

**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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**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 (“**NDAs**”). 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**

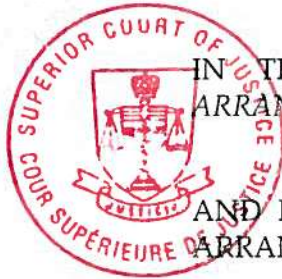
## **Appendix “A”**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE  
JUSTICE CONWAY

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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 ~~not opposing~~, and on being advised that those parties listed in the affidavits of service filed were given notice of this motion;

BC / supporting the Application /

CCC / BC



### 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  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

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**Lawyers for the Applicant**

## **Appendix “B”**

## **SALE AND INVESTOR SOLICITATION PROCESS**

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**"). 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. The proceedings commenced by 260 under the CCAA are hereinafter referred to as the "**CCAA Proceedings**".
2. The Amended and Restated Initial Order, *inter alia*, approved 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 Credit Union Limited ("**Meridian**", and in its capacity as DIP lender to the Company, the "**DIP Lender**") dated March 4, 2020 (the "**Meridian DIP Facility Agreement**") to provide necessary funding to the Company during the CCAA Proceedings.
3. The Meridian DIP Facility Agreement requires the Company to initiate a refinancing and sales process to address the refinancing of the Company's secured debt and/or sale of the Company's property located at 1295 North Service Road, Burlington, Ontario (the "**Nuvo Property**").
4. The Company intends to seek Court approval of the Sale and Investor Solicitation Process (the "**SISP**") set forth herein. The purpose of the SISP is to seek:
  - (a) refinancing of the Company's secured debt by way of the Refinancing Process as defined below;
  - (b) a process (the "**Sale Process**") intended to solicit interest in the acquisition of the Nuvo Property (a "**Sale Proposal**"), prior to November 30, 2020 (the "**Outside Date**") while running, in parallel, the Refinancing Process.
5. The Monitor shall conduct both aspects of the SISP- namely, the Refinancing Process and the Sale Process, as outlined herein. In the event that there is a disagreement or clarification required as to the interpretation or application of the SISP, the Court shall hear such matter and provide directions, upon application of the Monitor.

### **Refinancing Process**

6. The Company has retained a financial advisor, Halo Advisory ("**Halo**") and its mortgage broker, Mortgage Alliance ("**MA**") to assist with the Refinancing Process. Halo and MA have, in accordance with the Amended and Restated Initial Order and the Meridian DIP Facility Agreement, commenced a process to solicit proposals from interested parties to provide financing in order to repay the Company's existing indebtedness (the "**Refinancing Process**").

7. The Refinancing Process will be conducted by Halo and MA on behalf of the Company and under the supervision of the Monitor. In addition, the Monitor and the Company's counsel have and may continue to assist in identifying and pursuing refinancing options within the Refinancing Process.
8. MA, in consultation with the Monitor and the Company, has prepared marketing materials, including a teaser and confidential information memorandum ("Refinancing **CIM**") and developed a targeted list of prospective lenders for which to present the refinancing opportunity.
9. To date, the Company and MA have contacted several parties identified as prospective lenders to provide financing to the Company, including banks, mortgage lenders, private equity firms and alternative lenders (the "**Interested Parties**"). Interested Parties who have signed a non-disclosure agreement ("Refinancing **NDA**") have been provided with the opportunity to access a confidential data room furnished with information pertaining to the Company, including the Refinancing CIM, and other relevant information about the Company. The Interested Parties' diligence is in progress. Any refinancing proposals submitted by Interested Parties will be reviewed by the Monitor, MA and the Company.
10. Pursuant to the Meridian DIP Facility Agreement, 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.
11. If the Company and the Monitor determine that the Refinancing Process has identified a transaction that is able to be completed in advance of the date that a definitive agreement of purchase and sale is signed, the Company and the Monitor are authorized to pursue such a transaction and terminate the Sale Process. The Company will seek Court approval of the refinancing transaction on or before the Outside Date.

### **Sale Process**

12. The Company has retained CBRE Limited (the "**Broker**") to assist in the development and execution of the Sale Process and related marketing strategy in respect of the Nuvo Property. Set forth below are the procedures (the "**Sale Procedures**") to be followed with respect to the Sale Process and, if there is a Successful Bid (as defined herein), to complete the transactions contemplated by such Successful Bid.
13. The sale of the Nuvo Property will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Broker, the Company or the Monitor, or any of their agents, estates, advisors, professionals or otherwise.
14. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Nuvo Property in connection with their participation in the Sale Process and any transaction they enter in respect of the Nuvo Property.



