

NOVA SCOTIA BANKRUPTCY COURT
IN THE MATTER OF THE PROPOSAL OF
BLUE WAVE SEAFOODS INC.

OF THE VILLAGE OF PORT MOUTON
IN THE PROVINCE OF NOVA SCOTIA

PROPOSAL

Blue Wave Seafoods Inc. ("Blue Wave"), an insolvent corporation, hereby submits the following Proposal pursuant to Section 50 of the *Bankruptcy and Insolvency Act* (Canada).

PART I
INTERPRETATION

Definitions

1. In this Proposal, the following items have the meanings herein set out:
 - a. "Assets" means the assets being sold to Newco, including all accounts receivable except accounts with balances greater than 90 days due, inventory, the processing facility and related equipment and land parcels owned by Blue Wave;
 - b. "BIA" means the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c.B-3, as amended;
 - c. "Bluenose" means Bluenose Seafood Inc., the prospective investor funding Newco for the purchase of the Assets of Blue Wave, subject to a Vesting Order granted by the Court;
 - d. "Blue Wave" and "Company" means Blue Wave Seafoods Inc., an insolvent corporation, with a head office located in Port Mouton, Nova Scotia;
 - e. "BMO" means the Bank of Montreal, a Chartered Bank;
 - f. "Claim" means any indebtedness, liability, action, cause of action, suit, debt due, account, bond, covenant, contract, counterclaim, demand, claim, right and obligation of any nature whatsoever of Blue Wave other than a secured creditor to any person, whether liquidated, unliquidated, fixed, contingent, matured, legal, equitable, present, future, known or unknown and whether by guarantee, surety or otherwise, incurred or arising or relating to the period prior to the NOI Date, or based in whole or in part on facts, contracts or arrangements which occurred or existed prior to the NOI Date, together with any other claims provable in bankruptcy had Blue Wave become bankrupt on the NOI Date, including without repudiation, disclaimer or termination of any lease, license, contract, arrangement or contract of employment prior to the NOI Date, providing that all claims shall be allowed without allowance for interest after the NOI Date (except as otherwise provided for in this Proposal) and without allowance for penalties and net of any normal discounts. All claims must be converted to Canadian Dollars as of November 15, 2013;
 - g. "Convenience Class" means the first \$1,000 of any Unsecured Creditor's Proven Claim;
 - h. "Court" means the Supreme Court of Nova Scotia, in Bankruptcy and Insolvency;



- i. "Court Approval Order" means the final order of the Court approving this Proposal in accordance with Section 60 of the BIA;
- j. "Creditors" means the Secured, Preferred and Unsecured Creditors of Blue Wave, and for greater certainty does not include Subsequent Creditors in respect of only the amounts described in Paragraph 12 hereof;
- k. "Deferred Creditor" means an Unsecured Creditor that is related to the Company in accordance with Section 4 of the BIA;
- l. "Distributable Free Cash Flow" means, in respect of any Fiscal Year, earnings before taxes and depreciation, calculated in accordance with generally accepted accounting principles, less taxes payable and principal amounts required to be paid on account of Newco's indebtedness to its term lending institution;
- m. "D'Eon Fisheries" means D'Eon Fisheries Limited, an affiliate company of Blue Wave;
- n. "Estate" means the estate of Blue Wave under this Proposal pursuant to the BIA;
- o. "Effective Date" means the date seven days after the Court Approval Order and the expiration of all appeals;
- p. "Event of Default" means when any of the following occur:
 - i. Failure to pay a Creditor the amounts to be repaid in accordance with the terms hereof; and
 - ii. Statutory defaults under the BIA.
- q. "Filing Date" means February 17, 2014, the date on which Blue Wave filed this Proposal with the Official Receiver in Halifax, Nova Scotia;
- r. "Fiscal Year" means Newco's fiscal year ending at a date to be determined;
- s. "Fund" means monies provided by Newco to the Proposal Trustee in order to satisfy the Proven Claims of the Creditors pursuant to the terms of this Proposal;
- t. "Inspector" means any persons appointed or elected as Inspectors of Blue Wave pursuant to paragraph 21 of this Proposal;
- u. "Lien" means any mortgage, charge, pledge, assignment by way of security, lien, hypothec, security interest, deemed trust or other encumbrance granted or arising pursuant to a written agreement or statute of otherwise created by law;
- v. "Newco" means an entity incorporated by Bluenose to acquire and operate certain assets of Blue Wave;
- w. "NOI Date" means November 15, 2013, the date which Blue Wave filed its Notice of Intention to File a Proposal with the Official Receiver;
- x. "NSBI" means a Corporation established pursuant to the Nova Scotia Business Incorporated Act;



