

District of: Newfoundland and Labrador  
Division No.: 01- Newfoundland and Labrador  
Estate No.: 51-2992411  
COURT No.: 24612

**IN THE MATTER OF THE PROPOSAL OF  
PATHWAY CONSTRUCTION LTD.**

**PROPOSAL FOR EXTENSION OF TIME AND COMPOSITION OF DEBT**

**Pathway Construction Ltd.** hereby submits the following Proposal to its Creditors pursuant to Part III of the *Bankruptcy and Insolvency Act*.

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Proposal:

“**Affected Creditor**” means the Preferred Creditors, Unsecured Creditors and Deferred Creditors having Proven Claims.

“**Assets**” means the following assets, owned outright by the Debtor and subject to registered security held by the Bank of Montreal:

- a) 2017 Bobcat Mini Excavator; VIN AUYM14662,
- b) 2004 Mac Tag Trailer; VIN 2M9TS53694A155027; and
- c) 2001 JCB Backhoe; VIN SLP214FC1U0901179.

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

“**Business Day**” means any day which is not a Saturday or Sunday, or a provincial or federal holiday in the province of Newfoundland and Labrador.

“**Claim**” means any right or claim against the Debtor (i) based in whole or in part on facts which existed prior to the Filing Date, (ii) related to a time period prior to the Filing Date, or (iii) which would have been a claim provable in bankruptcy within the meaning of the BIA had the Debtor become bankrupt on the Filing Date that may be asserted or made in whole or in part against the Debtor, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment,

liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including, without limitation, any right or ability to advance a claim for 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, including, without limiting the foregoing, any right or claim of a current or former employee of the Debtor, any Crown Claim, provided however, that a "Claim" shall not include a Post Filing Claim.

**"Claimant"** means a person that has a Claim which is not yet a Proven Claim.

**"Completion Date"** means the date on which the Debtor's obligations under this Proposal have been met.

**"Convenience Claim"** means the first \$2,000 of any Unsecured Creditor's Proven Claim, but not exceeding the amount of the Unsecured Creditor's Proven Claim if less than \$2,000.

**"Court"** means the Supreme Court of Newfoundland and Labrador, General Division, In Bankruptcy and Insolvency.

**"Court Approval Order"** and **"Approval Order"** means the Court order approving this Proposal and directing the implementation of this Proposal.

**"CRA"** means the Canada Revenue Agency.

**"Creditors"** means the Preferred Creditors and Unsecured Creditors of the Debtor, and for greater certainty, does not include Secured Creditors and Post Filing Creditors.

**"Crown"** means Her Majesty in the right of Canada or a province.

**"Crown Claim"** means a Claim of the Crown for amounts that are outstanding as at the Filing Date and are subject to a demand under:

- a) subsection 224(1.2) of the Income Tax Act;
- b) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or
- c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties, or other amounts, where the sum:
  - i. has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*; or
  - ii. is of the same nature as a contribution under the *Canada Pension Plan* if the province is a "province providing a comprehensive pension plan" as defined in subsection 391 of the

*Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection.

“**D&O Claim**” means the right of any Person against one or more of the Directors or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, 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 for 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, including any right of contribution or indemnity, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer.

“**Date of Restructuring**” means the date as which:

- a) the Proposal Proceeds have been received by the Trustee; and
- b) the Trustee has distributed a final dividend to Creditors pursuant to the terms of this Proposal.

“**Debtor**” means Pathway Construction Ltd. an insolvent corporation located in Clarenville, Newfoundland and Labrador.

“**Disputed Claim**” means any Proof of Claim which has been received by the Trustee in accordance with the terms of this Proposal and the BIA but has not been accepted as proven in accordance with section 135 of the BIA or which is being disputed in whole or in part by the Trustee, or any other person entitled to do so and has not been resolved by agreement or by order of the Court.

“**Deferred Creditor**” means an Unsecured Creditor that is a related party to the Debtor in accordance with Section 4 of the BIA.

“**Estate**” means the estate of Pathway Construction Ltd. under this Proposal pursuant to the BIA.

“**Event of Default**” means when any of the following occur:

- a) the Debtor fails to fund reasonable Post Filing Claims pertaining to the business and affairs of the Debtor;
- b) the Debtor fails to deposit with the Trustee the monies referred to in Article 3; or
- c) statutory defaults under the BIA.

