

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

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

Applicant

**Motion Record
(Re: SISP Approval)
(Returnable July 10, 2020)**

July 7, 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.**

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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. AND NUVO NETWORK INC.**

Applicant

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

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

Applicant

**NOTICE OF MOTION
(Re: SISP Approval)
(Returnable July 10, 2020)**

2607380 Ontario Inc. (the "**Applicant**") will make a motion to Justice McEwen of the Ontario Superior Court of Justice (Commercial List) on Friday, July 10, 2020 at 9:30 a.m. or as soon after that time as the motion can be heard by videoconference via Zoom due to the COVID-19 crisis. The videoconference details can be found in Schedule "A" to this Notice of Motion. Please advise Nicholas Avis if you intend to join the hearing of this motion by emailing navis@stikeman.com.

PROPOSED METHOD OF HEARING:

This motion is to be heard by videoconference.

THIS MOTION IS FOR:

1. An Order, substantially in the form contained at Tab 3 of the Applicant's Motion Record:
 - (a) approving the sale and investment solicitation process ("**SISP**"), as described in the Affidavit of Shawn Saulnier sworn July 7, 2020 (the "**Saulnier**")

Affidavit”), including the retainer of the Brokers (as defined below) to assist the Monitor and the Applicant with the implementation of the SISP;

- (b) approving, *nunc pro tunc*, the Applicant entering into the Halo Engagement Letter and the MA Engagement Letter (as defined below) to assist with the Refinancing Process;
- (c) approving the Applicant entering in the CBRE Engagement Letter (as defined below) to assist with the Sale Process;
- (d) sealing the unredacted version of the CBRE Engagement Letter, as defined below; and
- (e) extending the stay of proceedings (the “**Stay Period**”) in respect of the Applicant and the other stay parties to November 30, 2020.

THE GROUNDS FOR THIS MOTION ARE:

- 2. Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Fourth Saulnier Affidavit;

General

- 3. The Applicant, 2607380 Ontario Inc., is in the business of the development and operation of the multi-purpose Nuvo Network Building (the “**Nuvo Building**”) located at 1295 North Service Road, Burlington, Ontario;

- 4. On February 25, 2020, the Applicant sought and was granted an initial order under the *Companies’ Creditors Arrangement Act*, RSC 1985 c C-36 (the “**CCAA**”). Richter Advisory Group Inc. was appointed as monitor of the Applicant (the “**Monitor**”) in these CCAA proceedings;

- 5. On March 6, 2020, the Applicant sought and received an amended and restated initial order (the “**Amended and Restated Initial Order**”), which, among other things:

- (a) expanded the Applicant’s restructuring capabilities;

- (b) approved the DIP Agreement between the Applicant and Meridian Credit Union Limited, pursuant to which the Applicant obtained access to and was authorized to borrow under the DIP Facility in the maximum amount of \$7.18 million, which was secured by the DIP Charge;
- (c) increased the Administration charge to \$300,000;
- (d) declared that Maple Reinders Inc. ("**Maple Reinders**") and Barrie Glass & Mirror Ltd. were "critical suppliers" as per s. 11.4 of the CCAA and authorized the Applicant to make pre-filing payments in the aggregate amount of \$2,375,000 to Maple Reinders and Barrie Glass; and
- (e) extended the Stay Period in respect of the Applicant and the other stay parties to October 34, 2020;

6. Since the granting of the Amended and Restated Initial Order, the Applicant has, among other things, focused on managing its operations, including through the impact of the COVID-19 pandemic, and developing the SISP;

7. The Applicant has been working closely with Maple Reinders to advance the renovations at the Nuvo Building (the "**Nuvo Renovations**"), which remain substantially on time and on budget;

SISP

8. The Applicant has been working with the Monitor to design the SISP, which consists of two processes that will run in parallel: (i) the Refinancing Process and (ii) the Sale Process;

9. The Applicant retained a financial advisor, Halo Advisory ("**Halo**") to perform pre-marketing tasks for the Refinancing Process, and also retained Halo's mortgage broker, Mortgage Alliance ("**MA**"), to carry out the Refinancing Process as a licensed mortgage broker;

10. CBRE Limited (“**CBRE**”, and collectively with Halo and MA, “the “**Brokers**”) is to be retained pursuant to the CBRE Engagement Letter (the “**CBRE Engagement Letter**”) to facilitate the development and execution of the Sale Process, which will have two phases;

11. The Refinancing Process and the Sale Process will run parallel to one another until (i) a definitive agreement of purchase and sale is executed with a party pursuant to the Sale Process, or (ii) 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 pursuant to the Sale Process;

12. The proposed SISP will help identify the best opportunities in the circumstances for maximizing value for the Applicant’s stakeholders;

DIP Amendments

13. The DIP Agreement contained certain milestones in connection with the SISP, including the requirement that the Applicant obtain an order from this Court by May 8, 2020 setting out the specific steps of the SISP and the timing thereof;

14. As a result of the COVID-19 pandemic, the Applicant, in consultation with the Monitor, negotiated amendments to the DIP Agreement which, among other things, had the effect of:

- (a) extending the deadline to obtain an order approving the SISP to July 15, 2020;
- (b) requiring the Applicant to provide a firm agreement of purchase and sale on or before October 30, 2020;
- (c) requiring the closing of an agreement of purchase and sale to occur on or before November 30, 2020;

Sealing

15. The Applicant seeks to seal the unredacted version of the CBRE Engagement Letter because it contains commercially sensitive information that could be used to the Applicant’s detriment in the SISP;

Stay of Proceedings

16. The Applicant seeks an extension of the Stay Period to and including November 30, 2020;
17. The proposed extension to the Stay Period coincides with the Outside Date of the SISP;
18. An extension of the Stay Period will allow the Applicant, with the assistance and oversight of the Monitor, to properly and fully implement the SISP;
19. The DIP Agreement (as amended) is expected to provide sufficient funding to enable the Applicant to operate its business and meet its obligations during the proposed Stay Period;
20. The Applicant has acted and continues to act in good faith and with due diligence during the course of this CCAA proceeding;

Other Grounds

21. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
22. The provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, including s. 137(2) thereof;
23. The provisions of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, including r. 2.03, 3.02 and 37 thereof; and
24. Such further and other grounds as counsel may advise and this Court may permit.

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

- (a) The Saulnier Affidavit and the exhibits attached thereto;
- (b) The Second Report of the Monitor, to be filed; and

- (c) Such further and other evidence as counsel may advise and this Court may permit.

July 7, 2020

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Schedule "A"

Zoom Particulars

Join Zoom Meeting

<https://zoom.us/j/98036715545?pwd=eG1HYU9nYjdxNWZZd004Tkp2aVhkdz09>

Meeting ID: 980 3671 5545

Password: 566369

One tap mobile

+13017158592,,98036715545#,,,,0#,,566369# US (Germantown)

+13126266799,,98036715545#,,,,0#,,566369# US (Chicago)

Dial by your location

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 204 272 7920 Canada

Meeting ID: 980 3671 5545

Password: 566369

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

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

NOTICE OF MOTION
(RETURNABLE JULY 10, 2020)

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TAB 2

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

(Applicant)

AFFIDAVIT OF SHAWN SAULNIER
(Sworn July 7, 2020)

I, Shawn Saulnier, of the Town of Campbellville, Ontario MAKE OATH AND SAY:

1. I am the President and Chief Executive Officer of 2607380 Ontario Inc. ("**Company**" or the "**Applicant**"). As a result of my role with the Applicant, I have knowledge of the matters to which I hereinafter depose. I have also reviewed the books and records of the Applicant and have spoken with certain of the directors, officers and/or employees of the Applicant, as necessary and applicable. Where I have relied upon information received from such individuals, I believe such information to be true.
2. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.
3. This affidavit is sworn in support of a motion brought by the Applicant (the "**SISP Motion**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and such proceedings, the "**CCAA Proceedings**") seeking an Order substantially in the form of the draft order attached as Tab 3 of the Motion Record,
 - (a) approving the sale and investment solicitation process (the "**SISP**"), which is further described herein, including the retainer of brokers to assist the Monitor and Applicant with the implementation of the SISP;
 - (b) sealing the unredacted version of the CBRE Engagement Letter, as defined below;

- (c) extending the stay of proceedings (the “**Stay Period**”) in respect of the Applicant, Nuvo Network Inc. and Shawn and Bridget Saulnier to November 30, 2020.

I. BACKGROUND AND STATUS OF CCAA PROCEEDINGS

4. I repeat and rely on my affidavit sworn February 24, 2020 (the “**Initial Affidavit**”) and March 4, 2020 (the “**Comeback Affidavit**”) in support of this motion. Copies of the Initial Affidavit and Comeback Affidavit (without exhibits) are attached hereto as **Exhibit “A”** and **Exhibit “B”**. All capitalized terms not otherwise defined herein are as defined in the Initial Affidavit and the Comeback Affidavit.

5. The Applicant’s business is the development and operation of the Nuvo Network Building (the “**Nuvo Building**”) located at 1295 North Service Road, Burlington, Ontario, which is a multi–purpose commercial building which leases out space to a variety of businesses, several television studios and for corporate and personal events.

6. As set out in greater detail my Initial Affidavit, the Applicant sought, and obtained CCAA protection on February 25, 2020 due to its lack of access to the necessary liquidity required to complete renovations of the Nuvo Building and the threat of enforcement actions being taken by a number of lenders, the combination of which halted construction, prevented the completion of the Nuvo Building, and caused the Company and certain related entities to default on their obligations to their lenders.

7. As a result of these and other factors described in the Initial Affidavit, the Applicant sought and obtained creditor protection and related relief under the CCAA pursuant to a February 25, 2020 order of this Court (the “**Initial Order**”). Richter Advisory Group Inc. was appointed Monitor of the Applicant in the CCAA Proceedings. On March 6, 2020, the Court granted the Amended and Restated Initial Order, which, among other things, provided the Applicant with more fulsome restructuring capabilities, approved the DIP Agreement and granted a stay of proceedings until October 24, 2020 (the “**Stay Period**”). A copy of the Amended and Restated Initial Order is attached hereto as **Exhibit “C”**, and is available, along with all other filings in the CCAA Proceedings, on the Monitor’s website for these proceedings at <https://www.richter.ca/insolvencycase/2607380-ontario-inc/>.

A. Status of Proceedings

8. Since the granting of the Amended and Restated Initial Order on March 6, 2020, the Applicant, with the oversight and assistance of the Monitor, has been working diligently to maintain the stability of its business operations, manage relationships with key stakeholders, and respond to the operational and financial challenges brought on by the COVID-19 pandemic.

9. Since the Amended and Restated Initial Order was granted, the Applicant and the Monitor have taken various steps to advance the CCAA Proceedings, including the following:

- (a) managing relationships with key stakeholders, including creditors, tenants and secured lenders;
- (b) continuing to liaise with its general contractor, Maple Reinders Inc. ("**Maple**"), with respect to the ongoing renovations at the Nuvo Building (the "**Nuvo Renovations**");
- (c) responding to the COVID-19 pandemic situation, including working to obtain the essential service designation for Maple in order to enable Maple to continue its work to complete the Nuvo Renovations;
- (d) administering the leases at the Nuvo Property;
- (e) working, in consultation with the Monitor, to manage the Company's cash flows and make payments in accordance with the Amended and Restated Initial Order;
- (f) engaging Halo Advisory and Mortgage Alliance to assist in carrying out the Refinancing Process;
- (g) preparing materials, including a confidential information memorandum ("**Refinancing CIM**"), and materials to be included in the data room in connection with the refinancing solicitation process to be undertaken for the Nuvo Property (the "**Refinancing Process**"), as described below;
- (h) working with its counsel and the Monitor to identify and introduce potential refinancing sources in connection with the Refinancing Process;

- (i) working with the Monitor to design the SISP;
- (j) corresponding with realtors in connection with the SISP, including reviewing listing agent proposals, attending virtual meetings and conducting tours of the Nuvo Property;
- (k) engaging CBRE Limited (“**CBRE**”) to carry out the Sale Process contemplated by the SISP;
- (l) working with CBRE and the Monitor to prepare materials, including a confidential information memorandum (“**SISP CIM**”), and materials to be included in the data room in connection with the Sale Process, as described below;
- (m) corresponding with the DIP Lender and its legal counsel regarding the progress of the SISP; and
- (n) with the assistance of the Monitor, preparing an updated cash flow forecast in connection with the Applicant’s request for an extension of the Stay Period to November 30, 2020.

10. I understand that the Monitor will be filing a report in connection with the within motion describing the status of the Refinancing Process and the SISP in detail and including the updated cash flow forecast through to the extension of the Stay Period through to November 30, 2020.

B. Status of Nuvo Renovations

11. A primary focus of the CCAA Proceedings and the DIP financing approved on in March 2020 was to permit the Applicant to complete renovations to the Nuvo Property. As outlined in the Comeback Affidavit, Maple had been retained to assist with the Nuvo Renovations.

12. Following the issuance of the Amended and Restated Initial Order, the Applicant with the assistance of the Monitor, completed the documentation necessary to ensure that Maple returned to the site, including signing an amended Work Order setting out the timing and conduct of the Nuvo Renovations.

13. Following the completion of the documentation and payment of initial payments to Maple as approved by the Court and contemplated by the DIP Agreement, Maple returned to the site on March 16, 2020, and renovation work restarted. The construction budget and timeline that Maple provided to the Monitor and Applicant in early March 2020 contemplated a completion date of September 2020 for the Nuvo Renovations.

14. I and my team at the Company work on a daily and weekly basis to coordinate the Renovations together with our tenants to ensure that the Maple schedule can be completed. We coordinate studio schedules and timing for renovations in various aspects of the Nuvo Building in an effort to reduce the operational impact of the renovations on our tenants, to the greatest extent possible.

C. Impact of the COVID-19 Pandemic on Operations

15. On March 17, 2020, the Province of Ontario issued a Declaration of pursuant to the *Emergency Management and Civil Protection Act* (the “**Declaration of Emergency**”). On March 23, 2020, the Province of Ontario announced the closure of non-essential businesses. As a result of the Declaration of Emergency, most non-essential construction activity was suspended, including the renovation work being carried out by Maple. Maple was forced to stop the Nuvo Renovations on April 4, 2020.

16. It was critical to the Applicant that the Nuvo Renovations re-commence and be completed in accordance with the schedule agreed to with the DIP Lender. Following the shut down of the Nuvo Renovations, I wrote to the local Member of Provincial Parliament (“**MPP**”) to confirm that Maple’s services with respect to the Nuvo Renovations are essential. Following further communications with the MPP’s office, Maple’s classification as an essential service provider was acknowledged. The Company ensured that local police were aware of the Nuvo Renovations and the MPP’s acknowledgment that Maple could continue the Nuvo Renovations.

17. On April 20, 2020, Maple began re-activation and re-mobilization efforts to resume the Nuvo Renovations, including re-hiring employees, acquiring materials that had been delayed by Maple’s suppliers due to the impact of the COVID-19 pandemic on them, and instituting proper safety plans and procedures under the new requirements for working during COVID-19.

18. The construction budget and timeline that Maple provided to the Monitor in early March 2020 contemplated a completion date of September 2020 for the Nuvo Renovations. The Nuvo Renovations remain substantially on time and on budget.

19. The COVID-19 pandemic has also affected rental revenues, as certain tenants of the Nuvo Building were unable to continue operations. As a result, the Company's monthly rental revenue has decreased by approximately \$20,000 since the onset of the pandemic, representing a decrease of approximately 11% of the Company's monthly average rental revenue. The Company has made efforts to mitigate these losses. To date, the Company has entered into new rental agreements for certain office spaces, and has received multiple enquiries for venue space, including booking a 3-day event with catering later this month. The Company has also launched a sales campaign commencing the week of July 6, 2020, to generate new opportunities for rental revenues for event space, studios and IT services. The Company has also sought to identify potential savings in respect of operational expenses.

20. The Company applied for and received financial assistance from the federal government following the onset of the pandemic, which the Company intends to use for funding operations and paying for miscellaneous capital expenditures.

21. As a result of these efforts, the Company has been able to address the loss in revenue caused by COVID with minimal utilisation of the DIP facility.

D. Nuvo Taste Partnership with Food for Life

22. I do wish to note one further impact of the COVID pandemic on Nuvo operations generally. 2691484 Ontario Inc. ("**Nuvo Taste**") is a sister company to the Applicant which operates from the Nuvo Building. Nuvo Taste provides catering services for various events at the Nuvo Building, as well as the Hamilton airport and certain regional sports teams. As a result of the reduced travel brought about by the COVID-19 pandemic, as well as cancellation of many sporting activities, Nuvo Taste initially expected that its operations would be significantly reduced. However we were able to continue to operate Nuvo Taste and make use of the kitchen facilities in a positive way.

23. Following the onset of the COVID-19 pandemic, Nuvo Taste partnered with Food for Life, an organization which sources and distributes fresh food to isolated seniors, individuals with

disabilities, and individuals who are financially challenged or have limited income in the City of Hamilton and the Halton region. Through this partnership, Nuvo Taste and Food for Life created the Good Soup Project, through which Nuvo Taste was able to provide healthy and nutritious soups, which were delivered to the Food for Life community. To date, Nuvo Taste has produced 29,000 litres of soup for the Good Soup Project, and intends to produce an additional 3,600 more litres to by July 17, 2020. In this way, Nuvo Taste was able to keep its team employed while also giving back to the local community.

II. SALE AND INVESTOR SOLICITATION PROCESS

24. The DIP Agreement required that the Company initiate and pursue refinancing and sales efforts.

25. The Applicant worked with the Monitor to design the SISP, a copy of which is attached hereto as **Exhibit "D"**. The SISP consist of (i) the Refinancing Process, and (ii) a process (the "**Sale Process**") to solicit interest in the acquisition of the Nuvo Property prior to November 30, 2020 (the "**Outside Date**"). The SISP contemplates that the Refinancing Process and the Sales Process will run in parallel.

E. Refinancing Process

26. On May 16, 2020, the Applicant retained a financial advisor, Halo Advisory ("**Halo**") to perform pre-marketing tasks for the Refinancing Process. On May 18, 2020, the Applicant retained Halo's mortgage broker, Mortgage Alliance ("**MA**"), to carry out the Refinancing Process as a licensed mortgage broker. Halo and MA are controlled by the same people. Copies of the Halo engagement and the MA engagement (the "**MA Engagement Letter**") are attached hereto as **Exhibit "E"** and "**F**", respectively.

27. 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.

