

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT  
ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF 2607380 ONTARIO INC

APPLICANT

**MOTION RECORD OF MERIDIAN CREDIT UNION LIMITED  
(Re: Motion to terminate CCAA Proceeding)  
(Returnable March 18, 2021)**

March 16, 2021

**GOWLING WLG (CANADA) LLP**

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**Lawyers for the Applicant**



**TO: THE SERVICE LIST**



Court File No. CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT  
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# TAB 1



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF THE COMPANIES/ CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

Applicant

**NOTICE OF MOTION  
(Returnable March 18, 2021)**

Meridian Credit Union Limited (“**Meridian**” or the “**Moving Party**”) will make a Motion before Justice Dietrich presiding over the Ontario Superior Court (Commercial List) at a date and time to be determined by judicial videoconference via Zoom due to the COVID-19 emergency. Please refer to the video conference details attached as Schedule “A” hereto in order to attend the motion and advise if you intend to join the motion by emailing Heather Fisher at [heather.fisher@gowlingwlq.com](mailto:heather.fisher@gowlingwlq.com).

**PROPOSED METHOD OF HEARING:** The Motion is to be heard

- ☐ in writing under subrule 37.12.1(1);
- ☐ in writing as an opposed motion under subrule 37.12.1(4);
- ☒ orally.

**THE MOTION IS FOR**

1. An Order:

- (a) amending the Order of Justice Conway dated February 25, 2020 to permit Meridian to commence and proceed with its application (the “**Application**”)



to appoint msi Spergel Inc. ("**Spergel**") as receiver and manager (in such capacity, the "**Receiver**") of all of the assets, undertakings and properties (the "**Property**") of 2607380 Ontario Inc. ("**260**"); and

- (b) terminating the CCAA proceedings commenced by 260 (CV-20-00636875-00CL).

- 2. Such further relief as may be required in the circumstances and that this Honourable Court deems just and equitable.

**THE GROUNDS FOR THE MOTION ARE:**

1. The Applicant 260 is the owner of the property municipally described as 1295 North Service Road, Burlington, Ontario (the "**Nuvo Property**") and is indebted to Meridian in the approximate amount \$18,600,000 on account of indebtedness incurred prior to the commencement of these CCAA Proceedings (the "**Pre-CCAA Indebtedness**") and in the approximate amount of \$7,200,000 on account of indebtedness incurred pursuant to a DIP Credit Facility Agreement made as of March 3, 2020, as amended from time to time (the "DIP Loan" and the "DIP Loan Agreement").

2. Meridian holds first ranking security from 260 over the Nuvo Property in accordance with, among other agreements and instruments, a Charge/Mortgage in the principal amount of \$23,000,000 registered March 26, 2018 (the "**Meridian Charge/Mortgage**") and a General Security agreement dated January 31, 2018 (the "**GSA**" and together with the Meridian Charge/Mortgage, the "Security").



3. The DIP Loan was approved by Order of this Court dated March 6, 2020 (the **"Amended and Restated Initial Order"**), which also provided for charge over the Nuvo Property as security for the DIP Loan (the **"DIP Charge"**), in priority to all claims except an administrative charge created under the said Order.

4. The DIP Loan is fully advanced and matured on January 29, 2021;

5. Meridian has the right to appoint a receiver and manager under the Credit Agreement and the Security and the DIP Loan Agreement and the DIP Charge.

6. 260 is in default of the DIP Loan Agreement and the Credit Agreement and has failed to repay the Pre-CCAA Indebtedness and the DIP Loan (together, the **"Indebtedness"**).

7. The DIP Loan and the DIP Charge are immediately enforceable following notice given to 260 and the Monitor in accordance with the Amended and Restated Initial Order and 260 has consented to such enforcement and to the lifting of the stay in these proceedings to the extent necessary.

8. 260 has consented to the appointment of msiSpergel as receiver and manager over the Nuvo Property.

#### **Termination of the CCAA Proceedings is Appropriate**

9. Despite multiple extensions granted by Meridian, the sale and investment solicitation process conducted by 260 failed.



10. Despite multiple extensions granted by Meridian, 260's attempts to refinance the Indebtedness but have failed.
11. Meridian has concerns regarding the ability of management to execute any process to see the Indebtedness to Meridian repaid on any reasonable time frame or at all.
12. The immediate appointment of a receiver and manager will reduce costs associated with the CCAA Proceedings while providing a viable process for maximizing the realization on the assets of 260.
13. The appointment of a receiver and manager is preferable to the current CCAA proceedings given the failed SISF and refinancing processes conducted by the Applicant.
14. If the relief sought in this motion is granted, Meridian will bring an application for the appointment of Spergel as Receiver to be heard immediately after this motion.
15. Meridian also relies upon the following:
  - (a) Section 11 of the CCAA;
  - (b) The provisions of the BIA, including Section 243;
  - (c) Section 101 of the *CJA*;
  - (d) Rules 1.04, 3.02, 16.08, and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, c. C.43; and
  - (e) Such further and other grounds as the lawyers may advise.



**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

- (f) The affidavit of Bernhard Huber, sworn March 16, 2021;
- (g) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

March 16, 2021

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Lawyers for the Moving Party, Meridian  
Credit Union Limited



## SCHEDULE "A"

### Conference Details to Join Motion via Zoom

Meridian Credit Union Limited's motion has been scheduled to proceed on **March 18, 2021 at 2:00pm** via Zoom.

#### **Join Zoom Meeting**

<https://zoom.us/j/99510534625?pwd=VE55WXVGVm8xVmd2ODNxVEdlcGRaQT09>

Meeting ID: 995 1053 4625

Passcode: 293141

One tap mobile

+17789072071,,99510534625#,,, \*293141# Canada

+12042727920,,99510534625#,,, \*293141# Canada

Dial by your location

+1 778 907 2071 Canada

+1 204 272 7920 Canada

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

Meeting ID: 995 1053 4625

Passcode: 293141

Find your local number: <https://zoom.us/u/abIL5BENEG>



MERIDIAN CREDIT UNION LIMITED  
Applicant

and

2561534 ONTARIO LIMITED  
Respondent

Court File No. CV-19-

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION**

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Lawyers for the Moving Party, Meridian Credit Union  
Limited



# TAB 2



Court File No. CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES/ CREDITORS ARRANGEMENT ACT,  
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**AND IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

Applicant

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**AFFIDAVIT OF BERNHARD HUBER IN SUPPORT OF APPLICATION OF MERIDIAN  
CREDIT UNION LIMITED**

**(Sworn March 16, 2021)**

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I, **Bernhard Huber**, of the City of St. Catharines, in the Province of Ontario, **MAKE  
OATH AND SAY:**

1. I am a Senior Commercial Credit Specialist at Meridian Credit Union Limited (**"Meridian"**) and as such I have knowledge of the matters contained in this Affidavit. Where my knowledge is based on information and belief, I have identified the source of that information or belief and believe it to be true and reliable.

2. I make this affidavit:

(a) in support of a motion by Meridian for an Order terminating the CCAA proceedings commenced by 260; and



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- (b) in support of an application by Meridian for the appointment of msi Spergel Inc. ("**Spergel**") as receiver and manager over all property, assets and undertaking of 2607380 Ontario Inc. ("**260**")

3. Meridian is applying to appoint a receiver and manager following 260's defaults under the DIP Loan (defined below) provided by Meridian in these CCAA proceedings, under a Forbearance Agreement entered into on January 27, 2021 to permit the last stay extension sought by 260 and as a result of 260's unremedied defaults in relation to the repayment of approximately \$18.5 million of pre-filing secured debt that it owes to Meridian.

## **The Parties**

### *The Debtor*

4. 260 is a company incorporated under the laws of Ontario. Its primary asset is a 4.9 acre parcel of land legally described as PT LT 10, RCP PL 99, PART 3&7, 20R6963, S/T IN 619045; BURLINGTON (PIN 07127-0265 (LT)) and municipally described as 1295 North Service Road, Burlington, Ontario (the "**Nuvo Property**"). Attached hereto as **Exhibit "A"** is the land registry office Parcel Register for the Nuvo Property with a file currency date of January 18, 2020 (the "**Title Search**").



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5. There is a multi-purpose commercial building approximately 138,000 ft<sup>2</sup> in size<sup>1</sup> located on the Nuvo Property (the “**Nuvo Building**”). 260’s sole business is the development and leasing of the Nuvo Building.

*Meridian Credit Union Limited*

6. Meridian is a credit union established under the *Credit Union and Caisses Populaires Act, 1994*, S.O. 1994, c. 11. Meridian is the first mortgagee with respect to the Nuvo Property of 260. As described in more detail below, Meridian has also been the DIP lender to 260 in its CCAA proceedings.

*MSI Spergel Inc.*

7. Spergel is a licensed insolvency trustee.

**The Meridian Credit Facilities and Security**

8. 260 acquired the Nuvo Property in March 2018 from Crossroads Christian Communications Inc. (“**CCCI**”), who retain a vendor take-back mortgage in the Nuvo Property.

9. On August 9, 2018, Meridian, as lender, 260, as borrower, and 2348587 Ontario Inc., Mohawk Inn & Suites Management Inc. and Shawn Sauliner as guarantors executed a credit agreement (the “**Original Credit Agreement**”), pursuant to which 260 obtained financing for both the acquisition of the Nuvo Property and the construction required to retrofit and improve the mixed-use commercial premises which comprise the Nuvo

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<sup>1</sup> Square footage is based on information provided to Meridian by Lensink and ultimately obtained from 260.



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Property (the “**Construction Project**”). The Original Credit Agreement was the subject of several amendments and forbearance arrangements as a result of 260’s defaults. Attached hereto as **Exhibit “B”** is a copy of the Original Credit Agreement and the relevant amending agreements (as amended, the Original Credit Agreement is the “**Credit Agreement**”). In addition to the financing provided under the Credit Agreement, as referenced above and described below, Meridian is also the DIP lender to 260.

10. 260’s obligations to Meridian under the Credit Agreement are secured by usual and customary security, which includes a Charge/Mortgage in the principal amount of \$23,000,000.00 (the “**Meridian Mortgage**”) registered in favour of Meridian on March 26, 2018 as Instrument No. HR1532634 against the Nuvo Property, a General Security Agreement dated January 31, 2018 granted by 260 in favour of Meridian (the “**GSA**”) and related ancillary security (together with the Meridian Mortgage and the GSA, the “**Security**”). Attached hereto as **Exhibits “C”** and “**D**” respectively are copies of the Meridian Mortgage and the GSA.

11. In addition to the Security, Meridian also obtained guarantees from Shawn Saulnier and certain other companies connected to Mr. Saulnier and/or 260.

12. Under the Meridian Mortgage and the GSA, 260 granted Meridian the right to appoint a receiver and manager upon the occurrence of an Event of Default, including a failure to repay Meridian any amounts due and owing under the Credit Agreement.

13. I have been advised by Dom Glavota of Gowling WLG, counsel to Meridian, that the Meridian Charge/Mortgage is a first ranking charge/mortgage against the Nuvo Property.



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14. I am further advised by Dom Glavota (and am otherwise generally aware) that there is a second ranking charge/mortgage against the Nuvo Property in the amount of \$4,500,000 in favour of CCCI, and a third ranking charge/mortgage against the Nuvo Property in the amount of \$3,250,000 in favour of Bridging Finance Inc. ("**Bridging**"). Excluding construction liens, and beneficiaries of Court-ordered charges, I believe that CCCI and Bridging are the only other secured creditors of 260 holding registered security against the Nuvo Property. Meridian, CCCI and Bridging Finance Inc. are parties to a Priority, Postponement and Standstill Agreement dated March 23, 2018 confirming Meridian's rights as senior secured creditor, a copy of which is attached as **Exhibit "E"**.

15. I have further been advised by Dom Glavota of Gowling WLG, that a search of the provincial registry maintained under the *Personal Property Security Act* (Ontario) confirms that Meridian has a registered security interest over all of the personal property of 260.

16. As of March 15, 2021, 260 remains indebted to Meridian in the amount of \$18,629,675.49 pursuant to the Credit Agreement, plus accrued and accruing interest and costs (the "**Pre-CCAA Indebtedness**"). The Pre-CCAA Indebtedness is repayable on demand.

### **Financial Difficulties of 260 and CCAA Filing**

17. Between July 2018 and March 2019 Meridian made advances to 260 under the construction facilities provided for under the Credit Agreement. Even with these advances, the Construction Project was not completed and ran substantially over budget.



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18. Ultimately, following continued deterioration of 260's financial position, and after several forbearance agreements provided by Meridian, 260's defaults under the Credit Agreement mounted and were not remedied. These defaults included the registration of construction liens against the Nuvo Property, the accumulation of property tax arrears, principal and interest payment defaults and other breaches (the "**Pre-CCAA Events of Default**").

19. As a result of 260's defaults, on February 25, 2020 Meridian delivered a demand letter (the "**Demand Letter**") demanding the repayment of the Pre-CCAA Indebtedness, and a notice of its intention to enforce its security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, C. B-3, as amended (the "**244 Notice**") on 260. Schedule "B" to the Demand Letter enumerated 260's events of default. 260 has not yet cured the Pre-CCAA Events of Default or paid the Pre-CCAA Indebtedness. Attached hereto as **Exhibit "F"** is the Demand Letter and 244 Notice.

### **The CCAA Proceedings and DIP Loan**

20. On February 25, 2020, 260 sought and obtained protection under the CCAA pursuant to the Initial Order. Richter Advisory Group Inc. was appointed as Monitor (the "**Monitor**") and a comeback hearing was scheduled for March 6, 2020 (the "**Comeback Hearing**").

21. Meridian initially opposed the CCAA proceedings due to, among other things, significant concerns about the management of 260, the low likelihood of any refinancing and the costs associated with the CCAA process. In short, Meridian wanted to ensure that any process was focussed on recovering funds for creditors and was cost effective.



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22. Following numerous meetings with 260 and the Monitor, Meridian eventually agreed to act as debtor-in-possession (“**DIP**”) lender to 260 on the condition that, among other things, the Initial Order would be amended and restated to increase the oversight and control of the Monitor over 260 and that strict deadlines would be imposed for the implementation of a sale and investment solicitation process (the “**SISP**”), failing which Meridian would be at liberty to enforce its security.

23. On this basis, Meridian and 260 entered into the DIP Loan Agreement as of March 3, 2020, a copy of which is attached hereto as **Exhibit “G”**. The key provisions of the DIP Loan Agreement include, among other things:

- (a) **Credit Limit** – \$7,180,000, inclusive of Commitment Fee and Reserve;
- (b) **Interest** – 9.25% per annum calculated daily and payable monthly in arrears;
- (c) **Maturity** – November 6, 2020 (subsequently amended to January 29, 2021);
- (d) **SISP deadlines:**
  - (i) April 30, 2020 – hire sales agent agreeable to Monitor and Meridian;
  - (ii) May 8, 2020 – Court approval of SISP steps and timing;
  - (iii) October 15, 2020 – enter into a firm agreement of purchase and sale with a closing date on or before November 6, 2020; and,



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- (iv) November 6, 2020 – closing of agreement of purchase and sale (on terms acceptable to Meridian);
  - (e) **Events of Default** – failure to pay amounts owing when due and breach of covenant under the DIP Loan Agreement or the Credit Agreement, including the DIP Loan Agreement covenants concerning SISP deadlines; and,
  - (f) **Remedies** – acceleration of DIP obligations and the appointment of a receiver and manager.
- 24. At the Comeback Hearing, Justice Conway amended and restated the Initial Order to, among other things, approve the DIP Loan Agreement. Attached hereto as **Exhibit “H”** is the Amended and Restated Initial Order of Justice Conway dated March 6, 2020 (the “**Amended and Restated Initial Order**”).
- 25. The Amended and Restated Initial Order also provided for a charge in favour of Meridian securing all obligations under the DIP Loan Agreement (the “**DIP Charge**” and the “**DIP Loan**”), in priority to all claims against 260 and the Nuvo Property, save and except the Administrative Charge (as defined in the Amended and Restated Initial Order).
- 26. In accordance with the Amended and Restated Initial Order, Meridian’s rights in relation to the DIP Loan and under the DIP Charge were enforceable on five days notice to the Applicant and the Monitor, which rights specifically include the right to appoint a receiver and manager.



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27. The DIP Loan Agreement was subsequently amended in accordance with three separate amending agreements dated April 23, 2020, July 10, 2020 and November 18, 2020 (the “**DIP Amendments**”). Attached hereto as **Exhibit “I”** are copies of the DIP Amendments.
28. Among other things, the DIP Amendments generally provide for the extension of SISP timelines and relief from other requirements under the DIP Loan Agreement as a result of 260’s inability to meet the deadlines and satisfy the requirements originally provided for under the DIP Loan Agreement.
29. In addition to the extension of SISP deadlines referenced above, the DIP Amendment dated November 18, 2020 (the “**Third DIP Amendment**”) also provided an additional option for 260 by permitting 260 until January 15, 2021 to obtain a firm commitment to refinance all of the indebtedness owing to Meridian under the Credit Agreement and the DIP Loan Agreement, which 260 has failed to do.

### **Implementation and Failure of the SISP Process**

30. Although the SISP contemplated under the DIP Loan Agreement commenced soon after the Amended and Restated Initial Order was made, it progressed slowly. As reflected in the frequent extensions to the timelines under the SISP, 260 regularly failed to meet the original deadlines.
31. While the extended SISP was ongoing, I understand that 260 was pursuing refinancing options in parallel over a protracted period. Based on the reports of the Monitor that I have reviewed, and in particular the Third Report of the Monitor at



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paragraph 17, and based on my own knowledge, it appears that refinancing efforts commenced as early as the commencement of the SISP in the spring of 2020. Attached hereto as **Exhibit “J”** is a copy the Third Report of the Monitor.

32. Despite both the SISP process and the refinancing efforts undertaken by 260 from the early spring of 2020 and the extensions to deadlines granted by Meridian, 260 failed to identify, let alone close, any firm refinancing or sale transactions by November of 2020.

33. In fact, the result of the SISP, as reported by the Monitor in its Third Report, was only one non-binding LOI, which the Monitor and the broker hired by 260 determined was not a Qualified LOI, as defined in the SISP.

34. In its Third Report the Monitor stated that “it is difficult to complete a sale transaction at a reasonable value for the Nuvo Property in this market, as evidenced by the limited interest in a transaction to acquire the Nuvo Property from the Sale Process.” In these circumstances, the Monitor and 260 recommended that 260’s SISP be terminated and by Order dated November 23, 2020 (the “**SISP Termination Order**”) the Court accordingly terminated the SISP. Attached hereto as **Exhibit “K”** is a copy of the SISP Termination Order.

35. Despite the SISP’s termination, 260 requested a further extension to the deadlines prescribed under the DIP Loan for achieving a transaction. While Meridian was very concerned with 260’s inability to achieve any progress on measures to repay the Pre-CCAA Indebtedness and the DIP Loan, it was prepared to permit a further extension on strict timelines. In these circumstances, the Third DIP Amendment was entered into and the stay of proceedings under the CCAA was extended to January 29, 2021.



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36. As set out above and as specifically reported to the Court in the Third Report of the Monitor, the Third DIP Amendment required that:

- (a) on or before January 15, 2021, 260 must provide Meridian either (a) a firm agreement of purchase and sale with a closing date on or before January 29, 2021 or, (b) a firm commitment to refinance all obligations owing by 260 to Meridian with a closing date on or before January 29, 2021; and,
- (b) 260 must close such agreement of purchase and sale or refinancing by January 29, 2021.

37. By January 15, 2021, 260 had failed to provide any firm agreement of purchase and sale for the Nuvo Property or any firm commitment to refinance all obligations owing to Meridian. Accordingly, 260 defaulted on its obligations under the DIP Loan Agreement (the “**DIP Loan Defaults**”).

38. In response to the DIP Loan Defaults, on January 19, 2021, counsel for Meridian gave notice to 260 and the Monitor under paragraph 40(b) of the Amended and Restated Initial Order of the occurrence of the DIP Loan Defaults and Meridian’s intent to enforce its security on 260’s real and personal property and Meridian’s rights under the DIP Credit Agreement, the Definitive Documents and the DIP Charge. Attached hereto as **Exhibit “L”** is a copy of the letter dated January 19, 2021 from counsel for Meridian to 260 and the Monitor.

39. At the specific request of 260 and Shawn Saulnier, despite the DIP Loan Defaults and all of the other ongoing defaults of 260, Meridian agreed to provide a last opportunity



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to 260 to achieve a refinancing transaction that would provide Meridian with an acceptable repayment arrangement for its aggregate outstanding loans (the DIP Loan and the Pre-CCAA Indebtedness). Meridian's agreement to forbear in relation to the DIP Defaults was subject to the terms of a Forbearance Agreement between Meridian and 260 dated January 27, 2021 (the "**DIP Forbearance Agreement**"). Attached hereto as **Exhibit "M"** is a copy of the DIP Forbearance Agreement.

40. Among other things, the DIP Forbearance Agreement provides that:

- (a) It is conditional on the granting of a Consent (the "**Consent to Receivership**") to an Order appointing a receiver and manager over 260 and the Nuvo Property in the form attached to the DIP Forbearance Agreement (the "**Receivership Order**");
- (b) It will terminate if all liabilities and obligations of 260 to Meridian are not repaid in full or refinanced on terms acceptable to Meridian in its sole and absolute discretion by March 19, 2021;
- (c) Upon termination of the DIP Forbearance Agreement Meridian is entitled to take any actions it deems necessary under the DIP Loan Agreement and the DIP Charge without further notice, including the immediate enforcement of all of its rights, the filing of the Consent to Receivership with the Court and the immediate application to the Court for the Receivership Order; and



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- (d) 260 will consent to the lifting of any stay in force in the CCAA Proceedings as against Meridian.

41. As required under the DIP Forbearance Agreement, 260, by its counsel, signed the Consent to Receivership.

42. As of the date of this Affidavit, no payment of the liabilities and obligations of 260 to Meridian has been made and no refinancing has occurred on terms acceptable to Meridian. Further, no binding term sheet for a refinancing of any type has been provided to Meridian. It is therefore impossible that 260 will repay or refinance its obligations and liabilities to Meridian on terms acceptable to Meridian by March 19, 2021.

#### **Appointment of Spergel as Receiver and Manager is Just and Convenient**

43. In summary, Meridian agreed to support the CCAA application based on strict timelines for the SISP and repayment of its loans. The SISP was informally commenced as early as March 2020. It is now almost 12 months later. The SISP and all refinancing efforts have failed and 260's debt to Meridian has not been repaid.

44. As of March 15, 2021, Meridian the aggregate outstanding debt owed by 260 to Meridian is \$25,809,675.49 (the "**Indebtedness**"), including both Pre-CCAA Indebtedness and amounts due under the DIP Loan Agreement. Attached as **Exhibit "N"** is a copy of a statement of Indebtedness dated March 15, 2021.



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45. In the circumstances, Meridian opposes any extension of the Stay of Proceedings in the CCAA and seeks orders (a) terminating the CCAA Proceedings and (b) appointing Spergel as receiver and manager.

46. Pursuant to the Credit Agreement and Security, the DIP Loan Agreement and the DIP Charge, 260 granted Meridian the right to seek the appointment of a receiver and manager upon the occurrence of an Event of Default.

47. As noted above:

- (a) numerous events of default under the Credit Agreement and the DIP Loan Agreement have occurred which 260 has not cured;
- (b) the statutory notice period provided for under the BIA has expired in respect of the Pre-CCAA Indebtedness;
- (c) Meridian has given notice of the occurrence of the DIP Loan Defaults under the DIP Loan Agreement;
- (d) 260 is in breach of the DIP Forbearance Agreement and an event terminating that agreement has occurred; and
- (e) no material payments in respect of the Indebtedness have been made to Meridian.

48. Meridian has lost confidence in the management of 260 as a result of the nature of the continuing events of default. In particular, Meridian has significant concerns regarding the ability of management to execute any process to see Meridian repaid the



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amounts owing to it under the Credit Agreement and the DIP Loan on any reasonable time frame or at all.

49. The immediate appointment of a receiver and manager will reduce costs associated with the CCAA Proceedings while providing a viable process for maximizing the realization on the assets of 260. In this regard, Meridian notes the comments of Justice Dietrich concerning the costs of the process to date as expressed in Her Honour's endorsement dated January 29, 2021, a copy of which is attached hereto as **Exhibit "O"**

50. The appointment of a receiver and manager is preferable to the current CCAA proceedings as it will:

- (a) reduce ongoing costs in relation to realization on the Nuvo Property;
- (b) simplify dealings with the Nuvo Property; and,
- (c) recognize and give effect to the priority of interests in relation to the Nuvo Property, taking account of the likely value of the property as determined by the failed SISP and 260's ongoing failure to refinance the property.

51. Spergel is a licensed insolvency trustee and has consented to act as receiver and manager should the Court so appoint it.

52. Meridian has been in discussions with Spergel regarding the estimated cost of the receivership and is willing to finance the costs associated with the receivership mandate by way of receivership certificates secured by a court-ordered first ranking charge over the Property. Accordingly, Meridian seeks an order that this funding be secured through



-16-

a receiver's borrowing charge pursuant to section 31 of the BIA and section 101 of the *Courts of Justice Act*.

**SWORN BEFORE ME VIA VIDEOCONFERENCE**, the affiant being located in the City of St. Catharines, and the Commissioner being located in the City of Toronto in the Province of Ontario on March 16 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Hester Fisher

2F7B29C04CC6424...

Commissioner for Taking Affidavits  
(or as may be)

DocuSigned by:

Bernie Huber

DAD112674CA746D...


**Bernhard Huber**







THIS IS **EXHIBIT “A”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

---

*A Commissioner etc.*





LAND  
REGISTRY  
OFFICE #20

07127-0265 (LT)

PAGE 1 OF 7  
PREPARED FOR CherieAM1  
ON 2021/01/18 AT 14:23:19

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PROPERTY DESCRIPTION: PT LT 10 , RCP PL 99 , PART 3 & 7 , 20R6963 , S/T IN 619045 ; BURLINGTON

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

1996/05/27

OWNERS' NAMES

2607380 ONTARIO INC.

CAPACITY

SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
**EFFECTIVE	2000/07/29	THE NOTATION OF THE	"BLOCK IMPLEMENTATION DATE" OF 1996/05/27 ON THIS PIN**			
**WAS REPLACED WITH THE	"PIN CREATION DATE" OF 1996/05/27**					
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES AND	DELETED INSTRUMENTS	SINCE 1996/05/24 **			
**SUBJECT,	ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:					
**	SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES	*				
**	AND ESCHEATS OR FORFEITURE TO THE CROWN.					
**	THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF					
**	IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY					
**	CONVENTION.					
**	ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.					
**DATE OF CONVERSION TO	LAND TITLES: 1996/05/27 **					
119980	1961/01/25	BYLAW				C
609501	1984/11/07	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
612717	1985/01/15	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
613383	1985/01/30	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
20R6963	1985/03/22	PLAN REFERENCE				C
616715	1985/04/03	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
717373	1989/04/28	TRANSFER		*** COMPLETELY DELETED ***	CROSSROADS CHRISTIAN COMMUNICATIONS INC.	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
756784	1991/01/04	CHARGE		*** COMPLETELY DELETED ***	CROSSROADS INVESTMENTS INC.	C
20R10695	1992/04/22	PLAN REFERENCE				
784431	1992/05/08	CHARGE		*** COMPLETELY DELETED ***	CROSSROADS INVESTMENTS INC.	
805562	1993/06/03	CHARGE		*** COMPLETELY DELETED ***	CROSSROADS INVESTMENTS INC.	
815143	1993/12/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED ***	CANTELON, HOMER	
REMARKS: 756784						
815144	1993/12/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED ***	CANTELON, HOMER	
REMARKS: 784431						
815145	1993/12/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED ***	CANTELON, HOMER	
REMARKS: 805562						
815146ERR	1993/12/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED ***	CANTELON, HOMER	
REMARKS: 805562						
		815146 -ERROR ENTRY,	CANCELLED BY J MENARD ON 1998/02/27			
815146	1993/12/08	NOTICE AGREEMENT		*** COMPLETELY DELETED *** CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	CANTELON, HOMER	
REMARKS: 805562,		815145 ENTERED FEB 27, 98	J. MENARD			
H644295	1996/09/04	CHARGE		*** COMPLETELY DELETED *** CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	FELTMATE, DONALD WILLIAMS, GORDON	
H644296	1996/09/04	CHARGE		*** COMPLETELY DELETED *** CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	FELTMATE, DONALD WILLIAMS, GORDON	
H724946	1998/02/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** CANTELON, HOMER	FELTMATE, DONALD, REV. WILLIAMS, GORDON, REV.	
REMARKS: 784431						





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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
H724947	1998/02/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** CANTELON, HOMER	FELTMATE, DONALD, REV. WILLIAMS, GORDON, REV.	
	REMARKS: 756784					
H724948	1998/02/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** CANTELON, HOMER	FELTMATE, DONALD, REV. WILLIAMS, GORDON, REV.	
	REMARKS: 805562					
HR55635	2001/06/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** FELTMATE, DONALD, REV. WILLIAMS, GORDON, REV.	WILLIAMS, GORDON CLAYTON, ROBERT	
	REMARKS: 756784, 815143, H724947					
HR55636	2001/06/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** FELTMATE, DONALD, REV. WILLIAMS, GORDON, REV.	WILLIAMS, GORDON CLAYTON, ROBERT	
	REMARKS: 784431, 815144, H724946					
HR55637	2001/06/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** FELTMATE, DONALD, REV WILLIAMS, GORDON, REV.	WILLIAMS, GORDON CLAYTON, ROBERT	
	REMARKS: 805562, 815145, 815146, H724948					
HR55638	2001/06/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** FELTMATE, DONALD WILLIAMS, GORDON	WILLIAMS, GORDON CLAYTON, ROBERT	
	REMARKS: H644295					
HR55639	2001/06/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** FELTMATE, DONALD WILLIAMS, GORDON	WILLIAMS, GORDON CLAYTON, ROBERT	
	REMARKS: H644296					
HR505343	2006/08/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** WILLIAMS, GORDON CLAYTON, ROBERT		
	REMARKS: RE: 756784					
HR505344	2006/08/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** WILLIAMS, GORDON		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: RE: 784431		CLAYTON, ROBERT		
HR505345	2006/08/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** WILLIAMS, GORDON CLAYTON, ROBERT		
		REMARKS: RE: 805562				
HR505346	2006/08/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** WILLIAMS, GORDON CLAYTON, ROBERT		
		REMARKS: RE: H644296				
HR505347	2006/08/24	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** WILLIAMS, GORDON CLAYTON, ROBERT	WILLIAMS, GORDON SMITH, INER	
		REMARKS: HR644295, HR55638				
HR1212979	2014/09/12	NOTICE OF LEASE	\$2	CROSSROADS CHRISTIAN COMMUNICATIONS INC.	SOLAR POWER NETWORK 001 INC SPN LP 3	C
		CORRECTIONS: PARTY TO NAME:SPN LP 3 ADDED ON 2016/03/03 AT 13:42 BY WENDOVER, TERE.				
HR1255191	2015/03/25	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** WILLIAMS, GORDON SMITH, INER	GRAY, RICHARD SMITH, INER	
		REMARKS: H644295 H644295				
HR1314607	2015/11/12	APL CH NAME OWNER		*** COMPLETELY DELETED *** CROSSROADS CHRISTIAN COMMUNICATIONS INC.	CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	
HR1315272	2015/11/13	CHARGE		*** COMPLETELY DELETED *** CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	THE PENSION FUND (1969) OF THE PENTECOSTAL ASSEMBLIES OF CANADA	
HR1315274	2015/11/13	POSTPONEMENT		*** COMPLETELY DELETED *** GRAY, RICHARD  SMITH, INER	THE PENSION FUND (1969) OF THE PENTECOSTAL ASSEMBLIES OF CANADA	
		REMARKS: H644295, HR1255191 TO HR1315272				
HR1315275	2015/11/13	POSTPONEMENT		*** COMPLETELY DELETED *** SOLAR POWER NETWORK 001 INC	THE PENSION FUND (1969) OF THE PENTECOSTAL ASSEMBLIES OF CANADA	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: HR1212979 TO HR1315272		SPN LP 3		
HR1338557	2016/02/23	NO CHARGE LEASE		*** COMPLETELY DELETED *** SOLAR POWER NETWORK 001 INC SPN LP 3	CIT FINANCIAL LTD.	
		REMARKS: HR1212979.				
HR1411666	2016/11/21	CHARGE		*** COMPLETELY DELETED *** CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	LINK CHARITY CANADA INC	
HR1411694	2016/11/21	POSTPONEMENT		*** COMPLETELY DELETED *** GRAY, RICHARD SMITH, INER	LINK CHARITY CANADA INC.	
		REMARKS: H644295 TO HR1411666				
HR1462580	2017/06/13	DISCH OF CHARGE		*** COMPLETELY DELETED *** CIT FINANCIAL LTD.		
		REMARKS: HR1338557.				
HR1482777	2017/08/21	NO CHARGE LEASE		*** COMPLETELY DELETED *** SOLAR POWER NETWORK 001 INC SPN LP 3	ECLIPSALL FUNDING LTD.	
		REMARKS: HR1212979. PE274962				
HR1531249	2018/03/19	NO CHARGE LEASE	\$337,500,000	SOLAR POWER NETWORK 001 INC SPN LP 3	DEUTSCHE BANK TRUST COMPANY AMERICAS	C
		REMARKS: HR1212979.				
HR1531501	2018/03/20	DISCH OF CHARGE		*** COMPLETELY DELETED *** ECLIPSALL FUNDING LTD.		
		REMARKS: HR1482777.				
HR1532630	2018/03/26	DISCH OF CHARGE		*** COMPLETELY DELETED *** GRAY, RICHARD SMITH, INER		
		REMARKS: H644295.				
HR1532631	2018/03/26	DISCH OF CHARGE		*** COMPLETELY DELETED *** LINK CHARITY CANADA INC		
		REMARKS: HR1411666.				
HR1532632	2018/03/26	DISCH OF CHARGE		*** COMPLETELY DELETED ***		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
				THE PENSION FUND (1969) OF THE PENTECOSTAL ASSEMBLIES OF CANADA		
HR1532633	2018/03/26	TRANSFER	\$19,000,000	CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	2607380 ONTARIO INC.	C
		REMARKS: HR1315272. REMARKS: PLANNING ACT STATEMENTS.				
HR1532634	2018/03/26	CHARGE	\$23,000,000	2607380 ONTARIO INC.	MERIDIAN CREDIT UNION LIMITED	C
HR1532635	2018/03/26	NO ASSGN RENT GEN		2607380 ONTARIO INC.	MERIDIAN CREDIT UNION LIMITED	C
		REMARKS: HR1532634				
HR1532636	2018/03/26	NOTICE OF LEASE	\$1	2607380 ONTARIO INC.	CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	C
HR1532637	2018/03/26	CHARGE	\$4,500,000	2607380 ONTARIO INC.	CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	C
HR1532638	2018/03/26	POSTPONEMENT		CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED	MERIDIAN CREDIT UNION LIMITED	C
		REMARKS: HR1532637 TO HR1532634				
HR1532639	2018/03/26	CHARGE	\$3,250,000	2607380 ONTARIO INC.	BRIDGING FINANCE INC.	C
HR1532640	2018/03/26	NO ASSGN RENT GEN		2607380 ONTARIO INC.	BRIDGING FINANCE INC.	C
		REMARKS: HR1532639.				
HR1532641	2018/03/26	POSTPONEMENT		BRIDGING FINANCE INC.	MERIDIAN CREDIT UNION LIMITED	C
		REMARKS: HR1532639 TO HR1532634				
HR1667791	2019/11/25	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** MAPLE REINDERS CONSTRUCTORS LTD.		
HR1672639	2019/12/16	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** BARRIE GLASS & MIRROR LTD.		
HR1674574	2019/12/23	CERTIFICATE		MAPLE REINDERS CONSTRUCTORS LTD.		C
HR1683750	2020/02/12	CERTIFICATE		BARRIE GLASS & MIRROR LTD.		C
		REMARKS: HR1672639				
HR1689444	2020/03/12	CHARGE	\$7,180,000	2607380 ONTARIO INC.	MERIDIAN CREDIT UNION LIMITED	C
HR1690254	2020/03/16	APL DEL CONST LIEN		*** COMPLETELY DELETED *** MAPLE REINDERS CONSTRUCTORS LTD.		
		REMARKS: HR1672639.				





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07127-0265 (LT)


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PREPARED FOR CherieAM1  
ON 2021/01/18 AT 14:23:19

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
HR1690255	2020/03/16	APL DEL CONST LIEN		*** COMPLETELY DELETED *** MAPLE REINDERS CONSTRUCTORS LTD.		
REMARKS: HR1667791.						



THIS IS **EXHIBIT “B”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

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*A Commissioner etc.*



Meridian Credit Union  
Niagara on the Lake  
Commercial Business Centre

1567 Niagara Stone Road, PO Box 220  
Virgil, Ontario L0S 1T0  
tel: 905-468-5755  
fax: 905-468-2261  
contact centre: 1-866-592-2226  
meridiancu.ca



August 09, 2018

2607380 Ontario Inc.  
2380 Mohawk Trail  
Campbellville, Ontario  
L0P 1B0

Attention Mr. Shawn Saulnier:

**Re: Credit Agreement**

On the basis of the financial and other information provided to us, Meridian Credit Union Limited ("**Meridian**") has authorized the following credit facilities ("**Credit Facilities**") on the terms and conditions set out below.

This agreement ("**Credit Agreement**") and the other Financing Documents constitute the entire agreement between you and us pertaining to the credit facilities and supersedes all prior correspondence, agreements, negotiations, discussions and understandings, whether written or oral. This Credit Agreement may not be amended except by an agreement in writing that makes express reference to this agreement and is signed by you and us.

The attached Schedule A is an integral part of this Credit Agreement. Capitalized terms used and not otherwise defined shall have the meanings set out in Schedule A.

**BORROWER:** 2607380 Ontario Inc. ("**Member**")

**GUARANTOR(S):** Mohawk Inn & Suites Management Inc. ("Corporate Guarantor")  
2348587 Ontario Inc. ("Corporate Guarantor")  
Shawn Saulnier ("Individual Guarantor")  
(Individual Guarantor and Corporate Guarantors, each a "**Guarantor**" and collectively, the "**Guarantors**")

<b>CREDIT FACILITIES AND AUTHORIZED AMOUNTS:</b>	1.	Demand Loan Land	To a maximum of	\$12,350,000
	2.	Demand Loan	To a maximum of	\$5,000,000
	2a.	Demand Loan (Construction)	To a maximum of	(\$3,500,000)
	2b.	Demand Loan (Construction)	To a maximum of	(\$1,500,000)
	3.	Non Revolving Loan	To a maximum of	\$20,000,000
	4.	Standby Letters of Credit	To a maximum of	\$100,000
	5.	Standby Letters of Credit	To a maximum of	\$35,000
	6.	VISA Business Cash Back Card	To a maximum of	\$50,000

All facility amounts in () Parenthesis refer to a carve out on a product and not additional funds authorized.

*SAS*



- PURPOSE:**
1. Demand Loan Land To finance up to 65% of the purchase price of the property located at 1295 North Service Road, Burlington, Ontario.
  2. Demand Loan See 2a and 2b below
  - 2a. Demand Loan (Construction) To finance renovation costs as part of the rejuvenation plan of the property located at 1295 North Service Road, Burlington, Ontario (the "Project").
  - 2b. Demand Loan (Construction) To finance tenant improvement costs at the Project.
  3. Non Revolving Loan To provide long-term take-out financing for the Project. Funds advanced under this loan are to be used to repay facilities 1, 2a, and 2b in full.
  4. Standby Letters of Credit To provide a security deposit for Commercial Hydro Services.
  5. Standby Letters of Credit To provide a security deposit to the Union Gas Company.
  6. VISA Business Cash Back Card As set forth in the Visa Business Card Agreement

SOURCES			USES		
Interim First Mortgage	\$12,350,000	43%	Purchase Price	\$19,000,000	66%
Renovation Line	\$5,000,000	17%	Closing Costs	\$405,000	1%
Subordinated VTB	\$4,500,000	16%	Renovations	\$5,500,000	19%
Purchase Equity	\$2,005,000	7%	Marketing & Tenant Impr.	\$2,250,000	8%
Cash from Operations	\$2,315,000	8%	Interim Loan Interest	\$1,515,000	5%
Mezz Loan	\$2,500,000	9%			
<b>TOTAL</b>	<b>\$28,670,000</b>	<b>100%</b>	<b>TOTAL</b>	<b>\$28,670,000</b>	<b>100%</b>

**REPAYMENT:** All Credit Facilities are available on a demand basis only and Meridian may terminate the Credit Facilities at any time. Any prepayment shall be subject to the provisions of Schedule A

1. Demand Loan Land Interest only on a monthly basis from the Member's own resources.

Full loan amount to be repaid within 24 months of initial advance which occurred on March 26, 2018 from proceeds of Facility #3.

2. Demand Loan See 2a and 2b below.

- 2a. Demand Loan (Construction) Interest only on a monthly basis from the Member's own resources.

Principal to be repaid within 24 months of the initial advance which occurred on July 16, 2018 from proceeds of Facility #3.

- 2b. Demand Loan (Construction) Interest only on a monthly basis from the Member's own resources.

Principal to be repaid within 24 months of the initial advance which



occurred on July 16, 2018 from proceeds of Facility #3.

3. Non Revolving Loan Payments to be calculated based on a maximum amortization period of 20 years from the initial date of drawdown.

Floating Rate: Based on current Prime Rate, equal monthly payments of principal of \$83,334, plus interest commencing one month from date of drawdown.

The amount of the monthly payment will be advised in the Loan Confirmation Letter.

4. Standby Letters of Credit Fees are payable annually.

Amounts are automatically renewed annually subject to notice to the beneficiary within 30 days of the expiry date.

Any drawdowns under the Letter of Credit will be converted to direct borrowings under the Demand Loan Construction.

5. Standby Letters of Credit Fees are payable annually.

Amounts are automatically renewed annually subject to notice to the beneficiary within 30 days of the expiry date.

Any drawdowns under the Letter of Credit will be converted to direct borrowings under the Demand Loan Construction.

6. VISA Business Cash Back Card Interest and fees shall be payable as set forth in the Visa Business Card Agreement and the Visa Business Card Fee and Rate Agreement.

#### INTEREST RATES:

Interest on the daily principal balance of the Credit Facilities shall be paid monthly in arrears, unless otherwise specified, computed daily, compounded monthly, and accrue at an annual rate equal to:

- |                                 |                                                                                                                                     |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 1. Demand Loan Land             | Prime Rate plus 2.00% per annum.                                                                                                    |
| 2. Demand Loan                  | See 2a and 2b below.                                                                                                                |
| 2a. Demand Loan (Construction)  | Prime Rate plus 2.50% per annum.                                                                                                    |
| 2b. Demand Loan (Construction)  | Prime Rate plus 2.50% per annum.                                                                                                    |
| 3. Non Revolving Loan           | Prime Rate plus 2.00% per annum.                                                                                                    |
| 4. Standby Letters of Credit    | Standby Letter(s) of Credit Rate(s) to be established if and when drawn.                                                            |
| 5. Standby Letters of Credit    | Standby Letter(s) of Credit Rate(s) to be established if and when drawn.                                                            |
| 6. VISA Business Cash Back Card | As set forth in the Visa Business Card Agreement and the Visa Business Card Fee and Rate Agreement<br>Prime Rate is currently 3.70% |



<b>CREDIT Other Fee: FEES:</b>	\$50,000 fee is applicable if Facilities #1, #2a, and #2b are not ultimately repaid by the advance of Facility #3.
Draw Fees:	\$500 per draw under the Demand Loan (Construction).
Standby Fee:	A standby fee of 0.20% per annum calculated on the daily unused portion of Facility 2a and 2b, is payable monthly from the date of acquisition of the Secured Property.
Standby Fee:	A standby fee of 0.20% per annum calculated on the daily unused portion of Facility 3, is payable monthly. The fee is only applicable on the difference between the \$20,000,000 takeout facility and the \$17,350,000 acquisition/renovation facility.
Amendment Fee:	Amendments to authorized Credit Facilities, as requested by the Member, will be subject to a minimum fee of \$2,500, subject to the complexity and circumstances of each request as mutually agreed upon between the Member and Meridian.
Additional Fees:	Covenant Breaches, Late Reporting, Events of Default will each be subject to a minimum fee of \$500 or a fee to be determined by Meridian, per occurrence where such condition has not previously been approved by Meridian in writing.
Annual Renewal Fee:	An annual administration fee of \$5,000 is payable within 120 days following each fiscal year end for review of the account.
Arrangement Fee:	\$1,000 is due and payable on acceptance of this Credit Agreement and should accompany the return of an executed copy.
Standby Letters of Credit Fee:	1.75% per annum, calculated against the face amount and over the term of each Letter of Credit, subject to a minimum fee of \$500 per Letter of Credit, payable upon issue.
Business VISA Card Fees:	Fees As set forth in the Business Visa Card Agreement, and any one or more of the Business Visa Card Fee and Rate Agreement, the Card Carrier (as defined in the Business Visa Card Agreement) and any notice issued under section 10 of the Business Visa Card Agreement

**EXPENSES:** The Member shall pay all reasonable legal fees and disbursements in respect of this Credit Agreement, the preparation, issuance, amendment, renewal or extension of the Security Documents, the enforcement and preservation of Meridian's rights and remedies, and all reasonable fees and costs relating to appraisals, insurance consultation, credit reporting and responding to demands of any government or any agency or department thereof, whether or not the documentation is completed or any funds are advanced under this Credit Agreement

**SECURITY:** The present and future indebtedness and liability of the Member and the Guarantor(s) to Meridian shall be secured by the following security, evidenced by documents in form satisfactory to Meridian (collectively, the 'Security Documents') registered or recorded as required by Meridian in first position (unless specifically noted or consented to otherwise), and provided prior to any advances or availability being made under this Credit Agreement:

- 1) General Security Agreement over all of the Member's present and after acquired Personal Property.



- 2) Guarantee and Postponement of Claim in favour of Meridian in the Unlimited amount provided by Shawn Saulnier.
- 3) Guarantee and Postponement of Claim in favour of Meridian in the Unlimited amount provided by 2348587 Ontario Inc. together with authorizing resolution.
- 4) Guarantee and Postponement of Claim in favour of Meridian in the Unlimited amount provided by Mohawk Inn & Suites Management Inc. together with authorizing resolution.
- 5) Postponement and Subordination of all shareholder's, non-arm's length creditor's and related party loans. To include a postponement of the right to receive any payments of both principal and interest under the such loans, except as otherwise contemplated herein.
- 6) Such other security documentation as deemed appropriate upon further review by Meridian's Legal Counsel.
- 7) Collateral Mortgage for \$23,000,000 registered in the name of 2607380 Ontario Inc. on the property and buildings located at 1295 North Service Road, Burlington, Ontario. (the "Secured Property"). Notwithstanding the face amount of the mortgage being registered as security, the Member acknowledges that Meridian has made no commitment to provide additional funding.
  - a) Assignment of Rents and Leases on the property and buildings located at 1295 North Service Road Burlington, Ontario.
  - b) Assignment of Fire Insurance, indicating Meridian as first loss payee or first mortgagee on the subject property and buildings located at 1295 North Service Road Burlington, Ontario. The fire insurance is to be on a full replacement basis with no cross liability.
- 8) Certificate of Builders All Risk Insurance naming Meridian as first mortgagee.
- 9) Comprehensive General Liability Insurance for a minimum of \$5,000,000 to be carried by the Member with Meridian shown as Additional Insured.
- 10) Environmental Undertaking and Indemnity executed by the Member and Guarantors.
- 11) Joint and several undertaking by the Borrower and guarantors agreeing to complete the project and fund, from resources outside of the project, all cost overruns in excess of the aggregate costs set out in the project budget approved by Meridian as set out in the Credit Agreement. The Member will not be eligible for further draws until such overruns or deficiencies are funded.
- 12) Assignment of Business Interruption Insurance.

**CONDITIONS:** The availability of the Credit Facilities is contingent upon compliance and satisfaction of each of the following conditions and covenants together with those set out in the Security Documentation and Schedule A:

Conditions  
Precedent:

Meridian shall have received each of the following:

All Facilities

- a) Such financial and other information or documents relating to the Member as Meridian may reasonably require.

*STC*



- b) All the Security Documents duly authorized, executed and delivered and registered or recorded as Meridian may require.
- c) Duly executed copy of this Credit Agreement.
- d) Payment of the Arrangement Fee

Disbursement Conditions: Funds under the Credit Facilities shall only be disbursed upon satisfaction of each of the following conditions:

**Facility #2a**

- a) **Funds under Facility #2a shall only be disbursed upon satisfaction of each of the following conditions:**  
A detailed construction budget and cash flow statement setting out hard and soft costs in form and substance satisfactory to Meridian has been received and reviewed.
- b) The Member will provide monthly written progress / draw requests confirming costs in place and costs to complete the Project, verifying hard costs in place and confirming all work has been completed according to the Project's plans and specifications. Each progress / draw request shall also be supported by:
  - o Contractor's progress claims with a breakdown of sub-trade accounts and statutory declarations confirming that all sub-trades are in current standing.
  - o WSIB certificates.
  - o Draws for soft costs are to be certified by the Member, as applicable, with the report indicating costs to date and costs to complete, with funds withheld to cover any unpaid future soft costs.
  - o Any additional information as may be identified
- c) The Project is to be constructed under a Construction Management Contract with a satisfactory construction manager and fixed price contracts for hard servicing and construction costs. Meridian shall be satisfied in all respects with the project manager, the Construction Management Contract and fixed price contracts in place. A minimum of 70% of the contractual hard costs must be confirmed by signed contracts and/or firm quotes with contractors acceptable to Meridian.
- d) A 45 day holdback of 10% of the dollar value of services and / or materials supplied, as certified within the progress / draw certificate, will be withheld from each advance until substantial performance has been declared and the lien period has expired as confirmed by Meridian's Solicitor.
- e) Meridian will supply such information to lien claimants as may be required under the applicable Construction Lien legislation.
- f) Meridian is not obligated to make loan advances if there is any construction lien registered against the property or if written Notice of a Construction Lien is received by Meridian.
- g) Accumulated advances under the loan are not at any time to exceed the total cost of work in place, including hard and soft costs, as certified within the progress / draw certificate, less required equity, applicable builders deposits and holdbacks. The provisions of the Construction Lien Act are to apply
- h) Meridian's Solicitor is to sub search title at the time of each draw at the expense of the Member, and there shall be no liens or encumbrances prior to Meridian's security or subsequent thereto unless Meridian has given its prior approval.
- i) Disbursement is subject to inspection of the Project by a representative of Meridian.
- j) The Member shall ensure that all H.S.T. remittances are made as required.



- k) If at any time pending or during disbursement of the loan, the undrawn loan balance shall not be sufficient to complete the Project in accordance with the approved plans and specifications and pay for all costs thereof, the Member shall immediately inject cash equity into the Project equal to the deficiency prior to any further loan draw being permitted.
- l) Confirmation that equity in the amount of \$2,000,000 has been contributed by the Member, to be utilized towards ongoing renovation costs.
- m) Satisfactory review of site and building plans for the Project, along with all required development agreements, building permits, and finalized project budget.
- n) **Disbursement Formula**  
 Facility #2a shall not exceed the lesser of:  
 A. \$3,500,000 [the authorized loan limit] or  
 B. The aggregate of;  
 100% of approved project costs in place, as confirmed by the Member and Contractor,  
**Less**  
 i) Member Equity of \$2,000,000  
 ii) Priority payables / Holdbacks.

#### **Facility #2b**

- a) **Funds under Facility #2b shall only be disbursed upon satisfaction of each of the following conditions:**  
 All Disbursement Conditions (a through m) related to Facility #2a above, in addition to the following:
- b) Submission of executed lease along with itemized improvement budget, noting utilization of this facility is only applicable to fund tenant improvement costs for new tenants.

#### **Facility #3**

- a) **Funds under Facility #3 shall only be disbursed upon satisfaction of each of the following conditions:**  
 Stabilization of the Project with a minimum Debt Service Ratio of 1.25x, as evidenced by financial statements, updated rent rolls and copies of all lease agreements fully satisfactory to Meridian.  
 Such debt servicing costs are to be based on the Repayment terms for Facility #3 as set out in this Credit Agreement and all other debt obligations of the Member
- b) Advance will be limited to the lesser of; \$20,000,000 or 60% of the Appraised Value of the property based on an updated appraisal upon Project completion acceptable to Meridian.
- c) Meridian is to review the Rent Roll of the Property and be satisfied with the leases in place. The Rent Roll is to confirm that all leases included in the pro forma Debt Service Ratio test are firm.
- d) The \$20,000,000 take-out loan shall only be disbursed upon Meridian's satisfaction that Substantial completion has occurred and formal Occupancy Permit has been obtained (as it relates to the renovated sections of the property).
- e) Drawdown must occur by no later than April 30, 2020.



**Financial Covenants - The Member will:**

Description	Performance Operator	Requirement	Reporting Frequency
<ul style="list-style-type: none"> <li>• Maintain a minimum Debt Service Ratio. Debt Service Ratio is defined as the ratio of earnings (excluding extraordinary items and gains/losses) before interest, taxes, depreciation and amortization (EBITDA) to the sum of (i) interest expense; (ii) scheduled payments of principal in respect of any debt and (iii) payments made pursuant to capital lease obligations (except the portion of any final balloon payment due in respect of such debt), all in respect of the latest fiscal year.</li> </ul>	Greater Than or Equal To	1.25	Annual

The Debt Service Ratio covenant becomes effective upon drawdown of Facility #3a.

<ul style="list-style-type: none"> <li>• Maintain a minimum Interest Coverage Ratio. For definition purposes "Interest Coverage Ratio" of the company for any period means, the ratio of its Cash Flow for the period to its interest expense on all its debt obligations. For definition purposes "Cash Flow" of the company for a period means, an amount equal to its net income for the period (excluding extraordinary items and gains/losses), added together with its taxes, depreciation and amortization for the period, plus interest expense on indebtedness of the Member.</li> </ul>	Greater Than or Equal To	1.45	Annual
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**Reporting Covenants - The Member shall provide Meridian with each of the following:**

Description	Frequency	Timing of Receipt (days)
<ul style="list-style-type: none"> <li>• Confirmation of valid insurance coverage as stipulated under Security through copy of certificate of renewal.</li> </ul>	Annual	120
<ul style="list-style-type: none"> <li>• Promptly notify Meridian of any material issues impacting the secured properties including any amendments to the lease agreement with the commercial tenant.</li> </ul>	Annual	120
<ul style="list-style-type: none"> <li>• Financial Statements as at the Corporate Guarantors fiscal year end, prepared by a Chartered Professional Accountant on a Notice to Reader basis.</li> </ul>	Annual	120
<ul style="list-style-type: none"> <li>• Updated Personal Financial Statements for the individual guarantors, as requested, with supporting documentation confirming asset and liability values and verifying income.</li> </ul>	As Requested by Meridian	
<ul style="list-style-type: none"> <li>• Confirmation property taxes are current through copy of a paid tax receipt or interim billing showing no arrears.</li> </ul>	Annual	120
<ul style="list-style-type: none"> <li>• Annual rent roll including details of tenants, lease terms (amounts, renewals, expiry) and arrears, if any.</li> </ul>	Annual	120
<ul style="list-style-type: none"> <li>• Financial Statements as at the Member's fiscal year end, prepared by a Chartered Professional Accountant on a Review Engagement basis.</li> </ul>	Annual	120



**Positive Covenants - The Member (and the Guarantors will:**

- Ensure that any Construction Liens or other actions registered against the property are cleared from title immediately from their own resources
- Seek Meridian's prior written consent for revisions which, in aggregate, exceed 50% of the budgeted contingency within the originally approved construction budget or changes to the plans and specifications of the Project.
- Ensure that all H.S.T. remittances are made as required.
- Ensure that Meridian, or its agents, have full access to the Secured Property as required to monitor construction progress.
- Additionally, See Schedule "A" Credit Covenants (a).

**Negative Covenants - The Member and the Guarantors shall not, without the prior written consent of Meridian:**

- Create, Incur, assume or permit the existence of any other financing or liens related to the project, other than as agreed upon herein for the VTB from Crossroads Christian Communications Incorporated and the additional Mezzanine debt being provided by Bridging Financing Inc.
- Sell or transfer the Secured Property or effect any change in ownership of the Member.
- Additionally, See Schedule "A" Credit Covenants (b).

**EVENTS OF DEFAULT**

See Schedule A.

Kindly indicate your acceptance of this Credit Agreement by signing and returning to us the enclosed duplicate of this letter by no later than September 7, 2018 at which point this letter and all agreements contained herein shall become null and void.

Yours truly,

**MERIDIAN CREDIT UNION LIMITED**



Dragan Radojic  
Director, Commercial Services



Stephen Otten  
Regional Vice President,  
Commercial Services




Will the above Credit Facilities be used on behalf of or by a third party? No ☒ Yes ☐  
 (if Yes has been checked please ensure that a New Product Form – Business is completed)

#### ACKNOWLEDGEMENT:

The arrangements set out above are hereby acknowledged and accepted by:

#### 2607380 Ontario Inc.

  
 Signature of Authorized Officer  
 (I have the authority to bind the Corporation)

Shawn Sanlnice  
 Name/Title

Aug 13/18  
 Date

\_\_\_\_\_  
 Signature of Authorized Officer  
 (I have the authority to bind the Corporation)

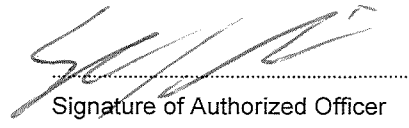
\_\_\_\_\_  
 Name/Title

\_\_\_\_\_  
 Date

#### GUARANTORS

Each of the Guarantors hereby acknowledges and confirms that it understands all the terms & conditions contained therein with respect to its respective Guarantee and Postponement of Claim:

#### Mohawk Inn & Suites Management Inc.

  
 Signature of Authorized Officer  
 (I have the authority to bind the Corporation)

Shawn Sanlnice  
 Name & Title

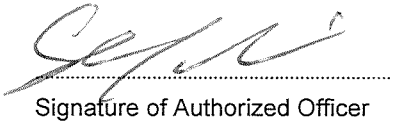
Aug 13/18  
 Date

\_\_\_\_\_  
 Signature of Authorized Officer  
 (I have the authority to bind the Corporation)

\_\_\_\_\_  
 Name & Title

\_\_\_\_\_  
 Date

#### 2348587 Ontario Inc.

  
 Signature of Authorized Officer  
 (I have the authority to bind the Corporation)

Shawn Sanlnice  
 Name & Title

Aug 13/18  
 Date

\_\_\_\_\_  
 Signature of Authorized Officer  
 (I have the authority to bind the Corporation)

\_\_\_\_\_  
 Name & Title

\_\_\_\_\_  
 Date



Shawn Saulnier



Guarantor Signature

Aug 13/18

Date



## SCHEDULE "A" TO CREDIT AGREEMENT

The Credit Facilities as described in the Credit Agreement shall be governed by the following terms and conditions:

### **Definitions**

For the purpose of the Credit Agreement, the following terms shall have the meanings indicated below:

**"Acceptable Inventory"** means the lower of cost or net realizable value, as determined by Meridian from a review of the most recent financial statements and inventory declaration provided by the Member, of all materials owned by the Member for resale or for production of goods for resale, as defined by GAAP, over which the security constituted by the Security Documents shall rank as a valid first mortgage, first ranking transfer or first security interest and which is not subject to any security interest or other encumbrance or any other right or claim which ranks or is capable of ranking in priority to the security constituted by the Security Documents including, without limitation, rights of unpaid suppliers under the *Bankruptcy and Insolvency Act* (Canada) to repossess inventory within 30 days after delivery.