“**Filing Date**” means December 12, 2023, the date on which the Debtor filed this Proposal with the Official Receiver in the City of Halifax, Nova Scotia.

“**Filing Date Exchange Rate**” means the Bank of Canada noon spot rate of exchange for exchanging currency to Canadian Dollars on the Filing Date.

“**HST**” means Harmonized Sales Tax, a combination of federal and provincial value added taxes on goods and services sold in Newfoundland and Labrador, Canada.

“**Inspectors**” has the meaning ascribed to it in Section 7.4 of this Proposal.

**“Litigation Claim”** means the claim the Debtor has against Dandy Dans Fish Market Ltd. in relation to an accounts receivable due.

**“Maturity Date”** means the Date of Restructuring provided that no Event of Default has occurred under this Proposal that has not been cured or waived.

**“Meeting”** means the meeting of creditors to be held pursuant to section 51(1) of the BIA for the purpose of considering, and if thought fit, voting to approve this Proposal, as same may be amended at any such Meeting, and agreeing to the compromise and arrangement constituted thereby, and includes any subsequent reconvened meeting should a Meeting be adjourned.

**“Official Receiver”** means the officer appointed pursuant to subsection 12(2) of the BIA in the City of Halifax, Nova Scotia, to perform the duties and responsibilities set out in the BIA.

**“Post Filing Claim”** means a claim arising from the supply of goods or services to the Debtor after the Filing Date or a claim for sales or excise taxes, source deductions or assessments and premiums arising in relation to such claims. Post Filing Claims do not include claims in respect of an obligation incurred prior to the Filing Date but which is payable after the Filing Date.

**“Post Filing Creditor”** means a creditor having a Post Filing Claim.

**“Preferred Creditors”** means those persons with Claims against the Debtor provable pursuant to the BIA as of the Filing Date whose claims are entitled to be paid in priority to the claims on Unsecured Creditors as provided in Section 136 of the BIA.

**“Priority Claim”** means (i) a Crown Claim that is a Proven Claim or (ii) a Proven Claim of an employee for amounts it would be entitled to receive under subsections 60(1.3) and 136(1)(d) of the BIA if the Debtor had become bankrupt on the Filing Date.

**“Priority Creditor”** means a creditor of the Debtor having a Priority Claim.

**“Professional Fees”** means all proper fees, expenses, liabilities and obligations of the Trustee and its legal counsel, accounting fees and consulting fees on and incidental to the proceedings arising out of this Proposal, including advice in connection with this Proposal.

**“Proof of Claim”** means the prescribed form of document required under the BIA to evidence the Claim of a creditor of the Debtor.

**“Proposal”** means this proposal among the Debtor and the Affected Creditors, as from time to time amended, modified, or supplemented pursuant to an order of the Court, or pursuant to an agreement among the Debtor and Affected Creditors or classes as provided for herein or at any Meeting.

**“Proposal Period”** means the period between the Filing Date and the Maturity Date.

**“Proposal Proceeds”** has the meaning ascribed in Article 3.

**“Proven Claim”** means a Claim which:

- a) after the delivery of a Proof of Claim to the Trustee, has been admitted by the Trustee in whole or in part; or

- b) after the delivery of a Proof of Claim to the Trustee, has been disallowed by the Trustee, which disallowance has subsequently been set aside in whole or in part by the Court,

provided that a Proven Claim shall not include the amount due to a Post Filing Creditor in respect of a Post Filing Claim. Proven Claims shall not include any interest for the period subsequent to the Filing Date, and any such interest will be specifically disavowed.

**“Related Party”** means a party that is related to the Debtor in accordance with Section 4 of the BIA.

**“Required Majority”** means a majority in number and two-thirds in value of all Proven Claims in the Unsecured Creditor Class entitled to vote, who are present and voting at the Meeting (whether in person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA.

**“Secured Creditors”** means a Person holding a mortgage, hypothec, charge, pledge, charge, or lien on or against the property or assets of the Debtor as security for a debt due or accruing due to the Person from the Debtor, but shall exclude, for great certainty, lienholders holding lienholder claims.

