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March 2, 2021
Justice Dunlop

COURT FILE NUMBER BK01 095189
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
MATTER IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES LIMITED PARTNERSHIP

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES INC.

APPLICANTS TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND TRADESMEN ENTERPRISES INC.

DOCUMENT **SECOND REPORT OF KSV RESTRUCTURING INC. IN ITS CAPACITY AS PROPOSAL TRUSTEE UNDER THE NOTICES OF INTENTION TO MAKE A PROPOSAL**

FEBRUARY 24, 2021

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

PROPOSAL TRUSTEE
KSV RESTRUCTURING INC.
150 King Street West
Suite 2308
Toronto, ON M5H 1J9

Attention: Bobby Kofman/David Sieradzki
Telephone No.: 416-932-6228/647-282-6228
Email:
bkofman@ksvadvisory.com/dsieradzki@ksvadvisory.com

COUNSEL TO THE PROPOSAL TRUSTEE
BENNETT JONES LLP
3400 One First Canadian Place
PO Box 130
Toronto, ON M5X 1A4

Attention: Sean Zweig/Joshua Foster
Telephone No.: 416-777-6254/416-777-7906
Email: zweigs@bennettjones.com/fosterj@bennettjones.com



**Second Report to Court of
KSV Restructuring Inc. as
Proposal Trustee of
Tradesmen Enterprises Limited Partnership
and Tradesmen Enterprises Inc.**

February 24, 2021

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COURT FILE NUMBER: BK01 095189

COURT OF QUEEN'S BENCH OF ALBERTA

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRADESMEN ENTERPRISES LIMITED PARTNERSHIP,
OF THE CITY OF CALGARY,
IN THE PROVINCE OF ALBERTA

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRADESMEN ENTERPRISES INC.,
OF THE CITY OF CALGARY,
IN THE PROVINCE OF ALBERTA

SECOND REPORT OF KSV RESTRUCTURING INC.
AS PROPOSAL TRUSTEE OF
TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND
TRADESMEN ENTERPRISES INC.

FEBRUARY 24, 2021

1.0 Introduction

1. This report (the "Report") is filed by KSV Restructuring Inc. in its capacity as proposal trustee (the "Proposal Trustee") in connection with Notices of Intention to Make a Proposal filed by Tradesmen Enterprises Limited Partnership ("TELP") and Tradesmen Enterprises Inc. ("TEI", and together with TELP, the "Company") on February 1, 2021 pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"). Copies of the certificates of filing issued by the Office of the Superintendent of Bankruptcy are provided in Appendix "A".
2. Pursuant to an order of the Court of Queen's Bench of Alberta (the "Court") made on February 3, 2021 (the "February 3rd Order"), the estates of TEI and TELP were procedurally consolidated. A copy of the February 3rd Order is attached as Appendix "B".
3. The principal purposes of these proceedings are for the Company to:
 - a) obtain a stay of proceedings so that the Company is afforded the necessary breathing space to expediently advance its litigation against Teck Coal Limited ("Teck"), Fluor Canada Ltd. ("Fluor"), Canadian Pacific Limited, the Province of British Columbia and FortisBC Energy (the "Litigation");

- b) access funding to pursue the Litigation under an interim financing credit facility dated February 1, 2021 (the “Interim Financing Agreement”) between the Company and Bank of Montreal (“BMO”), which was approved pursuant to the February 3rd Order; and
- c) have the opportunity to formulate and make a proposal to its creditors.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company and these proceedings;
 - b) summarize the terms of an amending agreement to the Interim Financing Agreement dated March 2, 2021 (the “IF Amendment”) which, *inter alia*, increases the amount available under the Interim Financing Agreement from \$1.9 million to \$2.8 million, subject to Court approval of a corresponding increase in the Interim Financing Charge (as defined in the February 3rd Order);
 - c) summarize a proposed key employee retention plan (“KERP”) and a proposed charge of \$202,500 to secure amounts payable under the KERP (the “KERP Charge”);
 - d) report on the Company’s cash flow projection from the commencement of these proceedings to April 16, 2021 (the “Cash Flow Forecast”);
 - e) discuss the Company’s request for an extension of the time to make a proposal and the corresponding stay of proceedings from March 3, 2021 to April 16, 2021; and
 - f) recommend that this Honourable Court make an order:
 - i. approving the IF Amendment, which increases the amount of the Interim Financing Charge from \$1.9 million to \$2.8 million;
 - ii. approving the KERP and granting the KERP Charge in favour of the beneficiaries of the KERP in the amount of \$202,500, which is to rank subordinate to the Interim Financing Charge and the Administration Charge (as defined in the February 3rd Order);
 - iii. extending the time to make a proposal and the corresponding stay of proceedings from March 3, 2021 to April 16, 2021; and
 - iv. sealing the Confidential Appendix to this Report pending further Court order.

1.2 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Company, the Company's books and records and discussions with the Company's management, legal counsel and majority owner, Fulcrum Capital Partners Inc. ("Fulcrum"). The Proposal Trustee has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*.
2. The Proposal Trustee expresses no opinion or other level of assurance with respect to the financial information presented in this Report or relied upon by the Proposal Trustee in preparing this Report. Any party wishing to place reliance on the Company's financial information should perform its own due diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.
3. An examination of the Cash Flow Forecast as outlined in the *Chartered Professional Accountants of Canada Handbook* has not been performed. Future oriented financial information relied upon in this Report is based upon the Company's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

2.0 Background

1. The Company is a mechanical contractor specializing in facility and pipeline construction, piping and structure fabrication, module assembly and maintenance projects. The Company operates from two leased premises in Alberta: its head office is located in Calgary and its fabrication operations are located in Grande Prairie. The Company's workforce is not unionized and the Company does not maintain any registered pension plans.
2. Pursuant to an agreement dated May 28, 2019 (the "Teck Contract"), Teck retained the Company to act as the general contractor to construct the Fording River Operations Active Water Treatment Facility (South Project) located near Elkford, British Columbia (the "Project").
3. Since being awarded the Teck Contract, the Project became the only material contract performed by the Company. The Project was substantially overbudget – the Teck Contract originally had a budget of \$32 million and is now projected to have a total cost of approximately \$140 million. The Proposal Trustee has been advised that the Company issued approximately 900 change order requests and 1,700 requests for information to Teck in respect of the Project, all resulting from the significantly expanded scope of the Project. By letter dated January 11, 2021, Teck terminated the Teck Contract. The Company's position is that the grounds cited by Teck for the termination are improper.

4. Since the termination of the Teck Contract, the Company has, *inter alia*:
 - a) filed claims of builders liens in the amount of approximately \$52.8 million (the “Liens”);¹ and
 - b) registered the Liens against lands associated with the Project, including real property owned by each of Canadian Pacific Limited and the Province of British Columbia, and a statutory right of way registered in favour of FortisBC Energy Inc. Each of these parties, and Fluor, the engineering consultant on the Project, were notified by the Company that they will be named in, and will be parties to, the Litigation.
5. The Company’s business and operations have been severely affected by the termination of the Teck Contract. The Company has reduced its employee headcount from approximately 614 in early January to 16 as at the date of this Report. The Company expects to make further headcount reductions in the coming weeks. At this time, the Company’s principal asset is the Litigation and its central focus is pursuing the Litigation. The termination by Teck of the Teck Contract and its failure to pay the change orders, including approved change orders, caused the Company to have a significant liquidity crisis, requiring it to commence these proceedings.
6. BMO is the Company’s operating lender and largest creditor. It has continued to fund the Company’s operations during these proceedings pursuant to the Interim Financing Agreement. BMO’s pre-filing debt was approximately \$25 million, plus interest and costs, which continue to accrue. Fulcrum provided BMO with a partial guarantee of the Company’s indebtedness to BMO, and Fulcrum has funded that guarantee. As at the date of this Report, BMO has advanced approximately \$1.1 million under the Interim Financing Agreement.
7. The Company’s other significant creditors are its sub-contractors, which according to the Company’s books and records may be owed approximately \$18 million,² and Fulcrum, which is owed approximately \$1.8 million, plus the amount funded by Fulcrum pursuant to its guarantee of the BMO debt. The Proposal Trustee understands that Teck claims to be a creditor of the Company as well, but that is disputed by the Company. A summary of the Company’s financial position at the commencement of these proceedings was provided in the Proposal Trustee’s First Report to Court dated February 2, 2021 (the “First Report”) and, accordingly, is not repeated in this Report. A copy of the First Report, without appendices, is provided in Appendix “C”.

¹ Liens were filed in the amount of approximately \$48.6 million and \$4.15 million on January 11, 2021 and February 11, 2021, respectively.

² These amounts are subject to confirmation and continue to be reconciled by the Company.

8. Additional information about the Company and its activities over the course of these proceedings is included in the Affidavit No. 2 of Dean Kato sworn February 24, 2021 (the "Affidavit"), the Company's President and CEO, filed in support of the Company's motion. Court materials filed in these proceedings are available on the Proposal Trustee's website at <https://www.ksv advisory.com/insolvency-cases/case/tradesmen-enterprises>.

3.0 Interim Financing Agreement³

1. The Interim Financing Agreement approved pursuant to the February 3rd Order matures on March 3, 2021 and provides for borrowings of up to \$1.9 million. The February 3rd Order granted the Interim Financing Charge to secure BMO's advances under the Interim Financing Agreement.
2. The Company's borrowings to-date under the Interim Financing Agreement total approximately \$1.1 million, which is consistent with the cash flow filed with the Court in support of the Company's motion heard February 3, 2021. Based on the Cash Flow Forecast, the Company's projected funding requirement to the proposed stay extension date of April 16, 2021 is approximately \$2.8 million.
3. The terms and conditions of the Interim Financing Agreement were set out in the First Report. As of the date of this Report, it is anticipated that the Company and BMO will execute the IF Amendment on February 24, 2021. The IF Amendment:
 - a) increases the maximum amount available under the Interim Financing Agreement from \$1.9 million to \$2.8 million and
 - b) extends the maturity date to the earlier of:
 - the occurrence of any Event of Default under the IF Amendment which is continuing and has not been cured to the satisfaction of BMO;
 - the implementation of the Proposal, which has been approved by the requisite majorities of the Company's creditors, including by BMO and the Court;
 - the conversion of the NOI Proceedings into a proceeding under the *Companies' Creditors Arrangement Act* (Canada), unless agreed to by BMO;
 - the conversion of the NOI Proceedings into a receivership under the BIA;
 - the sale of all or substantially all of the Collateral; and
 - forty-five (45) days from the commencement of the Extended NOI Proceedings (being April 16, 2021).

³ Defined terms in the section of the Report have the meanings provided to them in the IF Amendment.

4. The IF Amendment is subject to Court approval and the Court granting an increase to the Interim Financing Charge to a maximum of \$2.8 million.
5. A copy of the IF Amendment is attached as an Exhibit to the Affidavit.

3.1 Cash Flow Forecast

1. Pursuant to the BIA, the Company is required to prepare a cash flow forecast for the stay extension period. The Company's Cash Flow Forecast for the period ending April 16, 2021 (the "Period"), together with Management's Report on the Cash-Flow Statement as required by subsection 50.4(2)(c) of the BIA, is provided in Appendix "D".
2. The Cash Flow Forecast was prepared by the Company with the assistance of the Proposal Trustee. The Company is not projecting any receipts during the Period. Projected disbursements are primarily: (a) rent until the Company's fixed assets are liquidated;⁴ (b) payroll costs for employees critical to the Litigation; and (c) professional fees involved in these proceedings, including the Company's counsel in the Litigation.
3. The Cash Flow Forecast reflects the minimum required to fund these proceedings with a view to generating recoveries for stakeholders, including the Company's sub-contractors, BMO and Fulcrum. In the Proposal Trustee's view, there are no unnecessary expenditures in the Cash Flow Forecast.
4. Based on the Proposal Trustee's review of the Cash Flow Forecast, there are no material assumptions which seem unreasonable. The Proposal Trustee's Report on the Company's Cash Flow Statement as required by subsection 50.4(2)(b) of the BIA is attached as Appendix "E".

3.2 Recommendation

1. The Proposal Trustee believes that the terms of the IF Amendment are reasonable and that the increase to the Interim Financing Charge should be granted for the following reasons:
 - a) it enhances the prospect that the Company will be able to make a viable proposal to its creditors;
 - b) absent funding under the Interim Financing Agreement, the Company will be without liquidity to continue to fund these proceedings and advance the Litigation, which will prejudice all of the Company's stakeholders, including BMO, Fulcrum and sub-contractors who have claims against the Company;
 - c) in an immediate liquidation of the Company, creditors are unlikely to have any material recovery;

⁴ The Company intends to disclaim the Grande Prairie lease once the fixed assets located there have been liquidated.

