

**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  
IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE  
CORPORATION**

Applicants

**MOTION RECORD  
(RE: AMENDED AND RESTATED INITIAL ORDER AND  
APPROVAL AND REVERSE VESTING ORDER  
(RETURNABLE NOVEMBER 9, 2023))**

November 1, 2023

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED  
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IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE  
CORPORATION**

Applicants

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# INDEX

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
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CORPORATION**

Applicants

**I N D E X**

<b>TAB</b>	<b>DOCUMENT</b>
1.	Notice of Motion, returnable November 9, 2023
2.	Affidavit of Stephen Livingstone, sworn November 1, 2023
A.	Exhibit "A" - Initial Affidavit of Stephen Livingstone, sworn October 26, 2023 (without exhibits)
B.	Exhibit "B" - Initial Order, October 30, 2023
C.	Exhibit "C" - Conditional Limitation of Liability Agreement between Aviva, Ignite Services and Primary
D.	Exhibit "D" - Globe & Mail Notice
E.	Exhibit "E" - Purchase Agreement, October 26, 2023 (redacted)
F.	Exhibit "F" - Cash Flow Forecast
3.	Draft Amended and Restated Initial Order
4.	Blackline of Amended and Restated Initial Order to the Initial Order
5.	Blackline of Amended and Restated Initial Order to Model Order
6.	Draft Approval and Reverse Vesting Order

# TAB 1

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
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INSURANCE CORPORATION

Applicants

**NOTICE OF MOTION  
(Returnable November 9, 2023)  
(Re: Amended and Restated Initial Order and Approval and Reverse Vesting Order)**

**THIS APPLICATION IS MADE BY** Ignite Services Inc. ("**Ignite Services**" or the "**Company**"), Ignite Holdings Inc. ("**Ignite Holdings**"), and Ignite Insurance Corporation ("**Ignite Insurance**", and collectively the "**Applicants**" or the "**Companies**") will make a motion before Justice Conway of the Ontario Superior Court of Justice (Commercial List) on **Thursday, November 9, 2023 at 10:00 a.m.**, or as soon after that time as the Motion can be heard.

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

- In writing under subrule 37.12.1(1);
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

**Coordinates to be provided**

## THE MOTION IS FOR

1. An amended and restated initial order (the “**Initial Order**”) of the Honourable Justice Conway dated October 30, 2023(the “**ARIO**”) granting, among other things:

- (a) if necessary, abridging the time for service of this Notice of Motion and Motion Record and dispensing with service on any person other than those served;
- (b) an extension of the period in which any proceedings and remedies that might be taken against or in respect of the Applicants any of their assets, property, and undertakings (“**Property**”) or business, or their directors and officers (the “**D&Os**”) from November 9, 2023 (the “**Initial Stay Period**”) to and including January 31, 2024 (the “**Stay Period**”);
- (c) authority for the Applicants to increase the amounts which may be borrowed by the Applicants under interim facility loan agreement (the “**DIP Facility Agreement**”) entered into on October 26, 2023 with Primary Group Limited (“**Primary**”), and in its capacity as lender under the DIP Facility Agreement, the “**DIP Lender**”), to \$1.1 million;
- (d) authority for the Applicants to pay pre-filing amounts owing to certain suppliers that provide the Applicants with essential services (the “**Critical Suppliers**”) with consent of the KPMG Inc. (“**KPMG**”), in its capacity as the monitor of the Applicants (“the **Monitor**”) in these *Companies’ Creditors Arrangement Act* (“**CCAA**”) proceedings; and
- (e) ordering that the following Charges (as defined below) shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise (collectively, the “**Encumbrances**”), in favour of any person, notwithstanding the order of perfection or attachment, on notice to those persons likely to be affected thereby, provided that the DIP Lender’s Charge (as defined below) shall not rank in priority to the CRA Priority Payables (as defined below):
  - (i) an “**Administration Charge**” against the Property in the amount of \$750,000, as security for the payment of the professional fees and disbursements incurred and to be incurred by the Monitor, counsel to the

Monitor, and counsel to the Applicants, in connection with the CCAA Proceedings both before and after the making of the ARIO;

- (ii) a “**D&O Charge**” against the Property in the maximum amount of \$250,000 in favour of the D&Os of the Applicants as security for the Applicants’ obligation to indemnify such D&Os for obligations and liabilities they may incur in such capacities after the commencement of the CCAA Proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which may become due and payable after the commencement of these proceedings, except to the extent that such obligation or liability was incurred as a result of the director’s or officer’s gross negligence or wilful misconduct.
- (iii) the “**CRA Priority Payables**” for the amounts of any super-priority claim of the Canada Revenue Agency, which priority is not reverse by operation of applicable law; and
- (iv) a “**DIP Lender’s Charge**” (and together with the Administration Charge and the D&O Charge, the “**Charges**”) against the Property in the amount of the aggregate obligations of the Applicants under the DIP Facility Agreement.

2. Issuance of an order (the “**Approval and Reverse Vesting Order**”), among other things:
- (a) approving the purchase agreement dated as of October 26, 2023 (the “**Purchase Agreement**”), between Ignite Holdings, as vendor, and Southampton Financial Inc. (“**Southampton**”), as purchaser (the “**Purchaser**”), the transactions contemplated therein (the “**Transactions**”), and authorizing and directing the Applicants to take such additional steps and execute such additional documents as necessary or desirable for the completion of the Transactions;
  - (b) granting releases in favour of (A) the Applicants; (B) a company to be incorporated by Ignite Holdings (“**Residual Co.**”); (C) the Monitor; (D) KPMG Corporate Finance Inc. (“**KPMG CF**”); (E) Primary in its capacities as unsecured lender to the Applicants, the ultimate parent company of the Applicants, and the DIP Lender (except with respect to its liabilities under certain guarantee as specified in the

proposed Approval and Reverse Vesting Order); and (F) Southampton, and each of their directors, officers, employees, financial and legal advisors, from any fact or matter of occurrence in respect of the Purchase Agreement, the Transactions contemplated therein, or the Applicants, their assets, business or affairs or administration of the Applicants, except any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, in connection with the Purchase Agreement or the closing documents; and

- (c) sealing the Confidential Appendix “A” to the First Report of the Monitor, to be filed (the “**First Report**”), which contains a summary of the economic terms of the offers received in the Sales Process and Confidential Appendix “B” to the First Report which contains a summary of the commercially sensitive terms of the Purchase Agreement and an unreacted copy of the Purchase Agreement.

2. Such further and other relief as may be requested by the Applicants and as this Honourable Court considers just.

#### **THE GROUNDS FOR THE MOTION ARE:**

##### ***Background***

3. The Company carries on business as a digital insurance brokerage for personal, auto commercial, pet, and travel insurance. Through the Company’s digital platform and with the support of its broker licensed employees, the Company assists its customers with shopping for and purchasing of various insurance policies from multiple insurance companies.

4. The Company has been operating at a loss since 2018. From commencement of operations to March 31, 2023, the Company has suffered total net losses of over \$59.8 million, and most recently the Company has suffered net losses of over \$10.1 million for each of the fiscal years ended March 31, 2022, and March 31, 2023. The Company has continued to operate at a loss until the date of this affidavit, with losses continuing to accrue.

5. As a result of these severe liquidity issues and an inability to meet their obligations as they became due, the Applicants determined that it was in their best interest and the best interests of their stakeholders to commence these CCAA Proceedings. Accordingly, on October 30, 2023, the Applicants sought and obtained relief under the CCAA pursuant to the Initial Order.

6. The Initial Order, among other things:
  - (a) appointed KPMG as Monitor of the Applicants;
  - (b) granted a Stay of Proceedings in favour of the Applicants until and including November 9, 2023;
  - (c) approved the execution of the DIP Facility Agreement, pursuant to which the Applicants were authorized to borrow up to the Initial Advance of \$350,000, which, together with the other obligations of the Applicants under the DIP Facility Agreement, will be secured by the DIP Lenders' Charge; and
  - (d) granted the Administration Charge in the amount of \$750,000 and the D&O Charge in the amount of \$250,000.
7. The Applicants commenced these CCAA Proceedings to, among other things, implement the sale of their business for the benefit of all their stakeholders.

***Extension of the Stay Period***

8. The Applicants request an extension of the Stay Period up to and including January 31, 2024 to allow the Applicants and the Monitor to close the Transactions contemplated under the Purchase Agreement and, subsequent to closing, making distributions to the Applicant's secured creditors.
9. The requested extension will provide the Applicants with continued breathing space while they attempt to maximize value for the benefit of their stakeholders through the CCAA Proceedings.
10. Since the granting of the Initial Order, among other things, the Applicants have reached out to several of their stakeholders, including the Company's employees, suppliers, landlord, and the regulatory entities in each province for which the Company has ongoing operations.
11. Accordingly, the Applicants have acted, and continue to act, in good faith and with due diligence during the course of the CCAA Proceedings.



12. The cash flow statement prepared by the Applicants and reviewed by the Monitor (the “**Cash Flow Statement**”) demonstrates that the Applicants have sufficient liquidity to operate through the proposed Stay Period.

13. The Monitor and the DIP Lender are both supportive of the proposed extension of the Stay Period.

***Pre-Filing Payments to Critical Suppliers***

14. The Applicants are seeking authorization to make payments for pre-filing arrears to Critical Suppliers who provide the Applicants with essential services, to the maximum aggregate amount of \$100,000 with the consent of the Monitor.

15. The cooperation of certain Critical Suppliers is necessary for the Applicants to maintain their operations, and for the Applicants to be compliant with applicable provincial insurance legislation and maintenance of regulatory licenses.

16. The Applicants do not have any readily available means to replace the Critical Suppliers.

17. Payments to Critical Suppliers will only be made with the express authorization of the Monitor, and only to Critical Suppliers that the Monitor agrees are essential to the Applicants’ business and operations.

***Priority of Charges***

18. The proposed ARIO provides that the Charges, as among them, shall be as follows:

First – the Administration Charge (to the maximum amount of \$750,000);

Second – the D&O Charge (to the maximum amount of \$250,000);

Third – the CRA Priority Payables; and

Fourth – the DIP Lender’s Charge.

19. While the Charges in the Initial Order only primed Aviva’s position as secured lender, the proposed Administration Charge and D&O Charge in the ARIO rank ahead of all Encumbrances, provided that the DIP Lender’s Charge shall not rank in priority to the CRA Priority Payables.

***Reverse Vesting Structure and Benefits of the Transactions***

20. The Transactions contemplated in the Purchase Agreement have been structured to form a “reverse vesting” transaction whereby:

- (a) after implementation of the Pre-Closing Implementation Steps (as more particularly described in the Purchase Agreement and paragraphs 110 to 115 of the affidavit of Steve Livingstone in support of the relief granted under the Initial Order (the “**Initial Affidavit**”)) and the Capitalization Steps (as defined in the Purchase Agreement), Southampton will purchase the new shares of the Company from Ignite Holdings and become the sole shareholder of the Company; and
- (b) all Excluded Contracts, Excluded Assets, and Excluded Liabilities (each as defined in the Purchase Agreement) with respect to the Company will be transferred and “vested out” to Residual Co., so as to allow Southampton to indirectly acquire the Company’s business and assets on a “free and clear” basis.

21. The benefits of a reverse vesting structure to the Applicants and their stakeholders include, among others:

- (a) the Purchase Agreement was structured as a reverse vesting transaction because, in part, it will permit the Company to maintain its licenses, intellectual property, and contracts with suppliers;
- (b) as the Applicants are facing significant liquidity constraints, the delays, costs, and uncertainty associated with getting the Company’s licenses, intellectual property and contracts with suppliers is not a viable option; and
- (c) the reverse vesting structure permits the maintenance of the Company’s tax attributes, which includes over \$62.4 million in net losses from the fiscal year ended March 31, 2017, to September 30, 2023, as described in the Initial Affidavit. I understand that the Company’s tax attributes are a very important consideration to Southampton’s decision to enter into the Purchase Agreement.

22. The benefits of the Transactions include the following, among others:

- (a) most of the Applicants’ secured liabilities will be satisfied; and

- (b) the Company will continue operations as a going concern, resulting in:
  - (i) the potential for most of the Company's employees to preserve their employment;
  - (ii) the Company's suppliers of services being able to maintain their business relationships with the Company; and
  - (iii) the Company's customers maintaining their ongoing relationships with the Company. As referenced in the Initial Affidavit, the Company continues to place new insurance for customers, effect any amendments and cancellations to existing policies, and provide ongoing advice to meet its customers' insurance needs.

### **Releases**

23. As set forth in the draft Approval and Reverse Vesting Order, the Applicants also seek the issuance of releases (the "**Releases**") in favour of:

- (a) the Applicants and their present directors, officers, employees, financial and legal advisors;
- (b) Residual Co., and its present directors, officers, employees, financial and legal advisors;
- (c) the Monitor and its legal counsel and their respective current and former directors, officers, partners, employees, and advisors;
- (d) KPMG CF, and their respective current and former directors, officers, partners, employees, and advisors;
- (e) Primary, in its capacities as (i) unsecured lender to the Applicants; (ii) ultimate parent company of the Applicants; and (iii) the DIP Lender, and its current and former directors, officers, partners, employees, financial and legal advisors. For greater certainty, Primary is not being released from its obligations under its guarantee to Aviva as amended by the Limitation of Liability Agreement; and

- (f) Southampton, and its present and former directors, officers, employees, financial and legal advisors, (collectively, the “**Released Parties**”).

24. The Releases are being sought in order to achieve certainty and finality for the Released Parties and Other Released Parties in the most efficient and appropriate manner given the circumstances.

25. The Applicants believe that the Releases sought are appropriate, given the significant and material contributions of the Released Parties in connection with the CCAA Proceedings and the Transactions, which, as previously discussed, will allow for the satisfaction of most of the Applicants’ secured liabilities, assumption of certain unsecured liabilities, and will allow the Company to continue its operations as a going concern.

26. The Applicants and the Monitor believe that the Releases are an essential component to the Transactions.

**OTHER GROUNDS:**

27. Sections 11 and 36 of the CCAA and the inherent and equitable jurisdiction of this Court.

28. Rules 1.04, 2.03, 3.02, 16, 37, and 39 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

29. 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 the Motion:

30. The affidavits of Steve Livingstone sworn October 26, 2023 and November 1, 2023, and the Exhibits thereto.

31. The Factum of the Applicants, to be filed.

32. The Pre-Filing Report of the Proposed Monitor dated October 27, 2023 and the First Report of the Monitor, to be filed.

33. Such further and other evidence as counsel may advise and this Court may permit.

November 1, 2023

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Lawyers for the Applicants

**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 IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION**

Applicants

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

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION  
(Re: AMENDED AND RESTATED INITIAL ORDER  
AND APPROVAL AND REVERSE VESTING ORDER)**

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Lawyers for the Applicants

# TAB 2

Court File No. CV-23-00708635-00CL

**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  
IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE  
CORPORATION**

Applicants

**AFFIDAVIT OF STEPHEN LIVINGSTONE  
(Sworn November 1, 2023)**

I, Stephen Livingstone, of the Village of St. Jacobs, in the Province of Ontario,  
MAKE OATH AND SAY:

1. I am the President and Secretary of Ignite Services Inc. ("**Ignite Services**" or the "**Company**"), Ignite Holdings Inc. ("**Ignite Holdings**"), and Ignite Insurance Corporation ("**Ignite Insurance**", and together with Ignite Services and Ignite Holdings, the "**Applicants**" or the "**Companies**") and the Companies' sole director. I have held these positions since February 8, 2016.

2. I am responsible for overseeing the operations of the Companies, their liquidity management and, ultimately, for assisting in their restructuring process. Because of my involvement with the Companies, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the books and records of the Companies and have spoken with certain other individuals who manage the Companies, as necessary. Where I have relied upon such information, I do verily believe such information to be true.

3. Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in my affidavit sworn on October 26, 2023 (the "**Initial Affidavit**"), a copy of which is attached (without Exhibits) as **Exhibit "A"**. All references to monetary amounts in this affidavit are in Canadian dollars unless otherwise stated.

4. This affidavit is sworn in support of a motion (the "**Motion**") by the Applicants for:



- (a) an amended and restated Initial Order (the “**ARIO**”) granting, among other things:
- (i) if necessary, abridging the time for service of the Notice of Motion and Motion Record and dispensing with service on any person other than those served;
  - (ii) an extension of the Stay Period to and including January 31, 2024;
  - (iii) authority for the Applicants to increase the amounts which may be borrowed by the Applicants under DIP Facility Agreement to \$1.1 million;
  - (iv) authority for the Applicants to pay pre-filing amounts owing to certain suppliers that provide the Applicants with essential services (the “**Critical Suppliers**”) with consent of the Monitor; and
  - (v) ordering that the Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise (collectively, the “**Encumbrances**”), provided that the DIP Lender’s Charge shall not rank in priority to the CRA Priority Payables (as defined below), in favour of any person, notwithstanding the order of perfection or attachment, on notice to those persons likely to be affected thereby; and
- (b) an order (the “**Approval and Reverse Vesting Order**”), among other things:
- (i) approving the Purchase Agreement dated as of October 26, 2023, between Ignite Holdings, as vendor, and Southampton, as purchaser (the “**Purchaser**”), the Transactions contemplated therein, and authorizing and directing the Applicants to take such additional steps and execute such additional documents as necessary or desirable for the completion of the Transactions;
  - (ii) granting releases in favour of (A) the Applicants; (B) Residual Co.; (C) the Monitor; (D) KPMG CF; (E) Primary in its capacities as unsecured lender to the Applicants, the ultimate parent company of the Applicants, and the DIP Lender; and (F) Southampton, and each of their directors, officers, employees, financial and legal advisors, from any fact or matter of

occurrence in respect of the Purchase Agreement, the Transactions contemplated therein, or the Applicants, their assets, business or affairs or administration of the Applicants, except any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, in connection with the Purchase Agreement or the closing documents; and

- (iii) sealing the Confidential Appendix “A” to the First Report of the Monitor, to be filed (the “**First Report**”), which contains a summary of the economic terms of the offers received in the Sales Process and Confidential Appendix “B” to the First Report which contains a summary of the commercially sensitive terms of the Purchase Agreement and an unreacted copy of the Purchase Agreement.

## **PART I – OVERVIEW OF THE APPLICANTS’ ACTIVITIES**

### **A. Background**

5. The Initial Affidavit described, among other things, the events leading up to the Applicants’ insolvency and their urgent need for relief under the CCAA. Below is a summary overview of certain facts in respect of same.

6. The Company has been operating at a loss since 2018. From commencement of operations to March 31, 2023, the Company has suffered total net losses of over \$59.8 million, and most recently the Company has suffered net losses of over \$10.1 million for each of the fiscal years ended March 31, 2022, and March 31, 2023. The Company has continued to operate at a loss until the date of this affidavit.

7. While the Company’s financial difficulties were driven by a variety of factors, the significant net losses suffered by the Company over the years are largely due to the Company operating as a multi-carrier insurance brokerage with suboptimal rates being offered by insurance companies, significant customer acquisition costs in the insurance brokerage industry generally, and significant capital investments in its technology.

8. The Company’s significant net losses over the years have been funded by the ultimate parent group of the Company, Primary. From February 2018 to the date of the Initial Affidavit,

Primary has funded approximately \$57.7 million to the Company in order for the Company to maintain operations as a going concern, despite the significant net losses noted above.

9. As a result of the Company's historical net losses, the Applicants had conducted two separate processes to secure additional capital in exchange for equity in the Company. The EY Sales Process was conducted from November 2018 to March 2019 and the MNP Sales Process was conducted from September 2019 to January 2020. Neither of these prior processes resulted in an actionable proposal for the Company.

10. Given the Company's deteriorating financial position, Primary engaged KPMG CF on March 31, 2023, to conduct the Sales Process for the sale of all or substantially all of the Company's shares and/or assets. As stated in the Initial Affidavit, the Applicants intend to seek Court approval of the Purchase Agreement resulting from the Sales Process, and the Transactions contemplated in the Purchase Agreement.

11. As will be set out in greater detail below, the execution of the Purchase Agreement represents the culmination of extensive solicitation efforts and is the result of the Sales Process which was designed to parallel and correspond to sales processes used and approved in other CCAA Proceedings. The Purchase Agreement represents the best option available for the Applicants and their stakeholders. Among other reasons, the Transactions will (a) provide for the Company's continuing operations as a going concern, resulting in (i) most of the Company's employees preserving their employment; (ii) the Company's customers maintaining their ongoing relationships with the Company; and (iii) the Company's suppliers of services being able to maintain their business relationships with the Company; (b) provide for most of the Applicants' secured liabilities being satisfied; and (c) provide for various unsecured and contingent liabilities, arising after the date of commencement of the CCAA Proceedings, to be assumed by the Purchaser,.

**B. Initial Order and Applicants' Activities Since the Initial Order**

12. On October 30, 2023, the Applicants were granted protection under the CCAA pursuant to the Initial Order, a copy of which is attached as **Exhibit "B"**.

13. The Initial Order, among other things:

- (a) appointed KPMG as Monitor of the Applicants;

- (b) granted a Stay of Proceedings in favour of the Applicants until and including November 9, 2023;
- (c) approved the execution of the DIP Facility Agreement, pursuant to which the Applicants were authorized to borrow up to the Initial Advance of \$350,000, which, together with the other obligations of the Applicants under the DIP Facility Agreement, will be secured by the DIP Lenders' Charge; and
- (d) granted the Administration Charge in the amount of \$750,000 and the D&O Charge in the amount of \$250,000.

14. Since the granting of the Initial Order, the Applicants, in close consultation and with the assistance of the Monitor, have been working in good faith and with due diligence to stabilize its business and operations as part of these CCAA Proceedings.

15. Immediately after obtaining CCAA protection, individual targeted communications are being sent by the Applicants or the Monitor to the Company's employees, creditors, and landlord, explaining the general nature of the Initial Order and the CCAA Proceedings, the role of the Court and the Monitor, as well as the immediate implications of the Initial Order for each particular stakeholder group. These communications also included "*Frequently Asked Questions*".

16. Prior to the commencement of the CCAA Proceedings, the Applicants have also had discussions with the various insurance regulatory authorities in the three (3) jurisdictions, in which Ignite Services operates, advising each entity of the granting of the Initial Order and the proposed next steps with respect to the relief being sought by the Applicants at this Motion.

17. Furthermore, on October 29, 2023, Aviva, Ignite Services and Primary entered into a conditional limitation of liability agreement (the "**Limitation of Liability Agreement**"), a copy of which is attached as **Exhibit "C"**, pursuant to which, *inter alia* (i) Ignite Services and Primary acknowledged the indebtedness to Aviva is and shall be due and owing, and (ii) Aviva has agreed that upon recovery of \$4,500,000.00 on account of the Aviva indebtedness, either through a distribution in the CCAA Proceedings, payment from Primary or otherwise, Primary is fully and finally released from its obligations under the guarantee made by Primary to and in favour of Aviva by Primary on November 15, 2021 (and, as further detailed in my Initial Affidavit).

18. In accordance with the Initial Order, I am informed by the Monitor that it has:

- (a) established a website at <https://kpmg.com/ca/ignitegroup> (the “**Monitor’s Website**”) on which updates on the CCAA Proceedings will be posted periodically, together with all the Court materials filed in the CCAA Proceedings;
- (b) established a dedicated email address ([ignitegroup@kpmg.ca](mailto:ignitegroup@kpmg.ca)) and hotlines (1-833-365-6600 or 416-468-7995) to allow stakeholders to communicate directly with the Monitor in order to address any questions or concerns in respect of the CCAA Proceedings;
- (c) on or about October 31, 2023, the Monitor posted the Initial Order and the application materials on the Monitor’s Website; and
- (d) arranged for a notice to be published in the Globe and Mail (National Edition), on November 3, 2023 and November 10, 2023, containing the information prescribed under the CCAA, a draft of which is attached as **Exhibit “D”**.

## **PART II – SALES PROCESS**

### **A. Prior Sales Processes**

19. As stated in the Initial Affidavit, Primary is the ultimate parent group of the Applicants and has funded the Company’s significant net losses over the past several years. From February 2018 to October 30, 2023, Primary has funded approximately \$58.3 million to the Company in order for the Company to maintain operations as a going concern.

20. From November 2018 to March 2019, in response to mounting financial difficulties, EY was engaged by the Company to conduct the EY Sales Process. EY proposed a minority investment structure, where the goal was to secure additional capital in exchange for equity in the Company.

21. EY reached out to several interested parties comprising primarily of financial investors, including venture capital and private equity funds. Primary was also involved and contributed leads to the EY Sales Process. Over the course of the EY Sales Process, 160 firms were approached, over 20 investor presentations were delivered, and 11 parties conducted diligence on the Company.

22. The EY Sales Process culminated with one party expressing serious interest and providing an offer for a complete acquisition of the Company. However, the value proposed was not attractive to Primary at the time, and negotiations ceased.

23. As stated in my Initial Affidavit, a further sales process, the MNP Sales Process, was conducted by MNP between September 2019 to January 2020. MNP was engaged by the Company to secure additional capital in exchange for equity in the Company.

24. MNP conducted a process comprising of 48 firms approached, over 10 investor presentations delivered, and 1 party conducting diligence on the Company. However, the MNP Sales Process also failed to generate any interest for an investment in the Company.

## **B. Preparation of Sales Process**

25. As referenced in the Initial Affidavit, the Company suffered significant net losses of approximately \$20.2 million for the two-year period from April 1, 2021 to March 31, 2023. While Primary had continued to fund the Company's significant net losses so that the Company could maintain operations as a going concern, Primary also engaged KPMG CF on March 31, 2023, to assist with conducting the Sales Process.

26. While KPMG CF, in consultation with Primary and the Applicants, considered a broad range of transactions, the Sales Process was focused on a sale of Ignite Services' business. Given the results of the EY Sales Process, the MNP Sales Process, and the Applicants' capital structure with significant amounts of debt, it was determined that a refinancing transaction was likely not actionable in the circumstances.

27. On April 3, 2023, KPMG CF began preparing various deliverables with respect to the Sales Process. Among other things, KPMG CF prepared a teaser letter, non-disclosure agreement ("**NDA**"), confidential information memorandum ("**CIM**"), and a virtual data room ("**VDR**"), all in consultation with the Applicants.

28. KPMG CF, in consultation with Primary and the Applicants, developed a list of qualified, potentially interested parties comprised of strategic buyers and financial parties, all of which have existing investments in, operate in, or are familiar with the insurance industry ("**Potential Bidders**").

29. Potential Bidders all have existing investments and/or operate in the insurance industry in the following capacities:

- (a) brokerages with size and scale;
- (b) underwriters;
- (c) digital platforms looking to enhance their insurance presence; and
- (d) insurance brokerages lacking a strong digital footprint.

30. I understand from the Monitor that the Sales Process was designed to parallel and correspond to sales processes used and approved in other CCAA Proceedings.

**C. Solicitation of Interest**

31. KPMG CF began contacting Potential Bidders on May 11, 2023. By May 30, 2023, KPMG CF had contacted a total of forty-eight (48) Potential Bidders, including Aviva, and provided each Potential Bidder with a teaser letter and NDA.

32. Among other things, the teaser letter provided an overview of Ignite Services, a description of the opportunity to acquire Ignite Services' business, financial highlights, investment highlights, and invited Potential Bidders who were interested in further discussions to sign an NDA.

33. By May 31, 2023, KPMG CF had received twenty-five (25) signed NDAs from Potential Bidders, including from Southampton. On June 2, 2023, the CIM was distributed to all Potential Bidders who had executed and returned NDAs to KPMG CF at that time. Between June 3, 2023 and June 9, 2023, a further six (6) CIMs were distributed to Potential Bidders with signed NDAs.

34. Among other things, the CIM provided a comprehensive overview and detailed Ignite Services' operations, its management team, digital platform, financial position, and potential business synergies.

35. In support of the initial marketing and solicitation process, between May 11, 2023, and June 30, 2023: (a) the Applicants provided thirteen (13) technology demonstrations regarding the Company's digital platform; and (b) KPMG CF and the Applicants participated in ongoing marketing calls and conducted various due diligence sessions with Potential Bidders.

#### D. Non-Binding EOIs

36. On June 19, 2023, KPMG CF sent a process letter (the “**Process Letter**”) to each of the Potential Bidders who had executed NDAs and continued to demonstrate an interest to engage in the Sales Process.

37. The Process Letter was developed by KPMG CF, in consultation with the Applicants and Primary. Pursuant to the Process Letter, each Potential Bidder was required to submit a non-binding expression of interest (“**EOI**”) by 3:00 PM (Eastern Time) on Friday, July 30, 2023 (the “**Deadline**”).

38. Among other things, the Process Letter requested that each Potential Bidder submitting an EOI provide details with respect to the various points described immediately below, among others:

- (a) *Valuation.* An indication of the enterprise value for the Company on a debt-free, cash-free basis with a description of any material assumptions in arriving at the offer price;
- (b) *Transaction Structure.* An outline of the proposed transaction structure, including preliminary sources and uses for cash and debt required;
- (c) *Financing.* A description of the sources of financing required, if any, to complete the proposed transaction. If external sources of debt or equity capital were required, the amount and timing to commit necessary funding;
- (d) *Due Diligence and Timing.* Summary of contemplated due diligence streams and estimated time required to close;
- (e) *Review and Approval.* Confirmation that the party delivering the EOI has received necessary approvals, including any board or shareholder approvals, as well as an assessment of any regulatory implications;
- (f) *Disclosure of Interest.* Brief description of interest in companies that either compete directly or indirectly with the Company; and
- (g) *Other Considerations.* Any other issues to be considered in the evaluation of the EOI.



39. Pursuant to the Process Letter, the Company indicated it would review the EOIs submitted and invite certain Potential Bidders to a management meeting and provide them with access to the VDR. Among other things, the VDR provided additional business, financial, and legal information about the Company.

40. Four (4) EOIs were received by the Deadline, including from Southampton on June 23, 2023. While three (3) additional Potential Bidders requested and were granted approximately one-week extensions to submit an EOI, none of them did so.

41. In addition to the four (4) EOIs, three (3) Potential Bidders expressed interest in specific assets of the Company however no formal EOIs were submitted by these parties.

42. Notably, Aviva did not submit an EOI and reserved their rights in respect of the ROFR during this period.

#### **E. Exclusivity With Potential Bidder 1**

43. Following the Deadline, KPMG CF, Primary, and the Applicants evaluated the EOIs received. Based on the economic terms, one of the Potential Bidders ("**Potential Bidder 1**") was invited to submit a non-binding letter of intent ("**LOI**").

44. At this time, Aviva was approached again in respect of its ROFR. Aviva declined to exercise their ROFR at this time and advised that the Company should proceed with negotiations with Potential Bidder 1 pursuant to the LOI.

45. On July 11, 2023, the Company received an LOI from Potential Bidder 1 and entered into an exclusivity arrangement with Potential Bidder 1.

46. From July 11, 2023, until August 10, 2023, a period of intensive and arm's-length negotiations between KPMG CF, the Applicants, and Potential Bidder 1 took place. On August 4, 2023, KPMG CF advised Potential Bidder 1 of the existence of the ROFR entered into between the Company and Aviva.

47. Despite KPMG CF's and the Applicants' best efforts, Potential Bidder 1 would not increase the total consideration under its offer beyond the amount in the LOI that was submitted. Moreover the EOI received from Potential Bidder 1 had a much lower value than the LOI, which was representative of their final and best offer.

48. Potential Bidder 1 also did not contest Aviva's ability to exercise ROFR and agreed to waive its exclusivity arrangement with the Company.

**F. Exercise of ROFR and Selection of Successful Bid**

49. As referenced in the Initial Affidavit, in connection with the Aviva Loan Agreement, Ignite Services entered into the ROFR with Aviva. Pursuant to the ROFR, Ignite Services granted Aviva with an exclusive and irrevocable right of first refusal to purchase any of its assets, group of assets, or shares.

50. On August 1, 2023, in accordance with the terms of the ROFR, KPMG CF and the Company contacted Aviva to discuss whether Aviva would be exercising its rights under the ROFR. As required under the terms of the ROFR, the terms of Potential Bidder 1's LOI were shared with Aviva.

51. On or around August 10, 2023, Aviva appointed Southampton as its nominee under the ROFR. As stated above, Potential Bidder 1 did not contest the ROFR and was not prepared to improve its offer to purchase the Company. Following Southampton's appointment as nominee and Potential Bidder 1 waiving its exclusivity, KPMG CF negotiated specific terms surrounding Southampton's ability to close the transaction in an expedited process given the significant net losses and financial stress of the Company.

52. On August 23, 2023, Southampton submitted a non-binding LOI and entered into an exclusivity arrangement with the Company.

53. The terms of Southampton's LOI largely mirror the LOI submitted by Potential Bidder 1. As noted above, the terms of Potential Bidder 1's LOI were shared with Aviva pursuant to the ROFR, which obliges the Company to offer a sale of its business to Aviva at the same price, terms, and conditions as those proposed by any third party seeking to acquire the Company.

54. A period of extensive and intensive arm's length negotiations ensued with Southampton with respect to the structure of the transaction and specific terms. Given the Company's capital structure, among other things, the Applicants and Southampton concluded that the contemplated deal for Southampton to purchase the Company's business should be implemented through these CCAA Proceedings.

55. Ultimately, after extensive deliberations and consultations with their professional advisors, the Applicants concluded in October, 2023, further to and on the basis of their commercial and business judgment, that the Purchase Agreement represented the best offer available in the circumstances and that proceeding with the Transactions was in the best interest of the Applicants and their stakeholders.

56. Accordingly, Ignite Holdings and Southampton entered into the Purchase Agreement on October 26, 2023, a redacted copy of which is attached as **Exhibit “E”**.

57. I understand that the Monitor will be providing a Confidential Appendix “A” to the First Report, which contains a confidential summary of the economic terms of the offers received in the Sales Process, and Confidential Appendix “B” which contains a summary of the commercially sensitive terms of the Purchase Agreement and the unredacted version of the Purchase Agreement.

58. The Applicants are seeking to have the Confidential Appendix “A” sealed until further Order of the Court, and Confidential “B” sealed until closing of the Transactions contemplated under the Purchase Agreement or further Order of the Court. I believe that disclosure of the information contained in the Confidential Appendices at this time poses a serious risk to the objective of maximizing value in these CCAA Proceedings, including because disclosure of the economic terms of the bids received in the Sales Process may impair any efforts to remarket the Company if the Transactions do not close.