**"Acceptable Receivables"** means the aggregate of accounts receivable of the Member, as defined by GAAP, and as determined by the most recent financial statements and/or aged list of accounts receivable of the Member, over which the security constituted by the Security Documents shall rank as a valid first assignment or first security interest, from customers approved by Meridian.

**"Business Day"** means a day upon which Meridian is open for business.

**"COF Rate"** means the fixed annual rate of interest established and recorded as such by Meridian from time to time as being the aggregate cost of the requested funds on an annual fixed rate basis for a period of 30, 60, 90, or 180 days or 1, 2, 3, 4 or 5 years, as selected by the Member (but maturing not later than the final date for payment of the subject Loan, in any event), including dealer commissions and such reserves as are applicable.

**"Credit Agreement"** means the letter from Meridian to the Member to which this Schedule is attached, together with this Schedule, and includes all amendments and replacements thereof.

**"Financing Documents"** means the present Credit Agreement, the Visa Business Card Agreement, the Visa Business Card Fee and Rate Agreement, the Security Documents and all other documents, instruments, certificates and contracts that the Member or an officer of the Member [or a Guarantor or an officer of a Guarantor] has signed and delivered in accordance herewith, directly or indirectly, or which are mentioned or contemplated in these presents or in such documents, instruments, certificates or contracts.

**"GAAP"** means, generally accepted accounting principles in effect in Canada from time to time applied consistently, including the International Financial Reporting Standards.

**"Government Authority"** means any government legislature, regulatory authority, agency, commission, board or court or other law, regulation or rule making entity having or purporting to have jurisdiction on behalf of any nation, state, country or other subdivision.

**"Legal Requirement"** means all laws, statutes, codes, ordinances, orders, awards, judgments, decrees, injunctions, rules, regulations, authorizations, consents, approvals, orders, permits, franchises, licenses, directions and requirements of any Governmental Authority.

**"Personal Property"** has the meaning given to that term in the Personal Property Security Act (Ontario) and includes chattel paper, documents of title, goods, instruments, intangibles, money, investment property and fixtures but does not include building materials that have been affixed to real property.



**"Potential Preferred Claims"** means, at any time and from time to time, all claims secured by a lien created by or arising under statute or regulation or arising under common law without the explicit consent of the obligor, which rank or are capable of ranking prior to or *pari passu* with the security constituted by the Security Documents against all or any part of property and assets secured thereby, whether then existing or, in Meridian's sole judgment, likely to arise including, without limitation, claims on amount of unremitted source deductions, income tax, goods and services tax, sales tax, workers compensation premiums, director liabilities and such other claims given priority to the claims of secured creditors or excluded from the property of a bankrupt divisible among creditors under the *Bankruptcy and Insolvency Act (Canada)*.

**"Prime Rate"** means the floating annual rate of interest established and recorded as such by Meridian from time to time as a reference rate for purposes of determining rates of interest it will charge on loans denominated in Canadian dollars.

**"US Base Rate"** means the annual rate of interest established and recorded as such by Meridian from time to time as a reference rate for purposes of determining rates of interest it will charge on loans denominated in United States dollars.

**"Visa Business Card Agreement"** means the Meridian Visa Business Card Cardholder Agreement between Member, each Guarantor (if any), Meridian, Collabria Financial Services Inc. (including, without limitation, its successors and assigns) and others named therein as parties thereto, as such agreement may be amended, restated, supplemented or replaced from time to time in accordance with its terms.

**"Visa Business Card Fee and Rate Agreement"** means the document executed by the Member and others named as parties thereto that (i) discloses certain interest rates, grace period, minimum payments, foreign currency conversion fees and certain other fees and (ii) includes certain terms and conditions and privacy notices and consents, as such document may be amended, restated, supplemented or replaced from time to time in accordance with its terms and this Schedule "A".

### **Governing Law**

This Credit Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Borrower and each of the Guarantors attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

### **Currency**

All dollar amounts expressed in this Credit Agreement shall refer to Canadian dollars unless otherwise specified.

### **Currency Indemnity**

Loans denominated in Canadian currency must be repaid with Canadian currency and loans denominated in United States currency must be repaid in United States currency and the Member shall indemnify Meridian for any loss suffered by Meridian if a loan denominated in United States currency is repaid with Canadian currency or vice versa, whether such payment is made pursuant to an order of a court or otherwise.

### **Evidence of Indebtedness**

Meridian's accounts, books, and records constitute, in absence of manifest error, conclusive evidence of the advances made under all Credit facilities, repayments on account thereof and the indebtedness of the Member [and the Guarantors] to Meridian.



**Authorization**

The Member for good and valuable consideration authorizes Meridian to accept telecopier and electronic communications on behalf of the Member as full and sufficient authority to act in accordance with communications as received by Meridian from the Member.

The Member shall be bound by all such telecopier and electronic communications from itself in the same manner and extent as if such communications were originally handwritten and signed by the Member, and the Member shall hold Meridian at all times fully indemnified from all claims and demands in respect of all such instructions, in the event such telecopier and electronic communications, were made without authority or otherwise.

**Interest, Fees and Payment**

- (a) Interest on the daily balance of principal advanced under the Credit Agreement and remaining unpaid from time to time shall be payable by the Member as set out in the Credit Agreement both before and after maturity or demand, default and judgment.

At the discretion of Meridian, each payment under the Credit Agreement shall be applied first in payment of costs and expenses, then interest and fees and the balance, if any, shall be applied in reduction of outstanding principal in inverse order of maturity.

- (b) The fees collected by Meridian shall be its property as consideration for the time, effort and expense incurred by it in the review of documents and financial statements, and the Member acknowledges and agrees that the determination of these costs is not feasible and that the fees set out in the Credit Agreement represent a reasonable estimate of such costs.
- (c) Any amounts which become payable to Meridian under the Credit Agreement or the Security Documents or the other Financing Documents and which are not paid when due shall accrue interest and be payable from the due date at an annual rate equal to Meridian's Prime Rate plus 5% per annum, compounded and payable monthly on the last day of each month, both before and after default and judgment, if no other interest rate is expressed for such amounts.
- (d) In the event Meridian authorizes for the Member a higher debit balance than the maximum amount authorized under this Credit Agreement, the Member agrees to repay such excess amount on demand with interest at Meridian's prescribed rate for such excess advances from time to time, being **21%** per annum at the present time. Such excess amounts are deemed to be secured by any security taken by Meridian pursuant to the terms hereof and all payments or credits to the account of the Member shall be deemed to have been applied first to the repayment of any such excess amounts.
- (e) All payments by the Member to Meridian shall be made at the address of the branch of Meridian set out on the Credit Agreement or at such other place as Meridian may specify in writing from time to time. Any payment delivered or made to Meridian by **3:00 p.m.** local time at the place where such payment is to be made **shall** be credited as of that day, but if made afterwards shall be credited as of the next Business Day.
- (f) Notwithstanding anything to the contrary contained in the Credit Agreement, Meridian may, in its discretion, make an advance under a Credit Facility to pay any unpaid interest or fees which have become due under the terms of the Credit Agreement.
- (g) The obligation of the Member [and the Guarantors] to make all payments under the Credit Agreement and the Security Documents and other Financing Documents shall be absolute and unconditional and shall not be limited or affected by any circumstance, including, without limitation:
- (i) any set-off, compensation, counterclaim, recoupment, defense or other right which the Member [or any Guarantor] may have against Meridian or anyone else for any reason whatsoever; or



- (ii) any insolvency, bankruptcy, reorganization or similar proceedings by or against the Member [or any Guarantor].
- (h) The imposition or collection of a fee does not constitute an express or implied waiver by Meridian of any Event of Default or of any of the terms or conditions of the lending arrangements, security or rights arising from any Event of Default. Fees may be charged to the Member's deposit account when incurred.

### **Prepayment**

Floating Rate Loans: Permitted at any time without penalty unless otherwise stipulated herein.

Fixed Rate Loans: The Member may not make any payments in addition to those required on the stipulated dates prior to the term maturity date except for an annual prepayment provision, not exceeding 10% of the original principal amount. This right of prepayment is not cumulative such that if the Member does not use this privilege in a calendar year, the Member cannot carry forward this right of prepayment for that calendar year to any following calendar year.

Any additional prepayment, in whole or in part, will be applied in inverse order of maturity, by payment in full of all outstanding principal, interest, applicable expenses and discharge costs, and subject to a prepayment penalty consisting of the greater of:

- (a) three months interest, based on the unpaid principal balance as at the payout date,  
and
- (b) the interest rate differential, being an amount calculated by multiplying the difference between the "existing" annual interest rate and the then "current" annual interest rate as at prepayment date, by the unpaid principal balance as at the requested payout date, and calculated with respect to the remaining portion of the term of the loan.

### **Credit Covenants**

In addition to the covenants previously set out, each of the following shall apply until all the Credit Facilities are repaid in full and cancelled:

- (a) The Member will:
  - (i) maintain its membership with Meridian while any portion of the facilities remains outstanding or committed. A \$1.00 share deposit is required;
  - (ii) permit Meridian or associated agents access at all reasonable times to any premises where collateral covered Meridian security may be located and Meridian or its agents may inspect such collateral and all related documents and records;
  - (iii) agree that Meridian will provide all day to day business banking services for the Member;
  - (iv) advise Meridian of any change in the amount and the terms of any credit arrangement made with other lenders or any action taken by another lender to recover amounts outstanding with such other lender;
  - (v) advise promptly after the happening of any event which will result in a material adverse change in the financial condition, business, operations, or prospects of the Member [or a Guarantor] or the occurrence of any Event of Default or default under the Credit Agreement or under any other agreement for borrowed money;

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\* defined and based on COF Rate for a term closest to the remaining term of the loan, plus applicable interest rate spread similar to that used for existing rate



- (vi) inform Meridian of any actual or probable litigation and furnish Meridian with copies of details of any litigation or other proceedings, which might affect the financial condition, business, operations, or prospects of the Member; and
  - (vii) do all things necessary to maintain in good standing its corporate existence and preserve and keep all material agreements, rights, franchises, licenses, operations, contracts or other arrangements in full force and effect.
- (b) The Member shall not, without the prior written consent of Meridian:
- (i) grant or allow any lien, charge, privilege, hypothec or other encumbrance, whether fixed or floating, to be registered against or exist on any of its assets, and in particular, without limiting the generality of the foregoing, shall not grant a trust deed or other instrument in favour of a trustee;
  - (ii) become guarantor or endorser or otherwise become liable upon any note or other obligation other than in the normal course of business of the Member;
  - (iii) declare or pay dividends on any class or kind of its shares, repurchase or redeem any of its shares or reduce its capital in any way whatsoever or repay any shareholders' advances. Such approval will not be unreasonably withheld so long as financial results and account performance is satisfactory;
  - (iv) amalgamate with or permit all or substantially all of its assets to be acquired by any other person, firm or corporation or permit any reorganization or change of control of the Member; or
  - (v) change the nature of its business.
- (c) The scheduled property tax payments are to be paid up to date at all times. If the Member fails to keep the tax payments up to date, Meridian reserves the right to pay the taxes and to collect from the Member an amount sufficient to pay the taxes in full. If the Member fails to timely provide Meridian with evidence of payment status, the Member authorizes Meridian to obtain the document from the municipality at the immediate sole cost and expense of the Member plus costs incurred.
- (d) Insurance coverage is to be maintained, sufficient to substantially replace all assets in the event of loss. If the Member fails to take out and keep in force such minimum insurance as is required hereunder, then Meridian may, but not be obliged to, take out and keep in force such insurance at the immediate sole cost and expense of the Member plus costs incurred, or use other means at its disposal under the terms of the Security Documents.
- (e) The regular rent/lease payments on all rented/leased premises are to be maintained up to date at all times.
- (f) Meridian shall have the right to waive the delivery of any Security Documents or the performance of any term or condition of the Credit Agreement, and may advance all or any portion of the Credit Facility prior to satisfaction of any of the aforesaid conditions precedent, but any such waiver by Meridian of any obligation or condition shall not constitute a waiver of such obligation or condition for any future advance.
- (g) All financial terms and covenants shall be determined in accordance with GAAP, applied consistently.
- (h) Any amount payable by the Member to Meridian under the Credit Agreement or the Security Documents or the other Financing Documents may be debited to any account of the Member with Meridian.



**Letters of Credit**

Meridian shall have the discretion to restrict the maturity date of Letters of Credit

**Cash Management and Foreign Exchange**

Meridian may and the Member hereby authorizes Meridian to, drawdown under any Credit Facility hereunder to satisfy any obligation of the Member to Meridian in connection with any cash management service and/or foreign exchange service provided by Meridian to the Member. Meridian may draw under any Credit Facility hereunder even if the drawdown results in amounts outstanding in excess of the authorized limit for such Credit Facility.

**Visa Business Card**

If a "Visa Business Cash Back Card", "Visa Business Infinite Cash Back Card" and/or "Visa Business Flex Cash Back Card" is included as a Credit Facility, then the provisions of this paragraph shall apply. The terms and conditions of the Visa Business Card Agreement and the Visa Business Card Fee and Rate Agreement are incorporated herein by this reference mutatis mutandis. Member and each Guarantor, if any, represents and warrants that it has received and read in full the Visa Business Card Agreement and the Visa Business Card Fee and Rate Agreement. Member agrees that (i) the reference to the "application by the Primary Cardholder or, as applicable, the Authorized Officer Cardholder" contained within the definition of "Business" in the Visa Business Card Agreement is and shall be deemed to be a reference to the Credit Agreement and the execution on behalf of the Member of the Credit Agreement, (ii) it is the "Business" as defined and referred to in the Visa Business Card Agreement, (iii) it is bound by the Visa Business Card Agreement and (iv) it is jointly and severally liable with the other parties named therein for all debts, liabilities and obligations owing or accruing due under the Visa Business Card Agreement. Each Guarantor, if any, agrees to be bound by the Visa Business Card Agreement [and the Visa Business Card Fee and Rate Agreement] in the capacity of the "Guarantor" as defined and referred to thereunder and each Guarantor agrees that its guarantee of the debts, liabilities and obligations under the Credit Agreement includes without limitation all debts, liabilities and obligations owing or accruing due under the Visa Business Card Agreement. The Visa Business Card Fee and Rate Agreement may be amended, restated, supplemented or replaced by Meridian from time to time within the time periods contemplated in the Visa Business Card Agreement (generally, 30 days' advance written notice) and any use of a Card (as defined in the Visa Business Card Agreement) after receiving any such notice will constitute Member's and any Guarantor's acceptance of the changes contained in such notice.

**Events of Default**

Without limiting the entitlement of Meridian to demand repayment at any time of any Credit Facility or any other rights of Meridian under this Credit Agreement that are repayable on demand, upon the occurrence of any one of the following events (an "**Event of Default**") the obligation of Meridian to make any further advances under any of the Credit Facilities shall terminate immediately and, Meridian may, by written notice to the Member, declare all the unpaid principal of and accrued interest for all Credit Facilities to be immediately due and payable whereupon the same shall become due and payable forthwith:

- (a) The Member fails to make any payment of interest or principal when due pursuant to this Credit Agreement or any other Financing Document;
- (b) There is a breach by the Member of any other term or condition contained in this Credit Agreement or any other Financing Document;
- (c) A representation or warranty contained herein or any other Financing Document is incorrect in any material respect;
- (d) Any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for the relief of debtors are instituted by or against the Member and, if instituted against the Member, are allowed against or consented to by the Member or are not dismissed or stayed within five (5) days after such institution;



- (e) There occurs or is reasonably likely to occur, in the sole discretion of Meridian:
  - (i) a material adverse change in the financial condition of the Member;
  - (ii) an unacceptable change in ownership of the Member; or
  - (iii) legal implications detrimental to the affairs of the Member;
- (f) Any default occurs under any Security Document or under any other Financing Document;
- (g) Default by the Member under any other agreement, whether now or hereafter existing, with Meridian or in respect of any obligation to Meridian;
- (h) The Member is in default in making a payment of any other indebtedness incurred, assumed or guaranteed by it and the effect of such default is to permit the holder of such obligation to cause such obligation to become due prior to its stated maturity;
- (i) Meridian in good faith believes that the ability of the Member to pay any of its obligations to Meridian or to perform any of the covenants contained herein is impaired or the security referred to herein is impaired or is in jeopardy.

The above Events of Default applicable to the Member also extend to the Member's subsidiary(s) and any Guarantors.

#### **Remedies of the Lender**

- (a) Upon the occurrence of an Event of Default, Meridian may declare any or all of the indebtedness and other obligations under the Financing Documents to be immediately due and payable and Meridian may proceed to realize on its security and to enforce its rights by entry or by the appointment by instrument in writing of a receiver or receivers of all or any part of the assets and undertakings of the Member and such receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of Meridian or not, and Meridian may remove any receiver or receivers so appointed and appoint another or others in his or their stead; or by proceeding in any court of competent jurisdiction for the appointment of a receiver or receivers or for sale of the assets and undertakings of the Member or any part thereof; or by any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity; and may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relative to the Member.
- (b) Any such receiver or receivers so appointed shall have power:
  - (i) to take possession of the assets and undertakings of the Member or any part thereof and to carry on the business of the Member;
  - (ii) to borrow money required for the maintenance, preservation or protection of the assets and undertakings of the Member or any part thereof or the carrying on of the business of the Member;
  - (iii) to further charge the Member's assets and undertakings in priority to its Security as security for money so borrowed; and
  - (iv) to sell, lease or otherwise dispose of the whole or any part of the Member's assets or undertakings on such terms and conditions and in such manner as he shall determine.

In exercising any powers any such receiver or receivers shall be deemed to act as agent or agents for the Member and Meridian shall not be responsible for the actions of such agent or agents.



- (c) In addition, Meridian may enter upon and lease or sell the whole or any part or parts of the Member's assets and undertakings and any such sale may be made hereunder by public auction, by public tender or by private contract, with or without notice, advertising or any other formality, all of which are hereby waived by the Member, and such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as to Meridian in its sole discretion may deem advantageous and such sale may take place whether or not Meridian has taken such possession of such assets and undertakings.
- (d) No remedy for the realization of the security or for the enforcement of the rights of Meridian shall be exclusive of or dependent on any other such remedy, and any one or more of such remedies may from time to time be exercised independently or in combination.
- (e) The term "receiver" as used herein includes a receiver and manager.

### **Representations**

The Member [and each Guarantor] represents and warrants that:

- (a) It has full power, authority and legal right to borrow in the manner and on the terms and conditions set out in this Credit Agreement and the other Financing Documents, to execute and deliver the acceptance of this Credit Agreement and to carry out the terms and conditions of this Credit Agreement and the other Financing Documents;
- (b) The execution and delivery of the acceptance of this Credit Agreement and the other Financing Documents and the carrying out of the terms of this Credit Agreement and of the other Financing Documents do not violate any law, order or regulation applicable to it and have been (or will be) duly and validly authorized by it;
- (c) This Credit Agreement as accepted and the other Financing Documents as delivered are valid, binding and legally enforceable against it in accordance with their respective terms except to the extent that the enforcement thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditor's rights generally;
- (d) It is not in default under the provisions of any agreement evidencing, guaranteeing or relating to any outstanding indebtedness or liability and the execution and acceptance of this Credit Agreement and the delivery of the Financing Documents will not constitute a breach of any agreement to which it is a party;
- (e) There are no actions, suits or proceedings pending or threatened against it before any court or government department, commission, board or agency which, if determined adversely, would have a material adverse effect on its financial condition.
- (f) Representations and Covenants re: Hazardous Substances
  - (i) To the best of the Member's knowledge after due and diligent inquiry, no regulated, hazardous or toxic substances are being stored on any of the Member's premises (the "**Premises**") or any adjacent property, nor have any such substances been stored or used on the Premises or any adjacent property prior to the Member's ownership, possession or control of the Premises. The Member agrees to provide written notice to Meridian immediately upon the Member becoming aware that the Premises or any adjacent property are being or have been contaminated with regulated, hazardous or toxic substances. The Member will not permit any activities on the Premises which directly or indirectly could result in the Premises or any other property being contaminated with regulated, hazardous or toxic substances. For the purposes of the Credit Agreement, the term "regulated, hazardous or toxic substances" means any substance, defined or designated as hazardous or toxic wastes, hazardous or toxic material, a hazardous, toxic or radioactive substance or other similar term, by any applicable federal, provincial or local statute, regulation or ordinance now or in the future in effect, or any substance or materials, the use or disposition of which is regulated by any such statute, regulation or ordinance;



- (ii) The Member shall promptly comply with all statutes, regulations and ordinances, and with all orders, decrees or judgments of governmental authorities or courts having jurisdiction, relating to the use, collection, storage, treatment, control, removal or cleanup of regulated, hazardous or toxic substances in, on, or under the Premises or in, on or under any adjacent property that becomes contaminated with regulated, hazardous or toxic substances as a result of construction, operations or other activities on, or the contamination of, the Premises, or incorporated in any improvements thereon. Meridian may, but shall not be obligated to, enter upon the Premises and take such actions and incur such costs and expenses to effect such compliance as it deems advisable and the Member shall reimburse Meridian on demand for the full amount of all costs and expenses incurred by Meridian in connection with such compliance activities; and
- (iii) The assets of the Member which are now or in the future encumbered by the Security Documents are hereby further mortgaged and charged to Meridian, and Meridian shall have a security interest in such assets, as security for the repayment of such costs and expenses and interest thereon, as if such costs and expenses had originally formed part of the Credit Agreement.

(g) **Representations and Covenants re: Environmental Issues**

- (i) To the best of the Member's knowledge, any property mortgaged does not contain any pollutants, dangerous substances, liquid waste, industrial waste, toxic substances, hazardous wastes, hazardous materials, hazardous substances or contaminants. To the best of the Member's knowledge, after due inquiry and investigation, none of these substances have ever been released into the environment as a result of any of the activities conducted on the property mortgaged and future usage will be limited to environmentally acceptable activities in compliance with all current and future applicable international, federal, provincial or municipal laws, by-laws, statutes, regulations, orders, permits or judgements, relating to the environment or occupational health and safety ("**Environmental Laws**");
- (ii) There are no claims, actions, investigations, liens, prosecutions, notices, work orders, control orders, stop orders or directives, written or oral, ("**Orders**") of any kind issued or pending by any third party, court or international, federal, provincial or municipal ministry, department or agency ("**Environmental Authority**") which enforces Environmental Laws with respect of any activities of the Member, or any property owned by the Member, past or present, as they relate to any and all Environmental Laws. To the best of the Member's knowledge, there are no circumstances, current or contemplated, which might give rise to any such Order;
- (iii) To the best of the Member's knowledge, after due inquiry and investigation, any property mortgaged and its existing and prior uses comply and have at all times complied with all Environmental Laws.

The Member shall pay, at the Member's sole cost and expense, the entire cost of any environmental audit deemed necessary by Meridian in Meridian's sole discretion. Such audit shall be performed by a duly licensed engineer acceptable to Meridian. The scope of any environmental audit shall be at Meridian's sole discretion. The auditor performing the environmental audit, its employees and agents shall be granted full access to the property mortgaged and all buildings thereon to perform any testing or investigation deemed necessary by the auditor in the auditor's sole discretion.

The Member shall ensure that the representations and warranties of the Member are true and correct at this time and throughout the term of the Credit Facilities.



### **Waiver or Variation**

No term or condition of the Credit Agreement or any other Financing Document may be waived or varied orally or by any course of conduct of any officer, employee or agent of Meridian. Any amendment to the Credit Agreement or any of the Financing Documents must be in writing and signed by a duly authorized officer of Meridian.

### **Credit Reporting**

The Member and each Guarantor consents to Meridian obtaining from any credit reporting agency or from any person such information as Meridian may require at any time, and consents to the disclosure at any time of any information concerning the Member and any Guarantor to any credit grantor with whom the Member and any Guarantor has financial relations or to any credit reporting agency.

### **Time of Essence**

Time shall be of the essence of this Credit Agreement.

### **Survival**

All terms, conditions, representations and warranties of this letter shall survive the closing of the Credit Facilities contemplated and neither the preparation, nor registration or any documents related to the transaction shall bind Meridian to advance funds under this Credit Agreement or the other Financing Documents.

### **No Merger**

It is understood and agreed that the execution and delivery of the mortgage and other security documents shall in no way merge or extinguish this Credit Agreement or the other Financing Documents or their terms and conditions.

The terms and conditions of this Credit Agreement and the other Financing Documents shall continue in full force and effect; provided however, in the case of any inconsistency between the provisions of this Credit Agreement, and the provisions of any of the Security Agreements and the other Financing Documents, the provisions of this Credit Agreement shall prevail.

### **General Indemnity**

The Member agrees to indemnify Meridian from and against any and all claims, losses and liability arising or resulting from any of the Financing Documents. In no event will Meridian be liable to the Member [or any Guarantor] for any direct, indirect or consequential damages arising under or in connection with any of the Financing Documents.

### **Successors and Assigns**

This Credit Agreement and the other Financing Documents shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

This Credit Agreement and the other Financing Documents may not be assigned, transferred or otherwise disposed of by the Member [or any Guarantor] without the prior written consent of Meridian, which consent may be arbitrarily withheld. Meridian may, without notice to and without the consent of the Member or any Guarantor, assign, syndicate, securitize, transfer or grant participation interests in the whole or any part of this Credit Agreement, the Credit Facilities, the Security Documents and any and all right, title, benefits, remedies and obligations relating thereto. The Member and each Guarantor agrees to co-operate with Meridian in connection with any such assignment, syndication, securitization, transfer or grant of participation interests including, without limitation, the delivery of an Estoppel certificate in a form satisfactory to Meridian.



### **Set Off**

Meridian may (but shall not be obligated), at any time, to apply any credit balance, whether or not then due, to which the Member or any Guarantor is entitled towards satisfaction of the obligations of the Member or any Guarantor under any of the Financing Documents.

### **Increased Costs**

The Member shall reimburse Meridian for any additional cost or reduction in income arising as a result of (i) the imposition of, or increase in, taxes on payments due to Meridian hereunder (other than taxes on the overall net income of Meridian), (ii) the imposition of, or increase in, any reserve or similar requirements, (iii) (i) the imposition of, or change in, any other condition affecting the Credit Facilities imposed by any applicable law or the interpretation thereof.

### **Release of Information**

The Member [and each Guarantor] hereby irrevocably authorizes and directs its accountant (the "Accountant") to deliver all financial statements and other financial information concerning it to Meridian and agrees that Meridian and the Accountant may communicate with each other as to its business and financial affairs.

### **Miscellaneous**

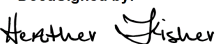
Accounting terms will (to the extent not defined in this Agreement) be interpreted in accordance with GAAP and all financial statements and information provided will be prepared in accordance with those principles.

### **Notices**

Any notices contemplated herein shall be in writing given by authenticated telecopier or electronic communication, and any such notice, shall be deemed to have been given when sent, if sent by telecopier, or when receipt has been confirmed in the case of electronic communication. In the case of the Member [and each Guarantor] such notice shall be sent to the most recent telecopier number or address for electronic communication that appears on Meridian's records.



THIS IS **EXHIBIT “C”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

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*A Commissioner etc.*



LRO # 20 Charge/Mortgage

Registered as HR1532634 on 2018 03 26 at 12:55

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 4

**Properties**

PIN 07127 - 0265 LT Interest/Estate Fee Simple  
 Description PT LT 10 , RCP PL 99 , PART 3 & 7 , 20R6963 , S/T IN 619045 ; BURLINGTON  
 Address 1295 NORTH SERVICE RD  
 BURLINGTON

**Chargor(s)**

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name 2607380 ONTARIO INC.  
 Address for Service 2380 Mohawk Trail,  
 Campbellville,  
 ON  
 L0P 1B0

I, SHAWN SAULNIER, President, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Chargee(s)**

Capacity

Share

Name MERIDIAN CREDIT UNION LIMITED  
 Address for Service 75 Corporate Park Drive,  
 St. Catharines, ON  
 L2S 3W3

**Statements**

Schedule: See Schedules

**Provisions**

Principal \$23,000,000.00 Currency CDN  
 Calculation Period  
 Balance Due Date ON DEMAND  
 Interest Rate 24.0%  
 Payments  
 Interest Adjustment Date  
 Payment Date  
 First Payment Date  
 Last Payment Date  
 Standard Charge Terms 200522  
 Insurance Amount full insurable value  
 Guarantor

**Signed By**

Jill C. Medeiros 1 James Street South, 14 th floor, acting for Signed 2018 02 13  
 PO Box 926 Depo  
 Hamilton  
 L8N 3P9  
 Chargee(s)

Tel 905-523-1333

Fax 905-523-5878

I have the authority to sign and register the document on behalf of the Chargee(s).

**Submitted By**

SCARFONE HAWKINS LLP 1 James Street South, 14 th floor, PO 2018 03 26  
 Box 926 Depo  
 Hamilton  
 L8N 3P9

Tel 905-523-1333

Fax 905-523-5878



LRO # 20 Charge/Mortgage

Registered as HR1532634 on 2018 03 26 at 12:55

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 4

<b>Fees/Taxes/Payment</b>
---------------------------

Statutory Registration Fee	\$63.65
Total Paid	\$63.65

<b>File Number</b>
--------------------

Chargee Client File Number : 17R1494



SCHEDULE FOR ALL COLLATERAL MORTGAGES

SCHEDULE "A"

PAYMENT PROVISIONS

This Charge is given as continuing security for payment to the Chargee of all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Chargor to the Chargee (such debts and liabilities being hereinafter called the "liabilities"), but the Chargor's liability hereunder being limited to the sum of "the Credit Limit" (being the Principal Amount stated on Page 1 of this Charge/Mortgage) with interest at the rate hereinafter set out;

The Chargor covenants to pay each and every liability to the Chargee punctually as the same falls due; provided that this Charge is void upon payment on demand of the ultimate balance of the liabilities and all promissory notes, bills of exchange, guarantees and any other instruments whatsoever from time to time representing the liabilities or any part thereof, not exceeding the principal sum of "the Credit Limit" (being the Principal Amount stated on Page 1 of this Charge/Mortgage) together with interest thereon at the rate of 24.00 per centum per annum as well after as before maturity and both before and after default and all other amounts payable by the Chargor hereunder.



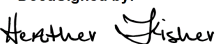
**(SCHEDULE FOR COMMERCIAL / FARM / RESIDENTIAL / CONSTRUCTION MORTGAGES)****SCHEDULE "B"****ADDITIONAL PROVISIONS****RECEIVER**

Notwithstanding anything herein contained it is declared and agreed that at any time and from time to time when there shall be default under the provisions of these presents the chargee may at such time and from time to time and with or without entry into possession of the charged premises or any part thereof by writing under its corporate seal appoint a receiver of the charged premises or any part thereof and of the rents and profits thereof and with or without security and may from time to time by similar writing remove any receiver and appoint another in his stead and that, in making any such appointment or removal, the chargee shall be deemed to be acting as the agent or attorney for the chargor. Upon the appointment of any such receiver or receivers from time to time the following provisions shall apply:

1. That the statutory declaration of an officer of the chargee as to default under the provisions of these presents shall be conclusive evidence thereof.
2. That every such receiver shall be the irrevocable agent or attorney of the chargor for the collection of all rents falling due in respect of the charged premises or any part thereof whether in respect of any tenancies created in priority to these presents or subsequent thereto;
3. That every such receiver may, in the discretion of the chargee and by writing under its corporate seal, be vested with all or any of the powers and discretions of the chargee;
4. That the chargee may from time to time by such writing fix the remuneration of every such receiver who shall be entitled to deduct the same out of the charged premises or the proceeds thereof;
5. That every such receiver shall, so far as concerns responsibility for his acts or omissions, be deemed the agent or attorney of the chargor and in no event the agent of the chargee;
6. That the appointment of every such receiver by the chargee shall not incur or create any liability on the part of the chargee to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the chargee a chargee in possession in respect of the charged premises or any part thereof;
7. That every such receiver shall from time to time have the power to rent any portion of the demised premises which may become vacant for such term and subject to such provisions as he may deem advisable or expedient and in so doing every such receiver shall act as the attorney or agent of the chargor and he shall have authority to execute under seal any lease of any such premises in the name of and on behalf of the chargor and the chargor undertakes to ratify and confirm whatever any such receiver may do in the premises;
8. That every such receiver shall have full power to take all steps he deems appropriate to complete any unfinished construction upon the charged premises with the intent that the charged premises and the buildings thereof when so completed shall be the complete structure as represented by the chargor to the chargee for the purpose of obtaining this charge loan;
9. That every such receiver shall have full power to manage, operate, amend, repair, alter or extend the charged premises or any part thereof in the name of the chargor for the purpose of securing the payment of rental from the charged premises or any part thereof;
10. That no such receiver be liable to the chargor to account for monies or damages other than cash received by him in respect of the charged premises or any part thereof and out of such cash so received every such receiver shall in the following order pay:
  - (a) His remuneration aforesaid;
  - (b) All payments made or incurred by him in connection with the management, operation, amendment, repair, alteration or extension of the charged premises or any part thereof; or completion of any unfinished construction upon same;
  - (c) In payment of interest, principal and other money which may, from time to time, be or become charged upon the charged premises in priority to these presents, and all taxes, insurance premiums and every proper expenditure made or incurred by him in respect to the charged premises or any part thereof;
  - (d) The chargee in payment of all interest due or falling due under this charge and the balance to be applied upon principal due and payable and secured by this charge; and
  - (e) Thereafter any surplus remaining in the hands of every such receiver to the chargor, its successors and assigns.



THIS IS **EXHIBIT “D”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

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*A Commissioner etc.*





## General Security Agreement

THIS SECURITY AGREEMENT (as amended, modified, renewed, supplemented, replaced or extended from time to time, this "Agreement") dated as of January 31, 2018, is made by and between 2607380 ONTARIO INC. (the "Assignor"), and MERIDIAN CREDIT UNION LIMITED (the "Lender").

The Assignor hereby enters into this General Security Agreement with the Lender for valuable consideration and as security for the repayment and discharge of all indebtedness, obligations and liabilities of any kind, now or hereafter existing, direct or indirect, absolute or contingent, joint or several, of the Assignor to the Lender, whosoever and howsoever incurred whether as principal or surety, together with all expenses (including legal fees on a solicitor and client basis) incurred by the Lender, its receiver or agent in the preparation, perfection and enforcement of security or other agreements held by the Lender in respect of such indebtedness, obligations or liabilities and interest thereon (all of which present and future indebtedness, obligations, liabilities, expenses and interest are herein collectively called the "Indebtedness").

### A. Grant of Security Interests

1. The Assignor hereby grants to the Lender, by way of mortgage, charge, assignment and transfer, a security interest (the "Security Interest") in the undertaking of the Assignor and in all property, real and personal, including, without limitation, all Goods (including all parts, accessories, attachments, special tools, additions and accessions thereto), Accounts, Chattel Paper, Documents of Title (whether negotiable or not), Instruments, Intangibles, Money, Securities, Investment Property, now or hereafter owned or acquired by or on behalf of the Assignor and in all proceeds and renewals thereof, accretions thereto and substitutions therefor (hereinafter collectively call the "Collateral") including without limitation, all of the following now or hereafter owned or acquired by or on behalf of the Assignor:
  - (i) all Inventory of whatever kind and wherever situate;
  - (ii) all Equipment of whatever kind and wherever situate including, without limitation, all machinery, tools, apparatus, plant furniture, fixtures and vehicles of whatsoever nature or kind;
  - (iii) all accounts and book debts and generally all debts, accounts receivable, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit, guarantees and advices of credit which are now due, owing or accruing or growing due to or owned by or which may hereafter become due, owing or accruing or growing due to or owned by the Assignor;
  - (iv) all deeds, documents, writings, papers, books of account and other books relating to or being records of Accounts, Chattel Paper or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable;
  - (v) all contractual rights and insurance claims and all goodwill, patents, trademarks, copyrights and other industrial property;
  - (vi) all monies other than trust monies lawfully belonging to others;
  - (vii) all property and assets, real and personal, moveable or immoveable, of whatsoever nature and kind; and
  - (viii) all present and future investment property held by the Assignor, including securities, shares, options, rights, warrants, joint venture interests, interests in limited partnerships, trust units, bonds, debentures and all other documents which constitute evidence of a share, participation, or other interest of the Assignor in property or in a enterprise or which constitute evidence of an obligation of the issuer, together with all accretions thereto, all substitutions therefor, all dividends and income derived therefrom and all rights and claims in respect thereof.
2. The Security Interest hereby created shall not extend or attach to (i) any personal property held in trust by the Assignor and lawfully belonging to others or (ii) any property of the Assignor that constitutes consumer goods for the personal use of the Assignor; or (iii) the last day of the term of any lease, oral or written or agreement therefor, now held or hereafter acquired by the Assignor, provided that upon the enforcement of the Security Interest the Assignor shall stand possessed of such last day in trust to assign and dispose of the same to any person acquiring such term. Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed thereto in the PPSA.

### B. Attachment

3. The Assignor warrants and acknowledges that the Assignor and the Lender intend the Security Interest in existing Collateral to attach upon the execution of this General Security Agreement; that value has been given; that the Assignor has rights in such existing Collateral; and that the Assignor and the Lender intend the Security Interest in hereafter acquired Collateral to attach at the same time as the Assignor acquires rights in the said after acquired Collateral.

### C. Representations and Warranties of Assignor

4. The Assignor hereby represents and warrants to the Lender that:
  - (a) the Collateral is genuine and owned by the Assignor, with good and marketable title, free of all security interests, mortgages, liens, claims, charges or other encumbrances (collectively hereinafter called "Encumbrances"); save for the Security Interest
  - (b) no person has any right, title, claim or interest (by way of security interest or other lien) in, against or to the Collateral;
  - (c) all information heretofore, herein or hereafter supplied to the Lender by or on behalf of the Assignor with respect to the Collateral is accurate and complete in all material respects.
  - (d) the Assignor has delivered to the Lender all instruments and chattel paper and other items of Collateral in which a security interest is or may be perfected by possession, together with such additional writings, including assignments, with respect thereto as the Lender shall request.
  - (e) all of the patents, trade-marks, and copyrights of the Assignor have been registered or applied to be registered with the United States Patent and Trademark Office, the United States Copyright Office or the Canadian Intellectual Property Office, as appropriate.
  - (f) the Assignor's chief executive office is in the Province of Ontario and the Assignor's records concerning the Collateral are located at its chief executive office.



**D. Covenants and Agreements of Assignor**

5. The Assignor hereby covenants and agrees with the Lender that until all of the Indebtedness is paid in full:

- (a) the Assignor shall not without the prior written consent of the Lender sell or dispose of any of the Collateral in the ordinary course of business or otherwise, and if the amounts on or in respect of the Collateral or Proceeds thereof shall be paid to the Assignor, the Assignor shall receive the same in trust for the Lender and forthwith pay over the same to the Lender upon request; provided however that the Inventory of the Assignor may be sold or disposed of in the ordinary course of business and for the purpose of carrying on the same;
- (b) the Assignor shall not without the prior written consent of the Lender create or permit any Encumbrances upon or assign or transfer as security or pledge or hypothecate as security the Collateral except to the Lender;
- (c) the Assignor shall at all times have and maintain insurance over the Collateral against risks of fire (including extended coverage), theft, and such risks as the Lender may reasonably require in writing, containing such terms, in such form, for such periods and written by such companies as may be reasonably satisfactory to the Lender. The Assignor shall duly and reasonably pay all premiums and other sums payable for maintaining such insurance and shall cause the insurance money thereunder to be payable to the Lender as its interest hereunder may appear and shall, if required, furnish the Lender with certificates or other evidence satisfactory to the Lender of compliance with the foregoing insurance provisions. In the event that Assignor fails to pay all premiums and other sums payable in accordance with the foregoing insurance provision, the Lender may make such payments to be repayable by the Assignor on demand and any such payments made by the Lender shall be secured hereby;
- (d) the Assignor shall keep the Collateral in good condition and repair according to the nature and description thereof, and the Lender may, whenever it deems necessary, either in person or by agent, inspect the Collateral and the reasonable cost of such inspection shall be paid by the Assignor and secured hereby and the Lender may make repairs as it deems necessary and the cost thereof shall be paid by the Assignor and secured hereby;
- (e) the Assignor shall duly pay all taxes, rates, levies, assessments of every nature which may be lawfully levied, assessed or imposed against or in respect of the Assignor or the Collateral as and when the same become due and payable;
- (f) the Assignor agrees that the Lender may, at any time, whether before or after a default under this General Security Agreement, notify any account Borrower of the Assignor of the Security Interest, require such account Borrower to make payment to the Lender, take control of any Proceeds of Collateral and may hold all amounts received from any account Borrower and any Proceeds as part of the Collateral and as security for the Indebtedness;
- (g) the Assignor shall prevent the Collateral from becoming an accession to any personal property not subject to this agreement or becoming affixed to any real property, without the prior written consent of the Lender.
- (h) the Assignor shall from time to time deliver to the Lender promptly upon request (and, if so requested, from time to time as they are acquired by the Assignor) all items of Collateral comprising Chattel Paper, Instruments, Investment Property (to the extent certificated) and those Documents of Title which are negotiable.
- (i) the Assignor shall pay or reimburse the Lender for all costs and expenses of the Lender, its agents, officers and employees (including, without limitation, legal fees and disbursements on a substantial indemnity basis) incurred with respect to:
  - (i) the preparation, perfection, execution and filing of this agreement and the filing of financing statement(s) and financing change statement(s) with respect to this agreement;
  - (ii) any person engaged by the Lender to conduct an inspection of the collateral; and
  - (iii) dealing with other creditors of the Assignor in connection with the establishment, confirmation, amendment or preservation of the priority of the Security Interest;

such costs and expenses to be payable by the Assignor to the Lender on demand, to bear interest at the highest rate per annum borne by any of the Indebtedness, calculated and compounded monthly, and (with all such interest) to be added to and form part of the Indebtedness.
- (j) the Assignor shall promptly notify the Lender in writing of the details of:
  - (i) any amendment to its articles, including without limitation by virtue of the filing of articles of amalgamation, effecting a change in the Assignor's name or authorizing it to use a French version of its name;
  - (ii) any claim, litigation or proceedings before any court, administrative board or other tribunal which either does or could have a material adverse effect on the Collateral or the Assignor;
  - (iii) any claim, lien, attachment, execution or other process or encumbrance made or asserted against or with respect to the Collateral which either does or could have a material adverse effect on the Security Interest;
  - (iv) any transfer of the Assignor's interest in the Collateral, whether or not permitted hereunder; or
  - (v) any material loss of or damage to the Collateral, whether or not such loss or damage is covered by insurance.
- (k) if any of the Collateral consists of Investment Property, (a) the Assignor authorizes the Lender to transfer such Collateral or any part thereof into its own name or that of its nominee so that the Lender or its nominee may appear of record as the sole owner thereof; provided, that so long as no event of default has occurred, the Lender shall deliver promptly to the Assignor all notices, statements or other communications received by it or its nominee as such registered owner, and upon demand and receipt of payment of necessary expenses thereof, shall give to the Assignor or its designee a proxy or proxies to vote and take all action with respect to such property; provided further that after the occurrence of an event of default, the Assignor waives all rights to be advised of or to receive any notices, statements or communications received by the Lender or its nominee as such record owner, and agrees that no proxy or proxies given by the Lender to the Assignor or its designee as aforesaid shall thereafter be effective; and (b) the Assignor further agrees to execute such other documents and to perform such other acts, and to cause any issuer or securities intermediary to execute such other documents and to perform such other acts as may be necessary or appropriate in order to give the Lender "control" of such Investment Property, as defined in the Securities Transfer Act, 2006 (Ontario), which "control" shall be in such manner as the Lender shall designate in its sole judgment and discretion, including, without limitation, an agreement by any issuer or securities intermediary that it will comply with instructions in the case of an issuer or entitlement orders in the case of a securities intermediary, originated by the Lender, whether before or after the occurrence of an event of default, without further consent by the Assignor.

6. The Assignor shall at all times and from time to time do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered any such further act, deed, transfer, assignment, assurance, document or instrument as the Lender may reasonably require for the better granting, mortgaging, charging, assigning and transferring unto the Lender the property and assets hereby subjected or intended to be subject to the Security Interest or which the Assignor may hereafter become bound to mortgage, charge, assign, transfer or subject to the Security Interest in favour of the Lender for the better accomplishing and effectuating of this General Security Agreement and the provisions contained herein and each and every officer of the Lender is irrevocably appointed attorney



to execute in the name and on behalf of the Assignor any document or instrument for the said purposes.

7. The Assignor shall permit the Lender at any time, either in person or by agent, to inspect the Assignor's books and records pertaining to the Collateral. The Assignor shall at all times upon request by the Lender furnish the Lender with such information concerning the Collateral and the Assignor's affairs and business as the Lender may reasonably request including, without limitation, lists of Inventory and Equipment and lists of Accounts showing the amounts owing upon each Account and securities therefor and copies of all financial statements, books and accounts, invoices, letters, papers and other documents in any way evidencing or relating to the Accounts.
8. The Assignor acknowledges and agrees that, in the event it amalgamates with any other corporation or corporations, it is the intention of the parties hereto that the term "Assignor" when used herein shall apply to each of the amalgamating corporations and to the amalgamated corporation, such that the Security Interest granted hereby:
  - (i) shall extend and attach to "Collateral" (as that term is herein defined) owned by each of the amalgamating corporations and the amalgamated corporation at the time of amalgamation and to any "Collateral" thereafter owned or acquired by the amalgamated corporation;
  - (ii) shall secure the "Indebtedness" (as that term is herein defined) of each of the amalgamating corporations and the amalgamated corporation to the Lender at the time of amalgamation and any "Indebtedness" of the amalgamated corporation to the Lender thereafter arising.

#### E. Default

9. The Assignor shall be in default under this General Security Agreement upon the occurrence of any one of the following events:
  - (a) the nonpayment by the Assignor, when due, whether by acceleration or otherwise, of any of the Indebtedness;
  - (b) the death or a declaration of incompetency by a court of competent jurisdiction with respect to the Assignor, if an individual;
  - (c) the failure of the Assignor to observe or perform any covenant, undertaking or agreement heretofore or hereafter given to the Lender, whether contained herein or not;
  - (d) an execution or any other process of the Court becomes enforceable against the Assignor or a distress or an analogous process is levied upon the property of the Assignor or any part thereof;
  - (e) the Assignor becomes insolvent, commits an act of bankruptcy, makes an assignment in bankruptcy or a bulk sale of its assets, any proceeding for relief as a Assignor or liquidation, re-assignment or winding-up is commenced with respect to the Assignor or an application for a bankruptcy order is filed or presented against the Assignor and is not bona fide opposed by the Assignor;
  - (f) the Assignor ceases to carry on business;
  - (g) any representation or warranty of the Assignor contained herein or in any document or certificate furnished in connection herewith proves to have been untrue in any material respect at the time in respect of which it was made;
  - (h) an encumbrancer, whether permitted or otherwise, takes possession of any significant portion of the Collateral;
  - (i) an order is made or legislation enacted for the expropriation, confiscation, forfeiture, escheating or other taking or compulsory divestiture, whether or not with compensation, of all or a significant portion of the Collateral unless the same is being actively and diligently contested by the Assignor in good faith, the Assignor shall have provided to the Lender such security therefor as it may reasonably require and such order or legislation shall have been vacated, lifted, discharged, stayed or repealed within thirty days from the date of being entered, pronounced or enacted, as the case may be;
  - (j) the Assignor is liquidated, dissolved or its corporate charter expires or is revoked; or
  - (k) the Assignor defaults in the observance or performance of any provision relating to indebtedness of the Assignor to any creditor other than the Lender and thereby enables such creditor to demand payment of such indebtedness.
10. The Lender may in writing waive any breach by the Assignor of any of the provisions contained herein or any default by the Assignor in the observance or performance of any covenant or condition required by the Lender to be observed or performed by the Assignor; provided that no act or omission by the Lender in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent breach or default or the rights resulting therefrom.

#### F. Remedies of the Lender

11. (a) Upon any default under this General Security Agreement, the Lender may declare any or all of the Indebtedness to be immediately due and payable and the Lender may proceed to realize the security hereby constituted and to enforce its rights by entry or by the appointment by instrument in writing of a receiver or receivers of all or any part of the Collateral and such receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Lender or not, and the Lender may remove any receiver or receivers so appointed and appoint another or others in his or their stead; or by proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers or for sale of the Collateral or any part thereof; or by any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity; and may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any Bankruptcy, winding-up or other judicial proceedings relative to the Assignor.
- (b) Any such receiver or receivers so appointed shall have power:
  - (i) to take possession of the Collateral or any part thereof and to carry on the business of the Assignor;
  - (ii) to borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Assignor;
  - (iii) to further charge the Collateral in priority to the Security Interest as security for money so borrowed; and
  - (iv) to sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as he shall determine.

In exercising any powers any such receiver or receivers shall be deemed to act as agent or agents for the Assignor and the Lender shall not be responsible for the actions of such agent or agents.
- (c) In addition, the Lender may enter upon and lease or sell the whole or any part or parts of the Collateral and any such sale may be made hereunder by public auction, by public tender or by private contract, with or without notice, advertising or any other formality, all of which are hereby waived by the Assignor, and such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as to the Lender in its sole discretion may seem advantageous and such sale may take place whether or not the Lender has taken such possession of such Collateral.



- (d) No remedy for the realization of the security hereof or for the enforcement of the rights of the Lender shall be exclusive of or dependent on any other such remedy, and any one or more of such remedies may from time to time be exercised independently or in combination.
- (e) The term "receiver" as used in this General Security Agreement includes a receiver and manager.

#### G. Rights of the Lender

12. All payments made in respect of the Indebtedness and money realized from any securities held therefor may be applied on such part or parts of the Indebtedness as the Lender may see fit and the Lender shall at all times and from time to time have the right to change any appropriation of any money received by it and to re-apply the same on any other part or parts of the Indebtedness as the Lender may see fit, notwithstanding any previous application by whomsoever made.
13. The Assignor grants to the Lender the right to set off against any and all accounts, credits or balances maintained by it with the Lender, the aggregate amount of any of the Indebtedness when the same shall become due and payable whether at maturity, upon acceleration of maturity thereof or otherwise.
14. The Lender, without exonerating in whole or in part the Assignor, may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any or all existing securities up to, may abstain from taking securities from or from perfecting securities of, may accept compositions from and may otherwise deal with the Assignor and all other persons and securities as the Lender may see fit.
15. The Lender may assign, transfer and deliver to any transferee any of the Indebtedness or any security or any documents or instruments held by the Lender in respect thereof provided that no such assignment, transfer or delivery shall release the Assignor from any of the Indebtedness; and thereafter the Lender shall be fully discharged from all responsibility with respect to the Indebtedness and security, documents and instruments so assigned, transferred or delivered. Such transferee shall be vested with all powers and rights of the Lender under such security, documents or instruments but the Lender shall retain all rights and powers with respect to any such security, documents or instruments not so assigned, transferred or delivered. The Assignor shall not assign any of its rights or obligations hereunder without the prior written consent of the Lender.

#### H. Miscellaneous

16. This General Security Agreement is in addition to, not in substitution for and shall not be merged in any other agreement, security, document or instrument now or hereafter held by the Lender or existing at law in equity or by statute.
17. Nothing herein shall obligate the Lender to make any advance or loan or further advance or loan or to renew any note or extend any time for payment of any indebtedness of the Assignor to the Lender.
18. This General Security Agreement shall be binding upon the Assignor and its heirs, legatees, trustees, executors, administrators, successors and assigns including any successor by reason of amalgamation of or any other change in the Assignor and shall enure to the benefit of the Lender and its successors and assigns.
19. In construing this General Security Agreement, terms herein shall have the same meaning as defined in the PPSA, as hereinafter defined, unless the context otherwise requires. Words importing gender shall include all genders. Words importing the singular number shall include the plural and vice versa.
20. If one or more of the provisions contained herein shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
21. The headings in this General Security Agreement are included herein for convenience of reference only and shall not constitute a part of this General Security Agreement for any other purpose.
22. Any notice or statement referred to herein may be delivered, sent by facsimile machine or providing that postal service throughout Canada is fully operative, may be mailed by ordinary prepaid mail to the Assignor at his last address known to the Lender and the Assignor shall be deemed to have received such notice or statement on the day of delivery, if delivered, one business day after transmission and confirmation received if sent by facsimile machine and three business days after mailing, if mailed.
23. Where any provision or remedy contained or referred to in this General Security Agreement is prohibited, modified or altered by the laws of any province or territory of Canada which governs that aspect of this General Security Agreement and the provision or remedies may be waived or excluded by the Assignor in whole or in part, the Assignor hereby waives and excludes such provision to the fullest extent permissible by law.
24. This General Security Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario as the same may be in effect from time to time including, where applicable, the Personal Property Security Act of that Province (as amended or substituted, the "PPSA"). For the purpose of legal proceedings this General Security Agreement shall be deemed to have been made in the said Province and to be performed there and the courts of that Province shall have jurisdiction over all disputes which may arise under this General Security Agreement and the Assignor hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of such courts, provided always that nothing herein contained shall prevent the Lender from proceeding at this election against the Assignor in the Courts of any other Province, country or jurisdiction.
25. The Assignor acknowledges having received a copy of this General Security Agreement.

This General Security Agreement has been duly executed by the Assignor on the 31 day of January, 2018.

2607380 ONTARIO INC.

To be completed  
by incorporated  
business

< Please print >

Name: Shawn Saulnier

Title: President

Name: \_\_\_\_\_

Title: \_\_\_\_\_

X   
Signature

X \_\_\_\_\_  
Signature

I/We have the authority to bind the Corporation.



To be completed  
by sole  
proprietor or  
partners

< Please print >

Name: \_\_\_\_\_

Middle Initial: \_\_\_\_\_ Date of Birth (day month year): \_\_\_\_\_ Gender: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

X

Signature of Witness

X

Signature of Assignor

Name: \_\_\_\_\_

Middle Initial: \_\_\_\_\_ Date of Birth (day month year): \_\_\_\_\_ Gender: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

X

Signature of Witness

X

Signature of Assignor



# Meridian™ Specific Resolution of the Board of Directors of 2607380 ONTARIO INC.

## Be it Resolved:

That as security for the existing and future liabilities of the Corporation to Meridian Credit Union Limited (herein "Meridian"), this Corporation executes and delivers to Meridian a General Security Agreement under the Personal Property Security Act, which shall serve as continuing security for all obligations of the Corporation to Meridian, in the form provided by Meridian; and



Any one of the President is hereby authorized to execute on behalf of this Corporation, documents of security and all other deeds, documents, instruments, and writings, if any, incidental or to give effect thereto, and to all other things, which they may consider to be necessary, desirable, or useful for fulfilling the Corporation's obligation to Meridian, including affixing the Corporation seal to all documents executed by them.

~~The undersigned Secretary of the Corporation hereby certifies the foregoing to be a true copy of a Resolution of the Board of Directors of the Corporation, passed at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_.~~

~~Dated at \_\_\_\_\_ this \_\_\_\_\_ day of January, 2018.~~

~~WITNESS the Corporate Seal of the Corporation~~

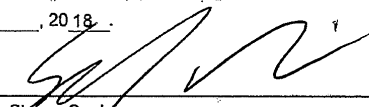


~~Secretary~~

OR


The undersigned being all if the Directors of 2607380 ONTARIO INC.

hereby sign the foregoing resolution this 31<sup>st</sup> day of January, 2018.

  
Shawn Saulnier



THIS IS **EXHIBIT “E”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

---

*A Commissioner etc.*



**PRIORITY, POSTPONEMENT AND STANDSTILL AGREEMENT**

**THIS AGREEMENT** made as of March 23, 2018.

**BETWEEN:**

**MERIDIAN CREDIT UNION LIMITED**

(hereinafter referred to as the "**Meridian**")

- and -

**CROSSROADS CHRISTIAN COMMUNICATIONS  
INCORPORATED**

(hereinafter referred to as "**CCCI**")

- and -

**BRIDGING FINANCE INC., as agent**

(hereinafter referred to as "**BFI**")

- and -

**2607380 ONTARIO INC.**

(hereinafter referred to as "**Borrower**")

**WHEREAS** the Borrower is the registered owner of those lands and premises legally described as PT LT 10, RCP PL 99, PART 3 & 7, 20R6963, S/T IN 619045; BURLINGTON, and municipally known as 1295 North Service Road, Burlington, Ontario (hereinafter referred to as the "**Real Property**") including any portion thereof, and any chattels, fixtures, rents, leases, and/or other personal property situate upon, within or affixed to or otherwise relating exclusively to the Real Property, or any portion thereof (the "**Property Collateral**");

**AND WHEREAS** the Borrower granted a charge to Meridian which was registered in the Land Registry Office for the Land Titles Division of Halton (No. 20) on the date hereof and additionally secured by a General Assignment of Rents, Notice of which was registered on the date hereof, which charge secures the maximum principal sum of TWENTY THREE MILLION DOLLARS (\$23,000,000.00), together with costs and interest thereon (the "**Meridian Indebtedness**") registered against the Real Property and other security collateral to such charge (collectively, the "**Meridian Security**") pursuant to a Credit Agreement, dated March 9, 2018, as such Credit Agreement may have been, and may in the future be amended, modified, restated or replaced from time to time or times (the "**Meridian Credit Agreement**");

**AND WHEREAS** the Borrower acquired the Real Property from CCCI in part consideration of which CCCI provided a vendor-take-back loan for which Borrower granted a charge to CCCI which was registered in the Land Registry Office for the Land Titles Division of Halton (No. 20) on the date hereof, which charge secures the principal sum of FOUR MILLION



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FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) (the "**CCCI Indebtedness**") and certain additional security collateral thereto, if any (collectively, the "**CCCI Security**");

**AND WHEREAS** the Borrower granted a charge to the BFI which was registered in the Land Registry Office for the Land Titles Division of Halton (No. 20) on the date hereof, which charge secures the principal sum of THREE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$3,250,000.00) together with costs and interest thereon (the "**BFI Indebtedness**"), registered against the Real Property, or portions thereof, and the Borrower has granted, or may in the future grant, other security collateral to such charge (collectively, the "**BFI Security**"), pursuant to the terms of a Commitment Letter, dated March 20, 2018 (the "**BFI Commitment Letter**"), as such commitment letter may have been, and may in the future be amended, modified, restated or replaced from time to time or times.