### *Timeline*

15. The following table summarizes the key dates contemplated by the Sale Process:

Milestone	Date(s)
Phase 1: Formal Marketing and Initial Due Diligence Period	August 4, 2020 to September 30, 2020
Phase 1 Bid Deadline	September 30, 2020
Phase 2: Secondary Due Diligence Period and satisfaction of conditionality for Participating Bidders who have submitted Qualified LOIs	October 5, 2020 to October 23, 2020
Phase 2 Bid Deadline	October 23, 2020
Signed APA subject to Court Approval	October 30, 2020
Court Approval of Successful Bid	No later than November 13, 2020
Targeted Close Date	No later than November 30, 2020

16. The Phase 1 Bid Deadline and/or Phase 2 Bid Deadline may be extended by the Monitor if it considers it appropriate to do so. Any extensions or amendments to the deadlines above will be communicated to all known Participating Bidders (defined below) and such extensions or amendments shall be posted on the website maintained by the Monitor at <https://www.richter.ca/insolvencycase/2607380-ontario-inc/> (the "**Monitor's Website**").

### *Supervision of the Sale Process*

17. The marketing of the Sale Process and negotiation with Potential Bidders described in the Sale Process will be conducted by the Broker on behalf of, and under the supervision of the Monitor.

### *Solicitation of Interest*

18. As soon as reasonably practicable after the granting of an order approving the SISP (the "**SISP Order**");

- (a) The Monitor will cause a notice of the Sale Process (and such other relevant information which the Broker and Monitor consider appropriate) to be published in The Globe and Mail (National Edition), and posted on the Monitor's Website;
- (b) the Broker will list the Nuvo Property on the Multiple Listing Service;
- (c) The Broker in consultation with the Monitor and Company will prepare a list of potential bidders capable of submitting a proposal for the purchase of the Nuvo Building (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**");
- (d) The Broker in in consultation with the Monitor and Company will prepare (a) an initial offering summary (the "**Teaser Letter**") to notify Known Potential Bidders of the existence of the Sale Process and invite the Known Potential Bidders to express their interest in participating in the Sale Process, and (b) a form of NDA; and
- (e) Promptly after preparation of the Known Potential Bidders list, the Broker shall distribute the Teaser Letter and the NDA to the Known Potential Bidders.

### **Phase 1 of the Sale Process**

- 19. During Phase 1 of the Sale Process, the Broker (under the supervision of the Monitor and in accordance with the SISF) will solicit non-binding indications of interest in accordance with paragraph 18, in the form of non-binding letters of intent ("**LOIs**") from Potential Bidders to acquire the Nuvo Property.
- 20. A Potential Bidder will be deemed a "**Participating Bidder**" if it delivers an executed NDA to the Monitor and the Broker.

### *Due Diligence*

- 21. The Broker will provide each Participating Bidder with a copy of the Teaser Letter and access to an electronic data room of due diligence information. Each Participating Bidder will also be provided with access to such other due diligence materials and information relating to the Nuvo Property as the Monitor, in its reasonable business judgment, in consultation with the Broker and the Company, determines. This may include, as appropriate, information or materials reasonably requested by Participating Bidders, on-site visits, and access to further information in the electronic data room.

### *Phase 1 Assessment of LOIs and Continuation or Termination of the Sale Process*

- 22. A LOI will be considered a qualified LOI (a "**Qualified LOI**") only if it meets the following criteria:

- (a) it is delivered to the Broker and the Monitor at the addresses specified in Schedule "A" hereto (including by email or fax transmission), so as to be received by the Broker and the Monitor not later than 5:00 PM (Eastern Time) on September 30, 2020 (the "**Phase 1 Bid Deadline**");
  - (b) it contains description of the proposed purchaser or purchasers, each of which must be a Participating Bidder;
  - (c) 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 (with reference to the Final Bid requirement in paragraph 29(i);
  - (d) 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;
  - (e) it includes a description of the additional due diligence required to be conducted during Phase 2 of the Sale Process, if any;
  - (f) it describes all conditions to closing that the Participating Bidder seeks;
  - (g) it indicates the anticipated timing of closing of the proposed transaction; and
  - (h) it describes any other terms or conditions of the sale proposal which the Participating Bidder believes are material to the transaction.
23. Within three (3) business days following the Phase 1 Bid Deadline (or such later date as may be determined by the Monitor in consultation with the Broker and the Company) (the "**Phase 1 Assessment Date**"), the Monitor, in consultation with the Broker and the Company:
- (a) will review the LOIs obtained by the Phase 1 Bid Deadline to determine whether they are Qualified LOIs that meet the criteria set out in paragraph 22;
  - (b) will assess the Qualified LOIs to determine whether there is a reasonable prospect of obtaining a Final Bid, as defined and described below; and
  - (c) to the extent required, may request clarification of the terms of Qualified LOIs (or, for the avoidance of doubt, any LOIs to determine if they are Qualified LOIs).
24. 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 in accordance with these Sale Procedures ("**Phase 2**").
25. If the Monitor, in consultation with the Broker and the Company, determines that (a) no Qualified LOI has been received or (b) there is no reasonable prospect of

obtaining a Final Bid then the Monitor, in consultation with the Broker 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 Bid; or
- (c) apply to Court for advice and directions regarding the continuation or termination of the Sale Process.

## **Phase 2 of the Sale Process**

### *Due Diligence*

- 26. 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.
- 27. Participating Bidders who have entered Phase 2 of the Sale Process will be provided with a form of asset purchase agreement (the "**Template Purchase Agreement**") to be used in submitting their Final Bids, as further described below.

### *Final Bids from Participating Bidders*

- 28. A Participating Bidder that wishes to pursue a sale transaction must deliver a final binding proposal (the "**Final Bid**") containing a duly authorized and executed purchase agreement based on the Template Purchase Agreement and accompanied by a mark-up of the Template Purchase Agreement showing amendments and modifications made thereto, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Participating Bidder with all exhibits and schedules thereto to the Broker and the Monitor at the addresses specified in Schedule "A" hereto (including by email or fax transmission) so as to be received by them not later than 5:00 pm (Eastern Time) on October 23, 2020. (the "**Phase 2 Bid Deadline**").
- 29. A Final Bid must be received by the Phase 2 Bid Deadline and must comply with the following requirements:
  - (a) it 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;
  - (b) it must fully disclose the identity of each person (including any person that controls such person) that will be directly or indirectly sponsoring or participating in the bid, including whether any prior or current member of the

Company's board, management, any employee or consultant to the Company or any creditor, lender or shareholder of the Company is involved in any way with the bid or assisted with the bid, and the complete terms of any such participation as well as evidence of corporate authority to sponsor or participate in the bid;

- (c) it includes the amount to be paid or financed and written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate the proposed transaction, that will allow the Monitor, in consultation with the Broker and the Company, to make a reasonable determination as to the Participating Bidder's financial and other capabilities to consummate the transaction contemplated by its Final Bid;
- (d) it includes details of any liabilities to be assumed by the Participating Bidder;
- (e) it is not conditional upon conditions, including but not limited to:
  - (i) the outcome of unperformed due diligence by the Participating Bidder; or
  - (ii) obtaining financing;
- (f) it outlines any anticipated regulatory and other approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (g) it provides a timeline to closing on or before the Outside Date with critical milestones, if any;
- (h) it includes evidence, in form and substance reasonably satisfactory to the Monitor, the Broker and the Company, of irrevocable authorization and approval from the Participating Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Final Bid;
- (i) it is accompanied by a deposit (the "**Initial Deposit**") in the form of a wire transfer (to a bank account specified by the Monitor), or such other form acceptable to the Monitor, payable to the order of the Monitor, in trust, in an amount equal to five percent (5%) of the proposed purchase price, to be held and dealt with in accordance with the terms of the SISP and a declaration that an additional deposit in the amount of five percent (5%) (the "**Final Deposit**" and collectively with the Initial Deposit, the "**Deposits**") will be paid, in trust to the Monitor in the same form and manner as the Initial Deposit was paid, by the Participating Bidder on the date that its Final Bid is selected as the Selected Final Bid (as defined below); and
- (j) it includes an acknowledgement and representation that the Participating Bidder (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; and (ii) did not rely upon any written or oral

statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the purchase and sale agreement.

