

District of Alberta
Division No. 01-Edmonton
Court No. 24-3077340
Estate No. 24-3077340

**IN THE MATTER OF THE DIVISION I PROPOSAL OF
TOP DRAW INC.
DIVISION I PROPOSAL**

(Section 50 of the Bankruptcy and Insolvency Act)

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Form 35

**IN THE MATTER OF THE DIVISION I PROPOSAL OF
TOP DRAW INC.**

AN INSOLVENT PERSON

DIVISION I PROPOSAL
(Section 50 of the *Bankruptcy and Insolvency Act*)

ARTICLE 1 - DEFINITIONS

1.1 Definitions

In this Proposal, the following words and phrases shall have the following respective meanings:

- a) **“Acceptance”** means the acceptance of the Proposal by the Creditors and the ratification of the Proposal by the Court;
- b) **“Act”** means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
- c) **“Certain Crown Claims”** means those Creditors defined in Article 7.2 hereof;
- d) **“Claims”** has the meaning ascribed thereto in the Act;
- e) **“Court”** means the Court of King’s Bench of Alberta in Bankruptcy and Insolvency;
- f) **“Creditor”** or **“Creditors”** means the creditors of Top Draw Inc. affected by the Proposal;
- g) **“Director’s Liability”** means the liability of the directors of Top Draw Inc. in regard to those claims against Top Draw Inc. defined in Article 7.5 hereof in respect of which the directors of Top Draw Inc. are liable in their capacity as a director of Top Draw Inc.;
- h) **“Insolvent Person”** means Top Draw Inc.;
- i) **“Meeting of Creditors”** means the meeting of Creditors scheduled to consider and vote on the Proposal;
- j) **“Notice of Meeting”** means the notice of the Meeting of Creditors forwarded to the Creditors;
- k) **“Preferred Creditors”** means all those Creditors of Top Draw Inc. defined in Article 7.7 hereof;
- l) **“Proposal”** means the series of steps and arrangements contemplated herein, by which the debts and obligations owing by Top Draw Inc. to the Creditors will be dealt with pursuant to Division I of Part III of the Act;

- m) **“Proposal Fund”** shall mean the fund of money paid by Top Draw Inc. to the Trustee for the purpose of distribution to the Creditors of Top Draw Inc. in accordance with the terms of this proposal;
- n) **“Proposed Implementation Date”** means the date that rights and obligations under the Proposal become effective and is the latest date upon which each of the following events has occurred:
 - i. the approval of the Proposal by the requisite majority in number and in value of the Creditors required under Division I of Part III of the Act has been obtained; and,
 - ii. an Order of the Court approving the Proposal has been obtained and the appeal period from such Order has expired or, if any appeal is taken from such Order, a final Order dismissing such appeal has been obtained;
- o) **“Proposal Valuation Date”** means May 7, 2024;
- p) **“Secured Creditors”** means those Creditors defined in Article 7.3 hereof;
- q) **“Top Draw Inc.”** means Top Draw Inc.;
- r) **“Termination Date”** means the date upon which the claims of all Creditors have been satisfied in accordance with the Proposal or otherwise satisfied;
- s) **“Trustee”** means MNP Ltd., licensed insolvency trustee under the Proposal;
- t) **“Unsecured Creditors”** means those Creditors defined in Article 7.8 hereof;
- u) **“Valued Claim”** means the claim of a creditor as of the Proposal Valuation Date which has been valued by the Trustee; and
- v) **“Wage Claims”** means the claims advanced against Top Draw Inc. by those Creditors defined in Article 7.4 hereof;

ARTICLE 2 – INSOLVENT PERSON

- 2.1 Top Draw Inc., the Insolvent Person, hereby submits the following Proposal pursuant to the Act.

ARTICLE 3 - PURPOSE AND EFFECT OF PROPOSAL

- 3.1 The purpose of the Proposal is to allow Top Draw Inc. the opportunity to offer a compromise to its Creditors of their claims against Top Draw Inc.
- 3.2 Top Draw Inc. wishes to permit the Creditors to achieve a recovery on their claims against Top Draw Inc. which is superior to that which the Creditors are expected to achieve in the event that Top Draw Inc. was to become bankrupt.
- 3.3 The Proposal will become effective on the Proposal Implementation Date, on which date the claims of the Creditors will be compromised in accordance with the terms hereof.

