall be conducted in accordance with Division 1 – General Scheme for Proposals of the BIA.

5.3 VOTING

Except as provided in paragraph 5.4, for the purposes of voting as a member of the Classes, each Creditor shall have one vote for the purposes of determining a majority in number and each Creditor shall be entitled to one vote for each \$1.00 of its Proven Claim.

5.4 PROXIES AND VOTING LETTERS

Creditors will be entitled to vote at the Meeting by proxy or voting letter. The particulars with respect to voting by proxy or voting letter will be detailed in the Proof of Claim and will be binding upon all Creditors.

5.5 ADJOURNMENT OF MEETING

The chair of the Meeting may in his or her discretion adjourn the Meeting upon such terms as are considered appropriate by the chair of the Meeting upon notice to those persons present at the Meeting for the purposes of considering amendments to the proposal contemplated in Article VI.

**ARTICLE VI
AMENDMENTS AND MODIFICATIONS**

6.1 AMENDMENT OF PROPOSAL

The Company reserves the right, with the consent of the Trustee, to amend the Proposal at any time and re-submit it to the Creditors and the Proposal may be amended among the Company and the General Creditors at the Meeting.

6.2 MODIFICATION OF PROPOSAL

After the Meeting, the Proposal may be modified by the Court at any time on application of the Company or the Trustee and upon notice to those determined by the Company to be directly affected by the proposed modification, whether a Creditor or not. On such application, the Proposal may be modified as may be reasonably necessary to ensure the successful reorganization of the Company in accordance with the purposes of the Proposal.

6.3 WAIVERS

Any provision of the Proposal may be waived, with the consent of the Trustee or by a Creditor if such provision affects only that Creditor.



**ARTICLE VII
APPLICATION FOR APPROVAL ORDER**

7.1 APPLICATION FOR APPROVAL ORDER

Upon the conclusion of the Meeting if the Proposal has been approved by the General Creditors by the requisite percentages in relation both to numbers of Creditors and dollar amounts of Proven Claims of Creditors, the Company will forthwith apply to the Court for the Approval Order.

7.2 CONTINUATION OF THE STAY OF PROCEEDINGS

The stay of proceedings provided for in Section 69.1(1) of the BIA will be continued in full force and effect, save as is expressly provided herein.

7.3 COMPROMISE OF INDEBTEDNESS

Upon acceptance of the Proposal by the requisite numbers of Creditors, approval of the Proposal by the Court and payment to the Creditors on or following the Implementation Date as contemplated under the Proposal, the Creditors shall have no further rights to enforce their Claims except as provided in the Proposal.

7.4 RELEASE OF DIRECTORS

Effective upon the Implementation Date, the directors of the Company shall be released from any obligations of the Company where the directors are by law liable in their capacity as directors for the payment of such obligations but shall not include claims that:

- (a) relate to contractual rights of one or more creditors arising from contracts with one or more directors; or
- (b) are based on allegations of misrepresentation made by directors to creditors or of wrongful or oppressive conduct by directors.

**ARTICLE VIII
APPROVAL PROCEDURE**

8.1 PRECONDITIONS TO IMPLEMENTATION

The Proposal is expressly subject to all of the following conditions precedent:

- (a) approval by the requisite majority of the Creditors pursuant to the BIA;
- (b) approval of the Proposal by the Court; and



- (c) such other orders by the Court as may be required in order to completely implement the Proposal.

8.2 EFFECTIVENESS

The Proposal will become effective upon the Implementation Date and will apply to all Creditors and all Proven Claims against the Company both domestic and foreign irrespective of the jurisdiction in which such Creditors reside or where the Proven Claims arise.

8.3 IMPLEMENTATION

Subject to the conditions precedent set out in Article 8.1, payments to Creditors will occur as set out in Article III.

8.4 EXECUTORY CONTRACTS

On or before the date of the Approval Order, the Company may, if necessary, seek an order from the Court confirming that:

- (a) all executory contracts to which the Company is a party at the date of such application, are in full force and effect and at the Implementation Date notwithstanding that the Company has commenced this Proposal Proceeding, filed a Proposal, or any compromises effected pursuant to the Proposal on the holders of such executory contracts; and
- (b) no party to such executory contracts shall be entitled to terminate, or repudiate its obligation under such executory contracts following the Implementation Date by reason of the commencement of the Proposal Proceeding, the contents of the Proposal, the non-payment of any Claim, or any compromises effected under the Proposal.

ARTICLE IX DISALLOWED CLAIMANTS

9.1 VALIDITY OF CLAIMS

If the Proposal is not approved by the requisite majority of the General Creditors voting at the Meeting as required by the BIA, and the sole reason for that non-approval is the vote of a Disallowed Claimant or Disallowed Claimants, the Company will apply to the Court, at the earliest convenient date for all parties, to determine the validity of the amount alleged due by such Disallowed Claimant or Disallowed Claimants.

9.2 STATUS QUO

Until such time as the amount which is alleged to be owed by the Company to a Disallowed Claimant who has voted against the Proposal and whose vote, either alone or in conjunction with other Disallowed Claimants, has governed the Class of which it is a proper member is finally determined:

- (a) the Company will maintain the status quo;
- (b) the effect of the Proposal and all steps to be taken hereunder will continue with respect to all other Creditors pending the determination of the issues between the Company and the Disallowed Claimants; and
- (c) The Company will defer any application for the Approval Order until the dispute has been resolved by the Court.

ARTICLE X GENERAL

10.1 HEADINGS

The division of the Proposal into Sections and the insertion of headings are for convenience only and do not form part of the Proposal and will not be used to interpret, define or limit the scope, extent or intent of the Proposal.

10.2 SECTION REFERENCE

Unless otherwise specified, references in the Proposal to "Sections" and "Schedules" are to sections of and schedules to the Proposal.

10.3 STATUTORY REFERENCE

Unless otherwise specified, each reference to a statute is deemed to be a reference to that statute and to the regulations made under that statute, as amended or re-enacted from time to time.

10.4 NUMBER AND GENDER

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders.

10.5 CURRENCY

All references to amounts of money mean lawful currency of the Dominion of Canada unless otherwise expressly indicated. All Proofs of Claim submitted by Creditors in U.S. dollars will be converted to Canadian dollars at the rate of exchange applicable at the Filing Date.



10.6 FURTHER ACTIONS

The Company will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Proposal to give effect to the transactions contemplated hereby.

10.7 NOTICES

All notices, Proofs of Claim, and payments required or permitted or desired to be made pursuant to the Proposal shall be in writing and shall be delivered personally or by e-mail or mail by regular or registered or certified mail, return receipt requested, to the Company at the following address:

c/o MNP Ltd.
Licensed Insolvency Trustee in the Proposal
Proceedings of FHC Enterprises Ltd.
Suite 1600 MNP Tower
1021 West Hastings Street
Vancouver, B.C. V6E 0C3

Attention: Patty E. Wood

Telephone: (604) 637-1535
Facsimile: (604) 904-8628
E-mail: Patty.wood@mnp.ca

And if to a Creditor or Disallowed Claimant, at its address set forth in the last Proof of Claim deposited with the Company.


10.9 SUCCESSORS AND ASSIGNS

The Proposal is binding upon the Company, the Creditors, the Disallowed Claimants and their respective heirs, executors, administrators, successors and assigns.

DATED at the City of Vancouver, Province of British Columbia this 21st day of May, 2020.

FHC ENTERPRISES LTD.

Per:


Authorized Signatory