- d) the Proposal Trustee has reviewed the Company's Cash Flow Forecast which supports the IF Amendment and believes that its underlying assumptions are reasonable;
- e) the Cash Flow Forecast only includes those critical expenditures necessary to fund these proceedings, including rent, wages and professional costs; and
- f) in the Proposal Trustee's view, it is commercially unreasonable for any lender to advance funding in these circumstances without the benefit of a court-ordered senior ranking charge, and without such funding, creditors will suffer material prejudice as the Company will be unable to pursue the Litigation.

4.0 KERP

1. The KERP was developed by the Company, in consultation with the Proposal Trustee. The KERP is for nine of the Company's employees (the "KERP Employees").
2. The KERP is comprised of quarterly "stay bonuses" and a final bonus to be paid at the conclusion of the Litigation. The maximum amount payable to all KERP Employees at any given time is \$202,500, which is comprised of one quarterly bonus payment (\$39,500) plus the final payment (\$163,000).
3. The Company is seeking approval of the KERP and the creation of the corresponding KERP Charge in the amount of \$202,500 to secure the maximum amount payable under the KERP at any point in time. The KERP Charge is to rank subordinate to the Administration Charge and the Interim Financing Charge, but is to have priority over all other claims against the Company, consistent with the Administration Charge and the Interim Financing Charge.
4. The KERP Employees had significant involvement with the Teck Contract and are integral to the Company's Litigation due to their familiarity with it. The KERP is intended to incentivize the KERP Employees to assist the Company to the conclusion of the Litigation. The details of the KERP are provided in Confidential Appendix "1" and are summarized as follows:
 - a) all of the KERP Employees would be transitioned to hourly-based compensation as soon as their full-time responsibilities at the Company have been completed;
 - b) quarterly bonuses would be paid to the KERP Employees so that they remain available to assist the Company throughout the course of the Litigation; and
 - c) larger bonuses are payable to the KERP Employees upon resolution of the Litigation.
5. The Proposal Trustee supports the KERP for the following reasons:
 - a) the Company's Litigation is complex and requires the assistance of the KERP Employees, each of whom has deep knowledge of the Project, including its correspondence and accounting, 900 change order requests and 1,700 requests for information;

- b) the continued involvement and cooperation of the KERP Employees is critical to the success of the Litigation and thus maximizes value for the Company's stakeholders;
 - c) the Proposal Trustee believes that the KERP will assist the Company to retain the KERP Employees it requires to pursue the Litigation, which is in the interest of all stakeholders;
 - d) the amounts payable under the KERP are reasonable in the circumstances; and
 - e) BMO and Fulcrum are each supportive of the KERP.
6. The Company is requesting an order sealing Confidential Appendix "1" which contains personal, identifiable and commercially sensitive information in respect of the KERP Employees. The Proposal Trustee believes it is appropriate to seal this appendix in the circumstances. The sealing of this type of commercially sensitive and personal information is typical in insolvency proceedings to avoid disruption to the debtor company and to protect the privacy of the KERP Employees. The Proposal Trustee does not believe that any stakeholder will be prejudiced if the KERP information contained in Confidential Appendix "1" is sealed.

5.0 Company's Request for an Extension

1. The Company is seeking an extension of the time to file a proposal from March 3, 2021 to April 16, 2021.
2. The Company advises that it intends to use the stay extension period principally to advance its Litigation and to liquidate its fixed assets. In respect to the fixed assets, four liquidation proposals were submitted to the Proposal Trustee on February 18, 2021 and the Proposal Trustee is working with the Company to advance a prospective transaction, which would be subject to Court approval.
3. The Proposal Trustee supports the Company's extension request for the following reasons:
 - a) the Company is acting in good faith and with due diligence;
 - b) the Company's most material asset is the Litigation. The Company has expeditiously advanced the Litigation since the commencement of these proceedings, including securing and organizing all documents it will require for the Litigation, drafting a notice of civil claim which it intends to file imminently and increasing the amount of its lien claim by over \$4 million;
 - c) it will allow the Company to complete a liquidation of its fixed assets, subject to Court approval;
 - d) the Company's principal economic stakeholders, being BMO and Fulcrum, have advised the Proposal Trustee that they consent to the Company's stay extension request;

- e) subject to Court approval of the IF Amendment and the increase to the Interim Financing Charge, the Company is projected to have sufficient liquidity to fund its post-filing obligations during the extension period; and
- f) no creditor will be materially prejudiced if the extension is granted.

6.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 (1)(f) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND
TRADESMEN ENTERPRISES INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”



District of: Alberta
Division No.: 02 - Calgary
Court No.: 25-095189
Estate No.: 25-095189

In the Matter of the Notice of Intention to make a
proposal of:

Tradesmen Enterprises LP
Insolvent Person

KSV RESTRUCTURING INC.
Licensed Insolvency Trustee

Date of the Notice of Intention: February 01, 2021

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.



Stephen Bayley

Date: February 1, 2021, 21:02

Official Receiver

Harry Hays Building, 220 - 4th Ave SE, Suite 478, Calgary, Alberta, Canada, T2G 4X3, (877)376-9902



Industry Canada

Office of the Superintendent
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant
des faillites Canada

District of Alberta
Division No. 02 - Calgary
Court No. 25-2708739
Estate No. 25-2708739

In the Matter of the Notice of Intention to make a
proposal of:

Tradesmen Enterprises Inc.
Insolvent Person

KSV RESTRUCTURING INC.
Licensed Insolvency Trustee

Date of the Notice of Intention: February 01, 2021

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

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Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: February 01, 2021, 20:15

E-File/Dépôt Electronique

Official Receiver

Harry Hays Building, 220 - 4th Ave SE, Suite 478, Calgary, Alberta, Canada, T2G4X3, (877)376-9902

Canada

Appendix “B”

BK01 095189



COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

ENTERED

MATTER

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES LIMITED PARTNERSHIP

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES INC.

APPLICANTS

TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND TRADESMEN ENTERPRISES INC.

DOCUMENT

ORDER (Procedural Consolidation, Approval of Interim Financing, Interim Financing Charge, and Administration Charge)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

LAWSON LUNDELL LLP
Barristers and Solicitors
1100, 225 – 6 Avenue S.W.
Calgary, Alberta
T2P 1N2

Attention: Alexis Teasdale
Telephone No.: 403-218-7564
Fax No.: 403-269-9494
Email: ateasdale@lawsonlundell.com

DATE ON WHICH ORDER WAS PRONOUNCED: February 3, 2021

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Mr. Justice C.M. Jones

LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION of Tradesmen Enterprises Inc. (“**TEI**”) and Tradesmen Enterprises Limited Partnership (“**TELP**”, and together with TEI, “**Tradesmen**” or the

“**Applicants**”); AND UPON reading the Notice of Application of Tradesmen, the Affidavit No. 1 of Dean Kato sworn on February 1, 2021, the Bench Brief of the Applicants, and the First Report of KSV Restructuring Inc. in its capacity as Proposal Trustee of Tradesmen (the “**Proposal Trustee**”) dated February 2, 2021, all to be filed; AND UPON noting the Affidavit of Service of Rachel Dingman to be affirmed and filed; AND UPON hearing the submissions of counsel for the Applicants, counsel for Bank of Montreal, counsel for the Proposal Trustee, and any other counsel or interested parties present;

IT IS HEREBY ORDERED THAT:

Service

1. The time for service of the notice of application for this Order is hereby abridged and deemed good and sufficient, and no person, other than those served, is entitled to service of the notice of application.

Procedural Consolidation

2. The bankruptcy estates of TEI and TELP (collectively, the “**Estates**”) shall, subject to further order of the Court, be procedurally consolidated and shall continue under the estate number assigned to TELP (as consolidated, the “**Consolidated Proposal Proceeding**”).
3. Without limiting the generality of the foregoing, the Proposal Trustee is hereby authorized and directed to administer the Estates on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as proposal trustee under the BIA as if the Consolidated Proposal Proceeding were a single proceeding under the BIA, including without limitation:
 - (a) the meetings of creditors of each Applicant be convened and conducted jointly;
 - (b) the Proposal Trustee is authorized to issue consolidated reports in respect of the Applicants; and
 - (c) the Proposal Trustee is authorized to deal with all filings and notices relating to the proposal proceedings of each of the Applicants, each as required under the BIA, on a consolidated basis.

4. Any pleadings or other documents served or filed in the Consolidated Proposal Proceeding by any party shall be deemed to have been served or filed in each of the proceedings comprising the Consolidated Proposal Proceeding.
5. A copy of this Order shall be filed by the Applicants in the court file for each of the Estates but any subsequent document required to be filed will hereafter only be required to be filed in the Consolidated Proposal Proceeding.
6. The procedural consolidation of the Estates pursuant to this Order shall not:
 - (a) affect the legal status or corporate structure of the Applicants; or
 - (b) cause either Applicant or any limited partner of TELP to be liable for any claim for which it is otherwise not liable, or cause either Applicant to have any interest in an asset to which it otherwise would not have.
7. The Estates are not substantively consolidated, and nothing in this Order shall be construed to that effect.
8. The Proposal Trustee may apply to this Court for advice and directions with respect to the implementation of this Order or with respect to any other matter relating to the procedural and/or substantive consolidation of the Estates.

Interim Financing Agreement and Interim Lender Charge

9. TELP is hereby authorized and empowered to borrow under an interim financing credit facility from Bank of Montreal (in such capacity, the “**Interim Lender**”), in order to finance its short-term liquidity needs during the pendency of these proceedings, substantially on the terms and in the form set out in the interim financing term sheet attached hereto as Schedule “A” (the “**Interim Financing Agreement**”), and such Interim Financing Agreement is hereby approved.
10. TELP is hereby authorized and empowered to borrow up to a maximum principal amount of \$1.9 million (the “**Maximum Amount**”), pursuant to the Interim Financing Agreement, unless or until such Maximum Amount is amended in accordance with the terms and conditions of the Interim Financing Agreement.

11. TEI is hereby authorized and empowered to enter into the Interim Financing Agreement in the capacity as a credit party thereunder and in accordance with the terms and conditions of the Interim Financing Agreement.
12. The Interim Lender is hereby granted, and is entitled to the benefit of, a priority charge on all of Tradesmen's present and after-acquired assets, property and undertakings (the "**Property**"), subject only to the Administration Charge, in order to secure the performance and payment of all obligations of Tradesmen to the Interim Lender set forth in the Interim Financing Agreement, including, without limitation, all principal, interest, and the closing fee and all other interim financing fees and expenses contemplated by the Interim Financing Agreement (the "**Interim Financing Charge**"). The Interim Financing Charge shall have the priority set out in paragraphs 15 to 18 of this Order.
13. Tradesmen is hereby authorized and empowered to execute, deliver and perform such further acts and agreements, as may be necessary or expedient from time to time, in order to give effect to the terms and conditions of Interim Financing Agreement and this Order.

Administration Charge

14. Legal counsel to Tradesmen (Lawson Lundell LLP) and the Proposal Trustee, as security for their respective professional fees and disbursements (including the professional fees and disbursements of the Proposal Trustee's counsel, Bennett Jones LLP) incurred both before and after the granting of this Order, are hereby granted, and are entitled to the benefit of, a priority charge not to exceed \$300,000 (the "**Administration Charge**") on all of the Property. The Administration Charge shall have the priority set out in paragraphs 15 to 18 of this Order.

Ranking and Priority of Charges

15. The respective ranking of the Administration Charge and the Interim Financing Charge against the Property shall be as follows:
 - (a) First, the Administration Charge; and
 - (b) Second, the Interim Financing Charge.

16. The filing, registration or perfection of the Administration Charge and the Interim Financing Charge (together, the “**Charges**”) shall not be required, and the Charges shall be enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
17. The Charges shall constitute a charge on the Property and shall rank in priority to all other security interests, trusts, deemed trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise in favour of any person, including but not limited to any liens or trusts arising under the British Columbia *Builders Lien Act*, S.B.C. 1997, c. 45 or any other provincial builders’ lien legislation (collectively, the “**Encumbrances**”).
18. The Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Interim Lender and the beneficiaries of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of, and any declarations of insolvency made in, these proceedings;
 - (b) any application for a bankruptcy order issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the “**BIA**”), or any bankruptcy order made pursuant to such applications;
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) the appointment of any interim receiver, receiver, or receiver and manager of Tradesmen or the Property;
 - (e) the provisions of any federal or provincial statutes; or
 - (f) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, or any lease, sublease, offer to lease or other agreement

(collectively, an “**Agreement**”) that binds Tradesmen, and notwithstanding any provision to the contrary in any Agreement:

- (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, shall create or be deemed to constitute a new breach by Tradesmen of any Agreement to which it is a party;
 - (ii) none of the Chargees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, or the execution, delivery or performance of the Interim Financing Agreement; and
 - (iii) the payments made by TELP pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.
19. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"
(Interim Financing Agreement)

INTERIM FINANCING TERM SHEET

Dated as of February 1, 2021

WHEREAS the Borrower and the Guarantor (each as defined below) have filed Notices of Intention to Make a Proposal (the “**NOI Proceedings**”) with the Office of the Superintendent of Bankruptcy Canada on February 1, 2021 seeking creditor protection for the purposes of making a proposal to their creditors (the “**Proposal**”) pursuant to Part III Division I of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), and intend on making an application (the “**Application**”) to the Alberta Court of Queen's Bench (the “**Court**”) for the Interim Lender Order (as defined below);

AND WHEREAS pursuant to subsection 69(1) of the BIA, all proceedings against the Borrower and the Guarantor are stayed for a period of thirty (30) days as a result of the NOI Proceedings;

AND WHEREAS the Borrower has requested that Bank of Montreal (the “**Interim Lender**”) provide it with loans in order to, among other things, fund certain of the Borrower's obligations during the pendency of the NOI Proceedings;

AND WHEREAS the Interim Lender has agreed to provide the requested loans in accordance with the terms set out herein.