**“Trustee”** means BDO Canada Limited, in its capacity as Licensed Insolvency Trustee under the Proposal.

**“Unaffected Creditors”** means those Persons having Secured Claims and those Persons having Post-Filing Claims.

**“Unsecured Creditor”** means a creditor of the Debtor who has a Claim but does not have a security interest in the assets of the Debtor as at the Filing Date.

**“Unsecured Creditor Class”** means all Unsecured Creditors each having a Proven Claim.

## **1.2 Interpretation, etc.**

For the purposes of this Proposal:

- a) the division of this Proposal into articles and the insertion of headings are for convenience only and do not form part of this Proposal and will not be used to interpret, define, or limit the scope, extent, or intent of this Proposal;
- b) all references to amounts of money mean lawful currency of Canada unless otherwise expressly indicated. All Proofs of Claim submitted by Affected Creditors in any other currency will be converted to Canadian dollars at the Filing Date Exchange Rate;
- c) unless otherwise specified, the words “hereof”, “herein”, “hereunder” and “hereto” refer to this Proposal in its entirety rather than to any particular portion of this Proposal;
- d) where the context requires, a word or words importing the singular shall include the plural and vice versa and a word or words importing one gender shall include all genders;
- e) the deeming provisions are not rebuttable and are conclusive and irrevocable;
- f) the words “includes” and “including” are not limiting; and

g) the word “or” is not exclusive.

### **1.3 Statutory References**

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

### **1.4 Date for any Action**

In the event that any date on which any action is required to be taken under this Proposal is not a Business Day, that action shall be required to be taken on the next succeeding day that is a Business Day.

## **ARTICLE 2 PURPOSE AND EFFECT OF THIS PROPOSAL**

### **2.1 Purpose of the Proposal**

The purpose of this Proposal is to effect a compromise of Unsecured Claims of the Debtor in order to enable the business of the Debtor to continue, in the expectation that all stakeholders of the Debtor including its Creditors will derive a greater benefit from its continued operations than would result from the discontinuance of its operations and the forced liquidation. This Proposal will also provide for a full and final satisfaction of all Unsecured Claims in exchange for a cash payment as described in this Proposal.

### **2.2 Effect of the Proposal**

The Proposal restructures the affairs of the Debtor and amends the terms of any and all agreements between the Debtor and the Unsecured Creditors and Deferred Creditors. During the Proposal Period, the provisions of Section 69.1 of the BIA shall be in effect. Without limiting the generality of the foregoing, during the Proposal Period all Unsecured Creditors will be stayed from commencing or continuing any proceeding or remedy against the Debtor or the Property 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 judgement against the Debtor in respect of a Claim or to commence any formal proceedings against the Debtor in respect of a Claim other than as provided under this Proposal.

### **2.3 Effect on Secured Creditors**

Secured Creditors are not affected under the Proposal and will be paid in accordance with existing agreements between such Secured Creditors and the Debtor as amended from time to time or as may be arranged in the future between the Debtor and the Secured Creditors. The Claims of Secured Creditors are not affected by this Proposal.

### **2.4 Waiver of Related Company Claim**

It is a term of the Proposal that Eastern Roof and Floor Truss Manufacturing (2008) Inc. shall not be entitled to any distribution hereunder with respect to its Deferred Claim, and shall not vote on the Proposal.

## **2.5 Trustee under the Proposal**

Subject to the provisions of the BIA, the Trustee shall act as the administrator for certain purposes connected with the Proposal, including the management of the claims process and the administration of the Meeting.

## **2.6 Obligations of the Debtor under the Proposal**

The Debtor and its directors shall bind themselves to cooperate in every way with the Trustee in carrying out the terms of this Proposal.

During the Proposal Period, the Debtor and its directors shall:

- a) realize upon the Assets for purposes of providing a source of cash flow to maintain business operations during the Proposal Period;
- b) deposit all funds referred to in Article 3 which shall vest with the Trustee for distribution amongst the Affected Creditors who are subject to this Proposal and for payment of fees and expenses of the Trustee as referred to in Article 4 herein and for payment of the levy pursuant to s.147 of the BIA;
- c) Remit all necessary installments to CRA in accordance with the provisions of the Income Tax Act and Excise Tax Act;
- d) Submit required tax returns, together with amounts due, if any; and
- e) Upon notice in writing to the Trustee by CRA of a default with respect to the filing, remitting and installment requirements for the post-Proposal period herein, the debtor shall be given sixty (60) days from the date of the notice to rectify any such default. Should the default not be rectified within the sixty (60) day period, a request can be made to the Trustee to have the Proposal annulled.