#### *Evaluation and Selection of Successful Bid*

30. The Monitor, in consultation with the Broker and the Company, will review the Final Bids submitted and 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, and (the "**Selected Final Bid**").
31. The Monitor, in consultation with the Broker, shall evaluate Final Bids on various grounds including but not limited to (i) the purchase price and net value (including assumed liabilities and other obligations to be performed by the bidder); (ii) the firm, irrevocable commitment for financing the transaction; (iii) the counterparties to the transaction; (iv) the terms of transaction documents; (v) other factors affecting the speed, certainty and value of the transaction; (vi) the planned treatment of the Company's stakeholders; (vii) the assets included or excluded from the bid and proposed assistance in relation to excluded assets; (viii) any transition services required post-closing and any related restructuring costs, (ix) the likelihood and timing of consummating the transaction, and (x) the extent to which the terms of the Final Bid differ from those contained in the Template Purchase Agreement.
32. 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 at which time the Selected Final Bid will be the "**Successful Bid**" hereunder and the person(s) who made the Selected Final Bid will be the "**Successful Bidder**" hereunder. The Final Deposit will be due and payable on the date that the Successful Bidder is advised by the Monitor, in writing, that they are the Successful Bidder.

#### *Approval Motion for Successful Bid*

33. The Company will apply to the Court (the "**Approval Motion**") for an order approving the Successful Bid and authorizing it to enter into any and all necessary agreements with respect to the Successful Bid and to undertake such other actions as may be necessary or appropriate to give effect to the Successful Bid, and will make any application to any other court of competent jurisdiction considered by the Company, in consultation with the Monitor and the Broker to be necessary or appropriate to give effect to the Successful Bid.
34. The Approval Motion will be held on a date to be scheduled by the Court upon application by the Company. The Approval Motion may be adjourned or rescheduled by

the Company without further notice by an announcement of the adjourned date at the Approval Motion.

35. All Final Bids other than the Successful Bid will be deemed rejected on the date of approval of the Successful Bid by the Court.
36. If the Monitor, after consultation with the Broker and the Company, (a) determines, at any point during Phase 2, that there is no reasonable prospect of obtaining a Final Bid; or (b) determines that no Final Bid has been received at the end of Phase 2, then the Monitor or the Company may apply to Court for advice and directions regarding the continuation or termination of the Sale Process.

### **Other Terms**

#### *General Waiver*

37. The Monitor, in consultation with the Broker and the Company, may waive compliance with any one or more of the procedures specified above where they deem necessary to achieve value maximization under the SISP.

#### *No Obligation to Conclude a Sale or Refinancing*

38. The Company, Monitor and Broker shall have no obligation to agree to conclude a sale or investment arising out of the SISP, and reserves the right and unfettered discretion to reject any offer or other proposal made in connection with the SISP.

#### *Deadlines*

39. The Phase 1 Bid Deadline and/or Phase 2 Bid Deadline may be extended by the Monitor if it considers it appropriate to do so.

#### *Deposits*

40. All Deposits will be retained by the Monitor and invested in an interest-bearing trust account. If there is a Successful Bid, the Deposits (plus accrued interest) paid by the Successful Bidder whose bid is approved at the Approval Motion will be applied to the purchase price to be paid by the Successful Bidder upon closing of the approved transaction and will be non-refundable. The Initial Deposits (plus applicable interest) of Participating Bidders not selected as the Successful Bidder will be returned to such bidders within five (5) business days of the date upon which the Successful Bid is approved by the Court. If there is no Successful Bid, subject to the following paragraph, all Initial Deposits (plus applicable interest) will be returned to the bidders within five (5) business days of the date upon which the Sale Process is terminated in accordance with these procedures.

41. If a Successful Bidder breaches its obligations under the terms of the Sale Process, its Deposits shall be forfeited as liquidated damages and not as a penalty.

#### *Approval*

42. For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the Amended and Restated Initial Order or any other statute or as otherwise required at law in order to implement a Successful Bid.

#### *No Amendment and Return to Court*

43. 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.
44. Notwithstanding anything else contained herein, at any time if the Monitor, in consultation with the Broker 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 hereunder, seek approval of any transaction or proposal, seek to modify or supplement the SISP and/or seek to terminate the SISP.
45. The SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Monitor, the Broker, or the Company and any Participating Bidder, other than as specifically set forth in a definitive agreement that may be signed in respect of the Sale Process.