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. **Borrower:** Tradesmen Enterprises Limited Partnership, by its general partner, Tradesmen Enterprises Inc. (the “**Borrower**”).
2. **Guarantor:** Tradesmen Enterprises Inc. (in its own capacity, the “**Guarantor**”).
3. **Credit Parties:** The Borrower and the Guarantor are collectively referred to as the “**Credit Parties**” and individually, a “**Credit Party**”.
4. **Interim Lender:** Bank of Montreal.
5. **Defined Terms:** Capitalized terms used in this Interim Financing Term Sheet and not defined herein have the meanings set forth in Schedule “A” attached hereto or otherwise defined herein. Unless otherwise noted herein, all references herein to “dollars” or to “\$” means Canadian dollars.
6. **Purpose:** To provide for the short-term liquidity needs of the Borrower pursuant to the Cash Flow Forecast while the Borrower is under BIA protection pursuant to the NOI Proceedings.
7. **Interim Facility and Maximum Amount:** A senior secured super priority, interim, revolving credit facility (the “**Interim Facility**”) up to a maximum principal amount of \$1,900,000 as such amount may be amended from time to time pursuant to Section 16 below (the “**Maximum Amount**”).
8. **Availability and Advances under Interim Facility:** Subject to the terms and conditions contained herein including, without limitation the satisfaction of the Conditions Precedent set out below, the Interim Facility shall be made available to the Borrower by

way of a single or multiple advances in Canadian dollars (each being an “**Advance**”). Any principal amount that is repaid may be re-borrowed.

For each Advance, other than the initial Advance, the Interim Lender shall have received from the Borrower a completed advance request, substantially in the form attached hereto as Schedule “C” (each an “**Advance Request**”), which shall be executed by an officer of the Borrower and be in form and substance acceptable to the Interim Lender. The Interim Lender shall, within two (2) Business Days’ of receipt thereof advise the Borrower of its satisfaction or non-satisfaction of the Funding Conditions, as determined by the Interim Lender in its sole discretion. Each Advance shall be made by the Interim Lender within one (1) Business Day of notifying the Borrower of the satisfaction of the Funding Conditions or waiver thereof. All Advances shall be funded to the Borrower’s main deposit account held with the Interim Lender, or to such other account as the Borrower and the Interim Lender may agree to in writing from time to time.

9. Interest Rate and Default Interest:

Advances under the Interim Facility shall bear interest at a rate equal to 12% per annum. Interest shall accrue daily on the aggregate outstanding principal advanced under the Interim Facility and shall be calculated and payable in cash in arrears on the first Business Day of each month.

All interest and fees will be calculated on the basis of a 365 day year and actual days lapsed, up to and including the date of actual payment from the funding date or the due date, as applicable; provided that whenever a rate of interest or fee hereunder is calculated on the basis of a year (the “**deemed year**”) that contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest or fee shall be expressed as a yearly rate by multiplying such rate of interest or fee by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year. The principle of deemed reinvestment of interest does not apply to any interest calculation in any Interim Financing Credit Documentation, and the rates of interest stipulated in any Interim Financing Credit Documentation are intended to be nominal rates and not effective rates or yields.

Any amounts which are not paid when due and payable by the Borrower hereunder, or in respect of any Interim Financing Credit Documentation, shall accrue interest (after as well as before maturity, default and judgment) on a daily basis up to and including the date of actual payment from (but excluding) the due date, at a rate equal to 16% per annum, payable on demand by the Interim Lender.

10. Closing Fee:

A closing fee in the amount of \$65,000 (the “**Closing Fee**”) is to be paid by the Borrower to the Interim Lender from the proceeds of the

initial Advance on the date of the initial Advance of the Interim Facility.

11. Use of Proceeds:

The Borrower is authorized to use Advances (i) for working capital, and other general corporate purposes of the Borrower including payroll and other priority payables approved by the Interim Lender in its sole discretion; (ii) to pay fees and expenses associated with the Interim Facility (including, without limitation, the fees of the Proposal Trustee, and legal fees of the counsel to the Borrower and the Proposal Trustee); (iii) to fund the payment of the Interim Financing Fees and Expenses; and (iv) to make payments necessary to comply with or as contemplated under the Interim Lender Order, in each case of the foregoing paragraphs (i) to (iii), consistent with (and as provided for) in the Cash Flow Forecast in all material respects; provided that no proceeds from the Interim Facility or the Collateral shall be used other than in accordance with this Interim Financing Term Sheet unless otherwise agreed in writing by the Interim Lender. For greater clarification, no Advances shall be used to pay any Excluded Amounts.

12. Conditions Precedent To Effectiveness:

The effectiveness of this Interim Financing Term Sheet is subject to the satisfaction of the following conditions precedent unless waived in writing by the Interim Lender in its sole discretion (collectively, the “**Conditions Precedent**”):

- (a) The Court shall have issued an order (the “**Interim Lender Order**”) satisfactory to the Interim Lender in its sole discretion, approving this Interim Financing Term Sheet and the Interim Facility and granting the Interim Lender a charge (the “**Interim Lender Charge**”) on the Collateral of the Credit Parties, securing all obligations owing by the Credit Parties to the Interim Lender hereunder or under any other related agreement, including, without limitation, all principal, interest and the Closing Fee associated with the Interim Facility along with all other Interim Financing Fees and Expenses (collectively, the “**Interim Financing Obligations**”); the Interim Lender Order shall provide that the Interim Lender Charge shall have priority over all Liens, except for the Administration Charge; and the Interim Lender Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a way that adversely impacts the rights and interests of the Interim Lender in a material manner, without the consent of the Interim Lender;
- (b) The Interim Lender shall be satisfied that (i) the entering into of this Interim Financing Term Sheet and the other Interim Financing Credit Documentation, the granting of the Interim Lender Charge and the consummation of the transactions contemplated hereby have been approved by the Borrower, the Guarantor and any other interested party relevant to the Interim

Lender, and (ii) service of the Application has been effected on all required parties acceptable to the Interim Lender;

- (c) The Interim Financing Credit Documentation shall be satisfactory to the Interim Lender, acting reasonably, and shall have been executed by the Credit Parties;
- (d) The Interim Lender shall have received and been satisfied with the initial Cash Flow Forecast in accordance with the terms of this Interim Financing Term Sheet;
- (e) The Interim Lender shall have received and been satisfied with the initial Business Update from the Borrower in accordance with the terms of this Interim Financing Term Sheet;
- (f) The Interim Lender shall have received an executed copy of a consent receivership order from the Credit Parties (the “**Consent Receivership Order**”), in form and substance satisfactory to the Interim Lender;
- (g) Since the date of this Interim Financing Term Sheet, there shall not have been any material damage, destruction or Material Adverse Change to any of the Collateral, nor any material depreciation in the value thereof, and the Credit Parties’ operations shall be in material compliance with all applicable environmental, labor, health and safety and other applicable laws and regulations governing the Credit Parties and their business operations;
- (h) All of the representations and warranties of the Credit Parties as set forth herein and in any other Interim Financing Credit Documentation are true and accurate in all material respects; and
- (i) There are no Liens ranking in priority to the Interim Lender Charge, except the Administration Charge.

13. Conditions Precedent To Advances:

The Interim Lender's obligation to make Advances to the Borrower under this Interim Financing Term Sheet is subject to the satisfaction of the following conditions precedent unless waived in writing by the Interim Lender in its sole discretion (collectively, the “**Funding Conditions**”):

- (a) This Interim Financing Term Sheet shall have become effective and all conditions precedent set out in Section 12 above shall have been fulfilled;
- (b) The Interim Lender shall have received full cash payment of the Closing Fee;

- (c) The Interim Lender shall have received from the Borrower a completed Advance Request and advised the Borrower of its satisfaction of the Funding Conditions;
- (d) The Interim Lender shall, acting reasonably, be satisfied that the Credit Parties have complied with and are continuing to comply in all material respects with all applicable laws, regulations and policies in relation to their business other than (i) as may be permitted under the orders of the Court made in the NOI Proceedings applicable to the Credit Parties (collectively, the “**Restructuring Court Orders**” and each a “**Restructuring Court Order**”) or (ii) if any enforcement in respect of non-compliance is stayed by a Restructuring Court Order, provided the issuance of such Restructuring Court Order (in each case) does not result in the occurrence of an Event of Default;
- (e) The requested Advance shall not, if advanced to the Borrower, cause the aggregate amount of all outstanding Advances to exceed the Maximum Amount or be greater than the total Advances projected to be required in the Cash Flow Forecast, unless otherwise specifically approved by the Interim Lender;
- (f) All Interim Financing Fees and Expenses for which invoices have been provided to the Borrower shall have been paid, or will be paid from the proceeds of the requested Advance within such period of time set forth in the Cash Flow Forecast or as is otherwise acceptable to the Interim Lender in its sole discretion;
- (g) All of the representations and warranties of the Credit Parties as set forth herein and in any other Interim Financing Credit Documentation are true and accurate in all material respects;
- (h) No Default or Event of Default has occurred or will occur as a result of the requested Advance;
- (i) The Interim Lender is satisfied that no Material Adverse Change shall have occurred after the date of the issuance of the Interim Lender Order;
- (j) Since the date of the Interim Lender Order, there shall not have occurred any payment, prepayment, redemption, purchase or exchange of any pre-filing indebtedness or equity, or amendment or modification of any of the terms thereof, except as otherwise permitted by the terms of the Interim Lender Order or provided for hereunder and the aggregate amount of all such pre-filing amounts does not exceed the amounts set out therefor in the in the Cash Flow Forecast;
- (k) The Interim Lender is satisfied, in its sole discretion, with the process and conduct of any applicable Sale Process;

- (l) The Interim Lender shall have a valid and perfected super priority Lien on the Collateral pursuant to the Interim Lender Order and, there are no Liens ranking in priority to the Interim Lender Charge, except the Administration Charge; and
- (m) The Interim Lender Order shall be in full force and effect and shall not have been reversed, modified, amended or stayed in a manner adverse to the interests of the Interim Lender.

Notwithstanding any other provision herein (including within this Section) or in any other Interim Financing Credit Documentation, the Interim Lender is under no obligation to make Advances to the Borrower in an aggregate amount exceeding the Maximum Amount.

14. Repayment:

The Interim Facility shall be cancelled and immediately repayable in full (including all accrued and unpaid interest thereon and all fees, costs and other amounts due and payable in connection therewith) on the earlier of: (i) the occurrence of any Event of Default hereunder which is continuing and has not been cured to the satisfaction of the Interim Lender; (ii) the implementation of the Proposal, which has been approved by the requisite majorities of the Borrower's creditors, including by the Interim Lender, and the Court; (iii) the conversion of the NOI Proceedings into a proceeding under the *Companies' Creditors Arrangement Act (Canada)* ("CCAA"), unless agreed to by the Interim Lender; (iv) the conversion of the NOI Proceedings into a receivership under the BIA; (v) the sale of all or substantially all of the Collateral; and (vi) 30 days from the commencement of the NOI Proceedings (the earliest of such dates being the "**Maturity Date**"), unless such date is extended by the Interim Lender.

The commitment in respect of the Interim Facility shall expire on the Maturity Date and all amounts outstanding under the Interim Facility shall be repaid in full no later than the Maturity Date, without the Interim Lender being required to make demand upon the Credit Parties or to give notice that the Interim Facility has expired and the obligations are due and payable. The order of the Court sanctioning any Proposal shall not discharge or otherwise affect in any way any of the obligations of the Credit Parties to the Interim Lender under the Interim Facility, other than after the permanent and indefeasible payment in cash to the Interim Lender of all obligations under the Interim Facility on or before the date the Proposal is implemented.

15. Prepayment:

Upon five (5) days prior written notice to the Interim Lender, the Borrower may prepay any amounts outstanding under the Interim Facility at any time prior to the Maturity Date, without any prepayment fee or penalty. In no event shall the Interim Lender be obligated to accept any amount that would be contrary to any applicable law respecting interest to be charged. If the minimum interest is determined to be in excess of the maximum amount permitted by

applicable law, then the minimum interest shall be reduced to the maximum amount that would be permitted by applicable law.