28. The key terms of the MA Engagement Letter include:

- (a) the term of the engagement is for a period of 180 days (the "**Term**") through to November 16, 2020;

- (b) a brokerage fee of 0.5% of the quantum of the financing obtained (the “**Brokerage Fee**”);
- (c) in the event that during the Term, the Company directly or indirectly accepts financing from a third party, then the Company shall be responsible for the payment of the Brokerage Fee to MA; and
- (d) 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.

29. Halo and MA have, in accordance with the Amended and Restated Initial Order and the DIP Agreement (as amended), commenced the Refinancing Process under the supervision of the Monitor. In addition, the Monitor and our counsel have and will continue to assist in identifying and pursuing refinancing options within the Refinancing Process.

30. MA, in consultation with the Monitor and the Company, has prepared marketing materials, including a teaser and a Refinancing CIM, and developed a targeted list of prospective lenders for which to present the refinancing opportunity.

31. To date, the Applicant, Monitor and MA have contacted several parties identified as prospective lenders to provide financing to the Applicant, including banks, mortgage lenders, private equity firms and alternative lenders (the “**Interested Parties**”). Interested Parties who have signed a non-disclosure agreement (“**NDA**”) have been provided with the opportunity to access a confidential data room furnished with information pertaining to the Company, including a 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 MA, the Monitor and the Company.

32. Pursuant to the DIP Agreement (as amended), the Applicant 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. This requirement is reflected in the SISF.

33. 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 or before October 30, 2020), the Monitor is able to pursue such a

transaction and terminate the Sale Process. The Applicant will seek Court approval of the refinancing transaction on or before the Outside Date (contemplated to be on or before November 30, 2020).

F. Sale Process

34. Commencing in early May 2020, the Monitor solicited proposals from various potential brokers to act as sales broker for the Nuvo Property. I and the Company's Chief Operating Officer, together with the Monitor, were involved in interviews and assessments of the various proposals that were received. The Monitor's Report will provide greater detail of the various proposals and selection process.

35. Ultimately the Monitor and Applicants agreed with the selection of CBRE (the "**Broker**") to assist in the development and execution of the Sale Process and related marketing strategy, subject to Court approval. The terms of the Applicant's proposed engagement letter with the Broker (the "**CBRE Engagement Letter**") are outlined in the Second Report.

36. The Monitor and Applicants have consulted with the Broker on the form of Sales Process to be undertaken to solicit offers for the Nuvo Property. Details of the Sales Process will be outlined in the Second Report of the Monitor, to be filed (the "**Second Report**"), however I have outlined a general summary below.

37. The Sale Process will proceed in two phases and be carried out by the Monitor, with assistance of the Broker. 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 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**"). The Monitor and the Broker will circulate a teaser letter to Known Potential Bidders, and will also make available a CIM and provide access to an electronic data room containing financial and other due diligence information to Potential Bidders that have executed an NDA with the Applicant.

38. During Phase 1 of the Sale Process, the Monitor and the Broker will solicit expressions of interest in the form of non-binding expressions of intent from Potential Bidders to acquire the

Nuvo Property. To be considered a Qualified LOI, an LOI must, among other things, be delivered by the Phase I Bid Deadline, contemplated to be September 30, 2020, contain a description of the purchase price, indicate and describe the sources of financing, and include a description of all due diligence to be performed and conditions to closing sought by the Participating Bidder. Following the Phase I Bid Deadline, the Monitor, Company and the Broker will review the LOIs received and will invite Participating Bidders who have submitted Qualified LOIs to proceed to Phase 2 of the Sale Process.

39. During Phase 2 of the Sale Process, each Participating Bidder that is not eliminated from the Sale Process will continue to have access to due diligence information and will be invited to submit a Final Bid by the Phase 2 Deadline, contemplated to be October 23, 2020. The Final Bid is to be in the form of a template purchase agreement to be provided by the Monitor. The Sale Process provides certain requirements for the submission of a Final Bid, including the provision of deposits. The Monitor, in consultation with the Broker and the Company, will review the Final Bids submitted and determine 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 (November 30, 2020) in a manner that complies with all requirements of the Sale Process. The Monitor, in consultation with the Broker and the Company will select the Final Bid that it considers most favourable (the "**Selected Final Bid**"). Once a Selected Final Bid has been identified, the Broker and Monitor, in consultation with the 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.

40. A summary of key dates for the SISF is included in the table below:

| 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 | October 5, 2020 to October 23, 2020 |

| | |
|--|---------------------------------|
| Participating Bidders who have submitted Qualified LOIs | |
| 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 |

41. The Applicant worked with the Monitor and Broker to design the SISP. The SISP establishes a comprehensive process to canvass the market for sale and refinancing opportunities in order to maximize the value obtained for the Applicant's assets and recoveries for the Applicant's stakeholders.

42. As noted above, the SISP contemplates that the Sale Process and the Refinancing Process will be running in parallel and a refinancing transaction can be entered into through the signing of a firm Agreement of purchase and sale. In the event that a refinancing is pursued instead of a sale transaction, the CBRE Engagement Letter provides for a fee that the Broker will be entitled to receive upon the completion of the refinancing.

G. DIP Amendments

43. The Applicant and Meridian entered into the DIP Agreement on March 4, 2020, a copy of which is attached hereto as **Exhibit "G"**. The DIP Agreement contained certain milestone dates in connection with the SISP.

44. In light of the widespread economic disruption caused by the onset of the COVID-19 pandemic, the Province of Ontario's declaration of the State of Emergency on March 17, 2020 and associated disruption to the progress of the Nuvo Renovations, the Company, in consultation with the Monitor, negotiated an amendment to the DIP 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 attached hereto as **Exhibit "H"**.

45. As the Applicant and Monitor continued to consider the terms of SISP, it was anticipated that a further change in the timelines outlined in the First DIP Amendment may be appropriate. The Monitor has been in consultation with the DIP Lender to update them in respect of the proposed process and timelines. It was ultimately agreed that a further amendment would be entered into in conjunction with the SISP (the “**Second DIP Amendment**”), a copy of which is attached hereto as **Exhibit “I”**. The Second DIP Amendment provides for the following amended timelines:

- (a) on or before July 15, 2020, or such later date as agreeable to the Monitor and DIP Lender, the Company was required to hire a sales agent and work with the sales agent to establish the steps for the SISP, including if desirable, an electronic data room and to complete drafts of the confidential information memorandum (“**CIM**”), a confidentiality agreement, a prospective buyers list and the teaser letter and provide same to the DIP Lender for its approval;
- (b) on or before July 15, 2020, or such later date as agreeable to the Monitor and DIP Lender, the Company was required to obtain an order from the Court in form and substance satisfactory to the Monitor and the DIP Lender, acting reasonably, setting out the specific steps of the SISP and the timing thereof;
- (c) on or before October 30, 2020, the Company was required to provide a firm agreement of purchase and sale with a closing date on or before November 30, 2020; and
- (d) the closing of the agreement of purchase and sale was required to occur on or before November 30, 2020.

H. Sealing

46. The CBRE Engagement Letter contains commercially sensitive information, including certain information regarding the potential threshold price for a sale transaction involving the Company, which could have an adverse effect on the SISP. As a result, the Company is seeking that the commercially sensitive provisions of the CBRE Engagement Letter be sealed pending further Order of this Court.

III. STAY EXTENSION

47. Since the Amended and Restated Initial Order was granted, the Applicant has continued to act diligently and in good faith in respect of all matters relating to the CCAA Proceedings. To date, the Applicant has been working diligently to maintain the stability of its business operations, manage relationships with key stakeholders, respond to the operational and financial challenges brought on by the COVID-19 pandemic, and work with Maple to ensure the timely progression of the Nuvo Renovations.

48. The Stay Period granted in the Amended and Restated Initial Order, had the effect of imposing a stay of proceedings until and including October 24, 2020. The Applicant is requesting an extension of the Stay Period until and including November 30, 2020, to coincide with the Outside Date of the SISP.

49. I understand that the Second Report will include the Applicant's prepared cash flows, demonstrating that the DIP Agreement (as amended) is expected to provide the Applicant with sufficient funding to continue operations through to the requested extension of the Stay Period to November 30, 2020.

50. In the circumstances, I do not believe that any creditor will suffer material prejudice as a result of the extension of the Stay Period.

I confirm that while connected via video conference technology, Shawn Saulnier showed me the front and back of his government-issued photo identity document and that I am reasonably satisfied it is the same person and the document is current and valid. I confirm that I have reviewed each page of this affidavit with Shawn Saulnier and verify that the pages are identical.

Sworn before me by video conference from the Town of Campbellville, Ontario to the City of Toronto, Ontario, on July 7, 2020.

DocuSigned by:
Sanja Sopic
E820930A2731482

Commissioner for Taking Affidavits

Sanja Sopic

DocuSigned by:
Shawn Saulnier
D668EAB5CC004C6...

Shawn Saulnier

EXHIBIT “A”

THIS IS EXHIBIT "A", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

F820930A2731482

Commissioner for Taking Affidavits

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

(Applicant)

AFFIDAVIT OF SHAWN SAULNIER
(Sworn February 24, 2020)

I, Shawn Saulnier, of the Town of Campbellville, Ontario MAKE OATH AND SAY:

1. I am the President and Chief Executive Officer of 2607380 Ontario Inc. ("**Nuvo**" or the "**Applicant**"). As a result of my role with the Applicant, I have knowledge of the matters to which I hereinafter depose. I have also reviewed the books and records of the Applicant and have spoken with certain of the directors, officers and/or employees of the Applicant, as necessary and applicable. Where I have relied upon information received from such individuals, I believe such information to be true.
2. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.

I. INTRODUCTION

3. This affidavit is sworn in support of an application by the Applicant for an order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**" and such proceedings, the "**CCAA Proceedings**").
4. The Applicant's business is the development and operation of the Nuvo Network Building (the "**Nuvo Building**") located at 1295 North Service Road, Burlington, Ontario- a multi—purpose commercial building which leases out space to a variety of businesses, several television studios and for corporate and personal events.
5. This CCAA application was necessary due to Nuvo's lack of access to the necessary liquidity required to complete renovations of the Nuvo Building and the threat of

enforcement actions being taken by a number of lenders, the combination of which has halted construction, prevented the completion of the Nuvo Building, and caused Nuvo and certain related entities to default on their obligations to their lenders.

6. As will be outlined in greater detail below, Nuvo is seeking to make use of the flexibility and breathing room provided by the CCAA process in order to pursue additional renovation financing, refinancing and restructuring options that would permit the completion of the renovations to the Nuvo Building.

7. The Board of Directors of Nuvo has authorized this CCAA application.

II. BACKGROUND

8. Nuvo does not have access to the liquidity necessary to complete the renovations of the Nuvo Building, is in default of its obligations to its lenders and is unable to honour its obligations to, among others, its general contractor and on-site labourers. Nuvo is seeking CCAA protection in order to maintain the *status quo* while it explores avenues of financing to complete the renovations of the Nuvo Building and service its existing debt obligations. Once renovations are completed, Nuvo's liquidity situation is expected to improve significantly in light of increased rental income. Further, any ultimate refinancing of all of Nuvo's debt obligations is best placed to occur after renovations of the Nuvo Building are completed, and all remaining units are leased.

A. Corporate Structure and Operations

(i) Nuvo

9. Nuvo owns real property at 1295 North Service Rd, Burlington, Ontario (the "**Nuvo Property**"), which is further described below. I am the sole director of Nuvo. In addition to my position as President and Chief Executive Officer, Nuvo's management consists of a Chief Operating Officer and a Chief Financial Officer.

10. As described below, Nuvo manages the leases and studio and event rental arrangements for the Nuvo Building.

11. Nuvo has 9 full-time employees, consisting of cleaning staff, a property labourer and administrator, a client services manager, a concierge, as well as finance, IT and human resources staff. Nuvo has also engaged 8 independent contractors in connection with the

management of the Nuvo Building, including a finance consultant, an external cleaning service, two human resources consultants, and a sales consultant. Nuvo's employees are not unionized, and Nuvo does not sponsor any pension plans. Nuvo is current on all payments of wages to its employees and source deductions.

12. Nuvo has interim property taxes for 2020 in the amount of \$65,707.56, which are due to be paid in two installments, on February 21, 2020 and April 21, 2020. As of January 13, 2020, Nuvo also has \$140,608.02 in property tax arrears for amounts past due for 2019, inclusive of penalty charges. Nuvo's total outstanding property tax liability as of January 14, 2020 is \$206,315.58. A copy of the City of Burlington's 2020 Interim Tax Bill showing these amounts is attached hereto as **Exhibit "A"**.

13. Nuvo is current on all HST obligations.

(ii) Nuvo Network Inc.

14. Nuvo Network Inc. ("**Nuvo Network**") was incorporated following the acquisition of the Nuvo Property. The intention was to migrate the employees and leases of Nuvo to Nuvo Network. I am the sole director of Nuvo Network.

15. To date, some leases for the Nuvo Building have been migrated to Nuvo Network as the landlord; however, all rental income flows to Nuvo. During the course of the CCAA Proceedings, it is anticipated that the rental income will continue to flow to Nuvo, and I understand that the cashflows to be filed in the CCAA Proceedings reflect this ongoing stream and use of rental income for the global costs of the Nuvo Building and the restructuring.

16. The shares of Nuvo Network were pledged as collateral security to a lender who provided financing and obtained security on two other properties in Milton, Ontario, which are owned and operated by a related group of companies I control (the "**Mohawk Entities**"): the Mohawk Inn and Conference Centre (the "**Mohawk Inn**") at 9230 Guelph Line in Milton, Ontario, and the KOA Campground ("**KOA Campground**") located at 9301 Second Line, Milton, Ontario. At this time, it is my intention to have ongoing discussions with the lenders of the Mohawk Entities to ensure stability at the Mohawk Entities.

17. In the circumstances, Nuvo is seeking to extend the stay of proceedings to Nuvo Network to avoid steps being taken against Nuvo Network by the lenders of the Mohawk Entities which could trigger an insolvency of Nuvo Network.

III. ASSETS OF NUVO

18. Nuvo's primary asset is the Nuvo Property, which is described below. An April 2019 appraisal of the Nuvo Property, which is discussed below, values it at an amount that far exceeds its obligations to its lenders.

19. A copy of Nuvo's Balance Sheet as of December 31, 2019 is attached hereto as **Exhibit "B"**. The Balance Sheet was internally prepared and has not been audited. As of December 31, 2019, Nuvo's assets on a consolidated basis had a book value of approximately \$25.5 million. The bulk of these assets consists of the costs associated with the acquisition of the Nuvo Property and the renovation of the Nuvo Building, cash, accounts receivable, amounts due from shareholders and related parties and prepaid expenses.

20. A copy of Nuvo's Statement of Profit and Loss as of December 31, 2019 is attached hereto as **Exhibit "C"**. The Statement of Profit and Loss was internally prepared and has not been audited. For the fiscal year 2019, Nuvo generated \$208,506 in event income and \$2,370,321 in rental income. However, Nuvo generated an overall loss from operations of \$1.83 million in 2019.

A. The Nuvo Property

21. The Nuvo Property is approximately 4.9 acres in size, and is situated in a predominantly commercial office neighbourhood visible from the nearby Highway 403, Highway 407 and the Q.E.W. in Burlington.

22. The Nuvo Building is located on the Nuvo Property. The Nuvo Building was constructed in 1992 by Crossroads Christian Communications Inc. ("CCCI"), a producer of faith and values-based media content, to house their growing communications business. The Nuvo Building is approximately 144,000 ft² in size and was designed for commercial office space, production facilities and event space. CCCI did not occupy the entire building, and the excess space was leased to unrelated third parties.

23. At the time of Nuvo's acquisition of the Nuvo Property in 2018, the Nuvo Building was heavily underutilized, with only 99,000 ft² of leasable space. Nuvo acquired the Nuvo Property with the intention of renovating the Nuvo Building and rejuvenating and upgrading the event spaces. The overarching goal was to turn the Nuvo Building into a multi-use, multi-tenant rental and business operation. To that end, the Nuvo Building was designed to contain office and meeting rooms, co-working spaces, a banquet hall, multiple event spaces, a stage for music events, several production studios and an on-site commercial kitchen.

24. Currently, the Nuvo Building contains 86 rental spaces available for commercial use spanning three floors, along with 4 common area meeting rooms. Of the 86 rental spaces, 17 are designed to be used by television studios. As of the date of the swearing of this affidavit, 85% of the office spaces, 57% of the studio spaces and 23% of the event rental spaces are leased. A number of the spaces remain under construction, and, once renovations are completed, would represent approximately 49,618 ft² of additional leasable space.

25. As part of Nuvo's acquisition of the Nuvo Property, CCCI entered into a long-term lease with Nuvo for office, studio and production space, in respect of approximately 31,250 ft².

IV. LIABILITIES OF NUVO

26. As at December 31, 2019, as noted in Nuvo's Balance Sheet as of December 31, 2019 previously attached as Exhibit "B", Nuvo had liabilities totalling approximately \$27.8 million. The major liabilities of Nuvo consist of long-term debt, both as a borrower in connection with the financing obtained for the acquisition and renovation of the Nuvo Property, and as guarantor of the Mohawk Entities' debt.

27. Nuvo's primary loan obligation is to Meridian Credit Union Limited ("**Meridian**"), for the financing of the acquisition of the Nuvo Property and the partial renovation of the Nuvo Building, plus loan obligations to CCCI and Bridging as described herein. Nuvo's total outstanding indebtedness to Meridian is approximately \$17.3 million, inclusive of interest, as of January 31, 2020. Meridian has a first-ranking registration against the Nuvo Property to secure this amount, as well as holding other security.

28. As will be outlined below, the negotiations between Nuvo and Meridian related to the acquisition of the Nuvo Property were difficult and lengthy, and Meridian's actions in failing to provide funding to Nuvo on numerous occasions have resulted in lengthy delays to the renovation schedule of the Nuvo Building, which has been one of the factors necessitating the within CCAA filing.

29. As part of the acquisition of the Nuvo Property, CCCI agreed to provide a VTB to Nuvo in the amount of \$4.5 million, registered in second position on the Nuvo Property.

30. Nuvo was also required to obtain tertiary financing to finance the acquisition of the Nuvo Property, as Meridian reduced the amount of financing it was willing to provide at the last minute prior to the closing of the transaction. Nuvo obtained this additional financing through a commitment from Bridging Finance Inc. ("**Bridging**"). There is approximately \$2.8 million outstanding to Bridging under the facility as of January 31, 2020, secured by, among other things, a third ranking charge against the Nuvo Property.