## Schedule "A"

### Addresses for Notices and Deliveries

To the Monitor:

**Richter Advisory Group Inc.**

181 Bay Street, Suite 3510

Bay Wellington Tower

Toronto, Ontario M5J 2T3

Attn: Adam Zeldin

Direct: (416) 646-7390

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

To the Broker, copies to both:

**CBRE Limited**

Attn: Kyle Hanna

Direct: (416) 798-6255

Email: [kyle.hanna@cbre.com](mailto:kyle.hanna@cbre.com)

**CBRE Limited**

Attn: Matthew Brown

Direct: (416) 815-2325

Email: [matthew.brown@cbre.com](mailto:matthew.brown@cbre.com)

## **Appendix “C”**

**THIS EXCLUSIVE SALES LISTING AGREEMENT** dated July●, 2020 (the “Agreement”)

**BETWEEN**

2607380 Ontario Inc. (the “Owner”)

-and-

CBRE Limited (the “Brokerage”)

**WHEREAS** the Owner is the legal owner of 1295 North Service Road, Burlington, as more particularly described in Schedule “A” (the “Property”);

**AND WHEREAS** the Owner wants to retain the Brokerage to serve as the exclusive listing brokerage for the sale of the Property;

**AND WHEREAS** the Owner is currently restructuring under the *Companies’ Creditors Arrangement Act* (“CCAA”) pursuant to an order, as amended, of the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated February 25, 2020 (the “**Amended Initial Order**”).

**AND WHEREAS** the Brokerage is being retained, in accordance with the Amended Initial Order, to assist the Owner with a sale and investor solicitation process (“**SISP**”) to market and sell the Property, subject to approval of the Court. The Applicants will be seeking approval of the form of SISP at a motion, currently scheduled for July 10, 2020.

**AND WHEREAS** the Brokerage listing team representing the Owner in the sale of the Property shall consist of Peter Senst, Matt Brown, Tim Pacaud and Kyle Hanna (the “Listing Team”);

**NOW THEREFORE** in consideration of the listing for sale of the Property by the Brokerage, and the Brokerage’s efforts in the sale of the Property, the Owner and the Brokerage hereby agree as follows:

## **ARTICLE 1 RECITALS**

1.1 The above recitals are true and accurate in all respects.

1.2 Unless otherwise noted, all currency references in the Agreement are to Canadian dollars.

## **ARTICLE 2 TERM**

2.1 The Owner grants to the Brokerage the exclusive right to sell the Property for a period commencing on the date first mentioned above and expiring when the SISP concludes (the “**Term**”). The SISP is currently contemplated to end on November 30, 2020; in the event that the SISP extends past such date, this agreement will extend such it is co-terminous with the SISP. Accordingly, the Owner acknowledges that the Term of this Agreement may be for a period in excess of one hundred and eighty (180) days.

### **ARTICLE 3 THE BROKERAGE RENUMERATION**

3.1 The Owner agrees to pay the Brokerage a commission equivalent to 1.85% of the sale price of the Property if it is sold for \$[REDACTED] or less. The commission shall be equivalent to \$[REDACTED] plus 1.65% of the sale price of the Property in excess of \$[REDACTED] if it is sold for \$[REDACTED] or greater (collectively, the "Commission").

3.2 In the event the Listing Team co-operates with a broker/agent outside of the Listing Team in a sale, the Commission shall include an additional 1.00% of the sale price of the Property. For clarity, the co-operating broker/agent may be a separate team within the Brokerage.

3.3 Commissions shall be paid and deemed earned if and only if a closing occurs pursuant to a contract of sale executed and delivered by Owner.

The Commission shall be earned by the Brokerage in the event that during the Term: (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and all or part of the shares in such corporation, partnership or other business entity are transferred during the Term or the Holdover Period, whether by merger, amalgamation, outright purchase or otherwise, in lieu of a sale of the Property, other than by way of Refinancing as contemplated herein.

3.4 The Commission shall be payable immediately upon the closing of the agreement of purchase and sale referred to in section 3.3(a) above; or upon the completion of the transfer referred to in section 3.3(b) above; notwithstanding that the sale may close, or the transfer may be completed, following the expiry of the Term.

3.5 The Commission payable herein shall be subject to the payment of Harmonized Sales Tax (HST) thereon by the Owner.

3.6 In the event CBRE has marketed the Property for sale and receives qualified offers but the Owner chooses not to sell the Property but instead re-finances CBRE will be entitled to a fee of \$[REDACTED] plus HST, payable upon completion of the Refinancing transaction.