### **PART III – PROPOSED APPROVAL AND REVERSE VESTING ORDER**

#### **A. Approval of the Purchase Agreement<sup>1</sup>**

59. The highest and best offer in respect of the Company’s business and/or assets is the offer made by Southampton under the Purchase Agreement, which is summarized below:

<b>Key Terms</b>	<b>Share Purchase</b>
Purchaser	Southampton Financial Inc.

<sup>1</sup> Capitalized terms used herein and not otherwise defined herein or in the Initial Affidavit have the meanings ascribed to them in the Purchase Agreement.

Vendor	Ignite Holdings Inc.
Monitor	KPMG Inc.
Transaction Structure	Share purchase and reverse vesting structure.
Purchased Shares	On Closing, the Purchaser shall purchase from the Vendor, all of the issued and outstanding shares in the capital of Ignite Services. For avoidance of doubt, Ignite Services shall be wholly owned by the Purchaser on Closing.
Purchase Price	[REDACTED]
Intercompany Loan	<p>At the Closing Time, the Vendor shall contribute, as a capital contribution to Residual Co., Vendor's contingent right to receive payment, if any, under the contingent indebtedness in an aggregate amount of \$[REDACTED] (the "<b>Principal Amount</b>") owing by Ignite Services to the Vendor pursuant to the terms of the form of adjustable promissory note attached as Exhibit "A" to Purchase Agreement (the "<b>Adjustable Promissory Note</b>") to be issued by Ignite Services in favour of the Vendor (the "<b>Intercompany Loan</b>").</p> <p>Under the terms of the Adjustable Promissory Note, Ignite Services promises to pay to Residual Co. the Principal Amount subject to adjustments related to the performance of the acquired business as outlined in the Adjustable Promissory Note. The Adjustable Promissory Note contains certain covenants regarding the conduct of the business by the Purchaser.</p>
Deposit	7.5% of the Purchase Price
Absence of Regulatory Concerns	No Insurance Regulator shall have suspended or terminated, or reasonably appears likely to imminently suspend or terminate, any material license or authorization held by Ignite Services, which the Parties, acting in accordance with their obligations under the Purchase Agreement, have not been able to avoid or have lifted, reversed or cancelled.
Outside Date for Closing	December 7, 2023 or such later date as may be determined by the Parties in writing, but in no event shall such later date be later than January 31, 2024.

Employees	Ignite Services, on Closing, may terminate up no more than five (5) employees designated, in writing, by the Purchaser.
Retained Liabilities	<ul style="list-style-type: none"> <li>• All Post-Filing Claims;</li> <li>• All liabilities of Ignite Services arising after Closing which relate to events or circumstances that occurred after Closing;</li> <li>• All Tax liabilities of Ignite Services other than any Tax liabilities attributable to any Pre-Closing Tax Period; and</li> <li>• The Intercompany Loan.</li> </ul>
Administrative Expenses Reserve	<p>On the Closing Date, the Company shall pay the Monitor the cash on hand in the Company (other than any cash held in trust)</p> <p>From time to time after the Closing Date, the Monitor may pay from the Administrative Expense Amount pay the Administrative Expense Costs and amounts secured by the CCAA Charges, with unused amounts (if any) being transferred by the Monitor to the Vendor.</p>
Key Conditions to Closing	<ul style="list-style-type: none"> <li>• Court granting an Order approving the Purchase Agreement and the Transactions contemplated therein, which Order shall be final;</li> <li>• Completion of the Pre-Closing Implementation Steps;</li> <li>• Delivery of termination letters to the employees to be terminated;</li> <li>• Completion of the Capitalization Steps (as defined and described below); and</li> <li>• Duly executed original promissory note representing the Intercompany Loan.</li> </ul>
Capitalization Steps	<p>On the Closing Date, but prior to the Closing Time, the following transaction steps shall be completed (the “<b>Capitalization Steps</b>”):</p> <ul style="list-style-type: none"> <li>• Purchaser to loan an amount equal to the Purchase Price to the Vendor (the “<b>Vendor Loan</b>”), for the purpose of Vendor using the Vendor Loan to acquire common shares in the capital of Ignite Services;</li> <li>• Vendor to deliver an interest-free promissory note in favour of the Purchaser, in the principal amount of the Purchase Price (the “<b>Promissory Note</b>”), representing the Vendor Loan;</li> <li>• Vendor to use the Vendor Loan to subscribe for 10,000,000 common shares in the capital of Ignite Services for an aggregate subscription price equal to the amount of the Purchase Price (the “<b>Capital Contribution</b>”); and</li> </ul>

	<ul style="list-style-type: none"> <li>• Ignite Services to direct the Vendor to pay the Capital Contribution to the Monitor for the benefit of Residual Co.</li> </ul>
Other	<p>Effective as of Closing, the Purchaser and its affiliates shall release the Monitor, and its respective affiliates, and each of their respective directors and officers, partners, members, agents, financial and legal advisors from all actual or potential Release Claims relating to the Business, the Purchased Shares, or the Retained Liabilities, save and except for Released Claims arising out of fraud and/or gross negligence.</p> <p>Effective as of Closing, the Vendor and its affiliates shall release the Monitor and its Affiliates, and each of their respective directors and officers, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors from all actual or potential Released Claims relating to (a) the Purchased Shares; (b) all other Equity Interests of Ignite Services which remain after the application of the Vesting Order, (i) the Retained Liabilities, (ii) the Excluded Assets, or (iii) the Excluded Liabilities, save and except for Released Claims arising out of fraud and/or gross negligence.</p>

60. I understand from my discussions with the Monitor and the Applicants' counsel that the Purchase Agreement represents the best possible outcome for the Applicants, their creditors, and other stakeholders in the circumstances.

61. The execution of the Purchase Agreement represents the culmination of extensive solicitation efforts on the part of the Applicants and KPMG CF. I believe that the Sales Process leading up to the commencement of the CCAA Proceedings broadly canvassed the market of parties interested in the Applicants' business and assets. Further, I am advised by the Monitor that it also believes the timelines and terms of the Sales Process were reasonable and appropriate in the circumstances.

62. The benefits of the Transactions include the following, among others:

- (a) most of the Applicants' secured liabilities will be satisfied, with all the outstanding proven priority Source Deductions being satisfied; and
- (b) the Company will continue operations as a going concern, resulting in:

- (i) the potential for most of the Company's employees to preserve their employment;
- (ii) the Company's suppliers of services being able to maintain their business relationships with the Company; and
- (iii) the Company's customers maintaining their ongoing relationships with the Company. As referenced in the Initial Affidavit, the Company continues to place new insurance for customers, effect any amendments and cancellations to existing policies, and provide ongoing advice to meet its customers' insurance needs.

## **B. Reverse Vesting Structure**

63. The Transactions contemplated in the Purchase Agreement have been structured to form a "reverse vesting" transaction. In essence, instead of providing for a traditional asset sale transaction where all purchased assets are purchased and transferred to the purchaser on a "free and clear" basis and all excluded assets, excluded contracts and excluded liabilities remain with the debtor company, the Transactions provide for a share transaction whereby, essentially:

- (a) after implementation of the Pre-Closing Implementation Steps (as more particularly described in the Purchase Agreement and paragraphs 110 to 115 of the Initial Affidavit) and the Capitalization Steps, Southampton will purchase the new shares of the Company from Ignite Holdings and become the sole shareholder of the Company; and
- (b) all Excluded Contracts, Excluded Assets, and Excluded Liabilities (each as defined in the Purchase Agreement) with respect to the Company will be transferred and "vested out" to Residual Co., so as to allow Southampton to indirectly acquire the Company's business and assets on a "free and clear" basis.

64. More specifically, if approved by this Court, the Approval and Reverse Vesting Order provides for the following sequence to occur upon closing (the "**Closing Sequence**"):

- (a) first, all of the Company's right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co., with all applicable claims and

encumbrances continuing to attach to the Excluded Assets and to the purchase price payable by the Purchaser for Purchased Shares (the "**Purchase Price**");

- (b) second, all Excluded Contracts and Excluded Liabilities shall be channeled to, assumed by and vest absolutely and exclusively in Residual Co. such that the Excluded Contracts and Excluded Liabilities shall become obligations of Residual Co., and shall no longer be obligations of the Company and all of the Company's respective assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate, including property held in trust for the Company (the "**Property**"), shall be forever released and discharged from such Excluded Contracts and Excluded Liabilities and all related claims and all encumbrances affecting or relating to the Property are to be expunged and discharged as against the Property;
- (c) third, in consideration for the Vendor Loan being set off against the Purchase Price under the Purchase Agreement, Ignite Holdings shall transfer the Purchased Shares to Southampton, and all of the right, title and interest in and to the Purchased Shares shall vest absolutely in Southampton, free and clear of and from any and all claims and encumbrances of any kind and in favour of any party and, for greater certainty, all of the claims and encumbrances of any kind affecting or relating to the Purchased Shares would be expunged and discharged as against the Purchased Shares; and the Promissory Note shall be cancelled;
- (d) fourth, Ignite Holdings shall contribute, as a capital contribution to Residual Co., Ignite Holding's contingent right to receive payment, if any, under the Intercompany Loan;
- (e) fifth, Ignite Services shall be deemed to cease being an Applicant in these CCAA Proceedings, with Residual Co becoming an Applicant in these CCAA Proceedings. The Companies shall be deemed to be released from the purview of the ARIO and all other Orders of this Court granted in respect of these CCAA Proceedings, save and except for the Approval and Reverse Vesting Order, the provisions of which (as they relate to the Companies) shall continue to apply in all respects.



65. As outlined in the Initial Affidavit, the Company operates in a regulated environment, in accordance with applicable provincial legislation. Among other things, the provincial governments, in some cases through delegation to the applicable regulatory entities, establish rules regarding who may operate as an insurance brokerage and a code of conduct for insurance brokerages.

66. Ignite Services currently holds two (2) licenses in Ontario issued by RIBO and the Financial Services Regulatory Authority of Ontario, one (1) license in Alberta issued by the AIC, and one (1) license in British Columbia issued by the ICBC.

67. I understand that it may take eight (8) weeks or more for a new entrant to obtain all the licenses that Ignite Services holds. In addition to the foregoing licenses, which would require re-issuance to a purchaser if an asset transfer was implemented, Ignite Services would require consents to assign, re-establish or enter into new arrangements with respect to various other commercial counterparties including, but not limited to:

- (a) contracts with certain suppliers of strategic data sources; and
- (b) intellectual property which would require re-recording and registration of the names and assignment.

68. Under a traditional asset sale transaction structure, the licenses held by Ignite Services will be difficult to transfer to a purchaser, and to the extent that such transfer is possible, the steps required to proceed with such transfer will likely result in additional delays, costs, and uncertainty. Southampton expressed that such delays, costs and uncertainty were not acceptable to them when negotiating the terms of the Purchase Agreement.

69. Accordingly, the Purchase Agreement was structured as a reverse vesting transaction because, in part, it will permit the Company to maintain its licenses, intellectual property, and contracts with suppliers.

70. As the Applicants are facing significant liquidity constraints, the delays, costs, and uncertainty associated with getting the Company's licenses, intellectual property and contracts with suppliers is not a viable option.

71. Additionally, the reverse vesting structure permits the maintenance of the Company's tax attributes, which includes over \$62.4 million in net losses from the fiscal year ended March 31,

2017, to September 30, 2023, as described in the Initial Affidavit. I understand that the Company's tax attributes are a very important consideration to Southampton's decision to enter into the Purchase Agreement.

72. The importance of maintaining the Company's tax attributes is also reflected in the terms of the Purchase Agreement with respect to the Pre-Closing Implementation Steps, which are proposed to be implemented in order to, among other things, preserve the tax losses in Ignite Services while eliminating debt owing by Ignite Services to Ignite Holdings under the Services Loan, pursuant to the Tax Restructuring.

73. I do not believe that completing the Transactions under a reverse vesting structure will result in any material prejudice or impairment of any of the Applicants' creditors' rights that they would otherwise have under an asset sale transaction under any other alternative available to the Applicants. The Purchase Agreement maintains the rights that creditors would otherwise have in an asset sale transaction. In the case of parties with existing contracts with the Company, though no assignment of contracts (consensual or through an assignment order) is contemplated, the Purchase Agreement provides for all contracts, other than the Excluded Contracts, to remain with the Company. The contracting parties therefore have the opportunity to continue supplying goods and services to the Company post-emergence from the CCAA Proceedings. Contract counterparties will also be served with the Applicants' motion record to provide them with notice that their contracts may be retained or excluded as part of the Transactions.

74. In this case, the market has been thoroughly canvassed. The best going-concern option which would result in continued employment for many of the Company's employees, continued relationships with the Company's suppliers and customers, among other benefits contemplated under the Purchase Agreement.

75. While a variety of liabilities will be vested out into Residual Co. in this structure, the same result would have occurred had the transaction been implemented in an asset transaction structure. The concept of Retained Liabilities in the Purchase Agreement provides a benefit for a variety of stakeholders that would not have otherwise had this benefit in a traditional asset sale transaction structure. As referenced above, the Retained Liabilities (as defined in the Purchase Agreement) include: (a) all post-filing claims; (b) all liabilities of the Company arising from and after closing of the Transactions that relate to events or circumstances that occurred after Closing; (c) tax liabilities of the Company other than tax liabilities attributable to any Pre-Closing Tax Period

(as defined in the Purchase Agreement); and (d) the Intercompany Loan (as defined in the Purchase Agreement).

76. Finally, I believe, based on my involvement with the Sales Process that:

- (a) the process leading to the proposed Transactions, with Potential Bidders being contacted in early May 2023, was reasonable in the circumstances;
- (b) KPMG CF properly conducted the Sales Process and consulted the Applicants and Primary throughout, as required and necessary;
- (c) the Transactions, if approved by this Court, will result in the best outcome for the Applicants, their creditors, and other stakeholders in the circumstances;
- (d) the consideration to be received for the Purchased Shares is reasonable and fair, considering their market value, the broad canvassing of the potentially interested parties, and the intensive negotiations with Potential Bidders during the Sales Process; and
- (e) the Monitor, Aviva, and the Applicants' most significant unsecured creditor with over \$58.3 million of indebtedness owing to it (Primary), are each supportive of the relief being sought on this Motion.

### **C. Releases**

77. As set forth in the draft Approval and Reverse Vesting Order, the Applicants also seek the issuance of releases (the "**Releases**") in favour of:

- (a) the Applicants and their present directors, officers, employees, financial and legal advisors;
- (b) Residual Co., and its present directors, officers, employees, financial and legal advisors;
- (c) the Monitor and its legal counsel and their respective current and former directors, officers, partners, employees, and advisors;

- (d) KPMG CF, and their respective current and former directors, officers, partners, employees, and advisors;
- (e) Primary, in its capacities as (i) unsecured lender to the Applicants; (ii) ultimate parent company of the Applicants; and (iii) the DIP Lender, and its current and former directors, officers, partners, employees, financial and legal advisors. For greater certainty, Primary is not being released from its obligations under its guarantee to Aviva as amended by the Limitation of Liability Agreement; and
- (f) Southampton, and its present and former directors, officers, employees, financial and legal advisors, (collectively, the “**Released Parties**”).

78. The Releases cover any and all present and future claims against the Released Parties based upon any fact or matter of occurrence in respect of the Purchase Agreement, the Transactions contemplated therein, or the Applicants, their assets, business or affairs or administration of the Applicants, except any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, in connection with the Purchase Agreement or the closing documents.

79. The Releases are being sought in order to achieve certainty and finality for the Released Parties in the most efficient and appropriate manner given the circumstances.

80. The Applicants believe that the Releases sought are appropriate, given the significant and material contributions of the Released Parties in connection with the CCAA Proceedings and the Transactions, which, as previously discussed, will allow for the satisfaction of most of the Applicants’ secured liabilities, assumption of certain unsecured liabilities, and will allow the Company to continue its operations as a going concern.

81. The Applicants and the Monitor believe that the Releases are an essential component to the Transactions.

#### **PART IV – PROPOSED ARIO**

##### **A. Extension of the Stay Period**

82. The Applicants are seeking to extend the Stay Period to and including January 31, 2024. The extension of the Stay Period is necessary and appropriate in the circumstances to provide

the Applicants with continued breathing space while they attempt to maximize value for the benefit of their stakeholders through the CCAA Proceedings, by expeditiously closing the Transactions contemplated under the Purchase Agreement and, subsequent to closing, making distributions to the Applicant's secured creditors.

83. As set out above, since the granting of the Initial Order, among other things, the Applicants have reached out to several of their stakeholders, including the Company's employees, suppliers, landlord, and the regulatory entities in each province for which the Company has ongoing operations.

84. Accordingly, the Applicants have acted, and are continuing to act in good faith and with due diligence in these CCAA Proceedings since the granting of the Initial Order.

85. The Cash Flow Forecast referenced in the Initial Affidavit and attached as Appendix "B" to the Pre-Filing Report of the Monitor dated October 27, 2023 is attached as **Exhibit "F"** to this affidavit. The Cash Flow Forecast demonstrates that the Applicants have sufficient liquidity to operate through the proposed extension of the Stay Period to and including January 31, 2024.

86. The Applicants' stakeholders will benefit from the extension of the Stay Period.

87. The Monitor and the DIP Lender are both supportive of the proposed extension of the Stay Period.

## **B. Critical Suppliers**

88. The Applicants are seeking authorization to make payments for pre-filing arrears to Critical Suppliers who provide the Applicants with essential services, to the maximum aggregate amount of \$100,000 with the consent of the Monitor.

89. The cooperation of certain Critical Suppliers is necessary for the Applicants to maintain their operations, and for the Applicants to be compliant with applicable provincial insurance legislation and maintenance of regulatory licenses.

90. The Applicants do not have any readily available means to replace these Critical Suppliers; even if they did, doing so would be time consuming and costly.

91. The proposed form of ARIO provides that payments to Critical Suppliers will only be made with the express authorization of the Monitor. I believe that this provides the necessary flexibility required to deal with the circumstances in a time-sensitive manner.

92. The Monitor, Southampton, Aviva and the DIP Lender support the Applicants' request to allow these payments.

**C. Proposed Ranking of the Court-Ordered Charges**

93. The Initial Affidavit sets out the evidentiary basis for the appropriateness and necessity of the Administration Charge and the D&O Charge in the circumstances.

94. While the Charges in the Initial Order only primed Aviva's position as secured lender, the proposed Administration Charge and D&O Charge in the proposed ARIO rank ahead of all Encumbrances, provided that the DIP Lender's Charge shall not rank in priority to the any super-priority claim of the Canada Revenue Agency, which priority is not reversed by operation of applicable law (the "**CRA Priority Payables**"). I am advised by Rania Hammad of Stikeman Elliott LLP, the Applicants' counsel, that all secured parties who may be affected by the Charges will be served with notice of this motion.

95. The proposed ARIO provides that the Charges and Encumbrances, as among them, shall be as follows:

First – the Administration Charge (to the maximum amount of \$750,000);

Second – the D&O Charge (to the maximum amount of \$250,000);

Third – the CRA Priority Payables; and

Fourth – the DIP Lender's Charge.

**PART V – CONCLUSION**

96. For the reasons set out above, I believe that it is in the best interests of the Applicants and their stakeholders that this Court grant the proposed Approval and Reverse Vesting Order, approving the Purchase Agreement and the Transactions contemplated therein, and that this Court grant the proposed ARIO.

97. I swear this affidavit in support of the Applicants' Motion for the Approval and Reverse Vesting Order and the ARIO and for no other or improper purpose.

SWORN remotely via videoconference, by Stephen Livingstone, stated as being located in the Village of St. Jacobs, in the Province of Ontario, before me at the City of Toronto, in Province of Ontario, this 1<sup>st</sup> day of November, 2023, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely.*

DocuSigned by:  
*Rania Hammad*  
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Commissioner for Taking Affidavits, etc.  
**RANIA HAMMAD**

DocuSigned by:  
*Steve Livingstone*  
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**STEPHEN LIVINGSTONE**

**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 IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION**

Applicants

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

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF STEPHEN LIVINGSTONE  
(SWORN NOVEMBER 1, 2023)**

**STIKEMAN ELLIOTT LLP**

Barristers & Solicitors  
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Tel: (416) 869-5578  
Email: rhammad@stikeman.com

Lawyers for the Applicants



**EXHIBIT "A"**

referred to in the Affidavit of

**STEPHEN LIVINGSTONE**

Sworn November 1, 2023

DocuSigned by:  
*Rania Hammad*  
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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  
IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE  
CORPORATION**

Applicants

**AFFIDAVIT OF STEPHEN LIVINGSTONE  
(Sworn October 26, 2023)**

I, Stephen Livingstone, of the Village of St. Jacobs, in the Province of Ontario,  
MAKE OATH AND SAY:

1. I am the President and Secretary of Ignite Services Inc. ("**Ignite Services**" or the "**Company**"), Ignite Holdings Inc. ("**Ignite Holdings**"), and Ignite Insurance Corporation ("**Ignite Insurance**", and together with Ignite Services and Ignite Holdings, the "**Applicants**" or the "**Companies**") and the Companies' sole director. I have held these positions since February 8, 2016.

2. I am responsible for overseeing the operations of the Companies, their liquidity management and, ultimately, for assisting in their restructuring process. Because of my involvement with the Companies, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the books and records of the Companies and have spoken with certain other individuals who manage the Companies, as necessary. Where I have relied upon such information, I do verily believe such information to be true.

3. This affidavit is sworn in support of an application (the "**Application**") returnable before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on October 30, 2023, to commence proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") in respect of the Applicants. The Applicants are seeking an initial order (the "**Initial Order**") in the form contained in the Application Record, among other things:

- (a) abridging the time for service of the Application and the materials filed in support thereof, and dispensing with further service thereof;
- (b) declaring that the Applicants are each a debtor company to which the CCAA applies;
- (c) staying all proceedings and remedies taken or that might be taken against or in respect of the Applicants, any of their assets, property, and undertakings ("**Property**") or business, or their director and officers (the "**D&Os**"), except as otherwise set forth in the Initial Order or as otherwise permitted by law (the "**Stay of Proceedings**"), for an initial period of ten (10) days in accordance with the CCAA (the "**Stay Period**");
- (d) appointing KPMG Inc. ("**KPMG**" or the "**Proposed Monitor**") as the monitor of the Applicants in these CCAA Proceedings (in such capacity, the "**Monitor**");
- (e) approving the execution by the Applicants of an interim facility loan agreement (the "**DIP Facility Agreement**") entered into on October 26, 2023 with Primary Group Limited ("**Primary**"), and in its capacity as lender under the DIP Facility Agreement, the "**DIP Lender**"), pursuant to which the DIP Lender has agreed to advance to the Applicants a total amount of up to \$1.1 million (the "**DIP Facility**"), which will be made available to the Applicants during these CCAA Proceedings, of which an initial amount of \$350,000 will be advanced during the initial 10-day Stay Period (the "**Initial Advance**");
- (f) granting the following priority charges against the Property:
  - i. an "**Administration Charge**" against the Property in the amount of \$750,000, as security for the payment of the professional fees and disbursements incurred and to be incurred by the Proposed Monitor, counsel to the Proposed Monitor, and counsel to the Applicants, in connection with the CCAA Proceedings both before and after the making of the Initial Order;
  - ii. a "**DIP Lender's Charge**" against the Property in the amount of the Initial Advance as security for the Applicants' obligations under the DIP Facility Agreement; and

- iii. a “**D&O Charge**” (and together with the Administration Charge and the DIP Lender’s Charge, the “**Charges**”) against the Property in the maximum amount of \$250,000 in favour of the D&Os of the Applicants as security for the Applicants’ obligation to indemnify such D&Os for obligations and liabilities they may incur in such capacities after the commencement of the CCAA Proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which may become due and payable after the commencement of these proceedings, except to the extent that such obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct; and
  - (g) sealing the Confidential Appendix to the pre-filing report of KPMG, in its capacity as Proposed Monitor (the “**Pre-Filing Report**”), to be filed, which contains an unredacted copy of the Purchase Agreement (as further discussed and defined below).
4. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.

#### **PART I – OVERVIEW<sup>1</sup>**

5. The Company carries on business as a digital insurance brokerage for personal, auto, commercial, pet, and travel insurance. Through the Company’s digital platform and with the support of its broker licensed employees, the Company assists its customers with shopping for and purchasing of various insurance policies from multiple insurance companies.
6. The Company sold its first policy in 2017 and has been operating at a loss since 2018. From commencement of operations to March 31, 2023, the Company has suffered total net losses of over \$59.8 million, and most recently the Company has suffered net losses of over \$10.1 million for each of the fiscal years ended March 31, 2022, and March 31, 2023. The Company has continued to operate at a loss until the date of this affidavit.

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<sup>1</sup> Capitalized terms used in this section and not otherwise defined have the meanings ascribed to them in the balance of this affidavit.

7. While the Company's financial difficulties were driven by a variety of factors, the significant net losses suffered by the Company over the years are largely due to the Company operating as a multi-carrier insurance brokerage with suboptimal rates being offered by insurance companies, significant customer acquisition costs in the insurance brokerage industry generally, and significant capital investments in its technology.

8. Further, as of August 2022, the ultimate parent company of the Company who has been funding the Company's net losses, ceased further funding to support marketing efforts. As a result, monthly traffic and revenue dropped off significantly.

9. As part of their restructuring efforts, the Applicants, with assistance from their professional advisors, have conducted a thorough canvass of the market for prospective investors and purchasers of their assets and business. One offer to purchase all the shares of Ignite Services is considered by the boards of directors of the Applicants to be the best in the circumstances.

10. That offer, and the resulting Purchase Agreement (as defined and described in greater detail below) is conditional upon a CCAA filing and Court approval of same. The Applicants intend to return to the Court to seek approval of the offer and resulting Purchase Agreement, and certain related relief, at a later date on notice to appropriate parties.

11. At this time, however, the Applicants are only seeking protection under the CCAA and certain ancillary relief as outlined in the draft Initial Order.

12. Without protection under the CCAA, a shut-down of operations or the commencement of self-remedy measures by creditors will occur, which would be extremely detrimental to the Applicants' employees, customers, and other stakeholders. Without the CCAA protection, the Applicants will also be unable to implement the sale of their business for the benefit of all their stakeholders.

13. The director of each Applicant has authorized this Application and the commencement of these CCAA Proceedings.

## **PART II – THE COMPANIES**

### **A. Corporate Structure**

14. The Applicants are each a private company incorporated under the *Business Corporations Act* (Ontario) (the “**OBCA**”). The Companies’ registered head office is located in Waterloo, Ontario.

15. Ignite Holdings is a non-operating company and holds all the issued and outstanding shares of Ignite Services and Ignite Insurance (a non-operating company).

16. Ignite Services is the only operating entity with respect to the Companies and carries on business as a digital insurance brokerage under the business name of “aha insurance”. Ignite Services provides insurance brokering services in Ontario, British Columbia, and Alberta; and it holds all the required licenses with the applicable regulatory authorities which are required for it to carry on business as an insurance brokerage.

17. The Companies’ ultimate parent company is Primary, which is a company incorporated pursuant to the laws of Bermuda.

18. Attached as **Exhibit “A”** is a chart showing the Companies’ corporate structure, including jurisdictions of incorporation.

## **B. The Companies’ Business and Operations**

### **(i) Operations**

19. Ignite Services carries on business as a digital insurance brokerage for personal, auto, commercial, pet, and travel insurance. Ignite Services operates from a leased office space located in Waterloo, Ontario. None of the Companies own any real property.

20. The Company has agreements with several different insurance companies (the “**Brokerage Agreements**”). While the terms of each Brokerage Agreement vary, the Brokerage Agreements permit the Company to act as a broker and sell insurance policies on behalf of the insurance companies to the Company’s customers.

21. Historically, the Company sourced business in the broader retail market (via direct marketing tactics) as well as through affinity partnerships (e.g. employee, loyalty or membership based customer segments).

22. Through the Company’s digital platform, the Company assists its customers with shopping for and purchasing various policies from multiple providers. Customers are able to obtain quotes

on various insurance policies, speak to the Company's insurance brokers, and ultimately have their requested insurance policies bound.

23. Pursuant to the Brokerage Agreements, the Company earns a commission when its customers successfully obtain insurance coverage through the Company's digital platform.

24. Approximately 56,000 potential customers access the Company's digital platform each month. From April 2022 to September 2023, approximately 3,700 policies were sold or renewed. As at September 30, 2023, there were approximately 6,700 policies in force.

25. The Company has an ongoing relationship with each of its customers. During the CCAA Proceedings, the Company will continue to place new insurance for customers, effect any amendments and cancellations to existing policies and provide ongoing advice to meet its customers' insurance needs.

26. Historically, approximately 80% of the Company's customers have obtained personal auto insurance, 15% obtained personal property insurance, and 5% obtained commercial insurance.

**(ii) Licenses**

27. The Company operates in a regulated environment, in accordance with applicable provincial legislation. Each province is responsible for determining the regime for insurance brokerages operating in their province. Among other things, the provincial governments, in some cases through delegation to the applicable regulatory entities, establish rules regarding who may operate as an insurance brokerage and a code of conduct for insurance brokerages.

28. As referenced above, the Company provides services to customers located in Ontario, British Columbia, and Alberta. While each province has established its own rules and criteria for obtaining and maintaining an insurance brokerage license, all provinces generally require:

- (a) that a license be obtained and maintained prior to the commencement of any operations as an insurance brokerage. The licensing application process considers, among other things, the applicant's suitability for a brokerage license by requesting information about criminal records, current charges and convictions under any legislation or by any regulatory body, and information about other registrations or licenses and bankruptcies;

- (b) that a fully licensed individual be associated with the business and be responsible to the regulatory body for the compliant operation of the business and generally be the point of contact for the regulatory body. In Ontario, in respect of RIBO (as defined below), this individual is called the “**Principal Broker**” (with analogous positions in British Columbia and Alberta);
- (c) where the licensee holds and remits insurance premiums to insurance carriers, that the licensee maintains a trust account; and
- (d) that the licensee maintains and submit certain records and be subject to inspection by the provincial regulator.

29. In Ontario, Ignite Services holds: (a) a license to operate as a property and casualty insurance brokerage, issued by the Registered Insurance Brokers of Ontario (“**RIBO**”); and (b) a license to carry on business as a corporate life insurance agency, issued by the Financial Services Regulatory Authority of Ontario.

30. In British Columbia, Ignite Services holds a license to operate as a general insurance brokerage, issued by the Insurance Council of British Columbia (“**ICBC**”).

31. In Alberta, Ignite Services holds a license to act as a general insurance brokerage, issued by the Alberta Insurance Council (“**AIC**”).

32. Ignite Services holds all required licenses to operate as a digital insurance brokerage in Ontario, British Columbia, and Alberta.

33. It is my understanding that it may take 8 weeks or more for a new entrant to obtain the all the licenses that Ignite Services holds.

**(iii) Principal Broker**

34. As referenced above, in order for the Company to maintain its licenses and carry out its operations, it is required to have a Principal Broker, who is a fully licensed individual associated with the business.

35. RIBO requires a Principal Broker to be: (a) registered as an insurance broker; and (b) a director and/or officer of the insurance brokerage, and/or have the authority to act in the name of,



and on behalf of the insurance brokerage. There are similar requirements mandated by the ICBC in British Columbia and the AIC in Alberta.

36. In Ontario, the responsibilities of a Principal Broker include, among other things, ensuring that (with similar responsibilities in British Columbia and Alberta):

- (a) all registered individual insurance brokers who are employees or partners of the brokerage comply with the relevant legislation;
- (b) all registered individual insurance brokers who are employees or partners of the brokerage are provided with and use all information respecting insurance necessary for them to act without misconduct or incompetence as defined or described in relevant legislation;
- (c) all trust accounts and books, records and accounts of the brokerage are maintained in accordance with the regulations;
- (d) all errors and omission insurance, and/or other forms of financial guarantee, and all fidelity insurance of the brokerage are maintained in accordance with the regulations;
- (e) all required filings of the brokerage are made and prescribed fees and assessments are paid in accordance with the regulations;
- (f) no director, partner or employee of the brokerage who is not a registered insurance broker acts as an insurance broker; and
- (g) procedures are established and followed such that requirements (a) through (f), above, are met.

37. Pursuant to a services agreement entered into between Tri-Quest Marketing Inc. ("**Tri-Quest**") and the Company on September 1, 2016 (the "**Principal Broker Agreement**"), the Company engaged John Leslie to be the Company's Principal Broker.

38. Tri-Quest is a licensed insurance brokerage, and its Principal Broker is Mr. Leslie. Among other things, the Principal Broker Agreement provides that Mr. Leslie will act as the designated representative or Principal Broker of the Company and the term is continuous and will be

automatically renewed for one-year periods unless either party terminates the Principal Broker Agreement on 90 days' notice.

**(iv) Leased Property**

39. As referenced above, none of the Companies own any real property and the Company's business operations are carried out from its leased office space in Waterloo, Ontario.

40. On March 30, 2022, Ignite Services and Guardian Capital Real Estate GP Inc. entered into a lease agreement (the "**Lease**"). Among other things, the Lease provides for a term which expires on June 30, 2025, and Ignite Services is required to pay approximately \$7,772 each month.

**(v) Intellectual Property**

41. Ignite Insurance owns the trademarks associated with "aha insurance", which are registered trademarks in Canada with the Canadian Intellectual Property Office.

42. The proprietary digital insurance delivery platform developed by the Company is unique. The e-commerce platform allows consumers to purchase insurance real-time online, and I believe that the Company is one out of only four companies that allow for such purchase of home and automobile insurance in Canada. The platform is integrated with omni-channel support allowing the customer to converse directly with a licensed broker at any time and is the only platform in Canada that provides products across multiple carriers.

43. The software used by the Ignite Services is a combination of licenced third-party software (with customized versions uniquely developed for the Company) as well as true proprietary code developed in-house by the Company.

**(vi) Cash Management System**

44. In the ordinary course of business, the Company uses a cash management system (the "**Cash Management System**") to, among other things, collect funds (premiums from customers or commissions from carriers) and pay expenses associated with its operations. This Cash Management System provides the Company with the ability to efficiently and accurately track and control corporate funds and to ensure cash availability.

45. As part of this Cash Management System, the Company maintains two bank accounts, which are summarily described below:

- (a) TD Canada Trust: CAD operating account (the “**Operating Account**”); and
- (b) TD Canada Trust: CAD trust account (the “**Trust Account**”).