31. Nuvo's long-term debt obligations are detailed below.

A. Meridian Credit Agreement

32. On March 13, 2018, after many months of negotiations which are described below, Nuvo entered into a Credit Agreement with Meridian, a copy of which is attached hereto as Exhibit "D" (the "**Meridian Credit Agreement**"). The Meridian Credit Agreement is guaranteed by certain of the Mohawk Entities and me personally. Nuvo is the borrower under the Meridian Credit Agreement, which originally provided for three loan facilities, as follows:

| | Type | Max. Amount | Purpose | Repayment | Interest |
|---|----------------|----------------|---|--|-----------------|
| 1 | Demand Loan | \$12,350,000 | To finance up to 65% of the purchase price of the Nuvo Property | Interest only on a monthly basis from Nuvo's own resources. Full loan amount to be repaid within 24 months of initial advance from Facility #3a. | Prime Rate + 2% |

| | Type | Max. Amount | Purpose | Repayment | Interest |
|----|---------------------------------|--|--|---|-------------------|
| 2 | Demand Loans (for Construction) | Total \$5,000,000, divided into two lines: 2.a: \$3,500,000 2.b: \$1,500,000 | 2.a: To finance renovation costs to rejuvenate the Nuvo Building 2.b: To finance tenant improvement costs at the Nuvo Building | Interest only on a monthly basis from Nuvo's own resources. Principal to be repaid within 24 months of initial advance from proceeds of Facility #3a. | Prime Rate + 2.5% |
| 3a | Non-Revolving Loan. | \$20,000,000 | To provide long-term take-out financing for the Nuvo Property. This facility was removed through the Amendment and Forbearance Agreement. | Payments to be calculated based on a max. amortization period of 20 years from initial date of drawdown. | Prime Rate + 2% |

33. Facility 1 and facility 2 were put in place to finance the acquisition of the Nuvo Property and the renovations to the Nuvo Building. Facility 3 was intended to be used as take-out financing to pay out the first two Meridian facilities and the Bridging Commitment (as defined below), at a lower borrowing cost for Nuvo, following the completion of renovations. However, facility 3 was removed in August 2019 through the Amendment and Forbearance Agreement (as defined and discussed below).

34. To secure its obligations under the Meridian Credit Agreement, Nuvo granted various security to Meridian including (i) a first-ranking collateral mortgage on the Nuvo Property (the "Meridian Charge") in the maximum amount of \$23 million, a copy of which is attached hereto as Exhibit "E", (ii) a personal guarantee from me, a copy of which is attached hereto as Exhibit "F", and guarantees from certain of the Mohawk Entities, (iii) a general assignment

of rents with respect to the Nuvo Property, and (iv) a general security agreement in all of Nuvo's present and after-acquired personal property, a copy of which is attached hereto as Exhibit "G".

B. Meridian Amendment and Forbearance Agreements

35. As will be described in greater detail below, commencing in February 2019, Nuvo engaged in a concerted effort to obtain the additional financing necessary to complete renovations on the Nuvo Building from Meridian, as was contemplated at the time the Meridian Credit Agreement was signed. At the time the Meridian Credit Agreement was signed, it was anticipated that an additional \$2 million would be provided by Meridian further to assurances made to me by the Meridian representative who had carriage of the matter at the time, Senior Vice- President Stephen Otten, that Nuvo would qualify for the additional funding if the Nuvo Building achieved a minimum of 75% of office space rental. As will be outlined in greater detail below, this milestone was achieved, but Meridian refused to provide additional financing. In addition, there were other positive developments which were anticipated to have incentivized Meridian to provide further financing, including the fact that one of the Nuvo Building's long term tenants, CCCI, invested an unanticipated \$3.5 million in lease hold improvements in order to upgrade the third floor, and that an April 2019 valuation of the Nuvo Building valued it at an amount significantly higher than a previous 2017 valuation, and at an amount that greatly exceeds Nuvo's obligations to its lenders.

36. Unfortunately, in February 2019, the Meridian team with carriage of this matter changed with only one weeks' notice to Nuvo, and the new team advised me and the Nuvo management team that they had to familiarize themselves with the history of the Nuvo Building. Nuvo worked diligently to bring the new Meridian team up to speed and answer any information requests, but ultimately Meridian never provided the additional financing to complete the renovations. This delay and the accumulation of costs arising from Meridian's prolonged failure to provide the additional financing created an immense challenge for Nuvo.

37. Meridian last advanced funds to Nuvo in March 2019, and refused to provide any additional financing after that time. Shortly thereafter, Nuvo began having difficulty in paying its general contractor, and otherwise staying current on the expenses associated with the Nuvo Property. Due to Nuvo's limited liquidity and inability to access additional funding,

Nuvo's payments to its general contractor Maple Reinders Inc. ("**Maple Reinders**") became delayed.

38. On June 14, 2019, the parties entered into an Amendment and Forbearance Agreement (the "**First Meridian Amendment and Forbearance Agreement**"), a copy of which is attached as **Exhibit "H"** hereto, pursuant to which Meridian agreed to forbear from exercising its enforcement rights with respect to the Nuvo Property until August 31, 2019 (the "**Forbearance Period**"). The First Meridian Amendment and Forbearance Agreement amended the Meridian Credit Agreement by removing previous facility 3, consisting of the \$20 million take-out financing for the Nuvo Property, and adding a new facility (facility 3a) in the amount of \$2.5 million to finance renovations at the Nuvo Building. Pursuant to the First Meridian Amendment and Forbearance Agreement, facility 1, facility 2 and facility 3a, totalling \$19.85 million, became repayable in full on or before July 16, 2020.

39. Further, the First Meridian Amendment and Forbearance Agreement imposed additional requirements on Nuvo, including (i) the engagement by Nuvo of Intrepid Quality Surveying Inc. ("**Intrepid**") to monitor and report on construction costs and activity at the Nuvo Property, (ii) the preparation of a detailed construction budget and cash flow statement setting out the construction costs for the Nuvo Building, in form and substance acceptable to Meridian, (iii) more frequent financial reporting to Meridian, and (iv) a covenant not to further encumber the Nuvo Property without Meridian's prior consent.

40. On August 14, 2019, following further discussions with Meridian regarding the terms on which Meridian would provide additional financing to complete renovations, the parties entered into a further Amendment and Forbearance Agreement (the "**Second Meridian Amendment and Forbearance Agreement**"), a copy of which is attached as **Exhibit "I"** hereto, pursuant to which Meridian agreed to extend the Forbearance Period until October 30, 2019, on substantially the same terms as those contained in the First Meridian Amendment and Forbearance Agreement. Pursuant to the Second Meridian Amendment and Forbearance Agreement, the three credit facilities were to become payable in full on or before July 30, 2020, and Nuvo was required to provide confirmation of the injection of incremental equity in the minimum amount of \$738,951, associated with the financing need of approximately \$3.2 million at the time, to complete renovations of the Nuvo Building. Despite the additional financing being provided by me to assist with the construction costs, as required by the

Second Meridian Amendment and Forbearance Agreement, Meridian has not provided the additional construction cost financing to date.

41. As of January 31, 2020, a total of approximately \$17.3 million in aggregate principal and interest is outstanding under the Meridian Credit Agreement, as amended by the Meridian Amendment and Forbearance Agreements.

C. CCCI VTB

42. On January 23, 2018, CCCI granted a VTB mortgage to Nuvo in the principal amount of \$4.5 million, which was secured on title to the Nuvo Property, in second position behind the Meridian Charge (the “**CCCI Charge**”). A copy of the CCCI Charge is attached hereto as **Exhibit “J”**. The CCCI Charge does not bear interest until 2022, and is repayable in full in January 2023.

D. Bridging Commitment

43. As will be explained below, Nuvo was required to seek additional funding to finance the acquisition of the Nuvo Property in light of Meridian’s failure to credit certain amounts advanced by Nuvo to finance the initial renovation expenses on the Nuvo Building to reduce Nuvo’s required equity contribution for the acquisition.

44. On March 20, 2018, Bridging entered into a commitment letter with Nuvo as borrower in the maximum principal amount of \$2.5 million (the “**Bridging Commitment**”), for the purpose of providing the required additional financing for the acquisition of the Nuvo Property. The Bridging Commitment is guaranteed by me and certain of the Mohawk Entities. A copy of the Bridging Commitment is attached hereto as **Exhibit “K”**.

45. The Bridging Commitment bears interest at a rate of prime plus 11.8% per annum, with interest being capitalized and added to the principal of the loan commencing on March 31, 2018 through to September 30, 2018, and interest only payments to be made commencing on October 31, 2018. The Bridging Commitment matures on the earlier of (i) March 23, 2020, (ii) the date of demand by Bridging, and (iii) the date of the maturity or demand under the Meridian Credit Agreement. The Bridging Commitment also required Nuvo to meet certain reporting requirements, including providing annual financial statements to Bridging.

46. Nuvo granted Bridging various security to secure the obligations under the Bridging Facility, including (i) a third ranking charge on the Nuvo Property (the “**Bridging Charge**”) (ii) a general security agreement granting a security interest in all the present and after acquired property of Nuvo, a copy of which is attached hereto as **Exhibit “L”**, and (iii) an unsecured guarantee provided by me, a copy of which is attached hereto as **Exhibit “M”**, and unsecured guarantees provided by certain of the Mohawk Entities.

47. Due to the severe liquidity constraints faced by Nuvo, Nuvo has been unable to make interest payments under the Bridging Facility since July 2019. As of January 31, 2020, approximately \$2.8 million is outstanding under the Bridging Facility, inclusive of interest.

Priority, Postponement and Standstill Agreement

48. In connection with the initial acquisition of the Nuvo Building in March 2018, Meridian, Bridging and CCCI signed a standstill agreement setting out the relative priorities of the security held by them on the Nuvo Property. On August 16, 2019, Meridian, CCCI and Bridging entered into an Amended and Restated Priority, Postponement and Standstill Agreement, a copy of which is attached hereto as **Exhibit “N”** (as amended, the “**Standstill Agreement**”). The Standstill Agreement provided that the relative priorities of the security granted to Meridian, CCCI and Bridging as against the Nuvo Property would be as follows:

| Rank | Charge |
|-------------|---|
| First | <ul style="list-style-type: none"> Meridian Charge, up to the amount of \$20, 735,000 (the “Meridian Limited Indebtedness”) CCCI Charge, over all amounts in excess of the Meridian Limited Indebtedness |
| Second | <ul style="list-style-type: none"> Meridian Charge, any amounts in excess of the Meridian Limited Indebtedness |
| Subordinate | <ul style="list-style-type: none"> Bridging Charge |

49. The Standstill Agreement also provides that CCCI and Bridging cannot take any collection, realization or enforcement proceedings or remedies against the Nuvo Property for a period of 90 days following the delivery by CCCI or Bridging of a default notice to Nuvo and Meridian. Further, pursuant to the Standstill Agreement, Bridging and CCCI cannot take any steps to enforce or realize upon their security following a period of 90 days from the delivery of an enforcement notice by Meridian

E. Celernus Loan

50. Pursuant to a July 18, 2019 Letter of Commitment (the "**Letter of Commitment**") with the loan arranger Keep Capital Ltd., Celernus Investment Partners Inc. ("**Celernus**") provided a \$2.5 million loan (as amended, the "**Celernus Loan**") to Nuvo, certain of the Mohawk Entities, my wife Bridget Saulnier and myself, as joint borrowers. The amount of the Celernus Loan was increased to \$2.75 million with the inclusion of an interest reserve on or around July 23, 2019. Nuvo obtained the Celernus Loan in order to meet the requirement, set out in the Second Meridian Amendment and Forbearance Agreement, to inject additional equity into the Nuvo Property, in order to obtain the additional \$2.5 million funding from Meridian. This financing was ultimately never provided, as described below.

51. The Celernus Loan carries an annual interest rate of 15% and matured on February 1, 2020. A copy of the Letter of Commitment setting out the terms of Celernus Loan, as amended, is attached hereto as **Exhibit "O"**.

52. The Celernus Loan was guaranteed in full by each of the corporate borrowers, as well as Bridget and myself. Copies of the personal guarantees are attached hereto as **Exhibit "P"**. To secure the amounts due under the Celernus Loan, a charge in the amount of \$2.75 million was registered against the KOA Campground and the Mohawk Inn. Charges were also registered against my personal homes in Hamilton and Milton. The Celernus Loan contemplated a charge against the Nuvo Property on a best commercial effort basis, but no such charge was ever registered.

53. As of January 31, 2020, \$2.75 million is outstanding under the Celernus Loan.

V. FINANCIAL DIFFICULTIES OF NUVO

A. Acquisition of the Nuvo Property and Difficulties in Finalizing Financing Arrangements

54. In the summer of 2017, Nuvo began negotiations with Meridian with respect to the financing for the acquisition of the Nuvo Property and the renovation of the Nuvo Building.

55. These discussions and negotiations were difficult from the outset. On multiple occasions, Meridian agreed to certain financing terms, only to change course and request

different terms in order to proceed. As a result, the negotiations became protracted and delayed the closing of the acquisition of the Nuvo Property.

56. On September 5, 2017, Mohawk Properties Ltd. entered into an Agreement of Purchase and Sale with CCCI for the acquisition of the Nuvo Property, for a purchase price of \$19 million. Due to the protracted negotiations with Meridian, the September 2017 Agreement of Purchase and Sale needed to be amended multiple times to, among other things, extend the conditions to closing and assign the Agreement of Purchase and Sale to Nuvo, which occurred in March 2018. In September 2017, Meridian provided Nuvo with a "Discussion Paper", outlining the terms on which they were prepared to consider financing the acquisition of the Nuvo Property and the renovation of the Nuvo Building.

57. During this time, negotiations were ongoing with Meridian regarding the terms on which financing would be provided. Originally, Meridian agreed to provide \$12.5 million to finance the acquisition of the Nuvo Property and \$7 million to fund the renovation of the Nuvo Building. It was also understood between the parties that a portion of the acquisition would be funded through a cash investment from Nuvo.

58. In October 2017, after the Agreement of Purchase and Sale for the Nuvo Property had been signed but prior to the closing of the transaction, CCCI agreed that Nuvo could access the Nuvo Property and arrange for an architect, a design and engineering company to attend at the site to commence renovations. Time was of the essence, as Nuvo had entered into a contract to lease the second floor of the Nuvo Building as a co-working space, which required the co-working space to become available on December 31, 2017. As a result of this impending deadline, commencing in November 2017, 4 months before owning the Nuvo Building, with the agreement of CCCI and the acknowledgment of Meridian's then Senior Vice President Stephen Otten, Nuvo financed the costs of the initial work carried out by its consultants and contractors for the renovation of the second floor of the Nuvo Building. Nuvo advanced a total of \$2 million to finance initial renovations.

59. Meridian was kept apprised of these developments, and it was agreed that Meridian would credit the amounts advanced by Nuvo to finance the initial renovations to reduce the amount of the cash that Nuvo would be required to pay at closing towards the acquisition.

60. In December 2017, Meridian provided Nuvo with the first draft of a Credit Agreement setting out Meridian's requested terms for the financing. Between December 2017 and March 2018, negotiations between Meridian and Nuvo continued, as Meridian sought to impose additional conditions. During this time, Meridian advised that it was no longer prepared to abide by the original agreement to credit the amounts Nuvo advanced to fund the early renovation work, nor to advance \$7 million toward the \$9 million construction budget for the financing of the renovations. I was told by Stephen Otten and John Schrader, Nuvo's account managers at Meridian, that the credit department reduced Nuvo's terms to \$5 million of construction financing. Mr. Otten told me at the time that if 75% office rental was achieved at the Nuvo Building, he would approve the balance of the \$ 2 million required to complete renovations. As described further below, Nuvo relied on this assurance in proceeding with the transaction and engaging in subsequent discussions with Meridian in order to obtain this additional financing, though it was ultimately never provided. As a result, Nuvo was forced to seek additional financing to complete the transaction, which was ultimately provided by Bridging.

61. The Meridian Credit Agreement and associated security documentation was finalized in the spring of 2018, on the terms outlined above. The Nuvo Property transaction closed on March 25, 2018, for a purchase price of \$19 million.

B. Delays in the Renovation Timeline and Changes to the Budget

62. Nuvo entered into an agreement with the general contractor, Maple Reinders for the renovation of the Nuvo Building on November 1, 2017.

63. The preliminary construction schedule provided by Maple contemplated that renovations of the Nuvo Building would be carried out in four phases, with staggered completion dates between May 2019 through to December 2019. Nuvo ultimately decided not to proceed with the fourth phase, such that all renovation work was scheduled to be completed by August 2019.

64. Maple Reinders engaged several subcontractors to assist in carrying out the renovations. Phase 1 of the renovations commenced in June 2018. Each month, Nuvo submitted requests to Meridian supported by invoices from Maple Reinders to draw funds under the Meridian Credit Facility, in order to fund the renovation costs incurred to date.

Each draw request also outlined the remaining costs to complete the renovations. Between June 2018 and March 2019, a total of 13 draw requests were made by Nuvo and paid by Meridian, amounting to a total of \$5 million advanced by Meridian.

65. The renovations proceeded on schedule throughout 2018, aside from minor adjustments caused by unanticipated repairs to the roof structure and an elevator shaft. In May 2018, Nuvo was also required to take over the management of the second floor of the Nuvo Building, to change the space from a single lease co-working tenant with its own clients to a space with 35 individual office spaces. This was necessary as the owner of the co-working company suffered a personal tragedy that prevented him from carrying out the remainder of his contract with Nuvo. Ultimately, this change resulted in Nuvo being able to lease out the space to various parties at a higher cost, resulting in increased revenues.

66. As outlined below, in 2019, the renovation schedule began to incur significant delays due to Meridian's refusal to fund the promised additional \$2 million required to complete the renovations on the Nuvo Building.

67. In light of the requirement imposed by Meridian in the First Meridian Amendment and Forbearance Agreement and the Second Meridian Amendment and Forbearance Agreement, Intrepid attended at the Nuvo Property in the summer of 2019 to monitor the progress of renovations. Nuvo has paid a total of \$10,000 to Intrepid, in accordance with the requirement to do so under the Second Meridian Amendment and Forbearance Agreement. A further \$10,000 remains owing to Intrepid for payment of invoices rendered.