## **2.7 Effect of this Proposal on Affected Creditors**

This Proposal will, as of the date of the Court Approval Order, be binding on the Debtor and all Affected Creditors in the manner provided in this Proposal and the BIA. All Unsecured Claims shall be discharged and the Debtor shall thereon be released from all Unsecured Claims, other than the obligation to make payment in the manner and to the extent described in this Proposal.

## **2.8 Preferred Creditors**

The Proven Claims of the Preferred Creditors (excluding the Employee Claims) of the Debtor will be paid in full priority to the Proven Claims of other Unsecured Creditors in accordance with the BIA and the Proposal.

## **2.9 Employee Creditors**

The Proven Claims of employees determined to be Priority Claims, if any, will be satisfied or paid as provided by Article 3 and 4.

## **2.10 Lienholder Claims**

Any lienholder claims will be deemed to be Unsecured Claims under this Proposal.

## **2.11 Unsecured Creditors**

The Proven Claims of the Unsecured Creditors of the Debtor will be satisfied or paid as provided by Article 3.

## **2.12 Post Filing Claims**

Post Filing Claims will be paid in full by the Debtor in the ordinary course of business and on regular trade terms, or as may otherwise be arranged with the holders of such Post Filing Claims.

# **ARTICLE 3 PROPOSAL**

## **3.1 Proposed Payments**

The Debtor will make contributions totalling Two Hundred Sixty-Four Thousand (\$264,000) by quarterly payments of Twenty-Two Thousand (\$22,000) for a period of three years, said payments to commence on the second quarter ended in 2024 being June 30, 2024 and continue until the first quarter ended in 2027 being March 31, 2027 or until such time as the full amount of Two Hundred Sixty-Four Thousand (\$264,000) has been deposited with the Trustee. These funds, referred to as Proposal Proceeds, shall be directed to the Trustee for payment to proven creditors.

Should the Debtor determine that it has sufficient cash flow to accelerate the payments to the Trustee for distribution to proven creditors as contemplated in this Proposal, it will attempt to do so in order to conclude the Proposal earlier than otherwise set out.

## **3.2 Distributions**

Payments to Preferred Creditors and Unsecured Creditors for Proven Claims will be made in the following order after payment of the Priority Payments referred to in Article 4 to the extent of the Proposal Proceeds:

- a) Proven Claims of Preferred Creditors as at the Filing Date, being those creditors with claims provable pursuant to Section 136 of the BIA;
- b) The Convenience Claim portion of Proven Claims of Unsecured Creditors will be paid in full, without interest; and
- c) On a pro-rata basis, in full and final satisfaction of Unsecured Creditors' Proven Claims which are to include claims of every nature and kind whatsoever, whether contingent or unliquidated, arising out of transactions entered into by Debtor prior to the Filing Date, payment from the Proposal Proceeds for Proven Claims of Unsecured Creditors, less payment made towards the Convenience Claim, without interest.

Deferred Creditors shall not receive any distribution in this Proposal.



That the dividends paid to Preferred Creditors and Unsecured Creditors for Proven Claims shall be paid as follows:

- a) The first interim dividend shall be paid shortly after March 31, 2025, following receipt of the fourth quarterly payment from the Debtor; and
- b) The Second and Third dividends to creditors shall be paid on an annual basis, approximately 12 months following the payment of the previous dividend.

The Debtor is not aware of any known Preferred Creditors as at the Filing Date.

### **3.3 Levy Payable**

The levy payable to the Office of the Superintendent of Bankruptcy by virtue of the provisions of subsection 147(1) of the BIA shall be payable on all distributions made pursuant to the terms of this Proposal, including consideration to be received by the Preferred Creditors, Unsecured Creditors, and Deferred Creditors but not in the consideration to be received by the Post Filing Creditors, the Priority Creditors or the Secured Creditors, respectively.

