

District of: Ontario
Division No.: 12- Ottawa
Court File No.: 33-2653219
Estate No: 33-2653219

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF
MINDFULL CAPITAL INC.
OF THE CITY OF OTTAWA,
IN THE PROVINCE OF ONTARIO.**

PROPOSAL

JULY 14, 2020

MindFull Capital Inc. (hereinafter referred to as the “**Company**”) hereby submits the following Proposal under the provisions of the *Bankruptcy and Insolvency Act*.

Definitions

1. In this Proposal:

- (a) “**Act**” means the *Bankruptcy and Insolvency Act* (Canada) as it may be amended from time to time.
- (b) “**Administrative Fees and Expenses**” means:
 - (i) the proper fees and expenses of the Trustee incidental to the preparation and facilitation of the Proposal and any amendments thereto, including its legal fees and disbursements; and
 - (ii) the legal fees and disbursements incurred by the Company, incidental to the preparation and facilitation of the Proposal and any amendments thereto, and those of the Trustee on and incidental to negotiations in connection with the acceptance and approval of the Proposal, court proceedings relating to this

Proposal and the transactions and agreements contemplated hereby, including advice provided to the Company by its Financial Advisor.

- (c) “**Approval Order**” means the Court order(s) made under this Proposal approving the Proposal and directing the implementation of the Proposal.
- (d) “**Claim**” means any right of any Person against the Company or its wholly-owned subsidiaries in connection with any indebtedness, liability or obligation of any kind owed by the Company or its wholly-owned subsidiaries and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, fixed, contingent, matured, not matured, disputed, undisputed, 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 the right or ability of any Person to advance a claim of contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, and any indebtedness, liability or obligation of any kind arising out of the repudiation, restructuring or termination of any contract, lease, license, equipment lease, employment relationship or other agreement after the Filing Date, or any claims that may arise under any contract, lease, license, equipment lease, employment relationship or other agreement which may arise as a result of the insolvency of the Company or its wholly-owned subsidiaries, including any other indebtedness, liability or obligation of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the Act.
- (e) “**Claims Bar Date**” shall mean the date which is 30 days after the Court Approval Date.
- (f) “**Court**” means the Ontario Superior Court of Justice (Ottawa).
- (g) “**Court Approval**” means the approval of the Proposal by the Court pursuant to a final and enforceable order which has become final as a result of the appeal period having expired without there having been an appeal, or an appeal having been lodged and the order approving the Proposal having been confirmed or the appeal withdrawn or dismissed.
- (h) “**Court Approval Date**” means the date upon which the Court Approval occurs.
- (i) “**Creditors’ Meeting**” means the special meeting of the Unsecured Creditors called for the purpose of considering and voting upon the proposal.

- (j) **“Creditors’ Meeting Date”** means July 29, 2020, or such other date and time as may be called by the Trustee, but in any event shall be no later than twenty-one (21) days following the date of this Proposal.
- (k) **“Creditor”** means any person having a Claim.
- (l) **“Directors”** means the directors of the Company.
- (m) **“Directors’ Funds”** means to a maximum of \$210,000 loaned to the Company by the Directors for the sole purpose of ensuring sufficient funds are available to effect this Proposal.
- (n) **“Distribution Date”** means those dates selected by the Trustee, in its sole discretion, as soon as practical following the later of:
 - (i) the date on which all disputed claims, if any, have been finally determined; and
 - (ii) Immediately following the expiry of the Claims Bar Date (30 days following the Court Approval Date) or such later date as is reasonably practicable.
- (o) **“Filing Date”** means June 19, 2020, being the date upon which the Company filed its Notice of Intention to Make a Proposal under the Act.
- (p) **“Financial Advisor”** means Easicorp Limited or its duly appointed successor or successors, in its capacity as financial advisor to the Company, and not in its personal capacity, and without any personal or corporate liability.
- (q) **“Inspectors”** means the Inspectors described in paragraph 19 hereof.
- (r) **“Mandatory Payments”** means payments in respect of all claims required for approval of the Proposal pursuant to section 60 of the Act.
- (s) **“Net Proceeds from Liquidation”** means the net proceeds resulting from the orderly liquidation or realization of all or substantially all of the inventory of the Company, after the payment of all reasonable liquidation costs.

- (t) **“Person”** means any individual, partnership, joint venture, trust, Company, unincorporated organization, government or any agency or instrumentality thereof, or any other entity howsoever designated or constituted.

- (u) **“Post-Filing Claim”** means any Claim resulting from an obligation incurred by the Company in the normal course of business of the Company in respect of goods or services supplied to the Company after the Filing Date, and extends to the following:
 - (i) amounts owing to the Trustee and its solicitors and the Company’s solicitors, consultants and Financial Advisor; and

 - (ii) the federal or provincial Crown for amounts owed in respect of any obligations arising subsequent to the Filing Date including without limitation, corporate income taxes, sales taxes, excise taxes and any other lawful tax obligations, and all amounts owing in respect of source deductions on account of employee income tax, Canada Pension Plan contributions and employment insurance premiums.