ARTICLE 4 – MEETING OF CREDITORS

- 4.1 The Creditors shall be given formal notice to attend a Meeting of Creditors as outlined in the Notice of Meeting.

ARTICLE 5 – ADMINISTRATION OF THE PROPOSAL

- 5.1 The Creditors, with the consent of the Insolvent Person, may include such additional provisions or terms in the Proposal with respect to the supervision of the affairs of the Insolvent Person as they may deem advisable.
- 5.2 The Creditors may appoint one or more, but no more than five, inspectors of the Proposal of the Insolvent Person.
- 5.3 The Proposal shall be terminated upon the date on which the claims of all Creditors have been satisfied pursuant to the terms of the Proposal, or upon the bankruptcy of the Insolvent Person, or upon default under the terms of the Proposal by the Insolvent Person.

ARTICLE 6 – DEFAULT BY INSOLVENT PERSON IN PERFORMANCE OF PROPOSAL

- 6.1 The Insolvent Person shall be in default of its obligations under the Proposal in the event that:
- a) it has not paid the full amount of the Proposal Fund to the Trustee on or before the date specified in Article 16 hereof for such payment to be made; or
 - b) the Insolvent Person shall have failed to comply with the requirements of Articles 8.3, 8.4 or 8.5 hereof on or before the dates therein specified.
- 6.2 Where default is made in the performance of any provision of the Proposal and the default is not remedied by the Insolvent Person or waived by the Inspectors, or in the absence of inspectors, by the Trustee or a majority of the Creditors as defined in dollar value of proven claims, within thirty (30) days immediately following the default, the Trustee shall so inform all of the Creditors and the Official Receiver in the manner prescribed pursuant to the Act.
- 6.3 In the absence of inspectors, the Trustee shall have the power to extend the time for the making of any payment required to be made pursuant to this Proposal.

ARTICLE 7 – DEFINITION OF CREDITOR CLAIMS

- 7.1 The claims of Creditors shall have the respective definitions provided in this Article 7.
- 7.2 “**Certain Crown Claims**” shall mean any claim of His Majesty in the Right of Canada or a Province or Territory of all amounts 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 the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act*; and,
 - c) any substantially similar provincial or territorial legislation that has a similar purpose to the subsection 224(1.2) of the *Income Tax Act*.

- 7.3 **“Secured Creditor”** means a person holding a mortgage, hypothec, pledge, charge, security interest or lien on or against the property of the Insolvent Person or any part of that property as security for a debt due or accruing due to the person from the Insolvent Person, or a person whose claim is based on, or secured by, a negotiable instrument held as collateral security and in respect of which the Insolvent Person is only indirectly or secondarily liable.
- 7.4 **“Wage Claim”** includes any claim of employees and former employees of Top Draw Inc. for amounts equal to the amounts that such employees may be qualified to receive pursuant to subsection 136(1)(d) of the Act as at the time of the filing of the Notice of Intention (May 7, 2024) or of filing the Proposal.
- 7.5 **“Director’s Liability Claims”** includes any claim for obligations of the Insolvent Person where the claim extends to the directors of the Insolvent Person and such directors are by law personally liable in their legal capacity as director of the Insolvent Person for:
- a) Certain Crown Claims as defined in Article 7.2 hereof;
 - b) Wage Claims as defined in Article 7.4 hereof;
 - c) Goods and Services Tax (“GST”) claims as defined pursuant to the *Excise Tax Act*;
 - d) WCB premiums as directed under any Provincial or Territorial Workers’ Compensation Act; and,
 - e) Any claim respecting any environmental contamination or condition under any federal, provincial or territorial environmental act.
- 7.6 For greater certainty, **“Director’s Liability Claims”** excludes any claims that relate to obligations arising out of contractual obligations or claims that are based on allegations of misrepresentation or wrongful or oppressive conduct.
- 7.7 **“Preferred Creditor”** includes any creditor with a claim defined pursuant to subsection 136(1) of the Act. However, “Preferred Creditor” shall exclude any person advancing a Wage Claim.
- 7.8 **“Unsecured Creditor”** includes all persons to whom the Insolvent Person owes any obligations of any nature and kind whatsoever, whether due or not due for payment at the time of the filing of the Notice of Intention (May 7, 2024) and including contingent or unliquidated claims arising out of any transactions entered into by the Insolvent Person prior to the time of the filing of the Notice of Intention, save and except for the claims of Secured Creditors, Wage Claims, Certain Crown Claims and the claims of Preferred Creditors.