### **3.4 Class of Creditors and Voting**

This Proposal is not being made to the Unaffected Creditors and does not impact their claims. Claims of Unaffected Creditors shall be dealt with in accordance with the agreements between the respective Unaffected Creditors and the Debtor or as otherwise agreed between the respective Unaffected Creditors and the Debtor.

For the purposes of voting on this Proposal, the Preferred Creditors and Unsecured Creditors with Proven Claims shall comprise one class, being the Unsecured Creditors Class.

### **3.5 Disputed Claims**

An Unsecured Creditor with a Disputed Claim shall not be entitled to receive any rights hereunder with respect to such Disputed Claim unless and until such Claim becomes a Proven Claim.

The procedure for resolving any Disputed Claim will be as set forth in the BIA. The Debtor and/or the Trustee reserve the right to seek the assistance of the Court in resolving any Disputed Claim, if required, to ascertain the result of any vote on the Proposal or the amount payable to such Unsecured Creditor under the Proposal, as the case may be.

### **3.6 Transfer of Claims**

If, after the Filing Date, the holder of a Claim transfers or assigns the whole of such Claim to another person, neither the Trustee nor the Debtor shall be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the Trustee in writing and thereafter such transferee or assignee shall, for the purposes of this Proposal, constitute a "Creditor" in respect of such Claim.

Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Proposal prior to receipt and acknowledgement by the Trustee of satisfactory evidence of such transfer or assignment.

No transfer or assignment shall be effective for voting purposes at the Meeting unless sufficient notice and evidence of such transfer or assignment has been received by the Trustee no later than 5:00 pm Newfoundland Time on the date that is two days before the date of the Meeting, failing which the original Creditor shall have all applicable rights as the "Creditor" with respect to such Claim as if no transfer or assignment of the Claim had occurred.

### **3.7 Corporate Action**

All corporate actions contemplated by this Proposal shall have been authorized and approved in all respects (subject to the provisions of this Proposal). All matters provided for in this Proposal shall have timely occurred and be in accordance with all applicable laws. The director of the Debtor shall be authorized and directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by this Proposal, in the name of and on behalf of the Debtor.

### **3.8 Directors' Liabilities**

Pursuant to Section 50(13) of the BIA, the acceptance of this Proposal by Creditors and approval by the Court and full performance of its terms by the Debtor shall compromise and release any claims against the directors of the Debtor where such directors' liabilities arose (or were deemed to have arisen) prior to the Filing Date and that relate to such obligations of the Debtor where the directors are by law liable in their capacity as directors for the payment of such obligations.

### **3.9 BIA Sections 95 to 101**

It is a term of this Proposal that sections 95 to 101, inclusive, of the BIA, shall not apply with respect to this Proposal and the Debtor.

## **ARTICLE 4 PRIORITY PAYMENTS**

### **4.1 Trustee Fees and Expenses**

For purposes of this Proposal, all proper fees of the Trustee and the reasonable expenses and legal costs of the Trustee, on and incidental to the proceedings arising out of this Proposal (including the preparation of this Proposal) shall be paid in priority to all claims of the Preferred Creditors, Unsecured Creditors and Subsequent Creditors. Such fees shall be based on the time expended and charged by the Trustee and its legal counsel at their normal billing rates as set from time to time.

### **4.2 Payments to Priority Creditors**

The Debtor shall make payments to Priority Creditors with Proven Claims in accordance with the provisions of the BIA and, in particular:

- a) all Crown Claims that were outstanding at the Filing Date, if any, shall be paid in full to Her Majesty in right of Canada or a province, within six months after the Court has granted the Approval Order; and
- b) all employees and former employees of the Debtor shall, immediately after the Court has granted the Approval Order, be paid amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA if the Debtor had become bankrupt on the Filing

Date, as well as wages, salaries, commissions or compensation for services rendered after the Filing Date and before the Court grants the Approval Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Debtor's business after the Filing Date and before the Court grants the Approval Order.

The Debtor did not sponsor any prescribed pension plans for the benefit of its employees or former employees.

## **ARTICLE 5 CONDITIONS PRECEDENT**

### **5.1 Conditions Precedent to Implementation of the Proposal**

The implementation of this Proposal by the Debtor is subject to the satisfaction of the following conditions precedent:

- a) this Proposal being approved by the Required Majority of the Unsecured Creditor Class;
- b) the Court Approval Order has been issued and has not been stayed; and
- c) all other actions, documents, and agreements necessary to implement this Proposal shall have been effected and executed.