- (v) **“Preferred Claim”** means a Claim for which Section 136 of the Act prescribes payment in priority to ordinary Unsecured Claims.

- (w) **“Preferred Creditor”** means a Creditor of the Company having a Preferred Claim.

- (x) **“Proposal”** means this Proposal dated July 14, 2020.

- (y) **“Proposal Proceeds”** means the Net Proceeds from Liquidation, plus the Directors’ Funds, after deducting payments for all Mandatory Payments and Post-Filing Claims.

- (z) **“Proven Claim”** means any Claim in respect of which a proof of claim:
 - (i) has been filed with and allowed by the Trustee; or

 - (ii) has been filed with the Trustee and valued or determined in accordance with the provisions of the Act;

provided however, that a Proven Claim shall not include a Claim:

- (i) by any Person who has received written notification from the Trustee that the Claim has not been filed on a timely basis; or
 - (ii) in respect of which a proof of claim has not been filed within 30 days of the date on which the Trustee mailed to the Creditor having such Claim a notice pursuant to Section 149 of the Act.
- (aa) “**Released Parties**” means each and every present and former director, officer or manager of the Company, and their respective successors and assigns, in accordance with Section 50(13) of the Act.
- (bb) “**Secured Claim**” means a Claim that is not an Unsecured Claim and has valid and enforceable security against assets of the Company.
- (cc) “**Secured Creditors**” means those Creditors with a Secured Claim.
- (dd) “**Skype**” is an internet protocol telephony service that enables, among other things, free video chat and videoconferencing via desktop computers, notebook and tablet computers and other mobile devices, including mobile phones.
- (ee) “**Trustee**” means BDO Canada Limited or its duly appointed successor or successors, in its capacity as Trustee under the Proposal, and not in its personal capacity, and without any personal or corporate liability.
- (ff) “**Unsecured Claim**” means any Claims which arose by:
- (i) reason of the supply of goods or services to or for the account of the Company prior to the Filing Date;
 - (ii) whose Claims arose by reason of the loaning of money to the Company on an unsecured basis;
 - (iii) in the case of executory contracts, whose Claims have arisen subsequent to the Filing Date as a result of the restructuring, repudiation or termination of such contracts;
 - (iv) whose Claims arose by any other reason prior to the Filing Date; or

(v) whose Claims are not secured pursuant to Sections 2 and 136 of the Act or preferred under or pursuant to Section 136 of the Act or which, for the purposes of this Proposal, have had any security held in respect of such Claim, assessed as having a nil value.

(gg) **“Unsecured Creditor”** means any Creditor holding an Unsecured Claim.

(hh) **“Voting Letter”** shall mean the voting letter required by Section 51(1) of the Act to be mailed to each known Creditor prior to the Creditors’ Meeting.

Purpose of Proposal

2. The purpose of this Proposal is to effect a restructuring of the business and affairs of the Company in the expectation that all Creditors will derive a greater benefit from the orderly sale of the assets of the Company than would result from a forced liquidation of its assets which would result from bankruptcy. This Proposal restructures the affairs of the Company and amends the terms of any and all agreements between the Company and the Creditors existing as at the Filing Date and provides the essential terms upon which all such claims will be fully and finally resolved and settled. During the term of the Proposal, and provided that an event of default has not occurred and is continuing hereunder, all Creditors will be stayed from commencing or continuing any proceeding or remedy against the Company or any of its property or assets in respect of a claim including without limitation, any proceeding or remedy to recover payment of any monies owing to Creditors, to recover or enforce any judgment against the Company in respect of a claim or to commence any formal proceedings against it other than as provided for under this Proposal or the Act.

The Approval Order will be binding on the Company and all Unsecured Creditors.

Secured Creditors

3. Secured Creditors shall be unaffected by this Proposal.

Proposal for Unsecured Creditors

4. All Unsecured Creditors shall form part of a single class of Unsecured Creditors for voting and distribution purposes.

5. On the Distribution Date, the Trustee will pay to the Unsecured Creditors, in full and final payment and settlement of their Proven Claim without interest or penalty, the following amounts:

- (a) Unsecured Creditors will be paid ten (10%) percent of their Proven Claim, as provided for in paragraphs 9 and 10 below and subject to deduction of the Superintendent of Bankruptcy's levy payable in respect thereof of not more than 5% of the distribution amount.
- (b) Unsecured Creditors will accept the payments provided paragraph 5(a) in complete satisfaction of all their Claims and all liens, certificates of pending litigation, executions, security interests or any other similar charges or actions or proceedings in respect of such Claims will have no effect in law or in equity against the property, assets and undertaking of the Company, all of which shall be released upon payment of the amounts provided for in this Part. The Unsecured Creditors shall take such actions and do such other things as are necessary, at their sole cost, to file or record any required discharges of any of the foregoing.