- y. "Preferred Creditors" means those persons with Claims against Blue Wave provable pursuant to the BIA as of the NOI Date whose Claims are entitled to be paid in priority to the claims on Unsecured Creditors as provided in Section 136 of the BIA;
- z. "Priority Creditors" means a Creditor with a Proven Claim that ranks in priority to the Proven Claims of Secured Creditors pursuant to the BIA or other legislation;
- aa. "Proposal" means this Proposal of Blue Wave under the BIA, as amended or supplemented from time to time;
- bb. "Proposal Period" means the period between the Filing Date and the Effective Date;
- cc. "Proposal Trustee" and "Deloitte" means Deloitte Restructuring Inc, a licensed trustee of Nova Scotia, the Proposal Trustee acting in the Proposal of Blue Wave;
- dd. "Proven Claim" means a provable claim pursuant to the BIA against Blue Wave as of the NOI Date of a Creditor in respect of its Claim which has been proven in accordance with the provisions of the BIA;
- ee. "Secured Creditors" includes BMO and NSBI;
- ff. "Subsequent Creditor" means a person who provided goods and services on credit to Blue Wave subsequent to the NOI Date to and including the Effective Date, and employees of Blue Wave employed subsequent to the NOI Date to and including the Effective Date;
- gg. "Unsecured Creditors" means those persons with ordinary unsecured Claims (including contingent claims) provable pursuant to the BIA against Blue Wave as at the NOI Date which are not preferred pursuant to Section 136 of the BIA; and
- hh. "Vesting Order" means the order granted by the Court approving the sale and vesting title of Blue Wave's Assets in Newco free and clear of encumbrances.

Headings

- 2. The division of this Proposal into parts, paragraphs and sub-paragraphs, and the insertion of headings herein, is for the convenience of reference only and is not to affect the construction or interpretation of this Proposal. Unless otherwise provided in this Proposal, references herein to parts, paragraphs and sub-paragraphs are references to parts, paragraphs and sub-paragraphs of this Proposal.

Number, etc.

- 3. In this Proposal, where the context requires a word importing the singular includes the plural and vice versa, and a word importing gender includes the masculine, feminine and neutral genders.

Successor and Assigns

- 4. This Proposal will be binding upon and will ensure to the benefit of the heirs, administrators, executors, personal representatives, successors and assigns of all persons named or referred to herein including, without limitation, all Creditors.



**PART II
PURPOSE AND EFFECT OF THE PROPOSAL**

Purpose of Proposal

5. The purpose of this Proposal is to effect a restructuring of the business and affairs of Blue Wave in the expectation that the Creditors as a whole will derive a greater return than would result from a forced liquidation of its assets.

Effect of Proposal

6. This Proposal restructures the affairs of Blue Wave and amends the terms of any and all agreements between Blue Wave and the Creditors existing as at the Effective Date to the extent affected by the Proposal, and provides the essential terms on which all Claims will be fully and finally resolved and settled. During the Proposal Period, the provisions of Section 69.1 of the BIA shall be in effect. Without limiting the generality of the foregoing, during the Proposal Period all Creditors will be stayed from commencing or continuing any proceeding or remedy against Blue Wave or any of its property or assets in respect of a Claim, including, without limitation, any proceeding or remedy to recover payment of any monies owing to Creditors, to recover or enforce any judgment against Blue Wave in respect of a Claim or commence any formal proceedings against it in respect of a Claim other than as provided under the Proposal.

Persons Affected

7. This Proposal will, as of the Effective Date, be binding on Blue Wave and all Creditors in the manner provided for in this Proposal and the BIA.