**AND WHEREAS** the parties hereto have entered into this Agreement in order to evidence and confirm the respective priorities between the Meridian Security, the CCCI Security, and the BFI Security in respect of the Real Property and to outline the respective obligations and agreements among the parties with respect to the financing of the acquisition and the realization upon their respective security;

**AND WHEREAS** for the purposes of this Agreement the parties have agreed that the amount of the Meridian Indebtedness to which the CCCI Security shall be postponed is the aggregate of the amounts as set out in Schedule "B" (the "**Limited Meridian Indebtedness**");

**AND WHEREAS** by a lease dated March 23, 2018, the Borrower has leased to CCCI certain premises upon the Real Property for a term of five (5) years (and two (2) options to extend for an additional five (5) years) upon the terms and conditions as set out in the Lease;

**AND WHEREAS** Meridian and CCCI entered into a Non-Disturbance and Attornment Agreement the dated March 23, 2018 (the "**NDA Agreement**");

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants and agreements hereinafter set forth, the sum of Ten Dollars (\$10.00) of lawful money of Canada paid by each of the parties hereto to the others, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto hereby covenant and agree, to and with each other, as follows:

#### **ARTICLE 1.00 PRIORITIES, POSTPONEMENTS AND SUBORDINATIONS BETWEEN MERIDIAN AND CCCI**

- 1.01 The parties hereto hereby acknowledge and agree that the following priorities shall govern with respect to the Meridian Security and the CCCI Security relating to the Real Property, namely:
- (a) the Meridian Security relating to the Real Property, and all advances made thereunder from time to time up to the amount of the Limited Meridian Indebtedness, as well as all reasonable costs and expenses of Meridian arising from or in connection with the Credit Agreement and the Meridian Security, and/or incurred by or on behalf of Meridian in enforcing the Meridian Security or any portion thereof, shall, shall constitute a first charge and security interest against the



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Real Property and all other Property Collateral relating to the Real Property, and for greater certainty the Meridian Security shall constitute a second charge and security interest against the Real Property over all amounts of the Meridian Indebtedness which are in excess of the Limited Meridian Indebtedness together with costs and interest thereon; and

- (b) the CCCI Security relating to the Real Property and all advances made or secured thereunder from time to time, and all other amounts secured thereunder, including without limitation, all reasonable costs and expenses of CCCI arising from or in connection with the CCCI Security relating to the Real Property and/or incurred by or on behalf of CCCI in enforcing the CCCI Security relating to the Real Property or any portion thereof, shall, so long as the Meridian Security is registered against title to the Real Property, constitute a subordinate charge and security interest against the Real Property and all other Property Collateral relating to the Real Property in relation to the Meridian Security up to the amount of the Limited Meridian Indebtedness only, and for greater certainty, the CCCI Security shall have a first charge and security interest against the Real Property over all amounts of the Meridian Indebtedness which are in excess of the Limited Meridian Indebtedness together with costs and interest thereon.
- 1.02 Without limiting the generality of the foregoing, with respect to the Real Property and the Property Collateral, CCCI hereby postpones and subordinates the CCCI Security in the Real Property and the Property Collateral, and all of its rights, powers and interest thereunder, to and in favour of the Meridian Security in the Real Property and the Property Collateral to the extent of the Limited Meridian Indebtedness and all interest now or hereafter accrued and/or payable thereon, and all reasonable costs and expenses of Meridian arising from or in connection with the Credit Agreement and the Meridian Security, and/or incurred by or on behalf of Meridian in enforcing the Meridian Security or any portion thereof, with such postponement and subordination to be valid and effective regardless of the respective times of execution, delivery, registration, attachment, perfection, crystallization and/or enforceability of the applicable CCCI Security and the Meridian Security, and with such postponement and subordination to be valid and effective in respect of the entirety of the Limited Meridian Indebtedness together with costs and interest thereon regardless of the time of advance of any part of all of the Meridian Indebtedness from time to time or times including whether advanced before or subsequent to the date of registration of the CCCI Security.
  - 1.03 CCCI covenants and agrees to execute and provide Meridian with whatever documents may, in the reasonable opinion of Meridian's counsel, be required from time to time to evidence and confirm the foregoing postponement and subordination and which are satisfactory to CCCI and its counsel, acting reasonably, including, if necessary, a postponement of charge in registerable form in respect of CCCI's charge including without limitation a reference to CCCI's postponement to all subsequent advances up to the Limited Meridian Indebtedness as provided for in this Agreement, as well as any financing change statements or other documents required to record such postponement and subordination under the *Personal Property Security Act R.S.O. 1990*, as amended, provided all reasonable legal fees and disbursements incurred by CCCI in connection with the foregoing are fully paid for by the Borrower.



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- 1.04 Notwithstanding any other provision hereof, save and except for amounts that may be added to the principal amount of the Meridian Security in accordance with the terms of the Meridian Commitment Letter or Meridian Security, Meridian agrees that any increase in the indebtedness of the Borrower to Meridian above and beyond the amount of the Limited Meridian Indebtedness together with costs and interest thereon, without CCCI's prior written consent, shall not be afforded the priority over the CCCI Security as contemplated herein.

#### ARTICLE 2.00

#### PRIORITIES, POSTPONEMENTS AND SUBORDINATIONS BETWEEN MERIDIAN AND BFI

- 2.01 The parties hereto hereby acknowledge and agree that the following priorities shall govern with respect to the Meridian Security and the BFI Security relating to the Real Property, namely:
- (a) the Meridian Security, and all advances made thereunder from time to time up to the amount of Meridian Indebtedness, as well as all reasonable costs and expenses of Meridian arising from or in connection with the Meridian Commitment Letter and Meridian Security, and/or incurred by or on behalf of Meridian in enforcing Meridian Security or any portion thereof, shall constitute a first charge, and security interest against the Real Property and all other Property Collateral; and
  - (b) the BFI Security and all advances made or secured thereunder from time to time, and all other amounts secured thereunder, including without limitation, all reasonable costs and expenses of BFI arising from or in connection with the BFI Security and/or incurred by or on behalf of BFI in enforcing the BFI Security or any portion thereof, shall, so long as the Meridian Security is registered against title to the Real Property, constitute a subordinate charge and security interest in relation to the Meridian Security, against the Real Property and all other Property Collateral relating to the Real Property.
- 2.02 Without limiting the generality of the foregoing, with respect to the Real Property and the Property Collateral, BFI hereby postpones and subordinates the BFI, and all of its rights, powers and interest thereunder, to and in favour of the Meridian Security to the extent of the Meridian Indebtedness and all interest now or hereafter accrued and/or payable thereon, and all reasonable costs and expenses of Meridian arising from or in connection with the Credit Agreement and the Meridian Security, and/or incurred by or on behalf of Meridian in enforcing the Meridian Security or any portion thereof, with such postponement and subordination to be valid and effective regardless of the respective times of execution, delivery, registration, attachment, perfection, crystallization and/or enforceability of the applicable BFI Security and the Meridian Security, and with such postponement and subordination to be valid and effective in respect of the entirety of the Meridian Indebtedness together with costs and interest thereon regardless of the time of advance of any part of all of the Meridian Indebtedness from time to time or times including whether advanced before or subsequent to the date of registration of the BFI Security.
- 2.03 Notwithstanding any other provision hereof, save and except for all reasonable costs and expenses of Meridian arising from or in connection with the Meridian Commitment Letter



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and Meridian Security, and/or incurred by or on behalf of Meridian in enforcing Meridian Security or any portion thereof, Meridian agrees that any increase in the principal amount secured by the Meridian Security, or any increase in the interest rate secured by the Meridian Security above a rate which is equivalent to the Prime Rate (as defined in the Meridian Credit Agreement, unamended from March 9, 2018) plus Eleven percent (11%), without BFI's prior written consent shall not be afforded the priority over the BFI Security as contemplated herein.

**ARTICLE 3.00**  
**PRIORITIES, POSTPONEMENTS AND SUBORDINATIONS BETWEEN CCCI AND BFI**

- 3.01 The parties hereto hereby acknowledge and agree that the following priorities shall govern with respect to the CCCI Security and the BFI Security relating to the Real Property, namely:
- (a) the CCCI Security relating to the Real Property, and all advances made thereunder from time to time up to the amount of CCCI Indebtedness, as well as all reasonable costs and expenses of CCCI arising from or in connection with the CCCI Commitment Letter and CCCI Security, and/or incurred by or on behalf of CCCI in enforcing CCCI Security or any portion thereof, shall constitute a charge in priority to the BFI Security against the Real Property; and
  - (b) the BFI Security relating to the Real Property and all advances made or secured thereunder from time to time, and all other amounts secured thereunder, including without limitation, all reasonable costs and expenses of BFI arising from or in connection with the BFI Security relating to the Real Property and/or incurred by or on behalf of BFI in enforcing the BFI Security relating to the Real Property or any portion thereof, shall, so long as the CCCI Security is registered against title to the Real Property, constitute a subordinate charge and security interest in relation to the CCCI Security, against the Real Property.
- 3.02 Without limiting the generality of the foregoing, with respect to the Real Property, BFI hereby postpones and subordinates the BFI Security in the Real Property, and all of its rights, powers and interest thereunder, to and in favour of CCCI Security in the Real Property to the extent of the CCCI Indebtedness and all interest now or hereafter accrued and/or payable thereon, and all reasonable costs and expenses of CCCI arising from or in connection with the Credit Agreement and the CCCI Security, and/or incurred by or on behalf of CCCI in enforcing the CCCI Security or any portion thereof, with such postponement and subordination to be valid and effective regardless of the respective times of execution, delivery, registration, attachment, perfection, crystallization and/or enforceability of the applicable BFI Security and the CCCI Security, and with such postponement and subordination to be valid and effective in respect of the entirety of the CCCI Indebtedness together with costs and interest thereon.
- 3.03 Notwithstanding any other provision hereof, save and except for all reasonable costs and expenses of CCCI arising from or in connection with the CCCI Security, and/or incurred by or on behalf of CCCI in enforcing CCCI Security or any portion thereof, CCCI agrees that any increase in the principal face amount secured by CCCI Security without BFI's prior



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written consent, shall not be afforded the priority over the BFI Security as contemplated herein.

#### **ARTICLE 4.00 GENERAL PRIORITY TERMS**

- 4.01 The Borrower hereby acknowledges the foregoing priorities and postponements as set out in Articles 1.00, 2.00 and 3.00 herein, and agrees to be bound by the respective priorities of the Meridian Security, the CCCI Security, and the BFI Security relating to the Real Property, and the Property Collateral, as hereinbefore set forth, and to pay or fully reimburse Meridian, CCCI and BFI for all reasonable legal fees, expenses and disbursements incurred by Meridian, CCCI and BFI in connection with its execution and delivery of the postponement and subordination documentation hereinbefore provided or contemplated.
- 4.02 BFI shall not accept any money or other property from the Borrower in payment of any indebtedness and liability except in accordance with this Agreement.
- 4.03 In the event that BFI receives any money or other property in breach of this Agreement, it shall hold it in trust for, and immediately pay or transfer it to, Meridian until such time as the Meridian Indebtedness is fully repaid and satisfied, at which time it shall hold it in trust for, and immediately pay or transfer it to, CCCI until such time as the CCCI Indebtedness is fully repaid and satisfied.
- 4.04 Notwithstanding any other provision hereof, Meridian and CCCI hereby acknowledge and agree that it shall not be a default hereunder for BFI to receive from the Borrower and accept the following payments, but only to the extent that such payments do not put the Borrower into default under the Meridian Credit Agreement with respect to its obligation to maintain a minimum Debt Service Ratio and Interest Coverage Ratio (as defined in the Meridian Credit Agreement, unamended from March 9, 2018):
  - (a) repayment principal and interest in accordance with the BFI Commitment Letter; and
  - (b) any discharge fees reasonably incurred by Borrower in legitimate pursuit of any full or partial discharge of the BFI Security.

#### **ARTICLE 5.00 NOTICE OF DEFAULT AND CURING**

- 5.01 Each of Meridian, CCCI and BFI covenants and agrees to provide to the others with notice in writing of any notice of default sent to the Borrower under the Meridian Security, the CCCI Security or the BFI Security, respectively.
- 5.02 Notwithstanding the foregoing, neither Meridian, CCCI and BFI shall have any liability for failing to comply with this Section 5.01, except that the Standstill Period relating to the Real Property will only commence on delivery of a notice of default.
- 5.03 CCCI shall be entitled (but not obligated) to cure any default under the Meridian Security, and to repay all amounts then outstanding under the Meridian Security (in order to bring



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the Meridian Security back into good standing) in either case within the applicable curing period under the Meridian Security relating thereto.

- 5.04 BFI shall be entitled (but not obligated) to cure any default under the Meridian Security and the CCCI Security, and to repay all amounts then outstanding under the Meridian Security and CCCI Security (in order to bring the Meridian Security and CCCI Security back into good standing) in either case within the applicable curing period under the Meridian Security or CCCI Security relating thereto.

#### ARTICLE 6.00 STANDSTILL/FORBEARANCE IN FAVOUR OF THE LENDER

- 6.01 CCCI and BFI agree that, from and after the date hereof, to and until the date of the repayment and/or satisfaction of all outstanding indebtedness and/or liabilities of the Borrower to Meridian under the Meridian Security and the complete discharge thereof, CCCI and BFI shall not take, direct, initiate, pursue or otherwise participate in, either directly or indirectly, any collection, realization or enforcement proceedings or remedies against, or otherwise effecting, the Borrower, nor against the Real Property, or any portion thereof, nor against any other Property Collateral relating to Real Property or any other undertaking, property and assets of the Borrower ("**Realization**"), as a result of any breach, default or non-compliance with any covenants, conditions, representations, warranties, terms and/or provisions of the CCCI Security or BFI Security, as applicable ("**Borrower Default**"), or any portion thereof, for a period of ninety (90) days following the delivery by CCCI or BFI, as applicable, to the Borrower and to Meridian of a notice of default by the Borrower under the CCCI Security or BFI Security, as applicable (the "**Standstill Period**").
- 6.02 Meridian shall be entitled to send a notice to CCCI and BFI that there has been an event of default under the Meridian Credit Agreement or the Meridian Security (the "**Meridian Default Notice**"). A Standstill Period shall be triggered and shall commence upon delivery by Meridian to CCCI and BFI of a Meridian Default Notice. Notwithstanding the forgoing, Meridian shall not be able to trigger a Standstill period by delivery of a Meridian Default Notice on more than one occasion during any consecutive nine (9) month period.
- 6.03 CCCI and BFI shall not engage in a Realization during any Standstill Period.
- 6.04 CCCI and BFI shall not demand, accept nor receive any payment from the Borrower whether on account of principal or interest on the CCCI Indebtedness or BFI Indebtedness or otherwise from the time a Meridian Default Notice is received until the earlier of (i) all indebtedness and liability owing by the Borrower to Meridian has been paid in full; (ii) Meridian withdraws the Meridian Default Notice; and, (iii) Meridian completes a Realization in accordance, and in compliance, with the terms of this Agreement.
- 6.05 The parties further agree that an event of default under the CCCI Security or BFI Security may, at the option of Meridian, trigger an event of default under the Meridian Security, and a default under the Meridian Security may, at the option of CCCI or BFI, as applicable, trigger a default under the CCCI Security and BFI Security.
- 6.06 It is understood and agreed by the parties hereto that the expiration of the Standstill Period shall not diminish, detract, or derogate from the validity and effectiveness of all



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postponements, consents and discharges theretofore executed and/or provided pursuant to this Agreement.

- 6.07 CCCI and BFI hereby expressly acknowledge and confirm that Meridian is relying upon such forbearance on the part of CCCI and BFI during the Standstill Period in order to be ensured that in the event the Meridian Security is hereafter in default, that to the extent prohibited herein no actions, steps or proceedings shall or be taken by or on behalf of CCCI or BFI, whether culminating in any document or instrument hereafter registered against or otherwise affecting the Real Property, any portion thereof, or otherwise, which might negatively or detrimentally impact Meridian's ability to expeditiously realize upon the Meridian Security.
- 6.08 CCCI and BFI agree with Meridian that CCCI and BFI shall not, during the Standstill Period, be permitted to exercise any of their rights and remedies arising as a result of a breach or default under the CCI Security or BFI Security, or any portion thereof, against any guarantors of the CCCI Indebtedness or BFI Indebtedness or any other persons or entities who may be liable for the indebtedness and obligations of the Borrower under or secured by such security other than the Borrower.
- 6.09 Each of BFI and CCCI shall provide to Meridian a Postponement of Charge in registerable form in relation to the Real Property in the forms attached as Schedule "A".

#### **ARTICLE 7.00 NOTICES**

- 7.01 Any notices desired or required to be given to any of the parties hereto shall be in writing, and shall be delivered by hand/courier or by telefax to the intended party or parties as follows:

To Meridian:  
Meridian Credit Union  
75 Corporate Park Drive,  
St. Catharines, ON  
L2S3W3

Attn: Commercial Security Support  
Fax: 905-988-4006

To the Borrower:  
2380 Mohawk Trail,  
Campbellville, ON  
L0P1B0

Attn: Shawn Saulnier

To CCCI:  
1295 North Service Road  
Burlington, ON  
L7R 4M2

Attention: Jack Vanderkooy  
Fax: 905-332-6655

To BFI:  
77 King Street West, Suite 2925  
P.O. Box 322,  
Toronto, ON  
M5K 1K7

Attn: Robb Cacovic  
Fax: 1-888-920-9599



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- 7.02 Documents and notices shall be delivered by hand/courier or by telefax only on business days (excluding Saturdays, Sundays and statutory holidays), and shall be deemed to have been received on the day that same have been so delivered or telefaxed, provided however that any document or notice delivered or telefaxed after 5:00 p.m. shall be deemed to have been received on the next following business day.
- 7.03 Any party hereto may, from time to time and by written notice delivered to the other parties hereto in the manner aforesaid, change the address or telefax number to which its notices are to be delivered.
- 7.04 Without limiting the generality of the foregoing, each of Meridian, CCCI and BFI agree to provide to the others with a copy of any and all notices sent to the Borrower under, or in connection with, its respective security, including notice of an Event of Default, as such term is defined under the Meridian Security, committed by the Borrower, together with the particulars and status of compliance of the Borrower's outstanding indebtedness or obligations, when so requested from time to time by the other party. The Borrower consents to such exchange of information between Meridian and Meridian, CCCI and BFI.

**ARTICLE 8.00  
NO AFFECT ON NDA AGREEMENT**

- 8.01 Meridian or CCCI agree that nothing in this Agreement shall vary or modify the rights and obligations of Meridian or CCCI as set out in the NDA Agreement.

**ARTICLE 9.00  
FURTHER ASSURANCES**

- 9.01 Each of the parties hereto agree, at the expense of the Borrower, to give and execute such further documents and assurances, and to do and perform, or cause to be done and performed, such further and other acts and things as may be necessary in order to give full effect and force to the terms and provisions of this Agreement.

**ARTICLE 10.00  
NO WAIVER OF DEFAULT**

- 10.01 The failure of any party hereto to seek redress from the breach or violation of any provision of this Agreement, or to insist upon the strict performance thereof, shall not constitute a waiver of such breach, nor a waiver of such party's respective rights and remedies in connection therewith, and shall not prevent a subsequent act, which would have originally constituted a violation or breach of any provision of this Agreement, from having the effect of an original violation or breach.
- 10.02 No waiver on behalf of any party hereto in relation to any breach or default by any other party hereto, shall be effective or binding upon such first-mentioned party, unless and until such waiver is specifically confirmed or expressed in writing, and same shall not limit or affect such first-mentioned party's rights and remedies with respect to any further or other breach or default by the other party or parties hereto.



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**ARTICLE 11.00  
SEVERABILITY OF INVALID PROVISIONS**

- 11.01 Every provision of this Agreement is intended to be severable, and accordingly, if any term or provision hereof is adjudged by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, then such illegal or invalid provision shall not affect the validity of the remainder of this Agreement, but shall be severable therefrom, and this Agreement shall accordingly be construed and enforced as if such illegal or invalid provision had not been inserted in this Agreement.

**ARTICLE 12.00  
ENTIRE AGREEMENT**

- 12.01 This Agreement constitutes the entire agreement between the parties hereto in connection with the respective priorities between the Meridian Security, the CCCI Security, and the BFI Security, and the respective obligations and agreements among the parties with respect to the financing of the acquisition and the realization upon their respective security.
- 12.02 This Agreement replaces and supersedes all prior written Agreements between Meridian and CCCI in connection with the priorities of the Meridian Security and CCCI Security.

**ARTICLE 13.00  
GOVERNING LAW AND JURISDICTION**

- 13.01 This Agreement shall be construed and enforced in accordance with, and the rights of the parties hereto shall be governed by, the laws of the Province of Ontario. Each of the parties hereto irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.

**ARTICLE 14.00  
HEADINGS AND GENDER**

- 14.01 Any headings used throughout this Agreement are for ease of reference only, and shall not be deemed or construed to form a part of this Agreement, nor shall they influence the construction or interpretation of this Agreement.
- 14.02 This Agreement shall be read and construed with all changes in gender and/or number as may be required.

**ARTICLE 15.00  
TIME OF THE ESSENCE**

- 15.01 Time shall in all respects be of the essence hereof, provided that the time for doing or completing any matter provided or contemplated in this Agreement may be extended or abridged by an agreement in writing, executed by Meridian, CCCI and BFI, or by their respective solicitors who are hereby specifically authorized in that regard.



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**ARTICLE 16.00  
EXECUTION IN COUNTERPARTS**

- 16.01 This Agreement may be executed in one or more counterparts, each of which when so executed shall constitute an original, and all of which shall together constitute one and the same agreement.

**ARTICLE 17.00  
FACSIMILE**

- 17.01 The execution of this Agreement may be communicated by way of email facsimile transmission, and receipt of such transmission by the addressees herein shall be deemed to be good, sufficient and fully effectual as if an original executed copy of this Agreement had been delivered.

**ARTICLE 18.00  
ASSIGNMENT BY ANY OF THE SECURED PARTIES**

- 18.01 In the event that either Meridian, CCCI or BFI should hereafter desire to assign their respective security, in whole or in part, to any third party assignee(s), then such assignor shall notify in writing the other parties hereto of such assignment, and shall:
- (a) deliver a copy of this Agreement to any such assignee(s) on or prior to the effective date of such assignment; and
  - (b) obtain a binding written commitment from such assignee(s) in favour of all of the other parties hereto, confirming that such assignee(s) shall be bound by the covenants and obligations of the assignor hereunder, to the same extent as if it had executed this Agreement in the place and stead of the said assignor, and shall thereafter deliver such commitment to all other parties hereto.

**ARTICLE 19.00  
BINDING UPON SUCCESSORS**

- 19.01 This Agreement shall enure to the benefit of, and be correspondingly binding upon, each of the parties hereto and their respective successors and assigns, and shall likewise be binding on any trustee or receiver in Bankruptcy of any party hereto, and on any trustee or appointee of any court or other tribunal, and on any person (including a corporation) who shall receive the property of any party hereto upon any liquidation proceedings, or any proceedings involving the disposition or devolution of property by operation of law or otherwise.

**ARTICLE 20.00  
MISCELLANEOUS PROVISIONS**

- 20.01 Nothing in this Agreement shall be construed so as to entitle any party to receive any proceeds of realization in respect of which such party does not have any security, or in respect of which such party's security is invalid or unenforceable against third parties. If any third party shall have a claim to such proceeds from any of the property or assets of the Borrower, in priority to or on a parity with one of the parties hereto, but not in priority



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to or on a parity with the other parties hereto, then this Agreement shall not apply so as to diminish the right, as such rights would have been but for this Agreement, of such other parties against any such third party to such proceeds from such property or assets.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



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IN WITNESS WHEREOF the parties hereto have hereunto executed these presents as of the date first above-mentioned.

**MERIDIAN CREDIT UNION LIMITED**

Per:  Stephen Otten, Senior Director and Regional Manager  
Name: Meridian Credit Union Limited  
Title: Commercial Services

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have the authority to bind the Lender

**CROSSROADS CHRISTIAN  
COMMUNICATIONS INCORPORATED**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have the authority to bind the Corporation

**2607380 ONTARIO INC.**

Per: \_\_\_\_\_  
Name: Shaun Saulnier  
Title: President

I have the authority to bind the Corporation



- 13 -

**IN WITNESS WHEREOF** the parties hereto have hereunto executed these presents as of the date first above-mentioned.

**MERIDIAN CREDIT UNION LIMITED**

Per: \_\_\_\_\_  
Name: Stephen Otten  
Title: Senior Director and Regional Manager  
I/We have the authority to bind the Corporation

**CROSSROADS CHRISTIAN  
COMMUNICATIONS INCORPORATED**

Per: \_\_\_\_\_  
Name: Jack Vanderkooy  
Title: Chief Operating Officer  
I/We have the authority to bind the Corporation

**BRIDGING FINANCE INC.**

Per: \_\_\_\_\_  
Name: Robb Cacovic  
Title: Senior Managing Director, Authorized  
Signing Officer

**2607380 ONTARIO INC.**

Per: \_\_\_\_\_  
Name: Shaun Saulnier  
Title: President

I have the authority to bind the Corporation



- 13 -

IN WITNESS WHEREOF the parties hereto have hereunto executed these presents as of the date first above-mentioned.

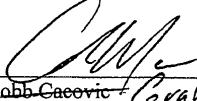
**MERIDIAN CREDIT UNION LIMITED**

Per: \_\_\_\_\_  
Name: Stephen Otten  
Title: Senior Director and Regional Manager  
I/We have the authority to bind the Corporation

**CROSSROADS CHRISTIAN  
COMMUNICATIONS INCORPORATED**

Per: \_\_\_\_\_  
Name: Jack Vanderkooy  
Title: Chief Operating Officer  
I/We have the authority to bind the Corporation

**BRIDGING FINANCE INC.**

Per:  \_\_\_\_\_  
Name: Robb Caeovic  
Title: Senior Managing Director, Authorized  
Signing Officer

**2607380 ONTARIO INC.**

Per: \_\_\_\_\_  
Name: Shaun Saulnier  
Title: President

I have the authority to bind the Corporation



- 13 -

IN WITNESS WHEREOF the parties hereto have hereunto executed these presents as of the date first above-mentioned.

**MERIDIAN CREDIT UNION LIMITED**

Per: \_\_\_\_\_  
Name: Stephen Otten  
Title: Senior Director and Regional Manager  
I/We have the authority to bind the Corporation

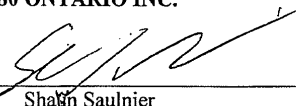
**CROSSROADS CHRISTIAN  
COMMUNICATIONS INCORPORATED**

Per: \_\_\_\_\_  
Name: Jack Vanderkooy  
Title: Chief Operating Officer  
I/We have the authority to bind the Corporation

**BRIDGING FINANCE INC.**

Per: \_\_\_\_\_  
Name: Robb Cacovic  
Title: Senior Managing Director, Authorized  
Signing Officer

**2607380 ONTARIO INC.**

Per:  \_\_\_\_\_  
Name: Shafin Saulnier  
Title: President

I have the authority to bind the Corporation



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**SCHEDULE "A"**

**Postponements of Charge**

*(See attached)*



LRO # 20 Postponement Of Interest

In preparation on 2018 03 22 at 10:38

This document has not been submitted and may be incomplete.

yyyy mm dd Page 1 of 1

**Properties**

*PIN* 07127 - 0265 LT  
*Description* PT LT 10 , RCP PL 99 , PART 3 & 7 , 20R6963 , S/T IN 619045 ; BURLINGTON  
*Address* 1295 NORTH SERVICE RD  
BURLINGTON

**Source Instruments**

<i>Registration No.</i>	<i>Date</i>	<i>Type of Instrument</i>
CHARGE 1		Charge/Mortgage

**Party From(s)**

*Name* BRIDGING FINANCE INC.  
Acting as a company  
*Address for Service* 77 King Street West,  
Suite 2925, P.O. Box 322,  
Toronto, ON M5K 1K7

I, \_\_\_\_\_, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Party To(s)***Capacity**Share*

*Name* MERIDIAN CREDIT UNION LIMITED  
Acting as a company  
*Address for Service* 75 Corporate Park Drive,  
St. Catharines, ON  
L2S 3W3

**Statements**

The applicant postpones the rights under the selected instrument to the rights under an instrument registered as number  
Schedule: See Schedule

**File Number***Party To Client File Number :* 17R1494



### **Schedule: Postponement of Charge**

The Charge Instruments referenced on page 1 to this Postponement of Interest, being one charge granted to Bridging Finance Inc. (the “BFI Charge”) and one charge granted to Meridian Credit Union Limited (the “Meridian Charge”) are subject to a Priority, Postponement and Standstill Agreement, dated the date hereof, and which, inter alia, subordinates the BFI Charge to subsequent advances made under the Meridian Charge, as more particularly set out in the abovementioned Priority, Postponement and Subordination Agreement.



LRO # 20 Postponement Of Interest

In preparation on 2018 01 29 at 15:52

This document has not been submitted and may be incomplete.

yyyy mm dd Page 1 of 1

**Source Instruments**

Registration No.	Date	Type of Instrument
CHARGE 1		Charge/Mortgage

**Party From(s)**

Name	CROSSROADS CHRISTIAN COMMUNICATIONS INCORPORATED
	Acting as a company
Address for Service	1295 North Service Road, Burlington, ON L7R 4M2

I, \_\_\_\_\_, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Party To(s)****Capacity****Share**

Name	MERIDIAN CREDIT UNION LIMITED
	Acting as a company
Address for Service	75 Corporate Park Drive, St. Catharines, ON L2S 3W3

**Statements**

The applicant postpones the rights under the selected instrument to the rights under an instrument registered as number CHARGE 1  
Schedule:

**File Number**

Party To Client File Number : 17R1494



### **Schedule: Postponement of Charge**

The Charge Instruments referenced on page 1 to this Postponement of Interest, being one charge granted to Crossroads Christian Communications Incorporated (the “CCCI Charge”) and one charge granted to Meridian Credit Union Limited (the “Meridian Charge”) are subject to a Priority, Postponement and Standstill Agreement, dated the date hereof, and which, inter alia, subordinates the CCCI Charge to subsequent advances made under the Meridian Charge, as more particularly set out in the abovementioned Priority, Postponement and Subordination Agreement.




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**SCHEDULE "B"****Limited Meridian Indebtedness**

<b>Tranche</b>	<b>Principal</b>	<b>Interest Rate</b>
1	\$12,350,000.00	As determined from time to time by Meridian in its sole discretion.
2	\$7,650,000.00	As determined from time to time by Meridian in its sole discretion.



THIS IS **EXHIBIT “F”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

---

*A Commissioner etc.*





February 25, 2020

**BY COURIER  
& HAND DELIVERED**

Dom Glavota  
Direct +1 416 862 3607  
Direct Fax +1 416 862 3607  
dom.glavo File no. T1020839  
File no. I1016673

2607380 Ontario Inc.  
2380 Mohawk Trail  
Campbellville, ON  
L0P 1B0

Mohawk Inn & Suites Management Inc.  
9230 Guelph Line  
Milton, ON  
L0P 1B0

2348587 Ontario Inc.  
9301 Second Line  
Campbellville, ON  
L0P 1B0

Shawn Saulnier  
2380 Mohawk Trail  
Campbellville, ON  
L0P 1B0

2348587 Ontario Inc.  
9230 Guelph Line  
Milton, ON  
L0P 1B0

**Attention:** Shawn Saulnier

Dear Sir:

**Re:** Credit Facilities extended by Meridian Credit Union Limited (the "**Lender**") to 2607380 Ontario Inc. (the "**Borrower**")

---

We are the lawyers for the Lender in the above-noted matter.

According to our client's records, you are indebted or otherwise liable to the Lender for the amounts set forth in Schedule "A" attached hereto (the "**Indebtedness**") pursuant to a credit agreement dated August 9, 2018 among the Lender, as lender, the Borrower, as borrower, 2348587 Ontario Inc. and Mohawk Inn & Suites Management Inc. (the "**Corporate Guarantors**"), and Shawn Saulnier (the "**Personal Guarantor**", and together with the Corporate Guarantors, the "**Guarantors**"), as amended by an amended and restated amendment to the credit agreement and forbearance letter dated August 14, 2019 (collectively, the "**Credit Agreement**").

The Indebtedness is repayable on demand and the Borrower is in default under the Credit Agreement. The existing and continuing defaults known to the Lender include, without limitation, those listed in Schedule "B" to this letter.

The Guarantors have guaranteed the repayment of the Indebtedness under each of their respective guarantees listed on Schedule "C" (collectively, the "**Guarantees**").

**Gowling WLG (Canada) LLP**  
Suite 1600, 1 First Canadian Place  
100 King Street West  
Toronto ON M5X 1G5 Canada

**T +1 416 862 7525**  
**F +1 416 862 7661**  
**gowlingwlg.com**

Gowling WLG (Canada) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at [gowlingwlg.com/legal](http://gowlingwlg.com/legal).





On behalf of the Lender, we hereby demand payment in full of the Indebtedness from the Borrower and, to the extent of their obligations pursuant to the Guarantees, the Guarantors, on or before March 9, 2020 at 3:00 PM (E.S.T.). Interest on the Indebtedness has accrued and will continue to accrue to the date of payment at the relevant rate set out in Schedule "A". The exact amount of the Indebtedness and interest which will have accrued to any proposed date of payment may be obtained by contacting the undersigned. You will also be required to pay the Lender's legal and other expenses in connection with the Indebtedness.

This letter constitutes a demand for payment and acceleration of payment pursuant to the terms of all security (collectively, the "**Security**") held by the Lender directly or indirectly for any of the Indebtedness, including all security agreements, debentures, guarantees, mortgages and other agreements governing the Indebtedness and under all security instruments held for the Indebtedness and is made without prejudice to the Lender's rights to make further and other demands as it may see fit for any other indebtedness or under any other security.

We expressly reserve the right to take such steps as we deem advisable to protect the Lender's position and the Lender's right to proceed to recover the Indebtedness and to enforce the Security without further notice to you at any time prior to March 9, 2020. These steps may include the enforcement of the Security by way of an appointment of an interim receiver, court appointed receiver and manager, a private receiver and manager, or an agent under the Security.

We enclose a Notice of Intention to Enforce Security against the Borrower and each of the Guarantors in accordance with the provisions of the *Bankruptcy and Insolvency Act* (Canada).

Please direct any communications with respect to this matter to the undersigned.

Yours truly,  
**Gowling WLG (Canada) LLP**

Dom Glavota

Encls.

cc. Meridian Credit Union Limited

Crossroads Christian Communications Incorporated  
1295 North Service Road  
Burlington, ON, L7R 4M2  
Fax: 905-332-6655  
Attn: Jack Vanderkooy

Bridging Finance Inc.  
77 King Street West, Suite 2925  
P.O. Box 322  
Toronto, ON, M5K 1K7  
Fax: 1-888-929-9599  
Attn: Robb Cacovic



## SCHEDULE "A"

### INDEBTEDNESS

**As at February 24, 2020**

#### **#1 – Demand Loan Land (L2)**

Principal	\$ 12,350,000.00
Interest to February 24, 2020	<u>\$ 227,493.77</u>
<b>Sub Total</b>	<b>\$ 12,577,493.77</b>
Interest accrues at 5.95% per annum (Prime 3.95% + 2.00% per annum) (per diem: \$2,013.22)	

#### **#2 – Demand Loan Construction (L4)**

Principal	\$ 1,500,000.00
Interest to February 24, 2020	<u>\$ 34,723.97</u>
<b>Sub Total</b>	<b>\$ 1,534,723.97</b>
Interest accrues at 6.45% per annum (Prime 3.95% + 2.50% per annum) (per diem: \$265.07)	

#### **# 3 – Demand Loan Construction (L5)**

Principal	\$ 3,291,237.00
Interest to February 24, 2020	<u>\$ 76,189.88</u>
<b>Sub Total</b>	<b>\$ 3,367,426.88</b>
Interest accrues at 6.45% per annum (Prime 3.95% + 2.50% per annum) (per diem: \$581.60)	

#### **#4 – VISA Business Cash Back**

Principal	<u>\$ 54,898.02</u>
<b>Sub Total</b>	<b>\$ 54,898.02</b>
Interest accrues at 19.99% per annum (per diem: \$30.07)	

#### **#5 – Standby Letter of Credit (L6)**

Principal	<u>\$ 100,000.00</u>
<b>Sub Total</b>	<b>\$ 100,000.00</b>

#### **#6 – Standby Letter of Credit (L7)**

Principal	<u>\$ 20,071.00</u>
<b>Sub Total</b>	<b>\$ 20,071.00</b>

Legal fees paid by the Lender to December 31, 2019	\$ 19,683.65
Legal fees to be paid by the Lender to February 24, 2020 (estimated)	<u>\$ 25,000.00</u>
<b>Sub Total</b>	<b>\$ 44,683.65</b>

**TOTAL INDEBTEDNESS as at February 24, 2020** **\$17,699,297.29**



## **SCHEDULE "B"**

### **EVENTS OF DEFAULT**

All capitalized terms shall have the meaning given to them in the Credit Agreement.

The following defaults and breaches under the Credit Agreement and the Security and other documents are existing and continuing:

- A) The Borrower has not paid payments of interest and principal when due pursuant to the Credit Agreement;
- B) The registration of a construction lien in favour of Maple Reinders Constructors Ltd. as instrument no. HR1667791 on title to the Property;
- C) The registration of a construction lien in favour of Barrie Glass & Mirror Ltd. as instrument no. HR1672639 on title to the Property;
- D) The Borrower has deposited operating funds into an account with another financial institution;
- E) The Borrower has not paid property taxes on the Property when due;
- F) Scope changes relative to initially envisioned building layout, resulting in greater reliance on Food & Beverage and Event Space revenue and assumption of numerous individual leases relative to the former "Hive" space;
- G) Increase in Project budget from \$7,000,000 to \$14,710,000 (per Intrepid July 18 pre-funding report) which you has not been formally documented to the Lender nor has been fulsomely reflected in formal Draw Request documentation provided to us. For example, Draw Request #13 dated March 5, 2019 shows \$7,000,000 "Original Budget" and NIL "Cost to Complete," contradictory to the unfinished state of works and the resultant requested loan increase.
- H) Frequent overdrafts on the Borrower's current account with Meridian;
- I) Ongoing financial covenant breach with respect to the Interest Coverage Ratio; and
- J) The Borrower did not notify the Lender promptly of the amendment/change related to the lease agreement with one commercial tenant (The Hive).

The Lender reserves the right to include any further breaches or defaults which have occurred but have not been disclosed because of the failure of the Borrower to deliver officer's certificates and other financial information as required the Credit Agreement, or otherwise.



## **SCHEDULE "C"**

### **GUARANTEES**

#### Shawn Saulnier

1. Guarantee and postponement of claim (unlimited) dated January 31, 2018 and signed by Shawn Saulnier in favour of Meridian Credit Union Limited.

#### 2348587 Ontario Inc.

2. Guarantee and postponement of claim (unlimited) dated January 31, 2018 and signed by 2348587 Ontario Inc. in favour of Meridian Credit Union Limited.

#### Mohawk Inn & Suites Management Inc.

3. Guarantee and postponement of claim (unlimited) dated January 31, 2018 and signed by Mohawk Inn & Suites Management Inc. in favour of Meridian Credit Union Limited.

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***BANKRUPTCY AND INSOLVENCY ACT***

**FORM 86**

**Notice of Intention to Enforce Security**  
(Rule 124)

**TO: 2607380 Ontario Inc., an insolvent person**

Take notice that:

1. **MERIDIAN CREDIT UNION LIMITED**, a secured creditor, intends to enforce its security on the property of the insolvent person described below:

All real and personal property of the insolvent person charged by the security granted by the insolvent person to the secured creditor.

2. The security that is to be enforced is in the form of:

See Schedule A.

3. The total amount of indebtedness secured by the security is:

See 1.

4. The secured creditor will not have the right to enforce the security until after the expiration of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

DATED at Toronto this \_\_\_\_\_ day of February, 2020.

**MERIDIAN CREDIT UNION LIMITED**

By its Solicitors  
Gowling WLG (Canada) LLP

Per: \_\_\_\_\_

Dom Glavota

Suite 1600  
1 First Canadian Place  
100 King Street West  
Toronto, Ontario  
M5X 1G5

Tel: 416-862-3607  
Fax: 416-862-7661  
Email: dom.glavota@gowlingwlg.com



## SCHEDULE A

### SECURITY AND OTHER DOCUMENTS

1. Charge/Mortgage in the principal amount of \$23,000,000.00 registered in favour of Meridian Credit Union Limited on March 26, 2018 as Instrument No. HR1532634 against the lands legally described as PT LT 10 , RCP PL 99 , PART 3 & 7 , 20R6963 , S/T IN 619045 ; BURLINGTON (PIN 07127-0265 (LT)) and municipally known as 1295 North Service Road, Burlington in the land registry office of Halton (# 20) (the "LRO").
2. General Assignment of Leases and Rents dated January 31, 2018 between 2607380 Ontario Inc. and Meridian Credit Union Limited (the "GAR").
3. Notice of the GAR registered on March 26, 2018 as Instrument No. HR1532635 against the Property in the LRO.
4. General security agreement dated January 31, 2018 granted by 2607380 Ontario Inc. in favour of Meridian Credit Union Limited, secured by *Personal Property Security Act* (Ontario) registration registered on December 28, 2017 as reference file no. 735244317 and acknowledged by an acknowledgement of receipt of PPSA financing statement dated March 23, 2018 and signed by 2607380 Ontario Inc.
5. Priority, Postponement and Standstill Agreement dated March 23, 2018 between Meridian Credit Union Limited, Crossroads Christian Communications Incorporated, Bridging Finance Inc. and 2607380 Ontario Inc.
6. Environmental indemnity dated March 23, 2018 from 2607380 Ontario Inc., 2348587 Ontario Inc., Mohawk Inn & Suites Management Inc. and Shawn Saulnier in favour of Meridian Credit Union Limited.
7. Completion and Cost Overrun Agreement dated March 23, 2018 between 2607380 Ontario Inc., 2348587 Ontario Inc., Mohawk Inn & Suites Management Inc., Shawn Saulnier and Meridian Credit Union Limited.
8. Assignment of insurance monies from the 2607380 Ontario Inc. in favour of Meridian acknowledging Meridian Credit Union Limited as an additional insured.
9. All other security granted by 2607380 Ontario Inc. to Meridian Credit Union Limited not otherwise listed above.



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## SCHEDULE B

### INDEBTEDNESS OF 2607380 ONTARIO INC.

**As at February 24, 2020**

**#1 – Demand Loan Land (L2)**

Principal	\$ 12,350,000.00
Interest to February 24, 2020	<u>\$ 227,493.77</u>
<b>Sub Total</b>	<b>\$ 12,577,493.77</b>
Interest accrues at 5.95% per annum (Prime 3.95% + 2.00% per annum) (per diem: \$2,013.22)	

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Principal	\$ 1,500,000.00
Interest to February 24, 2020	<u>\$ 34,723.97</u>
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Principal	\$ 3,291,237.00
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Principal	<u>\$ 54,898.02</u>
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Interest accrues at 19.99% per annum (per diem: \$30.07)	

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Principal	<u>\$ 100,000.00</u>
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Principal	<u>\$ 20,071.00</u>
<b>Sub Total</b>	<b>\$ 20,071.00</b>

Legal fees paid by the Lender to December 31, 2019	\$ 19,683.65
Legal fees to be paid by the Lender to February 24, 2020 (estimated)	<u>\$ 25,000.00</u>
<b>Sub Total</b>	<b>\$ 44,683.65</b>

**TOTAL INDEBTEDNESS as at February 24, 2020** **\$17,699,297.29**

The Indebtedness as at any proposed date of payment will also include any fees, commissions, costs, expenses and other amounts that have been incurred by the Lender for the account of the Borrower and accrued and unpaid interest from now to the date of payment at the rates set out in the credit agreement dated August 9, 2018 between



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Meridian Credit Union Limited, as lender, 2607380 Ontario Inc., as borrower, and 2348587 Ontario Inc., Mohawk Inn & Suites Management Inc. and Shawn Saulnier, as guarantors, as amended, modified or supplemented.



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THIS IS **EXHIBIT “G”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

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*A Commissioner etc.*



## DIP CREDIT FACILITY AGREEMENT

**THIS AGREEMENT** made as March 3, 2020

**BETWEEN:**

MERIDIAN CREDIT UNION LIMITED  
(the “**DIP Lender**”)

– and –

2607380 ONTARIO INC.  
(the “**Borrower**”)

– and –

NUVO NETWORK INC.  
(the “**Guarantor**”).

**WHEREAS:**

- A. The Borrower has requested the DIP Lender to provide it with financing to fund certain of the Borrower’s cash requirements during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) in accordance with the terms and conditions set out herein;
- B. The DIP Lender has agreed to provide interim CCAA financing in order to fund certain obligations of the Borrower in accordance with the terms and conditions set out herein.

**NOW THEREFORE**, in consideration of the foregoing and the mutual agreements contained herein (and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged), the Borrower, the DIP Lender and the Guarantor (the “**Parties**” and each a “**Party**”) agree as follows:

- 1. **DEFINED TERMS:** Capitalized terms not defined in the body of this Agreement have the meaning ascribed to them in Section 37 below.
- 2. **DIP FACILITY AND MAXIMUM AMOUNT:** The DIP Lender will provide to the Borrower a secured super-priority debtor-in-possession non-revolving credit facility (the “**DIP Facility**”) of up to \$7,180,000, inclusive of an amount equal to the Commitment Fee (the “**Maximum DIP Credit Amount**”).



The DIP Lender shall reserve from the DIP Facility \$400,000 (the “**Reserve Amounts**”) to fund the DIP Lender’s interest, legal fees and disbursements during the Stay Period;

3. **CLOSING DATE OF INITIAL ADVANCE**

The Borrower will make an initial draw under the DIP Facility (the “**Initial Advance**”) on the day following the date on which the conditions precedent in Section 5 below applicable to the Initial Advance have been satisfied or waived (the “**Closing Date**”), provided that if the conditions precedent in Section 5 below applicable to the Initial Advance have not been satisfied or waived by March 13, 2020 or such later date as the DIP Lender may in its sole discretion agree to in writing, the DIP Facility will be terminated and the DIP Lender will be under no obligation to make any DIP Advance.

4. **REPAYMENT:**

The aggregate principal amount owing under the DIP Facility, together with all accrued and unpaid interest, fees and prepayment obligations, if applicable, and all fees, expenses and other amounts incurred by or owing to the DIP Lender under or in connection with the DIP Facility and the Loan Documents (the “**DIP Obligations**”) will be due and payable on the earliest of (such earliest date, the “**Maturity Date**”):

- (a) November 6, 2020;
- (b) if the DIP Order has not been issued on or before March 6, 2020;
- (c) the date that the stay period expires under the Initial Order without extension;
- (d) the date on which the stay under the Initial Order is lifted, in whole or in part, without the prior written consent of the DIP Lender;
- (e) the date on which (i) an assignment in bankruptcy is made by the Borrower under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), (ii) a bankruptcy order is issued in respect of the Borrower pursuant to the BIA, (iii) a proposal or notice of intention to make a proposal under the BIA is filed by or on behalf of the Borrower, (iv) a receiver or receiver and manager is appointed by any court of competent jurisdiction in respect of the Borrower or any of its assets or undertaking, in each case without the prior written consent of the DIP Lender; and
- (f) the date on which the DIP Lender demands repayment of the DIP Facility after the occurrence and continuance of an Event of Default.



The commitment in respect of the DIP Facility will expire on the Maturity Date and all DIP Obligations must be repaid in full no later than the Maturity Date, without the DIP Lender being required to make demand (or, in the case of clause (e) above, further demand) upon the Borrower or to give notice that the DIP Facility has expired and/or that the DIP Obligations are due and payable.

All payments received by the DIP Lender will be applied first to any fees and expenses due hereunder, then to prepayment obligations, if applicable, then to accrued and unpaid interest and then after all such amounts are paid in full, to principal.

5. **AVAILABILITY  
UNDER DIP  
FACILITY:**

The Borrower may request advances under the DIP Facility (each, a “**DIP Advance**”) by delivery to the DIP Lender of a drawdown request in the form attached as Schedule “B” hereto (the “**Drawdown Request**”) no more frequently than once per two-week period and not less than three (3) Business Days prior to the requested advance date, provided that a Drawdown Request need only be delivered one (1) Business Day prior to the Initial Advance.

Each DIP Advance must be in a minimum amount of \$250,000 and in multiples of \$100,000 in excess thereof, provided that the Initial Advance must be for an amount not less than the Commitment Fee, the Meridian Interim Advance, the Property Tax Arrears, the DIP Lender’s costs and expenses plus any further amount the Borrower chooses to borrow, if any, as set out in the Cash Flow Budget.

Availability under the DIP Facility is limited to the Maximum DIP Credit Amount and is subject to the other conditions described herein including, but not limited to, the Reserve Amounts set out in Section 2. Any Drawdown Request that is not materially consistent with the Cash Flow Budget must be acceptable to and approved in writing by the DIP Lender.

The aggregate borrowings under the DIP Facility during any week must not exceed the forecasted borrowing requirements set forth in the Cash Flow Budget, unless acceptable to and approved in writing by the DIP Lender.

The following conditions precedent must be satisfied, or waived by the DIP Lender in its sole discretion, prior to each DIP Advance hereunder:

- (a) this Agreement, the other Loan Documents required by the DIP Lender pursuant to Section 15 to such date and all other documentation relating to the DIP Facility



have been executed and delivered and remain in full force and effect;

- (b) the application for the DIP Order has been brought on notice to such parties as are acceptable to the DIP Lender in its sole discretion, and has been heard by the Court no later than March 6, 2020;
- (c) the application for the Second Order has been brought on notice to such parties as are acceptable to the DIP Lender in its sole discretion, and has been heard by the Court no later than March 6, 2020;
- (d) the Court has issued the DIP Order, in form and substance satisfactory to the DIP Lender in its sole discretion;
- (e) the Court has issued the Second Order, in form and substance satisfactory to the DIP Lender in its sole discretion;
- (f) no appeal, notice of appeal or application for leave to appeal in respect of the Initial Order or the DIP Order has been made or threatened;
- (g) no motion to amend, vary, vacate or stay the Initial Order or the DIP Order has been made or threatened;
- (h) the Borrower has paid or will pay from the proceeds of the Initial Advance all fees and other amounts payable to the DIP Lender hereunder, including, without limitation, the Commitment Fee;
- (i) there are no encumbrances on any Collateral ranking in priority to or *pari passu* with the DIP Security other than as permitted by the terms hereof;
- (j) [Intentionally Deleted];
- (k) the DIP Lender has been named as an additional insured and first loss payee on the Borrower's property and casualty insurance policies, including insurance with respect to any real property Collateral (which must include a standard mortgage clause), and such insurance remains in full force and effect;
- (l) the DIP Lender has received a certified rent roll summarizing all leases of premises within the real property owned by the Borrower, the Guarantor or either of them;
- (m) the DIP Advance (together with all previous DIP Advances) must be no greater than the amount shown



on the Cash Flow Budget and in the aggregate must not exceed the Maximum DIP Credit Amount;

- (n) the delivery to the DIP Lender of a Drawdown Request, duly executed by an officer on behalf of the Borrower and approved by the Monitor;
- (o) no Material Adverse Effect has occurred since the date of the Initial Order;
- (p) there is no Default or Event of Default which has occurred and is continuing, nor will any Default or Event of Default occur as a result of the DIP Advance;
- (q) there are no pending appeals, injunctions or other legal impediments relating to the DIP Facility, or pending litigation seeking to restrain or prohibit the DIP Advance or DIP Facility;
- (r) the Cash Flow Budget is satisfactory to the DIP Lender in its sole discretion (it being acknowledged that the Cash Flow Budget attached hereto as Schedule "A" is satisfactory to the DIP Lender); and
- (s) each of the representations and warranties made by the Borrower and/or the Guarantor, as applicable, in this Agreement, the Guarantee and each other Loan Document is true and correct in all material respects as of the date made or deemed made and as of the date of the DIP Advance;
- (t) prior to any DIP Advance to fund Construction costs the DIP Lender shall be satisfied with the bi-weekly status reports provided by Maple Reindeers and the Monitor to the DIP Lender and the Borrower, all progress reports and certificates delivered by Maple Reinders and that there are no cost overruns which have not been approved by the DIP Lender in writing in respect of the costs for the Construction as set out in the Cash Flow Budget; and
- (u) the DIP Lender shall be satisfied that there is sufficient availability under the DIP Facility to fund costs to complete the Construction.

**6. USE OF PROCEEDS:** DIP Advances may only be used by the Borrower to pay:

- (a) expenditures provided for in the Cash Flow Budget;
- (b) fees and expenses associated with the DIP Facility;



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- (c) repayment of the \$220,000 advanced by Meridian Credit Union Limited under the Initial Order (the “**Meridian Interim Advance**”);
- (d) payment of the outstanding property tax arrears on real property owned by the (the “**Property Tax Arrears**”); and
- (e) such other expenditures as the DIP Lender has consented to in writing, acting reasonably.

The proceeds of each DIP Advance will be paid into a bank account of the Monitor, designated by the Borrower in writing to the DIP Lender prior to the DIP Advance with the prior written approval of the Monitor.

7. **DIP CHARGE AND  
DIP SECURITY:**

To secure the payment and performance by the Borrower of all of its obligations under this Agreement, the other Loan Documents and all ancillary documents related thereto including, without limitation, all of the DIP Obligations, the Borrower and the Guarantor shall:

- (a) obtain for the DIP Lender a Court-ordered charge and security (the “**DIP Charge**”), and
- (b) grant to the DIP Lender such security interests, assignments, mortgages and charges as may be required by it pursuant to Loan Documents required in accordance with Section 15 (collectively, with the DIP Charge, the “**DIP Security**”),



in each case on all of the existing and after-acquired real and personal, movable and immovable, tangible and intangible, corporeal and incorporeal, property, assets and undertaking of the Borrower, including, without limitation, all cash, cash equivalents, bank accounts, accounts, rents, other receivables, chattel paper, contract rights, inventory, instruments, documents, securities (whether or not marketable), equipment, fixtures, real property interests, franchise rights, patents, trade names, trademarks, copyrights, intellectual property, intangibles, capital stock, supporting obligations, letter of credit rights, commercial tort claims, causes of action and all substitutions, accessions and proceeds of the foregoing, of whatever nature and wherever located, including insurance or other proceeds thereof (collectively, the “**Collateral**”).

The DIP Security will rank in priority to all other creditors, interest holders, lien holders and claimants of any kind whatsoever (including, without limitation, the Court-ordered charges created by the Initial Order), other than a Court-ordered administration charge provided for by the Initial Order to secure payment of the professional fees of the Monitor, the Monitor’s counsel and the Borrower’s counsel, in a principal amount not to exceed \$300,000 (the “**Administration Charge**”).

8. **PERMITTED ENCUMBRANCES AND PRIORITY:**

All Collateral will be free and clear of liens, encumbrances and claims other than the DIP Security, except for (a) the Court-ordered charges created by the Initial Order, (b) any existing mortgage, hypothec, lien, security interest, pledge, charge, prior claim or encumbrance of any kind in respect of any Collateral as set forth in Schedule “C”, and (c) any other liens or encumbrances which are acceptable to, and consented to in writing by, the DIP Lender, acting reasonably (collectively, the “**Permitted Encumbrances**”). The Permitted Encumbrances will be subordinate to the DIP Security except for the Administration Charge or as otherwise expressly agreed in writing by the DIP Lender in its discretion.

9. **INTEREST:**

The outstanding principal amount of all DIP Advances will bear interest at the rate of 9.25% per annum, calculated daily and payable monthly in arrears on the last day of each calendar month (or the next Business Day of the last day of the month is not a Business Day).

Interest on each DIP Advance will accrue on the basis of a year of 365 days or 366 days, as applicable, and will be calculated, payable and compounded monthly on the last day of each month. For the purposes of the *Interest Act* (Canada),



the annual rates of interest or fees to which the rates calculated in accordance with this DIP Facility are equivalent to the rates so calculated multiplied by the actual number of days in the calendar year in which such calculation is made and divided by 365 or 366, as applicable.

If any provision of this Agreement or any ancillary document in connection with this Agreement would obligate the Borrower to make any payment of interest or other amount payable to the DIP Lender in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the DIP Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)) then, notwithstanding such provision, such amount or rate will be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by the DIP Lender of interest at a criminal rate and any such amounts actually paid by the Borrower in excess of the adjusted amount will be forthwith refunded to the Borrower.

Upon the occurrence of an Event of Default that occurs and is continuing, all amounts owing under or in respect of the DIP Facility will bear interest at the applicable interest rate plus two percent (2.0%) per annum.

10. **COMMITMENT FEE:**

The Borrower will pay to the DIP Lender a commitment fee in an amount equal to \$107,000.00 (the “**Commitment Fee**”). The Commitment Fee is fully earned and is non-refundable, and will be paid on the Closing Date from the Initial Advance.

11. **MONTHLY AVAILABILITY FEE:**

The Borrower will pay the DIP Lender a monthly availability fee in the amount of \$2,000.00 per month for each month (or part thereof) while this Agreement remains in effect and for as long after that as any of the liabilities or obligations under this Agreement are outstanding, which fee will be fully earned as of and payable in advance on the date of this Agreement and on the first day of each month after that.

12. **BREAK FEE:**

[Intentionally deleted]

13. **PREPAYMENT OPTION:**

The Borrower will be entitled to prepay the outstanding principal amount of the DIP Facility, in whole or in part, together with the following amounts:

- (a) accrued interest and fees relating to such prepayment to the date of the prepayment;



- (b) an amount equal to 1.5% of the Maximum DIP Credit Amount; and
- (c) all of the DIP Lender's legal and other expenses as described in Section 21 below.

Amounts prepaid may not be re-advanced.

**14. MANDATORY REPAYMENTS:**

Subject to the Administration Charge, the Borrower is required to pay all proceeds arising from:

- (a) any disposition of assets or other transaction involving the Collateral, including, without limitation, any refinancing or sale and lease back agreement, but excluding any disposition of personal property assets that are obsolete or otherwise of no material value or that are surplus to the business requirements of the Borrower; and
- (b) net insurance proceeds in respect of any of the Collateral,

as repayment of the DIP Obligations and any such repayment will reduce the Maximum DIP Credit Amount.

The Borrower will immediately make any payments required to eliminate any amount by which the principal amount outstanding at any time under the DIP Facility exceeds the Maximum DIP Credit Amount.

Amounts repaid may not be re-advanced.

**15. LOAN DOCUMENTS AND ADDITIONAL DOCUMENTATION:**

The Borrower and the Guarantor will execute and deliver, or cause to be executed and delivered, the Borrower Mortgage, the Guarantee, the Guarantee Security and an officer's certificate from the Guarantor in respect of its articles, by-laws and signing authorities (collectively, the "**Loan Documents**").

All Loan Documents and other documentation relating to the DIP Facility must be in form and substance satisfactory to the DIP Lender in its discretion.