C. Meridian's Refusal to Provide Additional Financing to Complete Renovations

68. Commencing in February 2019 and continuing through to the summer of 2019, Meridian representatives visited the Nuvo Property several times to monitor the progress of renovations. During these visits, and during subsequent visits to the Meridian offices, I and the Nuvo management team had numerous discussions with Meridian regarding the additional \$2 million to be funded to complete renovations at the Nuvo Building. Meridian understood that the additional funding was crucial in order to complete the renovations.

69. Meridian has not provided any funding to Nuvo since March 2019, at which time Meridian provided the final advance under the Meridian Credit Agreement. In light of

Meridian's refusal to provide additional financing, Nuvo became unable to pay Maple Reinders, who in turn could not make payments to all of its subcontractors.

70. In April 2019, Nuvo commissioned an appraisal of the Nuvo Property, which valued the Nuvo Property at an amount that far exceeds its obligations to its lenders on a fully-leased basis (the "**April 2019 Valuation**"). A copy of the April 2019 Valuation will be filed with the Court under seal.

71. In the summer of 2019, without prior warning, Meridian indicated that it would not provide the additional \$2 million financing to complete renovations, unless and until Nuvo agreed to the imposition of certain additional terms, which were later formalized through the First Meridian Amendment and Forbearance Agreement and the Second Meridian Amendment and Forbearance Agreement described above.

72. Over the summer of 2019, as negotiations with Meridian were not progressing in a timely way, Nuvo attempted to obtain the additional financing to complete the renovations of the Nuvo Building from other sources. Nuvo approached 12 potential financing parties and entered into a \$7.1 million term sheet with one party who would have provided sufficient financing to cover the remaining renovation costs, funds to fully pay out Bridging's third mortgage, as well as providing an interest reserve for one year to ensure Nuvo didn't compromise the free cash flow requirements with Meridian. This party requested to replace Bridging as the third charge on the Nuvo Property, behind Meridian and CCCI. Meridian declined to consent, so this transaction did not proceed. Nuvo's management team was told by Robert Neufeld, Meridian's new account manager at the time, that Meridian's Credit Committee refused the offer as Meridian intended to provide the required financing itself. However, in late November 2019, at a meeting at Meridian's head office with John Trivieri, the head of Meridian's Credit Committee, Mr. Trivieri indicated that he had never been provided with a copy of the offer.

73. In August 2019, following protracted negotiations with Meridian, Nuvo signed the Second Meridian Amendment and Forbearance Agreement in order for Meridian to make the funding available to permit the renovations at the Nuvo Building to proceed. As noted, the Second Meridian Amendment and Forbearance Agreement contemplated that Meridian

would provide an additional \$2.5 million to finance the completion of renovations. It also imposed additional requirements on Nuvo, including the engagement of Intrepid to monitor and report on construction costs and activity at the Nuvo Property, and the preparation of a detailed construction budget and cash flow statement setting out the construction costs for the Nuvo Building, in form and substance acceptable to Meridian.

74. Despite entering into the Second Meridian Amendment and Forbearance Agreement with Nuvo, Meridian refused to advance any further funds to Nuvo to finance the completion of renovations and has not advanced any funds to Nuvo since March 2019. Meridian took the position that Nuvo had failed to meet the conditions precedent to the advance of funds under the Second Meridian Amendment and Forbearance Agreement. Nuvo disputes this.

75. For example, the Second Meridian Amendment and Forbearance Agreement contemplated that Nuvo was required to inject \$738,951 in equity into the Nuvo Building before Meridian would advance the additional \$2.5 million. In July 2019, Nuvo used \$1.2 million obtained through the Celernus Loan to meet this condition. Nuvo paid approximately \$600,000 to Maple Reinders to reduce the outstanding arrears, paid outstanding arrears to Bridging, and paid certain operating expenses for the Nuvo Building, including amounts owed to the engineering companies and the architect. The total equity injection exceeded Meridian's requirement imposed in the Second Meridian Amendment and Forbearance Agreement. However, Meridian refused to credit the entire amount invested by Nuvo and continued to maintain that the required equity contribution had not been paid.

76. As a result of Meridian's continued refusal to fund, construction activity on site temporarily shut down in July 2019, and Maple Reinders left the site. By late August 2019, most subcontractors had left the site. By early September 2019, all work at the site had stopped. The targeted date of August 2019 for the completion of renovations could not be met.

D. Construction Liens Registered on the Nuvo Property and Proposed Loan from Maple Reinders

77. As noted, in July 2019, Maple Reinders left the site due to lack of payment. On November 25, 2019, Maple Reinders registered a construction lien on title to the Nuvo Property, in the amount of \$1.86 million, for arrears of payment. A copy of the construction

lien is attached hereto as **Exhibit "Q"**. A subcontractor hired by Maple Reinders, Barrie Glass & Mirror Ltd. ("**Barrie Glass**"), also registered a construction lien on the Nuvo Property for unpaid work in the amount of \$89, 543.93. A copy of this construction lien is attached hereto as **Exhibit "R"**.

78. Even after advancing the new equity required in the summer of 2019, I and members of Nuvo's management team met with Meridian representatives on numerous occasions in the fall of 2019, with the aim of reaching an agreement on the terms pursuant to which Meridian would fund the additional \$2.5 million contemplated by the Second Meridian Amendment and Forbearance Agreement. Costs related to the Nuvo Property continued to accumulate during this time, and as such, Nuvo's funding requirements to complete renovations at the Nuvo Building increased. During this time, to facilitate funding from Meridian, Meridian required that Nuvo advance another \$550,000. To meet this requirement, Nuvo negotiated a \$550,000 loan from Maple Reinders, which would have been applied to reduce the arrears outstanding to Maple Reinders (the "**Maple Reinders Loan Agreement**"), a copy of which is attached hereto as **Exhibit "S"**. It was contemplated that I would be the borrower under the Maple Reinders Loan Agreement, with Nuvo as a corporate guarantor, and that the agreement would be signed once the terms of the \$2.5 million Meridian financing were agreed upon.

79. Meridian was provided with a copy of the Maple Reinders Loan Agreement; however, it was never executed as Meridian continued to maintain the position that the \$2.5 million would not be funded until new and additional conditions precedent were satisfied.

80. In early December 2019, I was advised by the Chief Financial Officer of Maple Reinders that Maple Reinders had a satisfactory meeting with Meridian to review the completion schedule and budget for the renovations of the Nuvo Building, to ensure it was consistent with Nuvo's submissions to Meridian. Shortly after this meeting between Meridian and Maple Reinders, I received a phone call from Bernie Huber of Meridian confirming the meeting with Maple Reinders was satisfactory and that Meridian had told Maple Reinders that they would pay down the arrears in approximately a week.

81. Based on these representations from senior representatives of Meridian, Maple Reinders' Project Coordinator Olaf Nieczyporowicz attended at the Nuvo Property on December 11, 2019, and notified the subcontractors of the resumption of construction activity. Around that time, I had a meeting with the Nuvo Building's tenants explaining the good news that the renovations would re-start shortly. However, Meridian never made the promised payment to Maple Reinders. Maple Reinders advised me that phone calls and emails to Meridian following up on this matter have been ignored. Maple Reinders sought Nuvo's intervention in ensuring that Meridian would make the required payment.

82. I attended at the Meridian offices on December 13, 2019 in order to try once again to reach an agreement with Meridian regarding the additional financing to complete the renovations of the Nuvo Building, but Bernie Huber of Meridian continued to insist that certain additional conditions needed to be met before funding would be provided.

83. Maple Reinders has estimated that the cost to complete the renovations of the Nuvo Building is approximately \$4.07 million, as of February 24, 2020. The cost to complete is increasing on a daily basis due to interest being charged on outstanding arrears for completed work. Meridian has refused to provide additional funding, and has frustrated Nuvo's efforts to seek funding from third party sources to complete renovations.

E. Other Liabilities

84. Nuvo's liquidity situation has deteriorated. Rental incomes cannot be maximized as a result of the cessation of renovations.

85. As an example, we have been in arrears on utilities payments, and received letters threatening to cut off services. As a further example, Nuvo has also been unable to keep current on its obligations to the cleaning service provider for the Nuvo Building, Canway Group Corporation ("**Canway**"). On February 3, 2020, Canway delivered a letter demanding confirming outstanding arrears of \$77, 626.07 and demanding payment of \$38,813.04 by February 28, 2020 to avoid the suspension of services as of March 1, 2020. A copy of this letter is attached hereto as **Exhibit "T"**. Nuvo is also falling behind on payments to its snow removal service provider, and the provider has been threatening to cease any further work until payment for outstanding amounts is made.

86. Interest and principal payments to our secured lenders have not been kept current.

87. As noted, property taxes for the Nuvo Property have also fallen into significant arrears, in the total amount of \$206,315.58.

88. We have required the assistance of professional advisors to assist with restructuring efforts. We have been unable to provide more than minimal retainers to these advisors.

F. Enforcement Steps Taken to Date

(i) Meridian

89. On December 20, 2019, Meridian delivered a letter to Nuvo, summarizing Meridian's version of a series of meetings held between Nuvo and Meridian representatives in the fall of 2019 with the aim of negotiating an agreement regarding the additional funding to be provided to complete renovations at the Nuvo Property (the "**Meridian Letter**"). A copy of the Meridian Letter is attached hereto as **Exhibit "U"**. Nuvo disputes the contents of the letter.

90. By the fall of 2019, as costs continued to accumulate, Nuvo's funding needs had also increased, so Nuvo was required to seek additional financing from Meridian to complete renovations. The Meridian Letter indicates that Meridian was prepared to seek Credit Committee approval for an additional \$3.1 million credit facility, subject to obtaining certain confirmations from Nuvo, including that (i) Maple Reinders was still willing to provide the \$550,000 loan, (ii) Nuvo had sourced a \$2.4 million cash flow shortfall and would inject it into the cost of renovating the Nuvo Building, and (iii) Nuvo would provide confirmation that CCCI and Bridging would agree to amend the Standstill Agreement or enter into a new one. Meridian threatened to take any and all enforcement actions to recover its debt if the requested confirmations were not provided by January 6, 2020, including enforcement of its security.

91. In February 2020, it came to Nuvo's attention that Meridian was taking the position that significant arrears had accumulated on a credit card that Meridian had provided to Nuvo, which has a limit of \$50,000. We were surprised by this, since in the summer of 2019, Nuvo had asked Meridian to set up automatic withdrawals from Nuvo's Meridian bank account in order to make the monthly payments on the Meridian credit card. It now appears that

Meridian failed to do this, and is now seeking payment of the amount of arrears, including interest costs.

92. In early January 2020, Nuvo retained Richter Advisory Group Inc. ("**Richter**") to assist with the preparation of cashflows and a consideration of restructuring efforts. The draft cashflows were presented to Meridian, and a request was made to confirm the requested additional financing to meet renovation costs, accrued interest costs and costs to fund operations totalling \$5.6 million.

93. As was done in the past, Meridian advised they were seeking Credit Committee approval for the funds, or portions thereof. Despite repeated requests, Meridian has failed to confirm if Credit Committee approval was obtained or put forward the complete list of conditions to be placed on the additional financing. Nuvo's construction efforts have been on hold as a result and our liquidity position continues to deteriorate as we wait.

(ii) Bridging

94. On December 30, 2019, Bridging delivered a letter to Nuvo stating that no payments had been made under the Bridging Commitment since July 2019, and that Bridging was no longer willing to tolerate the arrears. In its letter, Bridging indicated that unless payment of all arrears was received by January 7, 2020, it would issue demand for payment of all amounts owing under the Bridging Commitment. A copy of this letter is attached hereto as **Exhibit "V"**.

(iii) Celernus Loan and Threatened Litigation

95. The Celernus Loan matured on February 1, 2020. In light of Nuvo's severe liquidity constraints and inability to access additional funding, Nuvo was unable to repay the amount owing to Celernus.

96. Furthermore, in August 2019, litigation was threatened in connection with the Celernus Loan. The Celernus Loan was arranged by Keep Capital Inc. and sourced by Six Words Inc. (the "**MacDonald Group**"), a corporation owned by a contact of a business associate of mine. The MacDondald Group has taken the position that, by entering into the Celernus Loan, my wife and I, along with various undefined entities owned and controlled

by us, agreed to enter into a partnership with the MacDonald Group, which included the MacDonald Group acquiring a 5% interest in all real property interests held by my wife and I, and our corporations. This proposition is heavily disputed.

VI. NUVO'S NEED FOR CCAA PROTECTION

97. As noted above, Nuvo is in default of its obligations to its lenders. Nuvo's forbearance arrangements with Meridian have expired, and Meridian has refused to provide any additional financing to complete the renovations of the Nuvo Building. Further, Meridian and Nuvo's other lenders have threatened to take enforcement steps to protect their security. Without additional financing, Nuvo is unable to honour its obligations to its lenders, and is unable to continue to meet its payroll requirements, pay hydro and other expenses associated with the Nuvo Building, or pay the arrears owing to Maple Reinders.

98. Nuvo is seeking CCAA protection to obtain the breathing room to obtain alternative financing to complete the renovations of the Nuvo Building and service its existing debt obligations. Once renovations are completed, Nuvo's liquidity situation is expected to improve significantly in light of increased rental income. Further, any ultimate refinancing of all of Nuvo's debt obligations is best placed to occur after renovations of the Nuvo Building are completed, and all remaining units are leased. If necessary to maximize value, Nuvo is also considering conducting a sale process within the CCAA Proceedings concurrent with its refinancing efforts. As is the case with a refinancing, a sale process would yield greater recoveries if it is commenced after the completion of renovations.

99. Nuvo has finalized arrangements with a lender who is willing to provide Debtor-in-Possession ("DIP") financing during the CCAA Proceedings, to assist in completing renovations, and servicing other post-filing obligations.

100. Nuvo's lenders would not be prejudiced by the maintenance of the *status quo* during the CCAA Proceedings. The April 2019 Valuation of the Nuvo Property reflects a value that exceeds Nuvo's obligations to its lenders. Further, the cash flows to be filed reflect the payment of post-filing interest to Nuvo's lenders. Nuvo needs the protection of the CCAA in order to prevent its lenders from taking enforcement steps that would jeopardize the value of the Nuvo Property and be prejudicial to Nuvo's stakeholders.

VII. CASH FLOW FORECAST

101. A 13-week cash flow projection (the “**Cash Flow Statement**”) was prepared by Nuvo in consultation with Richter, the proposed court-approved Monitor in these proceedings (the “**Monitor**”), for the period from February 21, 2020 to the week ending May 22, 2020. During this time, Nuvo’s estimated principal uses of cash will consist of the payment of ongoing day-to-day operational expenses and professional fees and disbursements in connection with these CCAA Proceedings. I understand from counsel to Nuvo that a copy of the Cash Flow Statement will be attached to the pre-filing report of the proposed Monitor which is to be filed with the Court.

102. As of February 24, 2020, Nuvo will have an estimated -\$17,855 of cash on hand. The Cash Flow Statement projects that, subject to obtaining the relief outlined herein, including approval of the DIP Financing (defined below), Nuvo will have sufficient cash to fund its projected operating costs until the end of the stay period.

(i) Cash Management System

103. In the ordinary course of its business, Nuvo uses a centralized cash management system (the “**Cash Management System**”) to, among other things, collect funds and pay expenses associated with its operations. The Cash Management System gives Nuvo the ability to efficiently and accurately track and control corporate funds and ensure cash availability.

104. Nuvo maintains two bank accounts: an account with the Toronto-Dominion Bank (the “**TD Account**”) and an account with Meridian. All rent cheques received from the tenants of the Nuvo Building are being deposited into the TD Account, and disbursements are being made from this account.

105. During the CCAA Proceedings, it is anticipated that the Monitor will have additional powers beyond those typically seen in CCAA proceedings, pertaining to certain disbursements to be made by the Applicant. Specifically, the Monitor will be required to approve the following outflows:

- (a) any single disbursement that exceeds \$1,000; and

- (b) any and all disbursements that exceed \$5,000 in aggregate in the course of one (1) calendar day.

106. Nuvo has consented to these additional provisions in order to promote transparency and increase confidence in the CCAA process. During the CCAA Proceedings, the Monitor will attend at the Nuvo Building each week to review the proposed cash flow disbursements to be made the following week. Once the Monitor is satisfied that all is in order, a funding request will be submitted to the DIP lender (as discussed below), and funds will be released by Monday of the following week. It is anticipated that any advances under the DIP Facility (as defined and discussed below) will be deposited into the TD Account.

VIII. PROPOSED INITIAL ORDER

A. Engagement of Richter

107. As described above, Richter was previously retained by Nuvo and has played a central role in advising and assisting Nuvo with liquidity management and operational restructuring initiatives.

108. In the proposed Initial Order, Nuvo is seeking the Court's confirmation of the retention of Richter as the proposed Monitor.

B. Extension of Stay of Proceedings to Nuvo Network and Shawn and Bridget Saulnier

109. Upon the completion of the renovations of the Nuvo Building, it is anticipated that the employees and lease obligations of Nuvo will be migrated to Nuvo Network, and that the business and affairs of the two entities will become highly integrated.

110. As noted above, the shares of Nuvo Network were pledged as collateral security to a lender who provided financing and obtained security over certain of the property of the Mohawk Entities.

111. The Mohawk Entities are also facing financial difficulties. I have and will continue to engage in ongoing discussions with the lenders of the Mohawk Entities to ensure stability in the Mohawk Entities' operations.

112. Nuvo is seeking to extend the stay of proceedings to Nuvo Network to avoid steps being taken against Nuvo Network by the lenders of the Mohawk Entities which could trigger an insolvency of Nuvo Network, and thereby cause a loss of value for the Nuvo enterprise.

113. In addition, Nuvo is seeking to extend the stay of proceedings to myself and my wife Bridget in our personal capacities. As set out above, I have personally guaranteed Nuvo's indebtedness to Meridian, Bridging and Celernus. Bridget has personally guaranteed Nuvo's indebtedness to Celernus.

114. Allowing enforcement on personal guarantees given by Bridget and I during the pendency of the CCAA Proceedings will jeopardize the primary purpose of the main stay of proceedings, which is to maximize recoveries for all creditors. Most of my and Bridget's net worth is tied up in the equity in the Nuvo Property and various projects related to the Mohawk Entities. It is the intention of Bridget and I to use the equity realized in the CCAA Proceedings to repay our creditors, and we require the benefit of a stay while an orderly restructuring process is conducted.