46. As referenced above, each insurance brokerage who holds and remits insurance premiums to insurance carriers must maintain a trust account. The Trust Account is used for premiums paid by policyholders and remitted by Ignite Services to the applicable carriers and to policyholders upon a policy cancellation.

47. The Company is able to transfer commissions received in its Trust Account to its Operating Account, from which the majority of the Companies’ operating expenses are paid from, except for certain tax amounts which are remitted directly from the Trust Account.

**(vii) Employees**

48. As at October 18, 2023, Ignite Services employed a total of 32 employees and consultants, all of which are located in Ontario with the exception of one employee being located in Alberta. Of the 32 individuals, two are employed on a part-time basis, three are consultants, and the remaining are employed on a full-time basis.

49. None of Ignite Services’ employees are subject to a collective bargaining agreement.

50. Ignite Services sponsors a group registered retirement savings plan (the “**Group RRSP**”) issued by Sun Life Assurance Company of Canada (“**Sun Life**”).

51. As at October 18, 2023, accrued vacation payable was \$94,672. As at October 30, 2023 there will be 9 days of payroll outstanding inclusive of October 27, 2023.

**PART III – THE COMPANIES’ FINANCIAL POSITION**

52. Copies of Ignite Services’ audited financial statements for the fiscal years ended March 31, 2019, 2020 and 2021 are attached as **Exhibits “B”, “C” and “D”**, respectively. Copies of Ignite Services’ externally prepared financial statements for the fiscal years ended March 31, 2022 and 2023, are attached as **Exhibits “E” and “F”**, respectively.

53. A copy of Ignite Services' management-prepared financial statements for the period ended September 30, 2023 is attached as **Exhibit "G"**.

54. Ignite Services has been operating at a loss since 2018. Ignite Services suffered net losses of:

- (a) over \$6.1 million for the fiscal year ended March 31, 2018;
- (b) over \$11.2 million for the fiscal year ended March 31, 2019;
- (c) over \$10.3 million for the fiscal year ended March 31, 2020;
- (d) over \$8.8 million for the fiscal year ended March 31, 2021;
- (e) over \$10.1 million for the fiscal year ended March 31, 2022; and
- (f) over \$10.1 million for the fiscal year ended March 31, 2023.

55. From April 1, 2023, to September 30, 2023, Ignite Services suffered net losses of approximately \$5.8 million, with losses continuing until the date of this affidavit.

56. While Ignite Services has experienced an increase in revenue year over year, its operating expenses have largely increased proportionately such that Ignite Services has continued to experience net losses during this time despite the year over year increase in revenue.

57. Ignite Services lacks working capital. Ignite Services went from having nearly \$1.5 million in cash on March 31, 2022, to having only \$28,525 in cash on March 31, 2023. The Company's cash position further deteriorated and it had only \$22,103 in cash on September 30, 2023, with over \$7.9 million in current liabilities (all amounts referenced herein exclusive of amounts held in trust).

58. Ignite Services' significant net losses over the years have been funded by the ultimate parent of the Companies, Primary through Primary Subsidiary (as defined below). From February 2018 to the date of this affidavit, Primary Subsidiary has funded approximately \$57.7 million to Ignite Services in order for Ignite Services to maintain operations as a going concern despite the significant net losses noted above.

**A. Assets**

59. As appears from the Company's balance sheet as at September 30, 2023, the assets of Ignite Services had an unaudited net book value of approximately \$5.8 million and consisted of the following:

<b>Asset Type</b>	<b>Value (\$)</b>
Operating cash	22,103
Trust cash	138,593
Commission receivables	224,595
Accounts receivable	451,906
Prepaid expenses	(1,121)
<b>Current Assets</b>	<b>836,077</b>
Property and equipment	238,147
Intangible assets	4,723,137
<b>Non-Current Assets</b>	<b>4,961,284</b>
<b>Total Assets</b>	<b>5,797,361</b>

## **B. Liabilities**

60. As appears from the Company's balance sheet as at September 30, 2023, the liabilities of Ignite Services had an unaudited net book value of approximately \$71,547,549 and consisted of the following:

<b>Liability Type</b>	<b>Value (\$)</b>
Premium payable	1,007,425
Account payable and accrued liabilities	2,663,389
Employee payables	4,104,293 <sup>2</sup>
Current portion of lease liabilities	177,126
<b>Current Liabilities</b>	<b>7,952,232</b>
Long-term debt	7,121,359
Due to related party	57,704,470
<b>Non-Current Liabilities</b>	<b>64,825,828</b>
<b>Total Liabilities</b>	<b>72,778,061</b>

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<sup>2</sup> This amount relates to outstanding source deductions. The amount noted by CRA is different (as described below).

## PART IV – THE COMPANIES’ DEBT STRUCTURE

### A. Secured Obligations

#### (i) Aviva Loan Agreement

61. On November 15, 2021, Ignite Services, as borrower, and Aviva Insurance Company of Canada (“**Aviva**”), as lender, entered into a loan agreement (the “**Aviva Loan Agreement**”), pursuant to which Aviva made a \$3 million non-revolving credit facility available to Ignite Services (the “**Aviva Facility**”). The Aviva Loan Agreement was subsequently amended on March 31, 2022, and November 16, 2022, to provide for, among other things, an increased principal amount which may be borrowed by Ignite Services from \$3 million to \$5.94 million. Copies of the Aviva Loan Agreement and amendments to same are collectively attached as **Exhibit “H”**.

62. The Aviva Facility bears interest at a rate of twelve percent (12%) per annum, which accrues monthly on the amounts outstanding under the Aviva Facility. No regularly scheduled repayment on account of principal or interest of the Aviva Facility is required until the facility matures on November 15, 2024.

63. Ignite Services’ obligations under the Aviva Loan Agreement are guaranteed by Primary (up to the maximum amount of \$4.5 million) and Ignite Insurance. Additionally, Ignite Holdings executed a limited recourse guarantee in respect of its shares, in favour of Aviva. As noted above, Primary is the ultimate parent company of the Companies. Copies of these guarantees are collectively attached as **Exhibit “I”**.

64. Ignite Services’ obligations under the Aviva Loan Agreement are secured by:

- (a) security agreements executed by Ignite Services and Ignite Insurance in favour of Aviva, pursuant to which each of Ignite Services and Ignite Insurance granted a first-ranking charge on all of their assets in favour of Aviva; and
- (b) securities pledge agreement executed by Ignite Holdings in favour of Aviva, pursuant to which Ignite Holdings pledged all the issued and outstanding common shares in Ignite Services and Ignite Insurance to Aviva.

65. Copies of the security documents are collectively attached as **Exhibit “J”**.

66. As at the date of this affidavit, the outstanding principal amount under the Aviva Facility is \$5.94 million.

67. On November 15, 2021, Ignite Services also entered into a right of first refusal agreement (“**ROFR**”) with Aviva, pursuant to which Ignite Services granted Aviva with an exclusive and irrevocable right of first refusal to purchase any of its assets, group of assets, or shares. A copy of the ROFR is attached as **Exhibit “K”**.

**(ii) Source Deductions**

68. On February 23, 2023, the Canada Revenue Agency (“**CRA**”) issued a notice to Ignite Services setting out certain discrepancies in the Company’s reported deductions as compared to its remittance account with respect to tax deductions, Canada Pension Plan, and employment insurance.

69. On June 22, 2023, the CRA issued a notice of assessment for Ignite Services, pursuant to which the CRA assessed Ignite Services as having \$3,721,625.53 in outstanding source deductions. The outstanding source deductions are broken down as follows:

- (a) Federal Tax – \$1,947,661.49;
- (b) Provincial Tax (Ontario) – \$662,190.09;
- (c) Canada Pension Plan – \$489,981.55;
- (d) Employment Insurance – \$53,652.86;
- (e) Penalty – \$315,345.64; and
- (f) Interest – \$252,793.90

(collectively, the “**Source Deductions**”).

**(iii) Employer Health Tax and Retail Sales Tax**

70. Attached as **Exhibit “L”** is a summary of the searches against each of the Applicants under the *Personal Property Security Act* (the “**PPSA**”) in Ontario, British Columbia, and Alberta, with currency dates of September 21, 2023.

71. As seen from the PPSA searches, in addition to Aviva and the CRA, the Minister of Finance (Ontario) has registered its security interest in Ignite Services' personal property in the amount of \$54,184 in respect of outstanding liabilities for employer health tax and retail sales tax (the "**MOF Security**").

## **B. Unsecured Obligations**

### **(i) Intercompany Loans**

72. The majority of Ignite Services' obligations are unsecured. On February 6, 2018, Ignite Holdings and its parent company, Ignite Holdings Limited ("**Primary Subsidiary**"), entered into a loan agreement (the "**First Intercompany Loan Agreement**"), pursuant to which Primary Subsidiary provided Ignite Holdings with a credit facility whereby Ignite Holdings could make monthly drawdowns not exceeding \$500,000.

73. Also on February 6, 2018, Ignite Holdings and Ignite Services entered into a loan agreement (the "**Second Intercompany Loan Agreement**", and together with the First Intercompany Loan Agreement, the "**Intercompany Loan Agreements**"), pursuant to which Ignite Holdings provided Ignite Services with a credit facility whereby Ignite Services could make monthly drawdowns not exceeding \$500,000.

74. The First Intercompany Loan Agreement and the Second Intercompany Loan Agreement function as a "back-to-back" loan, whereby any and all amounts drawn by Ignite Holdings under the First Intercompany Loan Agreement are drawn by Ignite Services under the Second Intercompany Loan Agreement.

75. Interest accrues on all amounts drawn pursuant to the Intercompany Loan Agreements at a rate of the London Inter-Bank Offered Rate plus 4.01%, calculated on a daily basis. While Ignite Services is obligated to make quarterly payments of \$250,0000 to Ignite Holdings under the Second Intercompany Loan Agreement, Ignite Services has not made any payments to Ignite Holdings.

76. As referenced above, Primary is the ultimate parent of the Companies and Ignite Services has suffered significant net losses year over year. In order for Ignite Services to fund its operations, it has been relying on its monthly draws under the Second Intercompany Loan Agreement, which has indirectly been funded by Primary through Primary Subsidiary and Ignite Holdings.



77. The maturity date under the Intercompany Loan Agreements is February 6, 2028. As at September 30, 2023, Ignite Services was indebted to Ignite Holdings in the amount of \$57.7million under the Second Intercompany Loan Agreement (which was indebted to Primary Subsidiary, and ultimately Primary, in the same amount).

**(ii) Employee Liabilities**

78. As at September 30, 2023, the Company had approximately \$253,788 in outstanding obligations to employees, broken down as follows:

- (a) \$71,931 for employee benefits;
- (b) \$137,150 in employee expenses; and
- (c) \$44,707 to the former employees working on a contract basis.

**(iii) Trade Payables**

79. As at September 30, 2023, the Company had approximately \$2.1 million in outstanding obligations to its trade creditors, broken down as follows:

- (a) \$1,672,827 for IT services;
- (b) \$381,408 in consulting and professional fees;
- (c) \$56,469 for rentals; and
- (d) \$13,516 for other, including utilities, maintenance, etc.

**PART V – THE COMPANIES’ FINANCIAL DIFFICULTIES**

80. As referenced above, the Companies have been operating at a loss since they began operating in 2018 and as at September 30, 2023, the Company had only \$22,103 in cash, with over \$7.9 million in current liabilities.

81. While the Company’s financial difficulties were driven by a variety of factors, the significant net losses suffered by the Company over the years are largely due to the Company operating as a multi-carrier insurance brokerage with suboptimal rates being offered by insurance companies,

significant customer acquisition costs in the insurance brokerage industry generally, and significant capital investments in its technology. Each of these factors are described below.

82. As a result of the Company operating as a multi-carrier insurance brokerage, carriers did not offer optimal rates to the Company and drove traffic to other platforms, including their own proprietary ones (if applicable). Furthermore, due to a lack of marketing efforts and expenditures, the Company had not been able to generate sufficient customer volume to drive the volume required to receive better rates from carriers. As a result, while the Company attracted a significant number of prospective customers, the Company could not offer policies at competitive rates.

83. The Company also operates within an industry with a significant customer acquisition cost (insurance is amongst the highest across all industries) and the Company faced challenges in converting leads due to additional fixed costs required to service customers. The delivery of this customer support across multiple channels (i.e. online or live broker interaction) also increased the complexity and cost to develop the platform.

84. Further, as of August 2022, Primary, who has been funding the Company's net losses, ceased further funding to support marketing efforts. As a result, monthly traffic and revenue dropped off significantly. The 'best-in class technology' supporting the Company's digital platform was a significant capital investment and a portion of the funding provided by Primary was directed to fund the associated development costs.

85. A significant portion of the Companies' market was influenced by the COVID-19 pandemic. The pandemic impacted the marketplace with consumer behaviours changing dramatically; in particular, there were significantly fewer customers shopping for personal insurance during this time period. As a result of a smaller audience size available to be marketed to, customer acquisition costs jumped dramatically during this period.

## **PART VI – RESPONSE TO FINANCIAL DIFFICULTIES**

### **A. Loan Agreements**

86. As referenced above, in order for Ignite Services to maintain its operations despite suffering significant net losses year over year, it had to rely on funding from Primary under the Intercompany Loan Agreements entered into on February 6, 2018.

87. Without the intercompany funds being advanced to Ignite Services, it likely would not have been operational as early as the end of 2018.

88. Also as referenced above, on November 15, 2021, Ignite Services entered into the Aviva Loan Agreement to obtain an additional \$3 million in liquidity to fund its operations. The Aviva Loan Agreement was subsequently amended on March 31, 2022, and November 16, 2022, to provide Ignite Services with the ability to borrow up to the principal amount of \$5.94 million.

## **B. Pre-Filing Sales Process**

89. From November 2018 to March 2019, Ernst & Young Orenda Corporate Finance Inc. (“**EY**”) was engaged to conduct a preliminary sales process for the Company, in response to mounting financial difficulties (the “**EY Sales Process**”). EY proposed a minority investment structure, where the goal was to secure an additional \$10 million of incremental capital for roughly 25% ownership in the Company.

90. EY reached out to several interested parties comprising primarily of financial investors, including venture capital and private equity funds. Primary was also involved and contributed leads to the EY Sales Process. Over the course of the EY Sales Process, 160 firms were approached, over 20 investor presentations were delivered, and 11 parties conducted “deep dive” diligence of the Company.

91. The EY Sales Process culminated with one party expressing serious interest and providing an offer for a complete acquisition of the Company. However, the value proposed was not attractive to Primary at the time, and negotiations ceased.

92. A further sales process was conducted by MNP Corporate Finance Inc. (“**MNP**”), between September 2019 to January 2020 (the “**MNP Sales Process**”). MNP was engaged by the Ignite Services to secure incremental capital investment; the proposed minority investment structure was \$10 million for roughly 30% ownership of the Company.

93. MNP conducted a process comprising of 48 firms approached, over 10 investor presentations delivered, and 1 party conducting “deep dive” diligence of the Company. However, the MNP Sales Process failed to generate any interest for an investment in the Company.

94. On March 31, 2023, Primary engaged KPMG Corporate Finance Inc. (“**KPMG CF**”) to conduct a sales process (the “**Sales Process**”) for the sale of all or substantially all of the

Company's shares and/or assets. While the Sales Process did not formally communicate to potentially interested parties that they could submit investment proposals, the Sales Process was flexible and permitted parties to submit investment proposals, and certain parties did submit investment proposals.

95. On May 11, 2023, the Applicants and KPMG CF commenced the Sales Process and conducted a broad canvass of the market by contacting 48 strategic parties, which included brokerages with size and scale, underwriters, digital platforms looking to enhance their insurance presence, and personal-lines focused brokerages lacking a strong digital footprint.

96. KPMG CF received a number of expressions of interest during the Sales Process. Ultimately, the Sales Process culminated in the receipt of two (2) letters of intent, including from Southampton Financial Inc. ("**Southampton**").

97. As referenced above, in connection with the Aviva Loan Agreement, Ignite Services had entered into a ROFR with Aviva. KPMG CF reached out to Aviva during its initial canvassing of the market at the outset of the Sales Process. As the ROFR granted Aviva with an exclusive and irrevocable right of first refusal to purchase any of the Company's assets, group of assets, or shares, the Company and KPMG CF re-engaged with Aviva before making any final decision with respect to the sale of the Company's assets and/or shares.

98. Accordingly, after receipt of a term sheet from a potential purchaser under such Sales Process, KPMG CF and the Company gave notice to Aviva as required by the Aviva Loan Agreement regarding the exercise of Aviva's ROFR. In response, on or around August 10, 2023, Aviva appointed Southampton as its nominee under the ROFR, as permitted by the Aviva Loan Agreement.

99. After Southampton was appointed as Aviva's nominee with respect to the ROFR, it confirmed the exercise of the ROFR and the Company entered into an exclusivity arrangement with Southampton.

100. A period of extensive and intensive arm's length negotiations ensued with Southampton with respect to the structure of the transaction and specific terms. Ultimately, after extensive deliberations and consultations with their professional advisors, the Applicants concluded, further to and on the basis of their commercial and business judgment, that the transactions (the "**Transactions**") contemplated in the purchase agreement (the "**Purchase Agreement**") entered

into between Ignite Holdings and Southampton on October 26, 2023, represented the best offer available in the circumstances and that proceeding with the Transactions was in the best interest of the Applicants and their stakeholders.

101. The conduct of the Sales Process will be described in greater detail in the Applicants' materials to be filed in respect of a motion (the "**Sale Approval Motion**") to approve, among other things, the Purchase Agreement and the Transactions contemplated therein (if this Court grants the Initial Order being sought herein).

## **PART VII – THE PURCHASE AGREEMENT AND TRANSACTIONS**

### **A. Overview of Purchase Agreement**

102. Subject to obtaining the Initial Order being sought herein, the Applicants will return to this Court to seek approval of the Purchase Agreement, the Transactions contemplated therein, and various ancillary relief on notice to all applicable parties. A redacted copy of the Purchase Agreement will be served and filed with the Applicants' materials in support of the Sale Approval Motion.

103. A redacted copy of the Purchase Agreement (without Schedules) is attached hereto as **Exhibit "M"** and an unredacted copy of the Purchase Agreement, which includes the purchase price payable by the Purchaser and other key economic terms, will be attached as a Confidential Appendix to the Pre-Filing Report. As it contains commercially sensitive information, the Applicants will seek to seal the Confidential Appendix to the Pre-Filing Report pending closing of each of the Transactions contemplated under the Purchase Agreement

104. The essential terms of the Purchase Agreement and the Transactions contemplated therein are as follows:

<b>Key Terms</b>	<b>Share Purchase</b>
Purchaser	Southampton Financial Inc.
Vendor	Ignite Holdings Inc.

Monitor	KPMG Inc.
Transaction Structure	Share purchase and reverse vesting structure.
Purchased Shares	On closing, the Purchaser shall purchase from the Vendor, all of the issued and outstanding shares in the capital of Ignite Services. For avoidance of doubt, Ignite Services shall be wholly owned by the Purchaser on closing.
Purchase Price	REDACTED
Intercompany Loan	On closing, the Vendor shall contribute, as a capital contribution to a company to be formed by the Vendor (" <b>Residual Co.</b> "), Vendor's contingent right to receive payment, if any, under the contingent indebtedness in an aggregate amount of \$REDACTED owing by Ignite Services to the Vendor pursuant to a promissory note to be issued by Ignite Services in favour of the Vendor (the " <b>Intercompany Loan</b> ").
Deposit	7.5% of the Purchase Price
Absence of Regulatory Concerns	No insurance regulator shall have suspended or terminated, or reasonably appears likely to imminently suspend or terminate, any material license or authorization held by Ignite Services, which the parties, acting in accordance with their obligations under the purchase agreement, have not been able to avoid or have lifted, reversed or cancelled.
Outside Date for Closing	December 7, 2023 or such later date as may be determined by the parties in writing, but in no event shall such later date be later than January 31, 2024.
Employees	Ignite Services, on closing of the Transactions, may terminate no more than five employees designated, in writing, by the Purchaser.
Retained Liabilities	<ul style="list-style-type: none"> <li>• All post-filing claims;</li> <li>• All liabilities of Ignite Services arising after closing which relate to events or circumstances that occurred after closing;</li> </ul>

	<ul style="list-style-type: none"> <li>• All tax liabilities of Ignite Services other than any tax liabilities attributable to any pre-closing tax period;</li> <li>• The Intercompany Loan; and</li> <li>• Any other liabilities being retained, to be set out in a Schedule to the Purchase Agreement.</li> </ul>
Administrative Expenses Reserve	<p>On the closing date, the Company shall pay the Monitor cash in an amount equal to: (a) the reasonable and documented fees and costs of the Monitor and its professional advisors and the professional advisors of Ignite Services and Residual Co., in each case, relating directly or indirectly to the CCAA Proceedings and the Purchase Agreement (collectively, the “<b>Administrative Expense Costs</b>”); and (b) the amounts owing in respect of obligations secured by the Charges to be granted in the CCAA Proceedings (collectively with the Administrative Expense Costs, the “<b>Administrative Expense Amount</b>”).</p> <p>From time to time after the closing date, the Monitor may pay from the Administrative Expense Amount the Administrative Expense Costs and amounts secured by the Charges, with unused amounts (if any) being transferred by the Monitor to the Vendor.</p>
Key Conditions to Closing	<ul style="list-style-type: none"> <li>• Court granting an Order approving the Purchase Agreement and the Transactions contemplated therein, which Order shall be final;</li> <li>• Completion of the Pre-Closing Implementation Steps (as defined and described below);</li> <li>• Delivery of termination letters to the to be terminated employees;</li> <li>• Completion of the Capitalization Steps (as defined and described below); and</li> <li>• Duly executed original promissory note representing the Intercompany Loan.</li> </ul>
Capitalization Steps	<p>On the closing date, but prior to the closing time, the following transaction steps shall be completed (the “<b>Capitalization Steps</b>”):</p> <ul style="list-style-type: none"> <li>• Purchaser to loan an amount equal the Purchase Price to the Vendor (the “<b>Vendor Loan</b>”), for the purpose of Vendor</li> </ul>

	<p>using the Vendor Loan to acquire common shares in the capital of Ignite Services;</p> <ul style="list-style-type: none"> <li>• Vendor to deliver an interest-free promissory note in favour of the Purchaser, in the principal amount of the Purchase Price (the “<b>Promissory Note</b>”), representing the Vendor Loan;</li> <li>• Vendor to use the Vendor Loan to subscribe for [•] common shares in the capital of Ignite Services for an aggregate subscription price equal to the amount of the Purchase Price (the “<b>Capital Contribution</b>”); and</li> <li>• Ignite Services to direct the Vendor to pay the Capital Contribution to the Monitor for the benefit of Residual Co.</li> </ul>
Other	<p>Upon closing, the Purchaser and its affiliates shall release the Monitor and its affiliates, and each of their respective directors and officers, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors from all actual or potential claims relating to Ignite Services’ business, the purchased shares, or the retained liabilities, save and except for claims arising out of fraud or gross negligence.</p> <p>Upon closing, the Vendor and its affiliates shall release the Monitor and its affiliates, and each of their respective directors and officers, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors from all actual or potential claims relating to (a) the purchased shares; (b) all other equity interests of Ignite Services which remain after the application of the Vesting Order, (ii) the retained liabilities, (iii) the excluded assets or (iv) the excluded liabilities, save and except for claims arising out of fraud or gross negligence.</p>

## B. Structure of Transactions

105. As noted above, further details regarding the conduct of the Sales Process and the Purchase Agreement will be provided in the Applicants’ materials in support of the Sale Approval



Motion. Immediately below is a preliminary overview as to why the Transactions, and in particular, the reverse vesting structure, is necessary in the circumstances.

106. An asset sale through the CCAA is not feasible because Southampton does not have any licenses to operate as an insurance brokerage in the provinces in which the Company operates (Ontario, British Columbia, and Alberta) and preserving the tax attributes of Ignite Services is an important consideration behind its offer to purchase the Company's business, which is not possible through an asset sale.

107. I understand that the required licenses to operate the Company's business would likely take at least eight weeks to obtain. As can be seen in the Cash Flow Forecast (as defined below), the Company does not have the necessary funding to wait for Southampton to obtain new licenses required to operate the Company's business.

108. The Company and its advisors will have contacted the relevant regulatory entities to proactively address any questions, issues, or concerns that they may have with respect to the CCAA Proceedings and the potential Transactions to be implemented.

109. In order to preserve the Company's tax attributes, the Company and Primary have agreed to undertake certain preliminary steps before implementation of the Transactions (as described below).

### **C. Pre-Closing Implementation Steps**

110. Subject to the Court's approval of the Purchase Agreement and Transactions contemplated therein, the Company intends to take certain steps prior to the proposed Transactions being implemented, in order to preserve the tax losses in Ignite Services while eliminating the debt owed by Ignite Services to Ignite Holdings under the Second Intercompany Loan Agreement, less \$2.5 million (such net amount referred to herein as the "**Services Loan**"), which are described immediately below (the "**Tax Restructuring**").

111. Ignite Services will incorporate a new wholly-owned Canadian subsidiary ("**Subco**"). Ignite Holdings will transfer the debt owing under the Services Loan to Subco in exchange for a note (the "**Subco Note**") having a principal amount equal to the fair market value of the Services Loan.

112. Subco will then be wound up into Ignite Services, resulting in a settlement of the amounts owing under the Services Loan, and the Subco Note becoming a liability of Ignite Services as a consequence of the winding up.

113. The Subco Note will then be converted into shares of Ignite Services (or contributed to the capital of Ignite Services).

114. The terms of the remaining \$2.5 million owing under the Second Intercompany Loan Agreement will be amended and represented by the Adjustable Promissory Note (as defined in the Purchase Agreement and referred to herein as the “**Intercompany Loan**”).

115. I understand that Primary, as the significant creditor of the Companies with over \$57.7 million of indebtedness owed to it pursuant to the Intercompany Loan Agreements and the proposed DIP Lender (as discussed below) supports approval of the Purchase Agreement and the Transactions contemplated therein.

#### **PART VII – NEED FOR CCAA PROTECTION**

116. As referenced above, Ignite Services does not have the necessary liquidity to pay all its obligations as they become due. Accordingly, without the protection of the CCAA and the relief available thereunder, Ignite Services will be unable to meet its obligations as they become due.

117. Ignite Holdings and Ignite Insurance will also be unable to meet their obligations as they become due. Both entities guaranteed the obligations of Ignite Services under the Aviva Loan Agreement and granted security over their assets in respect of same. Ignite Holdings does not have any assets aside from amounts due to it from Ignite Services under the Second Intercompany Loan Agreement, and Ignite Insurance has nominal assets. Accordingly, given the insolvent status of Ignite Services, Aviva will be in a position to seek to recover from both entities without the protection of the CCAA.

118. If Ignite Services is insolvent without the protection of the CCAA, Ignite Services would be forced to shut down operations, which would be extremely detrimental to its landlord, lenders, customers, and employees.

119. The Applicants intend to utilize the Stay of Proceedings and the protections of the CCAA to, among other things, maintain operations, seek to have the Purchase Agreement approved, and implement the Transactions for the benefit of their stakeholders.

## **PART VIII – THE PROPOSED INITIAL ORDER**

### **A. Stay of Proceedings**

120. As referenced above, the Companies are out cash and unable to meet their obligations as they become due. As set out in the cash flow projection (the “**Cash Flow Forecast**”) that was prepared by the Applicants and reviewed by the Proposed Monitor for the period from the date of filing to January 31, 2024, a copy of which will be provided in the Pre-Filing Report of the Proposed Monitor, with the benefit of the Stay of Proceedings, the Applicants will be able to operate until the end of the initial requested 10-day stay period.

121. As set out in the Cash Flow Forecast, the Companies expect that, with the funds to be advanced under the DIP Facility Agreement referenced below, they will have sufficient cash to fund their projected operating costs and the professional fees associated with the CCAA Proceedings until December 7, 2023, being the outside date in the Purchase Agreement.

122. The Companies, therefore, request the Stay of Proceedings for an initial period of ten days, and, if granted by this Court, the Companies will subsequently request an extension of the Stay Period until and including January 31, 2024, at the Sale Approval Motion.

123. In addition to the Stay of Proceedings against the Companies and their Property, the Companies are seeking a stay of proceedings against the D&Os to ensure that they are able to focus on the Companies’ restructuring efforts and to prevent creditors and others from seeking to do indirectly what they cannot do directly by asserting claims or other relief relating to the debts and obligations of the Companies against the D&Os.

### **B. Appointment of KPMG as Monitor**

124. KPMG has consented to act as the Court-appointed monitor of the Applicants, subject to Court approval. A copy of KPMG’s consent to act is attached as **Exhibit “N”**.

125. I am advised by Anamika Gadia of KPMG that KPMG 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.

126. I understand that KPMG has experience in matters of this nature and is therefore well-suited to this mandate. KPMG has acted as financial advisor to the Companies leading up to the filing. Further, as noted above, KPMG CF was engaged to assist with conducting the Sales Process and is therefore familiar with the Applicants' business. KPMG has provided no accounting or auditing advice to the Companies.

127. I am advised by Ms. Gadia of KPMG that the Proposed Monitor is supportive of the relief being sought by the Applicants in the draft Initial Order, as described in this affidavit. Ms. Gadia has also advised me that the Proposed Monitor will be filing a pre-filing report of the Monitor in respect of such relief, and if appointed as Monitor, KPMG will also file a report in respect of the relief to be sought at the Sale Approval Motion.

### **C. Administration Charge**

128. The Initial Order provides for a Court-ordered Administration Charge in favour of the Monitor, counsel to the Monitor, and the Applicants' counsel over all of the Applicants' Property in order to secure payment of their respective fees and disbursements incurred in connection with services rendered in respect of the Applicants up to a maximum amount of \$750,000.

129. The Administration Charge is proposed to rank ahead of and have priority over all of the other Charges (other than in respect of any super priority amounts owing to CRA) and the Aviva Facility.

130. The Applicants require the expertise, knowledge, and continued participation of the proposed beneficiaries of the Administration Charge during these CCAA proceedings in order to complete a successful restructuring. Each of the beneficiaries of the Administration Charge will have distinct roles in the Applicants' restructuring.

131. The Applicants have worked with the Proposed Monitor to estimate the proposed quantum of the Administration Charge. The Proposed Monitor has reviewed the quantum of the Administration Charge and has advised that it believes that the Administration Charge (including its proposed quantum) is reasonable and appropriate in the circumstances, given the services to

be provided by the beneficiaries of the Administration Charge and the complexities of the CCAA Proceedings.

132. At the Sale Approval Motion, the Applicants intend to seek super-priority ranking for the Administration Charge over all existing encumbrances.

**D. DIP Facility and DIP Lender's Charge**

133. As appears from the Cash Flow Forecast, the Applicants expect the need for interim financing, including during the 10-day Stay Period prior to the Sale Approval Motion, to fund these CCAA Proceedings.

134. As a result of needing financing to fund the operations of the Applicants during these CCAA Proceedings in short order, the Applicants commenced negotiations with Primary to provide debtor-in-possession financing. Based on the Applicants' debt structure with Primary being the ultimate parent and a significant creditor and having over \$57.7 million in liabilities owed to it, the Applicants, in consultation with their legal and financial advisors, did not believe that any third party would be able to provide the financing urgently required on significantly better terms on the timeline required by the Applicants.

135. Accordingly, on October 26, 2023, the DIP Facility Agreement was entered into between Ignite Services, as borrower, Ignite Holdings and Ignite Insurance, as guarantors, and Primary, as the DIP Lender. A copy of the DIP Facility Agreement is attached hereto as **Exhibit "O"**.

136. The DIP Facility is subject to customary covenants, conditions precedent, and representations and warranties made by the Applicants to the DIP Lender. Among other things, the DIP Facility Agreement provides for the following:

- (a) DIP Facility: non-revolving loan up to the maximum amount of \$1.1 million.
- (b) Advances: The DIP Facility shall be available by three advances, as follows:
  - (i) an initial advance in the amount of \$350,000, as to be advanced by no later than October 31, 2023 to finance working capital requirements and professional fees and expenses for the 10-day period immediately following the date of the Initial Order, and

- (ii) a subsequent advances in the amount of \$400,000, to be advanced by no later than November 10, 2023, and \$350,000, to be advanced by no later than November 13, 2023, representing the balance of the DIP Facility.
- (c) Interest Rate: The loans made under the DIP Facility Agreement shall be interest free.
- (d) Recoverable Expenses: Ignite Services shall pay all fees and expenses incurred by Primary in connection with the preparation, registration and ongoing administration of the DIP Facility Agreement, the Initial Order, the ARIO, the DIP Lender's Charge and with the enforcement of Primary's rights and remedies hereunder and thereunder, at law or in equity, including, without limitation all reasonable legal fees and disbursements incurred by the Lender. Recoverable expenses by Primary shall also include all reasonable fees and expenses incurred by the Primary in connection with the CCAA Proceedings including in connection with the proposed Transactions or any other transaction and all Court attendances in respect thereof. These fees and expenses shall be secured by the DIP Lender's Charge, whether or not any funds under the DIP Facility are advanced.

137. Per the DIP Facility Agreement, the DIP Facility must be repaid in full by the date that is the earliest of: (a) November 30, 2023 (or such other date as may be agreed to in writing by the DIP Lender, in its sole discretion); (b) the closing of the Transactions; and (c) the date on which the DIP Lender elects to terminate the DIP Facility as a result of an event of default under the DIP Facility Agreement.

138. The proposed Initial Order contemplates that the DIP Lender's Charge will rank subordinate to all the other Charges.

139. The DIP Lender's Charge will secure all of the credit advanced under the DIP Facility. The DIP Lender's Charge will not secure any obligations incurred prior to these CCAA Proceedings.

140. As the DIP Facility will rank subordinate to all the other Charges and the existing secured debt of the Applicants, except for the Aviva Facility, I do not expect any material prejudice to any of the other existing secured creditors of the Applicants should the Court approve the DIP Facility Agreement and grant the DIP Lender's Charge.

141. The Proposed Monitor has advised that it is supportive of the approval of the DIP Facility Agreement and the corresponding DIP Lender's Charge. Accordingly, I believe that it is appropriate in the circumstances for this Court to approve the DIP Facility Agreement and grant the DIP Lender's Charge

**E. D&O Charge**

142. In order to continue to carry on business during these CCAA Proceedings, the Applicants require the active and committed involvement of their D&Os.