## **ARTICLE 4   HOLDOVER**

4.1 The Owner further agrees to pay the Brokerage the Commission if within ninety (90) calendar days after the expiration of the Term, Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property regardless of when the transaction closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage. The Brokerage is authorized to continue negotiations with such persons or entities. The Brokerage agrees to submit a list of such persons or entities to the Owner within ten (10) business days following the expiration of the Term, provided, however, that if a written offer has been submitted, then it shall not be necessary to include the offeror's name on the list.

## **ARTICLE 5   THE OWNER SHALL NOT ENGAGE ANOTHER BROKERAGE DURING THE TERM**

5.1 Subject to the Refinancing provisions referred to herein, the Owner warrants to the Brokerage that, as at the execution of this Agreement, the Owner is not a party to a valid listing agreement with any other real estate brokerage with respect to the sale of the Property. The Owner shall not engage the services of another real estate brokerage during the Term with respect to the sale of the Property.

5.2 The Owner agrees to cooperate with the Brokerage in bringing about the sale of the Property and to refer immediately to the Brokerage all inquiries of anyone interested in the Property. All negotiations are to be through the Brokerage.

5.3 The Owner and Brokerage hereby acknowledge that this is an exclusive listing and that the Brokerage shall not be required to cooperate with any other brokerage in connection with this exclusive listing. At the sole discretion of the Brokerage, a third-party real estate agent (the "Cooperating Agent") may be permitted to cooperate in the sale of the Property and that any Cooperating Agent shall comply with the terms of this Agreement.

5.4 The Brokerage acknowledges that the Owner is concurrently seeking the Refinancing of its secured debt obligations, through another mortgage broker Mortgage Alliance, and should a Refinancing Transaction be capable of being finalized during the Term or Holdover period, the Owner may seek to complete such Refinancing transaction.

## **ARTICLE 6   DUAL AGENCY**

6.1 The Owner acknowledges and agrees that the Brokerage may represent the Owner and a purchaser in a dual agency relationship. The Owner hereby consents to the possibility of a limited dual agency wherein CBRE Limited maintains confidentiality with respect to each pricing intentions, corporate objectives and motivations for both principals to the transaction.

6.2 Notwithstanding the foregoing, the members of the Listing Team shall not act adverse in interest to the Owner during the Term.



## **ARTICLE 7 INDEMNITIES**

- 7.1 To the extent of the Commission payable hereunder, the Owner agrees to indemnify and hold the Brokerage harmless from all claims, disputes, litigation and judgments, and to pay all actual costs and solicitors' fees, disbursements and applicable taxes incurred by the Brokerage in connection therewith, arising from any incorrect information supplied by the Owner, or from any material fact known by the Owner concerning the Property which the Owner fails to disclose.
- 7.2 To the extent of the Commission payable hereunder, the Brokerage agrees to indemnify and hold the Owner harmless from all claims, disputes, litigation and judgments, and to pay all actual costs and solicitors' fees, disbursements and applicable taxes incurred by the Owner in connection therewith arising from any established gross negligence on the part of the Brokerage or its representatives in providing the real estate brokerage services hereunder.

## **ARTICLE 8 GENERAL PROVISIONS**

- 8.1 *Authority.* The Owner declares and certifies that it is the owner of the Property and that it has the authority to enter into and execute this Agreement, subject to approval by the Court; and this Agreement, once executed by the Owner and approved by the Court, shall be legally binding upon the Owner and the Brokerage.
- 8.2 *Entire Agreement.* This Agreement constitutes the entire agreement between the Owner and the Brokerage in respect of the Property, and supersedes all prior discussions, negotiations and agreements, whether oral or written. In case of any inconsistencies between this Agreement and any commission provisions in the agreement of purchase and sale, the provisions of this Agreement shall govern and be paramount.
- 8.3 *Amendment.* No amendment or alteration of this Agreement shall be valid or binding unless made in writing and signed by the Owner and the Brokerage.
- 8.4 *Severability.* Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- 8.5 *Court Approval.* The sale of the Property shall be subject to and governed by a process to be approved by the Court in the proceedings of the Owner under the CCAA and any further orders of the Court therein. The Property shall be offered for sale on an "as is, where is" basis pursuant to the process to be approved by the Court.
- 8.6 *Interpretation.* The headings inserted in this Agreement are for convenience of reference only and, in no way define, limit or enlarge the scope or meaning of any of the terms and conditions contained in this Agreement. The preamble to this Agreement forms an integral part of this Agreement and shall be used in its interpretation.
- 8.7 *Jurisdiction.* This Agreement shall be governed by, and shall be subject to, the laws of the Province of Ontario; and the Owner and the Brokerage hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any dispute concerning the interpretation, application and enforcement of this Agreement.