ARTICLE 8 – ARRANGEMENTS AFFECTING CANADA REVENUE AGENCY (“CRA”)

- 8.1 All of the Insolvent Person’s outstanding goods and services taxes (GST), including interest and penalty charges thereon, accruing due or payable for the current fiscal year up to and including the day preceding the filing of the Notice of Intention shall be included in this Proposal. Any adjustments, assessments or reassessments (if any) made by CRA for claims filed by the Insolvent Person prior to the date of the Notice of Intention in relation to GST shall be considered an adjustment, assessment or reassessment in relation to the pre-proposal period.
- 8.2 No further interest or penalties shall accrue, or be applied, as against all pre-filing amounts of Crown Claims Indebtedness owed to the CRA by Top Draw Inc.

- 8.3 The Insolvent Person shall comply with the *Income Tax Act* and the *Excise Tax Act* and all other applicable tax related matters including, but not necessarily limited to, the filing of all pertinent statutory returns on or before the date upon which the returns become due and the payment of all monies for income tax, GST and source deductions, including the employer's portion where application, on or before the date upon which the payments become due. The sole responsibility for monitoring the compliance with this provision rests with CRA and should the Insolvent Person complete the monetary component of this proposal and the Trustee has not been advised by CRA that the Insolvent Person is not compliant, the Trustee will be at liberty to issue the Certificate of Full Performance of Proposal to the Insolvent Person.
- 8.4 The Insolvent Person shall, commencing no later than thirty (30) days following Court approval of the Proposal, file GST returns with CRA on a monthly basis on or before the 15th day of the following month and shall remit any balance payable upon filing the said GST returns. The monthly filing of GST returns and the monthly payment of any and all amounts due upon filing the GST return shall continue for the complete term of the Proposal. If the Insolvent Person has an existing requirement to file GST returns on a quarterly basis with CRA rather than a monthly basis, references in this provision to monthly should be understood to be quarterly in accordance with the existing requirements between CRA and the Insolvent Person. The sole responsibility for monitoring the compliance with this provision rests with CRA and should the Insolvent Person complete the monetary component of this proposal and the Trustee has not been advised by CRA that the Insolvent Person is not compliant, the Trustee will be at liberty to issue the Certificate of Full Performance of Proposal to the Insolvent Person.
- 8.5 The Insolvent Person shall, commencing no later than thirty (30) days following Court approval of the Proposal, file Employer Remittance Forms for all employee source deductions, which shall include the employer's portion where applicable, for Income Tax, Canada Pension Plan and Employment Insurance for all employees of Top Draw Inc. on a monthly basis on or before the 15th day of the following month and shall remit all payments upon filing the said Employer Remittance Form. The monthly filing of the Employer Remittance Form and the monthly remittance of all amounts owing for source deductions including the employer's portion, where applicable, shall continue for the complete term of the Proposal. The sole responsibility for monitoring the compliance with this provision rests with CRA and should the Insolvent Person complete the monetary component of this proposal and the Trustee has not been advised by CRA that the Insolvent Person is not compliant, the Trustee will be at liberty to issue the Certificate of Full Performance of Proposal to the Insolvent Person.
- 8.6 CRA shall apply as a credit all remittances for GST and source deductions made by the Insolvent Person following the time of the filing of the Notice of Intention to the Insolvent Person's respective post Proposal tax accounts, with the exception of any one or more payments identified by the Insolvent Person as being payment of Certain Crown Claims as defined in Article 7.2 herein.
- 8.7 For greater certainty, CRA shall have no right of set off for any indebtedness of the Insolvent Person at the time of filing the Notice of Intention or filing the Proposal against any remittances made by the Insolvent Person or any federal, provincial or territorial income tax or GST refunds payable to the Insolvent Person for the period following the time of the filing of the Notice of Intention.