The Borrower may borrow, repay and re-borrow Advances, subject to the terms and conditions herein. Any amount repaid or prepaid under the Interim Facility (including pursuant to Section 16 below) shall be applied against amounts outstanding hereunder and in connection herewith by the Interim Lender in its sole and absolute discretion.

- 16. Mandatory Repayments:** Unless otherwise consented to in writing by the Interim Lender, Advances to the Borrower shall be forthwith repaid and the Maximum Amount shall be permanently reduced: (i) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of surplus cash not required to fund disbursements and expenditures set forth in the Cash Flow Forecast; (ii) upon a sale of any of the Collateral out of the ordinary course of business, in an amount equal to the net cash proceeds of such sale (for greater certainty, net of reasonable costs and closing adjustments acceptable to the Interim Lender in its sole discretion); (iii) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of insurance proceeds with respect to the Collateral owned by it; (iv) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of a refund or payment on account of Taxes from any Governmental Entity, excluding refunds or payments on account of sales taxes; and (v) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of any amounts payable by Teck Coal Limited., Fluor Canada Ltd. or any of their respective affiliates.
- 17. Evidence of Indebtedness:** The Interim Lender's accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Interim Lender pursuant to the Interim Facility.
- 18. Costs and Expenses:** The Credit Parties shall pay on demand all of the Interim Lender's legal fees on a full indemnity basis, out-of-pocket disbursements and any costs of realization or enforcement, in each case in connection with or otherwise related to the Interim Facility, the Interim Lender Charge, the other Interim Financing Credit Documentation and the NOI Proceedings (collectively, the "**Interim Financing Fees and Expenses**").
- 19. Documentation and Interim Facility Security:** The Interim Financing Obligations shall be secured by
- (a) the Interim Lender Charge; and
 - (b) such other documents and agreements as the Interim Lender may reasonably request, including those documents required in order to register or otherwise perfect the security interests comprising the Interim Lender Charge;
- ((a) and (b) collectively, the "**Interim Financing Security**").

The Interim Financing Security shall be in priority to all Liens, except the Administration Charge, pursuant to the terms of the Interim Lender Order. Notwithstanding the foregoing and subject to the concluding sentence of this paragraph, no proceeds of any Advance may be used to (a) investigate, object to or challenge in any way any claims of the Interim Lender against any Credit Party in respect of the Interim Facility, or (b) investigate, object to or challenge in any way the validity or enforceability of the Liens created under the Interim Financing Security.

The Interim Financing Security and charges created hereby and in the Interim Lender Order shall be deemed to be valid and perfected by the granting of the Interim Lender Order. The Interim Lender shall not be required to file any financing statement, mortgage or similar instrument or take any other action to validate or perfect the security interests and charges granted hereunder and in the Interim Lender Order, however the Interim Lender may register the Interim Financing Security (and/or any notice, certificate, instrument or other agreement associated therewith) in jurisdictions and at registries or public offices as the Interim Lender may determine necessary or beneficial to protect its interests under the Interim Financing Security.

20. Permitted Liens and Priority:

All Collateral will be free and clear of all other Liens, except for Permitted Liens.

21. Cash Flow Forecast:

Attached hereto as Schedule "B" is the initial Cash Flow Forecast, which is in form and substance satisfactory to the Interim Lender.

Following the granting of the Interim Lender Order, the Borrower shall, once every seven (7) days and not later than 12:00 noon Mountain Standard Time on each Wednesday of each week following the granting of the Initial Lender Order and the delivery of the initial Cash Flow Forecast to the Interim Lender, provide the Interim Lender with an updated Cash Flow Forecast and such other related information as may be requested by the Interim Lender from time to time, in form and substance satisfactory to and approved by the Interim Lender, together with (i) a comparison of the previous week's forecast to actual cash receipts and expenditures for each line item in the Cash Flow Forecast (i.e. a week in arrears), and (ii) an explanation of the differences.

The Borrower shall use commercially reasonable efforts, if requested by the Interim Lender, to cause its non-legal advisors to participate in weekly conference calls with the Interim Lender and its advisors, agents and employees to discuss any Cash Flow Forecast along with the Borrower's current and projected operational performance and related financial matters.

22. Proposal Trustee:

The proposal trustee in the NOI Proceedings is KSV Restructuring Inc. (in such capacity, the "**Proposal Trustee**"). The Proposal Trustee shall be authorized to have direct discussions with the Interim Lender

and its professional advisors, and the Interim Lender and its professional advisors shall be entitled to receive information from the Proposal Trustee as may be requested by the Interim Lender from time to time.

23. Representations and Warranties:

The Borrower represents and warrants to the Interim Lender, upon which the Interim Lender relies in entering into this Interim Financing Term Sheet and the other Interim Financing Credit Documentation, as follows:

- (a) The Interim Financing Term Sheet and the other Interim Financing Credit Documentation and the transactions contemplated hereby and thereby:
 - (i) are within the powers of the Credit Parties;
 - (ii) subject to the granting of the Interim Lender Order, have been duly executed and delivered by or on behalf of the Credit Parties, as applicable;
 - (iii) do not conflict with or result in a breach of any of the terms or conditions of the constating documents of the Credit Parties, any applicable law, any contractual restrictions binding on or affecting the Credit Parties or any Credit Party's material properties or any judgement, injunction, determination or award which is binding on any Credit Party;
 - (iv) upon the granting of the Interim Lender Order, constitute legal, valid and binding obligations of the Credit Parties; and
 - (v) other than those already obtained, do not require the consent or approval of, registration or filing with, or any other action by, any Governmental Entity or any third party, other than filings which may be made, but are not required, to register or otherwise record the Interim Lender Charge or the Interim Financing Security.
- (b) The activities of the Credit Parties will be conducted in material compliance with all applicable provincial and federal laws, subject to the provisions of the BIA and any Restructuring Court Order, unless (i) otherwise ordered by the Court, or (ii) the sanctions for non-compliance are stayed by a Restructuring Court Order.
- (c) The Credit Parties, since the commencement of the NOI Proceedings, have maintained their respective obligations for payroll, source deductions, current normal cost pension liabilities, retail sales tax, goods and services tax and harmonized sales tax, as applicable, and are not in arrears in

respect of payment of any of these obligations, except for source deductions in the amount of \$505,561 (the “**Existing Source Deduction**”), which will be paid during the week of February 12, 2021 in accordance with the Cash Flow Forecast.

- (d) All representations and warranties made by the Credit Parties in all other Interim Financing Credit Documentation are true and accurate in all material respects.
- (e) No Default or Event of Default has occurred and is continuing.
- (f) Each Credit Party is duly formed and validly existing under the laws of its jurisdiction of formation and is qualified to carry on business in each jurisdiction in which it owns property or assets or carries on business.
- (g) The Guarantor is the sole general partner of the Borrower and no amendments have been made to the partnership agreement governing the Borrower without the Interim Lender’s knowledge and prior written consent.

24. Affirmative Covenants:

In addition to all of the other covenants and obligations contained herein, the Borrower covenants and agrees to perform, or cause to be performed, and do, or cause to be done, each of the following until the Interim Facility is permanently and indefeasibly repaid in full and terminated:

- (a) allow the Interim Lender or its agents and advisors, on reasonable notice during regular business hours, to enter on and inspect each Credit Party’s assets and properties, and provide the Interim Lender and its agents or advisors, on reasonable notice and during normal business hours, full access to each Credit Party’s books and records and cause management and employees thereof to fully co-operate with the Interim Lender, its agents and advisors;
- (b) provide to the Interim Lender regular updates regarding the status of the NOI Proceedings including, without limitation, reports on the progress of any Proposal, Restructuring Option, any Sale Process and any information, which may otherwise be confidential, subject to same being maintained as confidential by the Interim Lender, provided, however, that the Interim Lender shall not be entitled to receive any information in respect of bids or offers received in the Sale Process that encompass property over which the Interim Lender, or any of its affiliates or related parties, or another party in which the Interim Lender holds an interest, has also submitted a bid;
- (c) provide the Interim Lender with draft copies of all motions, applications, proposed orders or other material or documents

that any of them intend to file within the NOI Proceedings as soon as practically possible prior to any such filing;

- (d) use commercially reasonable efforts to keep the Interim Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Credit Parties including, without limitation, any changes to its Business Update;
- (e) deliver to the Interim Lender the updated Cash Flow Forecast as and when set out herein, and such other reporting and other information from time to time reasonably requested by the Interim Lender. Without limiting the foregoing, the Borrower shall use commercially reasonable efforts to deliver to the Interim Lender copies of any financial reporting provided to the Proposal Trustee in a timely manner and forthwith provide to the Interim Lender any reports or commentary received from the Proposal Trustee regarding the financial position of the Credit Parties;
- (f) conduct all activities in a manner consistent with the Cash Flow Forecast;
- (g) use the proceeds of the Interim Facility only for the purposes described in Sections 6 and 11 above, and in a manner consistent and in strict compliance with the restrictions set out herein;
- (h) comply with the provisions of the Restructuring Court Orders; provided that if any Restructuring Court Order contravenes this Interim Financing Term Sheet or any of the Interim Financing Credit Documentation so as to adversely impact the rights or interests of the Interim Lender in a material manner, such contravention shall constitute, and shall be deemed to be, an Event of Default hereunder;
- (i) preserve, renew and keep in full force and effect each Credit Party's respective corporate existence and its respective material licenses, permits and approvals required in respect of its business, properties, assets or any activities or operations carried out therein, unless otherwise agreed to in writing by the Interim Lender;
- (j) use commercially reasonable efforts consistent with the Cash Flow Forecast to (i) maintain the insurance, in existence as at the date hereof with respect to the Collateral owned by the Credit Parties, or (ii) obtain insurance over such Collateral where none exists or has expired, on terms acceptable to the Interim Lender, acting reasonably; and

- (k) forthwith notify the Interim Lender of the occurrence of any Default or Event of Default, or any event that could reasonably be expected to cause a Material Adverse Change.

25. Negative Covenants:

The Borrower covenants and agrees not to do the following, other than with the prior written consent of the Interim Lender:

- (a) transfer, lease or otherwise dispose of all or any part of any Credit Party's property, assets or undertaking after the date hereof (excluding dispositions of obsolete assets or dispositions in the ordinary course of business). For greater certainty, in the case of any transfer, lease, sale or other disposition of any Collateral, all proceeds of such transfer, lease, sale or other disposition shall be subject to Section 16;
- (b) make any payment of principal or interest in respect of existing (pre-filing) debt or obligation other than as may be permitted by a Restructuring Court Order that does not result in an Event of Default, and is provided for in the Cash Flow Forecast;
- (c) make any payments not consistent with the Cash Flow Forecast;
- (d) settle any claims involving any Credit Party with a third party, or permit any assignments or transfers of any contracts with third parties;
- (e) make or give any additional financial assurances, in the form of bonds, letters of credit, financial guarantees or otherwise, to any person or Governmental Entity;
- (f) create, permit to exist or seek or support a motion by another party to provide to any third party a Lien on the Collateral which is senior to or *pari passu* with the Interim Lender Charge, except for the Administration Charge;
- (g) change a Credit Party's name, amalgamate, consolidate with or merge into, or enter into any similar transaction with any other entity except as part of a transaction under a Sale Process approved by a Restructuring Court Order, and on terms and conditions satisfactory to the Interim Lender, acting reasonably;
- (h) make any payment in respect of post-employment benefit payments; or
- (i) seek to convert, or permit to convert, the NOI Proceedings to a proceeding under the CCAA or to otherwise at any time seek Court protection for any Credit Party under the CCAA except with the consent of the Interim Lender.

26. Reporting Covenants:

The Borrower covenants and agrees to perform, or cause to be performed, and do, or cause to be done, each of the following when required:

- (a) provide the Interim Lender on February 16, 2021 with an update to the initial Business Update, satisfactory to the Interim Lender in form and substance, as determined by the Interim Lender in its sole discretion;
- (b) provide the Interim Lender by no later than February 16, 2021 with evidence of all updated search results associated with any Liens, or potential claims, of any Governmental Entity against any Credit Party that could result in such Liens or claims having priority over the Interim Lender Charge (each being a “**Priority Governmental Claim**”), in each case satisfactory to the Interim Lender in form, substance and amount, as determined by the Interim Lender in its sole discretion; and
- (c) provide the Interim Lender with an updated Cash Flow Forecast hereunder when required by Section 21, in each case satisfactory to the Interim Lender in form and substance, as determined by the Interim Lender in its sole discretion.

27. Indemnity and Release:

The Borrower agrees to indemnify and hold harmless the Interim Lender and its directors, officers, employees, agents, attorneys, advisors and affiliates (all such persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against or involve any Indemnified Person (collectively, “**Claims**”) as a result of or arising out of or in any way related to or resulting from the Interim Facility, this Interim Financing Term Sheet or any other Interim Financing Credit Documentation (regardless of whether such Claim is made in the NOI Proceedings or any other proceeding, including a bankruptcy or insolvency proceeding) and, upon demand, to pay and reimburse any Indemnified Person for any legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including, without limitation any inquiry or investigation) or claim (whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise); provided, however, the Borrower shall not be obligated to indemnify pursuant to this Section any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence or willful misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any claims arising out of any act or omission on the part of a Credit Party. The

Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

The indemnities granted under this Interim Financing Term Sheet shall survive any termination of the Interim Facility.