115. I am the sole director of Nuvo and its' President and Chief Executive Officer. The extension of the stay of proceedings to me is necessary to permit me to focus on enabling Nuvo to continue operations in the ordinary course while it pursues refinancing and sale options in the context of the CCAA Proceedings, rather than investing time and resources in responding to potential enforcement actions taken against me by Nuvo's lenders. The potential threat of an action against our personal homes while these proceedings are ongoing has caused significant concern and anxiety and I am concerned that I will not be able to focus on the Nuvo restructuring efforts if Bridget and I are forced to respond to those enforcement actions as well. As such, I am asking for a short time for breathing room on those potential enforcement actions.

C. Reduced Restructuring Provisions in Proposed Initial Order

116. I am advised by counsel that, in line with current practice since the amendments to the CCAA came into force on November 1, 2018, Nuvo is seeking a "skinny" form of Initial Order, which seeks only the relief reasonably necessary for the first 10 days until the hearing of the Comeback Motion (as defined below), and does not contain some of the more fulsome restructuring language found in the Initial Order developed by the model order

subcommittee of the Commercial List Users' Committee of the Ontario Superior Court of Justice (the "**Model Initial Order**"). The proposed Initial Order also provides for a limited initial advance under the DIP Credit Agreement, secured by the DIP Charge. Similar to the Model Initial Order, the proposed Initial Order does provide the Monitor with broad powers to, among other things, monitor Nuvo's receipts and disbursements and advise Nuvo in the preparation of cash flow statements.

D. Administration Charge

117. The Applicant seeks a Charge (defined below) on the Applicant's assets, property and undertakings (the "**Property**") in the maximum amount of \$500,000 to secure the fees and disbursements incurred in connection with services rendered to the Applicants both before and after the commencement of the CCAA proceedings by Richter as the proposed Monitor, counsel to the Monitor, counsel to the Applicants (the "**Administration Charge**").

118. The Applicant worked with Richter to estimate the proposed quantum of the Administration Charge. Richter has reviewed the quantum of the Administration Charge and believes it is reasonable and appropriate in view of the complexities of the Applicant's CCAA Proceedings and the services to be provided by the beneficiaries of the Administration Charge. Further, in this case given the restricted financial position of the Applicant, the professional advisors do not have the benefit of retainers as would ordinarily be the case and as such the proposed Administration Charge reflects the quantum of such retainers and fees going forward to the return date of the 10 day hearing.

(i) Beneficiaries of the Administration Charge

119. The Applicant is represented by Stikeman Elliott LP. Richter is the Financial Advisor to the Applicant, and will continue on in the role as Monitor. The Monitor has retained Bennett Jones LLP as independent counsel.

120. The Initial Order provides that the Administration Charge shall rank first on the Property of the Applicant.

E. DIP Financing

121. Accounting for the variance of cash flows and taking a conservative approach, the Applicant, in consultation with its advisors and the proposed Monitor has determined that

Nuvo will have insufficient liquidity to maintain an appropriate minimum level of cash throughout the proposed CCAA Proceedings and require interim debtor-in-possession financing ("**DIP Financing**") to complete construction costs and provide suppliers, employees and other stakeholders with confidence that the business of the Applicant will continue to operate smoothly throughout these CCAA Proceedings. DIP Financing is critical to allow the Applicant the appropriate time to run a post-filing sales and investment solicitation process.

(i) Process for Selecting DIP Financing

122. The solicitation process for DIP financing is described in further detail in Richter's Pre-Filing Report ,which I understand will be filed in connection with the within application. I understand that Richter issued non-disclosure agreements ("**NDAs**") to six parties who expressed an interest in providing DIP financing to the Applicant during the CCAA Proceedings, five of whom executed an NDA. Of these five parties, three submitted conditional term sheets to provide DIP financing to the Applicant during the CCAA Proceedings.

123. Of the solicited parties, the most competitive proposal was from Maynbridge Capital Inc. ("**Maynbridge**").

(ii) Summary of DIP Financing

124. The Applicant and its counsel, along with Richter, have negotiated and finalized an agreement with Maynbridge (the "**DIP Credit Agreement**") pursuant to which the Applicant will obtain access to a facility (the "**DIP Facility**") in the maximum amount of \$7.18 million. A copy of the DIP Credit Agreement is attached hereto as **Exhibit "W"**.

125. The Applicant will seek approval from this Court of an initial advance of \$700,000, under the DIP Credit Agreement (the "**Initial Advance**"), to be secured by a DIP Charge of \$700,000. Of this amount, \$500,000 will be advanced to Nuvo, and the remainder pertains to Maynbridge's commitment fee under the DIP Credit Agreement and its professional fees. At the Comeback Motion, the Applicant will seek a more fulsome DIP Charge to secure the entirety of the DIP Facility.

126. Some of the material terms of the DIP Credit Agreement are set out below:

- (a) **Borrower:** Nuvo;
- (b) **Guarantor:** Nuvo Network;
- (c) **Facility Amount:** a non-revolving credit facility up to a maximum amount of \$7.18 million, including the Commitment Fee (the “**Maximum Amount**”);
- (d) **Commitment Fee:** Borrower to pay the DIP Lender a commitment fee of \$210,000, of which \$30,000 is to be paid as a good faith deposit. The deposit was paid on February 17, 2020;
- (e) **Availability:** following the Initial Advance, the Borrower may request advances under the DIP Facility in the minimum amount of \$250,000 and in multiples of \$100,000 in excess thereof, provided there has been no Event of Default thereunder;
- (f) **Use of Proceeds:** Advances under the DIP Facility may only be used by the Borrower to pay expenditures provided for in the Cash Flow budget, fees and expenses associated with the DIP Facility, and such other expenditures as the DIP Lender has consented to in writing;
- (g) **Maturity:** the earliest of (i) October 25, 2020, (ii) March 6, 2020 (the expiry of the initial 10-day stay) if the expanded DIP Charge is not issued by such date, (iii) the date the stay of proceedings in the CCAA Proceedings expires or is lifted without the DIP Lenders’ consent, (iv) the date on which a receiver is appointed, an assignment in bankruptcy or a proposal is filed in respect of the Borrower, or (v) the date that written notice is provided the DIP Lender (the “**Maturity Date**”). The Maturity Date may be extended by the DIP Lender for three months at the written request of the Borrower, if certain conditions are met;
- (h) **Interest Rate:** 9.5% per annum on any amounts drawn, excluding any capitalized commitment fees;

- (i) **Standby Fee:** 2.0% per annum on the difference between the Maximum Amount and the total aggregate amount outstanding under the DIP Facility;
- (j) **Break Fee:** the Borrower to pay the Lender a break fee of 3% of the Maximum Amount in the event that the Borrower obtains court approval for financing in lieu of the DIP Facility; and
- (k) **Charge:** amounts owing under the DIP Facility are proposed to have a second-ranking Court-ordered charge on the Property of the Applicant, behind the Administration Charge (the “DIP Charge”).

127. The DIP Facility is expected to provide sufficient liquidity to allow the Applicant to complete construction, and meet post-filing obligations including interest on secured loan obligations. Accordingly, the Applicant seeks an order authorizing and empowering it to obtain and borrow under the DIP Facility in order to finance its operations during the CCAA Proceedings.

F. D&O Charge

128. To ensure the ongoing stability of the Applicant's business during the CCAA Proceedings, the Applicants requires the continued participation of its respective director, officers, managers and employees. The Applicant does not maintain directors' and officers insurance.

129. The Applicant is seeking what I am advised are typical provisions staying all proceedings against the director and officers and granting an indemnity with respect to all post-filing claims that may arise against the director and officers in their capacity as the Applicant's director and officers.

130. I am advised by counsel to the Applicant that in certain circumstances directors can be held liable for certain obligations of a corporation owing to employees and government entities.

131. Due to the potentially significant personal exposure arising going forward, I (as the sole director of the Applicant) and the officers of the Applicant cannot continue our service with the Applicant unless the Initial Order grants a charge on the Property in the amount of

\$50,000 (the “D&O Charge”). The D&O Charge is proposed to rank third in priority on the Property.

132. The D&O Charge will allow the Applicant to continue to benefit from the efforts and knowledge of their director and officers. The Applicant and the proposed Monitor believe the D&O Charge is reasonable in the circumstances.

G. Ranking of the Court Ordered Charges

133. The proposed ranking of the court ordered charges is as follows:

- (a) Administration Charge;
- (b) DIP Charge; and
- (c) D&O Charge.

IX. COMEBACK MOTION

134. The Applicant intends to return to Court on notice to the service list for a motion (the “Comeback Motion”) seeking, among other things:

- (a) expansion of the Initial Order to include the more fulsome restructuring provisions found in the Model Order;
- (b) approval of the DIP Credit Agreement and expanded DIP Charge;
- (c) approval of critical supplier payments to Maple Reinders and Barrie Glass, who have registered construction liens on the Nuvo Property.

X. CRITICAL SUPPLIERS

135. The Applicant intends to use the DIP Facility in part to ensure the ongoing involvement of Maple Reinders and Barrie Glass in completing renovations of the Nuvo Building. These payments or other arrangements such as charges on the Nuvo Property are necessary to ensure these construction lien claimants’ return to the Nuvo Property, so that renovations can resume. Prior to the Comeback Motion, the Applicant and the Monitor will consult with the lien claimants to determine necessary arrangements to facilitate the resumption of renovations on the site, and will seek necessary relief at the Comeback Motion.

136. The Monitor will assist in overseeing these payments in exchange for the construction lien claimants returning to the site to complete the renovations of the Nuvo Building.

XI. MONITOR

137. Richter has consented to act as the Monitor of the Applicant, subject to Court approval.

138. Richter is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act* as amended and is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA. I am advised by my legal counsel that Richter has extensive experience in matters of this nature, including in cross-border restructuring proceedings, and is therefore well-suited to this mandate

139. I am advised by Paul van Eyk of Richter that the proposed Monitor is supportive of the relief being sought in favour of the Applicant. Mr. van Eyk has also advised me that the proposed Monitor will be filing a pre-filing Monitor's report in respect of that relief.

SWORN BEFORE ME at the City of
Toronto, Ontario on February 24, 2020.



Commissioner for Taking Affidavits

Sanja Spic



SHAWN SAULNIER

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.: _____

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

AFFIDAVIT OF SHAWN SAULNIER
SWORN FEBRUARY 24, 2020

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Barristers & Solicitors
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Lawyers for the Applicant

EXHIBIT “B”

THIS IS EXHIBIT "B", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:
Sanja Sopic
E820930A2731482...

Commissioner for Taking Affidavits

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

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

(Applicant)

AFFIDAVIT OF SHAWN SAULNIER
(Sworn March 4, 2020)

I, Shawn Saulnier, of the Town of Campbellville, Ontario MAKE OATH AND SAY:

1. I am the President and Chief Executive Officer of 2607380 Ontario Inc. ("**260**" or the "**Applicant**"). As a result of my role with the Applicant, I have knowledge of the matters to which I hereinafter depose. I have also reviewed the books and records of the Applicant and have spoken with certain of the directors, officers and/or employees of the Applicant, as necessary and applicable. Where I have relied upon information received from such individuals, I believe such information to be true.
2. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.
3. This affidavit is sworn in support of a motion brought by the Applicant (the "**Comeback Motion**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and such proceedings, the "**CCAA Proceedings**") seeking an Amended and Restated Initial Order providing for certain amendments to the Initial Order substantially in the form of the draft order attached as Tab 3 of the Motion Record, including provisions:
 - (a) expanding the Applicant's restructuring capabilities within the CCAA Proceedings,
 - (b) granting additional powers to Richter Advisory Group Inc., in its capacity as the Monitor (the "**Monitor**") in the Applicant's CCAA Proceedings;

- (c) approving the DIP Agreement (the “**Meridian DIP Agreement**”) between the Applicant and Meridian Credit Union Limited (“**Meridian**”) pursuant to which the Applicant will obtain access to a facility (the “**DIP Facility**”) in the maximum amount of \$7.18 million, and authorizing and empowering the Applicant to borrow under the DIP Facility in order to finance its operations during the CCAA Proceedings;
- (d) increasing the Administration Charge;
- (e) designating the Applicant’s general contractor and a subcontractor as critical suppliers and authorizing the Applicant to pay up to the aggregate amount of \$2.375 million in order to pay critical supplier amounts outstanding as at the date of the Initial Order or deposits therefor, including amounts required to vacate the construction liens registered, as outlined below; and
- (f) extending the stay of proceedings (the “**Stay Period**”) in respect of the Applicant, Nuvo Network Inc. and Shawn and Bridget Saulnier to October 24, 2020.

I. BACKGROUND AND STATUS OF CCAA PROCEEDINGS

4. I repeat and rely on my affidavit sworn February 24, 2020 (the “**Initial Affidavit**”) in support of this motion. A copy of the Initial Affidavit (without exhibits) is attached hereto as **Exhibit “A”**. All capitalized terms not otherwise defined herein are as defined in the Initial Affidavit.

5. The Applicant’s business is the development and operation of the Nuvo Network Building (the “**Nuvo Building**”) located at 1295 North Service Road, Burlington, Ontario, which is a multi—purpose commercial building which leases out space to a variety of businesses, several television studios and for corporate and personal events.

6. As set out in greater detail my Initial Affidavit, the Applicant sought, and obtained CCAA protection on February 25, 2020 due to its lack of access to the necessary liquidity required to complete renovations of the Nuvo Building and the threat of enforcement actions being taken by a number of lenders, the combination of which halted construction, prevented

the completion of the Nuvo Building, and caused 260 and certain related entities to default on their obligations to their lenders.

7. As a result of these and other factors described in the Initial Affidavit, the Applicant sought and obtained creditor protection and related relief under the CCAA pursuant to a February 25, 2020 order of this Court (the “**Initial Order**”). Richter Advisory Group Inc. was appointed Monitor of the Applicant in the CCAA Proceedings. A copy of the Initial Order and all other filings in the CCAA Proceedings, on the Monitor’s website for these proceedings at <https://www.richter.ca/insolvencycase/2607380-ontario-inc/>.

8. 260 is seeking to make use of the flexibility and breathing room provided by the CCAA process in order to pursue additional renovation financing, refinancing and restructuring options that would permit the completion of the renovations to the Nuvo Building.

A. Status of Proceedings

9. Since the granting of the Initial Order on February 25, 2020, the Applicant, with the oversight and assistance of the Monitor, has been working diligently to maintain the stability of its business operations, and continue discussions with its senior lenders and its general contractor Maple Reinders Inc. (“**Maple Reinders**”) to determine the best way forward to obtain financing to re-commence construction activity at the Nuvo Building and complete renovations.

10. Since the Initial Order, the Applicant and the Monitor have taken various steps to advance the CCAA Proceedings, including the following:

- (a) the Monitor has made the Initial Order publicly available on the Monitor’s website and has published a notice in the *Globe & Mail* (National Edition) containing the information prescribed under the CCAA;
- (b) the Monitor sent a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and has prepared a list of those creditors and made it publicly available in the prescribed manner, in accordance with section 23(1) of the CCAA;

- (c) the Applicant and the Monitor met with Maple Reinders to understand the cost to complete the renovations at the Nuvo Building, the updated timeline for the renovations and an updated budget;
- (d) in response to a request by Meridian, the Monitor and the Applicant's counsel have met with Meridian to review 260's future funding requirements in order to complete renovations, and discuss the terms of a potential DIP Agreement to be provided by Meridian;
- (e) the Applicant has continued to administer the leases at the Nuvo Property in the ordinary course, and has conducted a review to confirm the status of leases in the Applicant and Nuvo Network Inc.'s name, as will be outlined in greater detail below; and
- (f) the Applicant, with the assistance of the Monitor, has prepared an updated cash flow forecast in connection with the Applicant's request for an extension of the Stay Period to October 24, 2020.

11. I understand that the Monitor will be filing a report in connection with the Comeback Motion describing the Monitor's meetings with Maple and Meridian, setting out the Monitor's views regarding (i) the need for the additional restructuring provisions to be included in the Amended and Restated Initial Order (ii) the proposed critical supplier designation for Maple Reinders and Barrie Glass, (iii) the approval of the Meridian DIP Agreement, and (iv) including the updated cash flow forecast through to the extension of the Stay Period through to October 24, 2020.

B. Nuvo Network Inc. Leases

12. The Initial Order expanded the stay of proceedings to Nuvo Network Inc. ("Nuvo Network"), a company which was incorporated following the acquisition of the Nuvo Property.

13. As noted, in the Initial Affidavit, at the time of the commencement of the CCAA Proceedings, some leases for the Nuvo Building had been migrated to Nuvo Network; however, all rental income continues to flow to 260.

14. The majority of the migrated leases relate to the co-working space in the Nuvo Building. As outlined in my Initial Affidavit, in May 2018, 260 was required to take over the management of the second floor of the Nuvo Building, to change the space from a single lease co-working tenant with its own clients to a space with 35 individual office spaces. This was necessary as the owner of the co-working company suffered a personal tragedy that prevented him from carrying out the remainder of his contract with 260. Ultimately, this change resulted in 260 being able to lease out the space to various parties at a higher cost, resulting in increased revenues. The short-term lease agreements with these parties were entered into in Nuvo Network's name.

15. Since obtaining CCAA protection, the Applicant has reviewed its books and records and those of Nuvo Network to determine the number of leases held by Nuvo Network as landlord, and the portion of 260's monthly rental revenue which is generated from leases held by Nuvo Network. The Applicant has determined that in January 2020, approximately \$22,100 of rental revenue was generated through leases held by Nuvo Network. This represents approximately 12% of the total rental revenue flowing to 260 in January 2020. Nuvo Network does not maintain its own bank accounts, and all rental revenue to date generated through the Nuvo Network leases has been deposited in 260's TD account.

16. In addition, Nuvo Network has entered into a short-term lease agreement to lease studio space with a party which creates programming for the Food Network (the "**Food Network Lease**"). The Food Network Lease is for a four month period commencing in April 2020 through to July 2020. In connection with the Food Network Lease, Nuvo Network was also provided with a security deposit and renovation costs. All amounts associated with the Food Network Lease, including future rent, will be deposited into 260's TD bank account. Going forward throughout the CCAA Proceedings, the Applicant will ensure that all future leases are maintained in the Applicant's name.

II. THE AMENDED AND RESTATED INITIAL ORDER

17. The proposed Amended and Restated Initial Order provides for certain amendments to the Initial Order, namely the insertion of certain provisions which I understand from counsel are contained in the standard form template CCAA Initial Order developed by the model order subcommittee of the Commercial List Users' Committee of the Ontario Superior

Court of Justice (the “**Model Initial Order**”). These include more fulsome restructuring provisions and provisions expanding the Monitor’s rights to assist with the Applicant’s restructuring efforts. Blackline comparisons showing the proposed amendments to the to the Initial Order and Model Initial Order are attached at Tabs 4 and 5 of the Applicant’s motion record.