**16. REPRESENTATIONS AND WARRANTIES:**

The Borrower represents and warrants (subject to obtaining the DIP Order where applicable) to the DIP Lender, upon which the DIP Lender relies in entering into this Agreement, that:

- (a) the Borrower is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions in which the nature



of its assets or business makes such qualification necessary;

- (b) the Borrower has all requisite corporate power and authority to (i) own and operate its properties and assets and to develop, own and operate its business and (ii) to enter into and perform its obligations under this Agreement and the other Loan Documents to which it is a party;
- (c) the execution and delivery by the Borrower of this Agreement and the other Loan Documents to which it is a party and the performance by the Borrower of its respective obligations hereunder and thereunder have been duly authorized by all necessary corporate action and no authorization under any applicable law, and no registration, qualification, designation, declaration or filing with any Governmental Authority, is or was necessary therefor, other than filings which may be made to register or otherwise record the DIP Security;
- (d) this Agreement and each of the other Loan Documents to which it is a party has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its terms, subject only to any limitation under applicable laws relating to (i) bankruptcy, insolvency, reorganization, moratorium or creditors' rights generally and (ii) the discretion that a court may exercise in the granting of equitable remedies;
- (e) the Borrower is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (f) the Collateral (i) is legally and beneficially owned by or leased or licensed to the Borrower and is only located at the locations disclosed in writing to the DIP Lender, (ii) has not been sold, leased or otherwise disposed of, and (iii) is not subject to any rights of any person or entity other than Permitted Encumbrances;
- (g) the execution and delivery by the Borrower of this Agreement and the other Loan Documents to which it is a party and the performance by the Borrower of its obligations hereunder and thereunder and compliance with the terms, conditions and provisions hereof and thereof, will not conflict with or result in a breach of (i) its constating documents or by-laws; (ii) the



material contracts to which it is party or (iii) any applicable law;

- (h) all statements (whether financial or otherwise), information, reports, budgets, forecasts and projections made available by the Borrower or anyone on its behalf to the DIP Lender are true, complete and accurate in all material respects and do not omit any information necessary to make them true, complete and accurate in all material respects;
- (i) the business operations of the Borrower have been and will continue to be conducted in compliance with all laws of each jurisdiction in which business has been or is being carried on;
- (j) the Borrower has obtained all licenses and permits required for the operation of its business and the Construction, which licenses and permits remain in full force and effect. No proceedings have been commenced or, to the knowledge of the Borrower, threatened to revoke or amend any of such licenses or permits;
- (k) the Borrower is not aware of any person with a secured claim against the Borrower or the Collateral except for the Permitted Encumbrances and the Borrower is not aware of any unpaid deductions at source or other amounts owing to the relevant tax authorities that have not been remitted or paid when due;
- (l) all representations and warranties made by the Borrower in this Agreement and each of the other Loan Documents to which it is a party are true and correct in all material respects as of the date such representations and warranties are made or deemed to be made;
- (m) the Borrower has filed or caused to be filed all tax returns and reports which are required to have been filed and has paid or caused to be paid all taxes required to have been paid by it, except taxes that are being contested in good faith by appropriate proceedings and for which adequate cash reserves are being maintained;
- (n) other than the CCAA Proceedings, there are no material actions, suits or proceedings (including any tax-related matter and excluding any environmental-related matters which are dealt with in paragraph (n)



below) by or before any arbitrator or Governmental Authority or by any other person pending against or, to the knowledge of the Borrower, threatened against or affecting the Borrower;

- (o) (i) the Borrower is and has been in material compliance with all applicable environmental laws, including obtaining, maintaining and complying with all permits required by any applicable environmental law, (ii) the Borrower is not party to, and no real property currently or previously owned, leased or otherwise occupied by or for the Borrower is subject to or the subject of, any contractual obligation or any pending or, to the knowledge of the Borrower, threatened order, action, investigation, suit, proceeding, audit, claim, demand, dispute or notice of violation or of potential liability or similar notice under or pursuant to any environmental law which could reasonably be expected to result in a remedial obligation having a Material Adverse Effect, (iii) no encumbrance in favour of any Governmental Authority securing, in whole or in part, environmental liabilities has attached to any property of the Borrower and no facts, circumstances or conditions exist that could reasonably be expected to result in any such encumbrance attaching to any such property, (iv) the Borrower has not caused or suffered to occur a release of any hazardous substances or conditions creating any potential for such a release at, to or from any real property other than in compliance with environmental laws and except when failure to do so could not reasonably be expected to have a Material Adverse Effect, (v) the Borrower has not engaged in operations that, and no facts, circumstances or conditions exist that, in the aggregate, would have a reasonable likelihood of resulting in material environmental liabilities, and (vi) the Borrower has made available to the DIP Lender copies of all existing environmental reports, reviews and audits and all documents pertaining to actual or potential environmental liabilities, in each case to the extent such reports, reviews, audits and documents are in its possession, custody or control;
- (p) the Borrower maintains insurance policies and coverage which (i) is sufficient for compliance with law and all material agreements to which the Borrower is a party and (ii) provide adequate insurance coverage



in at least such amounts and against at least such risks as are usually insured against in the same general area by persons engaged in the same or similar business to the assets and operations of the Borrower; and

- (q) all factual information provided by or on behalf of the Borrower to the DIP Lender for the purposes of or in connection with this Agreement, the other Loan Documents or any transaction contemplated herein is true and accurate in all material respects on the date as of which such information is dated or certified and remains true as of the date provided and is not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not materially misleading at such time in light of the circumstances under which such information was provided.

**17. AFFIRMATIVE COVENANTS:**

The Borrower covenants and agrees, from the date of execution of this Agreement and while any DIP Obligations remain outstanding, to:

- (a) submit to the Court the proposed form of the DIP Order and the Second Order and, to the extent they may affect the DIP Lender, the DIP Obligations, the DIP Security, the Collateral or any SISP, any other Court orders which are being sought by the Borrower in a form confirmed in advance to be satisfactory to the DIP Lender in its sole discretion subject to any amendments that are required by the Court that are acceptable to the DIP Lender, in its sole discretion;
- (b) subject to the terms of the Initial Order and the DIP Order, comply with all laws, rules, regulations and orders applicable to it or its property, including, without limitation, environmental laws and regulations and including payment on a timely basis of all municipal taxes, utility charges or other amounts in relation to the Collateral where the non-payment of same could give rise to a lien, charge or other encumbrance ranking prior to or *pari passu* with the DIP Security and immediately notify the DIP Lender of any action, claim, lawsuit, demand, investigation or proceeding pending, or to the knowledge of the Borrower, threatened, against the Borrower, before any court, Governmental Authority, regulatory authority, arbitrator or tribunal;



- (c) maintain in good standing at all times all insurance coverage as is customarily carried by companies which are engaged in the same or similar business to the business of the Borrower or as otherwise may be required by the DIP Lender, including, without limitation, builder's risk, wrap up liability or other insurance as appropriate during the period of Construction;
- (d) consult in advance with the DIP Lender in connection with any plan of compromise or arrangement and any such plan must be satisfactory to and subject to the approval of the DIP Lender, acting reasonably;
- (e) consult in advance with the DIP Lender in connection with any sale of any Collateral and any such sale will be subject to the approval of the DIP Lender, acting reasonably;
- (f) except where a stay of proceedings applies and subject to the terms of the Initial Order and the DIP Order, pay when due all statutory liens, trust and other Crown claims including employee source deductions, HST and workplace safety and insurance premiums but only with respect to those priority payments, if any, which rank ahead of the DIP Security or with respect to the Borrower's post-CCAA filing obligations in all cases in accordance with the Cash Flow Budget;
- (g) comply with the provisions of the court orders made in connection with the CCAA Proceedings;
- (h) pay when due, all principal, prepayment obligations, interest, fees and other amounts payable by the Borrower under this Agreement and under any other Loan Document;
- (i) preserve, renew and keep in full force its respective corporate existences and its respective material licenses, permits and approvals required in respect of its business, properties, assets or any activities or operations carried out therein;
- (j) conduct all activities in accordance with the Cash Flow Budget, as reviewed by the Monitor from time to time, and the credit limits established under the DIP Facility as set out hereunder;
- (k) forthwith notify the DIP Lender and the Monitor of the occurrence of any Default, Event of Default or Material Adverse Effect;



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- (l) forthwith notify the DIP Lender and the Monitor of the commencement of any action, suit, investigation, litigation or proceeding before any court or Governmental Authority;
- (m) provide to the DIP Lender at least two (2) Business Days in advance of the earlier of service or filing, copies or drafts of all petitions, pleadings, motions, affidavits, reports, applications, judicial information, financial information and other documents to be filed by or on behalf of the Borrower with the Court which may affect the DIP Lender, the DIP Obligations, the DIP Security, the Collateral or any SISP, provided if it is not practicable to provide such documents at least two (2) Business Days prior to the earlier of service or filing then as promptly as possible after such documents are available prior to their service or filing;
- (n) permit the DIP Lender, its representatives and agents, to have access, at any reasonable time and upon prior written notice, to the books, records, property and premises of the Borrower and cause management thereof to fully co-operate with any directors, officers, employees, agents, advisors and representatives of the DIP Lender;
- (o) provide prompt notice to (including copies thereof) the DIP Lender of:
  - (i) any update or modifications to any SISP or other such document relating to the marketing and solicitation of offers for a sale or investment transaction with the Borrower;
  - (ii) any information memorandum, form of letter of intent, form of bid offer, form of agreement of purchase and sale or other similar document used by the Borrower or the Monitor;
  - (iii) any qualifying bid, letter of intent, qualifying bidder, purchaser, sale or agreement of purchase and sale; and
  - (iv) any information circular, plan of compromise or arrangement, proposal to creditors, or other document pertaining to a proposed compromise or arrangement of any of the material obligations of the Borrower;
- (p) obtain the prior written approval of the DIP Lender, acting reasonably, prior to (i) seeking approval of any



process order relating to a SISP or accepting any binding offer, or entering into any agreement of purchase and sale, for any of the Collateral (and the Borrower agrees that it will be reasonable for the DIP Lender to refuse its approval for any such offer or agreement if it does not provide for the repayment of the entire amount of the DIP Obligations in cash at closing and on or prior to the Maturity Date); and (ii) seeking approval of any meeting order or preparing, filing or implementing any plan of compromise or arrangement, proposal to creditors, or other form of compromise or arrangement of any of the material obligations of the Borrower (and the Borrower agrees that they will be reasonable for the DIP Lender to refuse its approval for any such plan, proposal or other form of compromise or arrangement if it does not provide for the repayment of the entire amount of the DIP Obligations in cash upon implementation and on or prior to the Maturity Date);

- (q) pay Maple Reinders Constructors Ltd., Barrie Glass & Mirror Ltd. and other critical suppliers as determined by the Monitor the amounts set out in the Cash Flow Budget in an aggregate amount not exceeding \$2,375,000 (the “**Critical Supplier Payments**”) to pay critical supplier amounts outstanding as at the date of the Initial Order or deposits therefor including, but not limited, amounts required to vacate the construction lien registered by Maple Reinders Constructors Ltd. for \$1,867,943.00 as Instrument No. HR1667791 and a construction lien registered by Barrie Glass & Mirror Ltd. for \$89,543.93 as Instrument No. HR1672639 and to dismiss any all related claims in respect of such construction liens;
- (r) cause the Construction to be carried out and completed in a good and workmanlike manner and no later than September 30, 2020, in accordance with prudent industry practice and all applicable laws, including, without limitation, all requirements (including the retention of holdbacks) of the *Construction Act* (Ontario);
- (s) seek prior written approval from the DIP Lender prior to making any changes to the scope of the Construction Contract or incurring any costs overruns in respect Construction Contract;
- (t) if required by the DIP Lender and in the event of cost overruns which has not been approved by the DIP



Lender in writing in respect of the actual costs of the Construction compared to the budget for the Construction as set out in the Cash Flow Model, the Borrower will consent to the appointment of an independent quantity surveyor retained by the DIP Lender and the Borrower shall fully cooperate with such independent quantity surveyor and pay all fees, costs and expenses of such independent quantity surveyor;

- (u) nothing in this Agreement, including the SISP, shall prevent the Borrower from seeking refinancing of the obligations outstanding to the DIP Lender (including the pre-existing obligations outstanding to Meridian Credit Union Limited) up to the date that a definitive agreement of purchase and sale is executed with any other party pursuant to the SISP; and
- (v) the Borrower will commence the SISP during the Stay Period and agrees to diligently and in good faith take such steps as are reasonably necessary to implement and advance the SISP including, but not limited to, the following:
  - (i) On or before April 30, 2020, or such later date as agreeable to the Monitor and DIP Lender, hire a sales agent (the “**Advisor**”) and work with the Advisor to establish the steps for the SISP, including if desirable, an electronic data room and to complete drafts of the confidential information memorandum (“**CIM**”), the confidentiality agreement, the prospective buyers list and the teaser letter and provide same to the DIP Lender for its approval;
  - (ii) On or before May 8, 2020, or such later date as agreeable to the Monitor and DIP Lender, the Borrower shall obtain an order from the Court in form and substance satisfactory to the Monitor and the DIP Lender, acting reasonably, setting out the specific steps of the SISP and the timing thereof;
  - (iii) On or before October 15, 2020, provide a firm agreement of purchase and sale with a closing date on or before November 6, 2020; and
  - (iv) On or before November 6, 2020, closing of the the agreement of purchase and sale.



**18. REPORTING  
COVENANTS:**

The Borrower will deliver to the DIP Lender:

- (a) on a weekly basis, and prior to and as a requirement for the making of any DIP Advance, an updated Cash Flow Budget in form and substance satisfactory to and approved by the DIP Lender together with (i) a comparison prepared by the Borrower with the assistance of the Monitor of the previous week's forecast to actual results and (ii) an explanation of the differences;
- (b) on a weekly basis, progress reports with respect to any SISP that is commenced, and otherwise with respect to any negotiations for an investment in or sale of the Borrower's business or sponsorship of a plan of compromise or arrangement;
- (c) such further reports and information as the DIP Lender may request from time to time.

**19. NEGATIVE  
COVENANTS:**

The Borrower covenants and agrees, and covenants and agrees to cause its subsidiaries and its other affiliates, not to do the following from the date of execution of this Agreement and while any DIP Obligations remain outstanding, other than in each case with the prior written consent of the DIP Lender:

- (a) except as permitted by the Initial Order or further order of the Court, make any payment of principal or interest in respect of any indebtedness outstanding as of the Filing Date;
- (b) permit any new liens to exist on any of its properties or assets, other than Permitted Encumbrances and the liens and charges in favour of the DIP Lender, as contemplated by this Agreement;
- (c) disclaim, resiliate or terminate any material contract;
- (d) enter into, amend, terminate or accept the surrender of any lease without the consent of the DIP Lender;
- (e) merge, amalgamate, consolidate, reorganize, or sell any assets outside of the ordinary course of business other than sales of redundant or non-material assets permitted pursuant to the Initial Order and the DIP Order;
- (f) make any acquisitions, investments or loans to any party or guarantee the obligations of any party;
- (g) incur or enter into any debts, liabilities or obligations, including, without limitation, guarantees and



contingent obligations, except in the ordinary course of business;

- (h) make or permit any dividends or distributions (whether by reduction of capital or otherwise) with respect to its shares or directly or indirectly purchase, redeem or otherwise acquire or retire any of its shares;
- (i) conduct any business or engage in any transaction with an affiliate or non-arm's length person unless such business or transaction is on terms which would apply to an arm's length transaction;
- (j) (i) make an assignment in bankruptcy under the BIA, (ii) consent to the issuance of a bankruptcy order in respect of the Borrower pursuant to the BIA, (iii) file a proposal or Notice of Intention to make a proposal under the BIA, (iv) consent to the appointment of a receiver or receiver and manager by any court of competent jurisdiction in respect of the Borrower or any of its assets, undertakings or properties;
- (k) amend, or waive any term of, the Construction Contract;
- (l) enter into any agreement, initiate any process or put forward or participate in any plan or arrangement that contemplates any amendment or waiver of the DIP Lender's rights under this Agreement or any other Loan Document; or
- (m) become a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

## 20. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events, without the prior written consent of the DIP Lender, will constitute an event of default ("**Event of Default**") under this Agreement:

- (a) failure by the Borrower to pay any principal, interest, fees, prepayment obligations or any other amounts, in each case when due and owing hereunder;
- (b) any payment is made by the Borrower that is not contemplated by or in compliance with the Cash Flow Budget;
- (c) any representation or warranty made or deemed to be made by the Borrower or the Guarantor herein or in any other document in connection with this Agreement proves to have been false in any material respect at the time made or deemed made;



- (d) the Borrower or the Guarantor defaults in the observance or performance of any other covenant or obligation hereunder or any other Loan Document which, if curable, is not cured within ten (10) days after written notice from the DIP Lender;
- (e) failure by the Borrower to obtain the Second Order on or before March 6, 2020;
- (f) if a new Monitor is appointed in the CCAA Proceedings without the DIP Lender's prior written consent;
- (g) the issuance of an order terminating the CCAA Proceedings or lifting the stay in the CCAA Proceedings to permit the enforcement of any security against the Borrower or the Guarantor, or the appointment of a receiver and manager, receiver, interim receiver or similar official or the making of a bankruptcy order against the Borrower or the Guarantor;
- (h) the issuance of an order granting a lien which is senior to or *pari passu* with the DIP Security, other than the Administration Charge;
- (i) the issuance of an order staying, reversing, vacating or otherwise modifying the DIP Charge or, any order in the CCAA Proceedings in a manner which adversely impacts the rights and interests of the DIP Lender, provided, however, that any such order which provides for payment in full of all of the DIP Obligations and any other obligations of the Borrower in respect of the DIP Facility will not constitute an Event of Default;
- (j) if (i) the Initial Order or the DIP Order is varied without the consent of the DIP Lender in a manner adverse to the DIP Lender in the DIP Lender's sole opinion, or (ii) the stay of proceedings contained in the Initial Order is terminated or is lifted to allow an action adverse to the DIP Lender;
- (k) a Court order is made, a liability arises or an event occurs, including any change in the business, assets, or conditions, financial or otherwise, of the Borrower, that causes or will cause a Material Adverse Effect;
- (l) the Construction has not been completed in all material respects on or before September 30, 2020;
- (m) if any default or event of default occurs under the Construction Contract or any other material agreement



to which the Borrower or the Guarantor is a party which is not cured within 5 days after written notice thereof, provided that, this paragraph (m) will not apply to defaults existing as of the Filing Date or caused by the issuance of the Initial Order, to the extent that (and for so long as) such defaults are stayed by the Initial Order and, to the extent material to the business or property of the Borrower or the Guarantor, the counterparty continues to perform its obligation thereunder;

- (n) any breach by the Borrower of any of the Initial Order, the DIP Order or any other order of the Court made in the CCAA Proceedings;
- (o) the DIP Lender in good faith and on commercially reasonable grounds believes the prospect of payment of the DIP Obligations or the performance of the Borrower's other obligations hereunder is impaired or that any of the assets, properties or undertaking of the Borrower or the Guarantor is or is about to be placed in jeopardy; or
- (p) in the DIP Lender's sole opinion there has been a Material Adverse Effect.

## 21. REMEDIES:

After the occurrence of an Event of Default which is continuing, any right of the Borrower to receive any DIP Advance or other accommodation of credit from the DIP Lender will be suspended without the requirement of any notice to the Borrower and any further advances made, if any, thereafter will be in the sole discretion of the DIP Lender. The DIP Lender will be entitled, in addition to all other remedies at law and under any of the DIP Security or other agreement but subject to the DIP Order, to exercise its rights to notify and direct account debtors of the Borrower to pay accounts receivable directly to the DIP Lender.

In addition to the foregoing, after the occurrence of an Event of Default that is continuing, and subject to the DIP Order, the DIP Lender may take any or all of the following steps:

- (a) declare the DIP Obligations to be immediately due and payable and terminate the DIP Facility;
- (b) apply to a court for the appointment of a receiver, an interim receiver or a receiver and manager of the undertaking, property and assets of the Borrower, or for the appointment of a trustee in bankruptcy of the Borrower;



- (c) apply to the court for an order, on terms satisfactory to the Monitor and the DIP Lender, providing the Monitor with the power, in the name of and on behalf of the Borrower, to take all necessary steps in the CCAA Proceedings;
- (d) exercise its rights and remedies under the DIP Security and the powers and rights of a secured party under the *Personal Property Security Act* (Ontario) and any legislation of similar effect; and
- (e) exercise all such other rights and remedies under the Loan Documents, the DIP Order and applicable law.

For greater certainty, nothing will prevent the DIP Lender from applying to the Court or any court in any relevant foreign jurisdiction on five (5) days' notice, or such shorter notice as the Court may permit, for such relief as the DIP Lender may determine is necessary or appropriate at any time.

For the avoidance of doubt, no failure or delay by the DIP Lender in exercising any of its rights hereunder, under any other Loan Document or at law will be deemed a waiver of any kind, and the DIP Lender will be entitled to exercise such rights in accordance with this Agreement at any time.

The DIP Order will provide that the DIP Lender is not prevented by the stay of proceedings in the Initial Order or any other order of the Court, as applicable, from exercising any or all of the rights, remedies and entitlements available to it hereunder, under the DIP Security and under any Loan Document, and that the DIP Obligations will not be compromised or otherwise affected in any plan filed by or on behalf of the Borrower.

## 22. **LEGAL AND OTHER EXPENSES:**

The Borrower will pay all of the DIP Lender's reasonable costs and expenses, including, without limitation, those incurred for due diligence, transportation, computers, copying, appraisals, inspections, audits, insurance, consultants, searches, filing and recording fees, collateral auditing fees and all other out-of-pocket costs and expenses incurred by the DIP Lender (including the reasonable fees and expenses of its legal counsel). The Borrower will also pay the reasonable costs and expenses of the DIP Lender in connection with this Agreement, the other Loan Documents, the transactions contemplated herein and the CCAA Proceedings, as well as any enforcement of the terms of this Agreement, the DIP Security or the other Loan Documents or otherwise incurred in connection with the DIP Facility. All such fees and expenses



will be paid by the Borrower on demand and, until paid, will be secured by the DIP Security.

**23. INDEMNITY AND RELEASE:**

Conditional upon the DIP Order being granted and the DIP Lender satisfying its obligations of this DIP Agreement, the Borrower agrees to indemnify and hold harmless the DIP Lender, its affiliates and their officers, directors, employees, agents and advisors (each, an “**Indemnified Person**”) from and against any and all suits, actions, causes of action, proceedings, orders, claims, damages, losses, liabilities, demands, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defences, rights of set-off, demands and liabilities (individually, a “**Claim**” and collectively, “**Claims**”) (including reasonable legal fees and disbursements and other costs of investigation or defence, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as a result of or in connection with credit having been extended, suspended or terminated under or in relation to the DIP Facility or the use of the proceeds thereof and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and any actions or failure to act in connection therewith including the taking of any enforcement actions by the DIP Lender and including any and all environmental liabilities and reasonable legal costs and expenses arising out of or incurred in connection with disputes between or among the Parties; provided that such indemnity will not, as to any Indemnified Person, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross or intentional fault of such Indemnified Person. All such indemnified amounts, if not immediately paid by the Borrower upon demand, will be secured by the DIP Charge.

The indemnities granted under this Agreement will survive any termination or repayment of the DIP Facility.

In consideration of this Agreement and for other good and valuable consideration, the Borrower and the Guarantor on their own behalf and on behalf of each of their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, legal counsel, consultants, employees, agents and their respective successors and assigns (all of which are referred to collectively as the “**Releasors**”) absolutely, unconditionally and irrevocably releases the DIP Lender, and



its present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, legal counsel, consultants, employees, agents and other representatives, and their successors and assigns (all of which are referred to collectively as the “**Releasees**” and individually as a “**Releasee**”), of and from Claims known or unknown, such Releasors may now or later have or claim against any of the Releasees by reason of any circumstance, action, cause or thing which arises at any time on or prior to the date of this Agreement.

Each of the Releasors understands, acknowledges and agrees that the release set out in this Section may be pleaded as a full and complete defence and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of that release. Each of the Releasors agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may later be discovered will affect in any manner the final, absolute and unconditional nature of the release set out in this Section.

The indemnities and releases granted under this Agreement shall survive any termination of this Agreement or repayment of the DIP Facility.

**24. DIP LENDER APPROVALS:**

Any consent, approval, instruction or other expression of the DIP Lender to be delivered in writing may be delivered by any written instrument, including by way of electronic mail, by the DIP Lender pursuant to the terms hereof.

**25. TAXES:**

All payments under or in connection with the DIP Facility will be made free and clear of any present or future taxes, withholdings or other deductions whatsoever (other than income and franchise taxes in the jurisdiction the DIP Lender’s lending office). The DIP Lender will use reasonable efforts (consistent with their respective internal policy and legal and regulatory restrictions and so long as such efforts would not otherwise be disadvantageous to them) to minimize to the extent possible any applicable taxes, and the Borrower will indemnify the DIP Lender for such taxes and penalties paid by the DIP Lender. All such indemnified amounts, if not immediately paid by the Borrower upon demand, will be secured by the DIP Security.



**26. NOTICES:**

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

- (a) in the case of the Borrower and/or the Guarantor:

2607380 Ontario Inc. and Nuvo Network Inc.  
1295 North Service Road  
Burlington, ON L7P 3A7

Attention: Shawn Saulnier

Fax: 416-625-1769

Email: [shawn@nuvonetwork.com](mailto:shawn@nuvonetwork.com)

with a copy to the Monitor (however this does not constitute notice):

Richter  
181 Bay Street, Suite 3510  
Toronto, ON M5J 2T3

Attention: Paul van Eyk

Fax: 416-485-4592

Email: [pvaneyk@richter.ca](mailto:pvaneyk@richter.ca)

with a copy to the counsel to the Monitor:

Bennett Jones LLP  
3400 One First Canadian Place  
P.O. Box 130  
Toronto, ON M5X 1A4

Attention: Raj S. Sahni

Fax: 416-863-1716

Email: [sahnir@bennettjones.com](mailto:sahnir@bennettjones.com)

- (b) in the case of the DIP Lender:

Meridian Credit Union Limited  
75 Corporate Park Drive  
St. Catharines, Ontario, L2S 3W3

Attention: Bernie Huber

Fax: (905) 988-4003

Email: [bernie.huber@meridiancu.ca](mailto:bernie.huber@meridiancu.ca)



with a copy to the counsel to the DIP Lender:

Gowling WLG (Canada) LLP  
Suite 1600, 1 First Canadian Place  
100 King Street West  
Toronto, ON M5X 1G5  
Canada

Attention: Dom Glavota/David Cohen

Fax: (416) 862-7661

Email: [dom.glavota@gowlingwlg.com](mailto:dom.glavota@gowlingwlg.com)

Any such notice must be deemed to be given and received, when received, unless received after 5:00 p.m. EST or on a day other than a Business Day, in which case the notice will be deemed to be received the next Business Day. Either Party may request notices be sent to additional recipients.

**27. GOVERNING LAW, JURISDICTION AND WAIVER OF JURY TRIAL:**

This Agreement will be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Borrower and Guarantor irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.

The Parties waive all rights to trial by jury in any action, suit, or proceeding brought to resolve any dispute, whether arising in contract, tort, or otherwise between the DIP Lender, the Borrower and the Guarantor, arising out of, connected with, or related or incidental to, the relationship established between them in connection with this Agreement or any of the Loan Documents or the transactions related to this Agreement or any of the Loan Documents.

**28. AMENDMENTS, WAIVERS, ETC.:**

No amendment or waiver of any provision of this Agreement will be effective unless it is in writing, and then the amendment, modification, waiver or consent will be effective only in the specific instance, for the specific purpose and for the specific length of time for which it is given.

**29. FURTHER ASSURANCES:**

The Borrower will from time to time promptly, upon the request of the DIP Lender, take or cause to take such action, and execute and deliver such further documents as may be reasonably necessary or appropriate to give effect to the provisions and intent of this Agreement.

**30. LANGUAGE:**

It is the express wish of the Parties that this Agreement and any related documents be drawn up and executed in English. *Les Parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais.*



31. **ENTIRE AGREEMENT;  
CONFLICT:** This Agreement, including the schedules hereto constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements and understandings relating thereto.
32. **ASSIGNMENT:** The DIP Lender may assign this Agreement and its rights and obligations hereunder, in whole or in part, to any party acceptable to the DIP Lender in its sole and absolute discretion (subject to providing the Monitor with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of the DIP Lender hereunder and, if necessary, approval of the Court). Neither this Agreement nor any right and obligation hereunder may be assigned by the Borrower without the prior written approval of the DIP Lender.
33. **SEVERABILITY  
AND NO CONRA  
PROFERENTUM:** Any provision in this Agreement which is prohibited or unenforceable in any jurisdiction will, 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. This Agreement has been reviewed by each Party's professional advisors, and revised during the course of negotiations between the Parties. Each Party acknowledges that this Agreement is the product of their joint efforts, that it expresses their agreement, and that, if there is any ambiguity in any of its provisions, no rule of interpretation favouring one Party over another based on authorship will apply.
34. **NO THIRD PARTY  
BENEFICIARY:** No person, other than the Borrower, the Guarantor and the DIP Lender are entitled to rely upon this Agreement and the Parties expressly agree that this Agreement does not confer rights upon any party not a signatory hereto.
35. **CURRENCY:** Unless otherwise stated, all monetary denominations (including CDN\$) will be in lawful currency of Canada.
36. **COUNTERPARTS  
AND FACSIMILE  
SIGNATURES:** This Agreement may be executed in any number of counterparts and by facsimile or other electronic transmission, each of which when executed and delivered will be deemed to be an original, and all of which when taken together will constitute one and the same instrument. Any Party may execute this Agreement by signing any counterpart of it.
37. **DEFINITIONS:** Capitalized terms not otherwise defined herein will have the following meanings:  
**"Borrower Mortgage"** means an additional charge/mortgage of land in the principal amount of \$7,180,000 executed by the Borrower in favour of the DIP Lender in respect of in respect



of the Borrower's property municipally known as 1295 North Service Road, Burlington, ON

**"Business Day"** means any day that is not a Saturday, Sunday or other day on which the DIP Lender is authorized or required by applicable law to remain closed.

**"Cash Flow Budget"** means the detailed thirteen (13) week rolling cash flow budget of receipts and disbursements prepared by the Borrower with the assistance of the Monitor which is attached as Schedule "A" (*Cash Flow Budget*) to this Agreement, together with any subsequent detailed cash flow budget prepared by the Borrower with the assistance of the Monitor, submitted by the Borrower to the DIP Lender and approved in writing by the DIP Lender pursuant to Section 18(a).

**"Construction"** means the renovation and other construction work in respect of the Borrower's property municipally known as 1295 North Service Road, Burlington, ON being conducted pursuant to the Construction Contract and any related agreements, plans, specifications, site plan and government approvals.

**"Construction Contract"** means the construction contract between 2607380 Ontario Inc. and Maple Reindeers Constructors Ltd. dated November 1, 2017, as amended to the date hereof.

**"Default"** means an event which, but for the requirement for the giving of notice, lapse of time, or both, would constitute an "Event of Default".

**"DIP Order"** means an order of the Court, among other things, approving this Agreement and the DIP Facility and authorizing the Borrower to execute and carry out the terms of this Agreement and all agreements contemplated herein, granting the DIP Charge and establishing the priority of the DIP Security relative to other claims and encumbrances, which DIP Order must be: (a) establish the maximum amount of the DIP Charge to an amount equal to the Maximum DIP Credit Amount; (b) obtained after due notification of all secured creditors of the Borrower and other parties identified by the DIP Lender; and (c) in form and content satisfactory to the DIP Lender in its sole discretion. For greater certainty, the DIP Order shall form part of the Second Order.

**"Filing Date"** means February 25, 2020.

**"Guarantee"** means a guarantee to be executed and delivered by the Guarantor in favour of the DIP Lender guaranteeing all of the obligations and indebtedness of the Borrower hereunder



in form and substance satisfactory to the DIP Lender in its sole discretion.

**“Guarantee Security”** means (i) a general security agreement to be entered into between the Guarantor and the DIP Lender granting the DIP Lender a first-ranking security interest in all present and after-acquired property of the Guarantor, and (ii) an assignment of rents and leases to be given by the Guarantor to the DIP Lender, each in form and substance satisfactory to the DIP Lender in its sole discretion.

**“Governmental Authority”** means any domestic or foreign (a) federal, provincial, state, municipal, local or other government, (b) any governmental or quasi-governmental authority of any nature, including any governmental ministry, agency, branch, department, court, commission, board, tribunal, bureau or instrumentality, or (c) any body exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power of any nature.

**“Initial Order”** means the order of the Court made on the Filing Date, as amended and extended from time to time (provided that, every such amendment and extension is in form and content satisfactory to the DIP Lender in its sole discretion).

**“Material Adverse Effect”** means: (a) any effect (other than the CCAA Proceedings) which is, or could reasonably be expected to be, adverse on the: (i) status or conditions (financial or otherwise), properties, assets, ownership, capital, liabilities, obligations (whether absolute, accrued, conditional or otherwise), business operations or results of operations of the Borrower or the Guarantor that, in the DIP Lender’s sole opinion, is material; or (ii) ability of the Borrower to perform or discharge its obligations under this Agreement, the Loan Documents or any of the other documents relating hereto or thereto which, in the DIP Lender’s sole opinion, is material or (b) any event which would constitute an Event of Default.

**“Monitor”** means Richter Advisory Group Inc. in its capacity as monitor appointed under the Initial Order.

**“SISP”** means any sale and investor solicitation process or similar process undertaken in respect of an investment in, sponsorship of, or sale of the Borrower and the Guarantor or any of the assets of the Borrower or the Guarantor.



**“SISP Approval Order”** means an order of the CCAA Court approving the SISP in form and substance acceptable to the DIP Lender.

**“Second Order”** means an order of the Court amending the Initial Order, which Second Order must be (a) obtained after due notification of all secured creditors of the Borrower and other parties identified by the DIP Lender and (b) in form and content satisfactory to the DIP Lender in its sole discretion.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**



**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date first above written.

**DIP Lender**

**MERIDIAN CREDIT UNION LIMITED**

By:  **Bernie Huber**  
Name: Senior Commercial Credit Specialist  
Title:

**Borrower**

**2607380 ONTARIO INC.**

By: \_\_\_\_\_  
Name:  
Title:

**Guarantor**

**NUVO NETWORK INC.**

By: \_\_\_\_\_  
Name:  
Title:



IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

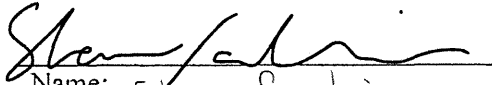
DIP Lender

MERIDIAN CREDIT UNION LIMITED

By: \_\_\_\_\_  
Name:  
Title:

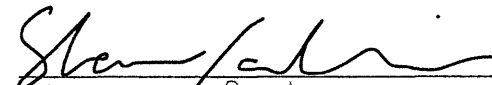
Borrower

2607380 ONTARIO INC.

By:   
Name: Shawn Saulnier  
Title: President

Guarantor

NUVO NETWORK INC.

By:   
Name: Shawn Saulnier  
Title: President



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**SCHEDULE “A”  
CASH FLOW BUDGET**

See attached.



2807380 Ontario Inc.  
Cash Flow Forecast  
For the Period March 4, 2020 to October 24, 2020  
(In CAD, unaudited)

Notes	Week Number	Week Ending	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	
			07-Mar-20	14-Mar-20	21-Mar-20	28-Mar-20	04-Apr-20	11-Apr-20	18-Apr-20	25-Apr-20	02-May-20	09-May-20	16-May-20	23-May-20	30-May-20	06-Jun-20	13-Jun-20	20-Jun-20	27-Jun-20	04-Jul-20	11-Jul-20	18-Jul-20	25-Jul-20	01-Aug-20	08-Aug-20	15-Aug-20	22-Aug-20	29-Aug-20	05-Sep-20	12-Sep-20	19-Sep-20	26-Sep-20	03-Oct-20	10-Oct-20	17-Oct-20	24-Oct-20	
		Totals																																			
Receipts																																					
Collection of Office, Studio & Event Income	2	2,037,142	-	1,413	1,413	1,413	248,194	1,130	1,130	1,130	1,130	1,130	283,035	1,413	1,413	1,413	283,035	1,413	1,413	1,413	248,193	1,130	1,130	1,130	1,130	263,008	1,413	1,413	1,413	321,188	1,130	1,130	1,130	1,130	347,266	6,356	6,356
HST Receivable	3	597,000	-	-	-	-	-	-	-	-	-	-	375,000	-	-	-	45,000	-	-	-	59,000	-	-	-	-	70,000	-	-	-	62,000	-	-	-	-	30,000	-	-
Total Receipts		2,634,142	-	1,413	1,413	1,413	248,194	1,130	1,130	1,130	1,130	1,130	668,035	1,413	1,413	1,413	328,035	1,413	1,413	1,413	307,193	1,130	1,130	1,130	1,130	333,008	1,413	1,413	1,413	383,188	1,130	1,130	1,130	1,130	383,266	6,356	6,356
Disbursements																																					
Operating Expenses	4	1,591,804	20,000	391,902	71,019	22,313	79,337	16,845	16,845	49,698	18,139	70,968	23,009	23,009	24,303	70,968	23,009	55,862	24,303	59,337	16,845	16,845	16,845	18,139	66,668	21,877	21,877	23,171	74,184	20,144	20,144	52,997	21,438	84,814	27,476	27,476	
Personnel Expenses	5	705,520	39,322	38,192	-	38,192	-	38,192	-	38,192	-	39,598	-	39,598	-	39,598	-	39,598	-	40,074	-	40,074	-	40,074	-	40,074	-	40,074	-	38,568	-	38,568	-	38,568	-	38,568	
Professional Fees	6	1,721,250	-	492,375	42,375	42,375	33,900	33,900	33,900	33,900	33,900	33,900	42,375	42,375	42,375	42,375	42,375	42,375	42,375	33,900	33,900	33,900	33,900	42,375	42,375	42,375	42,375	42,375	33,900	33,900	33,900	33,900	42,375	42,375	42,375	42,375	
Cost to Complete	7	4,511,081	-	2,375,000	-	-	325,000	-	-	-	-	-	475,000	-	-	-	575,000	-	-	-	475,000	-	-	-	-	250,000	-	-	-	36,081	-	-	-	-	-		
DIP Lender Costs	8	393,650	-	379,850	-	-	2,000	-	-	-	-	-	2,000	-	-	-	2,000	-	-	-	2,000	-	-	-	-	2,000	-	-	-	2,000	-	-	-	-	2,000	-	-
Total Disbursements		8,923,504	59,322	3,677,319	113,394	102,879	440,237	88,937	50,745	121,790	62,039	629,941	85,384	104,982	66,678	729,941	65,384	137,835	66,678	610,311	50,745	80,819	50,745	92,113	361,043	104,326	64,252	105,620	146,165	92,712	54,044	126,565	55,338	167,857	69,851	105,518	
Net Cash Flow		(6,289,362)	(59,322)	(3,675,906)	(111,981)	(101,467)	(192,043)	(87,807)	(49,615)	(120,660)	(50,909)	(21,906)	(83,971)	(103,569)	(65,265)	(401,906)	(63,971)	(136,422)	(65,265)	(303,117)	(49,615)	(89,689)	(49,615)	(90,883)	(28,035)	(102,914)	(62,840)	(104,207)	237,024	(91,582)	(52,914)	(124,435)	(54,208)	215,409	(63,495)	(102,162)	
Opening Cash Balance	9	192,067	192,067	132,746	206,839	94,858	243,391	51,348	213,541	163,926	43,267	242,358	220,452	156,481	52,912	437,847	35,741	221,770	85,348	20,083	66,965	17,351	177,662	128,047	37,064	9,029	156,115	93,276	239,068	476,092	384,510	331,596	207,161	152,953	368,362	304,867	
Net Cash Flow		(6,289,362)	(59,322)	(3,675,906)	(111,981)	(101,467)	(192,043)	(87,807)	(49,615)	(120,660)	(50,909)	(21,906)	(83,971)	(103,569)	(65,265)	(401,906)	(63,971)	(136,422)	(65,265)	(303,117)	(49,615)	(89,689)	(49,615)	(90,883)	(28,035)	(102,914)	(62,840)	(104,207)	237,024	(91,582)	(52,914)	(124,435)	(54,208)	215,409	(63,495)	(102,162)	
DIP Drawdown	10	6,300,000	-	3,750,000	-	-	250,000	-	-	-	-	250,000	-	-	-	450,000	-	-	-	250,000	-	-	-	-	250,000	-	-	-	250,000	-	-	-	-	-	-		
Ending Cash Balance		202,705	132,746	206,839	94,858	243,391	51,348	213,541	163,926	43,267	242,358	220,452	156,481	52,912	437,847	35,741	221,770	85,348	20,083	66,965	17,351	177,662	128,047	37,064	9,029	156,115	93,276	239,068	476,092	384,510	331,596	207,161	152,953	368,362	304,867	202,705	



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**SCHEDULE “B”  
FORM OF DRAWDOWN REQUEST**

**DRAWDOWN REQUEST**

**TO:** MERIDIAN CREDIT UNION LIMITED (the “**DIP Lender**”)

**FROM:** 2607380 ONTARIO INC. (the “**Borrower**”)

**DATE:** ●, 20●

Pursuant to the DIP credit facility agreement dated as of March 3, 2020 (as amended, restated and otherwise modified from time to time, the “**Credit Agreement**”) between the DIP Lender, the Borrower and the Guarantor, the Borrower is required as a condition precedent to each DIP Advance to deliver this Drawdown Request to the DIP Lender. Unless otherwise defined herein, all capitalized terms used in this Drawdown Request will have the meanings given to such terms in the Credit Agreement.

The Borrower hereby certifies that:

- (a) the requested drawdown complies with the Cash Flow Budget;
- (b) the Borrower is in compliance with the Initial Order, the DIP Order and every other order granted by the Court in the CCAA Proceedings;
- (c) the representations and warranties set forth in Section 16 of the Credit Agreement are, and will be as of the date of the DIP Advance, true and accurate in all material respects and the Borrower is in compliance with the covenants set forth in Section 17, Section 18 and Section 19 therein;
- (d) no Default or Event of Default has occurred and is continuing nor will the making of the requested DIP Advance result in the occurrence of any such event; and
- (e) all conditions precedent to the requested DIP Advance pursuant to the Credit Agreement have been satisfied or waived and all supporting evidence required by the DIP Lender is attached hereto.

The Borrower hereby requests a DIP Advance as follows:

Date of DIP Advance            [●]

Amount of DIP Advance:    CDN\$[●]



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Bank Account to which the DIP Advance is to be made:	Bank of Montreal 119 rue St-Jacques Montreal QC H2Y 1L6
------------------------------------------------------------	---------------------------------------------------------------

Transit no. 00011-001  
Acct. no. 1976-033

SWIFT CODE NO. BOFMCAM2

Beneficiary name: Richter Advisory Group Inc. in Trust  
RE: CCAA 2607380 Ontario Inc. (Nuvo)



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**IN WITNESS WHEREOF** the undersigned has executed this Drawdown Request on the date first above written.

**2607380 ONTARIO INC.**

By: \_\_\_\_\_  
Name:  
Title:

**Acknowledged and Confirmed**

Richter Advisory Group Inc., in its capacity  
as Monitor of the Borrower and not in its  
personal capacity

By: \_\_\_\_\_  
Name:  
Title:



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**SCHEDULE "C"**  
**EXISTING PERMITTED ENCUMBRANCES**

**2607380 ONTARIO INC.**

**A. PERSONAL PROPERTY**

*Personal Property Security Act (Ontario)*

**CG** means Consumer Goods, **I** means Inventory, **E** means Equipment, **A** means Accounts, **O** means Other, **MV** means Motor Vehicle Included

The order of registration set out below is not necessarily indicative of the priority of registration  
The first eight digits of the Registration Number denote the year, month and day of registration

**Current to February 18, 2020**

File No.	Secured Party	Reg. No.	Collateral Class.						Debtor(s)	Comments
			CG	I	E	A	O	MV		
1. 735244317 <b>PPSA</b>	MERIDIAN CREDIT UNION LIMITED 75 CORPORATE PARK DRIVE, ST. CATHARINES, ON, L2S 3W3	20171228 0941 1295 8875 Reg. 5 year(s) Expires 28DEC 2022		X	X	X	X	X	2607380 ONTARIO INC. 2380 MOHAWK TRAIL, CAMPBELLVILLE, ON, L0P 1B0	
General Collateral Description:										
NOTICE - SECURITY AGREEMENT CONTAINS COVENANT BY DEBTOR NOT TO GRANT SECURITY INTERESTS IN OR TRANSFER TO THIRD PARTIES THE COLLATERAL WITHOUT THE CONSENT OF THE SECURED PARTY										
File No.	Secured Party	Reg. No.	Collateral Class.						Debtor(s)	Comments
			CG	I	E	A	O	MV		
2. 735244632 <b>PPSA</b>	MERIDIAN CREDIT UNION LIMITED 75 CORPORATE PARK DRIVE, ST. CATHARINES, ON, L2S 3W3	20171228 0947 1295 8876 Reg. 5 year(s) Expires 28DEC 2022				X	X		2607380 ONTARIO INC. 2380 MOHAWK TRAIL, CAMPBELLVILLE, ON, L0P 1B0	
General Collateral Description:										
GENERAL ASSIGNMENT OF RENTS AND LEASES RELATING TO 1295 NORTH SERVICE ROAD, BURLINGTON, ONTARIO ONLY, PLUS PROCEEDS										
File No.	Secured Party	Reg. No.	Collateral Class.						Debtor(s)	Comments
			CG	I	E	A	O	MV		
3. 737412957 <b>PPSA</b>	BRIDGING FINANCE INC. AS AGENT 77 KING ST. WEST, SUITE 2925 TORONTO, ON, M5K 1K7	20180320 1415 1590 Reg. 5 year(s) Expires 20MAR 2023		X	X	X	X	X	2607380 ONTARIO INC. 2380 MOHAWK TRAIL, CAMPBELLVILLE, ON, L0P 1B0	



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		General Collateral Description: None									
File No.	Secured Party	Reg. No.	Collateral Class.							Debtor(s)	Comments
			CG	I	E	A	O	MV			
4. 737412966 PPSA	BRIDGING FINANCE INC. AS AGENT 77 KING ST. WEST, SUITE 2925 TORONTO, ON, M5K 1K7	20180320 1415 1590 5684 Reg. 5 year(s) Expires 20MAR 2023				X	X		2607380 ONTARIO INC. 2380 MOHAWK TRAIL, CAMPBELLVILLE, ON, L0P 1B0		
General Collateral Description: None											
File No.	Secured Party	Reg. No.	Collateral Class.							Debtor(s)	Comments
			CG	I	E	A	O	MV			
5. 753455574 PPSA	CANADIAN EQUIPMENT FINANCE & LEASING INC. 250 WOOLWICH ST S, UNIT 5, BRESLAU, ON N0B 1M0	20190717 1629 9224 0550 Reg. 8 year(s) Expires 17JUL 2027			X		X		NUVO NETWORK INC. 1295 NORTH SERVICE ROAD, OAKVILLE, ON L7P 3A7  2607380 ONTARIO INC. 2380 MOHAWK TRAIL, CAMPBELLVILLE, ON, L0P 1B0		
General Collateral Description: ONE (1) USED 2007 PREVOST COUNTRY COACH BUS, VIN 2PCW3349951028757											

**B. REAL PROPERTY****Existing Ontario Registrations on PIN 17127-0265 (LT)**

(as of February 19, 2020 at 10:22 a.m.)

No.	Instrument No.	Date of Registration	Instrument Type	Amount	Party From	Party To
1.	119980	1961/01/25	Bylaw	N/A	N/A	N/A
2.	609501	1984/11/07	Agreement	N/A	N/A	The Corporation of the City of Burlington
3.	612717	1985/01/15	Agreement	N/A	N/A	The Corporation of the City of Burlington



## C-3

No.	Instrument No.	Date of Registration	Instrument Type	Amount	Party From	Party To
4.	613383	1985/01/30	Agreement	N/A	N/A	The Corporation of the City of Burlington
5.	20R6963	1985/03/22	Plan Reference	N/A	N/A	N/A
6.	616715	1985/04/03	Agreement	N/A	N/A	The Corporation of the City of Burlington
7.	20R10695	1992/04/22	Plan Reference	N/A	N/A	N/A
8.	HR1212979	2014/09/12	Notice of Lease	\$2	Crossroads Christian Communications Inc.	Solar Power Network 001 Inc. SPN LP 3 (added 2016/03/03)
9.	HR1531249	2018/03/19	No Charge Lease	\$337,500,000	Solar Power Network 001 Inc. SPN LP 3	Deutsche Bank Trust Company Americas
10.	HR1532634	2018/03/26	Charge	\$23,000,000	2607380 Ontario Inc.	Meridian Credit Union Limited
11.	HR1532635	2018/03/26	No Assgn Rent Gen	N/A	2607380 Ontario Inc.	Meridian Credit Union Limited
12.	HR1532636	2018/03/26	Notice of Lease	\$1	2607380 Ontario Inc.	Crossroads Christian Communications Incorporated
13.	HR1532637	2018/03/26	Charge	\$4,500,000	2607380 Ontario Inc.	Crossroads Christian Communications Incorporated
14.	HR1532639	2018/03/26	Charge	\$3,250,000	2607380 Ontario Inc.	Bridging Finance Inc.
15.	HR1532640	2018/03/26	No Assgn Rent Gen	N/A	2607380 Ontario Inc.	Bridging Finance Inc.
16.	HR1667791	2019/11/25	Construction Lien	\$1,867,943	Maple Reinders Constructors Ltd.	N/A
17.	HR1672639	2019/12/16	Construction Lien	\$89,543	Barrie Glass & Mirror Ltd.	N/A
18.	HR1674574	2019/12/23	Certificate	N/A	Maple Reinders Constructors Ltd.	N/A
19.	HR1683750	2020/02/12	Certificate	N/A	Barrie Glass & Mirror Ltd.	N/A



THIS IS **EXHIBIT “H”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

---

*A Commissioner etc.*



Court File No. CV-20-00636875-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE  
JUSTICE CONWAY

)  
)  
)

FRIDAY, THE 6th  
DAY OF MARCH, 2020



IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF 2607380 ONTARIO INC. (the "Applicant")

AMENDED AND RESTATED INITIAL ORDER  
(Amending Initial Order dated February 25, 2020)

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order amending and restating the Initial Order (the "Initial Order") issued on February 25, 2020 (the "Initial Filing Date") and extending the stay of proceedings provided for therein was heard this day at 330 University Ave, Toronto, Ontario.

ON READING the affidavit of Shawn Saulnier sworn February 24, 2020 (the "Saulnier Initial Affidavit"), the affidavit of Shawn Saulnier sworn March 4, 2020 (the "Saulnier Comeback Affidavit") and the Exhibits thereto, the pre-filing report of Richter Advisory Group Inc., in its capacity as proposed monitor (the "Monitor") to the Applicant, dated February 24, 2020, the First Report of the Monitor dated March 5, 2020 and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant and counsel for the Monitor, the DIP Lender and those other parties listed on the counsel slip, with counsel for in attendance and *supporting the Application* not opposing, and on being advised that those parties listed in the affidavits of service filed were given notice of this motion;

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## INITIAL ORDER AND INITIAL FILING DATE

1. **THIS COURT ORDERS** that the Initial Order, reflecting the Initial Filing Date, shall be amended and restated as provided for herein.

## SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

## PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

## POSSESSION OF PROPERTY AND OPERATIONS

5. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to the provisions of this Order and further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to use the central cash management system currently in place as described in the Saulnier Initial Affidavit



or replace it with another substantially similar central cash management system (the “Cash Management System”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicant shall advise and obtain the Monitor’s consent in respect of

- (a) any proposed disbursements after the Initial Filing Date to be made where (i) the amount of the disbursement is in excess of \$1,000 for a singular disbursement or (ii) the aggregate daily disbursements will exceed \$5,000; and
- (b) any contracts, including leases, with (i) an aggregate value or liability in excess of \$1,000; and/or (ii) a term in excess of one month, to be entered into by the Applicant or Nuvo Network Inc.

8. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the Initial Filing Date:

- (a) all outstanding and future wages, salaries, employee benefits, vacation pay and expenses payable on or after the Initial Filing Date, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.



9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after the Initial Filing Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the Initial Filing Date.

10. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the Initial Filing Date, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the Initial Filing Date, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, property tax arrears relating to the Real Property (as defined below), assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and



which are attributable to or in respect of the carrying on of the Business by the Applicant.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the Initial Filing Date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

### **RESTRUCTURING**

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) terminate the employment of such of their employees or temporarily lay off such of their employees as the Applicant deems appropriate; and
- (b) continue negotiations with stakeholders in an effort to pursue restructuring options for the Applicant including without limitation all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of its business (the "**Restructuring**"). For greater certainty, any steps taken in connection with a sales and investor solicitation process involving all or part of the Applicants' shares, the Property and/or the Business ("**SISP**") shall be in the sole control of the Monitor pursuant to its powers set out in this Order and any further Order of this Court.

### **NO PROCEEDINGS AGAINST THE APPLICANT, NUVO NETWORK INC. OR THE SAULNIERS**

13. **THIS COURT ORDERS** that until and including October 24, 2020, or such later date as this Court may subsequently order (the "**Stay Period**"), no proceeding or enforcement process in or out of any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property,



except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

14. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceeding shall be commenced or continued against or in respect of the non-applicant Nuvo Network Inc. or affecting any of its current and future assets, businesses, undertakings and properties of every nature and kind whatsoever and wherever situate including all proceeds thereof (the "**Nuvo Property**"), and any and all Proceedings currently under way against or in respect of the Nuvo Network Inc. or affecting the Nuvo Property are hereby stayed and suspended pending further order of this Court.

15. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceeding shall be commenced or continued against or in respect of Shawn Saulnier or Bridget Saulnier (the "**Saulniers**") or any of their current and future assets, businesses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the "**Saulnier Property**"), arising upon or as a result of any default under the terms of any document entered into in connection with any of the Saulniers' guarantees of any of the commitments or loans of the Applicant (collectively, the "**Saulnier Default Events**"). Without limitation, the operation of any provision of a contract or agreement between the Saulniers and any other Person (as hereinafter defined) that purports to effect or cause a termination or cessation of any rights of the Saulniers, or to accelerate, terminate, discontinue, alter, interfere with, repudiate, cancel, suspend, amend or modify such contract or agreement, in each case as a result of one or more Saulnier Default Events, is hereby stayed and restrained during the Stay Period.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the



Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of Nuvo Network Inc. (or affecting the Nuvo Property) or the Saulniers (or affecting the Saulnier Property) as a result of a Saulnier Default Event are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower Nuvo Network Inc. or the Saulniers to carry on any business which Nuvo Network Inc. or the Saulniers are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

18. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or leave of this Court, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by (i) the Applicant, (ii) Nuvo Network Inc. or (iii) any other party as a result of a Saulnier Default Event.

#### **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further



Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Initial Filing Date are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order or the Initial Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the Initial Filing Date, nor shall any Person be under any obligation on or after the Initial Filing Date to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order or the Initial Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the Initial Filing Date and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

22. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the Initial Filing Date, except to the extent that, with respect to any officer or director, the



obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$50,000 as security for the indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 42 and 44 herein.

24. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

#### **APPOINTMENT OF MONITOR**

25. **THIS COURT ORDERS** that that Richter Advisory Group Inc. is, as of the Initial Filing Date, appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant, including monitoring the renovation of the buildings, to permit the Applicant to apply for occupancy permits and lease up status, on the lands municipally known as 1295 North Service Road, Burlington, Ontario (the "**Renovation Project**"), with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements, including to the extent deemed appropriate by the Monitor as it relates to Nuvo Network Inc. to the extent it utilizes



the Cash Management System with the Applicant, in order to review and consider the cash requirements and reasonableness of the cash flow forecast prepared by the Applicant, and the continued use of the Cash Management System;

- (b) approve or deny any proposed disbursements by the Applicant pursuant to paragraph 7 above;
- (c) have full and complete access to the books, records, data, including data in electronic form, and other financial documents of the Applicant and Nuvo Network Inc. to the extent that is necessary to adequately assess the Applicant's business and financial affairs and prospects for a restructuring or transaction of any kind, to report on cash flow forecasts prepared by the Applicant, or to perform its duties arising under this or any further Order of this Court and Nuvo Network Inc. shall cause its respective employees, contractors, agents, advisors, directors and/or officers, as may be necessary, available to the Monitor for such purposes;
- (d) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Renovation Project, and such other matters as may be relevant to the proceedings herein;
- (e) assist the Applicant, to the extent required by the Applicant, in its dissemination of to the DIP Lender and its counsel on a weekly basis of financial and other information as agreed between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (f) assist the Applicant in its preparation of the Applicant's cash flow statements;
- (g) prepare, based upon information provided by the Applicant, the Applicants' cash flow statement and reporting required by the DIP Lender, which information shall be reviewed by the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;



- (h) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (i) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (j) Monitor and oversee the Renovation Project, including the powers to enter into any discussions or agreements with contractors, incur any obligations in the ordinary course of business, all on behalf of the Applicant, and consult with the DIP Lender in connection therewith;
- (k) engage consultants, appraisers, agents, sales agents, contractors and other trade workers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Monitor's powers and duties, including without limitation those conferred by this Order;
- (l) purchase or lease, on behalf of the Applicant, such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Applicant or any part or parts thereof;
- (m) settle, extend or compromise any indebtedness owing to the Applicant;
- (n) assist the Applicant and Nuvo Network Inc. in complying with the terms of the DIP Agreement (as defined below) including, without limitation, preparing materials in anticipation of a SISP order, to be approved by the Court;
- (o) report to, meet with and discuss with such affected Persons as the Monitor deems appropriate on all matters relating to the Property and the Renovation Project, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;
- (p) register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;



- (q) apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Monitor, in the name of the Applicant;
- (r) assist the Applicant and its counsel to rectify errors in existing corporate documents and contracts;
- (s) be at liberty to engage such persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (t) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Applicant shall make best reasonable efforts to the extent possible to cause Nuvo Network Inc. (including its respective employees, contractors, agents, advisors, directors and/or officers) to co-operate fully with the Monitor in relation to its information requests and its powers and duties set forth herein, and for so long as the stay of proceedings in favour of Nuvo Network Inc. shall remain in place.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the



Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

31. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order or the Initial Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings, incurred both before and after the making of this Order in respect of these proceedings in connection with the Applicant. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amounts of \$50,000 each, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.



33. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$300,000 as security for their professional fees and disbursements incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of the Initial Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 42 and 44 hereof.

#### **DIP FINANCING**

35. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Meridian Credit Union Limited (the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$7.18 million, unless permitted by further Order of this Court.

36. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP Credit Facility Agreement between the Applicant and the DIP Lender dated as of March 4, 2020 (the "**DIP Agreement**"), filed.

37. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.



38. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property including, without limiting the foregoing, the real property identified in Schedule "A" hereto (the "**Real Property**") which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 42 and 44 hereof.

39. **THIS COURT ORDERS** that upon the registration in the Land Titles Division of the Real Property of the DIP Lender's Charge in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to register the DIP Lender's Charge on title of the Real Property.

40. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon five business days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.



41. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

42. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge and the Directors' Charge, as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$300,000);

Second - DIP Lender's Charge ; and

Third- Directors' Charge (to the maximum amount of \$50,000).

43. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the DIP Lender's Charge and the Directors' Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and 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.

44. **THIS COURT ORDERS** that each of the Administration Charge, the DIP Lender's Charge and the Directors' Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

45. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Administration Charge, the DIP Lender's Charge and the Directors' Charge unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Administration Charge, the DIP Lender's Charge and the Directors' Charge.



46. **THIS COURT ORDERS** that the Administration Charge, the DIP Lender's Charge and the Directors' Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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 provisions of any federal or provincial statutes; or (e) 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, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) 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; and
- (c) the payments made by the Applicant 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.

47. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

#### **CRITICAL SUPPLIERS**

48. **THIS COURT ORDERS** that the Applicant is hereby authorized to pay the aggregate maximum amount of \$2,375,000 to Maple Reinders Constructors Ltd. ("**Maple Reinders**") and Barrie Glass & Mirror Ltd. ("**Barrie Glass**"), to pay critical supplier amounts outstanding as at the date of the Initial Order or deposits therefor, including amounts required to vacate the



construction lien registered on the Renovation Project by Maple Reinders for \$1,867,943.00 as Instrument No. HR1667791 and the construction lien registered on the Renovation Project by Barrie Glass for \$89,543.93 as Instrument No. HR1672639, and to dismiss any all related claims in respect of such construction liens.

49. **THIS COURT ORDERS AND DECLARES** that each of Maple Reinders and Barrie Glass is a critical supplier of the Applicant as contemplated by Section 11.4 of the CCAA (each, a "Critical Supplier").

50. **THIS COURT ORDERS** that each Critical Supplier shall continue to supply the Applicant with goods and/or services in accordance with the terms and conditions of their existing agreement or arrangements. No Critical Supplier may require the payment of a further deposit or the posting of any additional security in connection with the supply of goods and/or services to the Applicant after the date of this Order.

#### **SERVICE AND NOTICE**

51. **THIS COURT ORDERS** that the Monitor shall (i) without delay from the Initial Filing Date, publish in the Globe & Mail (national edition) a notice containing the information prescribed under the CCAA in respect of the Initial Order, (ii) within five days after the Initial Filing Date, (A) make the Initial Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

52. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of



documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <<https://www.richter.ca/insolvencycase/2607380-ontario-inc/>>.

53. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

54. **THIS COURT ORDERS** that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **SEALING**

55. **THIS COURT ORDERS** that the April 2019 Valuation, as described in the Saulnier Initial Affidavit, is hereby sealed and shall not form part of the public record until further order of the Court.

#### **GENERAL**

56. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.



57. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

58. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

59. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

60. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

61. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

MAR 06 2020

PER / PAR:





**SCHEDULE "A"**  
**Real Property**

1. 1295 North Service Road, Burlington, Ontario (PIN 07127-0265 (LT)) Legal Description:  
PT LT 10 , RCP PL 99 , PART 3 & 7 , 20R6963 , S/T IN 619045; BURLINGTON



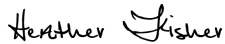
IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 2607380 ONTARIO INC.