28. Events of Default:

The occurrence of any one or more of the following events shall constitute an event of default (“**Event of Default**”) under this Interim Financing Term Sheet:

- (a) the failure of the Borrower or any other person to pay any principal amount owing under this Interim Financing Term Sheet or any other Interim Financing Credit Documentation when due;
- (b) the failure of Fulcrum to pay to the Interim Lender the full principal amount demanded by the Interim Lender, representing payment of the principal amount of Fulcrum’s prior guaranteed obligations of the Borrower, on or before February 9, 2021;
- (b) the failure of the Borrower or any other person to pay any interest or fees or any portion thereof owing under this Interim Financing Term Sheet or any other Interim Financing Credit Documentation when due and such default shall remain unremedied for a period of two (2) Business Days after written notice from the Interim Lender that such amount is overdue;
- (c) the issuance of an order of the Court (including any Restructuring Court Order) or any other court of competent jurisdiction without the prior written consent of the Interim Lender thereto:
 - (i) terminating the NOI Proceedings or lifting the stay in the NOI Proceedings to permit (A) the enforcement of any Lien against a Credit Party, or a material portion of its property, assets or undertaking, or (B) the appointment of a receiver and manager, receiver, or similar official or the making of a bankruptcy order against a Credit Party; or (C) converting the NOI Proceedings to proceedings under the CCAA;
 - (ii) granting any Lien which is senior to or *pari passu* with the Interim Lender Charge, except for the Administration Charge;
 - (iii) staying, reversing, vacating or otherwise modifying the Interim Lender Order or any Restructuring Court Order in a manner materially adverse to the interests of the Interim Lender; or

- (iv) adversely impacting the rights and interests of the Interim Lender in a material manner;
- (d) the filing of any pleading by or on behalf of any Credit Party seeking any of the matters set forth in clause (c) above or failure of a Credit Party to diligently oppose any party that brings an application or motion for the relief set out in clause (c) above and/or fails to secure the dismissal of such motion or application within fifteen (15) days from the date such application or motion is brought;
- (e) failure of any Credit Party to comply with any positive or negative covenants in this Interim Financing Term Sheet not set forth in subsection (f) immediately below, which default has not been remedied or cured to the reasonable satisfaction of the Interim Lender, in its sole discretion, within five (5) Business Days of the breach first occurring, save and except for Section 25 (i) which shall have no cure period;
- (f) failure of any Credit Party to comply with any reporting covenants when due;
- (g) should the aggregate amount of all Priority Governmental Claims outstanding, except for the Existing Source Deduction, at any time exceed \$100,000;
- (h) (i) a Restructuring Court Order is made, (ii) a liability arises or an event occurs, including any change in the Collateral, business, assets, or conditions (financial or otherwise), of a Credit Party, that will in the Interim Lender's judgment, acting reasonably, materially impair (A) the Interim Lender's ability to recover the amounts owed to it by the Credit Parties, or (B) a Credit Party's financial condition or ability to comply with its obligations under this Interim Financing Term Sheet, any other Interim Financing Credit Documentation, the Interim Lender Order, or any Restructuring Court Order, or carry out a Proposal or Restructuring Option reasonably acceptable to the Interim Lender (in each case, a "**Material Adverse Change**");
- (i) the Cash Flow Forecast or any update thereof contemplates or forecasts an adverse change or changes from the then existing Cash Flow Forecast and such change(s) constitute a Material Adverse Change, or any updated Cash Flow Forecast forecasts that borrowings under the Interim Facility will exceed the Maximum Amount at any time (unless and until the Interim Lender consents to increase the Maximum Amount, which shall be in the Interim Lender's sole and absolute discretion);
- (j) the Business Update or any update thereof contemplates or forecasts an adverse change or changes from the initial Business

Update provided to the Interim Lender hereunder and such change(s) constitute a Material Adverse Change;

- (k) any representation or warranty by a Credit Party or other person herein or in any Interim Financing Credit Documentation shall be incorrect or misleading in any material respect when made;
- (l) Advances under the Interim Facility exceed the Maximum Amount at any time without the prior written consent of the Interim Lender;
- (m) any material violation or breach of any Restructuring Court Order upon receipt by the Borrower of notice from the Interim Lender of such violation or breach;
- (n) an event of default has occurred under any of the Interim Financing Credit Documentation, which default has not been remedied or cured in accordance with the terms thereof;
- (o) any proceeding, motion or application is commenced or filed by a Credit Party, or if commenced by another party, supported or otherwise consented to by a Credit Party, seeking the invalidation, subordination or otherwise challenging of the terms of the Interim Facility, the Interim Lender Charge, this Interim Financing Term Sheet, or any of the other Interim Financing Credit Documentation or, unless the Proposal or Restructuring Option provides for repayment in full of the Interim Facility, the approval of any Proposal or Restructuring Option which does not have the prior written consent of the Interim Lender;
- (p) any Proposal is proposed or any Restructuring Option is consummated by a Credit Party that contravenes any provision of this Interim Financing Term Sheet or other Interim Financing Credit Documentation, unless the Interim Lender has consented thereto;
- (q) if any Credit Party pays or agrees to pay any of the legal, consulting or other professional fees and/or disbursements incurred by the Credit Parties, the Proposal Trustee or any other party in the NOI Proceedings (other than the Interim Lender and its agents and advisors), in excess of the amount set out in the cash flow, without the prior written consent of the Interim Lender;
- (r) failure of the Borrower to perform or comply with any other term or covenant under this Interim Financing Term Sheet or any other Interim Financing Credit Documentation, and such default shall continue unremedied for a period of five (5) Business Days from the breach first occurring;

- (s) if the priority of the Interim Lender Charge set out in the Interim Lender Order is varied without the consent of the Interim Lender; or
- (t) if the Borrower commences an action or takes any other proceeding to obtain any form of relief against the Interim Lender.

29. Remedies:

Upon the occurrence of an Event of Default that is continuing, and subject to the Restructuring Court Orders, the Interim Lender may, in its sole discretion, elect to terminate the Interim Lender's commitments to make Advances to the Borrower hereunder and declare the obligations in respect of the Interim Financing Credit Documentation to be immediately due and payable and cease making any further Advances. Without limiting the foregoing remedies, upon the occurrence of an Event of Default that is continuing, the Interim Lender may, in its sole discretion, elect to permanently reduce the Maximum Amount. In addition, upon the occurrence of an Event of Default that is continuing, the Interim Lender may, in its sole discretion, subject to any Restructuring Court Order:

- (a) apply to a court for the appointment of a receiver or a receiver and manager over any of the Collateral;
- (b) set-off or combine any amounts then owing by the Interim Lender to the Credit Parties against the obligations of the Credit Parties to the Interim Lender hereunder;
- (c) subject to obtaining prior approval from the Court, exercise the powers and rights of a secured party under the *Personal Property Security Act* (Alberta) or any legislation of similar effect; and
- (d) subject to obtaining prior approval from the Court, exercise all such other rights and remedies under the Interim Financing Credit Documentation, the Restructuring Court Orders and applicable law.

30. Taxes:

All payments by the Borrower or any other person under this Interim Financing Term Sheet and the other Interim Financing Credit Documentation to the Interim Lender, including any payments required to be made from and after the exercise of any remedies available to the Interim Lender upon an Event of Default that is continuing, shall be made free and clear of and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision or any country (collectively "**Taxes**"); provided, however, that if any Taxes are required by applicable law to be withheld ("**Withholding Taxes**") from any

amount payable to the Interim Lender under any Interim Financing Credit Documentation, the amount so payable to the Interim Lender shall be increased to the extent necessary to yield to the Interim Lender on a net basis after payment of all Withholding Taxes the amount payable under such Interim Financing Credit Documentation at the rate or in the amount specified in such Interim Financing Credit Documentation, and the Borrower shall provide evidence satisfactory to the Interim Lender that the Taxes have been so withheld and remedied.

- 31. Further Assurances:** The Borrower shall, at its expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the Interim Lender may reasonably request for the purpose of giving effect to this Interim Financing Term Sheet.
- 32. Amendments, Waivers, Etc.:** No amendment of any provision of the Interim Financing Term Sheet shall be effective unless agreed to by the Credit Parties and the Interim Lender, and, in the case of any material amendment, the Proposal Trustee.
- No waiver or delay on the part of the Interim Lender in exercising any right or privilege hereunder or under any other Interim Financing Credit Documentation will operate as a waiver hereof or thereof unless made in writing by the Interim Lender and delivered in accordance with the terms of this Interim Financing Term Sheet or the other applicable Interim Financing Credit Documentation and then such waiver shall be effective only in the specific instance and for the specific purpose given.
- 33. Entire Agreement Conflict:** This Interim Financing Term Sheet, including the schedules hereto and the Interim Financing Credit Documentation, constitutes the entire agreement between the parties relating to the subject matter hereof. To the extent that there is any inconsistency between this Interim Financing Term Sheet and any of the other Interim Financing Credit Documentation, this Interim Financing Term Sheet shall govern.
- 34. Assignment:** The Interim Lender may assign this Interim Financing Term Sheet and any other Interim Financing Credit Documentation, or its interest in this Interim Financing Term Sheet or any other Interim Financing Credit Documentation, as the case may be, and its rights and obligations hereunder, in whole or in part, or grant a participation in its rights hereunder, at any time to any person without the consent of the Borrower or the Proposal Trustee. Neither this Interim Financing Term Sheet, another Interim Financing Credit Documentation, nor any rights thereunder may be assigned by any Credit Party.
- 35. Severability:** Any provision in this Interim Financing Term Sheet or any other Interim Financing Credit Documentation which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be

ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

36. No Third Party Beneficiary:

No person, other than the Credit Parties and the Interim Lender, is entitled to rely upon this Interim Financing Term Sheet and the parties expressly agree that this Interim Financing Term Sheet does not confer rights upon any party not a signatory hereto.

37. Counterpart and Facsimile Signatures:

This Interim Financing Term Sheet may be executed in any number of counterparts and by facsimile or other electronic transmission, including via electronic mail in portable document format, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

38. Notices:

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the attention of the person as set forth below:

In the case of the Interim Lender, to:

Bank of Montreal
6th Floor, 350 - 7th Avenue SW
Calgary, Alberta T2P 3N9

Attention: Director, Special Accounts Management Unit
Email: zachary.newman@bmo.com

With a copy to:

Borden Ladner Gervais LLP
Centennial Place, East Tower
1900, 520 – 3rd Avenue SW
Calgary, Alberta T2P 0R3

Attention: Josef G.A. Kruger Q.C.
Email : jkruger@blg.com

In the case of the Borrower to:

Tradesmen Enterprises Limited Partnership
#730, 440 – 2nd Avenue S.W.
Calgary, AB T2P 5E9

Attention: Ken Krawiec and Dean Kato
Email: ken.krawiec@teigp.com
Dean.Kato@teigp.com

With a copy to:

Lawson Lundell LLP
Brookfield Place
225 6 Ave SW #1100
Calgary, AB T2P 1N2

Attention: Alexis Teasdale
Email: ateasdale@lawsonlundell.com

In either case, with a copy to the Proposal Trustee:

KSV Restructuring Inc.
150 King Street West, Suite 2308
Toronto, Ontario, M5H 1J9

Attention: Bobby Kofman and David Sieradzki
Email: bkofman@ksvadvisory.com
dsieradzki@ksvadvisory.com

Any such notice shall be deemed to be given and received when received, unless received after 5:00 pm Mountain Time or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.

**39. Security Valid
Irrespective of Time of
Advance:**

All rights, agreements, and obligations of the Credit Parties and the Interim Lender and the granting of, and the priorities of, the Interim Lender Charge and the obligations owing under the Interim Facility, will remain in full force and effect irrespective of the time of any loan or advance made to the Borrower by the Interim Lender, including whether advanced before or after or at the same time as the creation of the security interests granted hereunder or before or after or at the same time as the date of execution of this Interim Financing Term Sheet.

**40. Governing Law and
Jurisdiction:**

This Interim Financing Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein. Without prejudice to the ability of the Interim Lender to enforce this Interim Financing Term Sheet in any other proper jurisdiction, the Borrower irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Alberta, and further acknowledges and agrees that any disputes arising in respect of the Interim Financing Credit Documentation shall be heard by the Court.

(signature page follows)

IN WITNESS HEREOF, the parties hereto have executed this Interim Financing Term Sheet as at the date first referenced above.

Interim Lender:

BANK OF MONTREAL

Per: 
Name: _____
Name: Shane Klein
Title: Managing Director

Borrower:

TRADESMEN ENTERPRISES LIMITED PARTNERSHIP, by its General Partner, Tradesmen Enterprises Inc.