**PART III
RESTRUCTURING OF BLUE WAVE**

8. Bluenose will incorporate Newco to purchase the Assets of Blue Wave. Newco will make a payment to the Proposal Trustee for ultimate distribution to Creditors in consideration for the Assets, as follows:
 - i. An amount to be determined for payment in full of Subsequent Creditor's claims against Blue Wave as at the Effective Date in accordance with Part V of this Proposal;
 - ii. An amount to be determined for payment in full of Priority Claims outstanding against Blue Wave as at the Effective Date in accordance with Part VI of this Proposal;
 - iii. An amount to be determined for payment in full of BMO's advances to Blue Wave (which includes amounts due from D'Eon Fisheries, all of which were guaranteed by Blue Wave and secured against its assets) as at the Effective Date in accordance with Part VII of this Proposal;
 - iv. An amount to be determined for full and final settlement of NSBI's claims against Blue Wave in accordance with Part VII of this Proposal;
 - v. An amount to be determined for full and final settlement of all Unsecured Creditors' claims against Blue Wave as at the NOI Date, in accordance with Part VIII of this Proposal; and
9. The levy payable to the Superintendent of Bankruptcy by virtue of the provisions of subsection 147(1) of the BIA shall be payable on all distributions made pursuant to the terms of this proposal, including the consideration to be received by Preferred Creditors and Unsecured Creditors



pursuant to Part VIII but not on the consideration to be received by the Subsequent Creditors, the Priority Creditors or the Secured Creditors pursuant to Part's V, VI and VII, respectively.

**PART IV
CLASS OF CREDITORS AND VOTING**

10. For the purposes of voting on this Proposal, there shall be two classes of Secured Creditors to which this Proposal is made, being:
 - i. Class One which shall include BMO which holds a general security agreement over all assets of Blue Wave;
 - ii. Class Two which shall include NSBI which holds a fixed and floating debenture over all assets of Blue Wave. NSBI will vote for its entire Proven Claim in Class Three. The portion of NSBI's advances in excess of the distribution pursuant to this Proposal will not be voted upon within the Unsecured Creditor class.
11. For the purposes of voting on this Proposal, there shall be one class of Unsecured Creditors. Class Three shall consist of all of the Preferred Creditors, Unsecured Creditors and Deferred Creditors.

**PART V
SUBSEQUENT CREDITORS**

12. Amounts owed by Blue Wave to Subsequent Creditors for goods, services and employment actually provided to Blue Wave, subsequent to the NOI Date, to and including the Effective Date, but not for damages, severance or termination or other claims arising, will be paid on the Effective Date.

**PART VI
PRIORITY CREDITORS**

13. All Priority Claims as at the Effective Date will receive a cash payment to be made on the Effective Date for full and final settlement of such Claims.

**PART VII
SECURED CREDITORS**

CLASS ONE

Bank of Montreal

14. In consideration of BMO's outstanding advances and its associated security as at the Effective Date, BMO will receive a cash payment to be made on the Effective Date for payment in full of all amounts due from Blue Wave to BMO.

CLASS TWO

Nova Scotia Business Inc.

15. In consideration of NSBI's outstanding advances and its associated security (which includes amounts due from D'Eon Fisheries, all of which were guaranteed by Blue Wave and secured against its assets) as at the Effective Date, NSBI will elect one of the following options for full and final settlement of its advances outstanding to Blue Wave:



- i. \$100,000 cash payment to be made on the Effective Date; or
 - ii. \$150,000 of indebtedness to be assumed by Newco payable to NSBI over five Fiscal Years under credit terms consistent with NSBI's current fixed and floating debenture with Blue Wave.
16. By acceptance of this Proposal, NSBI shall be deemed to have released all of their claims under personal guarantees of the obligations of Blue Wave given by Sylvain D'Eon and Patricia D'Eon.

PART VIII UNSECURED CLAIMS

Preferred Claims and Mandatory Payments

17. Proven Claims of Preferred Creditors as of the NOI Date shall be paid in full, without interest, in priority to the claims of Unsecured Creditors, as follows:
- i. Proven Claims of current and former employees equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA if Blue Wave became bankrupt on the NOI Date, shall be paid on the Effective Date, without interest. For greater certainty, amounts due or which may become due pursuant to this paragraph do not include claims for severance or termination.
 - ii. Proven Claims as of the NOI Date of Her Majesty in right of Canada or a province of a kind that could be subject to a demand under Section 224(1.2) of the *Income Tax Act* (Canada) or under any substantially similar provision of provincial legislation, shall be paid by Blue Wave on the Effective Date; and
 - iii. Proven Claims as of the NOI Date of the other Preferred Creditors shall be paid in full (without interest subsequent to the date of the filing of the NOI) in priority to all claims of Unsecured Creditors on the Effective Date in the manner as may be arranged with the Preferred Creditors but prior to any payments to the Unsecured Creditors.