Court File No.: CV-20-00636875-00CL

<p><b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b> <b>(COMMERCIAL LIST)</b> Proceeding commenced at Toronto</p>	
<p><b>AMENDED AND RESTATED INITIAL ORDER</b></p>	
<p><b>Stikeman Elliott LLP</b> Barristers &amp; Solicitors 5300 Commerce Court West 199 Bay Street Toronto, Canada M5L 1B9</p>	
<p><b>Elizabeth Pillon LSO#: 35638M</b> Tel: (416) 869-5623 Email: <a href="mailto:epillon@stikeman.com">epillon@stikeman.com</a></p>	
<p><b>Sanja Sopic LSO#: 66487P</b> Tel: (416) 869-6825 Email: <a href="mailto:ssopic@stikeman.com">ssopic@stikeman.com</a></p>	
<p><b>Nicholas Avis LSO#: 76781Q</b> Tel: (416) 869-5504 Email: <a href="mailto:navis@stikeman.com">navis@stikeman.com</a> Fax: (416) 947-0866</p>	
<p><b>Lawyers for the Applicant</b></p>	



THIS IS **EXHIBIT “I”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

---

*A Commissioner etc.*



## AMENDING AGREEMENT

Amending agreement dated April 28, 2020 among 2607380 Ontario Inc., Nuvo Network Inc. and Meridian Credit Union Limited, as DIP Lender (this "**Amending Agreement**").

### RECITALS:

- (a) Meridian Credit Union Limited (together with its successors and permitted assigns, the "**DIP Lender**") agreed to make certain credit facilities available to the Borrower upon the terms and conditions contained in a credit facility agreement between the Borrower, the Guarantor and the DIP Lender made as of March 3, 2020 (as amended, supplemented, restated or otherwise modified from time to time, the "**Credit Agreement**");
- (b) The Borrower and the Guarantor have requested certain amendments to the Credit Agreement and the DIP Lender has agreed to permit such amendments on the terms and conditions set forth in this Amending Agreement.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

### Section 1 Defined Terms.

Capitalized terms used in this Amending Agreement and not otherwise defined have the meanings specified in the Credit Agreement, as amended hereby.

### Section 2 Headings.

Section headings in this Amending Agreement are included for convenience of reference only and shall not constitute a part of this Amending Agreement for any other purpose.

### Section 3 Amendments to Section 17 and Section 18 of the Credit Agreement.

- (1) Section 17(v)(i) of the Credit Agreement is hereby deleted and the following is substituted:

On or before May 30, 2020, or such later date as agreeable to the Monitor and DIP Lender, hire a sales agent (the "**Advisor**") and work with the Advisor to establish the steps for the SISP, including if desirable, an electronic data room and to complete drafts of the confidential information memorandum ("**CIM**"), the confidentiality agreement, the prospective buyers list and the teaser letter and provide same to the DIP Lender for its approval;

- (2) Section 17(v)(ii) of the Credit Agreement is hereby deleted and the following is substituted:

On or before June 8, 2020, or such later date as agreeable to the Monitor and DIP Lender, the Borrower shall obtain an order from the Court in form and substance satisfactory to the Monitor and the DIP Lender, acting reasonably, setting out the specific steps of the SISP and the timing thereof;

- (3) Section 18(a) of the Credit Agreement is hereby deleted and the following is substituted:

on a biweekly basis, and prior to and as a requirement for the making of any DIP Advance, an updated Cash Flow Budget in form and substance satisfactory to and approved by the DIP



- 2 -

Lender together with (i) a comparison prepared by the Borrower with the assistance of the Monitor of the previous biweekly forecast to actual results and (ii) an explanation of the differences;

**Section 4      Reference to and Effect on the Credit Agreement.**

Upon this Amending Agreement becoming effective, each reference in the Credit Agreement to "this Agreement" and each reference to the Credit Agreement in the other Loan Documents and any and all other agreements, documents and instruments delivered by the DIP Lender, the Borrower, the Guarantor or any other Person shall mean and be a reference to the Credit Agreement as amended by this Amending Agreement. Except as specifically amended by this Amending Agreement, the Credit Agreement shall remain in full force and effect.

**Section 5      Governing Law.**

This Amending Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 6      Counterparts.**

This Amending Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, e-mail or other electronic means is as effective as a manually executed counterpart of this Agreement.

*[Remainder of Page Intentionally Left Blank. Signature Page Follows.]*




IN WITNESS WHEREOF the parties have executed this Amending Agreement.

DIP Lender:

MERIDIAN CREDIT UNION LIMITED

By:

  
Authorized Signing Officer  
**Bernie Huber**  
Senior Commercial Credit Specialist

Borrower:

2607380 ONTARIO INC.

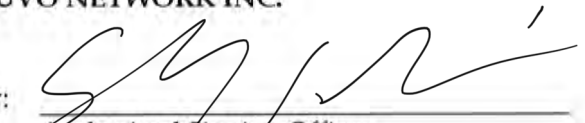
By:

  
Authorized Signing Officer

Guarantor:

NUVO NETWORK INC.

By:

  
Authorized Signing Officer



## SECOND AMENDING AGREEMENT

Second amending agreement dated July 10, 2020 among 2607380 Ontario Inc., Nuvo Network Inc. and Meridian Credit Union Limited, as DIP Lender (this “**Second Amending Agreement**”).

### RECITALS:

- (a) Meridian Credit Union Limited (together with its successors and permitted assigns, the “**DIP Lender**”) agreed to make certain credit facilities available to the Borrower upon the terms and conditions contained in a credit facility agreement between the Borrower, the Guarantor and the DIP Lender made as of March 3, 2020, as amended by a first amending agreement dated April 28, 2020 (as amended, supplemented, restated or otherwise modified from time to time, the “**Credit Agreement**”);
- (b) The Borrower and the Guarantor have requested certain amendments to the Credit Agreement and the DIP Lender has agreed to permit such amendments on the terms and conditions set forth in this Second Amending Agreement.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

### Section 1 Defined Terms.

Capitalized terms used in this Second Amending Agreement and not otherwise defined have the meanings specified in the Credit Agreement, as amended hereby.

### Section 2 Headings.

Section headings in this Second Amending Agreement are included for convenience of reference only and shall not constitute a part of this Second Amending Agreement for any other purpose.

### Section 3 Amendments to Section 17 of the Credit Agreement.

- (1) Section 17(v)(i) of the Credit Agreement is hereby deleted and the following is substituted:

On or before July 15, 2020, or such later date as agreeable to the Monitor and DIP Lender, hire a sales agent (the “**Advisor**”) and work with the Advisor to establish the steps for the SISP, including if desirable, an electronic data room and to complete drafts of the confidential information memorandum (“**CIM**”), the confidentiality agreement, the prospective buyers list and the teaser letter and provide same to the DIP Lender for its approval;

- (2) Section 17(v)(ii) of the Credit Agreement is hereby deleted and the following is substituted:

On or before July 15, 2020, or such later date as agreeable to the Monitor and DIP Lender, the Borrower shall obtain an order from the Court in form and substance satisfactory to the Monitor and the DIP Lender, acting reasonably, setting out the specific steps of the SISP and the timing thereof;

- (3) Section 17(v)(iii) of the Credit Agreement is hereby deleted and the following is substituted:



On or before October 30, 2020, provide a firm agreement of purchase and sale with a closing date on or before November 30, 2020; and

- (4) Section 17(v)(iv) of the Credit Agreement is hereby deleted and the following is substituted:

On or before November 30, 2020, closing of the agreement of purchase and sale.

**Section 4 Reference to and Effect on the Credit Agreement.**

Upon this Second Amending Agreement becoming effective, each reference in the Credit Agreement to "this Agreement" and each reference to the Credit Agreement in the other Loan Documents and any and all other agreements, documents and instruments delivered by the DIP Lender, the Borrower, the Guarantor or any other Person shall mean and be a reference to the Credit Agreement as amended by this Second Amending Agreement. Except as specifically amended by this Second Amending Agreement, the Credit Agreement shall remain in full force and effect.

**Section 5 Governing Law.**

This Second Amending Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 6 Counterparts.**

This Second Amending Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, e-mail or other electronic means is as effective as a manually executed counterpart of this Agreement.

*[Remainder of Page Intentionally Left Blank. Signature Page Follows.]*



**IN WITNESS WHEREOF** the parties have executed this Second Amending Agreement.

DIP Lender:

**MERIDIAN CREDIT UNION LIMITED**

By:   
Authorized Signing Officer

**Bernie Huber**  
Senior Commercial Credit Specialist

Borrower:

**2607380 ONTARIO INC.**

By: \_\_\_\_\_  
Authorized Signing Officer

Guarantor:

**NUVO NETWORK INC.**

By: \_\_\_\_\_  
Authorized Signing Officer



**IN WITNESS WHEREOF** the parties have executed this Second Amending Agreement.

DIP Lender:

**MERIDIAN CREDIT UNION LIMITED**

By: \_\_\_\_\_  
Authorized Signing Officer

Borrower:

**2607380 ONTARIO INC.**

By: \_\_\_\_\_  
Authorized Signing Officer

Guarantor:

**NUVO NETWORK INC.**

By: \_\_\_\_\_  
Authorized Signing Officer



### **THIRD AMENDING AGREEMENT**

Third amending agreement dated November 18, 2020 among 2607380 Ontario Inc., Nuvo Network Inc. and Meridian Credit Union Limited, as DIP Lender (this “**Third Amending Agreement**”).

#### **RECITALS:**

- (a) Meridian Credit Union Limited (together with its successors and permitted assigns, the “**DIP Lender**”) agreed to make certain credit facilities available to the Borrower upon the terms and conditions contained in a credit facility agreement between the Borrower, the Guarantor and the DIP Lender made as of March 3, 2020, as amended by (i) a first amending agreement dated April 28, 2020 and (ii) a second amending agreement dated July 10, 2020 (as amended, supplemented, restated or otherwise modified from time to time, the “**Credit Agreement**”);
- (b) The Borrower and the Guarantor have requested certain amendments to the Credit Agreement and the DIP Lender has agreed to permit such amendments on the terms and conditions set forth in this Third Amending Agreement.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

#### **Section 1 Defined Terms.**

Capitalized terms used in this Third Amending Agreement and not otherwise defined have the meanings specified in the Credit Agreement, as amended hereby.

#### **Section 2 Headings.**

Section headings in this Third Amending Agreement are included for convenience of reference only and shall not constitute a part of this Third Amending Agreement for any other purpose.

#### **Section 3 Amendments to the Credit Agreement.**

- (1) Section 4(a) of the Credit Agreement is amended by deleting the words “November 6, 2020” and replacing them with “January 29, 2021”.
- (2) Section 17(r) of the Credit Agreement is amended by deleting the words “September 30, 2020” and replacing them with “December 31, 2020”.
- (3) Section 17(v)(iii) of the Credit Agreement is hereby deleted in its entirety and the following is substituted:

“On or before January 15, 2021, the Borrower shall provide to the DIP Lender either:

- (i) a firm agreement of purchase and sale with a closing date on or before January 29, 2021; or
- (ii) a firm commitment to refinance all indebtedness, liabilities and obligations of the Borrower to Meridian Credit Union Limited including, but not limited to, the DIP Obligations, with a closing date on or before January 29, 2021; and”.



- (4) Section 17(v)(iv) of the Credit Agreement is hereby deleted in its entirety and the following is substituted:

“On or before January 29, 2021, closing of the agreement of purchase and sale or the refinancing transaction.”

**Section 4 Reference to and Effect on the Credit Agreement.**

Upon this Third Amending Agreement becoming effective, each reference in the Credit Agreement to “this Agreement” and each reference to the Credit Agreement in the other Loan Documents and any and all other agreements, documents and instruments delivered by the DIP Lender, the Borrower, the Guarantor or any other Person shall mean and be a reference to the Credit Agreement as amended by this Third Amending Agreement. Except as specifically amended by this Third Amending Agreement, the Credit Agreement shall remain in full force and effect.

**Section 5 Governing Law.**

This Third Amending Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 6 Counterparts.**

This Third Amending Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, e-mail or other electronic means is as effective as a manually executed counterpart of this Agreement.

*[Remainder of Page Intentionally Left Blank. Signature Page Follows.]*



**IN WITNESS WHEREOF** the parties have executed this Third Amending Agreement.

DIP Lender:

**MERIDIAN CREDIT UNION LIMITED**

By:   
Authorized Signing Officer

**Bernie Huber**  
Senior Commercial Credit Specialist

Borrower:

**2607380 ONTARIO INC.**

By: \_\_\_\_\_  
Authorized Signing Officer

Guarantor:

**NUVO NETWORK INC.**

By: \_\_\_\_\_  
Authorized Signing Officer

ACTIVE\_CA\ 42106992\2



**IN WITNESS WHEREOF** the parties have executed this Third Amending Agreement.

DIP Lender:

**MERIDIAN CREDIT UNION LIMITED**

By: \_\_\_\_\_  
Authorized Signing Officer

Borrower:

**2607380 ONTARIO INC.**

By:  \_\_\_\_\_  
Authorized Signing Officer


Guarantor:

**NUVO NETWORK INC.**

By:  \_\_\_\_\_  
Authorized Signing Officer



THIS IS **EXHIBIT “J”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424

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*A Commissioner etc.*



**RICHTER**

Court File No.: CV-20-00636875-00CL

**2607380 ONTARIO INC.**

**THIRD REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS MONITOR**

**NOVEMBER 19, 2020**



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## APPENDICES

**APPENDIX “A”** – Amended and Restated Initial Order

**APPENDIX “B”** – Pre-Filing Report of the Proposed Monitor dated February 24, 2020 (without appendices)

**APPENDIX “C”** – First Report of the Monitor dated March 5, 2020 (without appendices)

**APPENDIX “D”** – Second Report of the Monitor dated July 8, 2020 (without appendices)

**APPENDIX “E”** – Notice of the Sale and Investment Solicitation Process

**APPENDIX “F”** – Extended Cash Flow Forecast and Management's Report Thereon

**APPENDIX “G”** – Monitor's Report on the Extended Cash Flow Forecast

**APPENDIX “H”** – Third DIP Amendment dated November 18, 2020



Court File No.: CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

**THIRD REPORT OF RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS MONITOR**

**NOVEMBER 19, 2020**



## I. INTRODUCTION

1. On February 25, 2020 (the “**Filing Date**”), the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”) granting 2607380 Ontario Inc. (“**260**” or the “**Company**”) protection pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the “**CCAA**”). Pursuant to the Initial Order, Richter Advisory Group Inc. (“**Richter**”) was appointed as Monitor of the Company (the “**Monitor**”).
2. The Initial Order, *inter alia*:
  - (i) granted a stay of proceedings in favour of the Company until March 6, 2020 (the “**Initial Stay Period**”);
  - (ii) granted a stay of proceedings during the Initial Stay Period in favour of (i) Nuvo Network Inc. (“**Nuvo Network**”), an affiliate of the Company, (ii) the directors and officers of the Company and (iii) Mr. Shawn Saulnier and Ms. Bridget Saulnier (collectively, the “**Saulniers**”) in connection with any guarantees they have made in support of any of the commitments or debt obligations of the Company (collectively, the “**Saulnier Guarantees**”). Collectively, such stay of proceedings, together with the stay of proceedings in favour of the Company, is referred to herein as the “**CCAA Stay**”;
  - (iii) enhanced the Monitor’s powers over the Company’s disbursements, obliging the Company to obtain prior approval of the Monitor for disbursements above certain dollar thresholds (\$1,000 per transaction or \$5,000 in aggregate, on a daily basis) (the “**Monitor’s Enhanced Powers**”);
  - (iv) approved an indemnity and charge in favour of 260’s directors and officers in the amount of \$50,000 (the “**Directors’ Charge**”) in respect of the actions of the directors and officers and liabilities incurred thereby from and after the Filing Date;
  - (v) approved a charge in respect of the fees and costs of the Monitor, its counsel and counsel to the Company in the amount of \$250,000 (the “**Initial Administration Charge**”); and
  - (vi) ordered that Meridian Credit Union Limited (“**Meridian**”), the Company’s primary secured lender, provide emergency financing in the amount of \$220,000, to either the Monitor or its counsel, in order to provide the Company with sufficient funds to pay certain professional fees and to meet 260’s operational requirements until the date of the comeback motion returnable March 6, 2020.



3. On March 6, 2020, the Court issued the Amended and Restated Initial Order (the “**Amended and Restated Initial Order**”), which incorporated certain amendments to the Initial Order, *inter alia*:
  - (i) extending the CCAA Stay until October 24, 2020;
  - (ii) ordering that the Company obtain the Monitor’s consent before entering into any new contracts or leases (a) with an aggregate value or liability in excess of \$1,000 and/or (b) a term in excess of one month;
  - (iii) further advancing the Monitor’s powers, thereby authorizing it to, among other things, assist 260 in preparing cash flow forecasts (with information provided by the Company), monitoring and overseeing the renovations (the “**Nuvo Renovations**”) of the Company’s property located at 1295 North Service Road, Burlington, Ontario (the “**Nuvo Property**”), including consulting with the DIP Lender (as defined below) in connection therewith, on behalf of the Company, and assisting the Company and Nuvo Network in complying with the Meridian DIP Facility Agreement (as defined herein), including preparing materials in anticipation of a sale and investor solicitation process;
  - (iv) increasing the Initial Administration Charge to \$300,000 (the “**Amended Administration Charge**”); and
  - (v) approving a non-revolving credit facility up to a maximum amount of \$7.18 million (the “**Meridian DIP Facility**”) pursuant to a credit facility agreement between the Company and Meridian (in such capacity, the “**DIP Lender**”) dated March 4, 2020 (the “**Meridian DIP Facility Agreement**”) and a charge in favour of the DIP Lender up to the maximum amount of the aggregate of any and all advances made by the DIP Lender thereunder.

A copy of the Amended and Restated Initial Order is attached hereto as **Appendix “A”**. The proceedings commenced by 260 under the CCAA are herein referred to as the “**CCAA Proceedings**”.

4. On July 10, 2020, the Court issued an order (the “**SISP Order**”), which, *inter alia*:
  - (i) granted an extension of the CCAA Stay until November 30, 2020 (the “**July 2020 Stay Extension**”);
  - (ii) approved the retention of Halo Advisory (“**Halo**”) as financial advisor and Mortgage Alliance, as exclusive mortgage agent (“**MA**”, and together with Halo, the “**Refinancing Advisor**”), to assist in and carry out the process set out in the sale and investment solicitation process (the “**SISP**”), to solicit interest in providing financing to the Company (the “**Refinancing Process**”);



- (iii) approved the retention of CBRE Limited (“**CBRE**” and collectively with the Refinancing Advisor, the “**Brokers**”) to act as listing agent in the process set out in the SISP to solicit interest in the acquisition of the Nuvo Property (the “**Sale Process**”);
- (iv) approved the terms of the SISP, which, among other things, provided for the Refinancing Process and the Sale Process to be run concurrently; and
- (v) approved the sealing of the confidential appendices to the Monitor’s Second Report (as hereinafter defined).

A copy of the SISP Order, which includes the SISP as an exhibit, is included as Exhibit “C” to the November 2020 Saulnier Affidavit (as hereinafter defined).

5. This report is the Monitor’s third report to Court (the “**Third Report**”). Richter, in its capacity as Proposed Monitor, filed the Pre-Filing Report dated February 24, 2020 (the “**Pre-Filing Report**”) with the Court in support of, *inter alia*, the Company’s application for the Initial Order. The Monitor’s first report dated March 5, 2020 (the “**First Report**”) was filed with the Court to, among other things, provide an update on the activities of the Company and the Monitor since the issuance of the Initial Order and support the Company’s request for the Court to approve the amendments provided for in the Amended and Restated Initial Order, including the extension of the Stay Period up to and including October 24, 2020. The Monitor’s second report dated July 8, 2020 (the “**Second Report**” and collectively with the Pre-Filing Report and the First Report, the “**Prior Reports**”) was filed with the Court to, among other things, provide an update on the activities of the Company and the Monitor since the date of the First Report and support the Company’s request for the Court to grant the SISP Order. A copy of the Pre-Filing Report, the First Report and the Second Report, without appendices, are attached hereto as **Appendix “B”, Appendix “C” and Appendix “D”**, respectively. In addition, the Prior Reports (with appendices) and copies of Court and other material documents pertaining to the CCAA Proceedings are available on the Monitor’s website at <https://www.richter.ca/insolvencycase/2607380-ontario-inc/> (the “**Monitor’s Website**”).

## II. PURPOSE OF THE THIRD REPORT

6. The purpose of this Third Report is to provide information to the Court pertaining to:
  - (i) the activities of the Company and the Monitor since the date of the Second Report;
  - (ii) an update regarding the Nuvo Renovations;
  - (iii) an update on the SISP and the proposed termination thereof;



- (iv) an overview of the third amendment to the Meridian DIP Facility Agreement dated November 19, 2020 (the “**Third DIP Amendment**”);
- (v) the Company’s reported receipts and disbursements for the period from July 5, 2020 to November 14, 2020, including a comparison of reported to forecasted results;
- (vi) the Company’s request that the Court grant an order (the “**SISP Termination and Stay Extension Order**”), *inter alia*,
  - (a) terminating the SISP and enabling the Company, the Monitor and the Brokers to continue to solicit sale or refinancing proposals with respect to the Nuvo Property and to take such steps and execute such documents as may be necessary or incidental to such sale or financing efforts provided, however, that any binding sale or financing transaction is to be subject to the approval of the Court;
  - (b) approving the Pre-Filing Report, the First Report, the Second Report and the Third Report, and the activities of the Monitor set out therein; and
  - (c) extending the CCAA Stay up to and including January 29, 2021; and
- (vii) the Monitor’s conclusions and recommendations.

### III. DISCLAIMER AND TERMS OF REFERENCE

7. In preparing this Third Report, the Monitor has relied upon certain unaudited, draft, and/or internal financial information of the Company, the Company’s books and records and discussions with various parties, including 260’s advisors, employees and certain of its directors (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in the Third Report, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants of Canada Handbook* (the “**Handbook**”). In addition, the Monitor has not conducted an examination or review of any financial forecast and projections in a manner that would comply with GAAS or the procedures described in the Handbook. Accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.



8. Future orientated financial information contained in the Extended Cash Flow Forecast (as hereinafter defined) is based on the Company's estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Extended Cash Flow Forecast will be achieved.
9. Unless otherwise stated, all monetary amounts referred to herein are expressed in Canadian dollars.
10. Capitalized terms not otherwise defined herein are as defined in the SISP and the affidavit of Mr. Shawn Saulnier sworn November 18, 2020 (the "**November 2020 Saulnier Affidavit**"). The Third Report should be read in conjunction with the November 2020 Saulnier Affidavit, as certain information contained in the November 2020 Saulnier Affidavit has not been included herein in order to avoid unnecessary duplication.

#### **IV. ACTIVITIES OF THE COMPANY**

11. As outlined in the November 2020 Saulnier Affidavit, since the date of the Second Report, the activities of the Company, with the support of its legal advisors, have included:
  - (i) managing relationships with key stakeholders, including creditors, tenants and secured lenders;
  - (ii) continuing to liaise with its general contractor, Maple Reinders Inc. ("**Maple**"), with respect to the Nuvo Renovations;
  - (iii) responding to the COVID-19 pandemic situation by implementing protective measures to reduce the risk of COVID-19 transmission on the Nuvo Property;
  - (iv) administering the leases at the Nuvo Property;
  - (v) conducting an extensive marketing campaign to solicit interest for new tenants of the Nuvo Property;
  - (vi) working, in consultation with the Monitor, to manage the Company's cash flows and making payments in accordance with the Amended and Restated Initial Order;
  - (vii) working with its counsel, the Monitor, CBRE, and the Refinancing Advisor to carry out the SISP, including identifying and introducing interested parties / prospective bidders, preparing / compiling materials to be included in the respective data rooms, meeting with interested parties and attending virtual meetings and site tours;
  - (viii) corresponding with the DIP Lender and its legal counsel regarding the progress of the SISP; and



- (ix) with the assistance of the Monitor, preparing a forecast (the “**Extended Cash Flow Forecast**”) of the Company’s receipts and disbursements for the period November 15, 2020 to January 29, 2021 (the “**Forecast Period**”).

## V. ACTIVITIES OF THE MONITOR

12. Since the date of the Monitor’s Second Report, the Monitor’s activities have included:

- (i) attending at Court in connection with the SISP Order;
- (ii) attending at the Company’s premises and meeting with the Company’s management to discuss the Company’s operations, the Nuvo Renovations, the SISP and other matters pertaining to the CCAA Proceedings;
- (iii) corresponding and communicating with Maple in connection with the Nuvo Renovations;
- (iv) monitoring of the Company’s cash flows and reviewing analyses on variances to the Company’s cash flow forecast, and reporting these variances to Meridian in accordance with the Meridian DIP Facility Agreement;
- (v) corresponding with the Company and its legal counsel regarding all matters in the CCAA Proceedings, including the Nuvo Renovations, the SISP, the Extended Cash Flow Forecast and 260’s operations generally;
- (vi) corresponding with and overseeing the Refinancing Advisor in respect of the Refinancing Process;
- (vii) corresponding with and overseeing CBRE in connection with the Sale Process;
- (viii) corresponding with the DIP Lender and its legal counsel regarding the progress of the SISP and other matters pertaining to the CCAA Proceedings;
- (ix) corresponding with Bennett Jones LLP, the Monitor’s legal counsel;
- (x) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
- (xi) arranging for notice of the SISP (the “**SISP Notice**”) to be published in the August 20, 2020 edition of Globe and Mail (National Edition) in accordance with the SISP Order. A copy of the SISP Notice is attached hereto as **Appendix “E”**;



- (xii) working with the Company on a daily basis to assist in the managing of 260's operations and addressing the key financial issues arising as a result of the ongoing COVID-19 pandemic;
- (xiii) corresponding with Canada Revenue Agency ("**CRA**") in connection with certain outstanding GST/HST refunds (the "**GST/HST Refunds**") and a potential CRA audit in connection with the GST/HST Refunds.
- (xiv) maintaining the Monitor's Website where copies of the orders granted and other relevant documents in respect of the CCAA Proceedings have been made available;
- (xv) preparing this Third Report; and
- (xvi) dealing with other matters not specifically set out above pertaining to the administration of the CCAA Proceedings.

## VI. UPDATE ON THE NUVO RENOVATIONS

13. As noted in the Second Report, a primary focus of the CCAA Proceedings was to enable the Company to complete the Nuvo Renovations. Maple had been retained by the Company as general contractor to assist with the Nuvo Renovations. As further noted in the Second Report, following the issuance of the Amended and Restated Initial Order, the Company, with the assistance of the Monitor, completed the documentation necessary and issued required payments, as approved by the Court and in accordance with the Meridian DIP Facility, to ensure Maple would recommence the Nuvo Renovations. On or about March 16, 2020, Maple remobilized to the Nuvo Property to restart the Nuvo Renovations.
14. Since mid-March 2020, Maple has managed, in consultation with the Company, the Nuvo Renovations. However, due to unforeseen circumstances outside of the Company's and / or Maple's control brought on by the worsening COVID-19 situation (as further discussed in the November 2020 Saulnier Affidavit), substantial completion of the Nuvo Renovations was slightly delayed beyond the initial anticipated date (mid-September 2020). As noted in the November 2020 Saulnier Affidavit, the Nuvo Renovations are now substantially complete. On October 30, 2020, Maple issued a Certificate of Substantial Performance with respect to the Nuvo Property, a copy of which is attached as Exhibit "D" to the November 2020 Saulnier Affidavit. Furthermore, as noted in the November 2020 Saulnier Affidavit, On October 30, 2020, the architecture firm overseeing the Nuvo Renovations wrote to the City of Burlington to confirm that, subject to the approval of the municipal building inspector, the Nuvo Property is fit and ready for occupancy.



## VII. UPDATE ON THE SALE AND INVESTOR SOLICITATION PROCESS

15. On July 10, 2020, the Court approved the SISP pursuant to the SISP Order. The SISP consists of two components, to be run in parallel: (i) the Refinancing Process and (ii) the Sale Process.
16. The purpose of the SISP was to maximize the value obtained for the Nuvo Property, taking into consideration the interests of the Company's creditors and other stakeholders. The SISP was designed to be a broad and flexible process to canvass bids for a sale and/or a refinancing proposal to repay existing indebtedness of the Company.

### The Refinancing Process

17. As noted in the Second Report, in order to determine third party interest in providing financing the Company, the Company, with the assistance of the Refinancing Advisor and under the supervision of the Monitor, carried out the Refinancing Process. An overview of the Refinancing Process is as follows:
  - (i) The Refinancing Process informally commenced following the date of the Amended and Restated Initial Order, in accordance with the Meridian DIP Facility Agreement;
  - (ii) In May 2020, the Company, with the support of the Monitor and the DIP Lender, retained (a) Halo as its financial advisor to perform pre-marketing tasks for the Refinancing Process and (b) MA, a licensed mortgage broker, to carry out the Refinancing Process. Halo and MA are controlled by and operate under the supervision of the same individuals;
  - (iii) The Refinancing Process, as well as the retainer of MA and Halo, was approved by the Court pursuant to the SISP Order, which, among other things, provided for the Refinancing Process to be continued and carried out by the Refinancing Advisor, under the supervision of the Monitor, concurrently with the Sale Process;
  - (iv) The SISP and the Meridian DIP Facility Agreement provide that the Company is permitted to continue the Refinancing Process up to the date that a definitive agreement of purchase and sale is executed with any other party pursuant to the Sale Process. If, in the Monitor's view, the Refinancing Process identifies a transaction that is able to be completed in advance of the date that a definitive agreement of purchase and sale is signed, the Monitor is able to pursue such a transaction and terminate the Sale Process;
  - (v) The Refinancing Advisor, in consultation with the Company and the Monitor, prepared an investment profile / teaser summarizing the opportunity, and a form of non-disclosure agreement ("**NDA**") which was distributed to 60 prospective parties comprised of banks, mortgage lenders, private equity firms and alternative lenders;



- (vi) The Refinancing Advisor, in consultation with the Company and the Monitor, also prepared a confidential information memorandum (the “**Refinancing Process CIM**”) describing the opportunity in further detail, and prepared an electronic data room containing various confidential information concerning the Company and the Nuvo Property. The Refinancing Process CIM and access to the data room was provided to any interested party that submitted an executed NDA;
  - (vii) Of the 60 prospective parties contacted, 15 executed an NDA and performed diligence on the opportunity; and
  - (viii) As of the date of this Third Report, the Company, with the assistance of its legal counsel and Refinancing Advisor, are in negotiations with prospective lenders (the “**Prospective Lenders**”) that have expressed interest in completing a refinancing transaction.
18. The Meridian DIP Facility Agreement (as amended) contemplates that either a sale transaction pursuant to the Sale Process or a refinancing transaction pursuant to the Refinancing Process must close on or before November 30, 2020 (the “**Outside Date**”).
  19. As there is little prospect of closing a transaction with any of the Prospective Lenders prior to the Outside Date, the Company sought, with the Monitor’s support, an extension of the Outside Date provided for in the Meridian DIP Facility Agreement (as amended) to January 29, 2021, to coincide with the expiration of the Stay Extension (as defined below), if granted. In consideration of the foregoing, the DIP Lender and the Company have agreed to enter into a further amendment to the Meridian DIP Facility Agreement (as discussed below) to accommodate the extension of the Outside Date from November 30, 2020 to January 29, 2021.
  20. The Monitor understands that the Company, with the assistance of the Refinancing Advisor and the Monitor, intends to use the time provided from the Stay Extension, if granted, to continue negotiations with the Prospective Lenders with a view to finalizing the terms of a refinancing transaction. It is the Monitor’s understanding that if an agreement is reached with one of the Prospective Lenders, the Company will return to Court to seek approval of a refinancing transaction before the expiry of the Stay Extension, if granted.



## The Sale Process

21. An overview of the Sales Process is as follows:

- (i) The Sale Process was developed in consultation with CBRE. CBRE was selected as listing agent for the Sale Process after soliciting proposals from several reputable, well-known commercial property brokers in the Greater Toronto Area (the “**GTA**”). The Company determined that the proposal from CBRE was superior to the other realtors that submitted proposals, and the Monitor was supportive of the Company’s retention of CBRE due to its experience selling the Nuvo Property (CBRE was the listing agent when the Nuvo Property was sold to the Company in 2018), similar properties and commercial real estate properties subject to insolvency proceedings. In addition, CBRE presented a commission structure that was consistent with the market and superior to the other proposals submitted;
- (ii) The Sale Process was structured as a two-phase process;
- (iii) Phase 1 of the Sale Process commenced immediately following the date of the SISP Order. CBRE, in consultation with the Company and the Monitor:
  - (a) prepared a list of potential bidders comprising more than 5,600 potential interested parties (collectively, the “**Bidder List**”), made up of domestic and foreign financial and strategic buyers, including more than 200 studio operators and ancillary businesses;
  - (b) prepared a marketing summary (the “**Flyer**”) describing the opportunity to acquire the Nuvo Property and a form of NDA to be shared with potential bidders. On August 5, 2020, CBRE sent the Flyer and NDA to all parties on the Bidder List;
  - (c) commissioned a comprehensive virtual tour of the Nuvo Property, which was distributed electronically to the entire Bidder List;
  - (d) listed the Nuvo Property on MLS®;
  - (e) published an advertisement in the Globe and Mail regarding the Sale Process on August 25, 2020 and August 27, 2020 (in addition to the SISP Notice published by the Monitor); and
  - (f) prepared a confidential information memorandum (the “**Sale Process CIM**”) describing the opportunity in further detail, and prepared an electronic data room containing various confidential information concerning the Company and the Nuvo Property. The Sale Process CIM and access to the data room was provided to any potential bidders that submitted an executed NDA;



- (iv) Interested parties were provided the opportunity to attend at the Nuvo Property and to meet with the Company's executives;
- (v) The deadline for interested parties to submit a non-binding letter of intent ("**LOI**") was September 30, 2020 (the "**Initial Phase 1 Bid Deadline**"). However, in light of the fact that the Nuvo Renovations were still in progress and the general negative impact that COVID-19 has had on the commercial real estate market, CBRE recommended to the Monitor that the Initial Phase 1 Bid Deadline be extended. Accordingly, the Monitor, in consultation with CBRE and the Company, extended the Initial Phase 1 Bid Deadline to October 31, 2020 (the "**Extended Phase 1 Bid Deadline**"), in accordance with section 16 of the SISP. The Monitor also consulted with Meridian regarding the Extended Phase 1 Bid Deadline. Meridian did not object to the extension and was amenable to waive compliance with the deadlines, other than the Outside Date, contemplated under the Meridian DIP Facility Agreement (as amended); and
- (vi) The Sale Process established criteria for an LOI to be considered a Qualified LOI. If one or more Qualified LOIs were received and the Monitor, in consultation with CBRE and the Company, determined there is a reasonable prospect of obtaining a Final Bid, the Sale Process would continue into the second phase. However, if the Monitor, in consultation with the CBRE and the Company, determined that (i) no Qualified LOI has been received or (ii) there is no reasonable prospect of obtaining a Final Bid, then the Monitor, in consultation with the CBRE and the Company, may: (a) designate one or more LOIs as a Qualified LOI and the Sale Process shall continue into Phase 2; (b) proceed to Phase 2 of the Sale Process without a Qualified LOI; or (c) apply to Court for advice and directions regarding the continuation or termination of the Sale Process.

## Results of the Sale Process

22. The results of the Sale Process are summarized as follows:

- (i) 24 parties executed an NDA and performed diligence, including 10 site tours conducted with representatives of CBRE and the Company;
- (ii) as of the Extended Phase 1 Bid Deadline, one party submitted a non-binding LOI;
- (iii) the non-binding LOI received was for a value substantially less than the amounts owing by the Company to Meridian as the senior secured lender and was not acceptable to Meridian and would not result in any proceeds being available for any of the other secured creditors; and



- (iv) the Monitor and CBRE determined that the non-binding LOI received was not a Qualified LOI within the meaning of the SISP.
23. The Monitor is of the view that, notwithstanding the results, the Sale Process conducted by CBRE was commercially reasonable, including the timelines, breadth of CBRE's canvassing of the market, the information made available to interested parties, including the information in the data room and the availability of management for meetings and site tours.
  24. Based on feedback from prospective purchasers and CBRE, the results of the Sale Process (i.e. only one non-binding LOI for an amount substantially less than the Company's obligations owing to its senior secured lender) were principally influenced by the impacts of COVID-19 on the commercial real estate market in the GTA, which, among other things, is in a state of unprecedented uncertainty, with no clear end in sight. Market conditions have declined since the commencement of these CCAA Proceedings and that decline has accelerated during the pendency of the SISP. Notwithstanding the significant capital improvements made to the Nuvo Property, it is difficult to complete a sale transaction at a reasonable value for the Nuvo Property in this market, as evidenced by the limited interest in a transaction to acquire the Nuvo Property from the Sale Process.
  25. In consideration of the foregoing, following the Extended Phase 1 Bid Deadline, the Monitor, in consultation with the Company and CBRE, informed CBRE to temporarily suspend its marketing of the Nuvo Property on the basis that there was no reasonable prospect of obtaining a Final Bid. The purpose of temporarily suspending the Sale Process was to provide the Company, CBRE and the Monitor, time to assess the appropriate next steps in respect of the Sale Process. In light of the fact that no acceptable bid emerged despite CBRE reaching out to over 5,600 prospective purchasers and listing the property for over two months, the Company is of the view that that the formal Sale Process should be terminated and efforts should be focused on pursuing discussions with existing parties to see if a refinancing or sale transaction acceptable to Meridian and the Court can be developed. The Monitor concurs with that view.

### **Termination of the SISP**

26. The proposed SISP Termination and Stay Extension Order provides for, among other things, the SISP to be terminated. However, to allow for the continuation of any discussions and enable a refinancing or sale transaction to occur should one develop, the Monitor, the Brokers and their respective advisors may continue to have discussions in respect of and advance any proposals with respect to the Nuvo Property as they may deem appropriate, and to take such steps and execute such documentation as may be necessary or incidental to closing any such sale or refinancing transaction, subject to the approval of the Court.



27. The Monitor understands the DIP lender supports the process being considered. Accordingly, the Monitor supports the Company's request to terminate the SISP and to seek the proposed SISP Termination and Stay Extension Order, as such relief presents the best option in the circumstance to maximize the value obtained for the Nuvo Property, taking into consideration the interests of the Company's creditors and other stakeholders.

## VIII. THE THIRD DIP AMENDMENT

28. As noted in the Second Report, the Meridian DIP Facility Agreement contains certain milestone dates in connection with the SISP. As a result of the negative impacts of COVID-19 on the Company's business, the Nuvo Renovations and the commercial real estate market in the GTA generally, the Company, in consultation with the Monitor, negotiated the First DIP Amendment and the Second DIP Amendment (each as defined and discussed in the Second Report) to, among other things, extend certain milestones originally contemplated in the Meridian DP Facility Agreement. Copies of the Meridian DIP Facility Agreement, the First DIP Amendment and the Second DIP Amendment are included in the November 2020 Saulnier Affidavit as Exhibits "E", "F" and "G", respectively.
29. The Monitor has been in consultation with the DIP Lender to update them in respect of the proposed process and timelines in the SISP and the Meridian DIP Facility Agreement (as amended). Given the suspension of the Sale Process component of the SISP on October 31, 2020, the requested termination of the SISP, and the ongoing negotiations with the Prospective Lenders regarding a potential refinancing, it was ultimately agreed that a further amendment of the Meridian DIP Facility Agreement would be entered into to reflect the ability of the Company, with the assistance of the Monitor and the Brokers, to continue to have discussions in respect of and advance any proposals with respect to the Nuvo Property, with a view to completing a transaction on or before January 29, 2021. The Third DIP Amendment, a copy of which is attached hereto as **Appendix "H"**, provides for the following amended timelines with respect to a sale or refinancing transaction:
- (i) on or before January 15, 2021, the Company must provide to the DIP Lender either (a) a firm agreement of purchase and sale with a closing date on or before January 29, 2021, or (b) a firm commitment to refinance all obligations owing by the Company to Meridian, with a closing date on or before January 29, 2021; and
  - (ii) close a sale or refinancing transaction by no later than January 29, 2021.

## IX. CASH FLOW VARIANCE ANALYSIS REPORTING

30. As noted in the Monitor's Second Report, 260, with the assistance of the Monitor, prepared a cash flow forecast for the period July 5, 2020 to November 30, 2020 (the **"July 2020 Cash Flow Forecast"**), which was filed with the Court in support of, *inter alia*, the Company's request for the July 2020 Stay Extension.



31. The Company has continued to provide the Monitor with its co-operation and access to its books and records as requested by the Monitor. The Monitor has implemented various procedures for monitoring the Company's receipts and disbursements on a weekly basis. The Monitor has also prepared forecasted to actual variance analyses with respect to the Company's weekly receipts and disbursements as compared to the July 2020 Cash Flow Forecast.
32. A comparison of the Company's actual cash receipts and disbursements as compared to the July 2020 Cash Flow Forecast for the 19-week period from July 5, 2020 to November 14, 2020 (the "**Comparison Period**"), is summarized as follows:

<b>2607380 Ontario Inc.</b> <b>Variance Analysis of the July 2020 Cash Flow Forecast</b> <b>For the period from July 5, 2020 to November 14, 2020</b> <b>(In 000's CAD; unaudited)</b>			
	<b>Actual</b>	<b>Forecast</b>	<b>Variance</b>
<b><u>Receipts</u></b>			
Collection of Office, Studio & Event Income	862	1,200	(338)
HST Receivable & Other Receipts	38	629	(591)
<b>Total Receipts</b>	<b>900</b>	<b>1,829</b>	<b>(929)</b>
<b><u>Disbursements</u></b>			
Operating Expenses	(628)	(606)	(22)
Personnel Expenses	(353)	(343)	(10)
Professional Fees	(549)	(763)	214
Construction Costs	(1,505)	(2,551)	1,046
DIP Lender Costs	(8)	(19)	11
<b>Total Disbursements</b>	<b>(3,043)</b>	<b>(4,282)</b>	<b>1,239</b>
<b>Net Cash Flow</b>	<b>(2,143)</b>	<b>(2,453)</b>	<b>310</b>
<b>Opening Cash Balance</b>	<b>356</b>	<b>327</b>	<b>29</b>
Net Cash Flow	(2,143)	(2,453)	310
<b>DIP Drawdown</b>	<b>2,000</b>	<b>2,450</b>	<b>450</b>
<b>Ending Cash Balance</b>	<b>213</b>	<b>324</b>	<b>(111)</b>

33. As reflected in the summary table above, the Company reported a net cash outflow of approximately \$2.1 million over the Comparison Period, and the Company had a cash balance of approximately \$0.2 million, as at November 14, 2020. The Company has a favourable cash flow variance of approximately \$0.3 million with respect to the July 2020 Cash Flow Forecast during the Comparison Period.



34. The favourable cash flow variance of approximately \$0.3 million pertains principally to the following:
- (i) the Company, with the assistance of the Monitor, and Maple agreed to a payment plan that provided for final payment to Maple in respect of the Nuvo Renovations on the occurrence of the Substantial Completion Date. As previously discussed in this Third Report, there was a delay in connection with the Substantial Completion Date, which, accordingly, will result in a delay with respect of the final payment to Maple;
  - (ii) a favourable timing variance associated with lower than forecasted professional fees. This favourable variance was partially offset by timing differences associated with the collection of the GST/HST Refunds (as discussed below) and higher than forecasted operating expenses and personnel expenses, which are expected to reverse in the near-term; and
  - (iii) unfavourable permanent differences attributable to the collection of lower than projected rental income, studio income and event income due to the COVID-19 pandemic.
35. The unfavourable variance of approximately \$0.6 million in connection with 'HST Receivable & Other Receipts' primarily represents timing differences in connection with the collection of the GST/HST Refunds as a result of the following:
- (i) the issuance, by CRA, on October 6, 2020, of a notice of assessment for GST/HST to the Company covering the period up to August 31, 2020 (the "**NOA**"). The NOA outlines that a GST/HST refund in the amount of approximately \$0.3 million is owing to the Company, which is currently being withheld pending a review by CRA;
  - (ii) the delay in the Substantial Completion Date of the Nuvo Renovations, as noted above, will result in a delay of the final payment to Maple and accordingly, a delay in the subsequent collection of the related HST input tax credits ("**ITCs**"); and
  - (iii) lower than forecasted professional fees during the Comparison Period, which consequently, has resulted in lower than anticipated ITCs as of the date of this Third Report.

## **X. EXTENSION OF THE CCAA STAY**

36. The current CCAA Stay expires on November 30, 2020. The Company is seeking an extension of the CCAA Stay to January 29, 2021 (the "**Stay Extension**").



37. As the July 2020 Cash Flow Forecast only runs until November 30, 2020, the Company, with the assistance of the Monitor, has prepared the Extended Cash Flow Forecast, setting out the Company's anticipated receipts and disbursements during the Forecast Period. A copy of the Extended Cash Flow Forecast, together with Management's Report on the Extended Cash Flow Forecast, is attached hereto as **Appendix "F"** and is summarized below:

<b>2607380 Ontario Inc.</b> <b>Extended Cash Flow Forecast</b> <b>For the Period November 15, 2020 - January 29, 2021</b> <b>(In 000's CAD; unaudited)</b>	
<b><u>Receipts</u></b>	
Collection of Office, Studio & Event Income	423
HST Receivable & Other Receipts	432
<b>Total Receipts</b>	<b>855</b>
<b><u>Disbursements</u></b>	
Operating Expenses	285
Personnel Expenses	210
Professional Fees	305
Construction Costs	974
DIP Lender Costs	6
<b>Total Disbursements</b>	<b>1,780</b>
<b>Net Cash Flow</b>	<b>(926)</b>
Opening Cash Balance	213
<b>DIP Drawdown</b>	<b>800</b>
<b>Ending Cash Balance</b>	<b>87</b>

38. The Monitor's Report on the Extended Cash Flow Forecast is attached hereto as **Appendix "G"**.
39. The Monitor is of the view that the Stay Extension is appropriate in the circumstances for the following reasons:
- (i) the Company has acted and continues to act in good faith and with due diligence;
  - (ii) the Stay Extension will afford the Company, with the assistance of the Monitor and the Brokers, the time needed to continue any discussions with existing parties and enable a refinancing or sale transaction to occur should one develop, with a view to closing a transaction prior to the expiry of the Stay Extension;
  - (iii) the Stay Extension should not materially prejudice any creditor, as 260 is projected to have sufficient funds to pay post-filing services and supplies, as contemplated in the Extended Cash Flow Forecast; and



- (iv) Meridian, being the Company's first secured senior lender and the DIP Lender in these CCAA Proceedings, supports the Stay Extension.

## **XI. MONITOR'S RECOMMENDATIONS**

40. For the reasons set out in this Third Report, the Monitor is of the view that the relief requested by the Company is both appropriate and reasonable. As such, the Monitor respectfully recommends that this Honourable Court grant the SISP Termination and Stay Extension Order.

All of which is respectfully submitted this 19<sup>th</sup> day of November 2020.

**RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS MONITOR OF  
2607380 ONTARIO INC.  
AND NOT IN ITS PERSONAL CAPACITY**

Per:



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**Paul van Eyk,  
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL**



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**Adam Zeldin  
CPA, CA, CIRP, LIT**



# Appendix “A”



Court File No. CV-20-00636875-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

)

FRIDAY, THE 6th

JUSTICE CONWAY

)

DAY OF MARCH, 2020

)



IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF 2607380 ONTARIO INC. (the "Applicant")

AMENDED AND RESTATED INITIAL ORDER  
(Amending Initial Order dated February 25, 2020)

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order amending and restating the Initial Order (the "Initial Order") issued on February 25, 2020 (the "Initial Filing Date") and extending the stay of proceedings provided for therein was heard this day at 330 University Ave, Toronto, Ontario.

ON READING the affidavit of Shawn Saulnier sworn February 24, 2020 (the "Saulnier Initial Affidavit"), the affidavit of Shawn Saulnier sworn March 4, 2020 (the "Saulnier Comeback Affidavit") and the Exhibits thereto, the pre-filing report of Richter Advisory Group Inc., in its capacity as proposed monitor (the "Monitor") to the Applicant, dated February 24, 2020, the First Report of the Monitor dated March 5, 2020 and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant and counsel for the Monitor, the DIP Lender and those other parties listed on the counsel slip, with counsel for in attendance and *supporting the Application* not opposing, and on being advised that those parties listed in the affidavits of service filed were given notice of this motion;



## INITIAL ORDER AND INITIAL FILING DATE

1. **THIS COURT ORDERS** that the Initial Order, reflecting the Initial Filing Date, shall be amended and restated as provided for herein.

## SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

## PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

## POSSESSION OF PROPERTY AND OPERATIONS

5. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to the provisions of this Order and further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to use the central cash management system currently in place as described in the Saulnier Initial Affidavit



or replace it with another substantially similar central cash management system (the “Cash Management System”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicant shall advise and obtain the Monitor’s consent in respect of

- (a) any proposed disbursements after the Initial Filing Date to be made where (i) the amount of the disbursement is in excess of \$1,000 for a singular disbursement or (ii) the aggregate daily disbursements will exceed \$5,000; and
- (b) any contracts, including leases, with (i) an aggregate value or liability in excess of \$1,000; and/or (ii) a term in excess of one month, to be entered into by the Applicant or Nuvo Network Inc.

8. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the Initial Filing Date:

- (a) all outstanding and future wages, salaries, employee benefits, vacation pay and expenses payable on or after the Initial Filing Date, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.



9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after the Initial Filing Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the Initial Filing Date.

10. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the Initial Filing Date, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the Initial Filing Date, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, property tax arrears relating to the Real Property (as defined below), assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and



which are attributable to or in respect of the carrying on of the Business by the Applicant.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the Initial Filing Date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) terminate the employment of such of their employees or temporarily lay off such of their employees as the Applicant deems appropriate; and
- (b) continue negotiations with stakeholders in an effort to pursue restructuring options for the Applicant including without limitation all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of its business (the "**Restructuring**"). For greater certainty, any steps taken in connection with a sales and investor solicitation process involving all or part of the Applicants' shares, the Property and/or the Business ("**SISP**") shall be in the sole control of the Monitor pursuant to its powers set out in this Order and any further Order of this Court.

## **NO PROCEEDINGS AGAINST THE APPLICANT, NUVO NETWORK INC. OR THE SAULNIERS**

13. **THIS COURT ORDERS** that until and including October 24, 2020, or such later date as this Court may subsequently order (the "**Stay Period**"), no proceeding or enforcement process in or out of any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property,



except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

14. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceeding shall be commenced or continued against or in respect of the non-applicant Nuvo Network Inc. or affecting any of its current and future assets, businesses, undertakings and properties of every nature and kind whatsoever and wherever situate including all proceeds thereof (the "**Nuvo Property**"), and any and all Proceedings currently under way against or in respect of the Nuvo Network Inc. or affecting the Nuvo Property are hereby stayed and suspended pending further order of this Court.

15. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceeding shall be commenced or continued against or in respect of Shawn Saulnier or Bridget Saulnier (the "**Saulniers**") or any of their current and future assets, businesses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the "**Saulnier Property**"), arising upon or as a result of any default under the terms of any document entered into in connection with any of the Saulniers' guarantees of any of the commitments or loans of the Applicant (collectively, the "**Saulnier Default Events**"). Without limitation, the operation of any provision of a contract or agreement between the Saulniers and any other Person (as hereinafter defined) that purports to effect or cause a termination or cessation of any rights of the Saulniers, or to accelerate, terminate, discontinue, alter, interfere with, repudiate, cancel, suspend, amend or modify such contract or agreement, in each case as a result of one or more Saulnier Default Events, is hereby stayed and restrained during the Stay Period.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the



Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of Nuvo Network Inc. (or affecting the Nuvo Property) or the Saulniers (or affecting the Saulnier Property) as a result of a Saulnier Default Event are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower Nuvo Network Inc. or the Saulniers to carry on any business which Nuvo Network Inc. or the Saulniers are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

18. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or leave of this Court, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by (i) the Applicant, (ii) Nuvo Network Inc. or (iii) any other party as a result of a Saulnier Default Event.

#### **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further



Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Initial Filing Date are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order or the Initial Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the Initial Filing Date, nor shall any Person be under any obligation on or after the Initial Filing Date to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order or the Initial Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the Initial Filing Date and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

22. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the Initial Filing Date, except to the extent that, with respect to any officer or director, the



obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$50,000 as security for the indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 42 and 44 herein.

24. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

#### **APPOINTMENT OF MONITOR**

25. **THIS COURT ORDERS** that that Richter Advisory Group Inc. is, as of the Initial Filing Date, appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant, including monitoring the renovation of the buildings, to permit the Applicant to apply for occupancy permits and lease up status, on the lands municipally known as 1295 North Service Road, Burlington, Ontario (the "**Renovation Project**"), with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements, including to the extent deemed appropriate by the Monitor as it relates to Nuvo Network Inc. to the extent it utilizes



the Cash Management System with the Applicant, in order to review and consider the cash requirements and reasonableness of the cash flow forecast prepared by the Applicant, and the continued use of the Cash Management System;

- (b) approve or deny any proposed disbursements by the Applicant pursuant to paragraph 7 above;
- (c) have full and complete access to the books, records, data, including data in electronic form, and other financial documents of the Applicant and Nuvo Network Inc. to the extent that is necessary to adequately assess the Applicant's business and financial affairs and prospects for a restructuring or transaction of any kind, to report on cash flow forecasts prepared by the Applicant, or to perform its duties arising under this or any further Order of this Court and Nuvo Network Inc. shall cause its respective employees, contractors, agents, advisors, directors and/or officers, as may be necessary, available to the Monitor for such purposes;
- (d) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Renovation Project, and such other matters as may be relevant to the proceedings herein;
- (e) assist the Applicant, to the extent required by the Applicant, in its dissemination of to the DIP Lender and its counsel on a weekly basis of financial and other information as agreed between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (f) assist the Applicant in its preparation of the Applicant's cash flow statements;
- (g) prepare, based upon information provided by the Applicant, the Applicants' cash flow statement and reporting required by the DIP Lender, which information shall be reviewed by the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;



- (h) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (i) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (j) Monitor and oversee the Renovation Project, including the powers to enter into any discussions or agreements with contractors, incur any obligations in the ordinary course of business, all on behalf of the Applicant, and consult with the DIP Lender in connection therewith;
- (k) engage consultants, appraisers, agents, sales agents, contractors and other trade workers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Monitor's powers and duties, including without limitation those conferred by this Order;
- (l) purchase or lease, on behalf of the Applicant, such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Applicant or any part or parts thereof;
- (m) settle, extend or compromise any indebtedness owing to the Applicant;
- (n) assist the Applicant and Nuvo Network Inc. in complying with the terms of the DIP Agreement (as defined below) including, without limitation, preparing materials in anticipation of a SISP order, to be approved by the Court;
- (o) report to, meet with and discuss with such affected Persons as the Monitor deems appropriate on all matters relating to the Property and the Renovation Project, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;
- (p) register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;



- (q) apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Monitor, in the name of the Applicant;
- (r) assist the Applicant and its counsel to rectify errors in existing corporate documents and contracts;
- (s) be at liberty to engage such persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (t) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Applicant shall make best reasonable efforts to the extent possible to cause Nuvo Network Inc. (including its respective employees, contractors, agents, advisors, directors and/or officers) to co-operate fully with the Monitor in relation to its information requests and its powers and duties set forth herein, and for so long as the stay of proceedings in favour of Nuvo Network Inc. shall remain in place.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the



Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

31. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order or the Initial Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings, incurred both before and after the making of this Order in respect of these proceedings in connection with the Applicant. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amounts of \$50,000 each, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.



33. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$300,000 as security for their professional fees and disbursements incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of the Initial Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 42 and 44 hereof.

#### **DIP FINANCING**

35. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Meridian Credit Union Limited (the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$7.18 million, unless permitted by further Order of this Court.

36. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP Credit Facility Agreement between the Applicant and the DIP Lender dated as of March 4, 2020 (the "**DIP Agreement**"), filed.

37. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.



38. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property including, without limiting the foregoing, the real property identified in Schedule "A" hereto (the "**Real Property**") which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 42 and 44 hereof.

39. **THIS COURT ORDERS** that upon the registration in the Land Titles Division of the Real Property of the DIP Lender's Charge in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to register the DIP Lender's Charge on title of the Real Property.

40. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon five business days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.



41. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

42. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge and the Directors' Charge, as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$300,000);

Second - DIP Lender's Charge ; and

Third- Directors' Charge (to the maximum amount of \$50,000).

43. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the DIP Lender's Charge and the Directors' Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and 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.

44. **THIS COURT ORDERS** that each of the Administration Charge, the DIP Lender's Charge and the Directors' Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

45. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Administration Charge, the DIP Lender's Charge and the Directors' Charge unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Administration Charge, the DIP Lender's Charge and the Directors' Charge.



46. **THIS COURT ORDERS** that the Administration Charge, the DIP Lender's Charge and the Directors' Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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 provisions of any federal or provincial statutes; or (e) 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, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) 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; and
- (c) the payments made by the Applicant 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.

47. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

#### **CRITICAL SUPPLIERS**

48. **THIS COURT ORDERS** that the Applicant is hereby authorized to pay the aggregate maximum amount of \$2,375,000 to Maple Reinders Constructors Ltd. ("**Maple Reinders**") and Barrie Glass & Mirror Ltd. ("**Barrie Glass**"), to pay critical supplier amounts outstanding as at the date of the Initial Order or deposits therefor, including amounts required to vacate the



construction lien registered on the Renovation Project by Maple Reinders for \$1,867,943.00 as Instrument No. HR1667791 and the construction lien registered on the Renovation Project by Barrie Glass for \$89,543.93 as Instrument No. HR1672639, and to dismiss any all related claims in respect of such construction liens.

49. **THIS COURT ORDERS AND DECLARES** that each of Maple Reinders and Barrie Glass is a critical supplier of the Applicant as contemplated by Section 11.4 of the CCAA (each, a “Critical Supplier”).

50. **THIS COURT ORDERS** that each Critical Supplier shall continue to supply the Applicant with goods and/or services in accordance with the terms and conditions of their existing agreement or arrangements. No Critical Supplier may require the payment of a further deposit or the posting of any additional security in connection with the supply of goods and/or services to the Applicant after the date of this Order.

#### **SERVICE AND NOTICE**

51. **THIS COURT ORDERS** that the Monitor shall (i) without delay from the Initial Filing Date, publish in the Globe & Mail (national edition) a notice containing the information prescribed under the CCAA in respect of the Initial Order, (ii) within five days after the Initial Filing Date, (A) make the Initial Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

52. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of



documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <<https://www.richter.ca/insolvencycase/2607380-ontario-inc/>>.

53. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

54. **THIS COURT ORDERS** that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **SEALING**

55. **THIS COURT ORDERS** that the April 2019 Valuation, as described in the Saulnier Initial Affidavit, is hereby sealed and shall not form part of the public record until further order of the Court.

#### **GENERAL**

56. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.



57. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

58. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

59. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

60. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

61. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

MAR 06 2020

PER / PAR:





**SCHEDULE "A"**  
**Real Property**

1. 1295 North Service Road, Burlington, Ontario (PIN 07127-0265 (LT)) Legal Description:  
PT LT 10 , RCP PL 99 , PART 3 & 7 , 20R6963 , S/T IN 619045; BURLINGTON



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 2607380 ONTARIO INC.