143. Since the continued assistance of the D&Os is required to ensure that these CCAA Proceedings are successfully completed, these D&Os require, in turn, that the Applicants indemnify them for liabilities which they may incur in the context of their positions with the Applicants after the filing of these CCAA Proceedings, including liabilities relating to employee vacations accrued prior to these CCAA Proceedings, but which may be crystallized after the commencement of such proceedings.

144. Although the Applicants intend to comply with all applicable laws and regulations, including with respect to the timely remittance of deductions at source and federal and provincial sales taxes, the D&Os remain nevertheless concerned about their potential personal liability, particularly in the present circumstances.

145. The Applicants maintain directors and officers' liability insurance (the "**D&O Insurance**") for the D&Os which provides up to \$1 million in coverage. It is uncertain whether all claims for which the D&Os may be personally liable will be covered by the D&O Insurance given the complex nature of the exclusions provided for under the D&O Insurance. It is also uncertain whether the amount of coverage provided by the D&O Insurance will be sufficient to adequately protect the D&Os from liability and to incentivize the D&Os to continue their service with the Applicants.

146. Absent the approval by this Court of the D&O Charge in the amounts set out above, the Applicants' D&Os may be forced to resign, which would, in all likelihood, render these CCAA Proceeding much more challenging, and possibly much more costly, to the detriment of the Applicants' creditors and other stakeholders.

147. The Applicants therefore seek the D&O Charge over its Property in the amount of \$250,000 as part of the Initial Order to the secure the above referenced indemnity of the Applicants in favour of the D&Os in connection with any claim which may be asserted against

them from and after the commencement of these proceedings, including claims relating to employee vacation entitlements accrued prior to these CCAA Proceedings, but which may be crystalized after the commencement of such proceedings, to the extent that such claims are not covered or sufficiently by the D&O Insurance.

148. The proposed Initial Order provides that the D&O Charge ranks behind the Administration Charge and the Source Deductions, but ahead of the DIP Lender's Charge and Aviva Facility.

149. The Proposed Monitor has advised that it is supportive of the proposed D&O Charge and quantum thereof.

150. I believe that in these circumstances, the requested D&O Charge is reasonable and adequate given, notably, the complexity of their business, and the corresponding potential exposure of the Applicants' D&Os to personal liability, especially in the present context. The quantum of the D&O Charge contemplated in the Initial Order was specifically determined by the Applicants, in consultation with the Proposed Monitor, based upon the potential director liabilities that could be outstanding at any time during the CCAA Proceedings.

**F. Proposed Ranking of the Court-Ordered Charges**

151. The proposed ranking of the Charges is as follows:

*First* – Administration Charge;

*Second* – D&O Charge; and

*Third* – DIP Lender's Charge.

152. Pursuant to the proposed Initial Order, the charges on the assets and property of the Company would rank in priority to the claims of Aviva, who will receive notice of this Application. The Applicants intend to ask for an order declaring that the Administration Charge and D&O Charge would rank ahead of all encumbrances at the Sale Approval Motion (if the Initial Order is granted).

**G. Sealing Request and Sale Approval Motion**

153. As stated above, the Applicants are seeking to have the Confidential Appendix to the Pre-Filing Report, being a copy of the unredacted Purchase Agreement, sealed and not form part of



the public record. I believe that disclosure of the redacted information contained in the Confidential Appendix, being the purchase price payable by the Purchaser and other key economic terms, at this time poses a serious risk to the objective of maximizing value in these CCAA Proceedings, including because disclosure of the redacted pricing information may impair any efforts to remarket the Company if the Transactions do not close.

154. The Applicants are only seeking to have the Confidential Appendix sealed until (a) closing of the Transactions contemplated under the Purchase Agreement; or (b) by further Order of this Court.

155. As referenced above, Exhibit "M" to this affidavit contains a redacted copy of the Purchase Agreement. The redactions in Exhibit "M" are as minimal as reasonably possible and will be filed as part of the public record.

#### **H. Sale Approval Motion**

156. At the Sale Approval Motion, the Applicants will seek:

- (a) an order (the "**Approval and Reverse Vesting Order**"), among other things:
  - (i) approving the Purchase Agreement and the Transactions contemplated therein, providing for a going-concern sale transaction for the Company's business, to be implemented by way of a "reverse vesting" structure; and
  - (ii) granting releases to certain parties who have contributed to the Applicants' restructuring; and
  
- (b) an amended and restated Initial Order (the "**ARIO**"), among other things:
  - (i) extending the Stay Period to and including January 31, 2024;
  - (ii) authorizing the Applicants to increase the amounts which may be borrowed by the Applicants under the DIP Facility Agreement to \$1.1 million and granting a corresponding increase to the DIP Lender's Charge; and
  - (iii) ordering that the Charges rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise, in favour of any person, notwithstanding the order

of perfection or attachment, on notice to those persons likely to be affected thereby.

157. Further details in support of the Approval and Reverse Vesting Order and ARIO being sought by the Applicants on the Sale Approval Motion will be filed with the Applicants' Motion Record in support of same, on notice to persons who may be affected by such orders.

158. The conduct of the Sales Process will be described in greater detail in the Applicants' materials to be filed in respect of a motion (the "Sale Approval Motion") to approve, among other things, the Purchase Agreement and the Transactions contemplated therein (if this Court grants the Initial Order being sought herein).

**PART IX – CONCLUSION**

159. For the reasons set out above, I believe that it is in the interests of the Applicants and its stakeholders that the Applicants be granted protection under the CCAA in accordance with the terms of the proposed Initial Order.

160. I swear this affidavit in support of the Companies' Application pursuant to the CCAA and for no other or improper purpose.

SWORN remotely via videoconference, by Stephen Livingstone, stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in Province of Ontario, this day of October 26, 2023, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely.*

DocuSigned by:  
*Rania Hammad*  
3CCD226759524E3...

Commissioner for Taking Affidavits, etc.  
RANIA HAMMAD

DocuSigned by:  
*Steve Livingstone*  
421DD587E50D4AD...

**STEPHEN LIVINGSTONE**

**EXHIBIT "B"**

referred to in the Affidavit of

**STEPHEN LIVINGSTONE**

Sworn November 1, 2023

DocuSigned by:

*Rania Hammad*

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Commissioner for Taking Affidavits



Court File No. CV-23-00708635-00CL

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

THE HONOURABLE )  
 ) MONDAY THE 30<sup>TH</sup> DAY  
JUSTICE CONWAY )  
 ) OF OCTOBER, 2023

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 IGNITE  
HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION

Applicants

**INITIAL ORDER**

**THIS APPLICATION**, made by Ignite Services Inc. ("**Ignite Services**"), Ignite Holdings Inc., and Ignite Insurance Corporation (collectively, the "**Applicants**"), for an initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by judicial videoconference via Zoom.

**ON READING** the affidavit of Stephen Livingstone sworn October 26, 2023 (the "**Livingstone Affidavit**") and the Exhibits thereto, the pre-filing report of KPMG Inc. ("**KPMG**"), in its capacity as proposed monitor of the Applicants (in such capacity, the "**Monitor**") dated October 27, 2023 (the "**Pre-Filing Report**"), the consent of KPMG to act as the Monitor, 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 Applicants, counsel for KPMG, counsel for Primary Group Limited ("**Primary**") and Primary in its capacity as the DIP Lender (as defined below), counsel for Aviva Insurance Company of Canada, in its capacity as secured lender to the Applicants, and such other parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavit of service of Rania Hammad, as filed,

**SERVICE AND DEFINITIONS**

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

2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings given to them in the Livingstone Affidavit.

### **APPLICATION**

3. **THIS COURT ORDERS AND DECLARES** that each of the Applicants are companies to which the CCAA applies.

### **POSSESSION OF PROPERTY AND OPERATIONS**

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

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize their existing central cash management system currently in place 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 Applicants 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 or Persons (as hereinafter defined) other than the Applicants, 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 any plan of arrangement or compromise under the CCAA with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order, subject to compliance with the Cash Flow Projections (as defined in the DIP Facility Agreement), as may be amended from time to time:

- (a) all outstanding and future wages, salaries, commissions, employee and pension benefits, vacation pay and employee and director expenses payable on or after the date of this Order, 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 any of the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled, subject to compliance with the Cash Flow Projections, as may be amended from time to time, but not required to pay all reasonable expenses incurred by the Applicants in carrying on their Business in the ordinary course after this Order, 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), IT services, data services, maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants shall, in accordance with legal requirements, remit 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 Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, 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 date of this Order; 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, 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 Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly in equal payments on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are 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 Applicants to any of their creditors as of this date, unless the Company is making payments from the Trust Account in respect of, among other things, commissions and premiums;
- (b) to grant no security interests, trust, liens, mortgages, charges or encumbrances upon or in respect of any of the Property; and
- (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

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

- (a) in consultation with the DIP Lender, and with the oversight of the Monitor, continue to take steps to advance the potential sale of all or part of the Property on a going-concern basis, and return to Court for the approval of any such agreement; and
- (b) pursue all restructuring options for the Applicants including, without limitation, all avenues of refinancing of their Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

12. **THIS COURT ORDERS** that until and including November 9, 2023, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting their Business or their Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting their Business or their Property are hereby stayed and suspended pending further Order of this Court.

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

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



## **NO INTERFERENCE WITH RIGHTS**

14. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

## **CONTINUATION OF SERVICES**

15. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants 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 Applicants 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 Applicants and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, email addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

## **NON-DEROGATION OF RIGHTS**

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

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

17. **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 Applicants with respect to any claim

against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

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

18. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, 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.

19. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for the indemnity provided in paragraph 18 of this Order. The D&O Charge shall have the priority as set out in paragraphs 37 and 39 herein.

20. **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 D&O Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the D&O 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 18 of this Order.

#### **APPOINTMENT OF MONITOR**

21. **THIS COURT ORDERS** that KPMG Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

22. **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 Applicants' receipts and disbursements and the Applicants' compliance with the Cash Flow Projections;
- (b) 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, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination of financial and other information to the DIP Lender and its counsel on a periodic basis of financial and other information as agreed to between the Applicants and the DIP Lender, or as may reasonably be requested by the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, or as may reasonably be requested by the DIP Lender;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (f) hold funds on behalf of the Applicants in connection with any sale of all or part of the Property;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

23. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property (except as permitted pursuant to section 22(f) herein) 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.

24. **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.

25. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants 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 Applicants 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 Applicants may agree.

26. **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 shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

27. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements (including pre-filing fees and disbursements), in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the date of this Order by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a periodic basis. In addition, the Applicants are hereby authorized to pay to the Monitor and counsel to the Monitor, retainers in the amounts of \$50,000 and \$30,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

28. **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.

29. **THIS COURT ORDERS** that the Applicants' counsel, the Monitor and its counsel 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 \$750,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority as set out in paragraphs 37 and 39 hereof.

#### **DIP FACILITY**

30. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under the DIP Facility from Primary, in its capacity as the debtor-in-possession lender (the "**DIP Lender**"), in order to finance the Applicants' working capital requirements, and other general corporate purposes and capital expenditures.

31. **THIS COURT ORDERS** that such DIP Facility shall be on the terms and subject to the conditions set forth in the Summary of Terms for DIP Facility between the Applicants and the DIP Lender dated as of October 26, 2023, appended as Exhibit "O" to the Livingstone Affidavit (the "**DIP Facility Agreement**").

32. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to borrow, in accordance with the terms and conditions of the DIP Facility Agreement, interim financing of up to \$350,000 during the Stay Period.

33. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such agreements, instruments, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the DIP Facility Agreement, the “**Definitive Documents**”), as may be contemplated by the DIP Facility Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are 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 Definitive Documents (collectively, the “**DIP Obligations**”) as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

34. **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 as security for the DIP Obligations, which DIP Lender’s Charge shall be in the aggregate amount of the DIP Obligations outstanding at any given time under the Definitive Documents. The 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 as set out in paragraphs 37 and 39 hereof.

35. **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 (5) business days’ notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender’s Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under 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 Applicants and for the appointment of a trustee in bankruptcy of the Applicants; 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 Applicants or the Property.

36. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise under the CCAA, or any proposal filed under the BIA, with respect to any advances made under the Definitive Documents.

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

37. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge, and the D&O Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$750,000);

Second – D&O Charge (to the maximum amount of \$250,000); and

Third – DIP Lender's Charge.

38. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that each of the Charges shall be effective as against the Property and 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.

39. **THIS COURT ORDERS** that the Charges shall each constitute a charge on the Property and 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, provided that the Charges shall rank behind Encumbrances in favor of any Persons that have not been served with notice of this application. The Applicants and beneficiaries of the Charges shall be entitled to seek priority ahead of such Encumbrances on notice to those parties.

40. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the D&O Charge and the Administration Charge, or further Order of this Court.

41. **THIS COURT ORDERS** that the D&O Charge, the Administration Charge, the Definitive Documents and the DIP Lender's 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**") and/or the DIP Lender 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, provincial or other 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 Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are 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 Applicants entering into the DIP Facility Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, 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.

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

### **SERVICE AND NOTICE**

43. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner



prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (iii) 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, provided that the Monitor shall not make the claims, names and addresses of any individual persons who are creditors available.

44. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://kpmg.com/ca/IgniteGroup>

45. **THIS COURT ORDERS** that the Applicants, 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 Applicants’ 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).

46. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants, the Monitor and their respective counsel and agents 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 Applicants’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown on the records of the Applicants 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.

## COMEBACK MOTION

47. **THIS COURT ORDERS** that the Comeback Motion shall be heard on November 9, 2023.

## SEALING

48. **THIS COURT ORDERS** that Confidential Appendix "A" to the Pre-Filing Report is hereby sealed and shall not form part of the public record until closing of each of the Transactions contemplated under the Purchase Agreement, subject to further order of this Court sought on not less than seven (7) days notice to the Purchaser and, provided it has not been discharged, the Monitor.

## GENERAL

49. **THIS COURT ORDERS** that the Applicants, the DIP Lender, 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 hereunder.

50. **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 Applicants, the Business or the Property.

51. **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 Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

52. **THIS COURT ORDERS** that each of the Applicants and the Monitor shall be at liberty and are 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.

53. **THIS COURT ORDERS** that any interested party (including the Applicants 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.

54. **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.

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Conway J.

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

**AND IN THE MATTER OF PLAN OF COMPROMISE OR ARRANGEMENT OF IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE  
INSURANCE CORPORATION**

Applicants

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

PROCEEDING COMMENCED AT TORONTO

**INITIAL ORDER**

**STIKEMAN ELLIOTT LLP**

Barristers & Solicitors  
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Lawyers for the Applicants

**EXHIBIT "C"**

referred to in the Affidavit of

**STEPHEN LIVINGSTONE**

Sworn November 1, 2023

DocuSigned by:

*Rania Hammad*

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Commissioner for Taking Affidavits

**CONDITIONAL LIMITATION OF LIABILITY AGREEMENT**

**THIS AGREEMENT** made as of the 27<sup>th</sup> day of October, 2023.

**A M O N G:**

**AVIVA INSURANCE COMPANY OF CANADA (“Aviva”)**

- and -

**IGNITE SERVICES INC. (“Ignite”)**

- and -

**PRIMARY GROUP LIMITED (“Primary”)**

**WHEREAS:**

- A. capitalized terms not otherwise defined are defined in Section 1.01 below;
- B. as of the date hereof, Ignite is indebted to Aviva in the amount of the Aviva Indebtedness, the payment of which is secured by a valid, enforceable and perfected first-ranking security interest pursuant to the Security and the registrations corresponding thereto under the *Personal Property Security Act* (Ontario);
- C. pursuant to the terms of the Guarantee, Primary has irrevocably and unconditionally guaranteed to Aviva the due and punctual payment, and the due performance, of the Obligations of Ignite to Aviva, including payment of the Aviva Indebtedness;
- D. Ignite is in financial difficulty, insolvent, unable to carry on business in the ordinary course and intends to seek protection from its creditors by commencing a proceeding under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA Proceeding**”) by no later than October 30, 2023;
- E. Ignite is indebted to the Canada Revenue Agency (“**CRA**”) in respect of amounts that may benefit from statutory priority that would entitle CRA to payment of such amounts in priority to payment of the Aviva Indebtedness (the “**CRA Indebtedness**”);
- F. Primary has agreed to (i) provide Ignite with interim financing to fund the CCAA Proceeding, on a priority basis, in an amount and on terms reasonably satisfactory to Aviva (the “**Interim Financing**”), (ii) to support the sale of Ignite’s business as a going concern to Southampton Financial Inc. (the “**Southampton Transaction**”) within the CCAA Proceeding, and (iii) to otherwise support the CCAA Proceeding and realization upon Aviva’s collateral in a manner directed at maximizing Aviva’s recovery of the Aviva Indebtedness;

- G. Aviva has agreed that upon recovery of \$4,500,000.00 on account of the Aviva Indebtedness, either through a distribution in the CCAA Proceeding, payment from Primary or otherwise, Primary is full and finally released from its obligations under the Guarantee—for greater certainty, nothing in this Agreement shall release (i) Ignite from its obligation to pay to Aviva the Aviva Indebtedness, or (ii) Primary from its obligations under the Guarantee if Aviva does not recover at least \$4,500,000.00 on account of the Aviva Indebtedness;

**NOW THEREFORE** in consideration of the acknowledgements, confirmations, covenants and agreements contained herein, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto), each of the Parties hereto hereby agree with each other as follows:

## **ARTICLE 1** **INTERPRETATION**

**1.01 Definitions:** The following terms shall have the following meanings:

- (a) “**Agreement**” means this conditional limitation of liability agreement;
- (b) “**Aviva Indebtedness**” shall have the meaning ascribed thereto in ARTICLE 2 ;
- (c) “**Business Day**” means a day other than a Saturday, Sunday, statutory holiday in the Province of Ontario, or any other day on which the Schedule 1 Canadian Chartered Banks located in the City of Toronto are not open for business during normal banking hours;
- (d) “**CCAA**” shall have the meaning ascribed thereto in Recital D;
- (e) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (f) “**CRA**” shall have the meaning ascribed thereto in Recital E;
- (g) “**CRA Indebtedness**” shall have the meaning ascribed thereto in Recital E;
- (h) “**Credit Agreement**” means the letter agreement between Aviva and Ignite dated November 15, 2021, as amended by the first loan amending agreement between Aviva and Ignite effective as of March 21, 2022 and the second loan amending agreement between Aviva and Ignite effective November 16 2022;
- (i) “**Credit Facility**” means the credit facility established by Aviva in favour of Ignite pursuant to the Credit Agreement;
- (j) “**Distribution Order**” shall have the meaning ascribed thereto in Section 4.01(a)(iv);
- (k) “**Earnout**” means any earnout provided pursuant to the purchase agreement in the Southampton Transaction, including the contingent indebtedness in the aggregate

amount of \$2,500,000 owing by Ignite to the Vendor represented by an interest-free, adjustable promissory note to be issued by Ignite in favour of the Vendor in connection with the Southampton Transaction, the material terms of which (i) shall not be amended without the express written consent of Aviva and (ii) shall not impose any obligation or liability on the beneficiary or beneficiaries thereof;

- (l) **“First Distribution”** shall have the meaning ascribed thereto in Section 4.01(a)(ii);
- (m) **“Guarantee”** means the guarantee dated as of November 15, 2021 made to and in favour of Aviva by Primary, as amended by the first amendment to guarantee and acknowledgement and confirmation of guarantee by guarantor between Aviva and Primary dated as of March 21, 2022 and the second amendment to guarantee and acknowledgement and confirmation of guarantee by guarantor between Aviva and Primary dated as of November 16, 2022;
- (n) **“Interim Financing”** shall have the meaning ascribed thereto in Recital F;
- (o) **“Interim Indebtedness”** means the indebtedness owing by Ignite to Primary in connection with the Interim Financing;
- (p) **“Loan Documents”** shall have the meaning ascribed thereto in the Credit Agreement;
- (q) **“Monitor”** means the monitor appointed by the Court in the CCAA Proceeding;
- (r) **“Obligations”** shall have the meaning ascribed thereto in the Guarantee;
- (s) **“Obligors”** shall have the meaning ascribed thereto in the Credit Agreement;
- (t) **“Parties”** means any one or more of the parties referred to in this Agreement, as the context may require;
- (u) **“Priority Indebtedness”** means the Aviva Indebtedness, the CRA Indebtedness and the Interim Indebtedness;
- (v) **“Second Distribution”** shall have the meaning ascribed thereto in Section 4.01(a)(iv);
- (w) **“Security”** shall have the meaning ascribed thereto in the Credit Agreement;
- (x) **“Southampton Transaction”** shall have the meaning ascribed thereto in Recital F; and
- (y) **“Vendor”** means Ignite Holdings Inc.

## **1.02 Certain Rules of Interpretation:**

- (a) In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the word



“including” in this Agreement is to be construed as meaning “including, without limitation”.

- (b) The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) References in this Agreement to an Article or Section are to be construed as references to an Article or Section of or to this Agreement unless the context requires otherwise.
- (d) Unless otherwise specified in this Agreement, time periods within which or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period commences and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day.
- (e) Unless otherwise specified, any reference in this Agreement to any (i) statute includes all regulations made under that statute, and is to be construed as a reference to that statute as amended, supplemented or replaced from time to time, and (ii) to any agreement means such agreement as amended, supplemented, restated, or replaced subject to compliance with any restrictions thereon in the Loan Documents.
- (f) Unless otherwise specified, the word “dollar” and the “\$” sign refer to lawful currency of Canada, and all amounts to be advanced, paid, tendered or calculated under this Agreement are to be advanced, paid, tendered or calculated in lawful money of Canada.

## **ARTICLE 2** **INDEBTEDNESS**

**2.01 Acknowledgement of Aviva Indebtedness:** Ignite and Primary acknowledge that as at October 27, 2023, Ignite is indebted to Aviva in respect of the Credit Facility in the amount of \$7,171,844.38, comprising principal in the amount of \$5,940,000 and accrued interest in the amount of \$1,231,844.38.

**2.02 Interest, Costs, Etc.:** Each of Ignite and Primary acknowledge that:

- (a) interest on the amounts set forth in Section 2.01 above that continues to accrue at the rate of 12% per annum in accordance with the terms of the Credit Agreement; and
- (b) all reasonable costs, fees, expenses and other monies incurred by Aviva in connection with the Security, the Aviva Indebtedness, the collection of the Aviva Indebtedness, the enforcement of the Security, the negotiation, preparation and enforcement of this Agreement and any amendments hereto, and the disbursements and full amount of all reasonable legal and other professional fees incurred by Aviva in connection with all of the same,

shall be added to and are deemed to form part of the Aviva Indebtedness, which, for greater certainty, shall include any future legal and other professional fees incurred by Aviva in connection with all of the same (the sum of the amounts set forth in Section 2.01 plus all amounts contemplated in Section 2.02 and outstanding from time to time being the “**Aviva Indebtedness**”).

### **ARTICLE 3** **ACKNOWLEDGEMENTS**

**3.01 Acknowledgements by Ignite:** Ignite hereby confirms and acknowledges to Aviva, and acknowledges that Aviva is relying upon such confirmations and acknowledgements in entering into this Agreement, that:

- (a) each of the recitals are true and accurate both in substance and in fact;
- (b) the Aviva Indebtedness is and shall be due and owing to Aviva;
- (c) Aviva has no obligation to make any advance or extend any credit to or for the benefit of Ignite;
- (d) the Credit Agreement delivered by Ignite is in full force and effect, constitutes legal, valid and binding obligations of Ignite, is enforceable against Ignite and Ignite hereby waives and agrees not to assert or cause to be asserted on its behalf, and is hereby estopped from asserting or causing to be asserted on its behalf, any defences or rights with respect to the legal effect of the Loan Agreement or the legality, validity or binding effect of the obligations of Aviva thereunder and the enforceability of same, including without limitation any claim for set-off, counterclaim or deduction;
- (e) the Security has been, and any other security delivered by Ignite, Primary or any other person, delivered to Aviva to secure the Aviva Indebtedness at any time, including after the date hereof, and is and will continue to be in full force and effect, constituting legal, valid and binding obligations of Ignite, Primary or any other person granting such Security, and any other security delivered by Aviva, Primary or any other person, will be enforceable against Ignite, Primary and the person granting such Security, and Ignite hereby waives and agrees not to assert or cause to be asserted on its behalf, and is hereby estopped from asserting or causing to be asserted on its behalf, any defences or rights in relation to any matter, cause or thing whatsoever existing to the date hereof with respect to the legal effect of the Security or the legality, validity or binding effect of the obligations of Ignite or Primary thereunder and the enforceability of same;
- (f) except as provided for in this Agreement, Aviva (either by itself or through its employees or agents) has not made any promises, nor has Aviva taken any action or omitted to take any action that would constitute a waiver of its right to take any enforcement action in connection with the enforcement of the Security or other remedy available to Aviva, and no statement, representation, promise, act or omission by Aviva

or its employees or agents shall create such a waiver unless Aviva executes and delivers to Ignite and/or Primary a written waiver of any such rights; and

- (g) Ignite has been provided with a reasonable opportunity to seek legal advice with respect to the execution and delivery of this Agreement and has done so.

**3.02 Acknowledgements by Primary:** Primary hereby confirms and acknowledges to Aviva, and acknowledges that Aviva is relying upon such confirmations and acknowledgements in entering into this Agreement, that:

- (a) each of the recitals are true and accurate both in substance and in fact;
- (b) the Aviva Indebtedness is and shall be due and owing to Aviva;
- (c) Aviva has no obligation to make any advance or extend any credit to or for the benefit of Ignite;
- (d) the Guarantee delivered by Primary is in full force and effect, constitutes legal, valid and binding obligations of Primary, is enforceable against Primary and Primary hereby waives and agrees not to assert or cause to be asserted on its behalf, and is hereby estopped from asserting or causing to be asserted on its behalf, any defences or rights with respect to the legal effect of the Guarantee or the legality, validity or binding effect of the obligations of Primary thereunder and the enforceability of same, including without limitation any claim for set-off, counterclaim or deduction;
- (e) Primary consents to Ignite entering into this Agreement;
- (f) notwithstanding the terms of the Loan Documents, this Agreement, or of any other agreement, whether written or oral, between or among Aviva, Ignite and/or Primary, Aviva shall be, subject to the conditional limitation of liability provided in Section 5.01 of this Agreement, entitled to rely upon the Guarantee in respect of any amounts comprising the Aviva Indebtedness;
- (g) except as provided for in this Agreement, Aviva (either by itself or through its employees or agents) has not made any promises, nor has Aviva taken any action or omitted to take any action that would constitute a waiver of its right to take any enforcement action in connection with the enforcement of the Guarantee or other remedy available to Aviva, and no statement, representation, promise, act or omission by Aviva or its employees or agents shall create such a waiver unless Aviva executes and delivers to Ignite and/or Primary a written waiver of any such rights; and
- (h) Primary has been provided with a reasonable opportunity to seek legal advice with respect to the execution and delivery of this Agreement and has done so.

**ARTICLE 4**  
**CCAA PROCEEDING**

**4.01 CCAA Proceeding:**

- (a) Ignite agrees that it shall:
- (i) within 10 days of the commencement of the CCAA Proceeding, seek to obtain an order in the CCAA Proceeding (x) approving the Southampton Transaction and (y) having the parties to the Southampton Transaction approve the sharing of information relevant to the Earnout with Aviva;
  - (ii) on or before November 24, 2023, bring a motion served upon the parties and in a manner and on a timeline satisfactory to Aviva, acting reasonably, for an order in form and substance satisfactory to Aviva (x) directing the Monitor to conduct a claims process in respect of the priority or secured claims against Ignite, including the CRA Indebtedness, or seek other relief to finally determine such priority or secured claims against Ignite and (y) authorizing the Monitor to make an interim distribution in respect of the Priority Indebtedness (the “**First Distribution**”); and
  - (iii) close the Southampton Transaction on or before December 7, 2023;
  - (iv) as soon as reasonably practicable following the final determination of the priority or secured claims against Ignite, bring a motion served upon the parties and in a manner satisfactory to Aviva for an order (the “**Distribution Order**”) in form and substance satisfactory to Aviva (x) authorizing, among other things, a further distribution in respect of the Priority Indebtedness, including a distribution of all cash available for distribution on account of the Aviva Indebtedness (the “**Second Distribution**”) and (y) if the Monitor determines that Aviva is entitled to any and all value potentially payable pursuant to the Earnout, vesting the Earnout in Aviva; for greater certainty, nothing in this Agreement entitles Aviva to receive more than the Obligations; and
  - (v) not disclaim this Agreement;
- (b) Primary agrees that it shall:
- (i) advance the Interim Financing as required to fund and support the CCAA Proceeding;
  - (ii) support the implementation and consummation of the Southampton Transaction;
  - (iii) support the CCAA Proceeding and realization upon Aviva’s collateral in a manner directed at maximizing Aviva’s recovery of the Aviva Indebtedness;

- (iv) not, on or after the date of this Agreement, withdraw, modify, or qualify, or propose to withdraw, modify, or qualify, in any manner adverse to the Aviva, its approval, recommendation or support for the CCAA Proceeding or the Interim Financing;
- (v) and it shall cause its affiliates to, take such actions, directly or indirectly, as is necessary to comply with this Agreement; and
- (vi) not, and shall cause its affiliates not to, take any action, directly or indirectly, that is inconsistent with or is intended or likely to interfere with or frustrate the consideration, acceptance, implementation or consummation of the Southampton Transaction

**ARTICLE 5**  
**CONDITIONAL RELEASE OF GUARANTEE**

**5.01 Conditional Release of Guarantee:**

- (a) Effective immediately upon receipt by Aviva of \$4,500,000.00 on account of the Aviva Indebtedness by no later than 5:00 pm on December 15, 2023, Aviva hereby fully and finally releases the Guarantee and all outstanding debts, liabilities and other obligations of Primary under the Guarantee shall be deemed to be paid and satisfied in full and discharged, terminated and released in full and the Guarantee shall be terminated automatically without any further action by any party thereto; and
- (b) For certainty, nothing herein is intended to nor shall anything herein limit the entitlement of Aviva to recover from Ignite the Aviva Indebtedness in full. Aviva shall be entitled to retain all amounts received by it on account of the Aviva Indebtedness, whether from the First Distribution, the Second Distribution, the Earnout or other sources, or any combination thereof, until the Aviva Indebtedness has been paid in full.

**5.02 Limitation:** For greater certainty,

- (i) if any of the conditions to Aviva releasing Primary from its obligations under the Guarantee set out in Section 5.01 are not satisfied by December 15, 2023, the release contemplated in this ARTICLE 5 shall be of no force or effect and Primary shall continue to be obligated to Aviva under the terms of the Guarantee; provided, however, that Aviva agrees that as long as this Agreement remains in full force and effect, Aviva shall not commence any legal actions to collect amounts owing under the Guarantee prior to January 1, 2024;
- (ii) unless and until Aviva releases Primary from its obligations under the Guarantee in accordance with this ARTICLE 5 , Primary's obligations under the Guarantee remain in full force and effect; and

- (iii) the provisions of this ARTICLE 5 do not in any way release, discharge or reduce the obligations of Ignite or any other Obligor (excluding Primary but only after the conditions set out in Section 5.01 have been satisfied) under the Credit Agreement, the Security or any other Loan Document to which it is a party, including the obligations of Ignite and such other Obligors to satisfy the Aviva Indebtedness.

## **ARTICLE 6** **ALLOCATION**

- 6.01 Allocation of Distribution:** Notwithstanding anything to the contrary in the Credit Agreement, the Parties agree that the Distribution and any other amounts received by Aviva in accordance with the terms of this Agreement shall be applied by Aviva as follows: (i) first, in reduction of the Borrower's obligation to pay any principal amounts due and owing on account of the Credit Facility; (ii) second, in reduction of Ignite's obligation to pay any unpaid interest and any fees which are due and owing; (iii) third, in reduction of Ignite's obligation to pay any claims or losses referred to in Section 13 of the Credit Agreement; (iv) fourth, in reduction of any other obligation of Ignite under the Credit Agreement and the other Loan Documents; and (v) fifth, to Ignite or such other persons as may lawfully be entitled to or directed to receive the remainder.

## **ARTICLE 7** **GENERAL**

- 7.01 Entire Agreement:** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or discussions between the Parties whether written or oral.
- 7.02 Severability:** If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and shall remain valid and enforceable.
- 7.03 No Prejudice:** Subject to the conditional release of liability in favour of Primary set out in Section 5.01, the provisions hereof shall operate and apply without prejudice to any rights which Aviva may now or in the future have in respect of the Aviva Indebtedness, or other liabilities or obligations, whether direct or indirect, matured or not, contingent or otherwise, of Ignite, Primary or any of the other Obligors (or their present and former affiliates, subsidiaries, divisions, predecessors, directors, officers, employees, agents and other representatives and their successors and assigns) to Aviva.
- 7.04 Relationship of Parties:** Nothing in this Agreement shall be construed to change the relationship existing between Ignite and Aviva to one other than the debtor/creditor relationship as it now exists. This Agreement is not entered into, nor shall it create, a partnership, joint venture or agency relationship between Aviva and either of Ignite or Primary.
- 7.05 Counterparts and Electronic Execution:** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which taken together

shall be deemed to constitute one and the same agreement. A facsimile or other electronic transmission received by each Party of the other Parties signatures shall serve to confirm the execution thereof by each such party.

**7.06 Governing Law:** This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada as are applicable therein.

**7.07 No Amendment:** This Agreement shall not be amended unless such amendments are in writing and signed by all Parties.

**7.08 Further Assurances:** Aviva, Ignite and Primary each hereby agree to sign or execute all such other documents and do such other things as may be necessary or desirable for more completely and effectively carrying out the terms and intentions of this Agreement.

**IN WITNESS WHEREOF** the Parties hereto have duly executed this Agreement with effect as and from the date first written above.

**AVIVA INSURANCE COMPANY OF CANADA**

DocuSigned by:  
Per: Colin Quinn  
Name: COLIN QUINN  
Title: Authorised Signatory

*I have authority to bind the corporation*

**IGNITE SERVICES INC.**

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

*I have authority to bind the bank*

**PRIMARY GROUP LIMITED**

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

*I have authority to bind the corporation*

shall be deemed to constitute one and the same agreement. A facsimile or other electronic transmission received by each Party of the other Parties signatures shall serve to confirm the execution thereof by each such party.