Trustee Fees and Expenses

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

Unsecured Creditors

19. Proven Claims of Unsecured Creditors as of the NOI Date, not including Proven Claims of Deferred Creditors, shall be paid as follows:
- i. The Convenience Class portion of the claim will be paid in full, without interest;
 - ii. In consideration of the portion of Proven Claims of Unsecured Creditors not paid within the Convenience Class, Unsecured Creditors will elect one of the following options for full and final settlement of its outstanding advances to Blue Wave;



- a. 10% of the Proven Claim less payment made through the Convenience Class, without interest, from the Fund; or
 - b. 25% of Proven Claim less payment made through the Convenience Class, without interest, payable from Distributable Free Cash Flow generated by Newco over the next 5 Fiscal Years, limited to 30% of Distributable Free Cash Flow of Newco in any given Fiscal Year.
20. Deferred Creditors shall not receive any distribution in this Proposal.

PART IX INSPECTORS

Appointment of Inspectors

21. At the statutory meeting of Creditors to consider this Proposal, such Creditors may appoint up to five Inspectors and such Inspectors shall have the powers as set out in the BIA and for greater certainty these powers included but are not limited to the following:
- i. To extend the dates of payments provided under this Proposal;
 - ii. To advise the Proposal Trustee from time to time on any matter the Proposal Trustee may refer to the them;
 - iii. To advise the Proposal Trustee regarding the admission or disallowance of Creditors proofs of claim where the Proposal Trustee requests such assistance;
 - iv. To approve on behalf of the Creditors any decision of the Proposal Trustee relating to any matter not contained in this Proposal which the Proposal Trustee may refer to them from time to time, including any extension of time of payment required under this Proposal; and
 - v. To waive any default in the performance of this Proposal. The Proposal Trustee shall notify the Inspectors of any default of which the Proposal Trustee becomes aware and the Proposal Trustee shall hold a meeting of Inspectors following such notice for the purpose of obtaining the instructions of the Inspectors with respect to such a default and the steps to be taken.

Decisions of Inspectors

22. Any decision, direction or act of the Inspectors may be referred to the Court by the Proposal Trustee and the Court may confirm, revoke or vary the decision, direction or act of the Inspectors and make such other order as it deems just.

PART X CONDITIONS PRECEDENT

23. As provided for in the BIA, the arrangements set out in this Proposal will not take effect unless the conditions set forth below are satisfied or waived by Blue Wave on or before the Effective Date:
- i. The Vesting Order shall have been granted;
 - ii. The Court Approval Order shall have been granted;



- iii. No order or decree restraining or enjoining the consummation of the transactions contemplated by this Proposal will have been issued; and
 - iv. All agreements or instruments necessary to effect the intention and purpose of this Proposal shall be received by Blue Wave and the Proposal Trustee in a form satisfactory to them.
24. The arrangements set out in this Proposal will not take effect unless all classes defined in Part IV accept the Proposal.
25. D'Eon Fisheries will submit a proposal pursuant to Section 50 of the *Bankruptcy and Insolvency Act* (Canada). The arrangements set out in this Proposal will not take effect unless the proposal filed by D'Eon Fisheries is accepted by its creditors and the Court.

PART XI GENERAL

Acceptance of this Proposal

26. By acceptance of this Proposal and its approval by the Court, the Creditors shall be deemed to have accepted and consented to all matters, things and procedures provided for herein, including the full and final compromise of their Claims in accordance with Section 62(2) of the BIA.
27. By acceptance of this Proposal and its approval by the Court, the Creditors shall be deemed to have released all of their claims against any person who is or was, at any time, a director of Blue Wave that arose before the NOI Date and that relate to Claims where such directors (or any of them) are by law liable in their capacity as directors for such Claims. For greater certainty, such current or former directors shall be released and discharged from any and all claims in respect of any and all potential statutory liabilities as set out in section 50(13) of the BIA, provided that nothing herein shall release or discharge any of current or former director from claims which:
- i. Relate to contractual rights of one or more creditors arising from contracts with one or more directors; or
 - ii. Are based on allegations of misrepresentation made by directors to creditors or of wrongful or oppressive conduct by directors.

For greater certainty, should Blue Wave become bankrupt before this Proposal is fully performed, then this paragraph 27 shall be null and void and have no force and effect.

28. By acceptance of this Proposal and its approval by the Court, the Creditors shall be deemed to have released all of their claims under personal guarantees of the obligations of Blue Wave given by Sylvain D'Eon and Patricia D'Eon.