ARTICLE 9 – ARRANGEMENTS AFFECTING CERTAIN CREDITORS

- 9.1 Any indebtedness incurred by the Insolvent Person for the provision of goods, services, supplies, or any other considerations subsequent to the filing of the Notice of Intention and prior to the

approval of the Proposal by the Court shall be paid in full in the ordinary course of business from proceeds realized in relation to the business operations in priority only to the claims of the Unsecured Creditors as defined in Article 7.8 herein, existing at the time of the filing of the Notice of Intention.

- 9.2 Creditors dealing with the Insolvent Person following the time of the filing of the Notice of Intention shall have no right for set-off.

ARTICLE 10 – ARRANGEMENTS AFFECTING CERTAIN CROWN CLAIMS

- 10.1 The claims defined in Article 7.2 hereof, comprised of all amounts outstanding at the time of the filing of the Notice of Intention or of filing the Proposal, shall be paid in full within sixty (60) months following Court approval of the Proposal or in an extended period of time if approved by His Majesty in Right of Canada as represented by CRA from proceeds realized in relation to the business operations in subordination to the Trustee's fees and disbursements.
- 10.2 The payment of claims defined in Article 7.2 shall be made pursuant to the following terms and conditions:
- a) Upon approval of the within Proposal by its creditors, Top Draw Inc. shall make a lump sum payment in the amount of \$119,115.00, or such sum as agreed to by both parties pursuant to a filed proof of claim, to the CRA in full and final satisfaction of its GST arrears;
 - b) Following the aforementioned payment outlined above in Article 10.2(a), Top Draw Inc. shall make an immediate lump sum payment in the amount of \$50,000 to be applied to its remaining Certain Crown Claims indebtedness;
 - c) Top Draw Inc. shall thereafter make monthly payments to be applied to the Certain Crown Claims indebtedness in accordance with Schedule A to this Proposal until the Certain Crown Claims indebtedness has been paid in full within the timeline provided in Article 10.1 herein;
 - d) These minimum payments will be paid to the Trustee on a monthly basis commencing 60 days after Court approval. and will continue until the Proposal is completed as required;
 - e) The Trustee will make annual distributions to the affected Creditors annually, beginning no more than one year after Court approval; and,
 - f) A final balloon payment to pay any remaining Certain Crown Claims indebtedness in full in the 60th month following the approval of the within Proposal.
- 10.3 The Insolvent Person shall remit payment directly to CRA for claims defined in Articles 8.3, 8.4 and 8.5 hereof.

ARTICLE 11 – ARRANGEMENTS AFFECTING SECURED CREDITORS

- 11.1 The payment of the claims of the Secured Creditors of the Insolvent Person shall be made pursuant to the following terms and conditions:

Payments shall be made by Top Draw Inc. to their secured creditors in accordance with the present arrangements existing between Top Draw Inc. and the holders of such secured claims, or as may be arranged by Top Draw Inc. and the holders of such secured claims, or the holders of such secured claims shall be permitted to realize upon their security.

ARTICLE 12 – ARRANGEMENTS AFFECTING EMPLOYEES AND FORMER EMPLOYEES

- 12.1 The claims defined in Article 7.5 hereof of all amounts outstanding at the time of the filing of the Notice of Intention or of filing the Proposal, together with all amounts accrued due for services rendered after that date and before Court approval of the Proposal, shall be paid in full immediately following Court approval of the Proposal from proceeds realized in relation to business operations and in priority to the claims of all other Creditors, however, payment to wage claimants shall be subordinate to payment of the Trustee's fees and disbursements.
- 12.2 For greater certainty, the payment of the claims defined in Article 7.5 hereof shall be the sole responsibility of the Insolvent Person and the claims shall not be included for distribution of any dividends payable by the Trustee with respect to this Proposal.
- 12.3 The Insolvent Person is not aware of any indebtedness to employees or former employees as defined in Article 7.5 hereof.