**7.06 Governing Law:** This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada as are applicable therein.

**7.07 No Amendment:** This Agreement shall not be amended unless such amendments are in writing and signed by all Parties.

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**IN WITNESS WHEREOF** the Parties hereto have duly executed this Agreement with effect as and from the date first written above.

**AVIVA INSURANCE COMPANY OF CANADA**

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

Name:

Title: Authorised Signatory

*I have authority to bind the corporation*

**IGNITE SERVICES INC.**

DocuSigned by:  
Per: Steve Livingstone  
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Name: Steve Livingstone

Title: President

*I have authority to bind the bank*

**PRIMARY GROUP LIMITED**

DocuSigned by:  
Per: Shane O'Neill  
4B0AA2A7E01B415...

Name: Shane O'Neill

Title: General Counsel

*I have authority to bind the corporation*



**EXHIBIT "D"**

referred to in the Affidavit of

**STEPHEN LIVINGSTONE**

Sworn November 1, 2023

DocuSigned by:

*Rania Hammad*

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Commissioner for Taking Affidavits

**COURT FILE NO. CV-23-00708635-00CL**

**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  
IGNITE HOLDINGS INC., IGNITE SERVICES INC., AND  
IGNITE INSURANCE CORPORATION  
(collectively, the "Ignite Group")**

Take notice that on October 30, 2023, the Ignite Group commenced court-supervised restructuring proceedings under the *Companies' Creditors Arrangement Act* ("CCAA").

KPMG Inc. has been appointed by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") as Monitor (the "**Monitor**") in the Ignite Group's CCAA proceedings pursuant to the Order of the Court dated October 30, 2023 (the "**Initial Order**").

Notice is hereby given that a copy of the Initial Order and the application materials are posted on the Monitor's website at: <https://kpmg.com/ca/IgniteGroup>.

The Monitor will post additional relevant information and documentation related to these CCAA proceedings on the Monitor's website as they become available. Interested persons may contact the Monitor directly for further information at:

**KPMG Inc.**  
333 Bay Street, Suite 4600  
Toronto, ON M5H 2S5  
Telephone:  
Toll free within North America: 1-833-365-6600  
Local Phone Number: 416-468-7995  
Email: [ignitegroup@kpmg.ca](mailto:ignitegroup@kpmg.ca)



**EXHIBIT "E"**

referred to in the Affidavit of

**STEPHEN LIVINGSTONE**

Sworn November 1, 2023

DocuSigned by:

*Rania Hammad*

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Commissioner for Taking Affidavits

**PURCHASE AGREEMENT**

**SOUTHAMPTON FINANCIAL INC.**  
as Purchaser

**- and -**

**IGNITE HOLDINGS INC.**  
as Vendor

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## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is made as of the 26<sup>th</sup> day of October, 2023.

AMONG:

SOUTHAMPTON FINANCIAL INC.

("Purchaser")

-and-

IGNITE HOLDINGS INC.

("Vendor")

RECITALS:

- A. Ignite Services Inc. (the "**Company**") is a life and property and casualty insurance retail insurance brokerage which offers home, condo, tenant, personal auto, motorcycle, trailer, leisure, travel and pet insurance products and services, along with the referral of life insurance products and services to third parties (collectively, the "**Business**").
- B. Company and Vendor intend to seek an order (as may be amended from time to time, the "**Initial Order**") from the Ontario Superior Court of Justice (Commercial List) (the "**CCAA Court**") for the Company and Vendor to, among other things, obtain creditor protection under the *Companies' Creditors Arrangement Act* (the "**CCAA**").
- C. Vendor has agreed to sell and transfer to Purchaser, and Purchaser has agreed to purchase from Vendor, all of Vendor's right, title and interest in and to the Purchased Shares, subject to and in accordance with the terms and conditions set forth in this Agreement and the CCAA Proceedings.

NOW THEREFORE, the Parties agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

In this Agreement,

"**Administration Charge**" has the meaning given to it in the Initial Order.

"**Administrative Expense Amount**" means cash in an amount equal to the Administrative Expense Costs and CCAA Charge Amount, to be paid by the Company to the Monitor on the Closing Date out of the cash and cash equivalents of the Company as at the Closing Date and held in trust by the Monitor for the benefit of Persons entitled to be paid the Administrative Expense Costs and CCAA Charge Amount, subject to the terms hereof.

"**Administrative Expense Costs**" means the reasonable and documented fees and costs of the Monitor and its professional advisors and professional advisors of the Company and Residual Co. in each case for services performed prior to and, other than in respect of the Company, after the Closing Date, in each case, relating directly or indirectly to the CCAA Proceedings, and this Agreement and including (i) costs required to wind down and dissolve

or bankrupt Residual Co.; and (ii) costs and expenses required to administer the Excluded Assets, Excluded Liabilities, and Residual Co.

**“Affiliate”** means, with respect to any specified Person, any other Person which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, “control” (including, with correlative meanings, the terms **“controlling,” “controlled by”** and **“under common control with”**), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise). For greater certainty, an Affiliate of a Person shall include such Person’s investment funds and managed accounts and any funds managed or directed by the same investment advisor. Notwithstanding the above, Purchaser and its Affiliates, on one hand, and the Company and Residual Co., on the other hand, shall not be considered Affiliates of each other for the purposes of this Agreement.

**“Agreement”** means this purchase agreement and all attachments, Schedules and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions **“hereof,” “herein,” “hereto,” “hereunder,” “hereby”** and similar expressions refer to this purchase agreement and all attached Exhibits, and unless otherwise indicated, references to Articles, Sections, Schedules and Exhibits are to Articles, Sections, Schedules and Exhibits in this purchase agreement.

**“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including common law and civil law), statute, ordinance, rule, regulation, restriction, limit, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the Transaction, Company, Vendor, Purchaser, the Business, any of the Purchased Shares or any of the Retained Liabilities.

**“Business”** has the meaning given to such term in Recital A.

**“Business Day”** means any day, other than a Saturday or Sunday, on which the principal commercial banks in Toronto, Ontario are open for commercial banking business during normal banking hours.

**“Capital Contribution”** has the meaning given to such term in Section 2.8(a)(iii).

**“Capitalization Steps”** has the meaning given to such term in Section 2.8(a).

**“Causes of Action”** means any action, claim, cross claim, third-party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise, of the Company against any Person, in each case based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Closing Time (which Causes of Action for the avoidance of doubt shall be retained by the Company on Closing).



“**CCAA**” has the meaning given to such term in Recital B.

“**CCAA Charge Amount**” means cash in an amount sufficient to satisfy the amounts owing in respect of obligations secured by the CCAA Charges (without duplication to amounts satisfied as Administrative Expense Costs, Employee Priority Claims or Priority Payments).

“**CCAA Charges**” means the Administration Charge, the DIP Lender’s Charge and the Directors’ Charge.

“**CCAA Court**” has the meaning given to such term in Recital B.

“**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Company and Vendor pursuant to the Initial Order.

“**Claims**” means any and all demands, claims, liabilities, actions, causes of action, counterclaims, expenses, costs, damages, losses, suits, debts, sums of money, refunds, accounts, indebtedness, rights of recovery, rights of set-off, rights of recoupment and liens of whatever nature (whether direct or indirect, absolute or contingent, asserted or unasserted, secured or unsecured, matured or not yet matured due or to become due, accrued or unaccrued or liquidated or unliquidated) and including all costs, fees and expenses relating thereto.

“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means a date no later than five (5) Business Days after the conditions set forth in Article 7 have been satisfied or waived, other than the conditions set forth in Article 7 that by their terms are to be satisfied or waived at the Closing (or such other date agreed to by the Parties in writing); provided that, if there is to be a Closing hereunder, then the Closing Date shall be no later than the Outside Date.

“**Closing Documents**” means all Contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing.

“**Closing Time**” means 10:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

“**Company**” has the meaning given to such term in the preamble to this Agreement.

“**Contract**” means any contract, agreement, lease (including any offer to lease or any sublease), license, commitment, understanding or other arrangement, whether written or oral.

“**Deposit**” has the meaning given to such term in Section 3.2(a).

“**DIP Lender’s Charge**” has the meaning given to it in the Initial Order.

“**Directors Charge**” has the meaning given to it in the Initial Order.

“**Employee Priority Claims**” means any Claim for (i) unpaid priority costs for any of the Terminated Employees whose employment is terminated between the Filing Date and up to and including the Closing Date, and (ii) unpaid amounts provided for in Section 6(5)(a) of the CCAA.

**“Encumbrance”** means any security interest (whether contractual, statutory or otherwise), lien, prior claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, trust (including any statutory, deemed or constructive trust), option or adverse claim or encumbrance of any nature or kind.

**“Equity Interests”** means any capital share, capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or nonvoting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights) of a Person.

**“Excluded Assets”** has the meaning given to such term in Section 2.2.

**“Excluded Contracts”** means the Contracts of the Company specified on Schedule 2.2(b).

**“Excluded Liabilities”** has the meaning given to such term in Section 2.4.

**“Filing Date”** means October 30, 2023.

**“Final Order”** means with respect to any order or judgment of the CCAA Court, or any other court of competent jurisdiction or arbitrator or panel of arbitrators, with respect to the subject matter addressed in the CCAA Proceedings or the docket of any court of competent jurisdiction or arbitration proceeding administered by any arbitrator or panel of arbitrators, that such order or judgment has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to Vendor, and Purchaser, as the case may be, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

**“Fundamental Representations and Warranties of Purchaser”** means the representations and warranties of Purchaser included in Sections 5.1 (*Due Authorization and Enforceability of Obligations*), 5.2 (*Existence and Good Standing*), and 5.4 (*Absence of Conflicts*).

**“Fundamental Representations and Warranties of Vendor”** means the representations and warranties of Vendor included Sections 4.1 (*Due Authorization and Enforceability of Obligations*), 4.2 (*Existence and Good Standing*), 4.7 (*Ownership of Purchased Shares, etc.*), 4.8 (*Residence*), and 4.9 (*Subsidiaries*).

**“Governmental Authority”** means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them, or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

**“IFRS”** means the International Financial Reporting Standards, at the relevant time, applied on a consistent basis.

**“Initial Order”** has the meaning given to such term in Recital B.

**“Insurance Regulators”** means the Registered Insurance Brokers of Ontario, the Financial Services Regulatory Authority of Ontario, the Insurance Council of British Columbia and the Alberta Insurance Council.

**“Inter-Company Agreements”** has the meaning given to such term in Schedule 1.1.

**“Intercompany Claim”** means any claim that may be asserted against the Company by or on behalf of (i) any the Company’s Affiliates, (ii) Katstan, or (iii) any Person that holds Equity Interest in Katstan, but for greater certainty excludes the Intercompany Loan.

**“Intercompany Loan”** means the contingent indebtedness in an aggregate amount of \$ [REDACTED] owing by the Company to Vendor, represented by an interest free, adjustable promissory note to be issued by the Company in favour of Vendor as part of the Pre-Closing Implementation Steps in the form attached as Exhibit A hereto (the **“Adjustable Promissory Note”**).

**“Katstan”** means Katstan & Co. Inc.

**“KPMG CF”** means KPMG Corporate Finance Inc.

**“Lien”** means any lien, mortgage, pledge, hypothecation, prior claim, charge, security interest, right of first refusal, right of first offer, option, license, transfer restriction or encumbrance of any kind or nature whatsoever.

**“Material Adverse Effect”** means any effect, change, event, fact, development or occurrence that, individually or in the aggregate, (i) has had or could reasonably be expected to have a material adverse effect on the assets, business, condition (financial or otherwise), prospects, liabilities or results of operations of the Company or (ii) is reasonably likely to prevent or materially impair or delay the ability of Vendor to timely perform any of its obligations hereunder or any of the Closing Documents or to timely consummate the Transactions; provided, however, that for purposes of clause (i) above, none of the following (either alone or in combination) shall be deemed to constitute or be taken into account in determining whether there has been a Material Adverse Effect: (a) any acts of war, terrorism or armed hostilities, (b) any changes in Applicable Law or IFRS after the date hereof, (c) any changes affecting the Canadian or global economy or the insurance brokerage industry generally (including changes resulting from the virus known as COVID-19 (including any variants of the same)), (d) the CCAA Proceedings or any matter related thereto, or (e) the financial condition of the Company or the Business, including any failure by the Company or the Business to meet any internal forecasts, projections, or earnings guidance or expectations, except, in the case of the foregoing clauses (a), (b), and (c), to the extent any of the matters referred to therein has had or could reasonably be expected to have a disproportionate adverse effect on the assets, business, condition (financial or otherwise), prospects, liabilities or results of operations of the Company relative to other companies in the industries in which the Company conducts business.

**“Material Contracts”** means the contracts listed in Schedule 1.1, and **“Material Contract”** means any one of them.

**“Monitor”** means KPMG Inc., as Court-appointed monitor of the Company and Vendor in the CCAA Proceedings and not in its personal or corporate capacity.

**“Monitor’s Certificate”** means the certificate delivered to Purchaser and filed with the CCAA Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from Vendor and Purchaser that all conditions to Closing have been satisfied or waived by the applicable Parties and the Transaction has been completed.

**“Order”** means any order of the Court made in the CCAA Proceedings, or any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

**“Ordinary Course”** means, when used in relation to the taking of any action by any Person, that such action:

- (a) is consistent in nature, scope and magnitude with the past practices (including using commercially reasonable efforts to preserve intact relationships with clients, insurance companies and key employees) of such Person and is taken in the ordinary course of normal day-to-day operations of such Person;
- (b) is similar in nature, scope and magnitude to actions (including using commercially reasonable efforts to preserve intact relationships with clients, insurance companies and key employees) customarily taken in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business as such Person; and
- (c) does not require the authorization of the shareholders of such Person or any other separate or special authorization of any nature or kind.

**“Organizational Documents”** means, with respect to any Person that is not a natural person, the organizational, constating or governing documents or instruments by which such Person establishes its legal existence or which govern its internal affairs (including, in respect of a Person which is a corporation, its articles and by-laws or equivalent constitutional documents).

**“Outside Date”** means December 7, 2023, or such later date as may be determined by the Parties in writing, but in any event provided that, if, on December 7, 2023, the condition set forth in Section 7.2(h) is the only condition in Article 7 that has not been satisfied or waived, other than the conditions set forth in Article 7 that by their terms are to be satisfied or waived at the Closing (or such other date agreed to by the Parties in writing), but the Parties are complying with their obligations in Section 8.2(g), the Parties shall in good faith determine such a later date as reasonable in the circumstances, but in no event shall such later date be later than January 31, 2024, and once such later date is determined in writing by the Parties, the Parties shall be under no further obligation to determine any further Outside Date in the event the condition under Section 7.2(h) is not satisfied or waived on or before such later date.

**“Parties”** means Vendor and Purchaser collectively, and **“Party”** means any one of Vendor, and Purchaser, as the context requires.

**“Permitted Encumbrances”** means the Encumbrances listed in Schedule 1.1(a).

**“Person”** includes an individual, partnership, firm, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, entity, corporation, unincorporated association, or organization, syndicate, committee, court appointed representative, the government of a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality, or department of such government or political subdivision, or any other entity, howsoever designated or constituted, including any

Taxing Authority, and the trustees, executors, administrators, or other legal representatives of an individual, and for greater certainty includes any Governmental Authority.

**“Personal Information”** means information about an identifiable individual as defined in Privacy Laws.

**“Post-Closing Straddle Tax Period”** has the meaning given to such term in Section 8.3(e).

**“Post-Filing Claim”** or **“Post-Filing Claims”** means any or all indebtedness, liability, or obligation of the Company of any kind that arises during and in respect of the period commencing on the Filing Date and ending on the day immediately preceding the Closing Date in respect of services rendered or supplies provided to the Company during such period; provided that, for certainty, such amounts do not constitute a Restructuring Period Claim or a Restructuring Period D&O Claim.

**“Pre-Closing Implementation Steps”** has the meaning given to such term in Section 2.7(c).

**“Pre-Closing Straddle Tax Period”** has the meaning given to such term in Section 8.3(e).

**“Pre-Closing Tax Period”** means any Tax period ending on or prior to the Closing Date and any Pre-Closing Straddle Tax Period.

**“Priority Payments”** means those priority payments prescribed under subsections 6(3), 6(5) and 6(6) of the CCAA, and the amounts owing under the Employee Priority Claims, and including those amounts identified in the Pre-Closing Implementation Steps.

**“Privacy Laws”** means Applicable Law relating to the collection, access, use, storage, processing, transfer, disclosure, disposal, and protection of Personal Information, including the *Personal Information Protection and Electronic Documents Act* (Canada), and any comparable Applicable Law of any other province or territory of Canada.

**“Purchase Price”** has the meaning given to such term in Section 3.1.

**“Purchased Shares”** has the meaning given to such term in Section 2.1(a).

**“Purchaser”** has the meaning given to such term in the preamble to this Agreement.

**“Purchaser Material Adverse Effect”** means any effect, change, event, fact, development or occurrence that, individually or in the aggregate, (i) has had or could reasonably be expected to have a material adverse effect on the assets, business, condition (financial or otherwise), prospects, liabilities or results of operations of Purchaser or (ii) is reasonably likely to prevent or materially impair or delay the ability of Purchaser to timely perform any of its obligations hereunder or any of the Closing Documents or to timely consummate the Transactions; provided, however, that for purposes of clause (i) above, none of the following (either alone or in combination) shall be deemed to constitute or be taken into account in determining whether there has been a Purchaser Material Adverse Effect: (a) any acts of war, terrorism or armed hostilities, (b) any changes in Applicable Law or Canadian accounting standards for private enterprises from time to time approved by the Chartered Professional Accountants of Canada after the date hereof, (c) any changes affecting the Canadian or global economy or the insurance brokerage industry generally (including changes resulting from the virus known as COVID-19 (including any variants of the same)), or (d) the CCAA Proceedings or any matter related thereto, except, in the case of the foregoing clauses (a), (b) and (c), to the extent any of the matters referred to therein has had or could reasonably be expected to have a

disproportionate adverse effect on the assets, business, condition (financial or otherwise), prospects, liabilities or results of operations of Purchaser relative to other companies in the industries in which Purchaser conducts business.

**“Released Claims”** means all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including “claims” as defined in the CCAA and including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

**“Residual Co.”** means a company to be formed by Vendor, such entity in form satisfactory to Purchaser, acting reasonably, prior to the Closing; provided, that no such entity shall be a flow-through entity for Canadian purposes unless approved by Purchaser.

**“Restructuring Period Claim”** means any Claim owed by the Company arising out of the restructuring, disclaimer, resiliation, termination or breach by the Company on or after the Filing Date of any Contract, lease or other agreement, whether written or oral.

**“Restructuring Period D&O Claim”** means any Claim against one or more of the directors or officers of the Company arising after the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any assessments and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of such directors or officers with respect to any matter, action, cause or chose in action, whether existing at present or arising or commenced in the future, for which any such director or officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a director or officer.

**“Retained Liabilities”** has the meaning given to such term in Section 2.3.

**“Set-Off Agreement”** has the meaning given to such term in Section 11.2(m).

**“Straddle Period”** has the meaning given to such term in Section 8.3(e).

**“Tax”** and **“Taxes”** means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Taxing Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, escheat, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario and other government pension plan premiums or contributions.

**“Tax Act”** means the *Income Tax Act* (Canada) and shall also include a reference to any applicable and corresponding provisions under the income tax laws of a province or territory of Canada, as applicable.

**“Tax Return”** means any return, declaration, report, statement, information statement, form, election, amendment, claim for refund, schedule or attachment thereto or other document filed or required to be filed with a Taxing Authority with respect to Taxes.

**“Taxing Authority”** means His Majesty the King in right of Canada, His Majesty the King in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, the United States Internal Revenue Service, any similar revenue or taxing authority of the U.S. and each and every state and locality of the U.S., and any Canadian, U.S. or other Governmental Authority exercising taxing authority or power, and **“Taxing Authority”** means any one of the Taxing Authorities.

**“Terminated Employees”** means, collectively, the individuals employed by the Company, who have been designated, in writing, by Purchaser as terminated employees at least five (5) Business Days prior to Closing, provided that Purchaser shall not be entitled to designate more than five (5) individuals as terminated employees.

**“Termination Claim”** means any Claim directly relating to the termination of an employee of the Company on or prior to Closing, including all obligations, duties, commitments or liabilities to any terminated employee of the Company including wages, salary, compensation, benefits, vacation pay, holiday pay, sick pay, overtime pay, retention pay, bonuses, commissions, deferred compensation, pensions, profit sharing, other post-employment retirement obligations, liabilities for participation in any benefit plans or equity-based compensation plans maintained by or for the Company, termination pay, severance pay, pay in lieu of notice (whether statutory, contractual or common law), wrongful dismissal damages, costs related to the termination of employment, change of control liabilities, golden parachute payments, human rights damages, and any and all other liabilities or obligations with respect to such terminated employees relating to facts, circumstances or events which relate to, arise from, occurred on or prior to the Closing Date.

**“Transaction”** means the transactions contemplated by this Agreement, including the purchase and sale of the Purchased Shares and the Pre-Closing Implementation Steps.

**“Vesting Order”** means an order of the CCAA Court in a form to be mutually agreed upon by Purchaser and Company, each acting reasonably, which order provides for, *inter alia*, the approval of this Agreement and the Transactions.

## 1.2 Statutes

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended, re-enacted or replaced.

### **1.3 Headings, Table of Contents, etc.**

The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect the interpretation of this Agreement. The recitals to this Agreement are an integral part of this Agreement.

### **1.4 Gender and Number**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, and words importing gender include all genders.

### **1.5 Currency**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian dollars. References to "\$" are to Canadian dollars.

### **1.6 Certain Phrases**

In this Agreement (i) the words "including", "includes" and "include" and any derivatives of such words mean "including (or includes or include) without limitation" and (ii) the words "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". The expression "Article", "Section" and other subdivision followed by a number, mean and refer to the specified Article, Section or other subdivision of this Agreement.

### **1.7 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the Transaction is not affected in any manner materially adverse to any Party. Upon (i) such a determination of invalidity or unenforceability; or (ii) any change in Applicable Law or other action by any Governmental Authority which materially detracts from the legal or economic rights or benefits, or materially increases the obligations, of any Party or any of its Affiliates under this Agreement, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the Transaction be consummated as originally contemplated to the fullest extent possible.

### **1.8 Knowledge**

Any reference to the knowledge of (i) Vendor, means the actual knowledge, after reasonable inquiry of Stephen Livingstone, and (ii) Purchaser, means the actual knowledge, after reasonable inquiry, of Brian Reeve.

### **1.9 Entire Agreement**

This Agreement and the Closing Documents, constitute the entire agreement among the Parties, and set out all the covenants, promises, warranties, representations, conditions and agreements among the Parties in connection with the subject matter of this Agreement, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral among the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and any Closing Document.



### **1.10 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by Vendor and Purchaser, and provided that such amendment is consented to by the Monitor. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **1.11 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any Claim or controversy directly or indirectly based upon or arising out of this Agreement or the Transaction (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. Subject to the terms of Section 12.2, the Parties consent to the jurisdiction and venue of the CCAA Court for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of process on such Party as provided in Section 12.6 shall be deemed effective service of process on such Party.

### **1.12 Incorporation of Schedules and Exhibits**

Any schedule or exhibit attached thereto, and any schedule or exhibit attached to this Agreement, is an integral part of this Agreement.

### **1.13 Accounting Terms**

All accounting terms used in this Agreement are to be interpreted in accordance with IFRS unless otherwise specified.

### **1.14 Non-Business Days**

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

### **1.15 Computation of Time Periods**

If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted.

## **ARTICLE 2 PURCHASE AND SALE**

### **2.1 Agreement to Purchase the Purchased Shares**

- (a) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, and subject to the completion of the Pre-Closing Implementation Steps required to be completed prior to the Closing Time, Purchaser shall purchase from Vendor, all of the issued and outstanding shares in the capital of the Company (collectively, the "**Purchased Shares**").

- (b) For the avoidance of doubt, upon the Closing and after completion of the Pre-Closing Implementation Steps, Company shall be wholly-owned by Purchaser.

## **2.2 Excluded Assets**

Notwithstanding any provision of this Agreement to the contrary, as of the Closing, the assets of the Company shall not include any of the following assets (collectively, the “**Excluded Assets**”):

- (a) the Administrative Expense Amount;
- (b) the Excluded Contracts;
- (c) the Capital Contribution;
- (d) all communications, information or records, written or oral, that in any way relate to (i) the Transaction prior to Closing among the Company and any of Vendor, its Affiliates, the Monitor and each of their respective financial, legal and other advisors; (ii) any Excluded Asset; or (iii) any Excluded Liability; and
- (e) any rights which accrue to Residual Co. under this Agreement or any Closing Document.

## **2.3 Retained Liabilities**

Pursuant to this Agreement and the Vesting Order, as of the Closing Time, the obligations and liabilities of the Company shall consist solely of the items explicitly listed below (collectively, the “**Retained Liabilities**”); provided, for the avoidance of doubt, that the Retained Liabilities of the Company pursuant to this Section 2.3 shall continue to be liabilities of the Company (and no other Person) as of the Closing; provided further that Company shall take such steps as are reasonably necessary to ensure that any claim that could give rise to responsible person liability is satisfied if the Company is, for any reason, unable to satisfy such claim:

- (a) all Post-Filing Claims;
- (b) all liabilities of the Company arising after Closing that relate to events or circumstances that occurred after Closing;
- (c) all Tax liabilities of the Company other than any Tax liabilities attributable to any Pre-Closing Tax Period; and
- (d) the Intercompany Loan.

## **2.4 Excluded Liabilities**

Except as expressly retained pursuant to or specifically contemplated by Section 2.3, all Claims and all debts, obligations, and liabilities of the Company or any predecessors of the Company, of any kind or nature, shall be assigned and become the exclusive responsibility of Residual Co. pursuant to the terms of the Vesting Order and this Agreement, and, as of the Closing, the Company shall not have any obligation, duty, or liability of any kind whatsoever, except as expressly retained pursuant to Section 2.3, whether accrued, contingent, known or unknown, express or implied, primary or secondary, direct or indirect, liquidated, unliquidated, absolute, accrued, contingent or otherwise, and whether due or to become due, and all such liabilities or obligations shall be the exclusive responsibility of Residual Co., including, *inter alia*, the non-exhaustive list of liabilities set forth in Schedule 2.4, and

any and all liability relating to any change of control provision that may arise in connection with the change of control contemplated by the Transaction and to which the Company may be bound as at Closing, all liabilities relating to or under the Excluded Contracts, and Excluded Assets, liabilities for employees whose employment with Company or its Affiliates is terminated on or before Closing, including the Restructuring Period Claims, and the Restructuring Period D&O Claims (collectively, the **“Excluded Liabilities”**). For avoidance of doubt, Excluded Liabilities (i) shall include (a) all Taxes allocable to any Pre-Closing Tax Period, and (b) any Termination Claims; and (ii) shall not include any debts, obligations, liabilities or Encumbrances that are or are deemed to be an interest in land and, to the extent that any of the Excluded Liabilities listed in Schedule 2.4 hereof is determined by the Court to be an interest in land, and any interest in land shall be deemed to be Retained Liabilities hereunder. Purchaser may, with the consent of the Company, which consent shall not be unreasonably withheld or conditioned, amend the clarifying items listed in Schedule 2.4 as specifically enumerated Excluded Liabilities no later than five (5) Business Days before the Closing Date.

## **2.5 Transfer of Excluded Liabilities to Residual Co.**

On the Closing Date, pursuant to the terms of the Vesting Order, Vendor shall cause the Company to assign and transfer the Excluded Liabilities to Residual Co., and Residual Co. shall irrevocably assume the applicable Excluded Liabilities. All of the Excluded Liabilities shall be fully discharged from the Company at Closing, pursuant to the Vesting Order.

## **2.6 Transfer of Excluded Assets to Residual Co.**

On the Closing Date, pursuant to the terms of the Vesting Order and, where applicable, in consideration for Residual Co. assuming the Excluded Liabilities pursuant to Section 2.5 from the Company, Vendor shall cause the Company to assign and transfer the Excluded Assets to Residual Co. and the Excluded Assets shall be fully vested in Residual Co. pursuant to the Vesting Order.

## **2.7 Pre-Closing and Closing Reorganization**

- (a) The specific mechanism for implementing the Closing, and the structure of the Transaction shall be structured in a tax efficient manner, mutually agreed upon by the Parties, each acting reasonably.
- (b) Vendor shall cause the Company to effect on or prior to the Closing Date all transactions in accordance with all Applicable Laws and Vendor shall consider in good faith any reasonable comments provided by Purchaser to settle all or part of the Intercompany Claims.
- (c) On or prior to the Closing Date, Vendor shall effect and cause the Company to effect the transaction steps and pre-closing reorganization (collectively, the **“Pre-Closing Implementation Steps”**) of the Company as set forth on Schedule 2.7(c) (such Schedule to be agreed upon by Vendor and Purchaser, each acting reasonably, at least seven (7) days prior to the hearing of Vendor’s and the Company’s motion to the CCAA Court seeking the Vesting Order), and each of the Pre-Closing Implementation Steps shall be completed by Vendor and the Company in accordance with all Applicable Laws; provided that in no event will the Pre-Closing Implementation Steps described in Schedule 2.7(c) impair or delay the satisfaction of all other conditions to Closing set out in Article 7 or be materially prejudicial to the interests of the Company, Purchaser or Vendor under the other sections of this Agreement. The Pre-Closing Implementation Steps may include, the formation of new entities required to implement the Transaction in a Tax efficient manner consistent with Section 2.7(a).

- (d) Pre-Closing Implementation Steps shall occur, and be deemed to have occurred in the order and manner to be set out in Schedule 2.7(c).
- (e) The steps to be taken and the compromises and releases to be effective on the Closing Date are deemed to occur and be effected in the steps and sequential order set forth in Schedule 2.7(c), beginning on or before the Closing Date at such time as is specified therein.

## 2.8 Capitalization of Company

- (a) On the Closing Date but prior to the Closing Time, the following transactions shall be completed by the applicable Parties set out below (the “**Capitalization Steps**”):
  - (i) Purchaser shall pay or cause to be paid to Vendor \$ [REDACTED] (the “**Vendor Loan**”) by wire transfer of immediately available funds, as a demand, non-interest bearing loan, for the purpose of Vendor using the Vendor Loan to subscribe for Common shares in the capital of the Company, issued from treasury, as set out in Section 2.8(a)(iii) below;
  - (ii) Vendor shall deliver an interest-free, promissory note in favour of Purchaser, in the form and substance agreed to between Vendor and Purchaser, each acting reasonably, in the principal amount of \$ [REDACTED] (the “**Promissory Note**”), representing the Vendor Loan;
  - (iii) Vendor shall use the Vendor Loan to subscribe for 10,000,000 Common shares in the capital of the Company issued from treasury for an aggregate subscription price equal to [REDACTED] (the “**Capital Contribution**”); and
  - (iv) Vendor shall cause the Company to direct Vendor to pay the Capital Contribution to the Monitor for the benefit of Residual Co.

## ARTICLE 3 PURCHASE PRICE AND RELATED MATTERS

### 3.1 Purchase Price

The aggregate purchase price payable by Purchaser for the Purchased Shares shall be [REDACTED] (the “**Purchase Price**”).

### 3.2 Deposit

- (a) Purchaser shall pay on the date hereof a refundable deposit in the amount of [REDACTED], representing [REDACTED] % of the Purchase Price, to Stikeman Elliott LLP, in trust (the “**Deposit**”).
- (b) Promptly upon issuance of the Initial Order and appointment of the Monitor by the Court pursuant to the Initial Order, the Vendor shall cause Stikeman Elliott LLP to pay the Deposit to the Monitor, in trust.
- (c) Concurrent with the Purchaser’s payment of the Vendor Loan, the full amount of the Deposit shall be immediately returned by the Monitor to Purchaser or as otherwise directed, in writing, by the Purchaser.

- (d) If Closing of the Transaction does not occur, the right to the Deposit shall be determined in accordance with Section 10.2 hereof.

### **3.3 Satisfaction of Purchase Price**

The Purchase Price for the Purchased Shares shall be considered fully and finally satisfied by way of set off against the Vendor Loan, and Vendor and Purchaser acknowledge and agree, that following the set off of the Purchase Price and the Vendor Loan, no amount shall be outstanding between the Parties in connection with the Vendor Loan, and the Promissory Note shall be cancelled effective as at the Closing Time.

### **3.4 Contribution Intercompany Loan**

At the Closing Time, Vendor shall contribute, as a capital contribution to Residual Co, Vendor's contingent right to receive payment, if any, under the Intercompany Loan to Residual Co.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF VENDOR**

Vendor represents and warrants to Purchaser as follows, and acknowledges that Purchaser is relying upon the following representations and warranties in connection with its purchase of the Purchased Shares:

### **4.1 Due Authorization and Enforceability of Obligations**

Subject to the granting of the Initial Order and the Vesting Order, this Agreement and each Closing Document by which Vendor or Company is party have been duly authorized, executed and delivered by Vendor and Company party thereto and (assuming due authorization, execution and delivery by the other parties hereto and thereto) constitutes a legal, valid and binding obligation of Vendor or the Company party thereto, enforceable against Vendor and the Company party thereto in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

### **4.2 Existence and Good Standing**

Each of Vendor and Company is validly existing and in good standing under the laws of the jurisdiction of its incorporation, and (i) has all requisite power and authority to execute and deliver this Agreement and each Closing Document to which it is party; and (ii) has taken all requisite corporate or other action necessary for it to execute and deliver this Agreement and each Closing Document to which it is party, and to perform its obligations under the Agreement and each Closing Document to which it is party, including the consummation of the Transaction.

### **4.3 Sophisticated Party**

Vendor (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement; (ii) has conducted its own analysis and made its own decision to enter into this Agreement and has obtained such independent advice in this regard as it deems

appropriate; and (iii) has not relied on the analysis or decision of any Person other than its own independent advisors.

#### **4.4 Absence of Conflicts**

The execution and delivery by Vendor of this Agreement and each Closing Document to which it is party, and the execution and delivery by the Company of each Closing Document to which it is party, and the completion by Vendor and the Company of each of their respective obligations under Agreement and each Closing Document to which it is party and the consummation of the Transaction (i) do not and will not violate or conflict with any Applicable Law and (ii) will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under the certificate of incorporation, articles, by-laws or other constituent documents of Vendor or Company. Subject to the granting of the Initial Order and the Vesting Order, the execution, delivery and performance by Vendor of this Agreement does not and will not violate any Order.