Court File No.: CV-20-00636875-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL  
ORDER**

**Stikeman Elliott LLP**

Barristers & Solicitors

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**Lawyers for the Applicant**



## **Appendix “B”**



**RICHTER**

Court File No.: \_\_\_\_\_

**2607380 ONTARIO INC.**

**REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS PROPOSED MONITOR**

**FEBRUARY 24, 2020**



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## APPENDICES

**APPENDIX "A"** – Richter's consent to act as Monitor

**APPENDIX "B"** – Cash Flow Forecast for the period February 24, 2020 to May 24, 2020



Court File No.: \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

**REPORT OF RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS PROPOSED MONITOR**

**FEBRUARY 24, 2020**



## I. INTRODUCTION

1. Richter Advisory Group Inc. (“**Richter**” or the “**Proposed Monitor**”) understands that 2607380 Ontario Inc. (“**Nuvo**” or the “**Applicant**”) will make an application before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) returnable on February 25, 2020 (the “**Filing Date**”), seeking an initial order (the “**Proposed Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the “**CCAA**”) to obtain a stay of proceedings in favour of the Applicant until an anticipated date of March 5, 2020 (the “**Stay Period**”) and to seek other related relief with a view to allowing Nuvo an opportunity to restructure its business and affairs. The Applicant’s CCAA proceedings are referred to herein as the “**CCAA Proceedings**”.
2. The Proposed Initial Order contemplates that Richter be appointed as Monitor of the Applicant in the CCAA Proceedings (in such capacity, the “**Monitor**”).
3. Unless otherwise stated, all monetary amounts referred to herein are expressed in Canadian dollars.

## II. PURPOSE OF REPORT

4. This report (the “**Report**”) has been prepared by Richter, in its capacity as Proposed Monitor of the Applicant in the CCAA Proceedings. Richter has reviewed the court materials to be filed by the Applicant in support of its application. The purpose of the Report of the Proposed Monitor is to provide information to the Court regarding the following:
  - (i) Richter’s qualifications to act as Monitor;
  - (ii) a summary of certain background information on the Applicant, including its corporate history, business operations, financial position and creditors;
  - (iii) the Applicant’s decision to commence the CCAA Proceedings and to seek a stay of proceedings against Nuvo, Nuvo Network Inc. (“**Nuvo Network**”), an affiliate of the Applicant, and Shawn Saulnier and Bridget Saulnier (together, the “**Saulniers**”), in connection with any guarantees they have made in support of any of the commitments or debt obligations of the Applicant (collectively, the “**Saulnier Guarantees**”);
  - (iv) the Applicant’s 13-week cash flow forecast (the “**Cash Flow Forecast**”) for the period from February 24, 2020 to May 24, 2020 (the “**Forecast Period**”);
  - (v) a summary of the Applicant’s process to solicit debtor-in-possession (“**DIP**”) financing;
  - (vi) the Applicant’s request that it be authorized and empowered to obtain interim financing, including the terms of a DIP non-revolving credit facility pursuant to a DIP Facility Agreement dated February 24, 2020 (the “**DIP Facility Agreement**”). The DIP Facility Agreement provides for a DIP credit facility of up to a



- maximum amount of \$7,180,000 (the “**DIP Facility**”), which is to have an interim borrowing limit of \$700,000 (the “**Interim DIP Facility**”) until the return date of the Comeback Motion (as defined below);
- (vii) an overview of the Applicants intention to request relief in its Comeback Motion (as defined below) in respect of arrangements regarding certain pre-filing construction costs;
- (viii) the charges proposed in the Initial Order;
- (ix) an overview of the Monitor’s additional proposed powers;
- (x) an update on the Applicant’s intention to return to the Court for a motion (the “**Comeback Motion**”) seeking various other relief; and
- (xi) the Proposed Monitor’s conclusions and recommendations.

### III. DISCLAIMER AND TERMS OF REFERENCE

5. Capitalized terms not otherwise defined herein are as defined in the Applicant’s application materials, including the affidavit of Mr. Shawn Saulnier sworn February 24, 2020 (the “**Saulnier Affidavit**”) filed in support of Nuvo’s application for relief under the CCAA. This Report should be read in conjunction with the Saulnier Affidavit, as certain information contained in the Saulnier Affidavit has not been included herein in order to avoid unnecessary duplication.
6. In preparing this Report, the Proposed Monitor has relied upon certain unaudited, draft, and/or internal financial information of the Applicant, the Applicant’s books and records and discussions with various parties, including Nuvo’s advisors, employees and certain of its directors (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in the Report, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants of Canada Handbook* (the “**Handbook**”). In addition, the Proposed Monitor has not conducted an examination or review of any financial forecast and projections in a manner that would comply with GAAS or the procedures described in the Handbook. Accordingly, the Proposed Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

### IV. RICHTER’S QUALIFICATIONS TO ACT AS MONITOR

7. Richter was engaged by Nuvo in January 2020 to provide consulting services and to assist Nuvo in developing and reviewing various strategic options. Accordingly, Richter is familiar with Nuvo’s business and financial affairs and is in a position to immediately assist the Applicant in its CCAA Proceedings.



8. Richter is a licensed insolvency trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). Richter is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA and, in particular, neither Richter nor any of its representatives has been at any time in the two preceding years;
  - (i) a director, an officer or an employee of the Applicant;
  - (ii) related to the Applicant or to any director or officer of the Applicant; or
  - (iii) the auditor, accountant or legal counsel, or a partner or employee of the auditor, accountant or legal counsel of the Applicant.
9. Richter has consented to act as Monitor, should the Court grant the Applicant's request to commence the CCAA Proceedings. A copy of Richter's consent to act as Monitor is attached as **Appendix “A”**.

## V. EXECUTIVE SUMMARY

10. The Applicant is a commercial real estate development and leasing company located at 1295 North Service Road, Burlington, Ontario (the “**Nuvo Property**”). The Applicant is indebted to mortgagees in the aggregate amount of approximately \$24.7 million, before certain liens, interest, costs and fees, which continue to accrue.
11. The Applicant does not have sufficient liquidity to continue to fund its operations. As at the date of this Report, the aggregate of the Applicant's combined bank account balances shows a cash deficit of approximately \$18,000, and as such, Nuvo cannot pay its obligations as they come due.
12. A portion of the Nuvo Property is currently under construction. Upon completion of construction, the Nuvo Property is estimated to have equity value as per the most recent appraisal dated April 25, 2019 (the “**April 2019 Appraisal**”).
13. Certain of the Applicant's mortgages are now in default. The Proposed Monitor understands that this is due to previously expected funds not being made available to the Applicant. This lack of funding has significantly hindered Nuvo's ability to complete construction on the Nuvo Property, which in turn has delayed the opportunity to maximize rental income.
14. To improve Nuvo's current liquidity position, complete the construction of the Nuvo Property, and maximize the value for all stakeholders, the Applicant requires protection under the CCAA.



15. As noted in the Saulnier Affidavit, after completing construction on the Nuvo Property the Applicant intends to conduct a court-supervised sale and investment solicitation process (“**SISP**”) in respect of the Nuvo Property at a later date to canvas refinancing and/or sales opportunities, if approved by the Court.
16. The Initial Order contemplates that the Proposed Monitor, its counsel and the Applicant’s counsel would be provided a super-priority first-ranking charge over the Nuvo Property (the “**Administration Charge**”).
17. The Applicant, with the support of Richter, has also arranged for the DIP Facility and Interim DIP Facility to fund the CCAA Proceedings. The DIP Facility and Interim DIP Facility each contemplate having a super-priority charge on the Nuvo Property for advances made to the Applicant during the CCAA Proceedings, subordinate only to the Administration Charge (the “**DIP Charge**”). The Interim DIP Facility is critical to enable the Applicant to meet its immediate urgent cashflow needs pending the Comeback Motion.
18. The Proposed Monitor understands that it is the Applicant’s intention to return to the Court for the Comeback Motion within 10 days of the Filing Date. Until the return date of the Comeback Motion, the DIP Facility has been limited to the Interim DIP Facility. An increase from the Interim DIP Facility to the DIP Facility is to be sought at the Comeback Motion.

## VI. OBJECTIVES OF CCAA PROCEEDINGS

19. The primary objectives of the CCAA Proceedings are to: (i) ensure the ongoing operations of Nuvo; (ii) ensure Nuvo has the necessary working capital to continue operations and fund the costs to complete the remaining construction at the Nuvo Property (the “**Funding Requirement**”); and (iii) complete a refinancing or transaction arising from a future SISP. The approval of a SISP, subject to the granting of the Initial Order, will be sought by the Applicant at a later date upon the successful completion of the remaining construction on the Nuvo Property.

## VII. GENERAL BACKGROUND TO THE PROPOSED CCAA PROCEEDINGS

20. Information with respect to the Applicant’s business, operations and causes of insolvency are detailed extensively in the Saulnier Affidavit. The information contained herein represents only a summary of the background to the information contained in the Saulnier Affidavit.
21. The Applicant is incorporated under the *Business Corporations Act* (Ontario). It is in the business of development and operation of a multi-purpose commercial building which leases space to studio productions, small and large-scale conferences, business meeting and co-working flexible office space arrangements.
22. Mr. Saulnier is the sole director and 100% shareholder of Nuvo.



## Nuvo

23. Nuvo owns the Nuvo Property and manages its leases and studio and event rental spaces.
24. Nuvo currently employs nine (9) full-time employees (the **“Nuvo Employees”**) and engages eight (8) independent contractors in connection with the management and operation of the Nuvo Property. The Nuvo Employees are not unionized and Nuvo does not sponsor any pension or other post employment benefits plans for the Nuvo Employees.

## Nuvo Network Inc.

25. Nuvo Network was incorporated for the purpose of being the operating entity for the Applicant. It has no assets, employees or operations. The intention was to migrate the Nuvo Employees and all of Nuvo’s leases to this entity. However, this had not yet occurred as of the Filing Date.
26. The Proposed Monitor understands that as of the date of this Report, certain of the leases pertaining to the Nuvo Property are in the name of Nuvo Network as the landlord (the **“Nuvo Network Leases”**). As outlined in the Saulnier Affidavit, the Proposed Monitor understands that all rental income from the Nuvo Network Leases (the **“Nuvo Network Income”**) flows to Nuvo.
27. During the course of the CCAA Proceedings, it is the Proposed Monitor’s understanding that the Nuvo Network Income will continue to flow to Nuvo. Accordingly, the Cash Flow Forecast reflects this ongoing stream and for the use of the Nuvo Network Income to be used for the benefit of the Applicant in the CCAA Proceedings.
28. Nuvo Network’s principal liability is a pledge of its shares as collateral security in connection with a loan made to an affiliate (the **“Nuvo Network Security”**). Nuvo is seeking to extend the stay of proceedings to Nuvo Network to avoid steps being taken against Nuvo Network in respect of the Nuvo Network Security, which could trigger an insolvency event in Nuvo Network and could interfere with or undermine Nuvo’s restructuring efforts by depriving the Applicant of the Nuvo Network Income.

## The Nuvo Property

29. The Applicant’s primary asset is the Nuvo Property. As discussed above, it is owned by Nuvo and comprises real property situated on approximately 4.9 acres of land in a commercial office neighbourhood of Burlington, Ontario, and an approximately 140,000 square foot building, designed for commercial office space, production facilities and event spaces.



30. The Nuvo Property was purchased in March 2018 for \$19 million (the “**Nuvo Acquisition**”) from Crossroads Christian Communications Inc. (“**CCCI**”), a media production company and current tenant at the Nuvo Property. As discussed on more detail below, CCCI is also a secured lender of the Applicant.
31. At the time of the Nuvo Acquisition, the Nuvo Property was underutilized, with only 99,0000 square feet of leasable space. Nuvo acquired the Nuvo Property with the intention to renovate the building immediately and transform it from a single purpose building to a multi-use, multi-tenant rental and business operation, complete with offices, meeting rooms, co-working spaces, a banquet hall, multiple event spaces, a stage for music events, several production studios and on-site kitchen and restaurant.
32. On November 1, 2017, Nuvo entered into an agreement with Maple Reinders Inc. (“**Maple Reinders**”), to act as general contractor in respect of the proposed renovations of the Nuvo Property (the “**Nuvo Renovations**”). Subsequently, Maple engaged certain subcontractors (the “**Subcontractors**”) on behalf of the Applicant, to carry out work on the Nuvo Renovations. The Applicant began the first of two phases of the Nuvo Renovations in the first half of 2018. The Proposed Monitor further understands that, as of the Filing Date, a substantial portion of the first phase of renovations is complete, however, in addition to approximately half of the second phase, partial work on the first phase remains outstanding.
33. The Proposed Monitor understands from Maple Reinders that as of January 27, 2020, the remaining estimated cost of completion in connection with the Nuvo Renovations (the “**Cost to Complete**”) is approximately \$4.1 million (including approximately \$2.1 million of construction cost arrears owing to Maple). The remaining construction to complete the Nuvo Renovations is expected to take approximately five (5) to six (6) months.
34. The Proposed Monitor understands that, as of the Filing Date, the Nuvo Property contains 86 rental spaces available for lease, along with four (4) common area meeting rooms. According to the Saulnier Affidavit, as of the Filing Date, 85% of the office spaces, 57% of the studio spaces and 23% of the event rental spaces are leased. The Proposed Monitor understands that, as of the Filing Date, rentable spaces representing approximately 49,618 square feet are under construction.
35. The Proposed Monitor understands that, based on the April 2019 Appraisal and the financial information provided to the Proposed Monitor by the Applicant to date, upon completion of the Nuvo Renovations, there is equity value in the Nuvo Property. According to the Saulnier Affidavit, the April 2019 Appraisal, which assumes that the Nuvo Renovations are complete, valued the Nuvo Property at an amount that exceeds Nuvo’s obligations to its lenders. The Proposed Monitor has not conducted an appraisal of the property nor requested an update of the third-party appraisals as at the date of this Report. A copy of the April 2019 Appraisal will be filed with the Court under seal



in order to protect the integrity of any SISP process that may be undertaken in respect of the Nuvo Property at a later date.

### Historical Financial Results

36. Attached as Exhibit "B" and "C" in the Saulnier Affidavit are copies of Nuvo's fiscal 2019 unaudited balance sheet and income statement, respectively. Set out below is a summary of Nuvo's unaudited income statement for the fiscal period ending December 31, 2019:

<b>2607380 Ontario Inc.</b> <b>Historical Financial Results</b> <b>For the Fiscal Year Ended 31 December 2019</b> <b>(in \$000's, unaudited)</b>	
<b>Total Revenue</b>	
Rental Income	2,579
Other Income	200
<b>Total Income</b>	<u>2,779</u>
Operating Expenses	<u>(3,066)</u>
<b>Net Operating Profit / (Loss)</b>	<u><b>(287)</b></u>
Finance Costs	<u>(1,547)</u>
<b>Net Profit / (Loss)</b>	<u><u><b>(1,834)</b></u></u>
<i>Source: Information provided by the Applicant</i>	

37. As detailed above, Nuvo experienced a net loss during fiscal 2019 of approximately \$1.8 million, due, in large part, to the ongoing construction, which inhibited Nuvo from leasing a significant portion of the Nuvo Property. The Proposed Monitor understands that the losses experienced during fiscal 2019 have created a liquidity crisis for the Applicant. Consequently, the Applicant has defaulted on certain of its obligations to secured lenders, including missing scheduled interest payments.



38. Set out below is Nuvo's unaudited balance sheet as at December 31, 2019:

2607380 Ontario Inc. Balance Sheet As of December 31, 2019 (in \$000's, unaudited)			
<b>Current Assets</b>		<b>Current Liabilities</b>	
Cash & Cash Equivalents	(496)	Accounts Payable	2,515
Accounts Receivable (Net)	17	Accrued Expenses	224
Prepaid Expenses & Other Current Assets	30	Other Current Liabilities	172
<b>Total Current Assets</b>	<b>(449)</b>	<b>Total Current Liabilities</b>	<b>2,911</b>
<b>Non-Current Assets</b>		<b>Long-Term Liabilities</b>	
Property, Plant & Equipment (Net)	25,643	Long-Term Debt	24,494
Other Long-Term Assets	302	Intercompany Loans	985
Other Intangible Assets (Net)	-	Other Long-Term Liabilities	(610)
<b>Total Non-Current Assets</b>	<b>25,945</b>	<b>Total Long-Term Liabilities</b>	<b>24,869</b>
		<b>Total Shareholders' Equity</b>	<b>(2,284)</b>
<b>Total Assets</b>	<b>25,496</b>	<b>Total Liabilities &amp; Shareholders' Equity</b>	<b>25,496</b>
<i>Source: Information provided by the Applicant</i>			

39. As presented above, Nuvo had total assets of approximately \$25.5 million at book value, as at December 31, 2019. The majority of Nuvo's assets comprise the Nuvo Property. Nuvo's total liabilities as at December 31, 2019 were approximately \$27.8 million at book value, the majority of which relates to obligations owing to its secured lenders. As at December 31, 2019, the book value of Nuvo's total liabilities exceeded the book value of its total assets.
40. Given that Nuvo Network was set up to be an operating company upon completion of the Nuvo Property and currently has no assets, operations or employees of its own, the Proposed Monitor has not separately reported Nuvo Network's financial position or results herein.



41. As at January 31, 2020, Nuvo had secured liabilities totalling approximately \$26.8 million to: Meridian Credit Union (“**Meridian**”), CCCI, Bridging Finance Inc. (“**Bridging**”), Maple Reinders and Barrie Glass & Mirror Ltd. (“**Barrie**”), summarized as follows:

<b>2607380 Ontario Inc. Estimated Secured Debt on Nuvo Property (in \$000's; unaudited)</b>			
	<b>Principal</b>	<b>Interest Accrued</b>	<b>Total</b>
<b>Secured Lenders</b>			
Meridian Credit Union	17,141	200	<b>17,341</b>
Christian Crossroads Communications Inc.	4,500	-	<b>4,500</b>
Bridging Finance Inc.	2,577	251	<b>2,828</b>
<b>Total Secured Lender Debt</b>	<b>24,218</b>	<b>451</b>	<b>24,669</b>
<b>Construction Liens</b>			
Maple Reinders Inc.	1,868		<b>1,868</b>
Barrie Glass & Mirror Ltd.	90		<b>90</b>
<b>Total Lien Amount</b>	<b>1,958</b>		<b>1,958</b>
<b>Total Secured Debt on Property</b>	<b>26,176</b>	<b>451</b>	<b>26,627</b>
<i>Note: Not included in the Total Lien Amount is interest owing to Maple Reinders Inc. of approximately \$154,000.</i>			

42. The above information has been provided by the Applicant and the Proposed Monitor has not yet had an opportunity to review the security. The Proposed Monitor has instructed its independent legal counsel, Bennett Jones LLP (“**Bennett Jones**”) to review the security of Meridian, CCCI, Bridging, Maple and Barrie. The Monitor intends to report to the Court the results of Bennett Jones’ security review after it has been completed.

## **Meridian**

43. As set out in the Saulnier Affidavit, Nuvo and Meridian entered into a credit agreement dated March 13, 2018 (the “**Meridian Credit Agreement**”) for the purpose of funding the Nuvo Acquisition and partial renovation of the Nuvo Property (the “**Original Meridian Loan**”), and eventually, upon the completion of construction on the Nuvo Property, to obtain long-term take-out financing for the Nuvo Property, with more economical terms (the “**Take-Out Financing Meridian Loan**”). A copy of the Meridian Credit Agreement is attached as Exhibit “D” to the Saulnier Affidavit.
44. To secure its obligations under the Meridian Credit Agreement, Nuvo granted various security to Meridian, including (i) a first-ranking collateral mortgage against the Nuvo Property, up to a maximum amount of \$23 million (the “**Meridian Charge**”), (ii) guarantees, both personally from Mr. Saulnier and from entities controlled by Mr. Saulnier, (iii) a general assignment of rents with respect to the Nuvo Property and (iv) a general security agreement in all of Nuvo’s present and after-acquired personal property.



45. The Proposed Monitor understands that, as a result of certain defaults under the Meridian Credit Facility, Meridian and Nuvo entered into a forbearance agreement, as amended, dated June 14, 2019 (the “**First Meridian Amendment and Forbearance Agreement**”), pursuant to which Meridian agreed to forbear from exercising its rights under the Meridian Credit Facility until August 31, 2019 (the “**Forbearance Period**”). The First Meridian Amendment and Forbearance Agreement amended the Meridian Credit Agreement by removing the Take-Out Financing Loan and adding a new facility (the “**New Facility**”) in the amount of \$2.5 million to finance a portion of the Cost to Complete. Pursuant to the First Meridian Amendment and Forbearance Agreement, all amounts owing under the Original Meridian Loan and the New Facility, were to become repayable in full on or before July 16, 2020 (the “**Repayment Date**”). A copy of the First Meridian Amendment and Forbearance Agreement is included as Exhibit “H” to the Saulnier Affidavit.
46. In addition to the above, the First Meridian Amendment and Forbearance Agreement imposed certain conditions on Nuvo, including (i) the engagement of an independent party to monitor and report on construction costs and activity, (ii) the preparation of a detailed construction budget and cash flow statement setting out the construction costs for the Nuvo Property, (iii) increased frequency of financial reporting to Meridian, and (iv) a covenant not to further encumber the Nuvo Property without Meridian’s prior consent.
47. In an effort to complete the Nuvo Renovations, the Proposed Monitor understands that, at or around summer 2019, Nuvo sought additional financing to fund the Cost to Complete. As detailed in the Saulnier Affidavit, Nuvo approached twelve (12) parties that expressed an interest in potentially providing construction financing to Nuvo. Ultimately, the Applicant entered into a term sheet with one (1) party (the “**Interested Party**”). The proposed terms put forward by the Interested Party would have provided sufficient financing to fund the Cost to Complete of the Nuvo Renovations and also paid the remaining balance owing towards the Bridging Facility (as hereinafter defined) (the “**Proposed Refinancing**”). The Interested Party requested a third-ranking collateral charge on the Nuvo Property, behind the Meridian Charge and the CCCI Charge (as hereinafter defined). Meridian declined to consent to the Proposed Refinancing, so the financing from the Interested Party did not proceed.
48. On August 14, 2019, following further discussions regarding the terms under which Meridian would advance funds to Nuvo to finance a portion of the Cost to Complete, the parties agreed to amend the First Meridian Amendment and Forbearance Agreement (the “**Second Meridian Amendment and Forbearance Agreement**”), extending the Forbearance Period to October 31, 2019. The Proposed Monitor understands that the terms of the Second Meridian Amendment and Forbearance Agreement were substantially the same as the First Meridian Amendment and Forbearance Agreement, however, the Repayment Date was changed to July 31, 2020 (from July 16, 2020) and Nuvo was required to confirm that an equity injection of approximately \$0.7 million would be made to cover the remaining portion of the Cost to Complete, which, at that time, were estimated at approximately



\$3.2 million. A copy of the Second Meridian Amendment and Forbearance Agreement is included as Exhibit “I” to the Saulnier Affidavit.

49. The Proposed Monitor understands that no additional construction financing has been advanced by Meridian to Nuvo since executing the Second Meridian Amendment and Forbearance Agreement.
50. In January 2020, Nuvo, with the assistance of its counsel, Stikeman Elliott LLP (“**Stikeman**”) and Richter, in its capacity as consultant to Nuvo, sought to reach an agreement with Meridian to provide the Applicant with the Funding Requirement to complete the Nuvo Renovations.
51. The Applicant, with the assistance of Richter, prepared, for the benefit of Nuvo and Meridian, a cash flow forecast (the “**Forecast**”) for the period January 18, 2020 to December 31, 2020, setting out an estimate of the Funding Requirement. The Forecast was prepared on the basis that Nuvo did not enter CCAA proceedings. On January 22, 2020, Richter, on behalf of Nuvo, delivered the Forecast to Meridian’s counsel, Gowling WLG (Canada) LLP (“**Gowlings**”).
52. On February 4, 2020, following a review of the Forecast and discussions with the Applicant, Meridian and their respective legal counsel, Gowlings issued correspondence (via e-mail) to Stikeman and Richter outlining Meridian’s non-binding preliminary draft further forbearance terms and provisions (the “**Proposed Meridian Terms**”), subject to ongoing review by Meridian’s credit committee. The Proposed Meridian Terms were updated subsequently, however, at no time did Meridian confirm that credit committee approval was obtained or that the Proposed Meridian Terms, which were a precondition to the requested additional financing, were a complete list of terms.
53. The Proposed Monitor understands the Applicant is of the view that the Proposed Meridian Terms, as had been presented to date, were in any event, commercially unfeasible and inadequate to meet the Funding Requirement of Nuvo and did not provide the Applicant with sufficient liquidity to meet its obligations as they became due and complete the construction of the Nuvo Property. In addition, Nuvo was not provided with any certainty that any additional financing was in fact being provided by Meridian, or on a timely basis.
54. The Proposed Monitor understands that, as at January 31, 2020, Meridian is owed approximately \$17.3 million from Nuvo pursuant to the Meridian Credit Agreement.

## CCCI

55. The Proposed Monitor understands that CCCI holds a second-ranking registration charge (the “**CCCI Charge**”) on the Nuvo Property for a principal amount of \$4.5 million (the “**CCCI Loan**”). The CCCI Charge was granted on



January 23, 2018, in the form of a vendor take-back mortgage and does not bear interest until January 2022. The CCCI Loan is repayable, in full, in January 2023.

## Bridging

56. The Proposed Monitor understands that, on March 20, 2018, Nuvo entered into a commitment letter with Bridging for a loan to provide additional financing for the Nuvo Acquisition, up to a maximum principal amount of \$2.5 million (the “**Bridging Facility**”). A copy of the Bridging Facility is included as Exhibit “K” to the Saulnier Affidavit. As discussed in the Saulnier Affidavit, the Proposed Monitor further understands that Nuvo approached Bridging for additional Nuvo Acquisition financing, as, prior to the closing of the Nuvo Acquisition, Meridian reduced the level of financing it was willing to provide.
57. To secure the obligations under the Bridging Facility, Nuvo granted Bridging various security, including (i) a third ranking charge on the Nuvo Property (the “**Bridging Charge**”) (ii) a general security interest in all the present and after acquired property of Nuvo, and (iii) guarantees of Mr. Saulnier personally, as well as from certain entities controlled by Mr. Saulnier.
58. The Proposed Monitor understands that, since July 2019, no payments have been made by Nuvo to Bridging as contemplated under the Bridging Facility. Accordingly, Nuvo is currently in default of its obligations to Bridging.
59. As outlined in the Saulnier Affidavit, the Proposed Monitor understands that Bridging is owed approximately \$2.8 million in connection with the Bridging Facility as at the date of this Report.

## Standstill Agreement

60. The Proposed Monitor understands that, in connection with the Nuvo Acquisition, Meridian, CCCI and Bridging executed a standstill agreement, which was amended on August 16, 2019 pursuant to an Amended and Restated Priority, Postponement and Standstill Agreement (the “**Standstill Agreement**”), setting out the relative priorities of their security over the Nuvo Property, which is summarized as follows:

Rank	Charge
<b>First</b>	The Meridian Charge, up to the amount of \$20,735,000 (the “ <b>Meridian Limited Indebtedness</b> ”); and the CCCI Charge, over all amounts in excess of the Meridian Limited Indebtedness.
<b>Second</b>	The Meridian Charge, any amounts in excess of the Meridian Limited Indebtedness.
<b>Subordinate</b>	The Bridging Charge.



61. A copy of the Standstill Agreement is included as Exhibit "N" to the Saulnier Affidavit.
62. In addition to the above, and as set out in the Saulnier Affidavit, the Standstill Agreement sets out certain conditions/restrictions on CCCI and Bridging with respect to enforcing on their security against the Nuvo Property.

### **Construction Liens**

63. The Proposed Monitor understands, as noted in the Saulnier Affidavit, that there are two (2) liens registered against the Nuvo Property. The Proposed Monitor has not yet had an opportunity to review these liens and has instructed Bennett Jones to do so, as part of its review of the security registered against the Applicant's property. The liens are summarized as follows:

- (i) Maple registered a construction lien on November 25, 2019, in the amount of \$1,867,942.79 (the "**Maple Lien**"), relating to amounts owing for construction work carried out on the Nuvo Property; and
- (ii) Barrie, a subcontractor of Maple, registered a construction lien on December 16, 2019, in the amount of \$89,543.93 (the "**Barrie Lien**") for arrears of payment for glasswork on the Nuvo Property.

### **Unperfected Security Interest**

64. The Proposed Monitor understands that, pursuant to a July 18, 2019 Letter of Commitment (the "**Letter of Commitment**") , Celernus Investment Partners Inc. ("**Celernus**") provided a loan in the amount of \$2.5 million (as amended, the "**Celernus Loan**") to Nuvo, Mr. Saulnier and his wife Bridget Saulnier, and two other entities controlled by Mr. Saulnier, as joint borrowers (collectively, the "**Celernus Borrowers**"). The amount of the Celernus Loan was increased to \$2.75 million with the inclusion of an interest reserve on or around July 23, 2019. The Proposed Monitor understands that Nuvo obtained the Celernus Loan in order to meet the equity injection terms of the Second Meridian Amendment and Forbearance Agreement. The Celernus Loan carries annual interest at 15% and had a maturity date of February 1, 2020. The Proposed Monitor understands that no interest or principal repayments relating to the Celernus Loan have been made as at the date of this Report. According to the Applicant's records, as of January 31, 2020, \$2.75 million is owing on the Celernus Loan.
65. Pursuant to the Saulnier Affidavit, the Celernus Loan was guaranteed, in full, by each of the Celernus Borrowers. The Celernus Loan holds charges over a number of properties and entities controlled by Mr. Saulnier. The Proposed Monitor understands however, that although a charge against the Nuvo Property in respect of the Celernus Loan was contemplated on a best commercial effort basis, no such charge was ever registered. The Letter of Commitment in respect of the Celernus Loan is attached to the Saulnier Affidavit as Exhibit "O".



## Unsecured Creditors

66. In addition to the amounts owing by Nuvo to Meridian, CCCI, Bridging, Maple, Barrie and Celernus, the Applicant estimates that it has accrued and unpaid unsecured obligations totaling approximately \$0.6 million (excluding intercompany and related party indebtedness). The Applicant is in the process of updating its books and records and, accordingly, the amount of these obligations may need to be updated in a future Monitor's report.

## VIII. DECISION TO COMMENCE CCAA PROCEEDINGS

67. The Applicant is facing a liquidity crisis. It is without the funds required to honour its obligations to its secured lenders, pay Maple to recommence construction or fund operations, including payroll or utilities and other basic needs associated with the Nuvo Property. In addition, given its liquidity situation, the Applicant has been unsuccessful in securing any new financing.
68. The relationships between Applicant and its creditors have become frustrated. The Proposed Monitor understands that Meridian and Bridging have threatened to take enforcement actions against Nuvo in order to protect their security, and other parties, including Celernus, have threatened litigation in order to recover on amounts owing from Nuvo.
69. In addition to the foregoing, as outlined in the Saulnier Affidavit, the Proposed Monitor understands that as at the Filing Date, amounts remain owing to Maple in respect of work performed by the Subcontractors in connection with the Nuvo Renovations. Accordingly, the Applicant is now in default of its obligations under its agreements with Maple in respect of the Subcontractors (the **"Subcontractor Agreements"**). The Proposed Monitor understands that as at the date of this Report, no Subcontractor Agreements have been cancelled. Notwithstanding the foregoing, any cancellation of the Subcontractor Agreements is likely to delay the expected completion date of the Nuvo Renovations and could result in the Cost to Complete increasing considerably.
70. The Proposed Monitor understands that, upon completion of construction of the Nuvo Property, the Applicant's liquidity situation and overall enterprise value is projected by Nuvo to improve significantly, based on the April 2019 Appraisal. In the circumstances, the Applicant is seeking protection under the CCAA to enable it the necessary breathing room to pursue its restructuring, including completing construction on the Nuvo Property, seeking new financing and running a SISF, if approved by the Court, for the purposes of maximizing value for all stakeholders.



## IX. OVERVIEW OF THE CASH FLOW FORECAST

71. The Applicant, in consultation of the Proposed Monitor, prepared the Cash Flow Forecast for the purpose of projecting the Applicant's estimated liquidity needs during the Forecast Period. A copy of the Cash Flow Forecast is attached as **Appendix "B"** to this Report and is summarized below:

<b>2607380 Ontario Inc.</b> <b>13-Week Cash Flow Forecast</b> <b>For the Period February 24, 2020 - May 24, 2020</b> <b>(in \$000's; unaudited)</b>	
<b>Receipts</b>	
Rental, Studio & Event Income	571
Other Income	45
<b>Total Receipts</b>	<b>616</b>
<b>Disbursements</b>	
Personnel Expenses	196
Professional Fees	639
Operating Expenses	539
Construction Costs	3,356
DIP Lender Interest & Costs	333
Meridian & Bridging Interest Costs	254
<b>Total Disbursements</b>	<b>5,317</b>
<b>Net Cash Flow</b>	<b>(4,701)</b>
Opening Cash (Deficit)	(18)
<b>DIP Drawdown</b>	<b>4,850</b>
<b>Ending Cash (Deficit)</b>	<b>131</b>

72. As at February 24, 2020, the aggregate of the Applicant's combined bank account balances shows a cash deficit of approximately \$18,000. The Cash Flow Forecast projects that the Applicant will experience a net cash outflow of approximately \$4.7 million (before any DIP drawdown) over the Forecast Period, comprised of:
- (i) cash receipts of approximately \$0.6 million, primarily related to the collection of rent from existing leases; and
  - (ii) cash disbursements of approximately \$5.3 million, primarily related to construction costs, interest and fees in connection with the DIP Facility, personnel costs, operating expenses and debt service to Meridian and Bridging, as well as the payment of certain pre-filing expenses (as discussed below) and the costs of the CCAA Proceedings.



73. The Cash Flow Forecast projects outflows of approximately \$3.4 million during the Forecast Period in connection with the Nuvo Renovation. The remaining balance of approximately \$0.7 million in respect of the Cost to Complete is anticipated to be incurred outside the Forecast Period.
74. The Cash Flow Forecast projects borrowings under the:
- (i) Interim DIP Facility in the amount of \$700,000 to fund any costs incurred, or to be incurred, in connection with these proceedings until the return date of the Comeback Motion, at which time it is intended that the approval of the full amount of the DIP Facility will be sought; and
  - (ii) DIP Facility of \$4.2 million for the remainder of the Forecast Period.
75. As evidenced by the Cash Flow Forecast, without access to interim financing, the Applicant lacks sufficient liquidity to maintain operations. The Interim DIP Facility and DIP Facility is expected to provide the Applicant with sufficient funding until the return date of the Comeback Motion and during the remainder of the Forecast Period, respectively, to ensure continued operations during the CCAA Proceedings.
76. The Cash Flow Forecast has been prepared by the Applicant on a conservative basis using probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast. The Cash Flow Forecast reflects the Applicant's estimates of receipts and disbursements on a weekly basis over the Forecast Period.
77. The Proposed Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the monitor's findings. The Canadian Association of Insolvency and Restructuring Professionals' standards of professional practice include a standard for monitors fulfilling their statutory responsibilities under the CCAA in respect of a monitor's report on the Cash Flow Forecast.
78. Pursuant to this standard, the Proposed Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussion related to information supplied to it by certain key members of management and employees of the Applicant. Since the probable and hypothetical assumptions need not be supported, the Proposed Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposed Monitor also reviewed the support provided by the Applicant for the probable and hypothetical assumptions and the preparation and presentation of the Cash Flow Forecast.



79. Based on the Proposed Monitor's review, nothing has come to its attention that causes it to believe, in all material respects, that:
- (i) the probable and hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
  - (ii) as at the date of this report, the probable and hypothetical assumptions are not suitably supported and consistent with the plans of the Applicant or do not provide a reasonable basis for the Cash Flow Forecast, given the probable and hypothetical assumptions; or
  - (iii) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
80. Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the probable and hypothetical assumptions occur, and the variation could be material. Accordingly, the Proposed Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved. In addition, the Proposed Monitor expresses no opinion or other form of assurance with respect to the accuracy of the financial information presented in the Cash Flow Forecast or relied upon by the Proposed Monitor in preparing this report.
81. The Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate or relied upon for any other purpose.

## **X. DIP LENDER SELECTION PROCESS**

82. The Applicant's continuing losses and lack of access to planned financing have significantly eroded its liquidity, leaving it without funds to operate or restructure. As noted above, based on the Cash Flow Forecast, the Applicant will require immediate interim financing to continue operations and implement its restructuring initiatives.
83. As shown in the Cash Flow Forecast, it is estimated that, commencing immediately and for the duration of the Forecast Period, the Applicant will require additional financial support in the amount of approximately \$4.9 million. Accordingly, the ability to borrow additional funds, in the form of a Court-approved debtor-in-possession facility, secured by the DIP Charge, is vital to providing the stability to, and the necessary cash flow for, Nuvo's business, so that its value can be preserved while the Applicant pursues its restructuring plan.
84. The Proposed Monitor consulted with the Applicant on its marketing process to seek DIP financing. The Applicant marketed the DIP financing externally and to other potential lenders.



85. The Applicant had previously engaged the services of a Toronto based merchant bank providing advisory services to the Canadian real estate industry to assist in its search for refinancing for the Applicants and other ventures. During the course of the Applicant's canvas for DIP financing, its investment banker also pursued potential options.
86. In total, non-disclosure agreements ("**NDAs**") were issued to six (6) parties whom expressed an interest in providing DIP financing to the Applicant during the CCAA Proceedings (the "**Initial Interested Parties**"). The Applicant received five (5) executed NDAs from the Initial Interested Parties.
87. Three (3) of the Initial Interested Parties submitted conditional term sheets to provide DIP financing to the Applicant during the CCAA Proceedings (the "**Conditional Term Sheets**"). In its assessment of the Conditional Term Sheets, the Applicant considered the term sheet submitted by the DIP Lender (as hereinafter defined) to be the most advantageous proposal of those offered, as it provided sufficient liquidity and time to complete the construction on the Nuvo Property and implement a planned SISP. An initial term sheet was signed by the Applicants and the DIP Lender on February 14, 2020, subject to due diligence by the DIP Lender.
88. The Proposed Monitor is of the view that the Applicant has made commercially reasonable attempts, in short order, to solicit DIP term sheets from at least six lenders, including, but not limited to, the Initial Interested Parties. Attempting to solicit additional DIP term sheets from even more lenders would have required a great deal of time and expense and there was no material commercial advantage to pursuing other financing options, nor does the Applicant have the time to pursue other options. The Applicant has further advised the Proposed Monitor that, in its view, the DIP Facility represents the most viable alternative to the Applicant to ensure the continuation of the Applicant's operations at this time and in the circumstances.

## **XI. DIP LENDER AGREEMENT**

89. Following extensive negotiations, Maynbridge Capital Inc., as lender (the "**DIP Lender**"), and the Applicant agreed upon the terms of the DIP Facility Agreement. A copy of the DIP Facility Agreement is attached as Exhibit "W" to the Saulnier Affidavit.



90. The principal terms of the DIP Facility Agreement include (the following is not an exhaustive list):

Basic Provisions	Description
<b>Availability</b>	\$7.18 million
<b>Borrower</b>	2607380 Ontario Inc.
<b>Interest Rate</b>	9.5% per annum, calculated daily and payable monthly in arrears on the last business day.
<b>Fees</b>	Commitment Fee - 3.0%, payable up front. Standby Fee - 2.0% per annum, on the unutilized portion of the DIP Facility. Break Fee - 3.0%, payable if the Borrower obtains court approval for financing in lieu of the DIP Facility.
<b>Maturity Date</b>	The maturity of the Credit Facility shall be the earliest of:  (a) October 25, 2020, being eight (8) months from the date of the Initial Order; (b) March 6, 2020, in the event the Court does not issue an order approving the DIP Facility; (c) the date the stay of proceedings expires in the CCAA Proceeding without extension; (d) the date on which the stay under the Initial Order is lifted, in whole or in part, without prior written consent of the DIP Lender; (e) the date on which the Applicant becomes subject to a proceeding under the BIA (bankruptcy, receivership, NOI, proposal etc.), in each case, without the prior written consent of the DIP Lender; or (f) the date on which the DIP Lender demands repayment of the DIP Facility after an Event of Default.
<b>Security</b>	A general security agreement and assignment of rents, secured by the DIP Charge.
<b>Conditions</b>	Various conditions typical of agreements of this kind, including, <i>inter alia</i> , the issuance of the Initial Order, the completion of definitive documentation and the granting of the DIP Charge.
<b>Event of Default</b>	A number of Events of Default, including:  (a) failure of the Borrower to obtain an order of the Court approving the DIP Facility; (b) any payment is made by the Borrower that is not contemplated by or within the approved cash flow budget without the Lender's prior written consent; and (c) The Nuvo Renovations are not completed by August 31, 2020.

91. Until the Comeback Motion is heard, the DIP Facility will be limited to the Interim DIP Facility. The Interim DIP Facility will be used to cover post-filing obligations for the initial 10-day period and provide deposits, where required, to certain of the Applicant's critical suppliers/service providers and to cover certain pre-filing professional fees and costs owing to Stikeman and the Proposed Monitor and its counsel. It is contemplated that the Comeback Motion will seek the Court's approval to allow Nuvo to access the entirety of the DIP Facility.



92. Taking into consideration the above, the Proposed Monitor is supportive of the DIP Facility Agreement for the following reasons:
- (i) the Applicant is facing an imminent liquidity crisis and Nuvo is without the cash needed to continue operations and implement its restructuring plan – short term funding is needed urgently. The Proposed Monitor understands that the Applicant will be unable to pay continued operating costs owing to suppliers as they become due absent the DIP Facility;
  - (ii) if the DIP Facility is not available, the Applicant's operations will be difficult to manage, the construction needed to finish the Nuvo Property will not be available and the Applicant will have virtually no prospect of completing its development and restructuring plan;
  - (iii) further delay attempting to source alternative interim financing is not justified in the circumstances. As outlined in the Saulnier Affidavit, after repeated attempts to secure this financing from Meridian, poor financial performance and a highly levered balance sheet make it unlikely that the Applicant would be able to secure alternative interim financing and, even if it could, the funding would likely be insufficient and/or expensive or not received in a timely manner; and
  - (iv) the Proposed Monitor has compared the principal financial terms of the DIP Facility, together with the existing secured debt obligations, to a number of other recent DIP financing packages in other CCAA proceedings, with respect to pricing, loan availability and certain security considerations. Based on this comparison, the Proposed Monitor is of the view that, in the circumstances, the terms of the DIP Facility appear to be commercially reasonable.
93. In light of the foregoing, it is the Proposed Monitor's view that further time spent attempting to source alternative DIP financing would (i) not be in the interest of the Applicant and/or its stakeholders; (ii) not result in the finalization of DIP financing on more favourable terms; and (iii) would severely, and potentially fatally, compromise the ability of the Applicant to continue operations, complete its construction and complete its restructuring plan.
94. The Proposed Monitor further believes that in the circumstances, the DIP Facility is in the best interests of the Applicant's stakeholders and will enhance the prospects of maximizing the value of the Nuvo Property. The DIP Facility is projected to be sufficient to fund the costs of these proceedings, including the planned SISP. The Proposed Monitor believes the DIP Facility will afford the Applicant the opportunity to finish construction and allow for a SISP which should maximize value for the secured lenders and other creditors. The proposed DIP Facility allows for the payment of interest accruing on all secured debts post-filing, a payment Nuvo currently cannot afford given liquidity restrictions.



## XII. PAYMENT OF CERTAIN PRE-FILING AMOUNTS

95. As noted in the Saulnier Affidavit, the completion of the ongoing construction with respect to the Nuvo Property is fundamental to restructure Nuvo into an enterprise that can operate profitably in the future.
96. In recognition of the above, the Proposed Monitor understands that the Applicant intends to seek relief, as part of the Comeback Motion:
- (i) to pay certain constructions costs incurred prior to the commencement of the CCAA Proceedings, subject to the prior approval of the Monitor or the Court; and/or
  - (ii) for a charge in favour of Maple and Barrie (the “**Critical Supplier Charge**”) to secure the payment of certain pre-filing amounts owed to them.
97. The Proposed Monitor intends to report to the Court on its recommendation regarding the foregoing relief sought by the Applicants at the return date of the Comeback Motion.

## XIII. PROPOSED CHARGES

98. The Proposed Initial Order provides for a number of charges (collectively, the “**Charges**”), on the current and future assets, undertakings and properties of the Applicant, including all proceeds thereof. It is contemplated that the priorities of the Charges sought by the Applicant will be as follows and rank in the following order:
- (i) the Administration Charge;
  - (ii) the DIP Charge; and
  - (iii) the Directors’ Charge (as defined below):

### Administration Charge

99. The Proposed Initial Order provides for an Administration Charge in the amount of \$500,000 charging the assets of the Applicant to secure the fees and disbursements incurred in connection with services rendered to the Applicant both before and after the commencement of the CCAA proceedings by the following entities: the Monitor, the Monitor’s legal counsel, and legal counsel to the Applicant.
100. As noted earlier in this Report, the Applicant’s liquidity has been extremely limited, and its professionals have accrued significant fees that remain outstanding. Furthermore, due to liquidity constraints, the Applicant’s professional advisors do not have the benefit of retainers as would ordinarily be the case.



101. The quantum of the Administration Charge sought by the Applicant was determined in consultation with the Proposed Monitor and meets the terms of the DIP Facility Agreement noted earlier in this Report. The creation of the Administration Charge is typical in CCAA proceedings as is the proposed priority of the Administration Charge as set out in the form of Initial Order filed with the Court.
102. The Initial Order sought by the Applicant provides that the Administration Charge will rank in priority to the security interests of the DIP Lender, which the Proposed Monitor understands has consented to the Administration Charge.

### **DIP Charge**

103. The Applicant requires further funding immediately to continue operations and pursue its restructuring during the CCAA proceedings, as evidenced by the Cash Flow Forecast.
104. As noted above, it is a condition of the DIP Facility Agreement that the DIP Lender receives the benefit of the DIP Charge to the maximum amount of the aggregate of any and all advances made by the DIP Lenders to the Applicant under the DIP Facility Agreement.
105. The DIP Facility Agreement provides the Applicant with access to the financing required to undertake its restructuring activities, including the SISP, and complete its CCAA Proceedings. The Proposed Monitor recommends that the Court approve the DIP Facility Agreement, to be accessed by the Applicant, up to a maximum of the Interim DIP Facility and, as such, the Proposed Monitor also supports the granting of the DIP Charge.

### **Directors' Charge**

106. The Proposed Initial Order provides for a charge in the maximum aggregate amount of \$50,000 charging the assets of the Applicant to indemnify its directors and officers for liabilities incurred by the Applicant that result in post-filing claims against the directors and officers (the **"Directors' Charge"**), as the Applicant does not have directors' and officers' liability insurance in place.
107. The amount of the Directors' Charge was estimated by taking into consideration employee payroll and related expenses (including source deductions), other employment related liabilities that may be a statutory liability for directors and officers, vacation pay and sales tax.
108. The Proposed Monitor has been informed (as also noted in the Saulnier Affidavit) that due to the potential for personal liability, the directors and officers of the Applicant are unwilling to continue their services and



involvement in the CCAA proceedings without the protection of the Directors' Charge. As the Applicant will require the participation and experience of the Applicant's directors and officers to facilitate the successful completion of the CCAA Proceedings, including participating in the SISF, the Proposed Monitor believes that the Directors' Charge (both the amount and priority ranking) is required and reasonable in the circumstances.

109. The Proposed Monitor believes that the Charges and priorities thereof are required and reasonable in the circumstances of the CCAA proceedings in order to preserve Nuvo's going concern operations and maintain its enterprise value and, accordingly, supports the granting and the proposed priorities of the Charges.

#### **XIV. EXTEND STAY OF PROCEEDINGS TO NUVO NETWORK AND THE SAULNIERS**

110. The Proposed Monitor understands that once the Nuvo Renovations are complete, it is the Applicant's intention to transition the Nuvo Employees and the leases held under Nuvo, to Nuvo Network, and that the operation of the Applicant and Nuvo businesses will become interdependent.
111. The Saulnier Guarantees cover certain of the Applicant's obligations and some of those obligations are now in default. The Saulniers' personal net worth is significantly tied to the outcome of the CCAA Proceedings. Without the ability to realize their equity in Nuvo, the Saulniers will have difficulty satisfying the Saulnier Guarantees. Further, allowing creditors to enforce on the Saulnier Guarantees during the CCAA Proceedings could defeat the purpose of the stay sought in the CCAA Proceedings if creditors are permitted to usurp the CCAA stay against Nuvo and Nuvo Network and pursue the Saulniers in respect of personal guarantees given to support the Applicant's business. As noted in the Saulnier Affidavit, this would be detrimental to the CCAA Proceedings as it would cause the Saulniers to expend time and resources defending against those guarantee claims and lose focus on the contemplated restructuring process. The Saulniers need to dedicate their time and resources to Nuvo if Nuvo's restructuring is to be successful; proceedings against the Saulniers personally will likely prove to be costly and unnecessary distractions from the ultimate goal of restructuring Nuvo.
112. As a result of the risks identified above, the Proposed Monitor is of the view that extending the stay of proceedings to Nuvo Network and the Saulniers is appropriate in these circumstances, if the Court sees fit to grant the requested relief.

#### **XV. MONITOR'S POWERS**

113. Paragraph 5 of the Proposed Initial Order affords the Monitor with powers beyond those typically provided to a monitor in a CCAA proceeding; these additional powers pertain to certain disbursements made by the Applicant and require for the Monitor to approve the following disbursements:



- (i) any single disbursement that exceeds \$1,000;
- (ii) any and all disbursements that exceed \$5,000 in aggregate in the course of one (1) calendar day.

114. The Applicant has consented to this relief in order to promote transparency and increase confidence in the process.

## **XVI. THE COMEBACK MOTION**

115. Should the Court grant the Initial Order, the Proposed Monitor understands that the Applicant intends to schedule a hearing for March 5, 2020 (the “**Comeback Hearing**”) to, among other things, seek the Court’s approval of certain components of its restructuring plan, as contemplated in the Comeback Motion, which includes:

- (i) expansion of the Initial Order to include more fulsome restructuring provisions found in proceedings of similar nature;
- (ii) extend the Stay Period; and
- (iii) approval of the Critical Supplier Charge.

116. Subsequent to the granting of the Initial Order and in anticipation of the Comeback Hearing, Richter (in its capacity as Monitor), will be preparing a report in connection with the above-noted matters as well as any other relief sought by Nuvo in the Comeback Motion.

## **XVII. PROPOSED MONITOR’S CONCLUSIONS AND RECOMMENDATION**

117. For the reasons set out in this report, the Proposed Monitor is of the view that the relief requested by the Applicant is both appropriate and reasonable. The Proposed Monitor is also of the view that granting the relief requested will provide the Applicant the best opportunity to complete the construction of the Nuvo Property and undergo a refinancing or going concern sale or other restructuring under the CCAA thereby preserving value for the benefit of the Applicant’s stakeholders. As such, the Proposed Monitor supports Nuvo’s application for CCAA protection and respectfully recommends that the Court make an Order granting the relief sought by the Applicant.



All of which is respectfully submitted this 24<sup>th</sup> day of February, 2020.

**RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS PROPOSED MONITOR OF  
2607380 ONTARIO INC.  
AND NOT IN ITS PERSONAL CAPACITY**

Per:



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**Paul van Eyk,  
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL**



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**Adam Zeldin  
CPA, CA, CIRP**



## **Appendix “C”**



**RICHTER**

Court File No.: CV-20-00636875-00CL

**2607380 ONTARIO INC.**

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS MONITOR**

**MARCH 5, 2020**



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## APPENDICES

**APPENDIX "A"** – Initial Order dated February 25, 2020

**APPENDIX "B"** – Pre-Filing Report of the Monitor dated February 24, 2020 (without appendices)

**APPENDIX "C"** – Notices Published in The Globe and Mail (National Edition)

**APPENDIX "D"** – Revised Cash Flow Forecast for the period March 4, 2020 to October 24, 2020, and  
Management's Report on the Revised Cash Flow Forecast

**APPENDIX "E"** – Monitor's Report on the Revised Cash Flow Forecast



Court File No.: CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS MONITOR**

**MARCH 5, 2020**



## I. INTRODUCTION

1. On February 25, 2020 (the “**Filing Date**”), the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”) granting 2607380 Ontario Inc. (“**260**” or the “**Company**”) protection pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the “**CCAA**”). Pursuant to the Initial Order, Richter Advisory Group Inc. (“**Richter**”) was appointed as the Company’s Monitor (the “**Monitor**”).
2. The Initial Order, *inter alia*:
  - (i) granted a stay of proceedings in favour of the Company until March 6, 2020 (the “**Stay Period**”);
  - (ii) granted a stay of proceedings during the Stay Period in favour of (i) Nuvo Network Inc. (“**Nuvo Network**”), an affiliate of the Company, (ii) the directors and officers of the Company and (iii) Mr. Shawn Saulnier and Ms. Bridget Saulnier (collectively, the “**Saulniers**”) in connection with any guarantees they have made in support of any of the commitments or debt obligations of the Company (collectively, the “**Saulnier Guarantees**”). Collectively, such stay of proceedings, together with the stay of proceedings in favour of the Company, is referred to herein as the “**CCAA Stay**”;
  - (iii) enhanced the Monitor’s powers with respect to the Company requiring prior approval of the Monitor for disbursements above certain dollar thresholds (\$1,000 per transaction or \$5,000 in aggregate, on a daily basis);
  - (iv) approved an indemnity and charge in favour of 260’s directors and officers in the amount of \$50,000 (the “**Directors’ Charge**”) in respect of the actions of the directors and officers and liabilities incurred thereby from and after the Filing Date;
  - (v) approved a charge in respect of the fees and costs of the Monitor, its counsel and counsel to the Company in the amount of \$250,000 (the “**Administration Charge**”); and
  - (vi) ordered that Meridian Credit Union Limited (“**Meridian**”), the Company’s primary secured lender, provide emergency financing in the amount of \$220,000 (the “**Interim Financing**”), to either the Monitor or its counsel, in order to provide the Company with sufficient funds to pay certain professional fees and to meet 260’s operational requirements until the date of the comeback motion to be heard on March 6, 2020 (the “**Comeback Motion**”).

A copy of Initial Order is attached hereto as **Appendix “A”**. The proceedings commenced by 260 under the CCAA are herein referred to as the “**CCAA Proceedings**”.



3. Richter, in its capacity as proposed monitor of 260, filed a report with the Court dated February 24, 2020 (the **"Pre-Filing Report"**) in support of the Company's application for the Initial Order. Information included in the Pre-Filing Report, including, *inter alia*, background about the Company, including its causes of insolvency, financial position and creditors, has not been repeated herein. A copy of the Pre-Filing Report, without appendices, is attached hereto as **Appendix "B"**.
4. The principal purpose of the CCAA Proceedings is for 260 to complete the renovations of its building located at 1295 North Service Road, Burlington, ON (the **"Nuvo Property"**) and, if approved by this Court, seek a strategic investor or buyer for the Nuvo Property through a court-supervised sale and investment solicitation process (**"SISP"**) for the benefit of the Company's creditors and other stakeholders, while also providing time for the Company to seek a refinancing of its secured debt.

## II. PURPOSE OF THE FIRST REPORT

5. The purpose of this First Report of the Monitor (the **"First Report"**) is to provide information to the Court pertaining to:
  - (i) the activities of the Company and the Monitor since the issuance of the Initial Order;
  - (ii) an update regarding the proposed renovations of the Nuvo Property (the **"Nuvo Renovations"**);
  - (iii) an update regarding certain leases in the name of Nuvo Network;
  - (iv) the Company's 34-week cash flow forecast (the **"Revised Cash Flow Forecast"**) for the period from March 4, 2020 to October 24, 2020 (the **"Forecast Period"**);
  - (v) the Company's request that it be authorized and empowered to obtain and borrow interim financing, including the terms of a debtor-in-possession (**"DIP"**) non-revolving credit facility pursuant to a DIP Facility Agreement dated March 4, 2020 (the **"Meridian DIP Facility Agreement"**) in the maximum principal amount of \$7.18 million (the **"Meridian DIP Facility"**);
  - (vi) the Company's request for certain amendments to the Initial Order as set out in the draft order included as part of the Company's motion record for the Comeback Motion (the **"Amended and Restated Initial Order"**), including:
    - (a) extending the Stay Period in respect of the CCAA Stay to October 24, 2020;



- (b) further enhancing the Monitor's powers, including with respect to assisting the Company with matters relating to the Nuvo Renovations;
- (c) designating the Company's general contractor and a subcontractor as critical suppliers and authorizing the Company to pay certain pre-filing amounts owing to them to discharge the construction liens each of them has registered against the Nuvo Property and providing deposits, as deemed necessary by the Company and the Monitor, in connection with completing the Nuvo Renovations;
- (d) increasing the Administration Charge from \$250,000 to \$300,000 (the "**Amended Administration Charge**") and ordering a charge (the "**DIP Charge**") in favour of Meridian as the DIP lender (in such capacity, the "**DIP Lender**"); and
- (e) authorizing the Company to pay retainers to the Monitor, the Monitor's counsel and the Company's counsel in the amount of \$50,000 each (the "**Retainers**"); and
- (vii) the Monitor's conclusions and recommendations.

### III. DISCLAIMER AND TERMS OF REFERENCE

6. In preparing this First Report, the Monitor has relied upon certain unaudited, draft, and/or internal financial information of the Company, the Company's books and records and discussions with various parties, including 260's advisors, employees and certain of its directors (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the Report, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants of Canada Handbook* (the "**Handbook**"). In addition, the Monitor has not conducted an examination or review of any financial forecast and projections in a manner that would comply with GAAS or the procedures described in the Handbook. Accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
7. Future orientated financial information contained in the Revised Cash Flow Forecast is based on the Company's estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Revised Cash Flow Forecast will be achieved.
8. Unless otherwise stated, all monetary amounts referred to herein are expressed in Canadian dollars.



9. Capitalized terms not otherwise defined herein are as defined in the Pre-Filing Report and the Affidavit of Mr. Shawn Saulnier sworn March 4, 2020 (the “**March 4 Saulnier Affidavit**”) filed in support of the Comeback Motion. This First Report should be read in conjunction with the March 4 Saulnier Affidavit, as certain information contained in the March 4 Saulnier Affidavit has not been included herein in order to avoid unnecessary duplication.

#### IV. ACTIVITIES OF THE COMPANY

10. Since the Filing Date, the Company, with the assistance of the Monitor, has been managing its operations in the normal course and working to stabilize its business, assisted by the CCAA Stay. The Company's primary focus, in addition to managing relationships with key stakeholders and addressing operational issues arising in connection with the commencement of the CCAA Proceedings, has been to continue discussions with its senior lenders and its general contractor, Maple Reinders Inc. (“**Maple**”), to determine the best way forward to obtain financing to re-commence construction activity at the Nuvo Property and complete the Nuvo Renovations.
11. As outlined in the March 4 Saulnier Affidavit, the activities of the Company, with the support of their legal advisors, have included:
  - (i) managing relationships with key stakeholders, including tenants, secured lenders and Maple;
  - (ii) administering the leases at the Nuvo Property in the ordinary course;
  - (iii) reviewing its leases to confirm the status of leases in the Company's and Nuvo Network's name, as is outlined in greater detail in the March 4 Saulnier Affidavit; and
  - (iv) preparing, in consultation with the Monitor, the Revised Cash Flow Forecast.