ARTICLE 13 – ARRANGEMENTS AFFECTING DIRECTOR'S LIABILITIES

- 13.1 Upon the full performance of its terms of the Proposal, the directors of the Insolvent Person shall be released from all claims (including contingent claims as defined in Article 7.6 hereof) that arose prior to the filing of the Notice of Intention or of filing the Proposal, but the directors of the Insolvent Person shall not be released from claims that relate to obligations arising out of contractual obligations or claims that are based on allegations of misrepresentation or wrongful or oppressive conduct.

ARTICLE 14 – ARRANGEMENTS AFFECTING PREFERRED CREDITORS

- 14.1 That the funds available for distribution in this Proposal shall be distributed to the Preferred Creditors (as defined in Article 8.7 hereof) in priority only to the Unsecured Creditors and the distribution of dividends to the Preferred Creditors shall be subordinate to payment of the Trustee's fees and disbursements.
- 14.2 The Insolvent Person is not aware of any indebtedness to Preferred Creditors as defined in Article 7.8 hereof.

ARTICLE 15 – ARRANGEMENTS AFFECTING UNSECURED CREDITORS

- 15.1 The payment of the claims of the Unsecured Creditors of the Insolvent Person shall be made pursuant to the following terms and conditions:

Payments shall be made by Top Draw Inc. to their unsecured creditors in accordance with the present arrangements existing between Top Draw Inc. and the holders of such unsecured claims, or as may be arranged by Top Draw Inc. and the holders of such unsecured claims. The unsecured creditors are thus excluded from the terms of this proposal and will be paid in the usual course.

ARTICLE 16 – PAYMENT ARRANGEMENTS

- 16.1 The minimum payments to the Trustee as outlined in Article 10.2(c) will commence no later than 60 days after Court approval and will continue until the Proposal is completed as required.
- 16.2 The Insolvent Person reserves the right to payout this Proposal at any time without penalty, with the exception of the potential annual payment from net revenue, after deducting the principle repayment of long term debt, which will continue for 5 years from the Proposal Implementation Date.
- 16.3 The Trustee's fees and disbursements shall be paid in priority to the claims of all Creditors defined in Articles 7.2, 7.7 and 7.8 hereof. Trustee's fees shall be calculated in accordance with the time spent by the Trustee and its staff at the Trustee's standard rates for the individuals involved. All disbursements will be accumulated as incurred.
- 16.4 The Trustee's fees and disbursements shall be submitted to the Court for approval and taxation with the Trustee's Final Statement of Receipts and Disbursements pursuant to the Act. Notwithstanding the requirement for taxation of Trustee's fees at the end of the administration of this proposal, the Trustee will be at liberty to draw his fees and disbursements on a monthly basis at the discretion of the Trustee (if required) in order to cover the costs of administration of the proposal.
- 16.5 Effective as of the Proposal Implementation Date, Top Draw Inc. and each and every present and former shareholder, officer, director, employee, auditor, financial advisor, legal counsel and agent of Top Draw Inc. and the Trustee (collectively "the Released Parties" and individually a "Released party") will be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, liens and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature that any of the Creditors may be entitled to assert (including any and all claims in respect of potential statutory liabilities of the former, present and future directors and officers of Top Draw Inc.), whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Proposal Valuation Date relating to, arising out of or in connection with the Claims or the business and affairs of Top Draw Inc.
- 16.6 Upon Top Draw Inc. performing its obligations under the Proposal, the Trustee shall provide Top Draw Inc. with a Certificate of Full Performance of the Proposal pursuant to section 65.3 of the BIA.
- 16.7 Upon issuance by the Trustee to Top Draw Inc. of a Certificate of Full Performance of the Proposal, Top Draw Inc. will be released from all debts and liabilities, present or future, to which Top Draw Inc. was subject on the Proposal Valuation Date, or to which Top Draw Inc. has or may become subject after the Proposal Valuation Date by reason of any obligation incurred or any act or omission which occurred on or before the Proposal Valuation date (save and except for Claims against Top Draw Inc. under section 178 of the Act), including claims against Top Draw Inc. for indemnity and all unliquidated or contingent claims arising out of any transaction entered into by Top Draw Inc. on or prior to the Proposal Valuation Date, regardless of whether or not a proof of claim was filed with the Trustee in respect of any such claim.
- 16.8 As required by section 60(2) of the Act, all monies payable under the Proposal shall be paid by Top Draw Inc. to the Trustee and shall thereafter be distributed by the Trustee in accordance with the Proposal and the Act.