A. Restructuring and Monitor-Related Provisions

18. At the time the CCAA Proceedings were commenced, the Applicant needed urgent relief to permit it to stabilize its situation due to its lack of access to the necessary liquidity required to complete renovations of the Nuvo Building and the threat of enforcement actions being taken by a number of lenders. As a result, the Applicant did not seek to include certain restructuring provisions from the Model Initial Order in the Initial Order. The Applicant now intends to seek those more expansive restructuring provisions in the Amended and Restated Initial Order in order to enable it to take certain steps that may become necessary during the CCAA Proceedings, including pursuing all avenues of refinancing, and pursuing a sale and investment solicitation process (“**SISP**”).

19. Further, through the Amended and Restated Initial Order, the Applicant is seeking to expand the Monitor’s ability, as contemplated in the Model Initial Order, to advise the Applicant in the development of a Plan of Compromise or Arrangement, hold and administer meeting(s) for voting purposes, as well as returning some of the additional protective language found in the Model Initial Order. The Applicant is also seeking to add certain provisions in the Amended and Restated Initial Order expanding the Monitor’s ability to, among other things, review and approve the Applicant’s disbursements, monitor and oversee the renovations at the Nuvo Building and have full and complete access to the books and records of the Applicant and Nuvo Network, in connection with the Monitor’s consideration of the Applicant’s cash flow requirements. I understand that the Monitor will be filing a report in connection with the Comeback Motion describing the additional restructuring and monitor-related provisions to be included in the Amended and Rested Initial Order.

B. Administration Charge

20. The Applicant is seeking to increase the Administration Charge from \$250,000 to \$300,000 to secure the fees and disbursements incurred in connection with services rendered

to the Applicant both before and after the commencement of the CCAA proceedings by the Monitor, counsel to the Monitor, and counsel to the Applicant. As noted in my Initial Affidavit, given the restricted financial position of the Applicant, the professional advisors do not have the benefit of retainers as would ordinarily be the case. The Amended and Restated Initial Order also contemplates some retainers being funded, in accordance with the proposed DIP Facility, totalling \$50,000 for each of the Applicant's counsel, the Monitor and the Monitor's counsel.

C. DIP Financing

21. Following the issuance of the Initial Order, Meridian approached the Applicant to discuss providing a DIP Facility to enable the Applicant to complete the renovations of the Nuvo Building. The parties negotiated the terms of the proposed DIP Financing, and entered into the Meridian DIP Agreement on March 4, 2020. I understand that the Monitor will be filing a report appending the Meridian DIP Agreement and summarizing its terms. The Applicant will be seeking approval of the Meridian DIP Agreement at the hearing of the Comeback Motion.

22. Some of the material terms of the Meridian DIP Agreement are set out below:

- (a) **Borrower:** 260;
- (b) **Guarantor:** Nuvo Network;
- (c) **Facility Amount:** a non-revolving credit facility up to a maximum amount of \$7.18 million, including the Commitment Fee (the "**Maximum Amount**");
- (d) **Commitment Fee:** Borrower to pay the DIP Lender a commitment fee of \$107,000 (the "**Commitment Fee**");
- (e) **Availability:** the Borrower will make an initial draw under the DIP Facility on the day following the closing date (the "**Initial Advance**"), which must occur on or prior to March 13, 2020. The Borrower may request subsequent advances under the DIP Facility no more frequently than once per two-week period. Each DIP Advance must be in a minimum amount of \$250,000 and in multiples of \$100,000 in excess thereof, provided that the Initial Advance shall be for an

amount not less than the Commitment Fee, the Meridian Interim Advance, the Property Tax Arrears (as each of those terms are defined below), the DIP Lender's costs and expenses plus any further amount the Borrower chooses to borrow, if any, as set out in the Cash Flow budget.;

- (f) **Use of Proceeds:** Advances under the DIP Facility may only be used by the Borrower to pay expenditures provided for in the Cash Flow budget, fees and expenses associated with the DIP Facility, repayment of the \$220,000 advanced by Meridian Credit Union Limited under the Initial Order (the "**Meridian Interim Advance**") and payment of the outstanding property tax arrears on real property owned by the (the "**Property Tax Arrears**");
- (g) **Maturity:** the earliest of (i) November 6, 2020, (ii) March 6, 2020 (the expiry of the initial 10-day stay) if the expanded DIP Charge is not issued by such date, (iii) the date the stay of proceedings in the CCAA Proceedings expires or is lifted without the DIP Lenders' consent, (iv) the date on which a receiver is appointed, an assignment in bankruptcy or a proposal is filed in respect of the Borrower, or (v) the date that written notice is provided the DIP Lender of an Event of Default (the "**Maturity Date**"). The commitment in respect of the DIP Facility will expire on the Maturity Date and all DIP obligations must be repaid in full no later than the Maturity Date;
- (h) **Interest Rate:** 9.25% per annum on any amounts drawn, calculated daily and payable monthly;
- (i) **Monthly Availability Fee:** The Borrower will pay the DIP Lender a monthly availability fee in the amount of \$2,000.00 per month for each month (or part thereof) while the Meridian DIP Agreement remains in effect and for as long after that as any of the liabilities or obligations under the Meridian DIP Agreement are outstanding; and
- (j) **Charge:** amounts owing under the DIP Facility are proposed to have a second-ranking Court-ordered charge on the Property of the Applicant, behind the Administration Charge of \$300,000 (the "**DIP Charge**").

23. The DIP Facility is expected to provide sufficient liquidity to allow the Applicant to complete construction, and meet post-filing obligations. Accordingly, the Applicant seeks an order authorizing and empowering it to obtain and borrow under the DIP Facility in order to finance its operations during the CCAA Proceedings.

24. A copy of the Meridian DIP Agreement is attached hereto as **Exhibit "B"**.

D. Critical Suppliers

25. As noted in my Initial Affidavit, the Applicant intends to use the DIP Facility in part to ensure the ongoing involvement of Maple Reinders and Barrie Glass in completing renovations of the Nuvo Building.

26. I understand that the Applicant's Chief Financial Officer and the Monitor have discussed the recommencement of construction activity at the Nuvo Building with Maple Reinders, and Maple Reinders provided a revised construction cost timetable, which indicates that renovations can be completed by mid to late September of this year if they resume imminently. Maple Reinders has indicated that they will not re-attend on site unless they are paid the full amount of arrears that they and their subcontractor Barrie Glass are owed relating to renovation work done prior to the commencement of the CCAA Proceedings. Maple Reinders has indicated that there are significant costs and effort associated with reattending at the site and ensuring the subcontractors also attend. Due to their extensive previous involvement with the site, Maple Reinders is aware of the nature of the Nuvo Building and the construction and renovations required, and I believe that they are best suited to ensure construction is completed on a timely basis.

27. As a result, in the Amended and Restated Initial Order the Applicant is seeking authorization to pay up to the aggregate amount of \$2,375,000 to Maple Reinders and Barrie Glass in order 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 by Maple Reinders for \$1,867,943.00 and the construction lien registered by Barrie Glass for \$89,543.93 (collectively, the "**Construction Liens**"), and to dismiss any all related claims in respect of such Construction Liens. Copies of the Construction Liens were included in my Initial Affidavit and are attached again hereto as **Exhibit "C"**. I understand that the amount claimed in the Barrie Glass construction lien is subsumed in the Maple Reinders construction

lien. 260 does not dispute the quantum of the Construction Liens as registered, and believes that the amounts reflected in the Construction Liens accurately reflect the construction costs payable.

28. The Monitor will assist in overseeing these payments in exchange for the construction lien claimants returning to the site to complete the renovations of the Nuvo Building. The DIP Facility provided by Meridian will be used to make this payment.

29. The payments to Maple Reinders and Barrie Glass are necessary to ensure these construction lien claimants' return to the Nuvo Property, so that renovations can resume. The Applicant does not have any readily available means to replace Maple Reinders as the general contractor at the site, and doing so would cause further delays and increase the cost for the renovations. The success of the Applicant's restructuring would be undermined if Maple Glass does not resume its construction activity. Accordingly, the Applicant is seeking a critical supplier designation with respect to Maple Reinders and Barrie Glass during the CCAA Proceedings to ensure that renovations can resume in a timely way.

III. STAY EXTENSION

30. Since the Initial Order, the Applicant has continued to act diligently and in good faith in respect of all matters relating to the CCAA Proceedings. To date, the Applicant and the Monitor have been largely focused on maintaining operational stability while continuing to engage with their lenders and Maple Reinders in order to finalize the terms of DIP financing and the resumption of construction activity at the Nuvo Building.

31. The Stay Period granted in the Initial Order, had the effect of imposing a stay of proceedings until and including March 6, 2020. The Applicant is requesting an extension of the Stay Period until and including October 24, 2020, to coincide with the maturity of the Meridian DIP Agreement. The Applicant anticipates that this will leave sufficient time to complete renovations at the Nuvo Building and enable refinancing and SISP efforts to be completed.

32. The Applicant believes that the CCAA process is the most appropriate process to minimize disruption not only to 260 but also 260's numerous tenants and their operating businesses, while renovations are completed. I believe our tenants will benefit from the

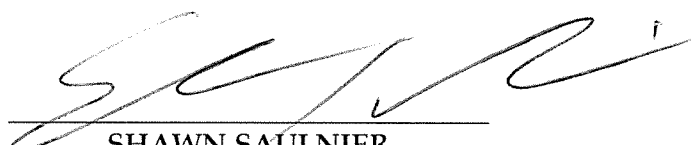
stability of a debtor-in-possession process, and knowing that construction will be completed on an expedited timeframe. The Monitor will be valuable to assist the Applicant and our other stakeholders through this process.

33. I understand that the Monitor will be filing a report, which I understand will include the Applicant's prepared cash flows, demonstrating that the DIP Facility is expected to provide the Applicant with sufficient funding to continue operations through to the requested extension of the Stay Period to October 24, 2020. Allowing renovations to be completed will maximize recoveries for all stakeholders, either through a refinancing or SISP. In the circumstances, I do not believe that any creditor will suffer material prejudice as a result of the extension of the Stay Period.

SWORN BEFORE ME at the City of
Toronto, Ontario on March 4, 2020.


Commissioner for Taking Affidavits

Sanja Sopic


SHAWN SAULNIER

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

AFFIDAVIT OF SHAWN SAULNIER
SWORN MARCH 4, 2020

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Lawyers for the Applicant

EXHIBIT “C”

THIS IS EXHIBIT "C", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

E820930A2731482

Commissioner for Taking Affidavits

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

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~~ *supporting the Application*, and on being advised that those parties listed in the affidavits of service filed were given notice of this motion;

CCC1 ✓ 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 SISF 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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Email: navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicant

EXHIBIT “D”

THIS IS EXHIBIT "D", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

E820930A2731482...

Commissioner for Taking Affidavits

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 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 SISP) 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 SISF.

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

To the Broker, copies to both:

CBRE Limited

Attn: Kyle Hanna

Direct: (416) 798-6255

Email: kyle.hanna@cbre.com

CBRE Limited

Attn: Matthew Brown

Direct: (416) 815-2325

Email: matthew.brown@cbre.com

EXHIBIT “E”

THIS IS EXHIBIT "E", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

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Commissioner for Taking Affidavits



BUSINESS SERVICES AGREEMENT

THIS AGREEMENT made as of the 16th day of May, 2020, between:

2607380 ONTARIO INC.
hereinafter referred to as "the Client"

and

HALO ADVISORY
hereinafter referred to as "Halo"

WHEREAS the Client requires certain business planning Services as defined in this Agreement;

AND WHEREAS Halo has undertaken to provide such Services subject to the following terms and conditions:

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

Definition

"**Services**" are the specified services required by the Client as set out in Schedule A, which is attached to this Agreement as an integral part thereof.

Cost of Services

All fee arrangements and costs are listed in Schedule A and shall correspond with the associated Services set out therein. All listed fees in Schedule A are exclusive of any applicable taxes.

Obligations of the Client

1. The Client agrees to pay any and all invoices submitted by Halo for providing the Services in accordance with this agreement. Payments shall be made within ten (10) days after the date of



receipt of each invoice. Payments can be made via e-transfer, wire or cheque. Cheques are to be made out and forwarded to:

Halo Advisory
3250 Bloor Street West
Suite 600, East Tower
Toronto, Ontario
M8V 2X3

The Client is responsible for notifying Halo as soon as possible if there are events or circumstances that will affect Halo's ability to provide the Services.

2. The Client agrees and covenants that any representations or information provided to Halo are, to the best of its knowledge, true and accurate. The Client shall not mislead, misrepresent to or omit to inform Halo any information which is relevant to the provision of the Services. Halo shall not be responsible for any resulting failure to provide the Services.

Obligations of Halo

2. Halo agrees to provide the Services in accordance with Schedule A and in carrying out its duties and responsibilities pursuant to this Agreement, agrees to exercise the care, diligence and skill in its dealings with the Assets that a person of ordinary prudence would exercise in similar circumstances in dealing with the property of another person. Halo will exercise the powers and discharge its duties hereunder honestly and in good faith and without willful misfeasance, bad faith or negligence and in a manner, which is in the best interests of the Client. Halo will invoice the Client as mutually agreed upon until the completion of the Services.
3. Halo is responsible for notifying the Client as soon as possible if its authorized representatives are unable to provide the Services due to illness, injury, emergencies or otherwise.

Confidentiality

1. Both the Client and Halo may be required from time to time to share confidential information, or information which should be treated as confidential, during or after the terms of this agreement ("Confidential Information").
2. The Client, Halo and their employees, agents and assigns, agree to (i) use the same degree of care with each other's Confidential Information as it does with its own; and (ii) obtain the prior written consent of the other party before divulging the other party's Confidential Information to any third party in any way. Ongoing consent to disclose Confidential Information may be provided by the Client to Halo in accordance with Schedule "A".



3. The foregoing shall not apply when disclosure of Confidential Information is required by law.

Intellectual Property

1. Any intellectual property held by either the Client or Halo prior to the commencement of the Services shall remain the property of that party. Intellectual property can include, but is not necessarily limited to, documents, processes, methods, technical information, know-how, models, drawings, specifications, prototypes, copyright, patents, or trade secrets (collectively, "Intellectual Property").
2. Halo agrees that any Intellectual Property created for or on behalf of the Services, including but not necessarily limited to, documents, processes, publications, reports and materials which form part of the Services or arising from the performance of the Services provided in this agreement (collectively, the "Work Product"), is created for on behalf of and shall remain the property of the Client.

Use of Client's Intellectual Property and Confidential Information

1. Notwithstanding the section titled "Intellectual Property", and subject to the consent of the Client in accordance with Schedule A, the Client grants Halo a revocable licence to use the Work Product for marketing purposes. Such licence shall be revocable 30 days following receipt of the Client's written notice.
2. Halo's use of the Work Product shall comply with the section titled "Confidential Information".
3. If Halo is authorized to represent the Client as part of the Services provided, notwithstanding the section titled "Confidential Information", the Client agrees to execute the form attached as Schedule B to authorize Halo to disclose to third parties any and all of the Client's Confidential Information necessary for the completion of the Services.

No Representation or Warranty or Guarantee

Halo makes no representation, warranty or guarantee regarding any estimate of profit, return of capital, economic return or other estimates which involve a forecast of economic return; any purchase or sale of any financial instrument or financial product, including but not limited to insurance, real estate, stocks, bonds or mutual funds; or the securing of financing.

Indemnification

Except with respect to claims, costs and liabilities arising principally by reason of Halo's gross negligence, the Client will indemnify Halo, its officers, directors, employees and agents, against any claim, cost or



liability incurred by Halo in connection with any services provided by Halo to the Client or any other dealings between Halo and the Client, including without limitation,

The Client will indemnify and save harmless Halo and its employees from any and all claims, demands, actions and costs whatsoever which it may sustain, pay or incur arising out of or in connection with wilful misconduct, negligence or the failure in the performance of this agreement by the Client or its employees, excepting any matter caused by the wilful misconduct, negligence or failure in the performance of this agreement by Halo or its employees.

Neither the Client nor Halo will be liable or responsible to the other any injury or property damage of any nature whatsoever that may be suffered or sustained by the other party or its employees, in connection with the performance of the Services and any other rights and obligations under this agreement.

Neither the Client nor Halo will bear any liability to the other for any and all indirect or consequential damages arising out of the provision of the Services.

Limitation of Liability

Halo shall not be liable for any action taken, omitted or suffered to be taken or omitted by it provided Halo acted reasonably and in good faith, or acted in accordance with specific directions or instructions from the Client.

The Client agrees and acknowledges that Halo is acting in a consulting capacity and Halo cannot and is not guaranteeing the success of the Client's undertaking. The Client hereby unconditionally, expressly and forever waives any right it may now or hereafter have against Halo respecting any and all such damages, any lost profit or consequential, exemplary, punitive, statutory or other special damages.

The Client agrees to limit Halo's liability arising from Halo's professional acts, errors or omissions such that the total liability of Halo shall not exceed Halo's total fees for the Services rendered, less any amounts already invoiced and paid by the Client.

Termination

1. Either the Client or Halo can terminate this agreement at any point by giving fifteen (15) days written notice to the other of the intention to terminate this agreement. This agreement is terminated at the date mentioned in the termination notice.
2. Where either the Client or Halo terminates this agreement, the Client agrees to pay Halo the full cost of performing any of the Services that has been performed up to and including the date of



termination as evidenced by invoices rendered and any other costs directly resulting from the termination, including non-cancellable commitments.

3. The Client acknowledges and agrees that in the event the Client obtains any debt financing from a person or entity that was identified by Halo and made known to the Client, whether or not known to the Client prior such introduction, during the term of this Agreement and for a period of 365 days thereafter the Client shall be responsible to pay Halo. This covenant will survive the termination of this Agreement for the applicable time period.

Assignments and Sub-Contracts

The Client agrees and acknowledges that Halo may assign, transfer or sub-contract any of its involvement with or participation in the provision of Services, or any part hereof.

Amendment

This agreement makes up the entire agreement between the parties and the whole of the contracted relations between the Client and Halo. The Client and Halo may add to, delete, vary or amend the terms of this agreement by reciprocal correspondence to that effect and without the necessity of formally amending this agreement. However, both the Client and Halo will confirm in writing any addition, deletion or variance to this agreement.