8.8 *Legally Required Verifications:* The Brokerage is bound by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the "Act") to verify the identity of the clients and companies that are involved in a real estate transaction.

IN WITNESS WHEREOF the Owner and Brokerage agree to the terms and conditions as set out herein; and have executed this Agreement as of the date first written above.

2607380 Ontario Inc. (the "Owner")

Per:

\_\_\_\_\_  
I have authority to bind the company

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

CBRE Limited (the "Brokerage")

Per:

\_\_\_\_\_  
I have authority to bind the company

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

CBRE Limited (the "Brokerage")

Per:

\_\_\_\_\_  
I have authority to bind the company

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

**SCHEDULE "A"**

<b>Address</b>	<b>Registered Owner</b>	<b>PIN</b>	<b>Legal Description</b>
<b>1295 North Service Road, Burlington</b>	<b>2607380 Ontario Inc.</b>	<b>071270265</b>	<b>PT LT 10 , RCP PL 99 , PART 3 &amp; 7 , 20R6963 , S/T IN 619045 ; BURLINGTON</b>

## **Appendix “D”**

**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 6<sup>th</sup> day of July 2020, consisting of the period from July 5, 2020 to November 30, 2020 (the "**Revised Cash Flow Forecast**").


The hypothetical assumptions are reasonable and consistent with the purpose of the Revised 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 Revised Cash Flow Forecast. All such assumptions are disclosed in the notes therein.

Since the Revised 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 Revised 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 Revised Cash Flow Forecast may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 6<sup>th</sup> day of July 2020.

**2607380 Ontario Inc.**

  
**Shawn Saulhier**  
**President**

2607380 Ontario Inc.  
Cash Flow Forecast  
For the Period July 5, 2020 to November 30, 2020  
(In CAD; unaudited)

		Week Number	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
		Week Ending	11-Jul-20	18-Jul-20	25-Jul-20	1-Aug-20	8-Aug-20	15-Aug-20	22-Aug-20	29-Aug-20	5-Sep-20	12-Sep-20	19-Sep-20	26-Sep-20	3-Oct-20	10-Oct-20	17-Oct-20	24-Oct-20	31-Oct-20	7-Nov-20	14-Nov-20	21-Nov-20	28-Nov-20	30-Nov-20	
Notes	1	Totals																							
Receipts																									
	2	Collection of Office, Studio & Event Income	1,214,224	-	-	-	-	238,995	-	-	-	261,595	-	-	-	-	326,414	6,356	6,356	6,356	347,266	6,356	6,356	1,816	
	3	HST Receivable & Other Receipts	628,842	-	-	210,000	21,921	64,000	-	-	21,921	79,000	-	-	-	-	73,000	-	-	-	159,000	-	-	-	
Total Receipts			1,843,067	-	-	210,000	21,921	302,995	-	-	21,921	340,595	-	-	-	-	399,414	6,356	6,356	6,356	506,266	6,356	6,356	1,816	
Disbursements																									
	4	Operating Expenses	671,036	14,435	14,435	14,435	15,729	56,770	20,956	20,956	22,250	56,716	17,838	17,838	50,691	19,131	74,008	27,202	27,202	28,496	78,073	28,439	28,439	8,559	
	5	Personnel Expenses	403,344	-	40,334	-	20,167	-	40,334	-	40,334	-	40,334	-	40,334	-	40,334	-	40,334	-	40,334	-	40,334	20,167	
	6	Professional Fees	847,500	42,375	42,375	42,375	42,375	42,375	42,375	42,375	42,375	33,900	33,900	33,900	33,900	33,900	42,375	42,375	42,375	42,375	42,375	42,375	42,375	-	
	7	Cost to Complete	2,551,138	-	-	600,000	-	-	-	575,000	-	-	-	-	1,376,138	-	-	-	-	-	-	-	-	-	
	8	DIP Lender Costs	72,218	-	-	-	-	2,000	-	-	2,000	-	-	-	-	2,000	-	-	10,999	2,000	-	-	-	53,219	
Total Disbursements			4,545,236	56,810	97,145	656,810	78,271	101,145	103,666	63,331	679,959	92,616	92,072	51,738	124,925	1,429,170	158,718	69,577	109,911	81,869	162,782	70,814	111,148	81,945	
Net Cash Flow			(2,702,169)	(56,810)	(97,145)	(446,810)	(56,350)	201,850	(103,666)	(63,331)	(658,038)	247,979	(92,072)	(51,738)	(124,925)	(1,429,170)	240,697	(63,221)	(103,555)	(75,513)	343,484	(64,458)	(104,792)	(80,129)	
Opening Cash Balance			326,829	326,829	270,019	172,875	76,065	19,715	221,565	117,899	54,568	46,529	294,508	202,436	150,699	25,774	46,604	287,301	224,081	120,526	45,013	388,496	324,039	154,789	
Net Cash Flow			(2,702,169)	(56,810)	(97,145)	(446,810)	(56,350)	201,850	(103,666)	(63,331)	(658,038)	247,979	(92,072)	(51,738)	(124,925)	(1,429,170)	240,697	(63,221)	(103,555)	(75,513)	343,484	(64,458)	(104,792)	(80,129)	
DIP Drawdown			2,450,000			350,000					650,000					1,450,000									
Ending Cash Balance			74,660	270,019	172,875	76,065	19,715	221,565	117,899	54,568	46,529	294,508	202,436	150,699	25,774	46,604	287,301	224,081	120,526	45,013	388,496	324,039	219,247	74,660	