#### **4.5 Approvals and Consents**

Except as set out in Schedule 4.5, the execution and delivery of this Agreement by Vendor, along with each Closing Document to which Vendor or Company is party, and the completion by Vendor and Company of each of their respective obligations under the Agreement and each Closing Document to which it is party, and the consummation by Vendor and Company of the Transaction, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as may be required in connection with the CCAA Proceedings, including the entry of the Initial Order and the Vesting Order by the CCAA Court.

#### **4.6 No Actions**

There is not, as of the date hereof, pending or, to the knowledge of Vendor, threatened against Vendor or Company or any of its properties, nor has Vendor or Company received any written notice in respect of, any claim, potential claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority, arbitrator, panel of arbitrators, or legislative body, other than the CCAA Court, that would prevent Vendor from executing and delivering this Agreement or performing its obligations hereunder or prevent Vendor or Company from consummating the Transaction.

#### **4.7 Ownership of Purchased Shares, etc.**

Vendor owns beneficially and of record, and has good and valid title to the Purchased Shares, free and clear of all Liens other than transfer restrictions generally imposed by applicable securities laws and in the Organizational Documents of Company. No Person other than Purchaser has, or has any right capable of becoming, any agreement, option, right or privilege for the purchase or other acquisition from Vendor of any of the Purchased Shares. The Purchased Shares owned by Vendor have been validly issued in compliance with Applicable Law and are fully paid and non-assessable.

#### **4.8 Residence**

Vendor is not a non-resident of Canada within the meaning of the Tax Act.

#### **4.9 Subsidiaries**

Except as disclosed in Schedule 4.9, the Company does not have any subsidiaries.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants to Vendor as follows, and acknowledges that Vendor is relying upon the following representations and warranties in connection with the sale of the Purchased Shares:

#### **5.1 Due Authorization and Enforceability of Obligations**

This Agreement and each Closing Document by which it is bound has been duly authorized, executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery by it, this Agreement constitutes a legal, valid and binding obligation of it, enforceable against it (assuming due authorization, execution and delivery by the other parties hereto and thereto) in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

#### **5.2 Existence and Good Standing**

Purchaser is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this Agreement and each Closing Document by which it is bound and to perform its obligations hereunder and consummate the Transaction.

#### **5.3 Sophisticated Party**

Purchaser (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement; (ii) has had the opportunity to conduct and has conducted its own analysis, review, investigation, inspection and due diligence with respect to the Business, the Company and the Purchased Shares, and has made its own decision to enter into this Agreement and has obtained such independent advice in this regard as it deems appropriate; and (iii) has not relied on the analysis, review, investigation, inspection, due diligence or decision of any Person other than its own independent advisors.

#### **5.4 Absence of Conflicts**

The execution and delivery of this Agreement by Purchaser and each Closing Document by which it is bound and the completion by Purchaser of its obligations hereunder and thereunder and the consummation of the Transaction do not and will not violate or conflict with any Applicable Law, or any of its properties or assets, and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, articles, by-laws or other constituent documents.

#### **5.5 Approvals and Consents**

The execution and delivery of this Agreement by Purchaser each Closing Document by which it is bound and the completion by Purchaser of its obligations hereunder and thereunder and the consummation by Purchaser of the Transaction, do not and will not require any consent or approval

or other action, with or by, any Governmental Authority, other than the granting of the Initial Order and the Vesting Order by the CCAA Court.

#### **5.6 No Actions**

There is not, as of the date hereof, pending or, to the knowledge of Purchaser, threatened against it or any of its properties, nor has Purchaser received notice in respect of, any claim, potential claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority, arbitrator, panel of arbitrators, or legislative body, other than the CCAA Court, that, would prevent it from executing and delivering this Agreement, performing its obligations hereunder or consummating the Transaction.

#### **5.7 Accredited Investor**

Purchaser is an “accredited investor”, as such term is defined in NI 45-106, and it was not created or used solely to purchase or hold securities as an accredited investor as described in paragraph (m) of the definition of “accredited investor” in NI 45-106. The Purchased Shares are being acquired by Purchaser for its own account, and not with a view to, or for the offer or sale in connection with, any public distribution or sale of the Purchased Shares or any interest in them.

#### **5.8 Availability of Funds**

Purchaser has and will have at Closing sufficient unrestricted funds and financial capacity to pay the Deposit and the Vendor Loan in accordance with this Agreement.

#### **5.9 Residence**

Purchaser is not a non-resident of Canada within the meaning of the Tax Act.

### **ARTICLE 6 AS IS, WHERE IS**

Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Shares, the Retained Liabilities and all related operations of the Company, and, based solely thereon and the advice of its financial, legal and other advisors, has determined to proceed with the Transaction. Purchaser has relied solely on the results of its own independent investigation and verification and, except for the representations and warranties of Vendor expressly set forth in Article 4, Purchaser understands, acknowledges and agrees that all other representations, warranties, guarantees, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Company or the Business, or the quality, quantity or condition of the Purchased Shares) are specifically disclaimed by the Company, its financial and legal advisors, KPMG CF, and the Monitor and its legal counsel. PURCHASER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF VENDOR EXPRESSLY AND SPECIFICALLY SET FORTH IN ARTICLE 4: (A) PURCHASER IS ACQUIRING THE PURCHASED SHARES ON AN “AS IS, WHERE IS” BASIS; AND (B) NONE OF THE COMPANY, VENDOR, KPMG CF, THE MONITOR OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF THE COMPANY OR THE MONITOR WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND PURCHASER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, GUARANTEES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE COMPANY, THE BUSINESS, THE PURCHASED SHARES, THE RETAINED LIABILITIES, THE



EXCLUDED ASSETS, THE EXCLUDED LIABILITIES, THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) PURCHASER OR ANY OF ITS REPRESENTATIVES, INCLUDING WITH RESPECT TO MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, GUARANTEES, STATEMENTS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAWS IN ANY JURISDICTION, WHICH PURCHASER CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY PURCHASER. Notwithstanding anything herein to the contrary, the terms of this Article 6 shall not apply to any fraudulent or intentional misrepresentation or any fraud on the part of the Company, Vendor, or any of their respective Affiliates or representatives.

## **ARTICLE 7 CONDITIONS**

### **7.1 Conditions for the Benefit of Purchaser and Vendor**

The respective obligations of the Parties to consummate the Transaction are subject to the satisfaction of, or compliance with, or waiver by the Parties of, at or prior to the Closing Time, each of the following conditions:

- (a) *No Law* – no provision of any Applicable Law and no Order preventing or otherwise frustrating the consummation of the purchase of the Purchased Shares or any of the other transactions pursuant to this Agreement shall be in effect; and
- (b) *Final Order* – the Vesting Order shall have been issued and entered in accordance with all Applicable Laws.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of Vendor and Purchaser.

### **7.2 Conditions for the Benefit of Purchaser**

The obligation of Purchaser to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver by Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Purchaser):

- (a) *Performance of Covenants* – The covenants contained in this Agreement to be performed or complied with by Vendor at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – (i) the Fundamental Representations and Warranties of Vendor shall be true and correct in all respects as of the Closing Date, as if made at and as of such date (except for *de minimus* inaccuracies); and (ii) all other representations and warranties of Vendor contained in Article 4, shall be true and correct in all respects as of the Closing Date, as if made at and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not, in the aggregate, have a Material Adverse Effect;
- (c) *Officer's Certificate* – Purchaser shall have received a certificate confirming the satisfaction of the conditions contained in Sections 7.2(a) (*Performance of Covenants*)

and 7.2(b) (*Truth of Representations and Warranties*), signed for and on behalf of Vendor without personal liability by a senior officer or director of Vendor acceptable to Purchaser, in form and substance reasonably satisfactory to Purchaser;

- (d) *Vendor Deliverables* – Vendor shall have delivered, or caused Company to have delivered, to Purchaser all of the deliverables contained in Section 11.2 in form and substance reasonably satisfactory to Purchaser;
- (e) *Pre-Closing Implementation Steps* – The Company shall have completed the Pre-Closing Implementation Steps that are required to be completed prior to Closing, in form and substance reasonably acceptable to Purchaser, acting reasonably;
- (f) *Terminated Employees* – The Company shall have delivered termination letters to each of the Terminated Employees, each in a form and substance agreeable to Vendor and Purchaser, acting reasonably, effective upon Closing, and any Termination Claim arising from or related thereto, shall be Excluded Liabilities which, pursuant to the Vesting Order, shall be assigned and transferred from Company to Residual Co;
- (g) *Capitalization of Company* – Vendor and Company shall have completed the Capitalization Steps prior to Closing, in form and substance reasonably acceptable to Purchaser, acting reasonably; and
- (h) *Absence of Regulatory Concerns* – No Insurance Regulator has suspended or terminated, or reasonably appears likely to imminently suspend or terminate, any material license or authorization held by Company, and the Parties, acting in accordance with Section 8.2(g), have not been able to avoid any such suspension or termination or have any such suspension or termination lifted, reversed or cancelled.

### **7.3 Conditions for the Benefit of Vendor**

The obligation of Vendor to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver where applicable by Vendor of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Vendor):

- (a) *Performance of Covenants* – The covenants contained in this Agreement to be performed or complied with by Purchaser at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* — (i) The Fundamental Representations and Warranties of Purchaser shall be true and correct in all respects as of the Closing Date, as if made at and as of such date (except for *de minimus* inaccuracies); and (ii) all other representations and warranties of Purchaser contained in Article 5 shall be true and correct in all respects as of the Closing Date, as if made at and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not, in the aggregate, have a Purchaser Material Adverse Effect;
- (c) *Officer's Certificate* – Vendor shall have received a certificate confirming the satisfaction of the conditions contained in Sections 7.3(a) (*Performance of Covenants*) and 7.3(b) (*Truth of Representations and Warranties*) signed for and on behalf of Purchaser without personal liability by a senior officer or director of Purchaser or other

Persons acceptable to Vendor, in each case, in form and substance satisfactory to Vendor; and

- (d) *Purchaser Deliverables* – Purchaser shall have delivered to Vendor all of the deliverables contained in Section 11.3 in form and substance satisfactory to Vendor, acting in a commercially reasonable manner.

## **ARTICLE 8 ADDITIONAL AGREEMENTS OF THE PARTIES**

### **8.1 Access to information**

Until the Closing Time, Vendor shall, and shall cause the Company to, give to Purchaser's personnel engaged in the Transaction and their accountants, legal advisers, consultants, financial advisers and representatives during normal business hours reasonable access to the Company's premises and to all of the books, records, and other information relating to the Business, the Purchased Shares, the Company, the Retained Liabilities and the employees, and shall furnish them with all such information relating to the Business, the Purchased Shares, the Company, the Retained Liabilities and the employees as Purchaser may reasonably request in connection with the Transaction; provided that such access shall be conducted at Purchaser's expense, in accordance with Applicable Law and under supervision of Company's personnel and in such a manner as to maintain confidentiality, and Vendor will not be required to provide access to or copies of any such books and records that are Excluded Assets or if making such information available would: (i) result in the loss of any lawyer-client or other legal privilege; or (ii) cause Vendor or the Company to be found in contravention of any Applicable Law, or contravene any fiduciary duty or agreement (including any confidentiality agreement to which Company or Vendor or any of its Affiliates are a party). Notwithstanding anything in this Section 8.1 to the contrary, any such investigation shall be conducted upon reasonable advance notice and in such manner as does not materially disrupt the conduct of the Business or the possible sale thereof to any other Person.

### **8.2 Covenants Relating to this Agreement**

- (a) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, cooperate with the other Party in connection therewith and do all such other acts and things as may be reasonable necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the Transaction and, without limiting the generality of the foregoing, from the date hereof until the Closing Date, each Party shall and, where appropriate, shall cause each of its Affiliates to:
  - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities or third Persons in connection therewith), and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the Transaction; and
  - (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Transaction.

- (b) Vendor and Purchaser each agree to execute and deliver, and Vendor agrees to cause the Company to execute and deliver, such other documents, certificates, agreements and other writings, reasonably necessary for the consummation of the Transaction, and to take such other actions reasonably necessary to consummate or implement the Transaction as soon as reasonably practicable.
- (c) From the date hereof until the Closing Date, Vendor hereby agrees to or cause its professional advisors to promptly notify Purchaser if it becomes aware of (i) any event, condition, or development that has resulted in the inaccuracy in a material respect or material breach of any representation or warranty, covenant or agreement contained in this Agreement; or (ii) any Material Adverse Effect.
- (d) Vendor and Purchaser agree to use commercially reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain any material third-party consents and approvals as may be required in connection with the Transaction.
- (e) Purchaser shall deliver the Deposit to be held by Stikeman Elliott LLP, in trust, in accordance with Section 3.2(a) hereof.
- (f) From the date hereof until the Closing Date, Vendor shall, and shall cause the Company to:
  - (i) operate in compliance with the cash flow projections filed in the CCAA Proceedings in all material respects;
  - (ii) take all commercially reasonable necessary actions to maintain the permits and licenses of the Company in good standing in all material respects;
  - (iii) not communicate with any Insurance Regulators regarding the Transaction without Purchaser's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed;
  - (iv) not make a material change in the Business as currently conducted;
  - (v) not sell or transfer any assets of the Company, other than in the Ordinary Course of Business; and
  - (vi) not terminate, disclaim, modify in any material respect or otherwise materially amend any Material Contract, other than the Inter-Company Agreements in accordance with the Pre-Closing Implementation Steps, without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned, or delayed.
- (g) In the event that any Insurance Regulator suspends or terminates, or reasonably appears likely to imminently suspend or terminate, any license or authorization held by Company, the Parties will forthwith collaborate in good faith to consider and implement any commercially reasonable actions or steps to seek to avoid any such suspension or termination or have such suspension or termination lifted, reversed or cancelled.

### 8.3 Tax Matters

- (a) Vendor shall prepare all Tax Returns for the Company that are due after the Closing Date in respect of periods ending on or before the Closing Date (other than in respect of any Straddle Period). Vendor shall provide Purchaser with a draft of such Tax Returns thirty (30) days prior to the due date for filing the Tax Returns with the appropriate Taxing Authorities. Purchaser shall have the right to review the draft of the Tax Returns provided to it by Vendor, and Vendor shall consider in good faith any reasonable comments provided by Purchaser, and Vendor shall cooperate with Purchaser and the Company to timely file all such Tax Returns. With respect to the preparation of such Tax Returns, Purchaser and Vendor agree that the Company may deduct any Tax losses (including, for greater certainty, non-capital losses and net capital losses) at Vendor's sole discretion to the extent permitted by Applicable Law.
- (b) Purchaser shall cause the Company to prepare and timely file all Tax Returns for the Company for all Straddle Periods. Purchaser shall provide Vendor with a draft of such Tax Returns at least fifteen (15) days prior to the due date for filing the Tax Returns with the appropriate Taxing Authorities. Vendor shall have the right to review the draft of the Tax Returns provided to it by Purchaser and Purchaser shall consider in good faith any reasonable comments provided by Vendor.
- (c) Vendor agrees to furnish or cause to be furnished to Purchaser and the Company, as promptly as practicable, such information and assistance relating to the Company, the Purchased Shares and the Retained Liabilities as is reasonably necessary for: (i) the preparation and filing of any Tax Return, claim for refund or other required filings relating to Tax matters; (ii) the preparation for and proof of facts during any Tax audit; (iii) the preparation for any Tax protest; (iv) the prosecution of any suit or other proceedings relating to Tax matters; and (v) the answer to any governmental or regulatory inquiry relating to Tax matters.
- (d) Purchaser and Company agree to furnish or cause to be furnished to Vendor and Residual Co., as promptly as practicable, such information and assistance relating to the Company, the Excluded Assets and the Excluded Liabilities as is reasonably necessary for (i) the preparation and filing of any Tax Return, claim for refund or other required filings relating to Tax matters; (ii) the preparation for and proof of facts during any Tax audit; (iii) the preparation for any Tax protest; (iv) the prosecution of any suit or other proceedings relating to Tax matters; and (v) the answer to any governmental or regulatory inquiry relating to Tax matters.
- (e) For all purposes under this Agreement for which it is necessary to apportion taxes in a taxable period which includes (but does not begin or end on) the Closing Date, (a "**Straddle Period**"), all real property Taxes, personal property Taxes and similar ad valorem obligations shall be apportioned between the taxable period up to and including the Closing Date (such portion of such Straddle Period, the "**Pre-Closing Straddle Tax Period**") and the taxable period after the Closing Date (such portion of such Straddle Period, the "**Post-Closing Straddle Tax Period**"), on a per diem basis. In the case of any Tax based upon or related to income, receipts, sales, use, payroll, or withholding, in respect of any Straddle Period, the portion of such Tax allocable to the Pre-Closing Straddle Tax Period shall be deemed to be the amount that would be payable if the relevant Straddle Period ended on and included the Closing Date. To the extent such closing of the books method is not incorporated under the law of a jurisdiction for particular types of entities, allocations of income among the periods shall be made to replicate the closing of the books method to the maximum extent

possible. Except as otherwise provided herein, with respect to the Purchased Shares, any Taxes allocable to a Pre-Closing Straddle Tax Period shall be considered to be an Excluded Liability, and any Taxes that are allocable to a Post-Closing Straddle Tax Period shall be considered to be a Retained Liability.

- (f) Purchaser and Vendor shall cooperate, on a best efforts basis, to maximize the ability to utilize any Tax losses that cannot be carried forward in the taxation year ending immediately prior to Closing.

#### **8.4 Employee Matters**

On and subject to Closing, Vendor shall cause the Company to immediately terminate the employment of each of the Terminated Employees.

#### **8.5 Administrative Expense Amount**

- (a) On the Closing Date, Vendor shall cause the Company to pay to the Monitor its cash on hand, which the Monitor shall hold in trust for the benefit of Persons entitled to be paid the Administrative Expense Costs and amounts secured by the CCAA Charges.
- (b) From time to time after the Closing Date, the Monitor may pay from the Administrative Expense Amount the Administrative Expense Costs and amounts secured by the CCAA Charges at its sole discretion and without further authorization from Vendor or Purchaser. Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Costs, as determined by the Monitor, shall be transferred by the Monitor to Vendor.
- (c) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of Vendor and Purchaser acknowledges and agrees that: (i) the Monitor's obligations hereunder are and shall remain limited to those specifically set out in this Section 8.5; and (ii) Monitor is acting solely in its capacity as the CCAA Court- appointed Monitor of the Company pursuant to the Initial Order and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise, save and except for and only to the extent of the Monitor's gross negligence or intentional fault.

#### **8.6 Release of Monitor by Purchaser**

Except in connection with any obligations of the Monitor contained in this Agreement and any Closing Documents, effective as of the Closing, Purchaser and its Affiliates hereby release and forever discharge the Monitor and its Affiliates, and each of their respective successors and assigns, and all present and former officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to the Business, the Purchased Shares or the Retained Liabilities, save and except for Released Claims arising out of fraud or gross negligence.

#### **8.7 Release of Monitor by Vendor**

Except in connection with any obligations of the Monitor contained in this Agreement and any Closing Documents, effective as of the Closing, Vendor and its Affiliates hereby release and forever discharge the Monitor and its Affiliates, and each of their respective successors and assigns, and all present and former officers, directors, partners, members, shareholders, limited partners, employees, agents,

financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to: (i) the Purchased Shares, (ii) all other Equity Interests of the Company after the application of the Vesting Order, (iii) the Retained Liabilities, (iv) the Excluded Assets, or (v) the Excluded Liabilities, save and except for Released Claims arising out of fraud or gross negligence.

## **ARTICLE 9 INSOLVENCY PROVISIONS**

### **9.1 Court Orders and Related Matters**

- (a) From and after the date of this Agreement and until the Closing Date and except in respect of the Initial Order and the application therefore, Vendor and Company shall deliver to Purchaser drafts of any and all pleadings, motions, notices, statements, applications, schedules, and other papers to be filed or submitted by Vendor and Company in connection with or related to this Agreement, including with respect to the Vesting Order, for Purchaser's prior review at least three (3) days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for three (3) days' review, with as much opportunity for review and comment as is practically possible in the circumstances). Each of Vendor and Company acknowledges and agrees to consult and cooperate with Purchaser regarding any discovery, examinations and hearing in respect of any of the foregoing, including the submission of any evidence, including witnesses testimony, in connection with such hearing.
- (b) Notice of the motion seeking the issuance of the Vesting Order shall be served, or be caused to be served, by Vendor and Company, on all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, and any other Person determined necessary by Vendor or Purchaser, acting reasonably.
- (c) As soon as practicable following the date of this Agreement, Vendor shall cause the Company to file the materials to obtain the Initial Order.
- (d) As soon as practicable following the issuance of the Initial Order, Vendor shall cause the Company to file a motion seeking the issuance of the Vesting Order.
- (e) Notwithstanding any other provision herein, it is expressly acknowledged and agreed that in the event that the Vesting Order has not been issued and entered by the CCAA Court by November 17, 2023 (the "**Vesting Order Outside Date**") or such later date agreed to in writing by Purchaser in its sole discretion, Purchaser may terminate this Agreement, provided that if all other conditions are satisfied (or if the only condition in Article 7 which has not been satisfied is the condition contained in Section 7.2(h) but the Parties are complying with their obligations in Section 8.2(g)), Vendor shall be entitled to extend the Vesting Order Outside Date by an additional ten (10) Business Days, and, for an avoidance of doubt, if the Vesting Order has not been issued by such extended date, then Purchaser may terminate this Agreement under this Section 9.1(e), notwithstanding any other term of this Agreement including Section 7.2(h) and Section 8.2(g).
- (f) If the Vesting Order is appealed or a motion for leave to appeal, rehearing, argument or reconsideration is filed with respect thereto, each of Vendor and the Company agrees (subject to the available liquidity of the Company and Vendor) to take all action

as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.

- (g) At Closing, pursuant to this Agreement and the Vesting Order, the Purchased Shares shall be transferred to Purchaser free and clear of all Encumbrances, other than Permitted Encumbrances.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of Purchaser and Vendor;
- (b) by Purchaser or Vendor, if Closing has not occurred on or before the Outside Date, provided that the terminating Party is not in breach of any representation, warranty, covenant or other agreement in this Agreement which would prevent the satisfaction of the conditions in Article 7 by the Outside Date;
- (c) by Purchaser, pursuant to Section 9.1(e);
- (d) by Purchaser, upon the appointment of a receiver, trustee in bankruptcy or similar official in respect of the Company or any of the property of the Company, other than with the prior written consent of Purchaser;
- (e) by Purchaser or Vendor upon the termination, dismissal or conversion of the CCAA Proceedings;
- (f) by Purchaser or Vendor, upon dismissal of the motion for the Vesting Order (or if any such order is stayed, vacated or varied without the consent of Purchaser);
- (g) by Purchaser or Vendor, if a court of competent jurisdiction, including the CCAA Court or other Governmental Authority, or arbitrator or panel arbitrators has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the Closing and such Order or action has become a Final Order;

The Party desiring to terminate this Agreement pursuant to this Section 10.1 (other than pursuant to Section 10.1(a)) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

### **10.2 Effect of Termination**

- (a) In the event of termination of this Agreement pursuant to Section 10.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that: (i), this Section 10.2, Section 12.1 (*Public Notices*), Section 12.2 (*Injunctive Relief*), Section 12.4 (*Non-Recourse*), Section 12.5 (*Assignment; Binding Effect*), Section 12.6 (*Notices*) and Section 12.7 (*Counterparts; Electronic Signatures*) shall survive; and (ii) no termination of this Agreement shall relieve any Party of any liability for any willful breach by it of this Agreement or fraud, or impair the right of any Party to compel specific performance by any other Party of its obligations under this Agreement in accordance with Section 12.2.



- (b) In the event of termination of this Agreement by Vendor under Section 10.1(b) due to Purchaser failing to advance, in full, the Vendor Loan to Vendor pursuant to the terms of Section 2.8(a)(i), then the full amount of the Deposit shall become the property of, and may be retained by, Vendor as liquidated damages (and not as a penalty) to compensate Vendor for its loss of rights under this Agreement as a result of the failure of the Transaction to close. In such event, Vendor may exercise any other rights or remedies that it may have against Purchaser in respect of any default by Purchaser. In the event that Vendor alleges any liability on the part of Purchaser pursuant to 10.1(b), then any damages suffered by such Party shall be reduced by an amount equal to the Deposit.
- (c) Except and to the extent as set out in Section 10.2(b) above, upon a termination of this Agreement for any reason pursuant to this Article 10, the Deposit shall be returned, in full and without set off, to Purchaser, within two (2) Business Days of the date of such termination.

## **ARTICLE 11 CLOSING**

### **11.1 Location and Time of the Closing**

The Closing shall take place on the Closing Date effective as of the Closing Time, electronically (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

### **11.2 Vendor's Deliveries at Closing**

At Closing, Vendor shall deliver to Purchaser the following:

- (a) a true copy of the Vesting Order, which shall be final;
- (b) executed copy of the Monitor's Certificate;
- (c) original minute books, ledgers and registers, corporate seal, if any, and other corporate books and records of the Company;
- (d) evidence that the share certificates registered in the name of Vendor have been cancelled by the Company;
- (e) an original share certificate evidencing the Purchased Shares and registered in the name of Purchaser, duly executed by the Company;
- (f) a certificate of status of Vendor and Company, issued as of a recent date by the appropriate Governmental Authority but in no event no more than ten (10) days prior to the Closing Date;
- (g) a certificate of a senior officer or director of Vendor (in such capacity and without personal liability) in form and substance reasonably satisfactory to Purchaser: (i) certifying that the director of Vendor has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the Transaction, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (ii)

certifying as to the incumbency and signature of the authorized signatory of Vendor executing this Agreement and the other Closing Documents, as applicable;

- (h) the certificates contemplated by Section 7.2(c);
- (i) confirmation of the due incorporation and organization of Residual Co. on the terms set forth herein;
- (j) evidence of the completion of the Pre-Closing Implementation Steps in accordance with the terms herein;
- (k) duly executed original of the Adjustable Promissory Note, representing the Intercompany Loan;
- (l) resignations duly executed by each director and officer of the Company identified by Purchaser, effective as of the Closing Date;
- (m) duly executed set off agreement between Purchaser and Vendor with respect the Vendor Loan and the Purchase Price, in form and substance satisfactory to Vendor and Purchaser, acting reasonably (the “**Set-Off Agreement**”);
- (n) all keys, passwords, bank account authorizations, access codes and other materials related to the Business or Retained Liabilities;
- (o) duly executed counterpart signature to the confidentiality agreement, executed by Primary Group Limited, attached as Exhibit B (the “**Confidentiality Agreement**”); and
- (p) all other documents reasonably requested by Purchaser in good faith.

### **11.3 Purchaser’s Deliveries at Closing**

Purchaser shall deliver to Vendor:

- (a) on the Closing Date but prior to the Closing Time, immediately available funds in the amount of the Vendor Loan, in accordance with Section 2.8(a);
- (b) a certificate of a senior officer or director of Purchaser (in such capacity and without personal liability), in form and substance reasonably satisfactory to Vendor: (i) certifying that the board of directors has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the Transaction, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (ii) certifying as to the incumbency and signature of the authorized signatory of Purchaser executing this Agreement and the other Closing Documents, as applicable;
- (c) the certificate contemplated by Section 7.3(c);
- (d) the Set-Off Agreement; and
- (e) all other documents reasonably requested by Vendor in good faith.

#### **11.4 Monitor**

- (a) When all conditions to Closing set out in Article 7 other than delivery by Vendor to Purchaser of an executed copy of the Monitor's Certificate have been satisfied or waived by Vendor or Purchaser, as applicable, Vendor and Purchaser, or their respective counsel, shall each deliver to the Monitor written confirmation that all conditions to Closing other than delivery by Vendor to Purchaser of an executed copy of the Monitor's Certificate have been satisfied or waived. Upon receipt of such written confirmation, the Monitor shall: (i) issue forthwith its Monitor's Certificate in accordance with the Vesting Order; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to Vendor and Purchaser). The Parties hereby acknowledge and agree that the Monitor will be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from Vendor and Purchaser that all conditions to Closing have been satisfied or waived, and the Monitor will have no liability to Vendor or Purchaser or any other Person as a result of filing the Monitor's Certificate.
- (b) The Parties hereby acknowledge and agree that the Monitor may rely upon the provisions of this Agreement that are for its benefit notwithstanding that the Monitor is not a party to this Agreement, including Article 6 Section 8.5, Section 11.4 and Section 12.5. The provisions of this Section 11.4(b) shall survive the termination or non-completion of the Transaction.

#### **11.5 Simultaneous Transactions**

All actions taken and transactions consummated at the Closing shall be deemed to have occurred in the manner and sequence set forth in the Pre-Closing Implementation Steps and the Vesting Order (subject to the terms of any escrow agreement or arrangement among the Parties relating to the Closing), and no such transaction shall be considered consummated unless all are consummated.

#### **11.6 Further Assurances**

As reasonably required by a Party in order to effectuate the Transaction, Purchaser and Vendor shall execute and deliver at (and after) the Closing such other documents, and shall take such other actions, as are necessary or appropriate, to implement and give effect to the Transaction.

### **ARTICLE 12 GENERAL MATTERS**

#### **12.1 Public Notices**

Vendor shall not make, and prior to Closing shall not cause the Company to make, and Purchaser shall not make, and upon Closing and any time after Closing shall not cause the Company to make, any press release or other public announcement concerning the Transaction without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 12.1, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is

not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by Vendor and Company with the CCAA Court; and (ii) the Transaction may be disclosed by Vendor and Company to the CCAA Court. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court containing references to the Transaction and the terms of the Transaction; and
- (b) Vendor, Purchaser and their respective professional advisors may prepare and file such motions, affidavits, materials, reports and other documents with the CCAA Court containing references to the Transaction and the terms of the Transaction as may reasonably be necessary to complete the Transaction or to comply with their obligations in connection therewith.

Purchaser shall be afforded an opportunity to review and comment on such materials in Section 12.1(b) prior to their filing. Vendor and Purchaser may issue a joint press release announcing the execution and delivery of this Agreement, in form and substance mutually agreed to them.

## **12.2 Injunctive Relief**

- (a) The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to seek specific performance, injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement, without any requirement for the securing or posting of any bond in connection with the obtaining of any such specific performance, injunctive or other equitable relief, this being in addition to any other remedy to which the Parties may be entitled at law or in equity.
- (b) Each Party hereby agrees not to raise any objections to the availability of the equitable remedies provided for herein and the Parties further agree that by seeking the remedies provided for in this Section 12.2, a Party shall not in any respect waive its right to seek any other form of relief that may be available to a Party under this Agreement.
- (c) Notwithstanding anything to the contrary herein, under no circumstances shall a Party be permitted or entitled to receive both monetary damages and specific performance and the election to pursue one shall be deemed to be an irrevocable waiver of the other.
- (d) Any Party seeking specific performance, injunctive and other equitable relief pursuant to the terms of this Section 12.2 shall be entitled to seek adjudication of such relief by the provincial or federal courts situate in the City of Toronto, in the Province of Ontario.

## **12.3 Survival**

None of the representations or warranties of any of the Parties set forth in this Agreement or in any Closing Document to be executed and delivered by any of the Parties, shall survive the Closing. Notwithstanding the foregoing, all covenants in this Agreement and in any Closing Documents, to the extent required to be, or capable of being, performed or completed following Closing shall survive the Closing and will continue in full force and effect.

## 12.4 Non-Recourse

No past, present or future director, officer, employee, incorporator, member, partner, security holder, Affiliate, agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of such Party, as applicable, under this Agreement, or for any Causes of Action based on, in respect of or by reason of the Transaction.

## 12.5 Assignment; Binding Effect

No Party may assign or delegate its right or benefits or obligations under this Agreement without the consent of each of the other Party, except that without such consent Purchaser may, upon prior notice to Vendor, assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its Affiliates; provided that no such assignment or direction shall relieve Purchaser of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Although not Party to this Agreement, the Monitor and its respective Affiliates and advisors shall have the benefits expressed to be conferred upon them in this Agreement including in Article 6, Article 8 and Section 11.4 (in respect of the Monitor) hereof. Subject to the preceding sentence, nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.

## 12.6 Notices

Any notice, request, demand or other communication required or permitted to be given to a Party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed given under this Agreement on the earliest of: (i) the date of personal delivery; (ii) the date of transmission by email, with confirmed transmission and receipt (if sent during normal business hours of the recipient, if not, then on the next Business Day); (iii) two (2) days after deposit with a nationally-recognized courier or overnight service such as Federal Express; or (iv) five (5) days after mailing via certified mail, return receipt requested. All notices not delivered personally or by email will be sent with postage and other charges prepaid and properly addressed to the Party to be notified at the address set forth for such Party:

(a) If to Purchaser at:

Southampton Financial Inc.  
103 Roxborough St. E,  
Toronto, ON M4W 1V9

Attention: Brian Reeve, President and Secretary

Email: [breeve214@gmail.com](mailto:breeve214@gmail.com)

and to:

Dentons Canada LLP  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON M5K 0A1

Attention: Derek Levinsky  
Robert Kennedy

Emails: [derek.levinsky@dentons.com](mailto:derek.levinsky@dentons.com)  
[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)

(b) If to Vendor, at:

615 Kumpf Drive, Suite 500  
Waterloo, ON N2V 1K8

Attention: Steve Livingstone  
Email: [slivingstone@ahainsurance.ca](mailto:slivingstone@ahainsurance.ca)

and to:

Stikeman Elliott LLP  
Commerce Court West  
5300, 199 Bay St.  
Toronto, Ontario M5L 1B9

Attention: Stuart Carruthers  
Samantha Horn  
Maria Konyukhova

Emails: [scarruthers@stikeman.com](mailto:scarruthers@stikeman.com)  
[sghorn@stikeman.com](mailto:sghorn@stikeman.com)  
[mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such Party at its changed address.

#### **12.7 Counterparts; Electronic Signatures**

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by electronic signature which, for all purposes, shall be deemed to be an original signature.