Consents, Waivers and Agreements

29. On the Effective Date, all Creditors will be deemed to have consented and agreed to all of the provisions of this Proposal in its entirety. For greater certainty, each such Creditor will be deemed to have waived any default by Blue Wave in any provision, express or implied, in any agreement existing between the Creditors and Blue Wave that has occurred on or prior to the Effective Date, and to have agreed that, to the extent that there is any conflict between the provisions of any such agreement and the provisions of the Proposal, the provisions of this Proposal take precedence and priority and the provisions of any such agreement are amended accordingly.



Further Actions

30. Blue Wave and the Creditors will execute and deliver all such documents and instruments and do all such things as may be necessary or desirable to carry out the full intent and meaning of this Proposal and to give effect to the transactions completed hereby.

Performance

31. All obligations of Blue Wave under this Proposal will commence as of the Effective Date. All terms of this Proposal will take effect as of the Effective Date. All obligations of Blue Wave under this Proposal will be fully performed for the purposes of Section 65.3 of the BIA upon the Proposal Trustee having made all payments to the Creditors provided herein.

Binding Effect

32. The provisions of this Proposal will be binding on the Creditors and Blue Wave, and their respective heirs, executors, administrators, successors and assigns as of the Effective Date.

Compromise Effective for all Purposes

33. The payment, compromise or other satisfaction of any Claim under this Proposal shall be binding upon the Creditor holding the Claim, its heirs, executors, administrators, successors and assigns, for all purposes.

Her Majesty the Queen

34. Blue Wave acknowledges and agrees that Her Majesty the Queen, during the term of the Proposal, may exercise any rights of set-off to which it is entitled by law and may apply, if any:
- i. Income tax refunds pertaining to the year of the Proposal or prior years to the Company's income tax arrears;
 - ii. HST refunds or rebates to all periods for which the HST liability is due; and
 - iii. Any other tax or customs refund to which the Company may be entitled.
35. Blue Wave covenants and agrees that during the course of the Proposal it will:
- i. Remit current year installment payments of corporate tax and file income tax returns as required by the *Income Tax Act*;
 - ii. Remit current HST payments and file HST returns as required by the *Excise Tax Act*; and
 - iii. Remit current year payroll deductions (employment insurance premiums, Canada Pension Plan contributions and income tax deductions) as required by law.
36. Blue Wave covenants and agrees that all debts due to Her Majesty the Queen proved in this Proposal shall be compromised in accordance with the terms of this Proposal only in the event this Proposal is fully performed pursuant to its terms and the BIA. In the event the Company fails to comply with any of the terms of this Proposal and the Proposal is annulled pursuant to the provisions of the BIA, Blue Wave agrees that Her Majesty the Queen will be entitled to recover



the full amount of all debts due to Her Majesty the Queen proved in the Proposal, net of any payments or dividends received.

Other


37. The assets of Blue Wave, if any, shall not vest in the Proposal Trustee but shall vest in Newco upon the Vesting Order being issued, and the Proposal Trustee shall have no liability whatsoever for the Claims of Creditors arising before or after the date of the filing of the NOI Date.
38. Blue Wave represents and warrants that it has disclosed all relevant information in respect of this Proposal.
39. Any payments made by the Proposal Trustee to Creditors hereunder shall be made by the Proposal Trustee net of any levies payable or due under the BIA.
40. Upon making final payments to Creditors in accordance with this Proposal and providing a certificate to Blue Wave and the Official Receiver pursuant to Section 65.3 of the BIA, this Proposal shall be satisfied and all conditions and requirements fulfilled and met and the Proposal Trustee shall be entitled to be discharged.

**PART XII
THE PROPOSAL TRUSTEE**

41. Deloitte shall be the Proposal Trustee and the following provisions shall apply to the Proposal Trustee:
 - i. Deloitte, in acting as Proposal Trustee, is acting as Proposal Trustee and not in its personal capacity and shall not be responsible or liable for any obligations of Blue Wave;
 - ii. All monies and other consideration payable under the terms of this Proposals shall be paid over to the Proposal Trustee who shall make all payments in accordance with the terms of this Proposal; and
 - iii. Upon completion of all payments in accordance with the terms of this Proposal, and all other conditions and requirements being fulfilled, the Proposal Trustee shall be discharged.

DATED at Saint-Sauveur-des-Monts, the 17th day of February, 2014.

Blue Wave Seafoods Inc.


Per: Paul Leroux
Interim CEO