Per: _____
Name: _____
Title: _____

I have authority to bind the partnership

Guarantor:

TRADESMEN ENTERPRISES INC.

Per: _____
Name: _____
Title: _____

I have authority to bind the corporation

IN WITNESS HEREOF, the parties hereto have executed this Interim Financing Term Sheet as at the date first referenced above.

Interim Lender:

BANK OF MONTREAL

Per: Zachary Newman
Name: Zachary Newman
Title: Director

Borrower:

TRADESMEN ENTERPRISES LIMITED PARTNERSHIP, by its General Partner, Tradesmen Enterprises Inc.

Per: _____
Name: _____
Title: _____

I have authority to bind the partnership

Guarantor:

TRADESMEN ENTERPRISES INC.

Per: _____
Name: _____
Title: _____

I have authority to bind the corporation

IN WITNESS HEREOF, the parties hereto have executed this Interim Financing Term Sheet as at the date first referenced above.

Interim Lender:

BANK OF MONTREAL

Per: _____
Name:
Title:

Borrower:

TRADESMEN ENTERPRISES LIMITED PARTNERSHIP, by its General Partner, Tradesmen Enterprises Inc.

Per: 
Name: *Ken Krowiec*
Title: *Chief Financial officer*

I have authority to bind the partnership

Guarantor:

TRADESMEN ENTERPRISES INC.

Per: 
Name: *Ken Krowiec*
Title: *Chief Financial officer*

I have authority to bind the corporation

SCHEDULE "A"

DEFINED TERMS

In this Interim Financing Term Sheet:

“**Advance**” and “**Advances**” has the meanings given thereto in Section 8.

“**Administration Charge**” means a charge on the Collateral of the Credit Parties, granted by the Court pursuant to the Interim Lender Order, up to an aggregate amount of \$300,000, securing the payment of the reasonable fees and disbursements incurred by the Credit Parties’ counsel, the Proposal Trustee and the Proposal Trustee’s counsel in connection with the NOI Proceedings, as set forth in the Cash Flow Forecast.

“**Advance Request**” has the meaning given thereto in Section 8.

“**Application**” has the meaning given thereto in the recitals on the first page of the Interim Financing Term Sheet.

“**BIA**” has the meaning given thereto in the recitals on the first page of the Interim Financing Term Sheet.

“**Business Day**” means any day other than a Saturday, Sunday or any other day in which banks in Calgary, Alberta are not open for business.

“**Business Update**” means an executive summary prepared by senior management of the Borrower which outlines in sufficient detail, reasonably acceptable to the Interim Lender, the latest business information, claims, prospects, strategy and implementation of business matters associated with the Credit Parties and their operations for the next six (6) months from the date of issue.

“**Cash Flow Forecast**” means a rolling eight (8) week cash flow forecast of expected weekly receipts and all of the operating and capital expenditures to be made during each calendar week and in the aggregate for the period of time covered by the Cash Flow Forecast, prepared by the Borrower with the assistance of the Proposal Trustee, the form of which is attached as Schedule “B” to this Interim Financing Term Sheet, together with any subsequent detailed cash flow forecast prepared by the Borrower, with the assistance of the Proposal Trustee, and submitted by the Borrower to the Interim Lender and approved by the Interim Lender.

“**CCAA**” has the meaning given thereto in Section 14.

“**Claims**” has the meaning given thereto in Section 27.

“**Closing Fee**” has the meaning given thereto in Section 10.

“**Collateral**” means all present and after-acquired real and personal property of the Borrower and of the Guarantor.

“**Court**” has the meaning given thereto in the recitals on the first page of the Interim Financing Term Sheet.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**Event of Default**” has the meaning given thereto in Section 28.

“Existing Source Deduction” has the meaning given thereto in Section 23.

“Fulcrum” means, collectively, PEF 2010(A) Limited Partnership, PEF 2010 (B) Limited Partnership, and PEF 2010(C) Limited Partnership, each by their general partner Fulcrum Capital Partners Inc.

“Funding Conditions” has the meaning given thereto in Section 13.

“Governmental Entity” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“Indemnified Persons” has the meaning given thereto in Section 26.

“Interim Facility” has the meaning given thereto in Section 7.

“Interim Financing Credit Documentation” means this Interim Financing Term Sheet and any other documentation in respect of the Interim Facility that is requested by the Interim Lender (which shall be in form and substance satisfactory to the Interim Lender), including the Interim Financing Security.

“Interim Financing Fees and Expenses” has the meaning given thereto in Section 18.

“Interim Financing Term Sheet” means the interim financing term sheet to which this schedule is attached, together with all schedules attached hereto, as the same may be amended, amended and restated or otherwise replaced from time to time.

“Interim Financing Obligations” has the meaning given thereto in Section 12.

“Interim Financing Security” has the meaning given thereto in Section 19.

“Interim Lender” has the meaning given thereto in Section 4.

“Interim Lender Charge” has the meaning given thereto in Section 12.

“Interim Lender Order” has the meaning given thereto in Section 12.

“Liens” means all liens, hypothecs, charges, mortgages, trusts, deemed trusts (statutory or otherwise), encumbrances and security interests of every kind and nature whatsoever granted by Credit Parties, or otherwise charged, against the Collateral.

“Material Adverse Change” has the meaning given thereto in Section 28.

“Maturity Date” has the meaning given thereto in Section 14.

“Maximum Amount” has the meaning given thereto in Section 7.

“NOI Proceedings” has the meaning given thereto in the recitals on the first page of the Interim Financing Term Sheet.

“Permitted Liens” means (i) the Interim Lender Charge and the Interim Financing Security; (ii) the Administration Charge; and (iii) any charges created under the Interim Lender Order or other order of the Court in the NOI Proceedings subsequent in priority to the Interim Lender Charge, the limit and priority of each of which shall be acceptable to the Interim Lender in its sole discretion.

“**Priority Governmental Claim**” has the meaning given thereto in Section 26.

“**Proposal**” has the meaning given thereto in the recitals on the first page of the Interim Financing Term Sheet.

“**Proposal Trustee**” has the meaning given thereto in Section 22.

“**Restructuring Court Order**” and “**Restructuring Court Order**” have the meanings given thereto in Section 13.

“**Restructuring Option**” means any transaction involving the refinancing of the Borrower, the sale of all or substantially all of the assets of the Borrower (or the equity interests of the Borrower) or any other restructuring of the Borrower’s business and operations, including any liquidation, bankruptcy or other insolvency proceeding in respect of the Borrower.

“**Sale Process**” means a Court-approved sale process in respect of substantially all of the Credit Parties’ assets.

“**Taxes**” has the meaning given thereto in Section 29.

“**Withholding Taxes**” has the meaning given thereto in Section 29.

[END OF SCHEDULE]

SCHEDULE "B"
CASH FLOW FORECAST

See attached.

Tradesmen Weekly Cash Flow Forecast

<i>Canadian Dollars</i>	5-Feb	12-Feb	19-Feb	26-Feb	5-Mar	12-Mar	19-Mar	26-Mar	Cumulative Feb 5 -Mar 5	Cumulative Feb 5 -Mar 26
AR Collections - Outstanding AR	-	-	-	-	-	-	-	-	-	-
Other - Auction / Bank / Misc	1,575	-	-	-	1,575	-	-	-	3,150	3,150
Total Cash Receipts	1,575	-	-	-	1,575	-	-	-	3,150	3,150
Bank Fees	(65,000)	-	-	(8)	-	-	-	(8)	(65,008)	(65,017)
Bank Interest	-	-	-	-	-	-	-	-	-	-
Interim Financing Interest	-	-	-	(10,218)	-	-	-	(19,066)	(10,218)	(29,284)
CapEx	-	-	-	-	-	-	-	-	-	-
Credit Cards/Empl Exp	-	-	-	-	-	-	-	-	-	-
Employee Expenses	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	(10,000)	(16,000)
Office/Yard Lease	(190,198)	-	-	(1,717)	(190,198)	-	-	(1,717)	(382,113)	(383,830)
Utilities	-	(10,663)	-	-	-	(10,663)	-	-	(10,663)	(21,326)
GST/PST	-	-	-	-	-	-	-	-	-	-
Eqmt Rent	-	-	-	-	-	-	-	-	-	-
Benefits/WCB	(44,614)	-	-	(500)	(45,000)	-	-	(500)	(90,114)	(90,614)
CRA WH Tax	(42,017)	(505,561)	(28,490)	-	(16,414)	-	(16,414)	-	(592,481)	(608,895)
Dir Service Providers	(64,074)	-	(53,594)	-	(53,594)	-	(44,394)	-	(171,262)	(215,655)
Payroll	-	(54,060)	-	(34,339)	-	(34,339)	-	(27,944)	(88,399)	(150,682)
Trade Payables	(27,500)	(27,500)	(7,500)	(19,100)	(7,500)	(7,500)	(7,500)	(17,500)	(89,100)	(121,600)
Fuel	-	-	-	-	-	-	-	-	-	-
Prof Fees	(103,168)	-	-	-	(277,819)	-	-	(100,240)	(380,988)	(481,228)
Total Cash Payments	(538,570)	(599,785)	(91,584)	(67,882)	(592,525)	(54,502)	(70,308)	(168,975)	(1,890,346)	(2,184,130)
Teck Demobilization Revenue	-	805,155	-	-	-	-	-	-	805,155	805,155
Teck Demobilization Cost	-	(132,686)	(398,059)	-	-	-	-	-	(530,746)	(530,746)
Net Cashflow from Demobilization	-	672,469	(398,059)	-	-	-	-	-	274,409	274,409
Cumulative Demobilization Cashflow	-	672,469	274,409	274,409	274,409	274,409	274,409	274,409	274,409	274,409
Net Cash Increase (Decrease)	(536,995)	72,684	(489,643)	(67,882)	(590,950)	(54,502)	(70,308)	(168,975)	(1,612,787)	(1,906,571)
Weekly Funding Requirement	536,995	(72,684)	489,643	67,882	590,950	54,502	70,308	168,975		
Cumulative Funding Requirement	536,995	464,312	953,955	1,021,837	1,612,787	1,667,288	1,737,596	1,906,571	1,612,787	1,906,571
Headcount	19	16	16	16	15	13	13	13		

SCHEDULE "C"
FORM OF ADVANCE REQUEST

Date: _____, 2021

Bank of Montreal
6th Floor, 350 – 7th Avenue SW
Calgary, Alberta T2P 3N9

Attention: Director, SAMU
Email: zachary.newman@bmo.com

Dear Sirs:

We refer to the Interim Financing Term Sheet dated February 1, 2021 between Tradesmen Enterprises Limited Partnership, as borrower, Tradesmen Enterprises Inc., as guarantor, and Bank of Montreal, as interim lender (as the same may be amended, renewed, extended, modified and/or restated from time to time, the "**Loan Agreement**"). Capitalized terms used herein have the same meaning as in the Loan Agreement. The undersigned is an officer of the general partner of the Borrower and is authorized to make and deliver this notice for and on behalf of the Borrower and its general partner pursuant to the Loan Agreement.

1. We hereby give notice of our request for an Advance pursuant to the Loan Agreement, the particulars of which are as follows:
 - (a) Drawdown Date: _____
 - (b) Amount: _____
 - (c) Payment Instructions (if any): _____
2. The undersigned hereby certifies that:
 - (a) the Advance requested by this Advance Request is consistent with the Cash Flow Forecast and is within the Maximum Amount;
 - (b) the Credit Parties are in compliance with the Interim Financing Credit Documentation and all Restructuring Court Orders; and
 - (c) each term of the Interim Lender Order are in full force and effect and have not been reversed, modified, stayed or amended.
3. All of the representations and warranties of the Credit Parties pursuant to the Interim Financing Credit Documentation are true and accurate in all material respects on the date hereof.

4. There exists no Default or Event of Default on the date hereof and no Default or Event of Default will occur as a result of the Advance requested by this Advance Request.
5. No Material Adverse Change has occurred since the date of the issuance of the Interim Lender Order.
6. No Liens rank in priority to the Interim Lender Charge.

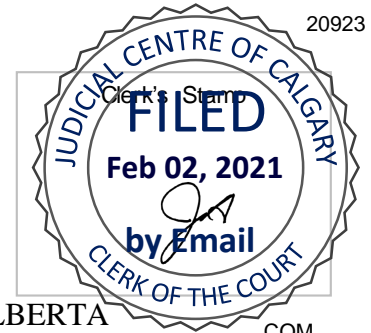
Yours very truly,

**TRADESMEN ENTERPRISES LIMITED
PARTNERSHIP, by its general partner,
Tradesmen Enterprises Inc., as Borrower**

Per: _____
Name:
Title:

Appendix “C”

ENTERED



20923

COURT FILE NUMBER

B201 2708739

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

COM
Feb 3 2021
Justice Jones

MATTER

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES LIMITED PARTNERSHIP

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES INC.