## **ARTICLE 6 DELIVERY OF NOTICES UNDER THIS PROPOSAL**

### **6.1 Notices and Payments to Affected Creditors**

Any notices and correspondence to Affected Creditors under or in relation to this Proposal shall be delivered to the electronic mailing address provided by each Affected Creditor in their Proof of Claim unless the Debtor and the Trustee are notified by an Affected Creditor in writing of an alternative electronic mailing address for delivery.

## **ARTICLE 7 MEETING OF AFFECTED CREDITORS**

### **7.1 Meeting**

The Meeting shall be held at a time and place to be established by the Trustee in consultation with Official Receiver, or the nominee thereof, after the filing of this Proposal with the Official Receiver and confirmed in the notice of meeting sent by electronic mail by the Trustee pursuant to the BIA. The procedure governing the Meeting, shall be subject at all times to (i) any order of the Court, including without limitation, any order respecting COVID-19 related creditor meeting protocols; and (ii) any COVID-19 related creditor meeting directives issued by the Official Receiver.

### **7.2 Participation in Meeting**

In order to be eligible to vote at the Meeting, an Affected Creditor must have delivered a Proof Claim to the Trustee prior to the date and time of the Meeting. The procedure for dealing with the disallowance of Proofs of Claim is set out in section 135 of the BIA.

### **7.3 Conduct of the Meeting**

The Official Receiver or its nominee shall chair the Meeting and shall decide any questions or disputes arising at the Meeting and any Affected Creditor may appeal any such decision to the Court. The Meeting can be adjourned by ordinary resolution of the Affected Creditors to a time and date set by the chair as set out in section 52 of the BIA.

### **7.4 Inspectors**

At the Meeting, the Affected Creditors may appoint one (1) or more, but not exceeding five (5), Inspectors. The Inspectors shall have only the following powers:

- a) the power to extend the dates of payments provided for under this Proposal;
- b) the power to waive any default in the performance of any provision of this Proposal;
- c) the power to approve interim and final statements of receipts and disbursements of the Trustee, including the power to approve proposed dividends and reasonable fees and disbursements of the Trustee;
- d) the power to advise the Trustee in respect of such matters as may be referred to the Inspectors by the Trustee; and
- e) the power to advise the Trustee concerning any dispute that may arise to the validity of a Proof of Claim filed by a Claimant.

In the event Affected Creditors do not elect to appoint Inspectors under this Proposal, the Court shall approve the fees and disbursements of the Trustee for services rendered by it pursuant and in relation to this Proposal.

The Trustee and the Inspectors, should any be appointed, shall be exempt from all personal liability for any wrongful act, default, or neglect (other than fraud, wilful misconduct, or gross negligence) in fulfilling any duties or exercising any powers conferred upon them by this Proposal, the BIA or generally in carrying out the terms of this Proposal.

### **7.5 Voting**

This Proposal is to be voted on by the Unsecured Creditor Class at the Meeting.

This Proposal must be approved by the Required Majority of the Unsecured Creditor Class. For the purpose of voting as a member of the Unsecured Creditor Class, each Affected Creditor shall have one vote for the purposes of determining a majority in number and each Affected Creditor shall be entitled to one vote for every \$1.00 of its Proven Claim for the purposes of determining a majority in value.

For greater certainty, any creditor who is a Related Party of the Debtor, within the meaning of the BIA, may vote against but not for the acceptance of this Proposal.

### **7.6 Proxies and Voting Letters**

Affected 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 correspondence and other materials to be delivered by the Trustee reasonably in advance of the Meeting.

## **ARTICLE 8 RELEASES**

### **8.1 Release of D&O Claims**

All released D&O Claims shall be fully, finally, irrevocably, and forever compromised, released, discharged, cancelled, and barred without consideration on the Effective Date. For greater certainty, any Claim of a Director or Officer against the Debtor for indemnification or contribution in respect of any D&O Claim shall be treated for all purposes under the Proposal as a Claim and will be compromised, released, discharged, cancelled, and barred.