Conflict of Interest

1. Both the Client and Halo warrant that they have the authority to enter into this agreement, and that the agreement does not contravene any law or regulation or agreement binding or affecting either party.
2. This agreement is for the performance of services and Halo is engaged as an independent contractor. Halo will not be entitled to any rights or benefits other than those identified in this agreement.
3. There are no representations, warranties, agreements or understandings between the Client and Halo hereto other than as expressly contained herein, and this agreement contains all the terms and conditions agreed on by the parties hereto.
4. Neither Halo, nor its employees or representatives, is engaged as an employee or representative of the Client.



General

1. Those sections titled "Confidentiality", "Intellectual Property", "Use of Client Information", "Limitation of Liability" and "Indemnification" will survive the termination of this agreement for any reason.
2. This agreement is binding upon both the Client and Halo and their respective successors and assigns.
3. This agreement is construed, and the relations between the Client and Halo are determined, in accordance with the laws of Ontario. The courts of the Province of Ontario will have exclusive jurisdiction with respect to all matters relating to or arising out of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first mentioned above.

2607380 ONTARIO INC.

A handwritten signature in black ink, appearing to read "Shawn Saulnier", written over a horizontal line.

Name: Shawn Saulnier

Title: President

I have the authority to bind the corporation

Witness:

SHAWN SAULNIER

A handwritten signature in black ink, appearing to read "Shawn Saulnier", written over a horizontal line.

Client Name:

Witness Name:

HALO ADVISORY

A circular, scribbled signature in black ink, written over a horizontal line.

Per: _____

Name:

Title:

I have the authority to bind the corporation



SCHEDULE A

SUMMARY OF SERVICES

| Service | Price |
|---|---------------------|
| <input checked="" type="checkbox"/> Business Consulting: Total fee of \$5,650.00 due upon <u>signing</u> of this agreement. <i>Scope of Work includes:</i> <ul style="list-style-type: none"> • <i>Reviewing and preparing a package for lender consideration.</i> • <i>Consulting with clients' legal and accounting advisors, employees and stakeholders to put a lending package together for lender consideration.</i> • <i>Completing a full financial analysis from a lending perspective, presenting factual information to prospective lenders along with a complete due diligence package, and reviewing/negotiating terms and conditions through Stephen Thomas' Mortgage Agent and Mortgage Brokerage Mandate</i> | \$5,000.00 Plus HST |
| <input checked="" type="checkbox"/> Business Consulting – Milestone Fee: Total fee of \$5,650.00.00 due upon <u>receipt</u> of letter of interest | \$5,000.00 Plus HST |

I/We acknowledge and agree that Halo shall provide the above-noted Services in accordance with the Agreement.

- ☒ I/We consent and authorize Halo to use or take advantage of any Work Product created on our behalf for marketing purposes.
- ☒ I/We hereby grant Halo the authority to act as agent of the Client solely as specifically provided for or necessarily implied by this Agreement or as agreed to in the Letter of Authorization attached thereto as Schedule "B".
- ☒ I/We consent that Halo to disclose to third parties any and all of my/our Confidential Information necessary for the completion of the above-noted Services.



2607380 ONTARIO INC.

A handwritten signature in black ink, appearing to read "Shawn Saulnier", written over a horizontal line.

Name: Shawn Saulnier

Title: President

I have the authority to bind the corporation

Witness:

SHAWN SAULNIER

A handwritten signature in black ink, appearing to read "Shawn Saulnier", written over a horizontal line.

Witness Name:

Client Name:

HALO ADVISORY

Per: _____

Name:

Title:

I have the authority to bind the corporation



SCHEDULE B

AUTHORIZATION AND DIRECTION

TO: 2607380 ONTARIO INC.

RE: BUSINESS FINANCING REQUEST

The undersigned hereby authorizes and directs **Halo Advisory ("Halo ")** to act on our behalf as our agents and representatives in the above-noted matter. Halo is authorized to disclose any information belonging to the undersigned for the purpose of the above-noted matter.

The undersigned authorizes you to communicate with Halo and its duly authorized agents to complete the above-noted matter. You are hereby authorized to disclose to Halo any information you may have in your files related to the undersigned and the above-noted matter.

This shall constitute your full, sufficient and irrevocable authority.

DATED this 16th day of May, 2020.

2607380 ONTARIO INC.

A handwritten signature in black ink, appearing to read "Shawn Saulnier".

Name: Shawn Saulnier

Title: President

I have the authority to bind the corporation

Witness:

SHAWN SAULNIER

Witness Name:

Client Name:

A handwritten signature in black ink, appearing to read "Shawn Saulnier".

EXHIBIT “F”

THIS IS EXHIBIT "F", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

E820930A2731482...

Commissioner for Taking Affidavits



ENGAGEMENT AGREEMENT/AGENCY AGREEMENT

2607380 Ontario Inc. represented by Shawn Saulnier its 1295 North Service Road in the Province of Ontario (hereinafter referred to as the "Borrower") hereby appoints Mortgage Alliance (hereinafter referred to as "MA"), a corporation legally constituted in the province of Ontario, and having its Corporate Office at 200-2005 Sheppard Ave East, herein acting and represented by duly authorized as declares, as Stephen Thomas the exclusive agent for the term hereinafter established with the exclusive right to negotiate and procure for the Borrower from a bona fide lender (the "Lender") an offer to finance (the "Offer") for the project herein after described (the "Project") the whole under the terms and conditions stipulated herein:

PURPOSE: To refinance the property located at 1295 North Service Road Burlington, Ontario L7P 0V5.

1. INDICATIVE TERMS AND CONDITIONS FINANCING:

- a) Requested Amount Principal: \$33,000,000.00 - \$35,000,000.00
- b) Range of Interest: 3.5 - 8%
- c) Target Amortization: 15 – 25 Years
- d) Target Lender Fee: 0.50% - 2.00%
- e) Brokerage Fee: 0.50% of authorized facilities as outlined in the Commitment Letter less \$10,000.00
- f) Exclusion to Mandate: Client and stakeholders are not bound to this agreement in the event there is a change in mortgage agent. We are requesting to work exclusively with Stephen Thomas, Mortgage Agent.

OR

Any other such amount, rate and terms as the Borrower may find acceptable.

2. DURATION:

The present Mandate is exclusive (save and except to those lenders as outlined in clause e) (above) and irrevocable for a term of 180 days and shall take effect upon signing hereof. The term however shall commence once all necessary documents and information relevant to this Mandate, and required by MA, the potential Lender or by any other institution of loan insurance, such as, plans, estimates, financial statements, copies of leases, security, warranty and any other document as requested have been delivered to MA in person, by registered mail or messenger. At the expiry of each term, the Mandate will be considered to be automatically renewed for an additional term equal to the original term mentioned above, unless the Borrower advises MA in writing that they do not wish to have the Mandate extended.

3. BORROWERS OBLIGATION:

In consideration of the services to be rendered by MA, the Borrower undertakes and agrees as follows:

- a) The Borrower shall be bound to accept the Offer if it conforms to the provisions described above;
- b) Upon signature of these presents, the Borrower shall pay unto MA a non-refundable application fee (the "Fee") in the amount of \$0.00 representing the costs and disbursements related to the general execution of the present mandate;
- c) The Borrower further undertakes to pay MA and/or its nominee remuneration (the "Remuneration") in the amount of \$0.00 upon receipt of a discussion paper or a letter of intent, with the remaining brokerage fee representing 0.50% less \$10,000.00 of the quantum of the financing obtained, (the "Commission"); Such Commission shall become due and payable to MA or its nominees upon the issuance of an offer from the Lender to finance with the terms and conditions hereinabove stipulated and or such other amounts, rate, and terms as the Borrower may have accepted. In the event MA and/ or its nominees, executes its obligations hereunder and acquires the Offer and the Borrower declines same for whatever reason, then MA shall be entitled to claim from the Borrower its Commission and all other damages incurred;
- d) The Borrower hereby agrees and undertakes to pay the Commission immediately upon reception of the Offer or, with the consent of MA and the exclusive agent the Commission upon acceptance of the Offer and the remaining balance directly from the proceeds of the initial advance of the financing. Failing which, instructions and authorizations will be given to the executing notary, lawyer, Lender and/or any other party responsible for the disbursement of the proceeds to withhold the said sum from the proceeds and remit same directly to MA. This Mandate will also serve as an irrevocable letter of direction to the acting notary, lawyer, Lender and/or any other party responsible for the disbursement of the proceeds to remit to MA the aforementioned Commission at the closing from the proceeds of the loan. The Borrower recognizes that MA can receive compensation from the financial institution with which it intends to negotiate the Project and facilitate its underwriting and/or any other goods and services supplier referred to;
- e) In the event that during the Term of the present Mandate, the Borrower directly or indirectly accepts financing from a third party for the purpose of financing the Project, then the Borrower shall ipso facto become responsible for the payment of the Commission and shall pay the said sum unto MA upon demand;
- f) The Borrower recognizes that in the event that the project is financed within a period of 365 days following the expiration of the present Mandate by any Lender initially approached by MA in execution of this Mandate, the Borrower shall be liable for payment of the Commission as set forth herein and shall remit payment upon demand;
- g) The Borrower recognizes that MA shall have first right of refusal on the take-out financing and future renewals for a period of 5 years following the acceptance of a commitment

| INITIALS | |
|-------------------|-----------------|
| Borrower : SAS | Agent : S.T. |

- h) Should the Borrower obtain financing for any other transaction or purpose within a period of 36 months following the expiration of this Mandate for his personal benefit or for that of a person affiliated with him, from any Lender that has issued a commitment letter pursuant to this Mandate, the whole whether such financing has been procured with or without the intervention and or assistance of **MA**, then the Borrower shall be liable for the payment of a commission upon demand at a percentage equal to the percentage mentioned at paragraph 3.c of the quantum of financing obtained for any other transaction or purpose;
- i) The Borrower undertakes to pay all application fees and any such disbursements as may be requested by any Lender. Said disbursements shall be payable upon the Borrower’s acceptance of the Lender’s Offer or as they may be requested by the Lender;
- j) The Borrower undertakes to pay all costs related to any property inspection reports, appraisal reports and environmental reports that may be required by the Lender including any notarial and/or legal fees related to the financing and the execution of necessary documents;
- k) The Borrower undertakes to complete and sign a standard application form, as well as any other form as required by **MA &/or the Lender**, in relation to the execution of the Mandate;
- l) The Borrower certifies that any information he has provided is accurate and that all further representations to be made and all documents to be submitted to **MA** and/ or its nominee or to the Lender shall be true, complete and exact. The Borrower shall indemnify, defend and hold **MA**, its directors, officers and employees harmless from and against any liability, cost or claim, damage or expense resulting from incorrect or incomplete information supplied by him and/or on his behalf. It is understood that should the Borrower cease to become eligible for the financing at a later date, after same has been approved and accepted by the Lender because of false representations made by the Borrower and/or on his behalf or because of a document submitted containing false or inaccurate information, the Borrower will be liable nonetheless for the payment of **MA**’s Commission as established in paragraph 3.c) of these presents and obliges himself to pay such remuneration upon demand.

4. DECLARATIONS:

- a) The Borrower declares that he is presently not party to any other mandate concerning the Project and that at the date of these presents, there exists no financing request pending approval thereof;
- b) In the event where the Borrower mentioned herein is a corporation, the undersigned herein mentioned declares that:
 - 1) He is a signing officer of the corporation and is duly authorized to sign on its behalf;
 - 2) He is jointly and severally responsible of the Borrower’s obligations mentioned in the present mandate.

5. AUTHORIZATIONS:

- a) The Borrower hereby authorizes the Lender, **MA**, and/or its nominee to obtain information on his personal credit status as required for the proper execution of the present Mandate and hereby authorizes and directs any personal information agent, financial institution, fiscal authority, employer, creditor, public organization and any other individual to communicate to the Lender, **MA** &/or its nominee any information of financial nature concerning him and further acknowledges, accepts and authorizes that this information be disclosed by **MA** to any potential Lender, assignee or other individual or company related to or necessary for the execution of this Mandate;
- b) The Borrower authorizes **MA** to install a sign on the Project’s site.

6. GENERAL DISPOSITIONS:

- a) If all or part of any section, paragraph or provision of this Mandate is held invalid or unenforceable, it shall not have any effect whatsoever on any other section, paragraph or provision of this Mandate;
- b) This Mandate shall be construed and enforced in accordance with the laws in force in the Province of Ontario;
- c) This Mandate shall bind the Parties hereto as well as their respective successors, heirs and assignees.

7. ACKNOWLEDGMENT:

Each party represents that they and their counsel have had an adequate opportunity to review and revise each and every component of this Agreement before executing same and that any rule of interpretation to the effect that ambiguities are to be resolved against the drafting party shall not apply to this Agreement. The Borrower acknowledges that the information supplied to **MA** for the loan request is truthful and accurate. The Borrower acknowledges having received a duly executed copy of these presents. A copy of the present authorization is considered as binding as the original. The singular number shall be deemed to include the plural and any gender shall be deemed to include the neuter, masculine or feminine where required.

8. PRIVACY/ SUITABILITY/ CONSENT/ ANTI-SPAM AGREEMENT

MA takes pride in the policies and procedures used to protect the personal information collected and maintained on behalf of our clients. Access to personal information is granted to our agents under the *Personal Information Protection and Electronic Documents Act (PIPEDA)*.

| INITIALS | |
|-------------------|----------------|
| Borrower : SAS | Agent: S.T. |

9. COLLECTION AND USE OF INFORMATION

To better understand your financial needs and make you aware of new services that could help you reach your goals, *MA* collects personal information from a variety of sources. Some personal information and some reasons it is collected include, but is not limited to, are:

- a) Data such as name, address, contact numbers, email contact, income, employment, age, net worth, investment objectives, and banking information;
- b) Unique identifiers: such as social insurance, driver’s license, passport numbers, etc.; used to fulfill regulatory and other governmental obligations to distinguish you from other clients with similar names;
- c) Information from a consumer reporting agency or other source, which may include account information and/or information about your creditworthiness. *MA* uses this information to help determine the mortgage product that is suitable for your mortgage needs.

MA collects this information in order to provide the services you have requested, and to help us determine how MA or other non-affiliated companies may be of service to you.

10. GUIDELINES FOR DISCLOSURE OF INFORMATION

- a) MA may provide information to credit bureau agencies, financial institutions, insurers, private investors, creditor Life Company etc.

| INITIALS | |
|-------------------|----------------|
| Borrower : SAS | Agent: S.T. |

- b) MA shall use the information to determine your financial situation for purposes related to services that you have requested from MA. MA may also provide the information to others that work for MA, but only as needed for the provision of those services.
- c) MA shall use your social insurance number as an aid to identify you with credit bureau agencies and financial institutions for credit history file matching purposes.
- d) MA may inquire with our lender partners about the progress of your application.
- e) MA may use your information to promote Mortgage Alliance Commercial Canada services to you.

MA will not use or disclose personal information for purposes other than those for which it was collected, except with the consent of the individual(s) or as required by law.
Files are kept a minimum of three (3) years.

11. ONGOING COMMITMENT

Confidentiality is the key to a strong relationship and MA is committed to protecting your privacy. This privacy statement is always available on our website; www.vinegroup.ca. If you need clarification regarding this policy, please contact Niro Wardane our Director of Compliance at #200-2005 Sheppard Ave East, Toronto, Ontario, M2J 5B4. Telephone: 416-499-5454 x 230.

12. SUITABILITY

I/We are aware of:

- a) How terminating or prepaying a mortgage prior to maturity term may involve prepayment penalties
- b) How changes in my/our employment (eg. reduced income), credit, liabilities, etc. may affect the ability to make mortgage payments in the future and/or changes prior to closing could affect I/we not qualifying for the mortgage.
- c) The benefits of creditor mortgage protection.
- d) The inherent risks associated with mortgages. The agent has evaluated my/our needs to assist in determining the most appropriate mortgage including to offer to assist in preparing a budget.

S.T.
Agent initials

SAS
Client initials

13. CREDIT BUREAU CONSENT

I/We the undersigned, declare the information provided with respect to the commercial mortgage application is a true and complete representation of the financial situation. I/We understand that it is being used to determine my/our credit responsibility and to evaluate the request for mortgage financing. If required, I/We authorize MA to obtain a credit report.

I/We acknowledge that the completion the mortgage application could take time and it might entail the pulling of additional credit reports. I/We permit MA to pull one additional credit report up to six (6) months from the date signed below. I/We also authorize MA to exchange such credit information for the purpose of securing mortgage financing to potential mortgage lenders, mortgage insurers or service providers. MA will retain the application and credit information whether or not the mortgage is approved.

14. CANADA ANTI-SPAM LEGISLATION

I will keep in touch via electronic messaging during your mortgage transaction as permitted by the legislation!

However, Mortgage Alliance Commercial Canada occasionally communicates with its' database via electronic messages. The content provides insightful information on mortgages, finances, etc. I/We wish to be kept informed and consent to the receiving of these informative communications for the term of my/our mortgage. I/We can unsubscribe at any time.

SAS

Client initials

I/We have read, understood, and received a copy of this Mandate & Privacy/Suitability/Consent agreement.

AFTER DUE READING HEREOF THE BORROWER SIGNED IN THE CITY OF Burlington
ON THE 18th DAY OF May 2020.

2607380 Ontario Inc,
[Signature]
Per: President

Email: shawna@nuvtonetwork.com

Per: _____

Email: _____

ACCEPTANCE

I, the undersigned, Stephen Thomas, duly authorized representative of Mortgage Alliance, do hereby accept the above noted Mandate & Privacy/Suitability/Consent and agree to its execution, the whole in accordance with the terms, conditions and stipulations therein mentioned.

Mortgage Alliance

[Signature]

Per: Stephen Thomas (Broker Licence # 10530)

*I, Stephen Thomas, verify & warrant I have viewed proper identification documents.

Signature of Mortgage Agent [Signature]

EXHIBIT “G”

THIS IS EXHIBIT "G", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

E820930A2731482

Commissioner for Taking Affidavits

DIP CREDIT FACILITY AGREEMENT

THIS AGREEMENT made as March 3, 2020

BETWEEN:

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

– and –

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

– and –

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

WHEREAS:

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

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

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

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

3. **CLOSING DATE OF INITIAL ADVANCE**

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

4. **REPAYMENT:**

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

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

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

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

5. **AVAILABILITY
UNDER DIP
FACILITY:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. **PERMITTED ENCUMBRANCES AND PRIORITY:**

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

9. **INTEREST:**

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

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

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

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

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

10. **COMMITMENT FEE:**

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

11. **MONTHLY AVAILABILITY FEE:**

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

12. **BREAK FEE:**

[Intentionally deleted]

13. **PREPAYMENT OPTION:**

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

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

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

Amounts prepaid may not be re-advanced.