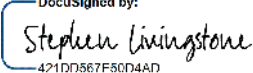
***[Signature pages to follow]***

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

**SOUTHAMPTON FINANCIAL INC.**

By:   
Name: J. Brian Reeve  
Title: President

**IGNITE HOLDINGS INC.**

By:  \_\_\_\_\_  
Name: Stephen D. Livingstone  
Title: President and Secretary



**EXHIBIT "F"**

referred to in the Affidavit of

**STEPHEN LIVINGSTONE**

Sworn November 1, 2023

DocuSigned by:

*Rania Hammad*

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Commissioner for Taking Affidavits

<b>Ignite Group</b>															
<b>Weekly Cash Flow Forecast <sup>(1) (2)</sup></b>															
<b>CAD \$000s</b>															
<b>CCAA Week</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>
<b>Week Ended</b>	<b>Notes</b>	<b>11/3/2023</b>	<b>11/10/2023</b>	<b>11/17/2023</b>	<b>11/24/2023</b>	<b>12/1/2023</b>	<b>12/8/2023</b>	<b>12/15/2023</b>	<b>12/22/2023</b>	<b>12/29/2023</b>	<b>1/5/2024</b>	<b>1/12/2024</b>	<b>1/19/2024</b>	<b>1/26/2024</b>	<b>2/2/2024</b>
<b><u>Receipts</u></b>															
<i>Commissions</i>	<b>3</b>	149,431	20,000	-	-	149,431	20,000	-	-	-	-	-	-	-	-
<b>Total receipts</b>		<b>149,431</b>	<b>20,000</b>	<b>-</b>	<b>-</b>	<b>149,431</b>	<b>20,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b><u>Disbursements</u></b>															
<i>Payroll</i>	<b>4</b>	(127,571)	-	(123,300)	-	(136,600)	-	-	-	-	-	-	-	-	-
<i>Operating expenses</i>	<b>5</b>	(71,374)	-	(37,321)	-	(66,817)	(80,226)	-	-	-	-	-	-	-	-
<i>Rent</i>	<b>6</b>	(7,846)	(380)	-	-	(8,172)	(74)	-	-	-	-	-	-	-	-
<i>Tax remittances</i>	<b>7</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<i>Professional fees</i>	<b>8</b>	(171,000)	-	(580,000)	-	-	-	(500,000)	-	(200,000)	-	(200,000)	-	(145,000)	-
<b>Total disbursements</b>		<b>(377,790)</b>	<b>(380)</b>	<b>(740,621)</b>	<b>-</b>	<b>(211,589)</b>	<b>(80,299)</b>	<b>(500,000)</b>	<b>-</b>	<b>(200,000)</b>	<b>-</b>	<b>(200,000)</b>	<b>-</b>	<b>(145,000)</b>	<b>-</b>
<b>Net operating cash flow</b>		<b>(228,359)</b>	<b>19,620</b>	<b>(740,621)</b>	<b>-</b>	<b>(62,158)</b>	<b>(60,299)</b>	<b>(500,000)</b>	<b>-</b>	<b>(200,000)</b>	<b>-</b>	<b>(200,000)</b>	<b>-</b>	<b>(145,000)</b>	<b>-</b>
<b><u>Cash roll</u></b>															
Opening Cash Balance	<b>9</b>	9,446	131,087	550,707	160,086	160,086	97,928	37,629	(462,371)	(462,371)	(662,371)	(662,371)	(862,371)	(862,371)	(1,007,371)
Net operating cash flow		(228,359)	19,620	(740,621)	-	(62,158)	(60,299)	(500,000)	-	(200,000)	-	(200,000)	-	(145,000)	-
DIP funding	<b>10</b>	350,000	400,000	350,000	-	-	-	-	-	-	-	-	-	-	-
<b>Closing cash balance</b>		<b>131,087</b>	<b>550,707</b>	<b>160,086</b>	<b>160,086</b>	<b>97,928</b>	<b>37,629</b>	<b>(462,371)</b>	<b>(462,371)</b>	<b>(662,371)</b>	<b>(662,371)</b>	<b>(862,371)</b>	<b>(862,371)</b>	<b>(1,007,371)</b>	<b>(1,007,371)</b>

# TAB 3

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

THE HONOURABLE )  
 ) THURSDAY THE 9<sup>TH</sup> DAY  
JUSTICE CONWAY ) OF NOVEMBER, 2023

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 IGNITE  
HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION

Applicants

**AMENDED AND RESTATED INITIAL ORDER**

**THIS MOTION**, made by Ignite Services Inc. ("**Ignite Services**"), Ignite Holdings Inc., and Ignite Insurance Corporation (collectively, the "**Applicants**"), for an order amending and restating the initial order of Justice Conway issued on October 30, 2023 (the "**Initial Filing Date**") was heard this day by judicial videoconference via Zoom.

**ON READING** the affidavits of Stephen Livingstone sworn October 26, 2023 (the "**Initial Livingstone Affidavit**") and November 1, 2023 (the "**Second Livingstone Affidavit**") and the Exhibits thereto, the pre-filing report of KPMG Inc. ("**KPMG**"), in its capacity as proposed monitor of the Applicants dated October 27, 2023 (the "**Pre-Filing Report**"), the first report of KPMG in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**"), dated November **[X]**, 2023 (the "**First Report**"), 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 Applicants, counsel for the Monitor, counsel for Primary Group Limited ("**Primary**") and Primary in its capacity as the DIP Lender (as defined below), counsel for Aviva Insurance Company of Canada, in its capacity as secured lender to the Applicants **[NTD: to include any additional parties/counsel]**, and such other parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Rania Hammad as filed,

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings given to them in Initial Livingstone Affidavit and the Second Livingstone Affidavit.

## **APPLICATION**

3. **THIS COURT ORDERS AND DECLARES** that each of the Applicants are companies to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

4. **THIS COURT ORDERS** that the Applicants 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 Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ their employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem 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 Applicants shall be entitled to continue to utilize their existing central cash management system currently in place 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 Applicants 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 or Persons (as hereinafter defined) other than the Applicants, 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 Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after the Initial Filing Date, subject to compliance with the Cash Flow Projections (as defined in the DIP Facility Agreement), as may be amended from time to time:

- (a) all outstanding and future wages, salaries, commissions, employee and pension benefits, vacation pay and employee and director 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;
- (b) the fees and disbursements of any Assistants retained or employed by any of the Applicants in respect of these proceedings, at their standard rates and charges; and
- (c) with the consent of the Monitor, amounts owing for goods or services supplied to the Applicants prior to the Initial Filing Date up to a maximum amount of \$100,000, if, in the opinion of the Applicants and the Monitor, the supplier is critical to the Restructuring (as hereinafter defined).

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled, subject to compliance with the Cash Flow Projections, as may be amended from time to time, but not required to pay all reasonable expenses incurred by the Applicants in carrying on their 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), IT services, data services, maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of the Initial Filing Date.

9. **THIS COURT ORDERS** that the Applicants shall, in accordance with legal requirements, remit 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 Applicants in connection with the sale of goods and services by the Applicants, 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 Initial Filing Date 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, 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 Applicants.

10. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period

commencing from and including the Initial Filing Date, monthly in equal payments on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the Initial Filing Date shall also be paid.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are 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 Applicants to any of their creditors as of this date, unless the Company is making payments from the Trust Account in respect of, among other things, commissions and premiums;
- (b) to grant no security interests, trust, liens, mortgages, charges or encumbrances upon or in respect of any of the 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 Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) in consultation with the DIP Lender, and with the oversight of the Monitor, continue to take steps to advance the potential sale of all or part of the Property on a going-concern basis, and return to Court for the approval of any such agreement (the "**Purchase Agreement**");
- (b) terminate the employment of such of its employees or temporarily layoff such of its employees as it deems appropriate;
- (c) permanently or temporarily cease, downsize or shut down any of its business operations; and
- (a) pursue all restructuring options for the Applicants including, without limitation, all avenues of refinancing of their Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing,



all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

13. **THIS COURT ORDERS** that the relevant Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant’s claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor twenty-four (24) hours’ prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

15. **THIS COURT ORDERS** that until and including January 31, 2024, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting their Business or their Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings

currently under way against or in respect of the Applicants or affecting their Business or their Property are hereby stayed and suspended pending further Order of this Court.

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

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

17. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants 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 Applicants 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 Applicants and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, email 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 Applicants in accordance with normal payment practices of the Applicants or such other practices

as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

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

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

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

20. **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 Applicants 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 Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

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

21. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, 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.

22. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for the indemnity provided in paragraph 21 of this Order. The D&O Charge shall have the priority as set out in paragraphs 40 and 42 herein.

23. **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 D&O Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the D&O 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 21 of this Order.

#### **APPOINTMENT OF MONITOR**

24. **THIS COURT ORDERS** that KPMG 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 Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

25. **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 Applicants' receipts and disbursements and the Applicants' compliance with the Cash Flow Projections;
- (b) 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, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination of financial and other information to the DIP Lender and its counsel on a periodic basis of financial and other information as agreed to between the Applicants and the DIP Lender, or as may reasonably be requested by the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with

the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, or as may reasonably be requested by the DIP Lender;

- (e) assist the Applicants, to the extent required by the Applicants, in their implementation of a process to identify and determine priority claims with respect to the Property;
- (f) advise the Applicants in connection with the Restructuring;
- (g) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (h) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (i) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (j) hold funds on behalf of the Applicants in connection with any sale of all or part of the Property;
- (k) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (l) perform such other duties as are required by this Order or by this Court from time to time.

26. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property (except as permitted pursuant to subparagraph 25(j) herein) 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.

27. **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.

28. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants 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 Applicants 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 Applicants may agree.

29. **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 shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements (including pre-filing fees and disbursements), in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the Initial Filing Date by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a periodic basis. In addition, the Applicants are hereby authorized to pay to the Monitor and counsel to the Monitor, retainers in the amounts of

\$50,000 and \$30,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

31. **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.

32. **THIS COURT ORDERS** that the Applicants' counsel, the Monitor and its counsel 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 \$750,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority as set out in paragraphs 40 and 42 hereof.

#### **DIP FACILITY**

33. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under the DIP Facility from Primary, in its capacity as the debtor-in-possession lender (the "**DIP Lender**"), in order to finance the Applicants' working capital requirements, and other general corporate purposes and capital expenditures.

34. **THIS COURT ORDERS** that such DIP Facility shall be on the terms and subject to the conditions set forth in the Summary of Terms for DIP Facility between the Applicants and the DIP Lender dated as of October 26, 2023, appended as Exhibit "O" to the Initial Livingstone Affidavit (the "**DIP Facility Agreement**").

35. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to borrow, in accordance with the terms and conditions of the DIP Facility Agreement, interim financing of up to \$1,100,000 during the Stay Period.

36. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such agreements, instruments, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the DIP Facility Agreement, the "**Definitive Documents**"), as may be contemplated by the DIP Facility Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are 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 Definitive Documents

(collectively, the “**DIP Obligations**”) as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

37. **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 as security for the DIP Obligations, which DIP Lender’s Charge shall be in the aggregate amount of the DIP Obligations outstanding at any given time under the Definitive Documents. The DIP Lender’s Charge shall not secure an obligation that exists before the Initial Filing Date is made. The DIP Lender’s Charge shall have the priority as set out in paragraphs 40 and 42 hereof.

38. **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 (5) business days’ notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender’s Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under 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 Applicants and for the appointment of a trustee in bankruptcy of the Applicants; 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 Applicants or the Property.

39. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise under the CCAA, or any proposal filed under the BIA, with respect to any advances made under the Definitive Documents.



## VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

40. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge, and the D&O Charge (collectively, the "**Charges**") and Encumbrances (as defined below), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$750,000);

Second – D&O Charge (to the maximum amount of \$250,000);

Third – CRA Priority Payables (as defined below); and

Fourth – DIP Lender's Charge.

41. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that each of the Charges shall be effective as against the Property and 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.

42. **THIS COURT ORDERS** that the Charges shall each constitute a charge on the Property and 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 provided that the DIP Lender's Charge shall not rank in priority to any super-priority claim of the Canada Revenue Agency, which priority is not reversed by operation of applicable law (the "**CRA Priority Payables**").

43. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the D&O Charge and the Administration Charge, or further Order of this Court.

44. **THIS COURT ORDERS** that the D&O Charge, the Administration Charge, the Definitive Documents and the DIP Lender's 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**") and/or the DIP Lender 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, provincial or other 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 Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are 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 Applicants entering into the DIP Facility Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, 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.

45. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants’ interest in such real property leases.

#### **SERVICE AND NOTICE**

46. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (iii) 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, provided that the Monitor shall not make the claims, names and addresses of any individual persons who are creditors available.

47. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://kpmg.com/ca/IgniteGroup>.

48. **THIS COURT ORDERS** that the Applicants, 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 Applicants’ 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).

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants, the Monitor and their respective counsel and agents 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 Applicants’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown on the records of the Applicants 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.

## **SEALING**

50. **THIS COURT ORDERS** that Confidential Appendix “A” to the Pre-Filing Report is hereby sealed and shall not form part of the public record, until closing of each of the Transactions

contemplated under the Purchase Agreement, subject to further Order of this Court sought on not less than seven (7) days notice to the Purchaser and, provided it has not been discharged, the Monitor.

## **GENERAL**

51. **THIS COURT ORDERS** that the Applicants, the DIP Lender, 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 hereunder.

52. **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 Applicants, the Business or the Property.

53. **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 Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

54. **THIS COURT ORDERS** that each of the Applicants and the Monitor shall be at liberty and are 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.

55. **THIS COURT ORDERS** that any interested party (including the Applicants 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.

56. **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 the Initial Filing Date.

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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 PLAN OF COMPROMISE OR ARRANGEMENT OF IGNITE HOLDINGS INC., IGNITE SERVICES INC., and  
IGNITE INSURANCE CORPORATION

Applicants

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

PROCEEDING COMMENCED AT TORONTO

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**AMENDED AND RESTATED INITIAL ORDER**

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**STIKEMAN ELLIOTT LLP**

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Lawyers for the Applicants

# TAB 4

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

THE HONOURABLE )  
JUSTICE CONWAY ) ~~MONDAY-THURSDAY~~ THE 30<sup>TH</sup>  
 ) 9<sup>TH</sup> DAY  
 ) OF ~~OCTOBER~~NOVEMBER, 2023

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 IGNITE  
HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION

Applicants

**AMENDED AND RESTATED INITIAL ORDER**

**THIS APPLICATION MOTION**, made by Ignite Services Inc. ("**Ignite Services**"), Ignite Holdings Inc., and Ignite Insurance Corporation (collectively, the "**Applicants**"), for an order amending and restating the initial order ~~pursuant to the Companies' Creditors Arrangement Act of Justice Conway issued on October 30, R.S.C. 1985, c. C-36, as amended 2023~~ (the "**CCA Initial Filing Date**") was heard this day by judicial videoconference via Zoom.

**ON READING** the affidavit affidavits of Stephen Livingstone sworn October 26, 2023 (the "**Initial Livingstone Affidavit**") and November 1, 2023 (the "**Second Livingstone Affidavit**") and the Exhibits thereto, the pre-filing report of KPMG Inc. ("**KPMG**"), in its capacity as proposed monitor of the Applicants (~~in such capacity, the "Monitor"~~) dated October 27, 2023 (the "**Pre-Filing Report**"), the ~~consent of KPMG to act as the Monitor~~ first report of KPMG in its capacity as monitor of the Applicants (in such capacity, the "Monitor"), dated November [X], 2023 (the "**First Report**"), 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 Applicants, counsel for ~~KPMG~~ the Monitor, counsel for Primary Group Limited ("**Primary**") and Primary in its capacity as the DIP Lender (as defined below), counsel for Aviva Insurance Company of Canada, in its capacity as secured lender to the Applicants [NTD: to include any additional parties/counsel], and such other parties as listed on the Counsel Slip, with no one else appearing



although duly served as appears from the ~~affidavit~~ affidavits of service of Rania Hammad, ~~as~~ filed,

## SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings given to them in ~~the~~ Initial Livingstone Affidavit and the Second Livingstone Affidavit.

## APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that each of the Applicants are companies to which the CCAA applies.

## PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicants 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. ~~4.~~ **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ their employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. ~~5.~~ **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize their existing central cash management system currently in place 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 Applicants 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 or Persons (as hereinafter defined) other than the Applicants, 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 ~~any plan of arrangement or compromise under the CCAA~~ 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. ~~6.~~ **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after ~~this Order~~ the Initial Filing Date, subject to compliance with the Cash Flow Projections (as defined in the DIP Facility Agreement), as may be amended from time to time:

- (a) all outstanding and future wages, salaries, commissions, employee and pension benefits, vacation pay and employee and director expenses payable on or after the ~~date of this Order~~ 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 any of the Applicants in respect of these proceedings, at their standard rates and charges;  
and
- (c) with the consent of the Monitor, amounts owing for goods or services supplied to the Applicants prior to the Initial Filing Date up to a maximum amount of \$100,000, if, in the opinion of the Applicants and the Monitor, the supplier is critical to the Restructuring (as hereinafter defined).

8. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled, subject to compliance with the Cash Flow Projections, as may be amended from time to time, but not required to pay all reasonable expenses incurred by the Applicants in carrying on their Business in the ordinary course after ~~this Order~~ 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), IT services, data services, maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of ~~this Order~~ the Initial Filing Date.

9. ~~8.~~ **THIS COURT ORDERS** that the Applicants shall, in accordance with legal requirements, remit 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 Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the ~~date of this Order~~ Initial Filing Date, or where such Sales Taxes were accrued or collected prior to the ~~date of this Order~~ Initial Filing Date but not required to be remitted until on or after the ~~date of this Order~~ 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, 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 Applicants.

10. ~~9.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the ~~date of this Order~~ Initial Filing Date, monthly in equal payments on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the ~~date of this Order~~ Initial Filing Date shall also be paid.

11. ~~10.~~ **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are 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 Applicants to any of their creditors as of this date, unless the Company is making payments from the Trust Account in respect of, among other things, commissions and premiums;
- (b) to grant no security interests, trust, liens, mortgages, charges or encumbrances upon or in respect of any of the Property; and
- (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

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

- (a) in consultation with the DIP Lender, and with the oversight of the Monitor, continue to take steps to advance the potential sale of all or part of the Property on a going-concern basis, and return to Court for the approval of any such agreement ~~;~~ and (the "Purchase Agreement");

- (b) terminate the employment of such of its employees or temporarily layoff such of its employees as it deems appropriate;
- (c) permanently or temporarily cease, downsize or shut down any of its business operations; and
- (d) ~~(b)~~ pursue all restructuring options for the Applicants including, without limitation, all avenues of refinancing of their Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

13. THIS COURT ORDERS that the relevant Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant’s claim to the fixtures in dispute.

14. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor twenty-four (24) hours’ prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such

landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

15. ~~12.~~ **THIS COURT ORDERS** that until and including ~~November 9~~ January 31, 2023, 2024, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting their Business or their Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting their Business or their Property are hereby stayed and suspended pending further Order of this Court.

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

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

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

17. ~~14.~~ **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

18. ~~15.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants 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 Applicants 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 Applicants and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, email addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the ~~date of this Order~~ Initial Filing Date are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

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

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

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

20. ~~17.~~ **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 Applicants with respect to any claim against the directors or officers that arose before the ~~date hereof~~ Initial Filing Date and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

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

21. ~~18.~~ **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, 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.

22. ~~19.~~ **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for the indemnity provided in paragraph ~~18-~~21 of this Order. The D&O Charge shall have the priority as set out in paragraphs ~~37-~~40 and ~~39-~~42 herein.

23. ~~20.~~ **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 D&O Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the D&O 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 ~~18-~~21 of this Order.

#### **APPOINTMENT OF MONITOR**

24. ~~21.~~ **THIS COURT ORDERS** that KPMG Inc. is ~~hereby,~~ 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 Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

25. ~~22.~~ **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 Applicants' receipts and disbursements and the Applicants' compliance with the Cash Flow Projections;



- (b) 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, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination of financial and other information to the DIP Lender and its counsel on a periodic basis of financial and other information as agreed to between the Applicants and the DIP Lender, or as may reasonably be requested by the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, or as may reasonably be requested by the DIP Lender;
- (e) assist the Applicants, to the extent required by the Applicants, in their implementation of a process to identify and determine priority claims with respect to the Property;
- (f) advise the Applicants in connection with the Restructuring;
- (g) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (h) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (i) ~~(e)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (j) ~~(f)~~ hold funds on behalf of the Applicants in connection with any sale of all or part of the Property;

- (k) ~~(g)~~ be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (l) ~~(h)~~ perform such other duties as are required by this Order or by this Court from time to time.

26. ~~23.~~ **THIS COURT ORDERS** that the Monitor shall not take possession of the Property (except as permitted pursuant to ~~section 22(f)~~subparagraph 25(j) herein) 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.

27. ~~24.~~ **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.

28. ~~25.~~ **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants 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 Applicants 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 Applicants may agree.

29. ~~26.~~ **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 shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. ~~27.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements (including pre-filing fees and disbursements), in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the ~~date of this Order~~ Initial Filing Date, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a periodic basis. In addition, the Applicants are hereby authorized to pay to the Monitor and counsel to the Monitor, retainers in the amounts of \$50,000 and \$30,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

31. ~~28.~~ **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.

32. ~~29.~~ **THIS COURT ORDERS** that the Applicants' counsel, the Monitor and its counsel 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 \$750,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority as set out in paragraphs ~~37-40~~ and ~~39-42~~ hereof.

## **DIP FACILITY**

33. ~~30.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under the DIP Facility from Primary, in its capacity as the debtor-in-possession

lender (the “**DIP Lender**”), in order to finance the Applicants’ working capital requirements, and other general corporate purposes and capital expenditures.

34. ~~31.~~ **THIS COURT ORDERS** that such DIP Facility shall be on the terms and subject to the conditions set forth in the Summary of Terms for DIP Facility between the Applicants and the DIP Lender dated as of October 26, 2023, appended as Exhibit “O” to the [Initial](#) Livingstone Affidavit (the “**DIP Facility Agreement**”).

35. ~~32.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to borrow, in accordance with the terms and conditions of the DIP Facility Agreement, interim financing of up to ~~\$350,000~~ 1,100,000 during the Stay Period.

36. ~~33.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such agreements, instruments, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the DIP Facility Agreement, the “**Definitive Documents**”), as may be contemplated by the DIP Facility Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are 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 Definitive Documents (collectively, the “**DIP Obligations**”) as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

37. ~~34.~~ **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 as security for the DIP Obligations, which DIP Lender’s Charge shall be in the aggregate amount of the DIP Obligations outstanding at any given time under the Definitive Documents. The DIP Lender’s Charge shall not secure an obligation that exists before ~~this Order~~ the Initial Filing Date is made. The DIP Lender’s Charge shall have the priority as set out in paragraphs ~~37-40~~ and 39-42 hereof.

38. ~~35.~~ **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 (5) business days’ notice to the

Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under 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 Applicants and for the appointment of a trustee in bankruptcy of the Applicants; 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 Applicants or the Property.

39. ~~36.~~ **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise under the CCAA, or any proposal filed under the BIA, with respect to any advances made under the Definitive Documents.

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

40. ~~37.~~ **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge, and the D&O Charge (collectively, the "**Charges**") and Encumbrances (as defined below), as among them, shall be as follows:

First ~~---~~ Administration Charge (to the maximum amount of \$750,000);

Second – D&O Charge (to the maximum amount of \$250,000); ~~and~~

Third – CRA Priority Payables (as defined below); and

~~Third~~ Fourth – DIP Lender's Charge.

41. ~~38.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that each of the Charges shall be effective as against the Property and 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.

42. ~~39.~~ **THIS COURT ORDERS** that the Charges shall each constitute a charge on the Property and 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; ~~provided that the Charges shall rank behind Encumbrances in favor of any Persons that have not been served with notice of this application. The Applicants and beneficiaries of the Charges shall be entitled to seek priority ahead of such Encumbrances on notice to those parties~~ provided that the DIP Lender’s Charge shall not rank in priority to any super-priority claim of the Canada Revenue Agency, which priority is not reversed by operation of applicable law (the “**CRA Priority Payables**”).

43. ~~40.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the D&O Charge and the Administration Charge, or further Order of this Court.

44. ~~41.~~ **THIS COURT ORDERS** that the D&O Charge, the Administration Charge, the Definitive Documents and the DIP Lender’s 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**”) and/or the DIP Lender 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, provincial or other 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 Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed

to constitute a breach by the Applicants of any Agreement to which they are 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 Applicants entering into the DIP Facility Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, 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.

45. ~~42.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

#### **SERVICE AND NOTICE**

46. ~~43.~~ **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (iii) 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, provided that the Monitor shall not make the claims, names and addresses of any individual persons who are creditors available.

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

orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://kpmg.com/ca/IgniteGroup>.

48. ~~45.~~ **THIS COURT ORDERS** that the Applicants, 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 Applicants' 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).

49. ~~46.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants, the Monitor and their respective counsel and agents 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 Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown on the records of the Applicants 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.

### **COMEBACK MOTION**

~~47. — THIS COURT ORDERS that the Comeback Motion shall be heard on November 9, 2023.~~

### **SEALING**

50. ~~48.~~ **THIS COURT ORDERS** that Confidential Appendix "A" to the Pre-Filing Report is hereby sealed and shall not form part of the public record ~~u~~ until closing of each of the Transactions contemplated under the Purchase Agreement, subject to further ~~order~~ Order of this Court sought on not less than seven (7) days notice to the Purchaser and, provided it has not been discharged, the Monitor.

### **GENERAL**



51. ~~49.~~ **THIS COURT ORDERS** that the Applicants, the DIP Lender, 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 hereunder.

52. ~~50.~~ **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 Applicants, the Business or the Property.

53. ~~51.~~ **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 Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

54. ~~52.~~ **THIS COURT ORDERS** that each of the Applicants and the Monitor shall be at liberty and are 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.

55. ~~53.~~ **THIS COURT ORDERS** that any interested party (including the Applicants 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.

56. ~~54.~~ **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~~ the Initial Filing Date.



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

AND IN THE MATTER OF PLAN OF COMPROMISE OR ARRANGEMENT OF IGNITE HOLDINGS INC., IGNITE SERVICES INC., and  
IGNITE INSURANCE CORPORATION

Applicants

**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  
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Lawyers for the Applicants



Summary Report	
Title	<b>compareDocs Comparison Results</b>
Date & Time	11/1/2023 1:58:14 PM
Comparison Time	4.72 seconds
compareDocs version	v5.1.700.3

Sources	
Original Document	Ignite CV-23-00708635-00CL Ignite.Initial Order.docx
Modified Document	Ignite.ARIO(118140624.6).docx

Comparison Statistics	
Insertions	32
Deletions	16
Changes	105
Moves	2
Font Changes	0
Paragraph Style Changes	0
Character Style Changes	0
TOTAL CHANGES	155

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<a href="#">Insertions</a>	
<del>Deletions</del>	
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Font Changes	
<a href="#">Paragraph Style Changes</a>	
<a href="#">Character Style Changes</a>	
Inserted cells	
Deleted cells	
Merged cells	
Changed lines	Mark left border.

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after saving	General	Always
Report Type	Word	Redline
Character Level	Word	False
Include Comments	Word	True
Include Field Codes	Word	True
Flatten Field Codes	Word	False
Include Footnotes / Endnotes	Word	True
Include Headers / Footers	Word	True
Image compare mode	Word	Insert/Delete
Include List Numbers	Word	True
Include Quotation Marks	Word	False
Show Moves	Word	True
Include Tables	Word	True
Include Text Boxes	Word	True
Show Reviewing Pane	Word	True
Summary Report	Word	End
Detail Report	Word	Separate (View Only)
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# TAB 5

Court File No. ~~\_\_\_\_\_~~ CV-23-00708635-00CL

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

THE HONOURABLE  
JUSTICE

)))

~~WEEKDAY, THURSDAY~~ THE #  
9<sup>TH</sup> DAY ~~OF MONTH, 20YR~~

JUSTICE CONWAY

)  
)

OF NOVEMBER, 2023

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  
~~[APPLICANT'S NAME] (the "Applicant")~~ IGNITE HOLDINGS INC., IGNITE SERVICES INC.,  
and IGNITE INSURANCE CORPORATION

Applicants

**AMENDED AND RESTATED INITIAL ORDER**

THIS MOTION, made by Ignite Services Inc. ("**Ignite Services**"), Ignite Holdings Inc., and Ignite Insurance Corporation (collectively, the "**Applicants**"), for an order amending and restating the initial order of Justice Conway issued on October 30, 2023 (the "**Initial Filing Date**") was heard this day by judicial videoconference via Zoom.

~~THIS APPLICATION, made by the Applicant, pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.~~

~~ON READING the affidavit of [NAME] sworn [DATE]~~ ON READING the affidavits of Stephen Livingstone sworn October 26, 2023 (the "**Initial Livingstone Affidavit**") and November 1, 2023 (the "**Second Livingstone Affidavit**") and the Exhibits thereto, ~~and~~ the pre-filing report of KPMG Inc. ("KPMG"), in its capacity as proposed monitor of the Applicants dated October 27, 2023 (the "Pre-Filing Report"), the first report of KPMG in its capacity as monitor of the Applicants (in such capacity, the "Monitor"), dated November [X], 2023 (the "First Report"), 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 Applicants, counsel for the

Monitor, counsel for Primary Group Limited ("Primary") and Primary in its capacity as the DIP Lender (as defined below), counsel for Aviva Insurance Company of Canada, in its capacity as secured lender to the Applicants [NAMES], NTD: to include any additional parties/counsel], and such other parties as listed on the Counsel Slip, with no one else appearing for [NAME]<sup>1</sup> although duly served as appears from the ~~affidavit~~ affidavits of service of [NAME] sworn [DATE] ~~and on reading the consent of [MONITOR'S NAME] to act as the Monitor~~ Rania Hammad as filed,

## **SERVICE AND DEFINITIONS**

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

2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings given to them in Initial Livingstone Affidavit and the Second Livingstone Affidavit.

## **APPLICATION**

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that ~~the Applicant is a company~~ each of the Applicants are companies to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

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

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~~1 Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

~~2 If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~



## POSSESSION OF PROPERTY AND OPERATIONS

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

6. ~~5.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall be entitled to continue to utilize ~~the~~ their existing central cash management system<sup>3</sup> currently in place ~~as described in the Affidavit of [NAME] sworn [DATE]~~ 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~~ Applicants 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 or Persons (as hereinafter defined) other than the ~~Applicant~~ Applicants, 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. ~~6.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after ~~this Order~~ the Initial Filing Date,

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~~<sup>3</sup> This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross border and inter-company transfers of cash.~~

subject to compliance with the Cash Flow Projections (as defined in the DIP Facility Agreement), as may be amended from time to time:

- (a) all outstanding and future wages, salaries, commissions, employee and pension benefits, vacation pay and employee and director expenses payable on or after the ~~date of this Order~~ 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 any of the Applicant Applicants in respect of these proceedings, at their standard rates and charges; ~~and~~
- (c) with the consent of the Monitor, amounts owing for goods or services supplied to the Applicants prior to the Initial Filing Date up to a maximum amount of \$100,000, if, in the opinion of the Applicants and the Monitor, the supplier is critical to the Restructuring (as hereinafter defined).

~~8.~~ **7. THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the ~~Applicant Applicants~~ shall be entitled ~~to~~ subject to compliance with the Cash Flow Projections, as may be amended from time to time, but not required to pay all reasonable expenses incurred by the ~~Applicant Applicants~~ in carrying on ~~the their~~ Business in the ordinary course after ~~this Order~~ 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), IT services, data services, maintenance and security services; and
- (b) payment for goods or services actually supplied to the ~~Applicant Applicants~~ following the date of ~~this Order~~ the Initial Filing Date.

~~9.~~ **8. THIS COURT ORDERS** that the ~~Applicant Applicants~~ shall ~~remit~~, in accordance with legal requirements, remit 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~~ Applicants in connection with the sale of goods and services by the ~~Applicant~~ Applicants, but only where such Sales Taxes are accrued or collected after the ~~date of this Order~~ Initial Filing Date, or where such Sales Taxes were accrued or collected prior to the ~~date of this Order~~ Initial Filing Date but not required to be remitted until on or after the ~~date of this Order~~, 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, 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~~ Applicants.

10. ~~9.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed ~~for-resiliated~~<sup>4</sup> in accordance with the CCAA, the ~~Applicant~~ Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the ~~date of this Order~~ Initial Filing Date, ~~twice~~-monthly in equal payments on the first ~~and-fifteenth~~ day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the ~~date of this Order~~ Initial Filing Date shall also be paid.

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~~4 The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the ~~Applicant is~~ Applicants are 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 this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c)~~

(a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date, unless the Company is making payments from the Trust Account in respect of, among other things, commissions and premiums;

(b) ~~to grant no security interests, trust, liens, mortgages, charges or encumbrances~~ upon or in respect of any of the Property; and

(c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

12. ~~11.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall, subject to such requirements as are imposed by the CCAA ~~and such covenants as may be contained in the Definitive Documents (as hereinafter defined)~~, have the right to:

~~(a) permanently or temporarily cease, downsize or shut down any of its business or operations, [and to dispose of redundant or non-material assets not exceeding \$● in any one transaction or \$● in the aggregate]~~<sup>5</sup>

(a) in consultation with the DIP Lender, and with the oversight of the Monitor, continue to take steps to advance the potential sale of all or part of the Property on a going-concern basis, and return to Court for the approval of any such agreement (the "**Purchase Agreement**"):

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~~<sup>5</sup> Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

- (b) ~~terminate~~ the employment of such of its employees or temporarily ~~lay-off~~ layoff such of its employees as it deems appropriate~~}; and~~;
- (c) permanently or temporarily cease, downsize or shut down any of its business operations; and
- (d) ~~(e)~~ pursue all restructuring options for the Applicants including, without limitation, all avenues of refinancing of ~~its~~ their Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the ~~Applicant~~ Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

13. ~~12.~~ **THIS COURT ORDERS** that the relevant Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims ~~for~~ resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer ~~for~~ resiliation of the lease shall be without prejudice to the Applicant’s claim to the fixtures in dispute.

14. ~~13.~~ **THIS COURT ORDERS** that if a notice of disclaimer ~~for~~ resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~for~~ resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving

the Applicant and the Monitor ~~24~~ twenty-four (24) hours' prior written notice, and (b) at the effective time of the disclaimer ~~[or resiliation]~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### NO PROCEEDINGS AGAINST THE ~~APPLICANT~~ APPLICANTS OR THE PROPERTY

15. ~~14.~~ **THIS COURT ORDERS** that until and including ~~[DATE—MAX. 30 DAYS]~~ January 31, 2024, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the ~~Applicant~~ Applicants or the Monitor, or affecting ~~the~~ their Business or ~~the~~ their Property, except with the written consent of the ~~Applicant~~ Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the ~~Applicant~~ Applicants or affecting ~~the~~ their Business or ~~the~~ their Property are hereby stayed and suspended pending further Order of this Court.