APPLICANTS

TRADESMEN ENTERPRISES LIMITED PARTNERSHIP
AND TRADESMEN ENTERPRISES INC.

DOCUMENT

**FIRST REPORT OF KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE UNDER THE
NOTICES OF INTENTION TO MAKE A PROPOSAL**

FEBRUARY 2, 2021

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

PROPOSAL TRUSTEE
KSV RESTRUCTURING INC.
150 King Street West
Suite 2308
Toronto, ON M5H 1J9

Attention: Bobby Kofman/David Sieradzki
Telephone No.: 416-932-6228/647-282-6228
Email:
bkofman@ksvadvisory.com/dsieradzki@ksvadvisory.com

COUNSEL TO PROPOSAL TRUSTEE
BENNETT JONES LLP
3400 One First Canadian Place
PO Box 130
Toronto, ON M5X 1A4

Attention: Sean Zweig/Joshua Foster
Telephone No.: 416-777-6254/416-777-7906
Email: zweigs@bennettjones.com/fosterj@bennettjones.com



**First Report to Court of
KSV Restructuring Inc. as
Proposal Trustee of
Tradesmen Enterprises Limited Partnership
and Tradesmen Enterprises Inc.**

February 2, 2021

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ESTATE FILE NOS.: 25-095189 AND 25-2708739

COURT OF QUEEN'S BENCH OF ALBERTA

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRADESMEN ENTERPRISES LIMITED PARTNERSHIP,
OF THE CITY OF CALGARY,
IN THE PROVINCE OF ALBERTA

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRADESMEN ENTERPRISES INC.,
OF THE CITY OF CALGARY,
IN THE PROVINCE OF ALBERTA

FIRST REPORT OF KSV RESTRUCTURING INC.
AS PROPOSAL TRUSTEE OF
TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND TRADESMEN ENTERPRISES
INC.

FEBRUARY 2, 2021

1.0 Introduction

1. This report (the "Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as proposal trustee (the "Proposal Trustee") in connection with Notices of Intention to Make a Proposal ("NOI") filed by Tradesmen Enterprises Limited Partnership ("TELP") and Tradesmen Enterprises Inc. ("TEI") (together, the "Company") on February 1, 2021 pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"). Copies of the certificates of filing issued by the Office of the Superintendent of Bankruptcy are provided in Appendix "A".
2. The affidavit of Dean Kato, the President and CEO of the Company, sworn on February 1, 2021 (the "Affidavit") provides, *inter alia*, the Company's history and the background to these proceedings and, accordingly, that information is not repeated in this Report. The Affidavit is included with the Company's application materials.
3. The principal purposes of these proceedings are for the Company to:
 - a) obtain a stay of proceedings so that the Company is afforded the necessary breathing space to expediently advance its construction lien litigation against Teck Coal Limited ("Teck") and other parties, as detailed in the Affidavit;
 - b) seek approval of a senior ranking court-ordered charge to secure interim financing required for the Company to pursue its litigation and to fund its operations; and
 - c) have the opportunity to formulate and make a proposal to its creditors.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company;
 - b) discuss the purpose of these proceedings;
 - c) discuss the Company's need for interim financing, which is to be provided through a facility dated February 1, 2021 between the Company and Bank of Montreal ("BMO") (the "Interim Financing Facility") in the maximum principal amount of \$1.9 million, as well as a charge (the "Interim Financing Charge") over the Company's property, assets and undertakings (collectively, the "Property") in favour of BMO for its advances to the Company under the Interim Financing Facility;
 - d) discuss the rationale for a charge in the amount of \$300,000 on the Property (the "Administration Charge") as protection for the fees and disbursements of the Proposal Trustee, the Proposal Trustee's counsel, Bennett Jones LLP ("Bennett Jones"), and the Company's counsel, Lawson Lundell LLP ("Lawson");
 - e) provide the basis for the Proposal Trustee's support of the Company's application for the Interim Financing Charge and the Administration Charge, including the reasons the Proposal Trustee believes it is appropriate for the charges to have priority over all of the Company's existing creditors and other stakeholders;
 - f) discuss the rationale for the proposed administrative consolidation of the NOI proceedings of TELP and TEI; and
 - g) recommend that this Honourable Court make an order approving the Interim Financing Facility, the Interim Financing Charge, the Administration Charge (and their proposed priorities) and the administrative consolidation of TELP's and TEI's estates.

1.2 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Company, the Company's books and records and discussions with the Company's management, legal counsel and majority owner, Fulcrum Capital Partners Inc. ("Fulcrum"). The Proposal Trustee has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*.
2. The Proposal Trustee expresses no opinion or other level of assurance with respect to the financial information presented in this Report or relied upon by the Proposal Trustee in preparing this Report. Any party wishing to place reliance on the Company's financial information should perform its own diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.

1.3 KSV's Prior Mandate

1. On January 13, 2021, KSV¹ was engaged by TELP to assist it to, *inter alia*, consider its restructuring options. KSV's engagement letter contemplates that, in the event it is appointed as a court officer in any insolvency proceeding involving the Company, its engagement would terminate immediately prior to such appointment and thereafter KSV's duties and obligations would be governed by statute and by any court order appointing it.
2. In carrying out its advisory mandate, KSV obtained background information concerning the Company's business, financial position and liquidity challenges.

2.0 Background

1. All of the Company's operations are performed by TELP. TEI is the General Partner of TELP and does not conduct any active business operations.
2. The Company is a mechanical contractor specializing in facility and pipeline construction, piping and structure fabrication, module assembly and maintenance projects. The Company operates from two leased premises in Alberta: its head office is located in Calgary and its fabrication operations are performed from a facility in Grande Prairie. The Company's workforce is not unionized and the Company does not maintain any registered pension plans.
3. Pursuant to an agreement dated May 28, 2019 (the "Teck Contract"), Teck retained the Company to act as the general contractor to construct the Fording River Operations Active Water Treatment Facility (South Project) located near Elkford, British Columbia (the "Project").
4. Since being awarded the Teck Contract, the Project has become the Company's central focus and in recent months represented the only material contract being performed by the Company. The Project is substantially over-budget – the Teck Contract originally had a budget of \$32 million and is now projected to have a total cost of approximately \$140 million. The Proposal Trustee has been advised that Teck presently has an approved budget of approximately \$101 million for the Project. The Company has issued approximately 900 change order requests to Teck in respect of the Project, all resulting from changes to the Project that were requested by Teck.
5. By letter dated January 11, 2021, Teck terminated the Teck Contract. Since the contract termination, the Company has, *inter alia*:
 - a) sent a letter to Teck disputing its contract termination;
 - b) filed a claim of builders lien in the amount of approximately \$48.6 million (the "Lien");

¹ KSV's affiliate, KSV Advisory Inc., was engaged for this advisory mandate. KSV is a wholly-owned subsidiary of KSV Advisory Inc.

- c) registered the Lien against lands associated with the Project including real property owned by each of Canadian Pacific Limited and the Province of British Columbia, and a statutory right of way registered in favour of FortisBC Energy Inc. (the “3rd Party Lands”). Each of these parties will be notified by the Company that they will be named in, and be parties to, the Company’s litigation with Teck in respect of the Liens; and
 - d) sent a letter to Fluor Canada Ltd. (“Fluor”), the engineering consultant on the Project, advising that the Company intends to commence an action against it.
6. The Proposal Trustee understands that the Company is presently processing invoices and updating its books and records in respect of its accounting for the Project. The Company expects that the amounts owing from Teck will increase materially and that it will lien the same 3rd Party Lands for such amounts.
7. The Company’s business and operations have been severely affected by the termination of the Teck Contract. The Company has reduced its number of employees from approximately 614 in early January to 32 as at the date of this Report. The Company expects to further reduce the number of its employees in the coming weeks. The Company’s principal focus is now pursuing its litigation.
8. BMO is the Company’s operating lender and largest creditor. BMO is presently owed approximately \$25 million, plus interest and costs, which continue to accrue. The Company is in default of its credit facility with BMO. TEI is the guarantor under BMO’s credit facility with TELP. On January 14, 2021, BMO issued a demand and notice of intention to enforce security under section 244 of the BIA. Since that time, the Company has been working with BMO to consider restructuring options and how to most effectively advance its litigation. In the context of those discussions, BMO has agreed to provide financing to the Company under the Interim Financing Facility, conditional upon, among other things, receipt of the Interim Financing Charge.
9. Additional information about the Company is included in the Affidavit. Court materials filed in these proceedings will be made available on the Proposal Trustee’s website at <https://www.ksvadvisory.com/insolvency-cases/case/tradesmen-enterprises>.

3.0 Financial Position

3.1 Assets

1. The Company’s principal asset is the amount owing from Teck in respect of work performed on the Project. The Proposal Trustee understands that the Company has not been paid by Teck since December 11, 2020.
2. In addition to the Company’s lien litigation, the Company’s next most significant assets are its capital assets, which are comprised of fabrication and other equipment, tooling and rolling stock. An appraisal of these assets is in process as at the date of this Report.

3.2 Liabilities

- Based on the Company's books and records, creditor obligations totalled approximately \$45.7 million as at January 22, 2021. A summary of the Company's liabilities is provided in the table below.

Liability	Note	(Unaudited) Amount (\$000's)
Canada Revenue Agency ("CRA")	a	505
BMO debt	b	24,355
Shareholder loan	c	1,814
Sub-contractor obligations	d	16,886
Other	e	2,148
Total		45,708

Notes:

- The Proposal Trustee understands that the Company withheld, but did not remit, source deductions on a payroll processed in December 2020. This obligation appears to be a deemed trust claim in favour of CRA and is to be paid in the near term. This amount is to be funded from the Interim Financing Facility.
- The BMO debt is a revolving loan facility secured against all of the Property. The Company's borrowings under this facility exceed the authorized limit of the facility, being \$23 million.
- The shareholder loan was advanced on a secured basis by Fulcrum and presently totals approximately \$1.8 million, including interest. Fulcrum has also provided a partial guarantee of the BMO debt.
- Sub-contractor obligations represent amounts owing to parties who provided work or materials to the Project and as such may have lien rights. Certain of the parties have placed liens on the Project and the 3rd Party Lands. The sub-contractors who provided work or materials to the Project may also have trust claims against funds paid to the Company in respect of the Project. Amounts owing to sub-contractors are summarized in the table below.

Sub-contractor	Amount (\$000's)
Techmation Electric & Controls Ltd.	11,036
CIF Construction Ltd.	2,094
Industrial Scaffold Services LP	1,418
Alberta Pipe Support & Fabrication Inc.	434
Transcendent Mining & Mobilization Inc.	291
Other (17 sub-contractors)	1,613
Total	16,886

- Other vendor obligations include amounts owing to equipment lessors, transport companies and other suppliers and service providers.

4.0 Court-Ordered Charges

4.1 Interim Financing Charge²

1. The Company is in default of its credit agreement with BMO. Since the termination of the Teck Contract, BMO has continued to make advances to the Company while the Company considered its restructuring options. BMO has advised that it requires the benefit of a court-ordered priority charge for any further advances to the Company. Absent additional financing, the Company will not have the ability to continue to fund its costs, the professional fees associated with its litigation and these proceedings. The Company cannot currently meet its obligations as they come due.
2. BMO has agreed to fund these proceedings under the Interim Financing Facility subject to the granting of the Interim Financing Charge. The Interim Financing Charge is proposed to rank in priority to all other creditors, except for the priority contemplated to be afforded to the proposed Administration Charge. The terms of the Interim Financing Facility are set out in a term sheet dated February 1, 2021 (the "Term Sheet"). The final Term Sheet, or a substantially final copy of it, is attached as an exhibit to the Affidavit. If the finalized version is not attached to the Affidavit, it is expected that it will be provided to interested parties in advance of the return of the Company's application.
3. The principal terms of the Interim Financing Facility are as follows:
 - a) Description of Facility: Senior secured super priority, interim, revolving credit facility of \$1.9 million, subject only to the Administration Charge.
 - b) Maturity Date: The earliest of: (i) the occurrence of any Event of Default which is continuing and has not been cured to BMO's satisfaction; (ii) the implementation of a proposal which has been approved by the court and the requisite majorities of the Company's creditors, including BMO; (iii) the conversion of the NOI proceedings into a proceeding under the *Companies' Creditors Arrangement Act*, absent BMO's approval; (iv) the conversion of the NOI proceedings into a receivership under the BIA; (v) the sale of all or substantially all of the Property; and (vi) March 3, 2021. All amounts outstanding under the Interim Financing Facility are payable in full on the Maturity Date, including all accrued interest and other amounts, fees and costs.
 - c) Interest Rate: 12% per annum, which shall accrue daily on the aggregate outstanding principal advanced under the Interim Financing Facility and shall be calculated and payable in arrears on the first Business Day of each month. The default rate of interest is 16%.
 - d) Closing Fee: \$65,000, which is payable on the date BMO makes the Initial Advance.