14. MANDATORY REPAYMENTS:

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

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

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

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

Amounts repaid may not be re-advanced.

15. LOAN DOCUMENTS AND ADDITIONAL DOCUMENTATION:

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

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

16. REPRESENTATIONS AND WARRANTIES:

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

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

of its assets or business makes such qualification necessary;

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

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

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

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

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

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

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

17. AFFIRMATIVE COVENANTS:

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

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

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

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

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

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

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

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

**18. REPORTING
COVENANTS:**

The Borrower will deliver to the DIP Lender:

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

**19. NEGATIVE
COVENANTS:**

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

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

contingent obligations, except in the ordinary course of business;

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

20. EVENTS OF DEFAULT:

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

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

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

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

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

21. REMEDIES:

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

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

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

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

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

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

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

22. LEGAL AND OTHER EXPENSES:

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

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

23. INDEMNITY AND RELEASE:

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

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

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

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

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

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

24. DIP LENDER APPROVALS:

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

25. TAXES:

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

26. NOTICES:

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

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

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

Attention: Shawn Saulnier

Fax: 416-625-1769

Email: shawn@nuvonetwork.com

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

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

Attention: Paul van Eyk

Fax: 416-485-4592

Email: pvaneyk@richter.ca

with a copy to the counsel to the Monitor:

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

Attention: Raj S. Sahni

Fax: 416-863-1716

Email: sahnir@bennettjones.com

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

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

Attention: Bernie Huber

Fax: (905) 988-4003

Email: bernie.huber@meridiancu.ca

with a copy to the counsel to the DIP Lender:

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

Attention: Dom Glavota/David Cohen

Fax: (416) 862-7661

Email: dom.glavota@gowlingwlg.com

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

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

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

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

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

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

**29. FURTHER
ASSURANCES:**

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

30. LANGUAGE:

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

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

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

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

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

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

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

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

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

"Filing Date" means February 25, 2020.

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

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

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

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

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

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

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

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

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

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

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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

DIP Lender

MERIDIAN CREDIT UNION LIMITED

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

Borrower

2607380 ONTARIO INC.

By: _____
Name:
Title:

Guarantor

NUVO NETWORK INC.

By: _____
Name:
Title:

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

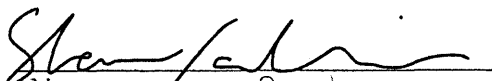
DIP Lender

MERIDIAN CREDIT UNION LIMITED

By: _____
Name:
Title:

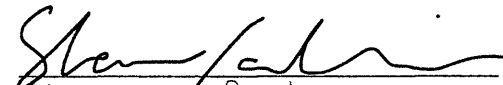
Borrower

2607380 ONTARIO INC.

By: 
Name: Shawn Saulnier
Title: President

Guarantor

NUVO NETWORK INC.

By: 
Name: Shawn Saulnier
Title: President

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**SCHEDULE “A”
CASH FLOW BUDGET**

See attached.

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

| | | Week Number | Notes | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------------------|---------------|-------------|-------------|-------------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| | | Week Ending | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 |
| | | Totals | 07-Mar-20 | 14-Mar-20 | 21-Mar-20 | 28-Mar-20 | 04-Apr-20 | 11-Apr-20 | 18-Apr-20 | 25-Apr-20 | 02-May-20 | 09-May-20 | 16-May-20 | 23-May-20 | 30-May-20 | 06-Jun-20 | 13-Jun-20 | 20-Jun-20 | 27-Jun-20 | 04-Jul-20 | 11-Jul-20 | 18-Jul-20 | 25-Jul-20 | 01-Aug-20 | 08-Aug-20 | 15-Aug-20 | 22-Aug-20 | 29-Aug-20 | 05-Sep-20 | 12-Sep-20 | 19-Sep-20 | 26-Sep-20 | 03-Oct-20 | 10-Oct-20 | 17-Oct-20 | 24-Oct-20 |
| Receipts | 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 2 | 2,037,142 | - | 1,413 | 1,413 | 1,413 | 248,194 | 1,130 | 1,130 | 1,130 | 1,130 | 283,035 | 1,413 | 1,413 | 1,413 | 283,035 | 1,413 | 1,413 | 1,413 | 283,035 | 1,130 | 1,130 | 1,130 | 1,130 | 263,008 | 1,413 | 1,413 | 1,413 | 321,188 | 1,130 | 1,130 | 1,130 | 1,130 | 347,266 | 6,356 | 6,356 |
| | 3 | 597,000 | - | - | - | - | - | - | - | - | - | 375,000 | - | - | - | 45,000 | - | - | - | 59,000 | - | - | - | - | 70,000 | - | - | - | 62,000 | - | - | - | - | 30,000 | - | - |
| Total Receipts | | 2,634,142 | - | 1,413 | 1,413 | 1,413 | 248,194 | 1,130 | 1,130 | 1,130 | 1,130 | 668,035 | 1,413 | 1,413 | 1,413 | 328,035 | 1,413 | 1,413 | 1,413 | 307,193 | 1,130 | 1,130 | 1,130 | 1,130 | 333,008 | 1,413 | 1,413 | 1,413 | 383,188 | 1,130 | 1,130 | 1,130 | 1,130 | 383,266 | 6,356 | 6,356 |
| Disbursements | 4 | 1,591,804 | 20,000 | 391,902 | 71,019 | 22,313 | 79,337 | 16,845 | 16,845 | 49,698 | 18,139 | 70,968 | 23,009 | 23,009 | 24,303 | 70,968 | 23,009 | 55,862 | 24,303 | 59,337 | 16,845 | 16,845 | 16,845 | 18,139 | 66,668 | 21,877 | 21,877 | 23,171 | 74,184 | 20,144 | 20,144 | 52,997 | 21,438 | 84,814 | 27,476 | 27,476 |
| | 5 | 705,520 | 39,322 | 38,192 | - | 38,192 | - | 38,192 | - | 38,192 | - | 39,598 | - | 39,598 | - | 39,598 | - | 39,598 | - | 40,074 | - | 40,074 | - | 40,074 | - | 40,074 | - | 40,074 | - | 38,568 | - | 38,568 | - | 38,568 | - | 38,568 |
| | 6 | 1,721,250 | - | 482,375 | 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 | 42,375 | 33,900 | 33,900 | 33,900 | 33,900 | 42,375 | 42,375 | 42,375 | 42,375 | 42,375 | 33,900 | 33,900 | 33,900 | 33,900 | 42,375 | 42,375 | 42,375 | |
| | 7 | 4,511,081 | - | 2,375,000 | - | - | 325,000 | - | - | - | - | 475,000 | - | - | - | 575,000 | - | - | - | 475,000 | - | - | - | - | 250,000 | - | - | - | 36,081 | - | - | - | - | - | - | |
| | 8 | 393,650 | - | 379,850 | - | - | 2,000 | - | - | - | - | 2,000 | - | - | - | 2,000 | - | - | - | 2,000 | - | - | - | - | 2,000 | - | - | - | 2,000 | - | - | - | - | 2,000 | - | - |
| | 9 | 8,923,504 | 59,322 | 3,677,319 | 113,394 | 102,879 | 440,237 | 88,937 | 50,745 | 121,790 | 62,039 | 629,941 | 85,384 | 104,982 | 66,678 | 729,941 | 65,384 | 137,835 | 66,678 | 610,311 | 50,745 | 80,819 | 50,745 | 92,113 | 361,043 | 104,326 | 64,262 | 105,620 | 146,165 | 92,712 | 54,044 | 126,565 | 55,338 | 167,857 | 69,851 | 109,518 |
| | 10 | (6,289,362) | (59,322) | (3,675,906) | (111,981) | (101,467) | (192,043) | (87,807) | (49,615) | (120,660) | (50,909) | (21,906) | (83,971) | (103,569) | (65,265) | (401,906) | (63,971) | (136,422) | (65,265) | (303,117) | (49,615) | (89,689) | (49,615) | (90,883) | (28,035) | (102,914) | (62,840) | (104,207) | 237,024 | (91,582) | (52,914) | (124,435) | (54,208) | 215,409 | (63,495) | (102,162) |
| | Net Cash Flow | | (6,289,362) | (59,322) | (3,675,906) | (111,981) | (101,467) | (192,043) | (87,807) | (49,615) | (120,660) | (50,909) | (21,906) | (83,971) | (103,569) | (65,265) | (401,906) | (63,971) | (136,422) | (65,265) | (303,117) | (49,615) | (89,689) | (49,615) | (90,883) | (28,035) | (102,914) | (62,840) | (104,207) | 237,024 | (91,582) | (52,914) | (124,435) | (54,208) | 215,409 | (63,495) |
| Operating Cash Balance | 9 | 192,067 | 192,067 | 132,746 | 206,839 | 94,858 | 243,391 | 51,348 | 213,541 | 163,926 | 43,267 | 242,358 | 220,452 | 156,481 | 52,912 | 437,647 | 35,741 | 221,770 | 85,348 | 20,083 | 66,965 | 17,351 | 177,662 | 128,047 | 37,064 | 9,029 | 156,115 | 93,276 | 239,068 | 476,092 | 384,510 | 331,596 | 207,161 | 152,953 | 368,362 | 304,867 |
| Net Cash Flow | | (6,289,362) | (59,322) | (3,675,906) | (111,981) | (101,467) | (192,043) | (87,807) | (49,615) | (120,660) | (50,909) | (21,906) | (83,971) | (103,569) | (65,265) | (401,906) | (63,971) | (136,422) | (65,265) | (303,117) | (49,615) | (89,689) | (49,615) | (90,883) | (28,035) | (102,914) | (62,840) | (104,207) | 237,024 | (91,582) | (52,914) | (124,435) | (54,208) | 215,409 | (63,495) | (102,162) |
| DIP Drawdown | 10 | 6,300,000 | - | 3,750,000 | - | - | 250,000 | - | - | - | 250,000 | - | - | - | 450,000 | - | - | - | 250,000 | - | - | - | - | 250,000 | - | - | - | 250,000 | - | - | - | - | - | - | - | - |
| Ending Cash Balance | | 202,705 | 132,746 | 206,839 | 94,858 | 243,391 | 51,348 | 213,541 | 163,926 | 43,267 | 242,358 | 220,452 | 156,481 | 52,912 | 437,647 | 35,741 | 221,770 | 85,348 | 20,083 | 66,965 | 17,351 | 177,662 | 128,047 | 37,064 | 9,029 | 156,115 | 93,276 | 239,068 | 476,092 | 384,510 | 331,596 | 207,161 | 152,953 | 368,362 | 304,867 | 202,705 |

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

DRAWDOWN REQUEST

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

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

DATE: ●, 20●

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

The Borrower hereby certifies that:

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

The Borrower hereby requests a DIP Advance as follows:

Date of DIP Advance [●]

Amount of DIP Advance: CDN\$[●]

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

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

SWIFT CODE NO. BOFMCAM2

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

B-1

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

2607380 ONTARIO INC.

By: _____
Name:
Title:

Acknowledged and Confirmed

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

By: _____
Name:
Title:

SCHEDULE "C"

EXISTING PERMITTED ENCUMBRANCES

2607380 ONTARIO INC.

A. PERSONAL PROPERTY

Personal Property Security Act (Ontario)

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

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

Current to February 18, 2020

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

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

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

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

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

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

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EXHIBIT “H”

THIS IS EXHIBIT "H", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

E820030A2731482...

Commissioner for Taking Affidavits

AMENDING AGREEMENT

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

RECITALS:

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

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

Section 1 Defined Terms.

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

Section 2 Headings.

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

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

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

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

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

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

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

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

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

Section 4 Reference to and Effect on the Credit Agreement.

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

Section 5 Governing Law.

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

Section 6 Counterparts.


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

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

IN WITNESS WHEREOF the parties have executed this Amending Agreement.

DIP Lender:

MERIDIAN CREDIT UNION LIMITED

By: 
Authorized Signing Officer
Bernie Huber
Senior Commercial Credit Specialist

Borrower:

2607380 ONTARIO INC.

By: 
Authorized Signing Officer

Guarantor:

NUVO NETWORK INC.

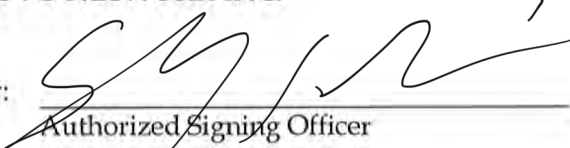
By: 
Authorized Signing Officer

EXHIBIT “I”

THIS IS EXHIBIT "I", referred to in the Affidavit of SHAWN SAULNIER, sworn on July 7, 2020.

DocuSigned by:

Sanja Sopic

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Commissioner for Taking Affidavits

SECOND AMENDING AGREEMENT

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

RECITALS:

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

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

Section 1 Defined Terms.

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

Section 2 Headings.

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

Section 3 Amendments to Section 17 of the Credit Agreement.

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

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

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

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

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

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

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

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

Section 4 Reference to and Effect on the Credit Agreement.

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

Section 5 Governing Law.

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

Section 6 Counterparts.

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

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

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

DIP Lender:

MERIDIAN CREDIT UNION LIMITED

By: _____
Authorized Signing Officer

Borrower:

2607380 ONTARIO INC.

By: _____
Authorized Signing Officer

Guarantor:

NUVO NETWORK INC.

By: _____
Authorized Signing Officer

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

AFFIDAVIT OF SHAWN SAULNIER
SWORN JULY 7, 2020

Stikeman Elliott LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Elizabeth Pillon LSO#: 35638M
Tel: (416) 869-5623
Email: epillon@stikeman.com

Sanja Sopic LSO#: 66487P
Tel: (416) 869-6825
Email: ssopic@stikeman.com

Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5504
Email: navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicant

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

| | | |
|----------------|---|-------------------|
| THE HONOURABLE |) | FRIDAY, THE 10th |
| |) | |
| JUSTICE MCEWEN |) | DAY OF JULY, 2020 |

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

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

ORDER
(Approving SISP and Extending Stay of Proceedings)

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, among other things, approving the sale and investment solicitation process (the "**SISP**") in the form attached hereto as Schedule "A", and retainer of the Broker (as defined below) to assist in the implementation of the SISP proceeded on this day by way of video-conference due to the COVID-19 crisis.

ON READING the affidavit of Shawn Saulnier sworn July 1, 2020 (the "**Saulnier Affidavit**"), and the Exhibits thereto, the Second Report of Richter Advisory Group Inc., in its capacity as the Court-appointed Monitor of the Applicant (the "**Monitor**") dated July 1, 2020 (the "**Second Report**"), filed, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Meridian Credit Union Limited in its capacity as the DIP Lender, and counsel for those other parties appearing as indicated on the counsel slip,

DEFINED TERMS

1. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the SISP or the Saulnier Affidavit, as applicable.

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.

EXTENSION OF STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period referred to in the Amended and Restated Initial Order of this Court dated March 6, 2020 is hereby extended up to and including November 30, 2020, with respect to the Applicant, Nuvo Network Inc., and Shawn and Bridget Saulnier.

APPROVAL OF SISP

4. **THIS COURT ORDERS** that that the SISP is hereby approved.

5. **THIS COURT ORDERS** that the Applicant, the Monitor and the Brokers (as defined below) and their respective advisors, are hereby authorized and directed to carry out the SISP and to take such steps and execute such documentation as may be necessary or incidental to the SISP.

6. **THIS COURT ORDERS** that the Monitor, the Applicant, the Brokers and their respective assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or willful misconduct of the Monitor, the Brokers or the Applicant, as applicable, as determined by this Court.

PIPEDA

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicant and the Monitor may disclose personal information of identifiable individuals to prospective purchasers or bidders who participate in the SISP and to their advisors, but only to the extent desirable or required to carry out the SISP and to attempt to complete a sale or refinancing transaction with respect to the Nuvo Property. Each prospective purchaser or bidder (and their respective advisors) to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a refinancing transaction and/or of a transaction for some or all of the Nuvo Property, and if it does not complete such a transaction, shall return all such information to the Applicant or Monitor, or in the alternative destroy all such information. The purchaser of any of the Nuvo Property shall be entitled to continue to use the personal information provided to it, and related to such property, in a manner that is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Applicant, or ensure that all other personal information is destroyed.

APPROVAL OF HALO AND MA ENGAGEMENT LETTERS

8. **THIS COURT ORDERS** that the Business Services Agreement dated May 16, 2020 (the “**Halo Engagement Letter**”) between the Applicant and Halo Advisory (“**Halo**”), and the Engagement Agreement/ Agency Agreement dated May 18, 2020 (the “**MA Engagement Letter**”) between the Applicant and Mortgage Alliance (“**MA**”) attached as Exhibits “●” and “●”, respectively, to the Saulnier Affidavit are hereby approved, with such minor amendments as the Applicant, the Monitor, Halo and MA may deem necessary and agree to in writing. Subject to the provisions of this Order, the Applicant and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable to implement the Halo Engagement Letter and the MA Engagement Letter.

APPROVAL OF CBRE ENGAGEMENT LETTER

9. **THIS COURT ORDERS** that the Exclusive Sales Listing Agreement, attached as Appendix “●” to the Second Report (the “**CBRE Engagement Letter**”), is hereby approved,

with such minor amendments as the Applicant, the Monitor and CBRE Limited ("**CBRE**", and together with Halo and MA, the "**Brokers**") may deem necessary and agree to in writing. Subject to the provisions of this Order, the Applicant and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable to implement the CBRE Engagement Letter.

SEALING

10. **THIS COURT ORDERS** that the unredacted CBRE Engagement Letter is hereby sealed pending further Order of this Court.

GENERAL

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

12. **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.

SCHEDULE "A"

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 SISP) 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 SISF.

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 SISF, and reserves the right and unfettered discretion to reject any offer or other proposal made in connection with the SISF.

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

To the Broker, copies to both:

CBRE Limited

Attn: Kyle Hanna

Direct: (416) 798-6255

Email: kyle.hanna@cbre.com

CBRE Limited

Attn: Matthew Brown

Direct: (416) 815-2325

Email: matthew.brown@cbre.com

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

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

ORDER

(Approving SISP and Extending Stay of Proceedings)

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

MOTION RECORD
(RE: SISP APPROVAL)
(RETURNABLE JULY 10, 2019)

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