#### V. ACTIVITIES OF THE MONITOR

12. Since its appointment pursuant to the Initial Order, the Monitor's activities have included:
  - (i) arranging for notice of the CCAA Proceedings to be published in the February 29, 2020 and March 4, 2020 editions of The Globe and Mail (National Edition) (collectively, the “**Globe Notices**”), in accordance with the Initial Order and the CCAA. Copies of the Globe Notices are attached hereto as **Appendix “C”**;
  - (ii) sending a notice, within five days of the issuance of the Initial Order, of the CCAA Proceedings to all known creditors of 260 with claims exceeding \$1,000, in accordance with the Initial Order and the CCAA. Notice was also sent to certain other persons, including creditors with claims less than \$1,000, applicable tax authorities and any other party that requested a copy;



- (iii) filing prescribed documents with the Office of the Superintendent of Bankruptcy pursuant to the CCAA;
- (iv) establishing and maintaining a website where all Court documents and other material documents pertaining to the CCAA Proceedings are available in electronic form;
- (v) implementing procedures for the monitoring of the Company's cash flows and for ongoing reporting of variances to the Company's cash flow forecast;
- (vi) corresponding with Maple, including attending at Maple's office to meet with certain key personnel, in connection with the Nuvo Renovations;
- (vii) corresponding with Meridian and its legal counsel, including attending a meeting at Meridian's office, in connection with the Meridian DIP Facility;
- (viii) corresponding extensively with the Company and its legal counsel regarding the Revised Cash Flow Forecast, cash management, the Nuvo Renovations and various other matters in connection with the CCAA Proceedings;
- (ix) corresponding with Bennett Jones LLP, the Monitor's legal counsel;
- (x) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
- (xi) reviewing materials filed with the Court in respect of the CCAA Proceedings; and
- (xii) preparing this First Report.

## VI. UPDATE ON THE NUVO RENOVATIONS

13. As detailed in the Pre-Filing Report, the Monitor understands based upon information provided by the Company, including an appraisal filed with the Court under seal in connection with the application for the Initial Order, that upon completion of the Nuvo Renovations, the Company's liquidity and enterprise value is projected to improve significantly. Accordingly, it is crucial for the Company to complete the Nuvo Renovations so that it has the opportunity to restructure its business and financial affairs to maximize value for the benefit of 260 and its stakeholders. Further information with respect to the Nuvo Renovations can be found in the Pre-Filing Report and the affidavit of Mr. Shawn Saulnier sworn February 24, 2020 (the "**February 24 Saulnier Affidavit**"), filed in support of the Company's application for the Initial Order.



14. As set out in the Pre-Filing Report, the budgeted costs to complete the Nuvo Renovations was estimated at approximately \$4.1 million, which included approximately \$2.2 million of construction cost arrears owing to Maple and Barrie Glass & Co. ("**Barrie**"), a subcontractor (the "**Construction Cost Arrears**"). Both Maple and Barrie have registered liens against the Nuvo Property in the amount of approximately \$1.9 million and \$90,000, respectively (accrued interest of approximately \$190,000 is payable in respect of the Maple lien as at March 2, 2020, and further interest continues to accrue). The Nuvo Renovations were previously projected to be completed by August 31, 2020. However, following communications and correspondence with 260 and Maple since the Filing Date, including attending at the office of Maple to meet with key personnel, the Monitor now understands that the budget and timelines thereto required certain revisions.
15. Following the meeting with Maple and subsequent correspondence between 260, Maple and the Monitor, Maple presented the Monitor with an updated construction budget and schedule, which now estimates a total cost to complete the Nuvo Renovations of approximately \$4.5 million (including the Construction Cost Arrears) (the "**Costs to Complete**") and a completion date of mid to late September 2020.
16. The Monitor understands from Maple that the revisions in connection with the Cost to Complete compared to what was reported in the Pre-Filing Report relates primarily to (i) remobilizing of subcontractors, including additional costs associated with construction crews having to re-establish scaffolding, heavy machinery and equipment on site after previously dismantling it, (ii) increased labour and material costs in the ordinary course due to the passage of time and (iii) legal fees incurred by Maple and Barrie in connection with the Construction Cost Arrears.
17. In addition to discussing the construction budget and timeline with the Company, the Monitor has had discussions and correspondence directly with Maple to ensure that the Costs to Complete are as low as reasonably possible in the circumstances and that the construction timelines can be met. The Monitor has also discussed the construction budget and timeline with Meridian and understands that Meridian has also had direct discussions with Maple and is satisfied that the Costs to Complete and construction timeline are satisfactory. Based upon those discussions and meetings, the Monitor is satisfied that completing the Nuvo Renovation through Maple as the general contractor represents the best available option in the circumstances to complete the renovations in a timely and cost-effective manner. In addition, since Maple has been involved in the Nuvo Renovation project from the outset, the Monitor understands that its construction plan takes into account the existing tenants of the building, to try and minimize disruption to the building's multiple tenants and their respective businesses.



## VII. NUVO NETWORK LEASES

18. As discussed in the Pre-Filing Report, Nuvo Network was incorporated for the purpose of being the operating entity for the Company. It has no assets (other than certain leases as discussed below), employees or operations. The Company's intention was to migrate 260's employees and all of 260's leases to this entity. However, this had not yet occurred as of the Filing Date. As noted in the February 24 Saulnier Affidavit, at the time of the commencement of the CCAA Proceedings, certain of the Nuvo Property leases had been migrated to Nuvo Network as the landlord; however, the Monitor has been informed by the Company that all rental income earned from those leases continues to flow to 260.
19. Since the Filing Date, the Monitor understands that the Company has reviewed its books and records and those of Nuvo Network to determine the number of leases held by Nuvo Network as landlord, and the portion of 260's monthly rental revenue which is generated from leases held by Nuvo Network. As discussed in the March 4 Saulnier Affidavit, approximately \$22,100 of rental revenue was generated through leases held by Nuvo Network in January 2020, representing approximately 12% of the total revenue flowing to the Company in January 2020.
20. In addition, the Monitor has been informed by the Company that, Nuvo Network has entered into a short-term lease agreement to lease studio space with a party which creates programming for The Food Network (the "**Food Network Lease**"). As set out in the March 4 Saulnier Affidavit, the Food Network Lease is for a four month period from April 2020 to July 2020; in connection with the Food Network Lease, Nuvo Network was provided with a security deposit and funding for certain renovations which amounts were deposited into the Company's bank account.
21. The Monitor has been informed that Nuvo Network does not maintain its own bank accounts, and all rental revenue to date and going forward generated through the Nuvo Network leases have been, and will continue to be, deposited in the Company's bank account, including those revenues generated from the Food Network Lease. The Monitor is in the process of confirming all tenants and leases at the Nuvo Property and will provide an update to the Court in a subsequent report regarding its findings.
22. The Monitor understands that, based on discussions with the Company and its legal counsel, all future leases are to be established and maintained in the Company's name during the CCAA Proceedings.

## VIII. REVISED CASH FLOW FORECAST

23. In support of its application for the Initial Order, the Company filed with this Court a 13-week cash flow forecast (the "**Original Forecast**") setting out the projected receipts and disbursements of the Company from the Filing Date to May 24, 2020. The Original Forecast assumed that the CCAA Proceedings would be funded via the



Maynbridge DIP Facility. However, as discussed later in the First Report, the Maynbridge DIP Facility was ultimately not approved by the Court.

24. The Company is now seeking the Court's approval of the Meridian DIP Facility (as discussed below) as well as an extension of the Stay Period in respect of the CCAA Stay to October 24, 2020. In consideration of the foregoing, the Company, in consultation with the Monitor, prepared the Revised Cash Flow Forecast for the purpose of projecting the Company's estimated liquidity needs during the Forecast Period. A copy of the Revised Cash Flow Forecast, including the notes and assumptions thereto, together with Management's Report on the Revised Cash Flow Forecast is attached as **Appendix "D"** and is summarized below:

<b>2607380 Ontario Inc.</b> <b>Cash Flow Forecast</b> <b>For the Period March 4, 2020 to October 24, 2020</b> <b>(In \$000's; unaudited)</b>	
<b>Receipts</b>	
Rental, Studio & Event Income	2,037
Other Income	597
<b>Total Receipts</b>	<b>2,634</b>
<b>Disbursements</b>	
Personnel Expenses	706
Professional Fees	1,721
Operating Expenses	1,592
Construction Costs	4,511
DIP Lender Costs	394
<b>Total Disbursements</b>	<b>8,924</b>
<b>Net Cash Flow</b>	<b>(6,290)</b>
Opening Cash Balance	192
<b>DIP Drawdown</b>	<b>6,300</b>
<b>Ending Cash Balance</b>	<b>202</b>

25. As at March 4, 2020, the aggregate of the Applicant's combined bank account balances, including funds held in trust by the Monitor related to the Interim Financing, shows a cash surplus of approximately \$192,000. The Revised Cash Flow Forecast projects that the Company will experience a net cash outflow of approximately \$6.3 million (before any DIP drawdown) over the Forecast Period, comprised of:



- (i) cash receipts of approximately \$2.6 million, primarily related to the collection of rent from existing leases; and
  - (ii) cash disbursements of approximately \$8.9 million, primarily related to construction costs in connection with the Nuvo Renovations (including the Construction Cost Arrears (as discussed below)), operating expenses, personnel costs and costs in connection with the Meridian DIP Facility, as well as the costs of the CCAA Proceedings.
26. The Revised Cash Flow Forecast projects borrowings under the Meridian DIP Facility of \$6.3 million (net of the Reserve, as defined below) during the Forecast Period.
  27. As evidenced by the Revised Cash Flow Forecast, without access to the Meridian DIP Facility, the Company lacks sufficient liquidity to maintain operations. The Meridian DIP Facility is expected to provide the Company with sufficient funding during the Forecast Period and to ensure 260's continued operations during the CCAA Proceedings.
  28. The Revised Cash Flow Forecast has been prepared by the Company on a conservative basis using probable and hypothetical assumptions set out in the notes to the Revised Cash Flow Forecast. The Revised Cash Flow Forecast reflects the Company's estimates of receipts and disbursements on a weekly basis over the Forecast Period.
  29. The Monitor has reviewed the Revised Cash Flow Forecast to the standard required of a Court-appointed monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the monitor's findings. The Canadian Association of Insolvency and Restructuring Professionals' standards of professional practice include a standard for monitors fulfilling their statutory responsibilities under the CCAA in respect of a monitor's report on the Revised Cash Flow Forecast.
  30. Pursuant to this standard, the Monitor's review of the Revised Cash Flow Forecast consisted of inquiries, analytical procedures and discussion related to information supplied to it by certain key members of management and employees of the Applicant. Since the probable and hypothetical assumptions need not be supported, the Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Revised Cash Flow Forecast. The Monitor also reviewed the support provided by the Company for the probable and hypothetical assumptions and the preparation and presentation of the Revised Cash Flow Forecast.



31. Based on the Monitor's review, nothing has come to its attention that causes it to believe, in all material respects, that:
- (i) the probable and hypothetical assumptions are not consistent with the purpose of the Revised Cash Flow Forecast;
  - (ii) as at the date of this First Report, the probable and hypothetical assumptions are not suitably supported and consistent with the plans of the Company or do not provide a reasonable basis for the Revised Cash Flow Forecast, given the probable and hypothetical assumptions; or
  - (iii) the Revised Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
32. Since the Revised Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the probable and hypothetical assumptions occur, and the variation could be material. Accordingly, the Monitor expresses no assurance as to whether the Revised Cash Flow Forecast will be achieved. In addition, the Monitor expresses no opinion or other form of assurance with respect to the accuracy of the financial information presented in the Revised Cash Flow Forecast or relied upon by the Monitor in preparing this report.
33. The Revised Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate or relied upon for any other purpose. The Monitor's Report on the Revised Cash Flow Forecast is attached hereto as **Appendix "E"**.

## **IX. DIP LENDING AGREEMENT**

34. As set out in the Pre-Filing Report, the Company, in consultation with its financial and legal advisors, carried out a marketing process to solicit DIP financing (the "**DIP Solicitation Process**"). Further details of the DIP Solicitation Process, including the results thereof, are provided for in the Pre-Filing Report and not repeated herein. Ultimately, the DIP Solicitation Process resulted in an agreement between the Company and Maynbridge (the "**Maynbridge DIP Facility Agreement**"), whereby Maynbridge would provide the Company with DIP financing in the amount of approximately \$7.18 million (the "**Maynbridge DIP Facility**"). Approval of the Maynbridge DIP Facility Agreement was sought by the Company as part of the Initial Order.
35. However, at the Initial Order hearing held on February 25, 2020 (the "**Initial Hearing**"), Meridian and Bridging Finance Inc., one of the Company's other secured lenders, objected to the Maynbridge DIP Facility Agreement, including the proposed priority charge (the "**Maynbridge DIP Charge**") over the assets of the Company as security in support of advances to be made thereunder.



36. As an alternative to the Maynbridge DIP Facility Agreement, and given the imminent liquidity crisis facing the Company, Meridian agreed to provide the Interim Financing, on an interim basis, in order to fund the Company until the date of the Comeback Motion.
37. As part of the Initial Order, the Court ordered the Interim Financing from Meridian. Pursuant to the Initial Order, Meridian advanced the Interim Financing to the Monitor, in trust.
38. The Monitor understands that Meridian continues to object to another lender priming its existing charge over the Company's assets and, accordingly, since the date of the Initial Hearing, Meridian reached out to the Monitor with proposed terms for DIP financing to be provided by Meridian to fund the CCAA Proceedings. Following negotiations between Meridian, the Company, the Monitor and their respective advisors, Meridian, as DIP Lender and the Company agreed upon the terms of the Meridian DIP Facility Agreement. A copy of the Meridian DIP Facility Agreement is attached as Exhibit "B" to the March 4 Saulnier Affidavit.
39. The principal terms of the Meridian DIP Facility Agreement include (the following is not an exhaustive list):

Basic Provisions	Description
<b>Availability</b>	\$7.18 million
<b>Borrower</b>	2607380 Ontario Inc.
<b>Guarantor</b>	Nuvo Network Inc.
<b>Reserve</b>	\$400,000, to fund the DIP Lender's interest, legal fees and disbursements during the Stay Period (the "Reserve").
<b>Interest Rate</b>	9.25%; Default Rate of additional 2%.
<b>Fees</b>	Commitment Fee of \$107,000; Monthly Availability Fee of \$2,000 per month.
<b>Maturity Date</b>	Earliest of (a) November 6, 2020, (b) March 6, 2020, in the event the Court does not issue an order approving the Meridian DIP Facility, (c) the date the Stay Period expires, without extension, (d) the date on which the stay under the Initial Order is lifted, in whole or in part, without prior written consent of the DIP Lender, (e) the conversion of the CCAA Proceedings to a proceeding under the BIA (NOI/Proposal, bankruptcy or receivership), and (f) occurrence of an Event of Default.
<b>Security</b>	The DIP Charge, a mortgage registered against the Nuvo Property, a guarantee from Nuvo Network, a GSA between the Guarantor and the DIP Lender and an assignment of the Guarantor's rents and leases in favour of the DIP Lender.
<b>Conditions</b>	Various conditions typical of agreements of this kind, including, <i>inter alia</i> , the issuance of the Amended and Restated Initial Order, the completion of definitive documentation and the granting of the DIP Charge.
<b>Event of Default</b>	A number of Events of Default, including (a) failure of the Borrower to obtain Court approval of the Amended and Restated Initial Order, (b) any payment is made by the Borrower that is not contemplated by or within the approved cash flow budget and (c) the Nuvo Renovations are not completed by September 30, 2020.



40. The Meridian DIP Facility is at a lower interest rate compared to the Maynbridge DIP Facility (9.25% vs. 9.50%) and has a lower overall cost of borrowing, including a lower commitment fee (\$107,000 vs \$210,000). Approving the Meridian DIP Facility Agreement will eliminate any prejudice to the Company's first-secured lender, as Meridian will not be subject to priming by the Maynbridge DIP Charge. Furthermore, the fact that Meridian is supporting the CCAA Proceedings by providing a DIP facility with covenants that facilitate the timely and cost effective completion of the Nuvo Renovations, the objectives of the Company's senior-most secured lender are aligned with the overall objectives of the CCAA Proceedings, which is to maximize value for all creditors and stakeholders of the Company.
41. Taking into consideration the above, the Monitor is supportive of the Meridian DIP Facility Agreement for the following reasons:
- (i) the Company is facing an imminent liquidity crisis and 260 is without the cash needed to continue operations and implement its restructuring plan – short term funding is needed urgently. The Monitor understands that the Company will be unable to pay operating costs owing to suppliers as they become due absent a DIP facility;
  - (ii) if a DIP facility is not available, the Company's operations will be difficult to manage, the funding needed to complete the Nuvo Renovations will not be available and the Company will have virtually no prospect of completing its development and restructuring plan;
  - (iii) as noted in the Pre-filing Report, the Company and the Monitor had canvassed the market and reached out to six (6) other potential lenders before agreeing to the Maynbridge DIP Facility, which was determined to be the best available DIP facility in the circumstances. Meridian has provided an even more competitive DIP facility with terms that are overall superior to those offered in the Maynbridge DIP Facility;
  - (iv) based on the Monitor's discussions with Meridian, the Monitor understands that Meridian, as the Company's highest-ranking secured creditor and by far the Company's largest creditor, would oppose any alternative DIP lender from priming it, as was the case with the Maynbridge DIP Facility;
  - (v) to minimize any prejudice to Maynbridge regarding the costs they incurred to negotiate the Maynbridge DIP Facility and Maynbridge DIP Facility Agreement, which formed the template for the Meridian DIP Facility, the DIP Lender has agreed to the funding of the balance of Maynbridge's expense reimbursement in the amount of approximately \$45,000 (excluding HST) to help cover out-of-pocket legal and other costs; and
  - (vi) the Proposed Monitor has compared the principal financial terms of the Meridian DIP Facility, together with the existing secured debt obligations, to a number of other recent DIP financing packages in other CCAA



proceedings, with respect to pricing, loan availability and certain security considerations. Based on this comparison, the Proposed Monitor is of the view that, in the circumstances, the terms of the Meridian DIP Facility appear to be commercially reasonable.

42. The Monitor believes that, in the circumstances, the approval of the Meridian DIP Facility is in the best interests of the Company in connection with financing its operations and completing the Nuvo Renovations and will enhance the prospects of maximizing the value of the Nuvo Property. The Proposed Monitor believes the Meridian DIP Facility will afford the Company the opportunity to finish construction and allow for a SISP to seek to maximize value for the Company's secured lenders and other creditors.

## **X. PROPOSED AMENDMENTS TO THE INITIAL ORDER**

43. As outlined in the March 4 Saulnier Affidavit, the Company is seeking certain amendments to the Initial Order, including extending the Stay Period, enhancing the Monitor's powers, designating Maple and Barrie as critical suppliers and authorizing the Company to pay certain pre-filing amounts owing to them, and amending and adding priority charges over the assets of the Company.

### **Extension of the Stay Period**

44. The Stay Period expires on March 6, 2020. The Company is seeking an extension of the Stay Period to October 24, 2020 in respect of the CCAA Stay.
45. The Monitor supports the Company's request for an extension of the CCAA Stay from March 6, 2020 to October 24, 2020 for the following reasons:
- (i) the Company is acting in good faith and with due diligence;
  - (ii) the extension will provide the Company with the opportunity to complete the Nuvo Renovations and provide the Company with sufficient time to seek out potential refinancing of its secured debt and, if approved by this Court, complete the SISP;
  - (iii) the granting of the extension should not materially prejudice any creditor of the Company as the Revised Cash Flow Forecast reflects that the Company is projected to have sufficient funding to continue to operate in the normal course through the proposed stay extension period;
  - (iv) Meridian, being the Company's first-secured senior lender and proposed DIP Lender in these CCAA Proceedings, supports the stay extension to October 24, 2020; and



- (v) if it is necessary for any interim reporting to the Court by the Monitor, and/or relief or directions by the Company or the Monitor, the parties can return to the Court in the interim period.

### **Monitor's Powers**

46. As discussed in the Pre-Filing Report, paragraph 5 of the Initial Order affords the Monitor with enhanced powers with respect to the Company's disbursements. Specifically, the Company is required to obtain the Monitor's consent prior to paying (i) any single disbursement that exceeds \$1,000, and (ii) any and all disbursements that exceed \$5,000 in aggregate in the course of one (1) calendar day.
47. Paragraph 5 of the Amended and Restated Initial Order proposes to enhance those powers by requiring the Company to obtain the Monitor's consent before entering into any new contracts or leases (i) with an aggregate value or liability in excess of \$1,000 and/or (ii) a term in excess of one month.
48. In addition to the foregoing, paragraph 26 of the Amended and Restated Initial Order affords the Monitor with additional enhanced powers beyond those typically provided to a monitor in a CCAA proceeding. These additional enhanced powers pertain to, *inter alia*, assisting in preparing cash flow forecasts (with information provided by the Company), monitoring and overseeing the Nuvo Renovations, including consulting with the DIP Lender in connection therewith, on behalf of the Company, and assisting the Company and Nuvo Network in complying with the Meridian DIP Facility Agreement, including preparing materials in anticipation of a SISF.
49. The Monitor understands that the Company has consented to this relief in order to promote transparency and increase confidence in the process. The DIP Lender is also fully supportive of the Monitor's enhanced powers. Given the foregoing, the Monitor is of the view that proposed enhanced powers are reasonable in the circumstances.

### **Payment of Certain Pre-Filing Amounts and Designation of Critical Suppliers**

50. As discussed in the February 24 Saulnier Affidavit, the ongoing delays in connection with the Nuvo Renovations have been damaging to the Company's operations and profitability. Recommencing and completing the ongoing construction of the Nuvo Property is fundamental to restructure 260 into an enterprise that can operate profitably in the future.
51. Based on discussions with Maple, the Monitor understands that, as a prerequisite to recommencing construction, the Construction Cost Arrears must be paid in full.



52. In recognition of the foregoing, the Amended and Restated Initial Order declares Maple and Barrie as critical suppliers and authorizes the Company to pay up to \$2.375 million in respect of critical supplier amounts, including to pay the Construction Cost Arrears, thereby discharging the construction liens registered by Maple and Barrie in connection therewith. All DIP funding, including the critical supplier payments, will be funded by the DIP Lender through the Monitor's trust account to ensure that the Monitor can oversee and monitor payments therefrom, in accordance with the Revised Cash Flow Forecast and the construction budgets and timelines.
53. The Monitor understands that the DIP Lender is fully supportive of the Company paying the Construction Cost Arrears to avoid further delay of the Nuvo Renovations and mitigate against erosion of the going-concern value of the business and its assets.
54. The Monitor agrees with the Company's view that any further delay in connection with the Nuvo Renovations could have an immediate and adverse impact on the business, operations and cash flow of the Company. Accordingly, the Monitor is of the view that payment of the Construction Cost Arrears is reasonable in the circumstances.

#### **Proposed Charges**

55. The Amended and Restated Initial Order provides for a number of priority charges (collectively, the "**Charges**"), on the current and future assets, undertakings and properties of the Company, including all proceeds thereof, that rank in the following order:
  - (i) First, the Amended Administration Charge;
  - (ii) Second, the DIP Charge; and
  - (iii) Third, the Directors' Charge.

#### **Amended Administration Charge**

56. The Amended and Restated Initial Order provides for the Amended Administration Charge, in the amount of \$300,000 (increased from \$250,000 as provided for in the Initial Order) charging the assets of the Company to secure the fees and disbursements incurred in connection with services rendered to the Company both before and after the commencement of the CCAA Proceedings by the following professionals: the Monitor, the Monitor's legal counsel, and legal counsel to the Company.
57. The Amended and Restated Initial Order sought by the Company provides that the Amended Administration Charge will rank in priority to the security interests of the DIP Lender, which the Monitor understands has



consented to the Amended Administration Charge. Furthermore, the Monitor understands that the amount of the Amended Administration Charge meets the terms of the Meridian DIP Facility Agreement.

58. In addition, the Monitor understands that the Company is seeking approval to pay retainers, in the amount of \$50,000 each, to the Company's counsel, the Monitor and the Monitor's counsel (the "**Retainers**"). As noted in the Pre-Filing Report, the Company's liquidity has been extremely limited, and its professionals have accrued significant fees that remain outstanding. Due to those liquidity constraints, the Company's professional advisors do not have the benefit of pre-existing retainers as would ordinarily be the case, and had been working on the basis that a \$500,000 Administration Charge would be sought under the Initial Order. In lieu of a \$500,000 Administration Charge, the Company, the Monitor and their respective counsel, have agreed to accept a reduced Administration Charge of \$300,000 and retainers of \$150,000 in aggregate. The Monitor understands that the DIP Lender is supportive of paying the Retainers.
59. In consideration of the foregoing, the Monitor is of the view that the proposed Amended Administration Charge and the quantum of the Retainers is reasonable in the circumstances.

#### **The DIP Charge**

60. The Company requires further funding immediately to continue operations and pursue its restructuring during the CCAA Proceedings, as evidenced by the Revised Cash Flow Forecast.
61. As noted above, it is a condition of the Meridian DIP Facility Agreement that the DIP Lender receives the benefit of the DIP Charge to the maximum amount of the aggregate of any and all advances made by the DIP Lenders to the Applicant under the Meridian DIP Facility Agreement.
62. The Meridian DIP Facility Agreement provides the Company with access to the financing required to undertake its restructuring activities, including the SISP, and complete its CCAA Proceedings. The Monitor recommends that the Court approve the Meridian DIP Facility Agreement, to be accessed by the Company, and, as such, the Monitor also supports the granting of the DIP Charge.

#### **XI. MONITOR'S RECOMMENDATIONS**

63. For the reasons set out in this First Report, the Monitor is of the view that the relief requested by the Company is both appropriate and reasonable. The Monitor is also of the view that granting the relief requested will provide the Company the best opportunity to complete the Nuvo Renovations and undergo a refinancing or going-concern sale or other restructuring under the CCAA, thereby preserving value for the benefit of the Company's stakeholders.



64. The Monitor notes that 260 is an operating company, with numerous tenants who themselves operate businesses that have employees, suppliers, customers and other stakeholders. Accordingly, the CCAA process is not only the best available option for 260 to seek to maximize value for its creditors and other stakeholders, but also provides a stable process to restructure its affairs while minimizing disruption and harm to its numerous tenants and their respective businesses, employees, creditors and stakeholders.
65. The Monitor is cognizant of the costs and benefits associated with the CCAA process in these circumstances and, as noted above, has: (i) worked both before and after the commencement of the CCAA Proceedings to canvass the market for DIP financing on the best terms in the circumstances; (ii) negotiated with Maple to ensure that the Costs to Complete the Nuvo Renovations are as low as possible in the circumstances and that construction can be completed in a timely manner with minimal disruption to the tenants and their businesses; (iii) negotiated with Meridian for DIP financing that will provide the Company with sufficient funds to carry out its operations and complete the Nuvo Renovations at a lower cost; (iv) worked with the Company to prepare the Revised Cash Flow Forecast that demonstrates the ability of the Company to meet its operational and renovation requirements through the requested extension of the Stay Period; and (v) is agreeing to enhanced powers under the Amended and Restated Initial Order to ensure that any costs, disbursements or obligations of the Company exceeding \$1,000 require prior approval of the Monitor, in order to keep costs in check. In light of all of the above, the Monitor is of the view that the CCAA Proceedings represent the most cost effective and efficient manner in which to achieve the Company's restructuring for the benefit of all of its creditors and other stakeholders, whilst minimizing disruption and prejudice to its business.
66. The Monitor has considerable experience in managing sale and investment processes involving real estate and real estate related businesses and is also in a position to immediately assist the Company in its refinancing efforts and developing a SISF for approval by the Court at a later date. Accordingly, the Monitor is of the view that the CCAA process also provides the Company's creditors the best reasonable prospect of repayment in the circumstances through a properly constructed process supervised by the Monitor and the Court, which will canvass the market for refinancing, investors or purchasers to maximize value for the Company's creditors and other stakeholders.
67. For the foregoing reasons, the Monitor respectfully recommends that this Court approve the relief sought in the Amended and Restated Initial Order.



All of which is respectfully submitted this 5<sup>th</sup> day of March 2020.

**RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS MONITOR OF  
2607380 ONTARIO INC.  
AND NOT IN ITS PERSONAL CAPACITY**

Per:



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**Paul van Eyk,  
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL**



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**Adam Zeldin  
CPA, CA, CIRP**



## **Appendix “D”**



**RICHTER**

Court File No.: CV-20-00636875-00CL

**2607380 ONTARIO INC.**

**SECOND REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS MONITOR**

**JULY 8, 2020**



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## APPENDICES

**APPENDIX "A"** – Amended and Restated Initial Order

**APPENDIX "B"** – Sale and Investor Solicitation Process

**APPENDIX "C"** – Redacted Execution Copy of the Listing Agreement

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**APPENDIX "E"** – Monitor's Report on the Revised Cash Flow Forecast

## CONFIDENTIAL APPENDICES

**CONFIDENTIAL APPENDIX "1"** – Proposal Summary

**CONFIDENTIAL APPENDIX "2"** – Unredacted Execution Copy of the Listing Agreement



Court File No.: CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

**SECOND REPORT OF RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS MONITOR**

**JULY 8, 2020**



## I. INTRODUCTION

1. On February 25, 2020 (the **"Filing Date"**), the Ontario Superior Court of Justice (Commercial List) (the **"Court"**) issued an order (the **"Initial Order"**) granting 2607380 Ontario Inc. (**"260"** or the **"Company"**) protection pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the **"CCAA"**). Pursuant to the Initial Order, Richter Advisory Group Inc. (**"Richter"**) was appointed as Monitor of the Company (the **"Monitor"**).
2. The Initial Order, *inter alia*:
  - (i) granted a stay of proceedings in favour of the Company until March 6, 2020 (the **"Initial Stay Period"**);
  - (ii) granted a stay of proceedings during the Initial Stay Period in favour of (i) Nuvo Network Inc. (**"Nuvo Network"**), an affiliate of the Company, (ii) the directors and officers of the Company and (iii) Mr. Shawn Saulnier and Ms. Bridget Saulnier (collectively, the **"Saulniers"**) in connection with any guarantees they have made in support of any of the commitments or debt obligations of the Company (collectively, the **"Saulnier Guarantees"**). Collectively, such stay of proceedings, together with the stay of proceedings in favour of the Company, is referred to herein as the **"CCAA Stay"**;
  - (iii) enhanced the Monitor's powers over the Company's disbursements, obliging the Company to obtain prior approval of the Monitor for disbursements above certain dollar thresholds (\$1,000 per transaction or \$5,000 in aggregate, on a daily basis) (the **"Monitor's Enhanced Powers"**);
  - (iv) approved an indemnity and charge in favour of 260's directors and officers in the amount of \$50,000 (the **"Directors' Charge"**) in respect of the actions of the directors and officers and liabilities incurred thereby from and after the Filing Date;
  - (v) approved a charge in respect of the fees and costs of the Monitor, its counsel and counsel to the Company in the amount of \$250,000 (the **"Initial Administration Charge"**); and
  - (vi) ordered that Meridian Credit Union Limited (**"Meridian"**), the Company's primary secured lender, provide emergency financing in the amount of \$220,000, to either the Monitor or its counsel, in order to provide the Company with sufficient funds to pay certain professional fees and to meet 260's operational requirements until the date of the comeback motion returnable March 6, 2020.
3. On March 6, 2020, the Court issued the Amended and Restated Initial Order (the **"Amended and Restated Initial Order"**), which incorporated certain amendments to the Initial Order, *inter alia*:



- (i) extending the CCAA Stay until October 24, 2020;
- (ii) ordering that the Company obtain the Monitor's consent before entering into any new contracts or leases (i) with an aggregate value or liability in excess of \$1,000 and/or (ii) a term in excess of one month;
- (iii) further advancing the Monitor's powers, thereby authorizing it to, among other things, assist 260 in preparing cash flow forecasts (with information provided by the Company), monitoring and overseeing the renovations (the "**Nuvo Renovations**") of the Company's property located at 1295 North Service Road, Burlington, Ontario (the "**Nuvo Property**"), including consulting with the DIP Lender (as defined below) in connection therewith, on behalf of the Company, and assisting the Company and Nuvo Network in complying with the Meridian DIP Facility Agreement (as defined herein), including preparing materials in anticipation of a sale and investor solicitation process.
- (iv) increasing the Initial Administration Charge to \$300,000 (the "**Amended Administration Charge**"); and
- (v) approving a non-revolving credit facility up to a maximum amount of \$7.18 million (the "**Meridian DIP Facility**") pursuant to a credit facility agreement between the Company and Meridian (in such capacity, the "**DIP Lender**") dated March 4, 2020 (the "**Meridian DIP Facility Agreement**") and a charge in favour of the DIP Lender up to the maximum amount of the aggregate of any and all advances made by the DIP Lender thereunder.

A copy of the Amended and Restated Initial Order is attached hereto as **Appendix "A"**. The proceedings commenced by 260 under the CCAA are herein referred to as the "**CCAA Proceedings**".

4. Richter, in its capacities as Proposed Monitor and Monitor of 260, has previously filed two reports with this Court (the "**Prior Reports**"). The Prior Reports and copies of Court and other material documents pertaining to the CCAA Proceedings are available on the Monitor's website at <https://www.richter.ca/insolvencycase/2607380-ontario-inc/> (the "**Monitor's Website**").

## II. PURPOSE OF THE SECOND REPORT

5. The purpose of this report (the "**Second Report**") is to provide information to the Court pertaining to:
  - (i) the activities of the Company and the Monitor since March 5, 2020, the date of the Monitor's first report (the "**Monitor's First Report**");
  - (ii) the Company's reported receipts and disbursements for the period from March 4, 2020 to July 4, 2020, including a comparison of reported to forecasted results;



- (iii) an update regarding the Nuvo Renovations;
- (iv) the proposed sale and investor solicitation process, as set out in **Appendix "B"** to this Second Report (the **"SISP"**);
- (v) the Company's request that the Court grant orders:
  - (a) approving the SISP (the **"SISP Order"**), including the retention of (i) CBRE Limited (**"CBRE"**) to act as listing agent in the process set out in the SISP to solicit interest in the acquisition of the Nuvo Property (the **"Sale Process"**) prior to November 30, 2020 (the **"Outside Date"**) and (ii) Halo Advisory (**"Halo"**), as financial advisor, and Mortgage Alliance (**"MA"**), as exclusive mortgage agent, to assist in and carry out the process set out in the SISP to solicit interest in providing financing to the Company (the **"Refinancing Process"**); and
  - (b) sealing the confidential appendices to the Second Report until further order of this Court; and
  - (c) extending the CCAA Stay to November 30, 2020 (the **"Stay Extension Order"**); and
- (vi) the Monitor's conclusions and recommendations.

### III. DISCLAIMER AND TERMS OF REFERENCE

6. In preparing this Second Report, the Monitor has relied upon certain unaudited, draft, and/or internal financial information of the Company, the Company's books and records and discussions with various parties, including 260's advisors, employees and certain of its directors (collectively, the **"Information"**). In accordance with industry practice, except as otherwise described in the Report, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (**"GAAS"**) pursuant to the *Chartered Professional Accountants of Canada Handbook* (the **"Handbook"**). In addition, the Monitor has not conducted an examination or review of any financial forecast and projections in a manner that would comply with GAAS or the procedures described in the Handbook. Accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
7. Future orientated financial information contained in the Revised Cash Flow Forecast (as hereinafter defined) is based on the Company's estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Revised Cash Flow Forecast will be achieved.



8. Unless otherwise stated, all monetary amounts referred to herein are expressed in Canadian dollars.
9. Capitalized terms not otherwise defined herein are as defined in the Prior Reports and the three affidavits of Mr. Shawn Saulnier sworn on February 24, 2020 (the “**February 24 Saulnier Affidavit**”), March 4, 2020 (the “**March 4 Saulnier Affidavit**”) and July 7, 2020 (the “**July 7 Saulnier Affidavit**”, and together with the February 24 Saulnier Affidavit and the March 4 Saulnier Affidavit, the “**Saulnier Affidavits**”).
10. The Second Report should be read in conjunction with the Prior Reports and the Saulnier Affidavits, as certain information contained in the Prior Reports and Saulnier Affidavits has not been included herein in order to avoid duplication.

#### IV. ACTIVITIES OF THE COMPANY

11. Since the Filing Date, the Company, with the assistance of the Monitor, has been managing its operations in the normal course and working to stabilize its business. The Company’s primary focus has been managing relationships with key stakeholders and addressing operational and financial issues arising in connection with the CCAA Proceedings and the current COVID-19 pandemic.
12. As outlined in the July 7 Saulnier Affidavit, the activities of the Company, with the support of its legal advisors, have included:
  - (i) managing relationships with key stakeholders, including creditors, tenants and secured lenders;
  - (ii) continuing to liaise with its general contractor, Maple Reinders Inc. (“**Maple**”), with respect to the ongoing Nuvo Renovations;
  - (iii) responding to the COVID-19 pandemic situation, including working to obtain the essential service designation for the Nuvo Renovations in order to enable Maple to continue its work to complete the Nuvo Renovations;
  - (iv) administering the leases at the Nuvo Property;
  - (v) working, in consultation with the Monitor, to manage the Company’s cash flows and making payments in accordance with the Amended and Restated Initial Order;
  - (vi) preparing materials, including a confidential information memorandum (“**CIM**”) and materials to be included in the data room in connection with the Refinancing Process;



- (vii) working with its counsel and the Monitor to identify and introduce potential refinancing sources in connection with the Refinancing Process;
- (viii) engaging (a) Halo as its financial advisor to perform pre-marketing tasks for the Refinancing Process and (b) MA, a licensed mortgage broker, to carry out the Refinancing Process;
- (ix) working with the Monitor to design the SISP;
- (x) corresponding with realtors in connection with the SISP, including reviewing listing agent proposals, attending virtual meetings and conducting tours of the Nuvo Property;
- (xi) engaging CBRE to carry out the Sale Process contemplated by the SISP;
- (xii) working with CBRE and the Monitor to prepare materials, including a CIM, and materials to be included in the data room in connection with the Sale Process;
- (xiii) corresponding with the DIP Lender and its legal counsel regarding the progress of the SISP; and
- (xiv) with the assistance of the Monitor, preparing a revised cash flow forecast (the “**Revised Cash Flow Forecast**”) for the period from July 5, 2020 to November 30, 2020 (the “**Forecast Period**”), in connection with the Company’s request for the Stay Extension Order.

## V. ACTIVITIES OF THE MONITOR

13. Since the date of the Monitor’s First Report, the Monitor’s activities have included:

- (i) attending at Court in connection with the Amended and Restated Initial Order;
- (ii) attending at the Company’s premises and meeting with the Company’s management to discuss the Company’s operations and the CCAA Proceedings;
- (iii) corresponding and communicating with Maple in connection with the Nuvo Renovations and various governmental guidelines and restrictions introduced due to the ongoing COVID-19 pandemic;
- (iv) monitoring of the Company’s cash flows and reviewing analyses on variances to the Company’s cash flow forecast, and reporting these variances to Meridian in accordance with the Meridian DIP Facility Agreement;
- (v) working with the Company to design the SISP;



- (vi) corresponding with the Company and its legal counsel regarding all matters in the CCAA proceedings, including the Nuvo Renovations, the SISP, the Revised Cash Flow Forecast and 260's operations generally;
- (vii) corresponding with Maple regarding the Nuvo Renovations;
- (viii) corresponding with MA and Halo with respect to the Refinancing Process;
- (ix) corresponding with the DIP Lender and its legal counsel regarding the progress of the SISP and other matters pertaining to the CCAA Proceedings;
- (x) corresponding with realtors in connection with the Sale Process, including reviewing listing agent proposals and attending virtual meetings;
- (xi) corresponding with CBRE with respect to the SISP, including in connection with preparing a CIM and materials to be included in the data room in connection with the Sale Process;
- (xii) corresponding with Bennett Jones LLP, the Monitor's legal counsel;
- (xiii) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
- (xiv) maintaining the Monitor's Website where copies of the orders granted and other relevant documents in respect of the CCAA Proceedings have been made available;
- (xv) preparing this Second Report; and
- (xvi) dealing with other matters pertaining to the administration of the CCAA Proceedings.

## VI. CASH FLOW VARIANCE ANALYSIS REPORTING

14. As noted in the Monitor's First Report, 260, with the assistance of the Monitor prepared a cash flow forecast for the period March 4, 2020 to October 24, 2020 (the "**March 2020 Cash Flow Forecast**"), which was filed with the Court in support of, *inter alia*, the CCAA Stay.
15. The Company has continued to provide the Monitor with its co-operation and access to its books and records as requested by the Monitor. The Monitor has implemented various procedures for monitoring the Company's receipts and disbursements on a weekly basis. The Monitor has also prepared forecasted to actual variance analyses with respect to the Company's weekly receipts and disbursements as compared to the March 2020 Cash Flow Forecast.



16. A comparison of the Company's actual cash receipts and disbursements as compared to the March 2020 Cash Flow Forecast for the 18-week period from March 4, 2020 to July 4, 2020, is summarized as follows:

<b>2607380 Ontario Inc.</b> <b>Variance Analysis of the Cash Flow Forecast</b> <b>For the period from March 4, 2020 - July 4, 2020</b> <b>(in 000s CAD; unaudited)</b>			
	<b>Actual</b>	<b>Forecast</b>	<b>Variance</b>
<b><u>Receipts</u></b>			
Collection of Office, Studio & Event Income	758	1,080	(322)
HST Receivable & Other Receipts	83	429	(346)
<b>Total Receipts</b>	<b>841</b>	<b>1,509</b>	<b>(668)</b>
<b><u>Disbursements</u></b>			
Operating Expenses	(646)	(1,061)	415
Personnel Expenses	(336)	(391)	55
Professional Fees	(1,119)	(1,120)	1
Construction Costs	(1,995)	(4,225)	2,230
DIP Lender Costs	(532)	(388)	(144)
<b>Total Disbursements</b>	<b>(4,628)</b>	<b>(7,185)</b>	<b>2,557</b>
<b>Net Cash Flow</b>	<b>(3,787)</b>	<b>(5,676)</b>	<b>1,889</b>
<b>Opening Cash Balance</b>	<b>192</b>	<b>192</b>	<b>0</b>
Net Cash Flow	(3,787)	(5,676)	1,889
<b>DIP Drawdown</b>	<b>3,950</b>	<b>5,550</b>	<b>1,600</b>
<b>Ending Cash Balance</b>	<b>355</b>	<b>66</b>	<b>289</b>

17. As reflected in the summary table above, the Company reported a net cash outflow of approximately \$3.8 million over the 18-week period, and the Company had a cash balance of approximately \$0.4 million, as at July 4, 2020. The Company has a favourable cash flow variance of approximately \$1.9 million with respect to the March 2020 Cash Flow Forecast.
18. The favourable cash flow variance of approximately \$1.9 million pertains principally to the following:
- (i) the Monitor and Maple agreeing to a payment plan to remobilize the general contractor and its subcontractors that is more favourable than initially forecasted. This favourable variance is due to timing of payments and is expected to neutralize at the time of substantial completion of the Nuvo Renovations; and
  - (ii) favourable variances associated with (a) lower than projected disbursements attributable to critical vendor deposits (included in operating expenses), (b) lower than forecasted operating costs to date and (c) the receipt of financial assistance from the federal government following the onset of the COVID-19 pandemic.



These favourable variances were partially offset by the collection of lower than projected rental income, studio income and event income due to the COVID-19 pandemic and timing differences associated with the collection of sales tax refunds.

## VII. UPDATE ON THE NUVO RENOVATIONS

19. As noted in the July 7 Saulnier Affidavit, a primary focus of the CCAA Proceedings was to permit the Company to complete the Nuvo Renovations. Following the issuance of the Amended and Restated Initial Order, the Company, with the assistance of the Monitor, completed the documentation necessary and issued required payments, as approved by the Court and in accordance with the Meridian DIP Facility, to ensure Maple would recommence the Nuvo Renovations. On or about March 16, 2020, Maple remobilized to the Nuvo Property to restart the Nuvo Renovations.
20. As set out in the First Report, Maple presented the Monitor with a construction budget and schedule, which estimated a total cost to complete the Nuvo Renovations of approximately \$4.5 million (the “**Cost to Complete**”) and a completion date of mid to late September 2020. The Monitor understands from discussions with both Maple and the Company that the Nuvo Renovations remain substantially on time and on budget as at the date of this Second Report, notwithstanding certain delays resulting from the COVID-19 pandemic and its impacts on the Nuvo Renovations and the Company generally (as further discussed in the July 7 Saulnier Affidavit).

## VIII. SALE AND INVESTOR SOLICITATION PROCESS

21. The Company, in consultation with the Monitor, designed the SISP, a copy of which is attached hereto as **Appendix “B”**. The SISP consists of two components, which will run in parallel: (i) the Refinancing Process and (ii) the Sale Process.
22. The purpose of the proposed SISP is to maximize the value obtained for the Nuvo Property, taking into consideration the interests of the Company’s creditors and other stakeholders. The proposed SISP is designed to be a broad and flexible process to canvass bids for a sale and/or a refinancing proposal to repay existing indebtedness of the Company.
23. The terms of the Meridian DIP Agreement required the Company to, among other things, commence the SISP during the CCAA Stay and,
  - (i) hire a sales agent on or before April 30, 2020, or such later date as agreeable to the Monitor and the DIP Lender, and work with the sales agent to establish the steps for the SISP;



- (ii) obtain the SISP Order on or before May 8, 2020 or such later date as agreeable to the Monitor and DIP Lender;
  - (iii) provide a firm agreement of purchase and sale on or before October 15, 2020; and
  - (iv) close a transaction by no later than November 6, 2020.
24. However, the COVID-19 pandemic has dramatically impacted the commercial real estate market in the Greater Toronto Area and is a material outside event that the Company, the Monitor, or any other party could not have predicted at the start of the CCAA Proceedings. In connection with the foregoing, the Company, in consultation with the Monitor, negotiated an amendment to the Meridian DIP Facility Agreement to extend the deadline to obtain an order approving the SISP to June 8, 2020 (the “**First DIP Amendment**”). A copy of the First DIP Amendment is included as Exhibit “H” to the July 7 Saulnier Affidavit.
25. Following additional feedback from CBRE regarding the impacts of the COVID-19 pandemic on the commercial real estate market in the Greater Toronto Area, the Monitor, on behalf of the Company, sought, and the DIP Lender supported, an additional extension of the timelines of the proposed SISP as provided for in the Meridian DIP Facility Agreement. Accordingly, it was agreed that a further amendment would be entered into in respect of the SISP (the “**Second DIP Amendment**”), a copy of which is included as Exhibit “I” to the July 7 Saulnier Affidavit. As noted in the July 7 Saulnier Affidavit, the Second DIP Amendment provides for the following amended timelines:
- (i) hire a sales agent on or before July 15, 2020, or such later date as agreeable to the Monitor and the DIP Lender, and work with the sales agent to establish the steps for the SISP;
  - (ii) obtain the SISP Order on or before July 15, 2020, or such later date as agreeable to the Monitor and DIP Lender;
  - (iii) provide a firm agreement of purchase and sale on or before October 30, 2020; and
  - (iv) close a transaction by no later than the Outside Date (November 30, 2020).
26. In addition, the Monitor has provided summaries of the SISP process to counsel to Crossroads Christian Communications Inc. (“**CCCI**”), and Bridging Finance Inc. (“**Bridging**”), the Company’s other secured lenders and, as of the date of this Second Report, neither CCCI, Bridging, or their respective counsels, have expressed opposition to the proposed SISP.
27. As noted above, the SISP being sought for approval by the Court consists of two components: the Refinancing Process and the Sale Process. These are summarized below. Readers are cautioned to carefully read the SISP



as may be approved by the Court pursuant to the SISP Order and not to rely on a review of the summary of the SISP contained in the body of this Second Report.

### The Refinancing Process

28. Following the date of the Amended and Restated Initial Order and in accordance with the Meridian DIP Facility Agreement, in order to determine third parties' interest in providing financing to the Company, the Company, under the supervision of the Monitor, commenced the Refinancing Process.
29. In connection with the foregoing, in May 2020, the Company, with the support of the Monitor and the DIP Lender, engaged Halo and MA (collectively, the "**Refinancing Advisor**") to assist the Company with the Refinancing Process. The Monitor understands that Halo and MA are controlled by and operate under the supervision of the same individuals. Halo was retained by the Company to perform pre-marketing tasks for the Refinancing Process, while MA was retained to carry out the Refinancing Process, as it is a licensed mortgage broker.
30. The engagement with Halo provides for an application fee of \$5,000 and an additional remuneration of \$5,000 upon receipt of a discussion paper or letter of intent in connection with the Refinancing Process.
31. The key terms of MA's engagement include:
  - (i) the term of the engagement is for a period of 180 days (the "**Term**");
  - (ii) a brokerage fee of 0.5% of the quantum of the financing obtained, less \$10,000 (the "**Brokerage Fee**");
  - (iii) in the event that during the Term, the Company directly or indirectly accepts financing from a third party, then 260 shall be responsible for the payment of the Brokerage Fee to MA; and
  - (iv) in the event that the Company obtains financing from any lender initially approached by MA for the period that is 365 days following the expiry of the Term, the Brokerage Fee will be payable by 260 to MA.
32. Copies of the Halo engagement letter and the MA engagement letter are included as Exhibit "E" and "F", respectively, to the July 7 Saulnier Affidavit.
33. The Monitor is of the view that the terms of Halo's and MA's engagement appear reasonable in the circumstances and their engagement should enhance the prospect of maximizing realizations for the Company's stakeholders. Accordingly, the Monitor supports the Company's request for the Court to approve the engagement of Halo and MA.



34. The Refinancing Advisor, in consultation with the Monitor and the Company, has prepared marketing materials, including a teaser and a CIM, and developed a targeted list of prospective lenders for which to present the refinancing opportunity.
35. As of the date of this Second Report, the Company and MA have contacted several parties identified as prospective lenders to provide financing to the Company. Those parties include banks, mortgage lenders, private equity firms and alternative lenders. The Monitor understands that, based on discussions with the Refinancing Advisor, the Refinancing Process has resulted in a number of interested parties (the “**Interested Parties**”) executing non-disclosure agreements (“**NDA**s”). On receipt of the NDAs from the Interested Parties, the Interested Parties were provided the opportunity to access a confidential data room furnished with information pertaining to the Company, including the a CIM, its financial forecasts and other relevant information about the Company. The Monitor further understands based on discussions with the Refinancing Advisor, that the Interested Parties’ diligence is in progress.
36. Pursuant to the Meridian DIP Facility Agreement, the DIP Lender and the Company agreed that, notwithstanding the proposed Sale Process (as discussed in detail below), the Company is permitted to continue the Refinancing Process up to the date that a definitive agreement of purchase and sale is executed with any other party pursuant to the Sale Process. Accordingly, the Refinancing Process will run in parallel with the Sale Process, if approved by the Court. If, in the Monitor’s view, the Refinancing Process identifies a transaction that is able to be completed in advance of the date that a definitive agreement of purchase and sale is signed (contemplated to be on October 30, 2020), the Monitor is able to pursue such a transaction and terminate the Sale Process. As noted in the July 7 Saulnier Affidavit, the Company will seek Court approval of the refinancing transaction on or before the Outside Date.
37. In consideration of the foregoing, the Monitor understands that the Company, with the assistance of MA, will, during the Sale Process, continue to: (i) coordinate diligence with the Interested Parties, (ii) engage prospective lenders that have expressed interest in the refinancing opportunity but have not yet signed NDAs and (iii) canvass the market for other prospective lenders, in an effort to successfully refinance the Company’s secured debt.

### **The Sale Process**

38. In early May 2020, the Company, with the assistance of the Monitor, contacted several reputable, well-known commercial property brokers in the Greater Toronto Area that specialize in the sale of similar commercial properties, to request proposals to market and sell the Nuvo Property.



39. The Company received three proposals to market and sell the Nuvo Property (the “**Proposals**” and each, a “**Proposal**”). Each proposal consisted of a written and oral presentation, the broker's estimate of the anticipated time to market the Nuvo Property and the broker's proposed fee structure.
40. The Monitor prepared a summary of the Proposals (the “**Proposal Summary**”) and provided the Proposal Summary to the Company, its legal counsel and to the Company's secured creditors on a confidential basis. The Proposal Summary is provided to the Court as **Confidential Appendix “1”**. The rationale for seeking a sealing order for the Proposal Summary is provided below.

### **The Listing Agreement**

41. Following a review of the Proposals, the Company, in consultation with the Monitor determined that CBRE's Proposal was the best in the circumstances. Considerations included, among other things, (i) CBRE's experience selling the Nuvo Property (CBRE was the listing agent when the Nuvo Property was sold to the Company in 2018), similar properties, and commercial real estate properties subject to insolvency proceedings, (ii) the Company's firsthand experience working with the CBRE representative who will lead this mandate and (iii) CBRE's commission structure, which is consistent with market and superior (i.e. has a lower overall commission structure) to the other Proposals submitted. Meridian was also consulted in respect of the retention of CBRE, including the terms of its retention. In consideration of the foregoing, the Monitor, on behalf of the Company, contacted CBRE to advise that the Company would like to proceed with CBRE's proposal to market and sell the Nuvo Property and commenced discussions with CBRE to negotiate the terms of a listing agreement. As of the date of this Second Report, the Company, with the Monitor's consent, and CBRE have agreed to the terms of a listing agreement (the “**Listing Agreement**”), pursuant to which, subject to Court approval, CBRE will act as listing agent to market and sell the Nuvo Property. A redacted execution copy of the Listing Agreement is attached hereto as **Appendix “C”**. An unredacted execution copy of the Listing Agreement is attached hereto as **Confidential Appendix “2”**. The rationale for seeking a sealing order for the Listing Agreement is provided below.
42. The key terms of the Listing Agreement include:
  - (i) a listing term that expires when the SISP concludes, with a 90-day holdover period;
  - (ii) a commission rate (subject to HST) of (a) 1.85% of the sale price for the Nuvo Property up to a certain dollar threshold, which threshold is subject to the Sealing Order (as hereinafter defined), if approved by the Court, plus (b) 1.65% of the portion of the sale price for the Nuvo Property that is greater than that threshold;



- (iii) additional commission of 1% of the sale price for the Nuvo Property in the event that there is a cooperating broker acting for a buyer, to be used towards the cooperating broker's fees;
  - (iv) a "break" fee, the quantum of which is subject to the Sealing Order, if approved by the Court, in the event that CBRE solicits qualified offers but the Company chooses not to sell the property but instead refinances or transfers to a related entity; and
  - (v) any sale is subject to the terms of the SISP and requires Court approval.
43. The Monitor supports the engagement of CBRE as listing agent to market and sell the Nuvo Property and the execution and implementation of the Listing Agreement, for the following reasons:
- (i) CBRE's team will be led by individuals who have experience selling the Nuvo Property, similar properties and commercial real estate properties subject to insolvency proceedings;
  - (ii) CBRE has relationships with many of the likely bidders for the Nuvo Property; and
  - (iii) its fee structure is consistent with the market and superior to the other proposals submitted.
44. Based on the foregoing, the Monitor recommends that the Court approve the Listing Agreement.

### **Sealing Order**

45. As the Proposal Summary and the Listing Agreement each include certain sensitive commercial and competitive information, the Monitor is of the view that it is appropriate for the Proposal Summary and the Listing Agreement to be filed with the Court on a confidential basis and sealed, by order of this Court (the "**Sealing Order**"), until further order of this Court. If the Proposal Summary and the Listing Agreement are not sealed, prospective lenders and bidders for the Nuvo Property will have access to information which could prejudice the SISP, including estimates of the Nuvo Property's valuations.
46. The Monitor is not aware of any party that would be prejudiced by the proposed Sealing Order, and therefore, the Monitor believes the proposed Sealing Order is appropriate in the circumstances.

### **Sale Process Summary**

47. Since mid-June, 2020, CBRE has worked with the Company and the Monitor to develop and prepare for the SISP, including setting a schedule / timeline, drafting marketing materials, formulating a list of prospective buyers and populating a data room.



48. The timelines and key attributes of the proposed Sale Process are as follows:

Stage	Description	Proposed Timing
Pre-Marketing, Notices and Solicitation of Interest	a) Assemble due diligence information; b) Setup online data room; c) Identification of potential bidders; d) Preparation of CIM and NDA; and e) Publication of notice of SISP in The Globe and Mail (National Edition) and posting on the Monitor's Website.	As soon as practicable after issuance of the SISP Order
Marketing	a) Commence marketing campaign; b) Listing on MLS; c) Provision of CIM and access to data room; and d) Provision of other due diligence, including access for site-visits.	Launch: August 4, 2020
Bids, Negotiations and Transaction Close	a) Solicitation of interest from Participating Bidders by the Phase 1 Bid Deadline; b) If applicable, commence Phase 2 of Sale Process to solicit final binding proposals by the Phase 2 Bid Deadline; c) Selection of the Successful Bidder; and d) Monitor to seek court approval of the Successful Bid and close of the transaction.	Phase 1 Bid Deadline: September 30, 2020  Phase 2 Bid Deadline: October 23, 2020  Outside Date: November 30, 2020

49. The Sale Process will proceed in two phases and be carried out by the Monitor, with assistance of CBRE. During Phase 1 of the Sale Process, which will commence as soon as possible after the SISP Order is granted, the Monitor and the Broker, in consultation with Company, will prepare a list of potential bidders capable of submitting a proposal for the purchase of the Nuvo Property (the "**Known Potential Bidders**"), which list may be periodically expanded as additional potential bidders and parties who wish to participate in the Sale Process are identified (the "**Potential Bidders**"). The Monitor and the Broker will circulate a teaser letter to Known Potential Bidders. All Potential Bidders that have executed an NDA (a "**Participating Bidder**"), pursuant to the Sale Process, will be provided with a copy of a CIM and access to an electronic data room containing financial and other due diligence information.
50. During Phase 1 of the Sale Process, CBRE will solicit non-binding indications of interest from Potential Bidders. Participating Bidders will have until the Phase 1 Bid Deadline of 5:00 PM (Eastern Time) on September 30, 2020 to submit non-binding letters of intent (each a "**LOI**"), in accordance with the terms of the SISP (the "**Phase 1 Bid Deadline**").
51. The Phase 1 Bid Deadline was determined in consultation with CBRE. CBRE has advised the Monitor and the Company that they are of the view that the Phase 1 Bid Deadline is appropriate and provides potential bidders with sufficient time to become aware of the Sale Process opportunity, complete sufficient due diligence and submit



a non-binding LOI. Should the Court grant the SISP Order, the Monitor understands that CBRE will commence a 'soft marketing' of the Nuvo Property immediately thereafter, making prospective buyers aware that the opportunity is coming to market.

52. An LOI will be considered a qualified LOI ("**Qualified LOI**") only if it meets the following criteria:
- (i) it is delivered to the Monitor and CBRE on or before the Phase 1 Bid Deadline;
  - (ii) it contains a description of the proposed purchaser or purchasers, each of which must be a Participating Bidder;
  - (iii) it includes the purchase price in Canadian dollars, including details of any liabilities to be assumed by the Participating Bidder, and details of the deposit to be provided;
  - (iv) it indicates the sources of capital/financing for the transaction and preliminary evidence of the sources of financing of the purchase price, the availability of such financing, steps necessary and associated timing to obtain such financing;
  - (v) it includes a description of the additional due diligence required to be conducted during Phase 2 of the Sale Process;
  - (vi) it describes all conditions to closing;
  - (vii) it indicates the anticipated timing of closing and any other material terms and conditions to closing; and
  - (viii) it describes any other terms or conditions of the sale proposal which the Participating Bidder believes are material to the transaction.
53. If one or more Qualified LOIs are received and the Monitor, in consultation with the Broker and the Company, determines there is a reasonable prospect of obtaining a Final Bid, the Sale Process shall continue into the second phase.
54. During Phase 2, each Participating Bidder with a Qualified LOI, or such other Participating Bidder as the Monitor has permitted to remain in the Sale Process, will continue to complete any remaining due diligence and will work to satisfy any remaining conditions in its Qualified LOI.
55. Participating Bidders who have entered Phase 2 of the Sale Process will be provided with a form of asset purchase agreement to be used in submitting their Final Bids.