#### NO EXERCISE OF RIGHTS OR REMEDIES

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

#### NO INTERFERENCE WITH RIGHTS

17. ~~16.~~ **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the ~~Applicant~~Applicants, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or leave of this Court.

#### CONTINUATION OF SERVICES

18. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the ~~Applicant~~Applicants 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,~~Applicants 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,~~Applicants and that the ~~Applicant~~Applicants shall be entitled to the continued use of ~~its~~their current premises, telephone numbers, facsimile numbers, internet addresses, email addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the ~~date of this Order~~Initial Filing Date are paid by the ~~Applicant~~Applicants in accordance with normal payment practices of the ~~Applicant~~Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the ~~Applicant~~Applicants and the Monitor, or as may be ordered by this Court.

#### NON-DEROGATION OF RIGHTS

19. ~~18.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~leased or licensed property or other valuable consideration provided on or after the ~~date of this Order~~Initial Filing Date, nor shall any Person be under any obligation on or after the ~~date of this Order~~Initial Filing Date to advance or re-advance any monies or otherwise extend any credit to the ~~Applicant~~Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.<sup>6</sup>

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~~6 This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain~~

## PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. ~~19.~~ **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~~ Applicants with respect to any claim against the directors or officers that arose before the ~~date hereof~~ Initial Filing Date and that relates to any obligations of the ~~Applicant~~ Applicants 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~~ Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the ~~Applicant~~ Applicants or this Court.

## DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. ~~20.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall indemnify ~~its~~ their directors and officers against obligations and liabilities that they may incur as directors or officers of the ~~Applicant~~ Applicants after the commencement of the within proceedings,<sup>7</sup> 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.

22. ~~21.~~ **THIS COURT ORDERS** that the directors and officers of the ~~Applicant~~ Applicants shall be entitled to the benefit of and are hereby granted a charge (the "~~Directors'~~ D&O Charge")<sup>8</sup> on the Property, which charge shall not exceed an aggregate amount of \$~~250,000~~ 250,000, as security for the indemnity provided in paragraph ~~[20]~~ 21 of this Order. The ~~Directors'~~ D&O Charge shall have the priority as set out in paragraphs ~~[38]~~ 40 and ~~[40]~~ 42 herein.

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~~limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

~~7 The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

~~8 Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~



23. ~~22.~~ **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'-D&O~~ Charge, and (b) the ~~Applicant's-Applicants'~~ directors and officers shall only be entitled to the benefit of the ~~Directors'-D&O~~ 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 ~~{20}~~ 21 of this Order.

#### **APPOINTMENT OF MONITOR**

24. ~~23.~~ **THIS COURT ORDERS** that ~~[MONITOR'S NAME] is hereby~~ KPMG 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-Applicants~~ with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant-Applicants~~ and ~~its~~ their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant-Applicants~~ 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.

25. ~~24.~~ **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-Applicants'~~ receipts and disbursements and the Applicants' compliance with the Cash Flow Projections;
- (b) 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, and such other matters as may be relevant to the proceedings herein;
- (c) assist the ~~Applicant-Applicants,~~ to the extent required by the ~~Applicant-Applicants,~~ in ~~its~~ their dissemination, ~~of financial and other information~~ to the DIP Lender and its counsel on a ~~[TIME INTERVAL]-~~ periodic basis of financial and other information as agreed to between the ~~Applicant-Applicants~~ and the DIP Lender ~~which may be used in these proceedings including reporting on a basis to be agreed with,~~ or as may reasonably be requested by the DIP Lender;

- (d) advise the ~~Applicant in its~~ Applicants in their preparation of the ~~Applicant's~~ Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, ~~but not less than [TIME INTERVAL], or as otherwise agreed to~~ or as may reasonably be requested by the DIP Lender;
- (e) assist the Applicants, to the extent required by the Applicants, in their implementation of a process to identify and determine priority claims with respect to the Property;
- (f) advise the Applicants in connection with the Restructuring;
- (g) ~~(e) advise the Applicant in its~~ advise the Applicants in their development of the Plan and any amendments to the Plan;
- (h) ~~(f)~~ assist the ~~Applicant~~ Applicants, to the extent required by the ~~Applicant~~ Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (i) ~~(g)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the ~~Applicant~~ Applicants, to the extent that is necessary to adequately assess the ~~Applicant's~~ Applicants' business and financial affairs or to perform its duties arising under this Order;
- (j) hold funds on behalf of the Applicants in connection with any sale of all or part of the Property;
- (k) ~~(h)~~ be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (l) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

26. ~~25.~~ **THIS COURT ORDERS** that the Monitor shall not take possession of the Property (except as permitted pursuant to subparagraph 25(j) herein) 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.

27. ~~26.~~ **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.

28. ~~27.~~ **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the ~~Applicant~~ Applicants and the DIP Lender with information provided by the ~~Applicant~~ Applicants 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~~ Applicants 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~~ Applicants may agree.

29. ~~28.~~ **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 shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the ~~Applicant~~ Applicants shall be paid their reasonable fees and disbursements (including pre-filing fees and disbursements), in each case at their standard rates and charges, ~~by the Applicant~~ whether incurred prior to, on or subsequent to, the Initial Filing Date by the Applicants as part of the costs of these proceedings. The ~~Applicant is~~ Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the ~~Applicant on a [TIME INTERVAL] basis and, in~~ Applicants on a periodic basis. In addition, the ~~Applicant is~~ Applicants are hereby authorized to pay to the Monitor, ~~and~~ and counsel to the Monitor, ~~and counsel to the Applicant,~~ retainers in the ~~amount[s] of \$●~~ [amounts of \$50,000 and \$30,000, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

31. ~~30.~~ **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.

32. ~~31.~~ **THIS COURT ORDERS** that the ~~Monitor,~~ Applicants' counsel ~~to,~~ the Monitor, ~~if any,~~ and ~~the Applicant's~~ its counsel 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 \$●750,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority as set out in paragraphs ~~{38}~~ 40 and ~~{40}~~ 42 hereof.

### **DIP FINANCING FACILITY**

33. ~~32.~~ **THIS COURT ORDERS** that the ~~Applicant is~~ Applicants are hereby authorized and empowered to obtain and borrow under ~~a credit facility from [DIP LENDER'S NAME]~~ the DIP Facility from Primary, in its capacity as the debtor-in-possession lender (the "DIP Lender"), in order to finance the ~~Applicant's~~ Applicants' working capital requirements, ~~and~~ and other general

corporate purposes and capital expenditures, ~~provided that borrowings under such credit facility shall not exceed \$● unless permitted by further Order of this Court.~~

34. ~~33. THIS COURT ORDERS THAT that~~ such ~~credit facility~~ DIP Facility shall be on the terms and subject to the conditions set forth in the ~~commitment letter~~ Summary of Terms for DIP Facility between the ~~Applicant~~ Applicants and the DIP Lender dated as of ~~[DATE]~~ (the "Commitment Letter"), filed October 26, 2023, appended as Exhibit "O" to the Initial Livingstone Affidavit (the "DIP Facility Agreement").

35. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to borrow, in accordance with the terms and conditions of the DIP Facility Agreement, interim financing of up to \$1,100,000 during the Stay Period.

36. ~~34. THIS COURT ORDERS that the Applicant is~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such ~~credit~~ agreements, instruments, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the DIP Facility Agreement, the "**Definitive Documents**"), as ~~are may be~~ contemplated by the ~~Commitment Letter~~ DIP Facility Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the ~~Applicant is~~ Applicants are 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 ~~Commitment Letter and the~~ Definitive Documents (collectively, the "DIP Obligations") as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

37. ~~35. 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, ~~which~~ as security for the DIP Obligations, which DIP Lender's Charge shall be in the aggregate amount of the DIP Obligations outstanding at any given time under the Definitive Documents. The DIP Lender's Charge shall not secure an obligation that exists before ~~this Order~~ the Initial Filing Date is made. The DIP Lender's Charge shall have the priority as set out in paragraphs ~~38~~ 40 and ~~40~~ 42 hereof.

38. ~~36. 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 (5) business days'~~ notice to the ~~Applicant~~ Applicants and the Monitor, may exercise any and all of its rights and remedies against the ~~Applicant~~ Applicants or the Property under or pursuant to the ~~Commitment Letter~~, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the ~~Applicant~~ Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the ~~Applicant~~ Applicants against the obligations of the ~~Applicant~~ Applicants to the DIP Lender under ~~the Commitment Letter~~, 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~~ Applicants and for the appointment of a trustee in bankruptcy of the ~~Applicant~~ Applicants; 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~~ Applicants or the Property.

39. ~~37.~~ **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")~~ BIA, with respect to any advances made under the Definitive Documents.

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

40. ~~38.~~ **THIS COURT ORDERS** that the priorities of the ~~Directors' Charge, the~~ Administration Charge ~~and,~~ the DIP Lender's Charge, and the D&O Charge (collectively, the "Charges") and Encumbrances (as defined below), as among them, shall be as follows<sup>9</sup>:

First – Administration Charge (to the maximum amount of \$~~●~~750,000);

Second – ~~DIP Lender's Charge; and Third – Directors' D&O~~ Charge (to the maximum amount of \$~~●~~250,000);

Third – CRA Priority Payables (as defined below); and

Fourth – DIP Lender's Charge.

41. ~~39.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge (collectively, the "Charges")~~ shall not be required, and that each of the Charges shall be effective as against the Property and 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.

42. ~~40.~~ **THIS COURT ORDERS** that ~~each of the Directors' Charge, the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein) shall~~ the Charges shall each 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 provided that the DIP Lender's Charge shall not rank in priority to any super-priority claim of the Canada Revenue Agency, which priority is not reversed by operation of applicable law (the "CRA Priority Payables").

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~~9 The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

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

44. ~~42.~~ **THIS COURT ORDERS** that the ~~Directors' D&O~~ Charge, the Administration Charge, ~~the Commitment Letter~~, the Definitive Documents and the DIP Lender's 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**") and/or the DIP Lender 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 or other 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~~ Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the ~~Commitment Letter or the~~ Definitive Documents shall create or be deemed to constitute a breach by the ~~Applicant~~ Applicants of any Agreement to which ~~it is~~ they are 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 ~~Applicant~~ Applicants entering into the ~~Commitment Letter~~ DIP Facility Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the ~~Applicant~~ Applicants pursuant to this Order, ~~the Commitment Letter or the~~ Definitive Documents, 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.

45. ~~43.~~ **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~~ Applicants' interest in such real property leases.

## SERVICE AND NOTICE

46. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall (~~ia~~) without delay, publish in ~~[newspapers specified by the Court]~~ The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (~~ib~~) within five days after the date of this Order, (~~Ai~~) make this Order publicly available in the manner prescribed under the CCAA, (~~Bi~~) send, in the prescribed manner, a notice to every known creditor who has a claim against the ~~Applicant~~ Applicants of more than \$1000, and (~~Ciii~~) 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, provided that the Monitor shall not make the claims, names and addresses of any individual persons who are creditors available.

47. ~~45.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05-1, 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://kpmg.com/ca/IgniteGroup>.

48. **THIS COURT ORDERS** that the Applicants, 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 Applicants' 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).

49. ~~46.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the ~~Applicant and~~ Applicants, the Monitor and their respective counsel and agents 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~~ Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown on the records of the ~~Applicant~~ Applicants 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.

#### **SEALING**

50. **THIS COURT ORDERS** that Confidential Appendix "A" to the Pre-Filing Report is hereby sealed and shall not form part of the public record, until closing of each of the Transactions contemplated under the Purchase Agreement, subject to further Order of this Court sought on not less than seven (7) days notice to the Purchaser and, provided it has not been discharged, the Monitor.

#### **GENERAL**

51. ~~47.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants, the DIP Lender, 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 ~~its~~ their powers and duties hereunder.

52. ~~48.~~ **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~~ Applicants, the Business or the Property.

53. ~~49.~~ **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~~Applicants, 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~~Applicants 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~~Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

54. ~~50.~~ **THIS COURT ORDERS** that each of the ~~Applicant~~Applicants and the Monitor shall be at liberty and ~~is-are~~ 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.

55. ~~51.~~ **THIS COURT ORDERS** that any interested party (including the ~~Applicant~~Applicants 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.

56. ~~52.~~ **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~~the Initial Filing Date.

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

AND IN THE MATTER OF PLAN OF COMPROMISE OR ARRANGEMENT OF IGNITE HOLDINGS INC., IGNITE SERVICES INC., and  
IGNITE INSURANCE CORPORATION

Applicants

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

PROCEEDING COMMENCED AT TORONTO

**AMENDED AND RESTATED INITIAL ORDER**

**STIKEMAN ELLIOTT LLP**

Barristers & Solicitors

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Lawyers for the Applicants

Summary Report	
Title	<b>compareDocs Comparison Results</b>
Date & Time	11/1/2023 1:55:41 PM
Comparison Time	5.48 seconds
compareDocs version	v5.1.700.3

Sources	
Original Document	CCAA Model Order.docx
Modified Document	Ignite.ARIO(118140624.6).docx

Comparison Statistics	
Insertions	90
Deletions	66
Changes	271
Moves	8
Font Changes	0
Paragraph Style Changes	0
Character Style Changes	0
TOTAL CHANGES	435

Word Rendering Set Markup Options	
Name	
<u>Insertions</u>	
<del>Deletions</del>	
<u>Moves</u> / <del>Moves</del>	
Font Changes	
Paragraph Style Changes	
Character Style Changes	
Inserted cells	
Deleted cells	
Merged cells	
Changed lines	Mark left border.

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after saving	General	Always
Report Type	Word	Redline
Character Level	Word	False
Include Comments	Word	True
Include Field Codes	Word	True
Flatten Field Codes	Word	False
Include Footnotes / Endnotes	Word	True
Include Headers / Footers	Word	True
Image compare mode	Word	Insert/Delete
Include List Numbers	Word	True
Include Quotation Marks	Word	False
Show Moves	Word	True
Include Tables	Word	True
Include Text Boxes	Word	True
Show Reviewing Pane	Word	True
Summary Report	Word	End
Detail Report	Word	Separate (View Only)
Document View	Word	Print

# TAB 6

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE )  
JUSTICE CONWAY ) THURSDAY, THE 9<sup>TH</sup> DAY  
OF NOVEMBER, 2023

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

AND IN THE MATTER OF PLAN OF COMPROMISE OR ARRANGEMENT OF IGNITE  
HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION

Applicants

ORDER  
(Approval and Reverse Vesting Order)

**THIS MOTION**, made by Ignite Services Inc. ("**Ignite Services**" or the "**Company**"), Ignite Holdings Inc. ("**Ignite Holdings**"), and Ignite Insurance Corporation ("**Ignite Insurance**", and together with Ignite Services and Ignite Holdings, the "**Applicants**" or the "**Ignite Group**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things: (a) approving the purchase agreement dated as of October 26, 2023 between Ignite Holdings, as vendor, and Southampton Financial Inc. ("**Southampton**"), as purchaser (the "**Purchase Agreement**") and the transactions contemplated therein (the "**Transactions**"); (b) adding [●] ("**Residual Co.**") as an applicant to these proceedings (the "**CCAA Proceedings**"); (c) transferring and vesting all of the Company's right, title and interest in and to the Excluded Assets, Excluded Contracts, Excluded Leases, and Excluded Liabilities (each as defined in the Purchase Agreement) to and in Residual Co.; (d) vesting in Southampton, all right, title and interest in and to the Purchased Shares, free and clear of any Encumbrances; and (e) granting certain ancillary relief, was heard this day by videoconference.

**ON READING** the Motion Record of the Applicants, including the affidavit of Stephen Livingstone sworn October 30, 2023 (the "**Livingstone Affidavit**") and the Exhibits thereto, the First Report of KPMG Inc. ("**KPMG**"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated [●], 2023 (the "**First Report**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Southampton,

and counsel for those other parties appearing as indicated by the Participant Information Form, no one appearing for any other party, although duly served as appears from the affidavit of service of Rania Hammad, as filed,

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion was properly returnable on November 9, 2023, and hereby dispenses with further service thereof.

## **DEFINED TERMS**

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the meanings given to them in the Purchase Agreement and the Amended and Restated Initial Order of Justice Conway, dated November 9, 2023 (the “**ARIO**”).

## **APPROVAL AND VESTING**

3. **THIS COURT ORDERS AND DECLARES** that the Purchase Agreement and the Transactions, be and are hereby approved and that the execution of the Purchase Agreement by Ignite Holdings is hereby authorized, approved and ratified, with such minor amendments as the parties thereto may deem necessary with the approval of the Monitor. The Applicants are hereby authorized and directed to perform their obligations under the Purchase Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions.

4. **THIS COURT ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Applicants to proceed with the Transactions, and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Monitor’s certificate (the “**Monitor’s Closing Certificate**”) to the Ignite Group and Southampton (the “**Closing Time**”), substantially in the form attached as **Schedule “A**” hereto, the following shall occur and shall be deemed to have occurred at the Closing Time in the following sequence:

- (a) first, all of the Company’s right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co., with all applicable Claims and Encumbrances (each as defined below) continuing to attach to the Excluded



Assets and to the Purchase Price in accordance with paragraph 9 of this Order, in either case with the same nature and priority as they had immediately prior to the transfer;

- (b) second, all Excluded Contracts, Excluded Leases, and Excluded Liabilities shall be channeled to, assumed by and vest absolutely and exclusively in Residual Co. such that the Excluded Contracts, Excluded Leases and Excluded Liabilities shall become obligations of Residual Co., and shall no longer be obligations of the Company and all of the Company's respective assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate, including property held in trust for the Company (the "**Property**"), shall be forever released and discharged from such Excluded Contracts, Excluded Leases and Excluded Liabilities and all related Claims and all Encumbrances affecting or relating to the Property are to be expunged and discharged as against the Property;
- (c) third, in consideration for the Purchase Price, Ignite Holdings shall transfer the Purchased Shares to Southampton, and all of the right, title and interest in and to the Purchased Shares shall vest absolutely in Southampton free and clear of and from any and all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise, including any and all encumbrances, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ARIO or any other Order of the Court in the CCAA Proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry systems; and (iii) any charges, security interests or claims evidenced by registrations pursuant to the *Land Titles Act* (Ontario), the *Registry Act* (Ontario), the *Land Registration Reform Act* (Ontario) or any other real property

or real property related registry or recording system (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances listed on Schedule “B” hereto with respect to the Purchase Agreement;

- (d) fourth, Ignite Services shall be deemed to cease being an Applicant in these CCAA Proceedings, with Residual Co. becoming an Applicant in these CCAA Proceedings. Ignite Services shall be deemed to be released from the purview of the ARIO and all other Orders of this Court granted in respect of these CCAA Proceedings, save and except for the Approval and Reverse Vesting Order, the provisions of which (as they relate to the Company) shall continue to apply in all respects.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor’s Closing Certificate, forthwith after delivery thereof in connection with the Transactions.

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from Ignite Services and Southampton regarding the satisfaction or waiver of conditions to closing under the Purchase Agreement and shall have no liability with respect to delivery of the Monitor’s Closing Certificate.

8. **THIS COURT ORDERS** that upon delivery of the Monitor’s Closing Certificate, and upon filing of a copy of this Order, together with any applicable registration fees, all governmental authorities and any other applicable registrar or government ministries or authorities exercising jurisdiction with respect to the Ignite Group, the Property, or the Excluded Assets (collectively, the “**Governmental Authorities**”) are hereby authorized, requested and directed to accept delivery of such Monitor’s Closing Certificate and a copy of this Order as though they were originals and to register such transfers and interest authorizations as may be required to give effect to the terms of this Order and the Purchase Agreement. Presentment of this Order and the Monitor’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of interest against any of the Property and the Monitor and Southampton are hereby specifically authorized to discharge the registrations on the Property and the Excluded Assets, as applicable.

9. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, from and after the Closing Time, subject to the funding of the Priority Payments and the Administrative Expense Amount, all Claims and Encumbrances transferred, assumed, released,

expunged and discharged pursuant to paragraph 5 hereof, including against the Company, the Property, and the Purchased Shares shall attach to the Excluded Assets with the same priority as they had with respect to the Property immediately prior to the Transactions as if the Transactions had not occurred.

10. **THIS COURT ORDERS** that, pursuant to clause 7(3) (c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, as amended, the Company or the Monitor, as the case may be, is authorized, permitted and directed to, at the Closing Time, disclose to Southampton, all human resources and payroll information in the Company's records pertaining to past and current employees of the Company. Southampton shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the Company.

11. **THIS COURT ORDERS AND DECLARES** that, at the Closing Time and without limiting the provisions of paragraph 5 hereof, Southampton, the Company, KPMG CF and the Monitor shall be deemed released from any and all claims, liabilities, (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (as defined in the Purchase Agreement) (including penalties and interest thereon) of, or that relate to the Company, provided, as it relates to Southampton and the Company, such release shall not apply to (a) Taxes in respect of the business and operations conducted by the Company after the Closing Time; or (b) Taxes expressly assumed as Retained Liabilities pursuant to the Purchase Agreement, including without limiting the generality of the foregoing, all Taxes that could be assessed against Southampton or the Company (including their affiliates and any predecessor corporations) pursuant to sections 160 and 160.01 of the *Income Tax Act*, R.S.C. 1985 c. 1 (5<sup>th</sup> Supp.), or any provincial or foreign tax equivalent, in connection with the Company. For greater certainty, nothing in this paragraph shall release or discharge any Claims with respect to Taxes that are transferred to Residual Co.

12. **THIS COURT ORDERS** that except to the extent expressly contemplated by the Purchase Agreement (and, for greater certainty, excluding the Excluded Assets and Excluded Liabilities and contracts relating thereto), all contracts to which the Company is a party at the time of delivery of the Monitor's Closing Certificate will be and remain in full force and effect upon and following delivery of the Monitor's Closing Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement may accelerate, terminate, rescind,

refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Closing Time and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of any of the Ignite Group);
- (b) the insolvency of any of the Ignite Group or the fact that the Ignite Group obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Purchase Agreement, the Transactions, the provisions of this Order, or any other Order of this Court in these CCAA proceedings; or
- (d) any transfer or assignment, or any change of control of any of the Ignite Group arising from the implementation of the Purchase Agreement, the Transactions, or the provisions of this Order.

13. **THIS COURT ORDERS**, for greater certainty, that (a) nothing in paragraph 12 hereof shall waive, compromise or discharge any obligations of the Ignite Group or Southampton, in respect of any Retained Liabilities, and (b) the designation of any Claim as a Retained Liability is without prejudice to any of the Ignite Group's or Southampton's right to dispute the existence, validity or quantum of any such Retained Liability, and (c) nothing in this Order or the Purchase Agreement shall affect or waive the Ignite Group's or Southampton's rights and defences, both legal and equitable, with respect to any Retained Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Retained Liability.

14. **THIS COURT ORDERS** that from and after the Closing Time, all Persons shall be deemed to have waived any and all defaults of the Company then existing or previously committed by the Company, or caused by the Company, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition, or obligation, expressed or implied in any contract, or lease existing between such Person and the

Company (including for certainty, those contracts, or leases constituting the Property) arising directly or indirectly from the filing by the Company under the CCAA and implementation of the Transactions, including without limitation any of the matters or events listed in paragraph 12 hereof, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a contract, or a lease shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Company or Southampton from performing their obligations under the Purchase Agreement, or be a waiver of defaults by the Company or Southampton under the Purchase Agreement and the related documents.

15. **THIS COURT ORDERS** that, from and after the Closing Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Company or Southampton relating in any way to or in respect of any Excluded Assets, Excluded Liabilities, Excluded Leases, or Excluded Contracts and any other claims, obligations and other matters that are waived, released, expunged or discharged pursuant to this Order.

16. **THIS COURT ORDERS** that from and after the Closing Time:

- (a) the nature of the Retained Liabilities, as retained by the Company, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co.;
- (c) any Person that prior to the Closing Time had a valid right or claim against the Ignite Group under or in respect of any Excluded Contract, Excluded Lease, or Excluded Liability (each an “**Excluded Liability Claim**”) shall no longer have an Excluded Liability Claim against the Ignite Group, but will have an equivalent Excluded Liability Claim against Residual Co. in respect of the Excluded Contract, Excluded Lease, or Excluded Liability from and after the

Closing Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against Residual Co.; and

- (d) any Person with an Excluded Liability Claim against Residual Co. following the Closing Time shall have the same rights, priority and entitlement as against Residual Co. as such Person, with an Excluded Liability Claim, had against the applicable Ignite Group entity prior to the Closing Time.

17. **THIS COURT ORDERS AND DECLARES** that, as of the Closing Time:

- (a) Residual Co. shall be a company to which the CCAA applies; and
- (b) Residual Co. shall be added as an Applicant in these CCAA Proceedings and all references in any Order of this Court in respect of these CCAA Proceedings to (i) an “Applicant” shall refer to and include Residual Co.; and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of Residual Co. (collectively the “**Residual Co. Property**”), and, for greater certainty, each of the Charges shall constitute a charge on the Residual Co. Property.

18. **THIS COURT ORDERS AND DIRECTS** that the Company shall pay to the Monitor its cash on hand on the Closing Date in accordance with the Purchase Agreement.

19. **THIS COURT ORDERS** that, notwithstanding:

- (c) the pendency of these CCAA proceedings;
- (d) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C 195, c. B-3, as amended (the “**BIA**”), in respect of Residual Co. and any bankruptcy order issued pursuant to any such applications; and
- (e) any assignment in bankruptcy made in respect of any of the Ignite Group or Residual Co.;

the Purchase Agreement, the implementation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contracts, Excluded Leases and Excluded Liabilities in and to Residual Co., the transfer and vesting of the Purchased Shares in and to Southampton, the payment of the Priority Payments by the Company and any payments by or to Southampton, any of the Ignite Group entities, Residual Co., or the Monitor authorized herein, or pursuant to the Purchase Agreement) shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Ignite Group and/or Residual Co. and shall not be void or voidable by creditors of the Ignite Group, or Residual Co., as applicable, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal, provincial or foreign legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

## **MONITOR**

20. **THIS COURT ORDERS** that nothing in this Order, including the release of the Company from the purview of these CCAA Proceedings pursuant to paragraph 5(d) hereof and the addition of Residual Co. as an Applicant in these CCAA Proceedings, shall affect, vary, derogate from, limit or amend any rights, approvals and protections afforded to the Monitor in these CCAA Proceedings and KPMG shall continue to have the benefit of, any and all rights and approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the ARIO, and any other Orders in these CCAA proceedings or otherwise, including all approval, protections and stays of proceedings in favour of KPMG in its capacity as Monitor, all of which are expressly continued and confirmed.

21. **THIS COURT ORDERS** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except with leave of the Court following a motion brought on not less than fifteen (15) days' notice to the Monitor and its legal counsel. The entities related or affiliated with the Monitor or belonging to the same group as the Monitor (including, without limitation, any agents, employees, legal counsel or other advisors retained or employed by the Monitor) shall benefit from the protection granted to the Monitor under the present paragraph.

22. **THIS COURT ORDERS** that the Monitor shall not, as a result of this Order or any matter contemplated hereby: (a) be deemed to have taken part in the management or supervision of the management of the Ignite Group, or Residual Co. or to have taken or maintained possession or control of the business or property of any of the Ignite Group or Residual Co., or any part thereof other than the funds received in accordance with the Purchase Agreement; or (b) be deemed to be in Possession (as defined in the ARIO) of any property of the Ignite Group or Residual Co. within the meaning of any applicable Environmental Legislation (as defined in the Initial Order) or otherwise other than the funds received in accordance with the Purchase Agreement.

23. **THIS COURT ORDERS** that notwithstanding anything contained in this Order, the Monitor, its employees and representatives are not and shall not be or be deemed to be, a director, officer, or employee of Residual Co. *de facto* or otherwise, and shall incur no liability as a result of acting in accordance with this Order, other than any liability arising as a direct result of the gross negligence or wilful misconduct of the Monitor.

24. **THIS COURT ORDERS** that nothing in this Order shall constitute or be deemed to constitute the Monitor as receiver, assignee, liquidator, administrator, receiver-manager, agent of the creditors or legal representative of Residual Co.

## **RELEASES**

25. **THIS COURT ORDERS** that effective upon the filing of the Monitor's Closing Certificate, (a) Ignite Group and their present directors, officers, employees, financial and legal advisors; (b) Residual Co., and its present directors, officers, employees, financial and legal advisors; (c) the Monitor and its legal counsel and their respective current and former directors, officers, partners, employees, and advisors; (d) Primary, in its capacities as (i) unsecured lender to the Applicants; (ii) ultimate parent company of the Applicants; and (iii) the DIP Lender, and its current and former directors, officers, partners, employees, financial and legal advisors; (e) Southampton, and its present and former directors, officers, employees, financial and legal advisors; and (f) KPMG CF, and its present and former directors, officers, partners, employees, and advisors, (collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future liabilities, claims (including, without limitation, claims for contribution or indemnity), indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or



unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part of any act or omission, transaction, dealing or other occurrence existing or taking place prior to the filing of the Monitor's Closing Certificate, or undertaken or completed in connection with or pursuant to the terms of this Order and that relate in any manner whatsoever to the Ignite Group, or any of their operations, assets and property (current or historical), obligations, business or affairs or these CCAA Proceedings, or arising in connection with or relating to the Purchase Agreement, the completion of the Transactions, the closing documents, any agreement, document, instrument, matter or transaction involving the Ignite Group arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions (collectively, the "**Released Claims**"), which Released Claims are hereby and shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, provided that nothing herein shall release any claim that that is not permitted to be released pursuant to section 5.1(2) of the CCAA, or any obligations of any Released Party under, or in connection with, the Purchase Agreement, or the closing documents, and that certain guarantee made by Primary to and in favour of, in respect of the Company's indebtedness to, Aviva on November 15, 2021 (as described in the Initial Livingstone Affidavit).

#### **SEALING PROVISION**

26. **THIS COURT ORDERS** that Confidential Appendix "A" to the First Report is hereby sealed and shall not form part of the public record, subject to further order of this Court sought on not less than seven (7) days notice to the Purchaser and, provided it has not been discharged, the Monitor.

27. **THIS COURT ORDERS** that Confidential Appendix "B" to the First Report is hereby sealed and shall not form part of the public record until closing of the Transaction contemplated under the Purchase Agreement, subject to further order of this Court sought on not less than seven (7) days notice to the Purchaser and, provided it has not been discharged, the Monitor.

#### **GENERAL**

28. **THIS COURT ORDERS** that in the event of a conflict between the terms of this Order and those of the ARIO or any other Order of this Court, the provisions of this Order shall govern.

29. **THIS COURT ORDERS** that, following the Closing Time, Southampton and the Company shall be authorized to take all steps as may be necessary to affect the discharge of the Claims and Encumbrances as against the Company, the Purchased Shares, and the Property.

30. **THIS COURT ORDERS** that, following the Closing Time, the title of these proceedings is hereby changed to

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

AND IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF **[X]**, IGNITE HOLDINGS INC., AND IGNITE INSURANCE  
CORPORATION

31. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date that it is made and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

32. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

33. **THIS COURT DECLARES** that the Monitor or the Ignite Group shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court, tribunal or administrative body whether in Canada, the United States, or elsewhere, for orders which aid and complement this Order. All courts, tribunals and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Ignite Group and the Monitor as may be deemed necessary or appropriate for that purpose.

34. **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 Company, 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 Company and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Company, the Monitor and their respective agents in carrying out the terms of this Order.

35. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern time on the date hereof; provided that, the transaction steps set out in paragraph 5 hereof shall be deemed to have occurred sequentially, one after the other, in the order set out in paragraph 5 hereof.

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**Schedule A – Form of Monitor’s Closing Certificate**

Court File No. CV-23-00708635-00CL

**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 PLAN OF COMPROMISE OR ARRANGEMENT OF IGNITE  
HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION**

**MONITOR’S CERTIFICATE**

**RECITALS**

A. Pursuant to the Initial Order of Justice Conway of the Ontario Superior Court of Justice (Commercial List), (the “**Court**”) dated October 30, 2023, as amended and restated on November 9, 2023, Ignite Services Inc. (the “**Company**”), Ignite Holdings Inc., and Ignite Insurance Corporation (collectively, the “**Ignite Group**”) were granted protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and KPMG Inc., was appointed as the monitor of the Ignite Group (in such capacity, the “**Monitor**”).

B. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Approval and Reverse Vesting Order of this Court dated November 9, 2023 (the “**ARVO**”)

C. Pursuant to the ARVO, the Court approved the Transactions contemplated by the Purchase Agreement dated October 26, 2023 between Ignite Holdings and Southampton, and ordered, *inter alia*, that: (i) all of the Ignite Group’s right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co.; (ii) all of the Excluded Contracts, Excluded Leases and Excluded Liabilities shall be transferred to, assumed by and vest in Residual Co.; and (iii) all of the right, title and interest in and to the Purchased Shares shall vest absolutely and exclusively in Southampton free and clear of and from any Claims and Encumbrances, which vesting is to be effective upon the delivery by the Monitor to Southampton and the Ignite Group of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Ignite Group and Southampton that all conditions to closing have been satisfied or waived by the parties to the Purchase Agreement.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received from the Company its cash on hand.
2. The Monitor has received written confirmation from each of the Ignite Group and Southampton, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by each of the parties to the Purchase Agreement.
3. This Monitor's closing certificate was delivered by the Monitor at Toronto on \_\_\_\_\_, 2023.

**KPMG Inc., in its capacity as Monitor of the Ignite Group and not in its personal or corporate capacity.**

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

## **Schedule "B" - Permitted Encumbrances**

**[To be appended.]**

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

AND IN THE MATTER OF PLAN OF COMPROMISE OR ARRANGEMENT OF IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION

Applicants

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

PROCEEDING COMMENCED AT TORONTO

**ORDER  
(APPROVAL AND REVERSE VESTING ORDER)**

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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 IGNITE HOLDINGS INC., IGNITE SERVICES INC., and IGNITE INSURANCE CORPORATION**

Applicants

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

PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD  
(RE: AMENDED AND RESTATED INITIAL  
ORDER AND APPROVAL AND REVERSE  
VESTING ORDER  
(RETURNABLE NOVEMBER 9, 2023)**

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