**2607380 Ontario Inc.**  
**Revised 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 revised cash flow forecast (the “**Revised 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 Revised Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Revised Cash Flow Forecast period will vary from the Revised 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 Revised 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 Second Report to the Court dated July 6, 2020.

**Note 1 Purpose of the Revised Cash Flow Forecast**

The purpose of the Revised Cash Flow Forecast is to present the estimated cash receipts and disbursements of 260 for the period from July 5, 2020 to November 30, 2020 (the “**Forecast Period**”), in respect of its proceedings under the CCAA. The Revised 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 November 30, 2020. 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 Revised Cash Flow Forecast assumes that all rental receipts for July 2020 have already been collected. The Revised Cash Flow Forecast also assumes the following in respect of the collections of rental receipts from and after August 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 studio rental income will be collected until August 2020;
- (iii) no event income will be collected until October 2020;
- (iv) no current tenants of the Nuvo Property will either pause or cancel existing leases during the Forecast Period;
- (v) no rent abatement schemes will be utilized by either current or future tenants of the Nuvo Property during the Forecast Period;
- (vi) tenants will occupy newly available space one month upon completion of the respective phases of the Nuvo Renovations.

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 Cost to Complete in respect of the Nuvo Renovations. The Company files HST returns on a monthly basis.

The Company expects to receive the Canada Emergency Wage Subsidy for the months of July 2020 and August 2020, for which the Government of Canada reimburses 75% of the Company's employee costs.

**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 Nuvo'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**

The Cost to Complete, and timing of payment thereof, represent the remaining costs associated with completing the Nuvo Renovations. The Nuvo Renovations are forecasted to be completed during the Forecast Period.

**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 up to October 24, 2020 (the "**Reserve**"). The Reserve does not include DIP Lender costs in respect of interest and professional fees for the period October 25, 2020 to November 30, 2020 (the "**CCAA Stay Extension**"). Accordingly, the Revised Cash Flow Forecast assumes payment of interest costs incurred by the DIP Lender during the CCAA Stay Extension.

The Revised 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 (i) paid from the Reserve and (ii) incurred during the CCAA Stay Extension. Additionally, the Revised Cash Flow Forecast assumes no principal payments during the Forecast Period.

**Note 9      Opening Cash Balance**

The balance, as at July 6, 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 “E”**

**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 6<sup>th</sup> day of July 2020, consisting of the period from July 5, 2020 to November 30, 2020 (the "**Revised 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 Revised 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 Revised Cash Flow Forecast. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Revised 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 Revised 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 Revised Cash Flow Forecast, given the hypothetical assumptions; or
- (c) the Revised Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Since the Revised 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 Revised Cash Flow Forecast will be achieved.

The Revised 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 6<sup>th</sup> day of July 2020.

**RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS CCAA MONITOR OF  
2607380 ONTARIO INC.  
AND NOT IN ITS PERSONAL CAPACITY**

Per:



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**Paul van Eyk  
CPA, CA, CIRP, LIT, IFA, Fellow of INSOL**