56. Final Bids must be submitted in accordance with the terms of the SISP and be received no later than 5:00 PM (Eastern Time) on October 23, 2020 (the “**Phase 2 Bid Deadline**”).
57. The Phase 2 Bid Deadline was selected in consultation with CBRE. CBRE has advised the Monitor that they are of the view that the Phase 2 Bid Deadline is appropriate and provides potential bidders with sufficient time to conduct any additional due diligence required and to solidify their bid into a binding Final Bid. The Monitor is of the view that the timelines with respect to the bid deadlines provided for in the SISP are reasonable and appropriate in the circumstances.
58. A Final Bid must be received by the Phase 2 Bid Deadline and must comply with the following requirements, among others:
- (i) *Irrevocability* – must be irrevocable until the earlier of (i) Court Approval and (ii) the Outside Date, provided that if the Participating Bidder is selected as the Successful Bidder (as defined below), its offer will remain irrevocable until the closing of the transaction with such Successful Bidder;
  - (ii) *Identification of the Bidder* – must disclose the identity of the bidder and full disclosure of any controlling interests, beneficial owners and financial stakeholders of that bidder;
  - (iii) *Contingencies* – may not be conditional upon any condition other than Court approval, including but not limited to, obtaining financing or on the outcome of unperformed due diligence;
  - (iv) *Ability to Perform* – provides evidence, in form and substance satisfactory to the Monitor, that the Participating Bidder has sufficient funds to consummate the transaction and perform all of its obligations in connection therewith; and
  - (v) *Deposit* – must be accompanied by an initial deposit equal to five percent of the proposed purchase price and a declaration that an additional deposit (the “**Final Deposit**”) in the amount of five percent will be paid by the Participating Bidder on the date that its Final Bid is selected as the Selected Final Bid (as hereinafter defined).
59. The Monitor, in consultation with the Broker and the Company, will review the Final Bids submitted and, after evaluating the bids based on several factors, determine the bid that it considers most favourable and in their reasonable business judgment it is likely that the Participating Bidder will be able to consummate a sale transaction on or before the Outside Date in a manner that complies with all requirements of the Sale Process (the “**Selected Final Bid**”).



60. Once a Selected Final Bid has been identified, the Monitor, in consultation with the Broker and Company, shall negotiate and settle the terms of a definitive agreement in respect of the Selected Final Bid, all of which will be conditional upon Court approval.
61. The SISP also expressly provides for flexibility to enable the Monitor to respond and adapt, including to proposals, market changes or other events. However, there will be no material amendments to the SISP without the consent of the Monitor, the DIP Lender, the Broker and the Company, and no immaterial amendments, as determined by the Monitor in its discretion, without approval of the Monitor, or, in either case, in the absence of consent, the approval of the Court. In addition, the SISP provides that notwithstanding anything else in the SISP, if the Monitor, in consultation with CBRE and the Company, determines it is appropriate to do so, the Monitor may apply to Court for advice and direction with respect to the discharge of its powers and duties, seek approval of any transaction or proposal, seek to modify or supplement the SISP and/or seek to terminate the SISP.

#### **Sale and Investment Solicitation Process Recommendation**

62. The Monitor respectfully recommends that this honourable Court approve the SISP and grant the SISP Order, for the following reasons:
- (i) in the Monitor's view, the SISP, including its terms, procedures and proposed timeline, is commercially reasonable;
  - (ii) the Company has engaged the services of a real estate broker (CBRE) led by individuals who have experience selling the Nuvo Property, similar properties and other real property subject to insolvency proceedings;
  - (iii) the proposed SISP is a fair, open and transparent process intended to canvass the market broadly on an orderly basis;
  - (iv) the duration of the SISP, while expedited to meet the expectations of the secured lenders and keep costs within projected cashflow budgets, is sufficient to allow interested parties to perform diligence and submit offers, while balancing the terms of the Meridian DIP Facility Agreement;
  - (v) there will be no delay in commencing the SISP from the time it is approved by the Court. In addition to already being familiar with the Nuvo Property, CBRE has commenced underwriting the Nuvo Property and pre-marketing tasks. This should allow for the process to be conducted on a timely basis, which will assist to reduce costs;



- (vi) the SISP is structured such that the Company may still pursue a refinancing transaction, thereby allowing concurrent processes in order to reduce costs while improving the prospect of maximizing value and closing a transaction for the benefit of the Company's stakeholders; and
- (vii) Meridian, being the Company's first secured senior lender and the DIP Lender in these CCAA Proceedings, supports the SISP.

## IX. EXTENSION OF THE CCAA STAY

63. The current CCAA Stay currently expires on October 24, 2020. The Company is seeking an extension of the CCAA Stay to November 30, 2020 (the "**CCAA Stay Extension**") to accommodate the timelines contemplated in the proposed SISP and given that the commencement of the SISP had to be delayed from the timeline originally contemplated due to the COVID-19 related emergency orders and the resulting limitations on being able to conduct commercial real estate marketing activities.
64. As the March 2020 Cash Flow Forecast only runs until October 24, 2020, Nuvo, with the assistance of the Monitor, has prepared the Revised Cash Flow Forecast, setting out the Company's anticipated receipts and disbursements during the Forecast period through to the date of the CCAA Stay Extension. A copy of the Revised Cash Flow Forecast is attached hereto as **Appendix "D"** and is summarized below:

<b>2607380 Ontario Inc.</b>	
<b>Revised Cash Flow Forecast</b>	
<b>For the Period July 5, 2020 - November 30, 2020</b>	
<b>(in 000s CAD; unaudited)</b>	
<b><u>Receipts</u></b>	
Collection of Office, Studio & Event Income	1,214
HST Receivable & Other Receipts	629
<b>Total Receipts</b>	<b>1,843</b>
<b><u>Disbursements</u></b>	
Operating Expenses	671
Personnel Expenses	403
Professional Fees	848
Construction Costs	2,551
DIP Lender Costs	72
<b>Total Disbursements</b>	<b>4,545</b>
<b>Net Cash Flow</b>	<b>(2,702)</b>
Opening Cash Balance	327
Net Cash Flow	(2,702)
<b>DIP Drawdown</b>	<b>2,450</b>
<b>Ending Cash Balance</b>	<b>75</b>

65. The Monitor's Report on the Revised Cash Flow Forecast is attached hereto as **Appendix "E"**.



66. The Monitor is of the view that the CCAA Stay Extension is appropriate in the circumstances and supports the Company's request for the CCAA Stay Extension, for the following reasons:

- (i) the Company has acted and continues to act in good faith and with due diligence;
- (ii) the Monitor understands, based on discussions with CBRE, that granting the CCAA Stay Extension will afford the Company the time needed to complete the Sale Process, thereby providing the Company the best opportunity to maximize recoveries for its stakeholders; and
- (iii) Meridian supports the CCAA Stay Extension.

#### **X. MONITOR'S RECOMMENDATIONS**

67. For the reasons set out in this Second Report, the Monitor is of the view that the relief requested by the Company is both appropriate and reasonable. As such, the Monitor respectfully recommends that this Honourable Court grant the SISP Order, the Sealing Order and the Stay Extension Order.

All of which is respectfully submitted this 8<sup>th</sup> day of July 2020.

**RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS MONITOR OF  
2607380 ONTARIO INC.  
AND NOT IN ITS PERSONAL CAPACITY**

Per:



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**Paul van Eyk,**  
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL



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**Adam Zeldin**  
CPA, CA, CIRP, LIT



## **Appendix “E”**



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## TENDERS

## PROPERTY FOR SALE / INVESTORS SOUGHT

**Richer Advisory Group Inc. ("Richer")**, in its capacity as court appointed Monitor in the Companies' Creditors Arrangement Act ("CCAA") proceedings of 2607380 Ontario Inc. (the "Company"), in consultation with the Company's real estate and mortgage brokers, is assisting the Company with a sale and refinancing solicitation process ("SISP"), whereby the Company will carry out a parallel process to solicit interest in (i) the acquisition of its property located at 1296 North Service Road, Burlington, Ontario (the "Sole Process") and (ii) providing refinancing to the Company (the "Refinancing Process"). CBRE Limited has been engaged to act as exclusive listing agent for the Sole Process and Mortgage Alliance has been engaged to act as exclusive mortgage broker for the Refinancing Process.

The Company is a commercial real estate development and leasing company. Its primary asset is a newly renovated multi-use, multi-tenant commercial building of approximately 140,000 square feet located at 1296 North Service Road, Burlington, Ontario.

For further information regarding the SISP and the CCAA proceedings, please refer to the Monitor's website at [www.richter.ca/insolvency-case/2607380-ontario-inc/](http://www.richter.ca/insolvency-case/2607380-ontario-inc/) in order to obtain detailed information on the Company and its business and assets, interested parties will be required to sign a confidentiality agreement.

For additional information regarding 2607380 Ontario Inc. and the SISP, please contact Adam Zeldin (416-646-7390 or [azeldin@richter.ca](mailto:azeldin@richter.ca)) of the Monitor's office. The deadline for submission of non-binding letters of intent is 6:00 p.m. (ET) on September 30, 2020.

## RICHTER

Richer Advisory Group Inc.  
 Monitor of 2607380 Ontario Inc.  
 181 Bay Street, Suite 3510  
 Bay Wellington Tower  
 Toronto, Ontario M5J 2T3  
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**Jeff Leves**  
[jeffleves@bluewin.com](mailto:jeffleves@bluewin.com)  
**416 852 1800**

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## DIVIDENDS

Franco Nevada  
Third Quarter Dividend

NOTICE IS HEREBY GIVEN that, effective as of August 5, 2020, the Board of Directors of Franco-Nevada Corporation has declared a quarterly dividend of US\$0.26 per Common Share payable on September 24, 2020 to shareholders of record at the close of business on September 10, 2020 (the "Record Date"). The Canadian dollar equivalent is to be determined based on the daily average rate posted by the Bank of Canada on the Record Date.

By Order of the Board  
 Lloyd Heng  
 Chief Legal Officer & Corporate Secretary  
 August 20, 2020  
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## HOUSING NOW

**705**

**WARDEN AVENUE**

**TORONTO, ON**

**HOUSING NOW MID-RISE RESIDENTIAL LANDS OFFERING**

• ± 30,000 Sq. Ft. of Primary Residential Density Potential including Primary Retail and Commercial

• Transit-Corridor Development Site in North York (North York)

• Air-Tight Leasing Model for Asset Protection Provides Significant Low-Cost Reduction

• Opportunity to Benefit from Long-Term Growth and Capital Appreciation

• Potential Financial Incentives including Commercial Financing, Tax Breaks, and More

• Profit Support

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## CREATE TO

**705**

**WARDEN AVENUE**

**TORONTO, ON**

**HOUSING NOW MID-RISE RESIDENTIAL LANDS OFFERING**

• ± 30,000 Sq. Ft. of Primary Residential Density Potential including Primary Retail and Commercial

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## FOR SALE

**705**

**WARDEN AVENUE**

**TORONTO, ON**

**HOUSING NOW MID-RISE RESIDENTIAL LANDS OFFERING**

• ± 30,000 Sq. Ft. of Primary Residential Density Potential including Primary Retail and Commercial

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• Opportunity to Benefit from Long-Term Growth and Capital Appreciation

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# Appendix “F”



Court File No.: CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

**MANAGEMENT'S REPORT ON CASH FLOW STATEMENT  
(paragraph 10(2)(b) of the CCAA)**

The management of 2607380 Ontario Inc. (the "**Company**") has developed the assumptions and prepared the attached statement of projected cash flow as of the 19<sup>th</sup> day of November 2020, consisting of the period from November 15, 2020 to January 29, 2021 (the "**Extended Cash Flow Forecast**").

The hypothetical assumptions are reasonable and consistent with the purpose of the Extended Cash Flow Forecast described in the notes therein, and the probable assumptions are suitably supported and consistent with the plans of the Company and provide a reasonable basis for the Extended Cash Flow Forecast. All such assumptions are disclosed in the notes therein.

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

The Extended Cash Flow Forecast has been prepared solely for the purpose described in the notes therein, using the probable and hypothetical assumptions set out therein. Consequently, readers are cautioned that the Extended Cash Flow Forecast may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 19<sup>th</sup> day of November 2020.

**2607380 Ontario Inc.**

  
**Shawn Saulnier**  
**President**



		Notes	Week Number Ending	1 21-Nov-20	2 28-Nov-20	3 5-Dec-20	4 12-Dec-20	5 19-Dec-20	6 26-Dec-20	7 2-Jan-21	8 9-Jan-21	9 16-Jan-21	10 23-Jan-21	11 29-Jan-21
			Totals											
	<b>Receipts</b>													
2	Collection of Office, Studio & Event Income		422,721	-	-	205,428	-	-	-	207,801	2,373	2,373	2,373	2,373
3	HST Receivable & Other Receipts		432,000	-	-	-	-	-	-	-	-	-	-	432,000
	<b>Total Receipts</b>		854,721	-	-	205,428	-	-	-	207,801	2,373	2,373	2,373	434,373
	<b>Disbursements</b>													
4	Operating Expenses		284,568	19,846	24,887	54,866	19,846	19,846	24,887	54,712	16,145	16,145	16,145	17,439
5	Personnel Expenses		210,485	30,069	-	40,092	-	40,092	-	20,046	-	40,092	-	40,092
6	Professional Fees		305,100	-	101,700	-	-	-	101,700	-	-	-	-	101,700
7	Cost to Complete		974,415	-	316,940	-	-	-	-	63,717	-	-	-	593,758
8	DIP Lender Costs		6,000	-	2,000	-	-	-	2,000	-	-	-	-	2,000
	<b>Total Disbursements</b>		1,780,567	49,916	445,527	94,759	19,846	59,939	192,304	74,759	16,145	56,238	16,145	754,990
	<b>Net Cash Flow</b>		(925,846)	(49,916)	(445,527)	110,669	(19,846)	(59,939)	(192,304)	133,042	(13,772)	(53,865)	(13,772)	(320,617)
9	Opening Cash Balance		213,094	213,094	163,178	167,651	278,321	258,474	198,535	6,231	139,274	125,501	71,637	57,864
	<b>Net Cash Flow</b>		(925,846)	(49,916)	(445,527)	110,669	(19,846)	(59,939)	(192,304)	133,042	(13,772)	(53,865)	(13,772)	(320,617)
10	DIP Drawdown		800,000	-	450,000	-	-	-	-	-	-	-	-	350,000
	<b>Ending Cash Balance</b>		87,248	163,178	167,651	278,321	258,474	198,535	6,231	139,274	125,501	71,637	57,864	87,248



**2607380 Ontario Inc.**  
**Extended Cash Flow Forecast**  
**Notes and Summary of Assumptions**

---

**In the Matter of the CCAA Proceedings of 2607380 Ontario Inc. (“260” or the “Company”).**

**Disclaimer**

In preparing this extended cash flow forecast (the “**Extended Cash Flow Forecast**”), 260 has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. Since the Extended Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Extended Cash Flow Forecast period will vary from the Extended Cash Flow Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Extended Cash Flow Forecast is presented in Canadian dollars. All defined terms that are not otherwise defined herein are to have the same meaning ascribed to them in the Monitor’s Third Report to the Court dated November 19, 2020.

**Note 1 Purpose of the Extended Cash Flow Forecast**

The purpose of the Extended Cash Flow Forecast is to present the estimated cash receipts and disbursements of 260 for the period from November 15, 2020 to January 29, 2021 (the “**Forecast Period**”), in respect of its proceedings under the CCAA. The Extended Cash Flow Forecast has been prepared by the management of 260 (“**Management**”) based on available financial information at the date of 260’s motion for, among other things, extending the CCAA Stay to January 29, 2021. Readers are cautioned that this information may not be appropriate or relied upon for any other purpose.

**Note 2 Rental Receipts**

Rental receipts comprise income earned from the Company’s various office, studio and events space leases/rentals. The Extended Cash Flow Forecast assumes that all rental receipts for November 2020 have already been collected. The Extended Cash Flow Forecast also assumes the following in respect of the collections of rental receipts from and after December 1, 2020:

- (i) office rental income and studio rental income is collected in the first week of each month and event income is collected weekly (where applicable);
- (ii) no event income will be collected until January 2021;
- (iii) no current tenants of the Nuvo Property will either pause or cancel existing leases during the Forecast Period; and
- (iv) no rent abatement schemes will be utilized by either current or future tenants of the Nuvo Property during the Forecast Period.

Rental receipts for each of office, studio and events are forecasted based on current leases/agreements in place as well as forecasted future leases/agreements based on Management’s best estimate and are subject to change due to future unanticipated circumstances as a result of the COVID-19 pandemic.



**Note 3 HST Receivable & Other Receipts**

The Company is projecting to be in an HST receivable position as it funds the costs to complete the Nuvo Renovations. The Company files HST returns on a monthly basis.

The balance includes HST refunds of approximately \$336,000 in respect of Company's GST/HST returns up to August 31, 2020 (the "**Refunds**"), which are forecasted to be received in January 2021. On October 6, 2020, Canada Revenue Agency ("**CRA**") issued a notice of assessment in respect of the Refunds, setting out, among other things, that the Refunds are currently being withheld pending a review by CRA. In consideration of the foregoing, the quantum and timing of receipt of the Refunds remains subject to change.

The Extended Cash Flow Forecast does not anticipate the Company receiving funds in connection with the Canada Emergency Wage Subsidy during the Forecast Period.

**Note 4 Operating Expenses**

Operating expenses include general business expenses, including marketing, utilities, insurance, property taxes, cleaning, security, repairs and maintenance, and bank fees, among others.

**Note 5 Personnel Expenses**

Personnel expenses include salaries and wages, accrued vacation, payroll taxes and remittances paid to 260's employees as well as compensation paid to the Company's eight (8) independent contractors. Personnel expenses are paid bi-weekly.

**Note 6 Professional Fees**

Includes payments to the Company's legal counsel, the Monitor and the Monitor's legal counsel.

**Note 7 Cost to Complete**

Represents the remaining costs associated with the completion of the Nuvo Renovations, other than as noted below. The quantum and timing of payment has been agreed to by the Company and Maple.

The Extended Cash Flow Forecast does not contemplate payment of interest owing to Maple in the amount of \$190,050 as this amount is anticipated to be paid outside of the Forecast Period as per an agreement between the Company and Maple.

**Note 8 DIP Lender Costs**

Represents fees paid to the DIP Lender during the Forecast Period pursuant to the Meridian DIP Facility Agreement. In accordance with the Meridian DIP Facility Agreement, the DIP Lender shall reserve costs (up to \$400,000) in connection with interest and professional fees incurred in respect of the Meridian DIP Facility (the "**Reserve**").

The Extended Cash Flow Forecast does not contemplate the payment of interest in connection with the Company's obligations owing to its secured lenders, other than interest paid from the Reserve. Additionally, the Extended Cash Flow Forecast assumes no principal payments during the Forecast Period.



**Note 9      Opening Cash Balance**

The opening cash balance, as at November 15, 2020, represents the aggregate of the balance of the Company's Toronto Dominion bank account, together with the quantum of the balance remaining in the general trust account of the Monitor in respect of funds drawn on the Meridian DIP Facility, less the sum of the outstanding cheques issued by the Company.

**Note 10     DIP Drawdown**

Represents amounts drawn on the Meridian DIP Facility, excluding the Reserve, during the Forecast Period. In accordance with the Meridian DIP Facility Agreement, each advance under the Meridian DIP Facility, must be in a minimum amount of \$250,000 and in multiples of \$100,000 in excess thereof.



# Appendix “G”



Court File No.: CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
2607380 ONTARIO INC.**

**MONITOR'S REPORT ON CASH FLOW STATEMENT  
(paragraph 23(1)(b) of the CCAA)**

The attached statement of projected cash flow of 2607380 Ontario Inc. ("**260**" or the "**Company**") prepared as of the 19<sup>th</sup> day of November 2020, consisting of the period from November 15, 2020 to January 29, 2021 (the "**Extended Cash Flow Forecast**"), has been prepared by management of the Company for the purpose described in Note 1, using the probable and hypothetical assumptions set out in the notes to the Extended Cash Flow Forecast.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied by management and employees of the Company. 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 Extended Cash Flow Forecast. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Extended Cash Flow Forecast.

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 Extended Cash Flow Forecast;
- (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 Company or do not provide a reasonable basis for the Extended Cash Flow Forecast, given the hypothetical assumptions; or
- (c) the Extended Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Since the Extended Cash Flow Forecast 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 Extended Cash Flow Forecast will be achieved.

The Extended Cash Flow Forecast has been prepared solely for the purpose described in the notes thereto and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 19<sup>th</sup> day of November 2020.

**RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS CCAA MONITOR OF  
2607380 ONTARIO INC.  
AND NOT IN ITS PERSONAL CAPACITY**

Per:



---

**Paul van Eyk  
CPA, CA, CIRP, LIT, IFA, Fellow of INSOL**



# Appendix “H”



### **THIRD AMENDING AGREEMENT**

Third amending agreement dated November 18, 2020 among 2607380 Ontario Inc., Nuvo Network Inc. and Meridian Credit Union Limited, as DIP Lender (this “**Third Amending Agreement**”).

#### **RECITALS:**

- (a) Meridian Credit Union Limited (together with its successors and permitted assigns, the “**DIP Lender**”) agreed to make certain credit facilities available to the Borrower upon the terms and conditions contained in a credit facility agreement between the Borrower, the Guarantor and the DIP Lender made as of March 3, 2020, as amended by (i) a first amending agreement dated April 28, 2020 and (ii) a second amending agreement dated July 10, 2020 (as amended, supplemented, restated or otherwise modified from time to time, the “**Credit Agreement**”);
- (b) The Borrower and the Guarantor have requested certain amendments to the Credit Agreement and the DIP Lender has agreed to permit such amendments on the terms and conditions set forth in this Third Amending Agreement.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

#### **Section 1 Defined Terms.**

Capitalized terms used in this Third Amending Agreement and not otherwise defined have the meanings specified in the Credit Agreement, as amended hereby.

#### **Section 2 Headings.**

Section headings in this Third Amending Agreement are included for convenience of reference only and shall not constitute a part of this Third Amending Agreement for any other purpose.

#### **Section 3 Amendments to the Credit Agreement.**

- (1) Section 4(a) of the Credit Agreement is amended by deleting the words “November 6, 2020” and replacing them with “January 29, 2021”.
- (2) Section 17(r) of the Credit Agreement is amended by deleting the words “September 30, 2020” and replacing them with “December 31, 2020”.
- (3) Section 17(v)(iii) of the Credit Agreement is hereby deleted in its entirety and the following is substituted:

“On or before January 15, 2021, the Borrower shall provide to the DIP Lender either:

- (i) a firm agreement of purchase and sale with a closing date on or before January 29, 2021; or
- (ii) a firm commitment to refinance all indebtedness, liabilities and obligations of the Borrower to Meridian Credit Union Limited including, but not limited to, the DIP Obligations, with a closing date on or before January 29, 2021; and”.



- (4) Section 17(v)(iv) of the Credit Agreement is hereby deleted in its entirety and the following is substituted:

“On or before January 29, 2021, closing of the agreement of purchase and sale or the refinancing transaction.”

**Section 4      Reference to and Effect on the Credit Agreement.**

Upon this Third Amending Agreement becoming effective, each reference in the Credit Agreement to “this Agreement” and each reference to the Credit Agreement in the other Loan Documents and any and all other agreements, documents and instruments delivered by the DIP Lender, the Borrower, the Guarantor or any other Person shall mean and be a reference to the Credit Agreement as amended by this Third Amending Agreement. Except as specifically amended by this Third Amending Agreement, the Credit Agreement shall remain in full force and effect.

**Section 5      Governing Law.**

This Third Amending Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 6      Counterparts.**

This Third Amending Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, e-mail or other electronic means is as effective as a manually executed counterpart of this Agreement.


*[Remainder of Page Intentionally Left Blank. Signature Page Follows.]*



**IN WITNESS WHEREOF** the parties have executed this Third Amending Agreement.

DIP Lender:

**MERIDIAN CREDIT UNION LIMITED**

By:   
Authorized Signing Officer

**Bernie Huber**  
Senior Commercial Credit Specialist

Borrower:

**2607380 ONTARIO INC.**

By: \_\_\_\_\_  
Authorized Signing Officer

Guarantor:

**NUVO NETWORK INC.**

By: \_\_\_\_\_  
Authorized Signing Officer

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**IN WITNESS WHEREOF** the parties have executed this Third Amending Agreement.

DIP Lender:

**MERIDIAN CREDIT UNION LIMITED**

By: \_\_\_\_\_  
Authorized Signing Officer


Borrower:

**2607390 ONTARIO INC.**

By: \_\_\_\_\_  
Authorized Signing Officer


Guarantor:

**NUVO NETWORK INC.**

By: \_\_\_\_\_  
Authorized Signing Officer



THIS IS **EXHIBIT “K”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

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*A Commissioner etc.*



Court File No. CV-20-00636875-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) MONDAY, THE 23<sup>RD</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF NOVEMBER, 2020  
 )



IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF 2607380 ONTARIO INC. (the "**Applicant**")

ORDER  
(Re: SISP Termination and Stay Extension)

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "*CCAA*"), proceeded on this day by way of videoconference due to the COVID-19 crisis.

ON READING the affidavit of Shawn Saulnier sworn November 18, 2020, and the Exhibits thereto, the Third Report of Richter Advisory Group Inc., in its capacity as the Court-appointed Monitor of the Applicant (the "**Monitor**") dated November 19, 2020 (the "**Third Report**"), filed, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, and counsel for Crossroads Christian Communications Incorporated, counsel for Bridging Finance Inc., no one appearing for any other party although duly served as appears from the affidavit of service of Nicholas Avis sworn November 20, 2020, filed;



**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

**EXTENSION OF STAY PERIOD**

2. **THIS COURT ORDERS** that the Stay Period referred to in the Initial Order of this Court dated February 25, 2020 (as amended and restated on March 6, 2020, the “**Initial Order**”) is hereby extended up to and including January 29, 2021, with respect to the Applicant, Nuvo Network Inc., and Shawn and Bridget Saulnier.

**TERMINATION OF THE SALE AND INVESTMENT SOLICITATION PROCESS**

3. **THIS COURT ORDERS** that the Sale and Investment Solicitation Process (the “**SISP**”) approved by this Court pursuant to the Order (Approving SISP and Extending Stay of Proceedings) dated July 10, 2020 (the “**SISP Order**”) is hereby terminated and the Monitor, the Applicant, the Brokers (as defined in the SISP Order) and their respective advisors are not required to take any further steps or actions in connection with the SISP.

4. **THIS COURT ORDERS** that, notwithstanding the termination of the SISP, the Monitor, the Applicant, the Brokers and their respective advisors are authorized to have discussions in respect of and advance any existing or new sale or refinancing proposals with respect to the Nuvo Property (as defined in the SISP Order) as they may deem appropriate and to take such steps and execute such documentation as may be necessary or incidental to such sale or financing efforts; provided, however, that any binding sale or financing transaction is to be subject to the approval of this Court.

5. **THIS COURT ORDERS** that the Monitor, the Applicant, the Brokers and their respective assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under paragraph 4, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or willful misconduct of the Monitor, the Applicant, or the Brokers, as applicable, as determined by this Court.



**PIPEDA**

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicant and the Monitor may disclose personal information of identifiable individuals to prospective purchasers or lenders (and their respective advisors) who participate in any sale or financing efforts described in paragraph 4, but only to the extent desirable or required to carry out the sale or financing activities described in paragraph 4. Each prospective purchaser or lender (and their respective advisors) to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction involving some or all of the Applicant's business and/or assets, and if it does not complete such a transaction, shall return all such information to the Applicant or Monitor, or in the alternative destroy all such information. The purchaser of some or all of the Applicant's business and/or assets shall be entitled to continue to use the personal information provided to it, and related to such property, in a manner that is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Applicant, or ensure that all other personal information is destroyed.

**MONITOR'S REPORTS AND ACTIVITIES**

7. **THIS COURT ORDERS** that the Pre-Filing Report of the Monitor dated February 24, 2020, the First Report of the Monitor dated March 5, 2020, the Second Report of the Monitor dated July 8, 2020 and the Third Report and the activities of the Monitor described in each of those reports be and hereby are approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or use in any way such approval.

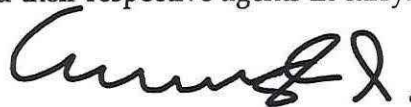
**GENERAL**

8. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties under this Order or under the SISF.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in



carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.



Mr. Justice Peter  
Cavanagh

Digitally signed by Mr.  
Justice Peter Cavanagh  
Date: 2020.11.23  
13:07:08 -05'00'

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

NOV 24 2020

PER / PAR:





IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 2607380 ONTARIO INC.

Court File No.: CV-20-00636875-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER**

**(Re: SISP Termination and Stay Extension)**

**Stikeman Elliott LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

**Elizabeth Pillon LSO#: 35638M**  
Tel: (416) 869-5623  
Email: [epillon@stikeman.com](mailto:epillon@stikeman.com)

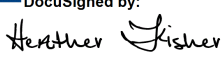
**Sanja Sopic LSO#: 66487P**  
Tel: (416) 869-6825  
Email: [ssopic@stikeman.com](mailto:ssopic@stikeman.com)

**Nicholas Avis LSO#: 76781Q**  
Tel: (416) 869-5504  
Email: [navis@stikeman.com](mailto:navis@stikeman.com)  
Fax: (416) 947-0866

**Lawyers for the Applicant**



THIS IS **EXHIBIT “L”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424

---

*A Commissioner etc.*





January 19, 2021

**BY EMAIL**

**Dom Glavota**  
Direct +1 416 862 3607  
Direct Fax +1 416 863 3607  
dom.glavota@gowlingwlg.com  
File No. T1021998

2607380 Ontario Inc. and Nuvo Network Inc.  
1295 North Service Road  
Burlington, ON L7P 3A7  
Attention: Shawn Saulnier  
Email: shawn@nuvonetwork.com

Richter  
181 Bay Street, Suite 3510  
Toronto, ON M5J 2T3  
Attention: Paul van Eyk  
Email: pvaneyk@richter.ca

Dear Sirs:

**Re:** Credit Facilities extended by Meridian Credit Union Limited (the “**Lender**”) to 2607380 Ontario Inc. (the “**Borrower**”) pursuant to a credit facility agreement between, *inter alia*, the Borrower and the Lender made as of March 3, 2020, as amended by amending agreements dated April 28, 2020, July 10, 2020 and November 18, 2020 (collectively, the “**DIP Credit Agreement**”) as approved by the order (the “**Initial Order**”) issued under Court File No. CV-20-00636875-00CL on February 25, 2020 by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granting the Borrower protection pursuant to the Companies’ *Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the “**CCAA**”) and appointing Richter Advisory Group Inc. (“**Richter**”) as Monitor of the Borrower (the “**Monitor**”) and the Amended and Restated Initial Order (the “**Amended and Restated Initial Order**”) issued by the Court on March 6, 2020 which incorporated certain amendments to the Initial Order as further amended by the order issued by the Court on November 23, 2020 (collectively, the “**CCAA Proceedings**”).

---

We are the lawyers for the Lender in the above-noted matter.

The Borrower is in default under the DIP Credit Agreement due to the breach of Section 17(v)(iii) of the DIP Credit Agreement which requires that on or before January 15, 2021, the Borrower shall provide to the Lender either (i) a firm agreement of purchase and sale with a closing date on or before January 29, 2021; or (ii) a firm commitment to refinance all indebtedness, liabilities and obligations of the Borrower

**Gowling WLG (Canada) LLP**  
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Gowling WLG (Canada) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at [gowlingwlg.com/legal](http://gowlingwlg.com/legal).





to the Lender including, but not limited to, the DIP Obligations, with a closing date on or before January 29, 2021 (the "**Event of Default**").

On behalf of the Lender and in accordance with Section 40(b) of the Amended and Restated Initial Order we hereby notify the Monitor and the Borrower that the Event of Default has occurred and that upon the expiry of five business days from the date of this letter that the Lender intends to enforce its security on all the real and personal property of the Borrower charged by the DIP Credit Agreement, the Definitive Documents or the DIP Charge (each as defined in Amended and Restated Initial Order) and to enforce all of the Lender's rights and remedies under the DIP Credit Agreement, the Definitive Documents or the DIP Charge.

Please direct any communications with respect to this matter to the undersigned.

Yours truly,  
**Gowling WLG (Canada) LLP**

A handwritten signature in black ink, appearing to read "Dom Glavota", with a stylized flourish at the end.


Dom Glavota

Encls.

cc. Meridian Credit Union Limited  
Bennet Jones LLP (counsel to the Monitor)  
Stikeman Elliott LLP (counsel to the Borrower)



THIS IS **EXHIBIT “M”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

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*A Commissioner etc.*



## FORBEARANCE AGREEMENT

Forbearance Agreement dated January 27, 2021 (this “**Forbearance Agreement**”) among 2607380 Ontario Inc. (the “**Borrower**”), Nuvo Network Inc. (the “**Guarantor**”) and Meridian Credit Union Limited (the “**DIP Lender**”).

### RECITALS:

- (a) the Borrower was and continues to be indebted to the Meridian Credit Union under a credit agreement dated August 9, 2018, as amended (the “**Pre-CCAA Credit Agreement**”) and was in default of its obligations thereunder as of the commencement of the CCAA Proceedings (defined below);
- (b) the DIP Lender agreed to make certain further credit facilities available to the Borrower upon the terms and conditions contained in a credit facility agreement between the Borrower, the Guarantor and the DIP Lender made as of March 3, 2020, as amended by (i) a first amending agreement dated April 28, 2020 and (ii) a second amending agreement dated July 10, 2020; and (iii) a third amending agreement dated November 18, 2020 (the “**DIP Credit Agreement**”) as approved by the order (the “**Initial Order**”) issued under Court File No. CV-20-00636875-00CL on February 25, 2020 by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granting the Borrower protection pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the “**CCAA**”) and appointing Richter Advisory Group Inc. (“**Richter**”) as Monitor of the Borrower (the “**Monitor**”) and the Amended and Restated Initial Order (the “**Amended and Restated Initial Order**”) issued by the Court on March 6, 2020 which incorporated certain amendments to the Initial Order as further amended by the order issued by the Court on November 23, 2020 (collectively, the “**CCAA Proceedings**”);
- (c) On January 15, 2021 the Borrower defaulted on its obligations under the DIP Credit Agreement by failing to provide either:
  - (i) A firm agreement of purchase and sale with a closing date on or before January 29, 2021; or,
  - (ii) A firm commitment to refinance all indebtedness, liabilities and obligations of the Borrower to the DIP Lender, including but not limited to the DIP Obligations, with closing date on or before January 29, 2021.

(the “**Existing Event of Default**”)
- (d) The DIP Lender has not waived the Existing Event of Default;
- (e) Meridian Credit Union Limited understands that the Borrower received a Supplementary Assessment Notice and Omitted Assessment Notice from the City of Burlington MPAC (the “**Property Tax Reassessment**”)
- (f) In accordance with paragraph 40(b) of the Amended and Restated Order, by letter from its counsel dated January 19, 2021 the DIP Lender notified the Borrower and the Monitor that the Event of Default had occurred under the DIP Credit Agreement;



- (g) The DIP Lender's rights under the DIP Credit Agreement, the Definitive Documents, the DIP Charge and the Amended and Restated Initial Order are now fully enforceable, with no further notice or step being required;
- (h) The Borrower and the Guarantor have requested that the DIP Lender forbear from taking any enforcement action pursuant to the terms of the DIP Credit Agreement, the Definitive Documents and the DIP Charge (as defined in Amended and Restated Initial Order) and consent to the extension of the stay of proceedings and CCAA Proceedings from January 29, 2021 to March 19, 2021 to permit the Borrower an opportunity to continue to seek a refinancing transaction(s) and the DIP Lender has agreed to do so on the terms and conditions set forth in this Forbearance Agreement.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

### **Section 1 Defined Terms.**

Capitalized terms used in this Forbearance Agreement and not otherwise defined have the meanings specified in the DIP Credit Agreement.

### **Section 2 Headings.**

Section headings in this Forbearance Agreement are included for convenience of reference only and shall not constitute a part of this Forbearance Agreement for any other purpose

### **Section 3 Acknowledgments**

The Borrower and the DIP Lender acknowledge that each of Recitals (a) through (h) above is true and correct.

The Borrower acknowledges that it is indebted to the DIP Lender under the DIP Credit Agreement and the Pre-CCAA Credit Agreement in the aggregate amount of \$25,560,052.49 as at January 25, 2021, together with interest and costs to the date of payment.

The Borrower acknowledges that following receipt of the pending advance under the DIP Credit Agreement in the amount of \$130,000 as contemplated by the attached cashflow (the "**Final DIP Advance**"), no further amounts shall be advanced to the Borrower under the DIP Credit Agreement or otherwise and that the sum of \$400,000 will be advanced under the DIP Credit Agreement for the sole and exclusive purpose of paying accrued but unpaid interest due to the DIP Lender under the DIP Credit Agreement.



#### Section 4      **Forbearance**

The DIP Lender is prepared, subject to the terms of this agreement and the rights arising on the occurrence of any Terminating Event described below, to consent to the extension of the stay of proceedings under the CCAA proceedings to March 19, 2021 and forbear on a temporary basis to March 19, 2021 (the “**Forbearance Period**”) from demanding repayment and enforcing its rights under DIP Credit Agreement, the Definitive Documents and the DIP Charge provided that the Borrower complies with the following terms and conditions on or before 5pm on January 27, 2021:

- (a) The Borrower and the Guarantor have executed and delivered to the DIP Lender this Forbearance Agreement; and
- (b) The Borrower and the Guarantor have executed and delivered to the DIP Lender or its counsel a consent to an Order (the “**Receivership Order**”) for the appointment of a receiver and manager substantially in the form attached hereto as Schedule “A” (the “**Consent to Receivership**”).

The Lender confirms that it will make the Final DIP Advance unless a Terminating Event has occurred.

#### Section 5      **Covenants**

The Borrower covenants and agrees that it shall:

- (a) conduct its business in accordance with and will comply with the cashflow attached hereto as Schedule “B”; and
- (b) on a weekly basis on Friday of each week provide to the DIP Lender an updated Cash Flow Budget in form and substance satisfactory to and approved by the Lender together with (i) a comparison prepared by the Borrower with the assistance of the Monitor of the previous week’s forecast to actual results and (ii) an explanation of the differences.

#### Section 6      **Termination of Forbearance**

The DIP Lender shall not take any further steps to enforce the DIP Credit Agreement, the Definitive Documents and the DIP Charge during the Forbearance Period, unless any of the following terminating events occur during the Forbearance Period (each of the following is a “**Terminating Event**”):

- (a) all liabilities and obligation of the Borrower to Meridian Credit Union Limited are not repaid in full or refinanced on terms acceptable to Meridian Credit Union Limited in its sole and absolute discretion on or before March 19, 2021;
- (b) the issuance of an order terminating the CCAA Proceedings or lifting the stay in the CCAA Proceedings to permit the enforcement of any security against the Borrower or the Guarantor, or the appointment of a receiver and manager, receiver, interim receiver or similar official or the making of a bankruptcy order against the Borrower or the Guarantor;
- (c) the issuance of an order granting a lien which is senior to or *pari passu* with the DIP Security, other than the Administration Charge or in respect of the Property Tax Reassessment;



- (d) the issuance of an order staying, reversing, vacating or otherwise modifying the DIP Charge or, any order in the CCAA Proceedings in a manner which adversely impacts the rights and interests of the DIP Lender, provided, however, that any such order which provides for payment in full of all of the DIP Obligations and any other obligations of the Borrower in respect of the DIP Facility will not constitute an Event of Default;
- (e) breach by the Borrower of any covenant or term of this Agreement;
- (f) if (i) the Initial Order or the DIP Order is varied without the consent of the DIP Lender in a manner adverse to the DIP Lender in the DIP Lender's sole opinion, or (ii) the stay of proceedings contained in the Initial Order is terminated or is lifted to allow an action adverse to the DIP Lender; or
- (g) a Court order is made, a liability arises or an event occurs, including any change in the business, assets, or conditions, financial or otherwise, of the Borrower, that causes or will cause a Material Adverse Effect.

The Borrower and Guarantor covenant and agree that upon the occurrence of a Terminating Event: (i) the DIP Obligations shall become immediately due and payable without notice; (ii) the DIP Lender shall have the immediate right to terminate this Forbearance Agreement; and (iii) the DIP Lender shall also be entitled to take any actions that it deems necessary under the DIP Credit Agreement, the Definitive Documents and the DIP Charge without further notice, including the immediate enforcement thereof, the filing of the Consent to Receivership with the Court and the immediate application to the Court for the Receivership Order, and for these purposes, the Borrower agrees that it will consent to the lifting of any stay in force in the CCAA Proceedings as against the DIP Lender.

## **Section 7        General Provisions**

This Forbearance Agreement is in addition to and does not substitute, amend or supplement the DIP Credit Agreement, the Definitive Documents and the DIP Charge, all of which remain in full force and effect, and the DIP Lender is fully entitled to enforce the DIP Credit Agreement, the Definitive Documents and the DIP Charge, subject only to the provisions of this Forbearance Agreement. The Borrower and the Guarantor acknowledge and agree that the DIP Credit Agreement, the Definitive Documents and the DIP Charge have not been discharged, waived or varied, are binding upon the Borrower and Guarantor and are valid and enforceable in accordance with their terms.

If there is any inconsistency or conflict between the terms of this Forbearance Agreement and the terms of the DIP Credit Agreement, the Definitive Documents and the DIP Charge, the provisions of this Forbearance Agreement shall prevail to the extent of inconsistency, but, the forgoing shall not apply to limit or restrict the right and remedies of the DIP Lender under the DIP Credit Agreement, the Definitive Documents, the DIP Charge or this Forbearance Agreement other than as specifically contemplated herein.

This Forbearance Agreement constitutes the entire agreement between the DIP Lender, the Borrower and the Guarantor pertaining to the subject matter of this Forbearance Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the DIP Lender, the Borrower and the Guarantor, and there are no representations, warranties or other agreements between the DIP Lender, the Borrower and the Guarantor, express or implied, in connection with the subject matter of this Forbearance Agreement.



This Forbearance Agreement is governed by the laws of the Province of Ontario and the laws of Canada applicable therein. Time is of the essence in all respects in connection with this Forbearance Agreement. This Forbearance Agreement shall extend to and be binding upon to the benefit of the DIP Lender, the Borrower, the Guarantor, and their respective heirs, legal representatives, successors and permitted assignees. This Forbearance Agreement may be executed and delivered in counterparts, and if so executed all counterparts when taken together shall comprise one and the same instrument, and facsimile and e-mail copies of signatures shall be treated as originals.

To evidence your agreement to the forgoing, we require you to sign and return to us the enclosed copy of this Forbearance Agreement by 10:00am on January 28, 2021.

*[Remainder of Page Intentionally Left Blank. Signature Page Follows.]*



**IN WITNESS WHEREOF** the parties have executed this Forbearance Agreement.

DIP Lender:

**MERIDIAN CREDIT UNION LIMITED**

By: 

Authorized Signing Officer

**Bernie Huber**

Senior Commercial Credit Specialist

Borrower:

**2607380 ONTARIO INC.**

By: 

Authorized Signing Officer

Guarantor:

**NUVO NETWORK INC.**

By: 

Authorized Signing Officer

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**Schedule “A”**

Court File No.: CV-21-

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	DAY, THE
	)	
JUSTICE	)	DAY OF MARCH, 2021

**BETWEEN:**

MERIDIAN CREDIT UNION LIMITED

Applicant

– and –

2607380 ONTARIO INC.

Respondent

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**CONSENT**

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THE PARTIES HERETO, by their respective lawyers, hereby consent to an order  
in the form attached hereto as Schedule “A”



THE SAID LAWYERS also hereby certify that the order sought herein does not affect the rights of any party under a disability.

Date: January 28, 2021

**STIKEMAN ELLIOTT LLP**



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Per: Elizabeth Pillon of the lawyers for 2607380 Ontario Inc.

Date: January 28, 2021

**GOWLING WLG (CANADA) LLP**



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Per: Clifton Prophet of the lawyers for Meridian Credit Union



- 3 -

**SCHEDULE "A"**

Court File No.: CV-21-

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) DAY, THE  
JUSTICE )  
DAY OF MARCH, 2021

**B E T W E E N :**

MERIDIAN CREDIT UNION LIMITED

Applicant

– and –

2607380 ONTARIO INC.

Respondent

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing msi Spergel Inc. ("**Spergel**") as receiver and manager (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and properties of 2607380 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom due to the COVID-19 emergency.



ON READING the affidavit of Bernhard Huber sworn , 2021 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel for the Debtor, and those other parties listed on the counsel slip, no one else appearing for any other party although duly served as appears from the affidavit of service of Heather Fisher sworn , 2021, and on reading the consent of Spergel to act as the Receiver,

## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, and all proceeds thereof (collectively, the "**Property**"), including but not limited to the lands and premises listed in Schedule "B" (the "**Nuvo Property**").

## **RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the



relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby



conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market and sell any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario Mortgages Act, as the case may be, shall not be required.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property, including as against Real Property;



- 7 -

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.



5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant



landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.



**NO INTERFERENCE WITH THE RECEIVER**

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

**RECEIVER TO HOLD FUNDS**

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein,



shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally



contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or



otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.



22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<URL>'.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the



Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.



- 16 -

32. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$\_\_\_\_\_

1. THIS IS TO CERTIFY that Spergel Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of 2561534 Ontario Limited acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_\_ day of \_\_\_\_\_, 2019 (the "**Order**") made in an action having Court file number \_\_\_\_-\_\_\_\_-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of five (5) per cent above the prime commercial lending rate of Meridian Credit Union from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.



- 2 -

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_ day of \_\_\_\_\_, 2019.

msi Spergel Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:



## **SCHEDULE "B"**

### **DESCRIPTION OF REAL PROPERTY**

1. The lands and premises municipally described as 1295 North Service Road, Burlington, Ontario:

- **PIN 07127-0265 (LT):** PT LT 10, RCP PL 99, PART 3&7, 20R6963, S/T IN 619045; BURLINGTON



MERIDIAN CREDIT UNION LIMITED  
Applicant

and

2607380 ONTARIO INC.  
Respondent

Court File No. CV-21-

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**GOWLING WLG (CANADA) LLP**  
Barristers & Solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

**Clifton P. Prophet (#34845K)**  
Tel: 416-862-3509  
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haddon.murray@gowlingwlg.com

Fax: 416-862-7661

Lawyers for the Applicant



Schedule "B"

2607380 Ontario Inc.  
January 2021 Cash Flow Forecast  
For the Period January 24, 2021 to March 19, 2021  
(In CAD; unaudited)

		Week Number	1	2	3	4	5	6	7	8
		Week Ending	30-Jan-21	6-Feb-21	13-Feb-21	20-Feb-21	27-Feb-21	6-Mar-21	13-Mar-21	19-Mar-21
Notes		Totals								
1										
Receipts										
	2	479,389	-	236,869	-	-	-	242,519	-	-
	3	37,000		-	-	-	37,000	-	-	-
Total Receipts		516,389	-	236,869	-	-	37,000	242,519	-	-
Disbursements										
	4	230,223	29,284	54,288	19,492	19,492	24,533	51,462	15,836	15,836
	5	102,043	-	-	-	102,043	-	-	-	-
	6	140,323	20,046	-	40,092	-	40,092	-	40,092	-
	7	211,875	101,700	-	-	-	-	73,450	-	36,725
	8	857,637	667,587	-	-	-	190,050	-	-	-
	9	91,511	4,000	-	-	-	52,938	-	-	34,572
Total Disbursements		1,633,612	822,618	54,288	59,584	121,535	307,613	124,912	55,928	87,133
Net Cash Flow		(1,117,223)	(822,618)	182,582	(59,584)	(121,535)	(270,613)	117,607	(55,928)	(87,133)
Opening Cash Balance	10	643,220	643,220	170,603	353,184	293,600	172,065	31,451	149,059	93,130
Net Cash Flow		(1,117,223)	(822,618)	182,582	(59,584)	(121,535)	(270,613)	117,607	(55,928)	(87,133)
DIP Drawdown	11	480,000	350,000				130,000			
Ending Cash Balance		5,997	170,603	353,184	293,600	172,065	31,451	149,059	93,130	5,997



**2607380 Ontario Inc.**  
**January 2021 Cash Flow Forecast**  
**Notes and Summary of Assumptions**

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**In the Matter of the CCAA Proceedings of 2607380 Ontario Inc. (“260” or the “Company”).**

**Disclaimer**

In preparing this cash flow forecast (the “**January 2021 Cash Flow Forecast**”), 260 has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. Since the January 2021 Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the January 2021 Cash Flow Forecast period will vary from the January 2021 Cash Flow Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The January 2021 Cash Flow Forecast is presented in Canadian dollars. All defined terms that are not otherwise defined herein are to have the same meaning ascribed to them in the Monitor’s Fourth Report to the Court dated January 27, 2021.

**Note 1 Purpose of the January 2021 Cash Flow Forecast**

The purpose of the January 2021 Cash Flow Forecast is to present the estimated cash receipts and disbursements of 260 for the period from January 24, 2021 to March 19, 2021 (the “**Forecast Period**”), in respect of its proceedings under the CCAA. The January 2021 Cash Flow Forecast has been prepared by the management of 260 (“**Management**”) based on available financial information at the date of 260’s motion for, among other things, extending the CCAA Stay to March 19, 2021. Readers are cautioned that this information may not be appropriate or relied upon for any other purpose.

**Note 2 Rental Receipts**

Rental receipts comprise income earned from the Company’s various office, studio and events space leases/rentals. The January 2021 Cash Flow Forecast assumes that all rental receipts for January 2021 have already been collected. The January 2021 Cash Flow Forecast also assumes the following in respect of the collections of rental receipts from and after February 1, 2021:

- (i) office rental income and studio rental income is collected in the first week of each month
- (ii) no event income will be collected during the Forecast Period;
- (iii) no current tenants of the Nuvo Property will either pause or cancel existing leases during the Forecast Period; and
- (iv) no rent abatement schemes will be utilized by either current or future tenants of the Nuvo Property during the Forecast Period.

Rental receipts for each of office and studio are forecasted based on current leases/agreements in place as well as forecasted future leases/agreements based on Management’s best estimate and are subject to change due to future unanticipated circumstances as a result of the COVID-19 pandemic.



**Note 3 HST Receivable & Other Receipts**

The Company is projecting to be in an HST receivable position as a result of funding the costs to complete the Nuvo Renovations. The Company files HST returns on a monthly basis.

The balance includes HST refunds of approximately \$37,000 in respect of Company's GST/HST return for November 2020, which are forecasted to be received in the week ending February 27, 2021.

The January 2021 Cash Flow Forecast does not anticipate the Company receiving funds in connection with the Canada Emergency Wage Subsidy during the Forecast Period.

**Note 4 Operating Expenses**

Operating expenses include general business expenses, including marketing, utilities, insurance, property taxes, cleaning, security, repairs and maintenance, and bank fees, among others.

**Note 5 Property Taxes**

Includes payment of the first, of two, equal installments in respect of property tax owing to the City of Burlington for the year 2021, with the second installment falling due outside of the Forecast Period.

The Forecast does not contemplate payment of any amounts owing to the City of Burlington in respect of the property tax reassessments for the years 2018, 2019 and 2020.

**Note 6 Personnel Expenses**

Personnel expenses include salaries and wages, accrued vacation, payroll taxes and remittances paid to 260's employees as well as compensation paid to the Company's eight (8) independent contractors. Personnel expenses are paid bi-weekly.

**Note 7 Professional Fees**

Includes payments to the Company's legal counsel, the Monitor and the Monitor's legal counsel.

**Note 8 Cost to Complete**

The January 2021 Cash Flow Forecast contemplates payment of interest that remains owing to Maple in the amount of \$190,050.

**Note 9 DIP Lender Costs**

Represents fees paid to the DIP Lender during the Forecast Period pursuant to the Meridian DIP Facility Agreement. In accordance with the Meridian DIP Facility Agreement, the DIP Lender shall reserve costs (up to \$400,000) in connection with interest and professional fees incurred in respect of the Meridian DIP Facility (the "**Reserve**").

The January 2021 Cash Flow Forecast does not contemplate the payment of interest in connection with the Company's obligations owing to its secured lenders, other than payment of interest costs incurred by the DIP Lender that are in excess of the Reserve. Additionally, the January 2021 Cash Flow Forecast assumes no principal payments during the Forecast Period.



**Note 10    Opening Cash Balance**


The opening cash balance, as at January 24, 2021, represents the aggregate of the balance of the Company's Toronto Dominion bank account, together with the quantum of the balance remaining in the general trust account of the Monitor in respect of funds drawn on the Meridian DIP Facility, less the sum of the outstanding cheques issued by the Company.

**Note 11    DIP Drawdown**

Represents amounts drawn on the Meridian DIP Facility, excluding the Reserve, during the Forecast Period. In accordance with the Meridian DIP Facility Agreement, each advance under the Meridian DIP Facility, must be in a minimum amount of \$250,000 and in multiples of \$100,000 in excess thereof (the **"Advance Multiples"**). Notwithstanding the foregoing, the Monitor understands that the DIP Lender, at its discretion, is amenable to advancing the funds that remain available under the Meridian DIP Facility in amounts other than the Advance Multiples.



THIS IS **EXHIBIT “N”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
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*A Commissioner etc.*



Meridian Credit Union  
St. Catharines Corporate Office

75 Corporate Park Drive  
St. Catharines, Ontario L2S 3W3  
tel: 905-988-1000  
contact centre: 1-866-592-2226  
MeridianCU.ca



## STATEMENT OF BALANCES OUTSTANDING

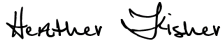
Prepared By:  <b>B. HUBER</b> <b>MERIDIAN CREDIT UNION LIMITED</b> Senior Commercial Credit Specialist	NAME OF DEBTOR	
	2607380 Ontario Inc.	
	PROPERTY DESCRIPTION:	
	Various	
	CIVIC ADDRESSES: 1295 North Service Road, Burlington, Ontario	
	INTEREST RATE:	see below
	MATURITY DATE:	Various
	STATEMENT PREPARATION DATE: 15-Mar-21	
Demand Loan Land (L 2)	15-Mar-21	\$12,350,000.00
P + 2.00%		
ACCRUED INTEREST TO	15-Mar-21	\$819,024.94
Demand Loan Construction (L 4)	15-Mar-21	\$1,500,000.00
P + 2.50%		
ACCRUED INTEREST TO	15-Mar-21	\$114,480.82
Demand Loan Construction (L 5)	15-Mar-21	\$3,291,237.00
P + 2.50%		
ACCRUED INTEREST TO	15-Mar-21	\$251,189.01
VISA Business Cash Back	15-Feb-20	\$54,898.02
LOC - Professional Charges Incurred (L9)	15-Mar-21	\$92,860.91
P + 5.00%		
ACCRUED INTEREST TO	25-Jan-21	\$6,623.01
Professional Charges Incurred and Accrued	31-Dec-20	\$26,411.87
Standby Letter of Credit (L6)	15-Mar-21	\$26,715.57
Demand Loan - call on Letter of Credit (L10)	15-Mar-21	\$20,071.00
P + 2.0%		
ACCRUED INTEREST TO	15-Mar-21	\$726.78
Demand Loan - call on Letter of Credit (L11)	15-Mar-21	\$73,284.43
P + 2.0%		
ACCRUED INTEREST TO	15-Mar-21	\$2,152.13
Demand Loan DIP financing (L8)	15-Mar-21	\$7,180,000.00
9.25%		
ACCRUED INTEREST TO	15-Mar-21	\$0.00
TOTAL BALANCE OUTSTANDING AS AT:	15-Mar-21	<u>\$25,809,675.49</u>

REMARKS: Error and omissions excepted.

Herewith please find our mortgage statement in respect of the above-noted matter. You will note that our statement contains the "E. and O.E." qualification, which is customary in the financial services industry. While the Credit Union makes every reasonable attempt to ensure that its mortgage statements are accurate, errors are possible.



THIS IS **EXHIBIT “O”** TO THE AFFIDAVIT OF  
**BERNHARD HUBER**, SWORN BEFORE ME BY VIDEOCONFERENCE  
ON THIS 16th DAY OF MARCH, 2021

DocuSigned by:  
  
2F7B29C04CC6424...

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*A Commissioner etc.*



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**From:** Dietrich, Madam Justice Bernadette (SCJ)  
**Sent:** Friday, January 29, 2021 3:38 PM  
**To:** Nicholas Avis; Elizabeth Pillon; Sanja Sopic; Raj Sahni; Heather Fisher; Clifton.Prophet@gowlingwlg.com; Harvey G. Chaiton; Philip Cho  
**Cc:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List; Anissimova, Alsou (MAG); Pera, Jonathan (JUD)  
**Subject:** RE: Nuvo Networks Court File No. CV-20-00636875-00CL  
**Attachments:** 2021-01-29\_141535.pdf; 2607380 Ontario Inc. - Counsel Slip (January 29, 2021)(112772447.1).docx

A hearing was held in the above-noted matter via videoconference.

The counsel in attendance are those whose names appear on the Counsel Slip attached hereto.

### Endorsement

The applicant 2607380 Ontario Inc. (the "Company") brings this motion for an order: extending the stay of proceedings up to and including March 19, 2021; approving the Fourth Report of the Monitor, Richter Advisory Group Inc., and the activities described therein; and approving the fees of the Monitor and its counsel.

I am satisfied that an order extending the stay period (which expires today, January 29, 2021) to March 19, 2021 is appropriate. The period may be extended where a) circumstances exist that make that order appropriate; and b) the debtor company has acted, and is acting, in good faith and with due diligence. The extended period will permit the Company additional time to continue its discussions with interested parties who could assist with refinancing. The Company appears to be acting in good faith and with due diligence in its refinancing efforts. Apart from the DIP financing, based on the Company's cash flow forecast, it does not require financing during the extension of the stay period. No creditors are expected to suffer material prejudice as a result of the extension of the stay period. Meridian, the first secured lender (and DIP lender), supports the extension based on an arrangement it has made with the Company. The second and third secured lenders do not oppose the extension.

I have reviewed the Fourth Report of the Monitor, and its activities referred to therein, which appear to be in order and should be approved. I have also reviewed the fees charged by the Monitor and its counsel. The fees of the Monitor for the period January 6, 2020 to November 18, 2020 are high. The Monitor submits that the fees are higher than might be expected given the degree of its involvement in the Company's activities, which included substantial renovations to the Nuvo Building during the COVID-19 pandemic. It also submits that it has discounted its fees from time to time. With the benefit of this context, I am prepared to approve its fees as well as the fees of its counsel.

Order to go in the form attached hereto and signed by me. The Order is effective as of today's date and it does not need to be entered.



Dietrich J.  
Superior Court of Justice (Toronto)  
January 29, 2021



Court File No. CV-20-00636875-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF 2607380 ONTARIO INC.**

<b>Counsel Slip (January 29, 2021)</b>	
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Observing	
<b>2607380 Ontario Inc.</b>	<b>Shawn Saulnier</b> <i>President and CEO of the Applicant</i>
<b>RICHTER ADVISORY GROUP INC.</b> 181 Bay St. #3510 Bay Wellington Tower Toronto ON M5J 2T3          <b>Monitor</b>	<b>Paul van Eyk</b> (416) 485-4592 <a href="mailto:pvaneyk@richter.ca">pvaneyk@richter.ca</a>  <b>Adam Zeldin</b> <a href="mailto:azeldin@richter.ca">azeldin@richter.ca</a> (416) 646-7390  <b>Shane Connolly</b> (416) 488-2345 <a href="mailto:sconnolly@richter.ca">sconnolly@richter.ca</a>



MERIDIAN CREDIT UNION LIMITED  
Applicant

and

2607380 ONTARIO INC.  
Respondent

Court File No. CV-

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF BERNHARD HUBER  
(Sworn March 16, 2021)**

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Lawyers for the Applicant, Meridian Credit Union  
Limited



**APPLICATION UNDER SECTION 46 OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985 c. C36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF 2607380 ONTARIO INC**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD OF MERIDIAN CREDIT UNION  
LIMITED  
(Re: Motion to terminate CCAA Proceeding)  
(Returnable March 18, 2021)**

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