Mandatory Payments

6. Amounts, if any, owing to:

- (a) Her Majesty in Right of Canada or a province, as enumerated in Section 60 (1.1) of the Act, shall be paid in full within six (6) months of the Court Approval Date;
- (b) employees and former employees, if any, that they would have been qualified to receive payment under Section 136(1)(d) of the Act if the Company became bankrupt on the Filing Date, shall be paid immediately following Court Approval; and
- (c) the regulator of any federal or provincial regulated pension plan or any pension administrator appointed by the regulator to wind up the Pension Plan, for amounts that remain unpaid to the fund established for the purpose of the Pension Plan and are required to be paid in full as enumerated in Section 60 (1.5) of the Act.

7. For the purpose of voting only, the Preferred Claims, if any, shall fall within the class of Unsecured Claims.

8. For the purposes of this Proposal, Administrative Fees and Expenses incurred or accrued as at and after the date of the filing of this Proposal, will be paid from the Proposal Proceeds in priority to all Claims of Unsecured Creditors.

Funds Payable Under Proposal

9. The Company's assets consist primarily of inventory. The Company shall cause to be paid to the Trustee the Net Proceeds from Liquidation, which shall be remitted to the Trustee on a periodic basis as such proceeds are realized.

10. In addition, the Company is making available the Directors' Funds in order to ensure sufficient Proposal Proceeds.

11. The Trustee will distribute the Proposal Proceeds to Creditors in the following order:

- (a) payment of Administrative Fees and Expenses incurred or accrued as at and after the date of the filing of this Proposal;
- (b) payment of any Proven Claims in respect of a Preferred Claim, without interest, if any
- (c) payment of the remaining funds for Proven Claims in respect of Unsecured Claims; and
- (d) the balance, if any, shall be returned to the Company.

12. Any such payments made by the Trustee to Creditors hereunder shall be made by the Trustee net of any levies payable or due under the Act.

Stay of Proceedings

13. During the administration of this Proposal, each Creditor will be stayed from commencing or continuing any proceeding or remedy against any of the Company's Directors in accordance with Section 69.31 of the Act and the Company or its property based upon a Claim existing on or before the Filing Date, or whose Claim has arisen after the Filing Date as a result of the termination, repudiation or restructuring of any contract, lease, license, equipment lease, employment relationship or other agreement after the Filing Date including, without limitation, any proceeding or remedy to recover payment of such Claim, to realize against any security granted in respect of such Claim, to recover or enforce a judgment against the Company in respect of such Claim or to initiate any proceedings against it under any applicable bankruptcy, insolvency or other laws in respect of such Claim, other than an application or proceeding in connection with this Proposal.

Allowance or Disallowance of Claims by the Trustee

14. Upon receipt of a completed Proof of Claim, the Trustee shall examine the proof of claim and shall allow or disallow same, and shall notify each Creditor whose claim is disallowed in whole or in part of the amount of its Proven Claim, all in accordance with the provisions of the Act.

Unsecured Creditors Meeting

15. On the Creditors' Meeting Date, the Company shall hold the Creditors' Meeting in order for the Creditors to consider and vote upon the Proposal.

Time and Place of the Meeting

16. Unless otherwise ordered by the Court, the Creditors' Meeting shall be held via Skype on July 29, 2020 at 2 o'clock in the afternoon (Eastern Standard Time) and confirmed in the notice of meeting to be mailed pursuant to the Act. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the Act and any Order which may be issued by the Court in respect of the procedure governing the Creditors' Meeting.

Voting by Creditors

17. To the extent provided for herein, each Creditor will be entitled to vote to the extent of the amount which is equal to the Creditor's Proven Claim.

Approval by Creditors

18. In order that the Proposal be binding on all of the Unsecured Creditors of the Company in accordance with the Act, it must first be accepted by the Unsecured Creditors as prescribed by the Proposal by a majority in number of the Unsecured Creditors who actually vote upon the Proposal (in person or by proxy) at the Creditors' Meeting or by a Voting Letter, which numerical majority represents two-thirds in value of the Proven Claims or the Unsecured Creditors who actually vote upon the Proposal (whether in person or by proxy) at the Creditors' Meeting or by a Voting Letter.

Valuation of Claims

19. The procedure for valuing claims of Unsecured Creditors and resolving disputes with respect to such Claims will be as set forth in paragraph 14 of this Proposal and the Act. The Company and/or the Trustee reserve the right to seek the assistance of the Court in valuing the Claim of any Creditor, if required to ascertain the result of any vote on the Proposal or the amount payable or to be distributed to such Unsecured Creditor under the Proposal, as the case may be.