² Terms not defined in this section have the meaning provided to them in the term sheet dated February 1, 2021 to the Interim Financing Facility unless otherwise defined herein.

- e) Security and Priority: A court-ordered super-priority charge on the Company's Property. All obligations, other than the Administration Charge, are proposed to be subordinate to the Interim Financing Charge, including all construction trusts and lien claims that may be asserted by the Company's sub-contractors.
- f) Conditions: The conditions precedent include, among others, the following:
 - i. BMO's satisfaction with all material documents filed in respect of the proposed court order regarding the Interim Financing Facility and Charge;
 - ii. the court issuing the proposed order and granting the Interim Financing Charge;
 - iii. BMO's receipt of, and satisfaction with, the initial Cash Flow Forecast;
 - iv. BMO's receipt of, and satisfaction with, the initial Business Update from the Company;
 - v. BMO's receipt of, and satisfaction with, an executed copy of a consent Receivership Order; and
 - vi. the absence of any liens ranking in priority to the Interim Financing Charge over the Property, other than the Administration Charge.
- g) Reporting: The Company shall deliver rolling cash flow projections and variance reports on a weekly basis. Further, the Company will, among other things, provide an update to the initial Business Update on February 16, 2021.
- h) Events of Default: Events of Default include, *inter alia*, the following:
 - i. failure of Fulcrum to pay BMO on or before February 9, 2021 the amount of its guarantee of the BMO debt;
 - ii. the aggregate amount of all Priority Governmental Claims outstanding, except for the Existing Source Deduction, at any time exceeding \$100,000;
 - iii. a Material Adverse Change, which includes: (i) the making of a Restructuring Court Order; and (ii) a liability arising or an event occurring, including any change in the Collateral, business, assets, or conditions (financial or otherwise), of a Credit Party, that will, in BMO's judgment, acting reasonably, materially impair: (A) BMO's ability to recover the amounts owed to it by the Credit Parties, or (B) a Credit Party's financial condition or ability to comply with its obligations under the Interim Financing Facility, any other Interim Financing Credit Documentation, the Interim Lender Order, or any Restructuring Court Order, or carry out a Proposal or Restructuring Option reasonably acceptable to BMO;

- iv. if a Cash Flow Forecast or any update thereof contemplates or forecasts an adverse change or changes from the then existing Cash Flow Forecast and such change(s) constitute a Material Adverse Change, or any updated Cash Flow Forecast forecasts that borrowings under the Interim Financing Facility will exceed the Maximum Amount at any time (unless and until BMO consents to increase the Maximum Amount, which shall be in BMO's sole and absolute discretion);
 - v. if a Business Update or any update thereof contemplates or forecasts an adverse change or changes from the initial Business Update and such change(s) constitute a Material Adverse Change; and
 - vi. failure of the Company to perform or comply with any other term or covenant under the Interim Financing Facility or any other Interim Financing Credit Documentation, and such default shall continue unremedied for a period of five Business Days from the breach first occurring.
- i) Prepayment: Upon five days' prior written notice, the Company may prepay any amounts outstanding under the Interim Financing Facility at any time prior to the Maturity Date, without any prepayment fee or penalty.

4.2 Administration Charge

1. The Company is seeking court approval of an Administration Charge in the amount of \$300,000 as protection for the fees and disbursements of the Proposal Trustee, Bennett Jones and Lawson. The Administration Charge provides security to these professionals in the event that these proceedings are terminated and such professionals have not been paid in full at the date of termination.
2. An Administration Charge is a common feature in restructuring proceedings. The Proposal Trustee is of the view that the Administration Charge is appropriate in this case due to the Company's lack of liquidity and the need for assistance from the beneficiaries of the Administration Charge. The Administration Charge is to have a senior ranking charge on the Company's Property, including in priority to the Interim Financing Charge and the potential trust and lien claims in favour of the Company's sub-contractors.
3. For the reasons set out below, the Proposal Trustee believes it is appropriate for the Administration Charge to rank in priority to all claims against the Company.

4.3 Recommendation

1. The Proposal Trustee has considered the factors set out in subsection 50.6(5) of the BIA with respect to the granting of an order for interim financing and a charge related thereto. The Proposal Trustee believes that the terms of the Interim Financing Facility are reasonable and that the Interim Financing Charge and Administration Charge should be granted for the following reasons:
 - a) the Interim Financing Facility and the corresponding Interim Financing Charge enhance the prospect that the Company will be able to successfully restructure;

- b) the Company is without liquidity to fund these proceedings and its litigation against Teck. The litigation is complex – it involves a Project with an estimated cost to complete that has increased by more than \$100 million since its outset by the issuance of approximately 900 change order requests, many of which were approved and others which are pending approval. There were also approximately 1,700 requests for information (“RFIs”) on the Project. The involvement of management and Company personnel with intimate knowledge of the Project, the documentation supporting each change order request and change order, the RFIs and the Project accounting is critical to the successful outcome of the litigation. The Interim Financing Facility is necessary to fund these costs;
- c) absent the Interim Financing Facility, the Company will have no ability to pursue its lien litigation with Teck to the prejudice of all of the Company’s stakeholders, including BMO, Fulcrum and sub-contractors who have claims against the Company;
- d) the Administration Charge and the Interim Financing Charge are proposed to rank in priority to trust and lien claims in favour of the Company’s sub-contractors. In this regard:
 - i. in the circumstances, the proposed priority of the Interim Financing Charge is necessary as no commercially reasonable lender can be expected to provide the financing urgently required by the Company subordinate to the Company’s existing obligations;
 - ii. the Proposal Trustee believes the Interim Financing Facility is in the best interest of all of the Company’s stakeholders, including sub-contractors, as the Interim Financing Facility is integral to fund the costs associated with the Lien litigation and the Company’s operations so that there may be a recovery for the Company’s sub-contractors, which would be made available through a proposal or otherwise; and
 - iii. in an immediate liquidation of the Company, creditors are unlikely to have any material recovery and it is unclear whether sub-contractors will be able to recover on any trust claims that arise;
- e) in the Proposal Trustee’s view, the commercial terms of the Interim Financing Facility are reasonable. The closing fee (\$65,000) and the rate of interest (12%) are consistent with the costs of DIP financing facilities approved by Canadian courts in formal insolvency proceedings as reflected in a DIP loan summary schedule as of January 4, 2021, a copy of which is attached as Appendix “B”. The Proposal Trustee is also cognizant of the risks associated with financing construction litigation and believes that the rate of interest under the Interim Financing Facility is reflective of that risk;
- f) the Proposal Trustee has reviewed the Company’s cash flow forecast which supports the Interim Financing Facility (which is attached as an exhibit thereto) and believes that its underlying assumptions are reasonable;

- g) the Company's principal economic stakeholders, being BMO and Fulcrum, have advised that they consent to the relief being sought by the Company; and
- h) in the Proposal Trustee's view, these proceedings cannot advance without funding under the Interim Financing Facility and the professionals involved require certainty that their fees will be paid.

5.0 Administrative Consolidation

1. The Company is seeking an order to administratively consolidate the NOI proceedings into one estate.
2. As the consolidation is for administrative purposes only, TELP and TEI would remain separate for the purpose of a claims process, filing a proposal or making distributions to creditors.
3. The Company and the Proposal Trustee believe that administratively consolidating the proceedings is appropriate as:
 - a) TEI is an inactive holding company with no business operations or assets other than its partnership interest in TELP;
 - b) it will facilitate the orderly administration of these proceedings;
 - c) TEI and TELP have common ownership and management; and
 - d) it will significantly reduce professional costs, including by filing materials in one proceeding only.

6.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 (1)(g) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND
TRADESMEN ENTERPRISES INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “D”

Tradesman Enterprises Limited Partnership and Tradesmen Enterprises Inc.
Projected Statement of Cash Flows
For the Period Ending April 16, 2021
(Unaudited, \$CAD)

	Note	26-Feb-21	05-Mar-21	12-Mar-21	19-Mar-21	26-Mar-21	02-Apr-21	09-Apr-21	16-Apr-21	Total
<i>Receipts</i>										
Sundry Receipts	1	-	1,575	-	-	-	1,575	-	-	3,150
Total Receipts		-	1,575	-	-	-	1,575	-	-	3,150
<i>Disbursements</i>										
Payroll Withholding Taxes	2	-	521,975	-	13,268	-	12,382	-	12,415	560,040
Rent and Occupancy Costs	3	-	190,607	-	2,151	-	190,807	-	2,151	385,515
Payroll and Benefits	4	73,601	8,500	28,758	1,000	51,904	20,000	25,973	1,000	210,736
Direct Service Providers	5	-	53,594	-	41,200	-	29,200	-	29,200	153,194
Payments to Suppliers	6	14,393	(0)	28,900	26,900	24,400	15,400	8,500	27,500	143,992
Total Operating disbursements		87,993	774,675	55,658	84,519	76,304	267,589	34,473	72,266	1,453,478
Net Cash Flow before the Undemoted		(87,993)	(773,100)	(55,658)	(84,519)	(76,304)	(266,014)	(34,473)	(72,266)	(1,450,328)
Professional Fees	7	2,822	269,839	-	-	-	271,110	-	-	543,771
Interest and Bank Fees	8	-	37,157	-	-	16,391	-	-	-	53,548
Net Cash Flow		(90,816)	(1,080,096)	(55,658)	(84,519)	(92,695)	(537,124)	(34,473)	(72,266)	(2,047,647)
Interim Financing Balance (net of cash on deposit)		(728,563)	(819,379)	(1,899,475)	(1,955,133)	(2,039,652)	(2,132,347)	(2,669,470)	(2,703,944)	(728,563)
Net Cash Flow		(90,816)	(1,080,096)	(55,658)	(84,519)	(92,695)	(537,124)	(34,473)	(72,266)	(2,047,647)
Interim Financing Balance, ending		(819,379)	(1,899,475)	(1,955,133)	(2,039,652)	(2,132,347)	(2,669,470)	(2,703,944)	(2,776,210)	(2,776,210)

The above financial projections are based on management's assumptions detailed in Appendix "1-1".
The note references correspond to the assumption numbers shown in Appendix "1-1".

TRADESMAN ENTERPRISES LP
TRADESMAN ENTERPRISES INC.


Per: _____

February 23, 2021
Date

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL AND NOT
IN ITS PERSONAL CAPACITY


Per: _____

February 23, 2021
Date

Notes to Projected Statement of Cash Flow

For the Period Ending April 16, 2021

(Unaudited; \$CAD)

Purpose and General Assumptions

1. The purpose of the projection is to present a forecast of the cash flow of Tradesman Enterprises Limited Partnership and Tradesmen Enterprises Inc. ("TEI") (jointly, the "Company") for the period February 22, 2021 to April 16, 2021 (the "Period").

TEI, being an inactive holding company with no business operations, is not projected to have any cash flow activity during the Period.

Hypothetical and Most Probable Assumptions

2. Reflects the Company's payroll source deduction obligations paid to Canada Revenue Agency during the Period.
3. Reflects the Company's occupancy costs for its Calgary and Grande Prairie leased premises.
4. Reflects the Company's payroll and benefits costs incurred during the Period.
5. The Company's direct service providers are projected to be paid on a bi-weekly basis in accordance with past practice.
6. Reflects payments to vendors during the Period, including the Company's insurance and IT service providers.
7. Reflects estimated professional fees of the Proposal Trustee, its counsel and the Company's counsel.
8. Reflects interest and fees payable under the court-approved interim financing facility between the Company and Bank of Montreal.

**Report on Cash Flow Statement by the Person Making the Proposal
(Paragraphs 50(6)(c) and 50.4(2)(c) of the BIA**

The management of Tradesmen Enterprises Limited Partnership and Tradesmen Enterprises Inc. (jointly, the "Company") has developed the assumptions and prepared the attached statement of projected cash flow of the Company for the period ending April 16, 2021.

The hypothetical and probable assumptions are suitably supported and consistent with the purpose of the projection and the plans of the Company and provide a reasonable basis for the projection. All such assumptions are disclosed in the notes to the cash flow statement.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in Note 1, using a set of hypothetical and probable assumptions set out in the Notes 2 to 8. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, this 22nd day of February, 2021.

Tradesmen Enterprises Limited Partnership
and Tradesmen Enterprises Inc.

Per. 
Ken Krawiec

Appendix “E”

**Trustee's Report on Cash-flow Statement
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)**

The attached statement of projected cash-flow of Tradesmen Enterprises Limited Partnership and Tradesmen Enterprises Inc. (jointly, the "Company"), as of the 23rd day of February, 2021, consisting of a weekly cash flow statement for the period February 22, 2021 to April 16, 2021, has been prepared by the management of the insolvent person for the purpose described in Note 1, using the probable and hypothetical assumptions set out in Notes 2-8.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by the management and employees of the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in Note 1 and readers are cautioned that it may not be appropriate for other purposes.

Dated this 23rd day of February, 2021.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND
TRADESMEN ENTERPRISES INC.
AND NOT IN ITS PERSONAL CAPACITY**