## **ARTICLE 9 AMENDMENTS AND MODIFICATIONS**

### **9.1 Amendment of Proposal before the Meeting**

The Debtor reserves the right, with the consent of the Trustee, at any time prior to the Meeting to file an amendment or supplement to this Proposal by way of amended or supplementary Proposal. Any such amended or supplementary Proposal shall forthwith be sent to the Affected Creditors and filed with the Official Receiver as soon as practicable, in which case, any such amended or supplementary Proposal shall, for all purposes, be and be deemed to be a part of and incorporated into this Proposal. At the Meeting, the Debtor and/or the Trustee shall provide all Affected Creditors in attendance with details of any modifications or amendments prior to the votes being taken to approve this Proposal.

### **9.2 Modification of Proposal after the Meeting**

After the Meeting, this Proposal may be modified from time to time:

- a) if the amendment is considered by the Trustee and the Inspectors, if any, to be non-substantive in nature, with the approval of the Trustee and the majority of the Inspectors, if any;
- b) upon a vote conducted by the Trustee at a further meeting of the Affected Creditors, provided that the modification is approved by the Required Majority;
- c) by the Court, pursuant to Rule 92 of the Bankruptcy and Insolvency General Rules, CRC 1978, c. 368, as amended, at the application for the Approval Order; and
- d) by the Court at any time on application by the Debtor or the Trustee and upon notice to those determined by the Debtor to be directly affected by the proposed modification, whether an Affected Creditor or not.

### **9.3 Waivers**

Any provision of this Proposal may be waived with the consent of the Trustee, by the Unsecured Creditor Class, or by an Affected Creditor affected by the provision.

**ARTICLE 10  
APPLICATION FOR APPROVAL ORDER**

**10.1 Application for Approval Order**

If this Proposal is approved by the Required Majority of the Unsecured Creditor Class, following the conclusion of the Meeting, the Trustee shall apply within five days to the Court for the Approval Order. The Trustee will, in accordance with section 58 of the BIA, provide the Affected Creditors with at least fifteen days' notice of the hearing for the application for the Approval Order.

**10.2 Stay of Proceedings**

The stay of proceedings provided for in section 69.1(1) of the BIA shall continue in full force and effect from the Filing Date until the Trustee has been discharged or, if the Debtor become bankrupt, the date of bankruptcy.

**ARTICLE 11  
GENERAL**

**11.1 Further Actions**

The Debtor 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 to give effect to the transactions contemplated hereby.

On the Completion Date, the Trustee shall provide to the Debtor and to the Official Receiver a certificate pursuant to section 65.3 of the BIA. The Trustee shall be entitled to seek its discharge at the appropriate time in accordance with the BIA.

**11.2 Notices to the Debtor or Trustee**

All notices, Proofs of Claim, and other correspondence relating to this Proposal and to be delivered to the Debtor or the Trustee shall be in writing and shall be delivered either personally, by email transmission, by facsimile transmission or by prepaid courier service, at the following address:

a) if to the Debtor:

Pathway Construction Ltd.  
45 Marine Drive  
Clarenville, Newfoundland and Labrador, A5A 1M5, Canada

Attention: Keith Chard

Email: [keithchard@pathwayconstruction.ca](mailto:keithchard@pathwayconstruction.ca)

b) if to the Trustee:

BDO Canada Limited  
Trustee in the proposal of  
Pathway Construction Ltd.  
255 Lacewood Drive, Suite 201  
Halifax, Nova Scotia, B3M 4G2, Canada

Attention: Miranda Mavhunga

Facsimile: 902 425 3777  
Email: [mmavhunga@bdo.ca](mailto:mmavhunga@bdo.ca)

Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or the day of sending by electronic mail or facsimile transmission, provided that such day is either a Business Day and the communication is so delivered, emailed, or faxed before 5:00 p.m. (Atlantic time zone) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

### 11.3 Successors and Assigns

This Proposal is binding upon the Debtor, the Affected Creditors and their respective heirs, executors, administrators, successors, and assigns.

### 11.4 Governing Law

This Proposal will be governed by and construed in accordance with the laws of Newfoundland and Labrador and the laws of Canada applicable therein.

DATED at Clarenville, Newfoundland and Labrador, Canada this 12<sup>th</sup> day of December 2023.

**Pathway Construction Ltd**

Per:



Name: Keith Chard  
Title: Director of Pathway Construction Ltd.