20. For the purposes of this Proposal, Creditors will receive the treatment provided in this Proposal on account of their Claims. Notwithstanding any other provisions of this Proposal, if any claim is disputed or disallowed, the Trustee shall not make any payments on account of the disputed or disallowed Claim; however, the Trustee may nevertheless make provisions for payments in that regard by retaining sufficient funds to pay such a disputed or disallowed Claim until such Claim is either recognized as a valid Claim (in accordance with the process and timing provided for in the Act for appealing disallowances of Claims) or further arrangements are made by the Trustee, with the approval of the Inspectors, with respect to the valuation and / or treatment of such Claim.

Meeting of Creditors

21. At the Creditors' Meeting the Creditors may appoint one or more but not exceeding five persons to act as Inspectors, whose powers shall be limited to:

- (a) advising the Trustee from time to time with respect to any matter that the Trustee may refer to them;
- (b) advising the Trustee concerning any dispute which may arise as to the validity of Claims of Unsecured Creditors;
- (c) authorizing an extension of time for payments due to the Unsecured Creditors pursuant to this Proposal;
- (d) reviewing any default in the performance of the Proposal by the Company and waiving any such default, if in their opinion it is advisable to do so;
- (e) approving the Trustee's final accounts in respect of all receipts and disbursements relating to the administration of this Proposal;

- (f) any decision, direction or act of the Inspectors may be referred to the Court by the Trustee and the Court may confirm, reverse or modify the decision, direction to act and make such Order as it thinks just; and
- (g) the authority and term of office of the Inspectors will terminate upon the Trustee having obtained the approval of the Inspectors to its final accounts in respect of all receipts and disbursements relating to the administration of this Proposal.

Claim Bar

22. Creditors wishing to assert a Claim shall deliver to the Trustee a Proof of Claim on or before the Claims Bar Date.

23. All Creditors who do not deliver to the Trustee a Proof of Claim on or before the Claims Bar Date shall be forever extinguished and barred from and after said time and all such Creditors shall be deemed to have fully and finally released all such Claims against the Company and the Proposal Proceeds.

Goods or Services Given After Filing Date

24. All Post-Filing Claims shall be paid in full in the ordinary course by the Company. The Company agrees that the Trustee shall not in any case be responsible for ensuring that payment is duly made pursuant to paragraph 26 and to all those persons supplying goods or services which were supplied after the Filing Date. All Creditors hereby release and forever discharge the Trustee from any and all liability relating to the Company's non-payment of any liabilities under this paragraph.

Trustee

25. The Trustee may apply for its discharge from its obligations under the terms of this Proposal and the Proposal will be "fully performed" for the purposes of Section 65.3 upon the earlier of:

- (a) Payment in full of all claims referred to in paragraph 11 hereof; and
- (b) Completion of the distribution of all Proposal Proceeds.

26. The Trustee is acting in its capacity as Trustee under this Proposal, and not in its personal capacity and shall not be responsible or liable for any obligations of the Company.

Amendment

27. This Proposal may be amended by the Company with the consent of the Trustee at any time prior to the conclusion of the meeting of Unsecured Creditors called to consider the Proposal, provided that any amendment made pursuant to this paragraph shall not reduce the rights and benefits given to the Creditors under the Proposal before any such amendment, and provided further that any and all amendments shall be deemed to be effective as of the Filing Date of the Proposal.

Release of Directors

28. Upon the Court Approval Date, the Released Parties shall be released and discharged by all Creditors from all Claims, which any Creditors may have or have been entitled to assert against any of the Released Parties for which they would be, by law, liable in their capacity as Directors for the payment of such Claims, provided that nothing herein shall release or discharge any of the Released Parties from Claims that:

- (a) relate to contractual right of one or more of the Creditors arising from contract with one or more of the Released Parties; or
- (b) are based on allegations of misrepresentation made by the Released Parties to the Creditors or of wrongful or oppressive conduct by the Released Parties.

Other Matters

29. Sections 91 to 101 of the Act, and any other statute dealing with creditors' rights, shall not apply to any dealings by the Company.

30. The Claims of all Creditors that are payable in a currency other than Canadian currency shall be converted to Canadian currency according to the exchange rate as at the Filing Date.

Further Actions

31. The Company and the Creditors 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 this Proposal and to give effect to the transactions contemplated hereby.

Performance Certificate

32. The Trustee will give the Company and the Official Receiver the certificate provided for in Section 65.3 of the Act on the date that all payments hereunder have been made.

DATED AT OTTAWA this 14th day of July, 2020.

Mindfull Capital Inc.

Per: Matthew Jimenez
Signing officer

I have authority to bind the Company