ARTICLE 17 – VALUATION OF CLAIMS, VOTING AND APPLICABLE DATES

- 17.1 The Claims of all Creditors who have proven claims against Top Draw Inc. shall be valued as at the Valuation Date by the Trustee, at or before the Meeting of Creditors.
- 17.2 Proofs of claim, proxies and voting letters intended to be used at the Meeting of Creditors must be lodged with the Trustee prior to the Meeting of Creditors.
- 17.3 Creditors may vote their claims by either returning a properly completed voting letter to the Trustee prior to the Meeting of Creditors, or by attending at the Meeting of Creditors and voting in person or by proxy.
- 17.4 Pursuant to section 50(1.2) of the Act, and for the purposes of the Proposal, the Insolvent Person hereby makes this proposal to the Creditors and the Insolvent Person hereby designates such parties to whom it is making the Proposal into the following class of Creditors more particularly described below, namely:

Class One – Crown Creditor: CRA for liability as at the Proposal Valuation Date.

ARTICLE 18 – MODIFICATIONS AND AMENDMENTS

- 18.1 The Trustee, with the approval of the Court and without notice to the Creditors, may agree to any modification or amendment to the Proposal after the Creditors have voted on the Proposal, including without limiting the generality of the foregoing, any extension of time for carrying out the terms of the Proposal or for taking any steps or proceedings hereunder, other than any mediation or amendments which would materially adversely affect the rights of any creditors.

ARTICLE 19 – NOTICE

- 19.1 Unless otherwise indicated, any notice required or permitted to be given pursuant to the Proposal shall be sufficiently given or made if delivered, faxed, emailed or mailed by prepaid postage as follows:

To the Insolvent Person:

Top Draw Inc.
 PO Box 62029
 RPO Westmount
 Edmonton, AB T5M 4B5
 Phone: (780) 429-9993
 Email: ken.jurina@topdraw.com

Copy to Counsel for the Insolvent Person:

Witten LLP
 Barristers & Solicitors
 2500, 10303 Jasper Avenue NW
 Edmonton, AB T5J 3N6
 Attention: Bren R. Cargill
 Phone: (780) 701-3776
 Facsimile: (780) 429-2559
 Email: bcargill@wittenlaw.com

To the Trustee:

MNP Ltd.
1300, 10235 101 Street NW
Edmonton, AB T5J 3G1
Attention: Kristin Gray
Phone: (780) 705-0073
Facsimile: (780) 409-5415
Email: kristin.gray@mnp.ca

To the Creditors:

At their last known address according to the Insolvent Person or such other addresses as any of the foregoing may designate from time to time.

Any notice delivered as aforesaid shall be deemed to have been received when delivered, if delivered on a day other than Saturday, Sunday or statutory holiday, and otherwise on the next following business day. Any notice mailed as aforesaid shall be deemed to have been received on the 7th business day following the day on which such notice is mailed.

Dated at the City of Edmonton, in the Province of Alberta, this 5th day of June, 2024.

Top Draw Inc.

Per:



Witness



Schedule "A"

Top Draw Inc.
Proposal Payments
Filing Date: May 7, 2024

	Year 1	Year 2	Year 3	Year 4	Year 5	
Initial lump sum - GST	119,115					[1]
Initial lump sum - Payroll	50,000					
Monthly payments - Payroll	60,000	60,000	60,000	60,000	60,000	[2]
Final lump sum					445,058	
	229,115	60,000	60,000	60,000	505,058	

Notes:

[1] Exact amount to be determined once CRA has submitted a Proof of Claim.

[2] Payments to be made to the Trustee monthly. The Trustee will make annual distributions the affected creditors.