Court File No. CV-13-10274-00CL

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

MOTION RECORD
(Approval of Sale Procedures)
(Returnable November 13, 2013)

November 7, 2013

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Court File No. CV-13-10274-00CL

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Applicants

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Tab 1

Court File No. CV-13-10274-00CL

ONTARIO
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Applicants

NOTICE OF MOTION
(Approval of Sale Procedures)
(Returnable November 13, 2013)

The Applicants, Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**"), Data & Audio-Visual Enterprises Wireless Inc. ("**Wireless**") and 8440522 Canada Inc. ("**844**" and, collectively with Holdings and Wireless, the "**Mobilicity Group**") will make a motion to a Judge presiding over the Commercial List on **November 13, 2013** at **9:00 a.m.**, or as soon after that time as the motion can be heard, at **330 University Avenue, Toronto**.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR an Order in the form of a draft order included in the Motion Record, *inter alia*:

(a) if necessary, abridging and validating the time for service of the Notice of Motion and Motion Record in respect of this motion and the Second Report of the Monitor, Ernst & Young Inc. (the "**Monitor**"), to be served (the "**Second Report**"), and dispensing with further service thereof;

(b) approving proposed sale procedures (the "**Sale Procedures**"); and

(c) such further and other relief as counsel may request and this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

(d) The Mobilicity Group has had ongoing discussions with Industry Canada regarding a proposed acquisition transaction (the "**Proposed Transaction**") and continues to have a dialogue with Industry Canada;

(e) In particular, the Applicants are reviewing information received from Industry Canada and exploring with Industry Canada the Proposed Transaction and other additional matters related to transactions affecting the Mobilicity Group's business;

(f) The Mobilicity Group is also considering other alternatives to maximize the value of its assets for the benefit of its stakeholders and has determined that the best course of action at this time is to commence a formal sale process for the Mobilicity Group and its assets;

(g) A number of parties have expressed interests over the past weeks and months in some or all of the assets of the Mobilicity Group;

(h) A Court-supervised sale process will allow those interests to be considered in a fair and organized manner, under the supervision of the Monitor;

(i) The Sale Procedures require interested parties to submit a bid on a timeline which will allow the Mobilicity Group to determine its available options as soon as possible;

(j) The approval of the Sale Procedures will facilitate the continuation of the Mobilicity Group's steps toward its restructuring goals, which, if successful, will permit the Mobilicity Group to complete a successful sale of its business, to the benefit of all stakeholders;

(k) The provisions of the CCAA; and

(l) 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:

(m) The Aziz Affidavit;

(n) The Second Report; and

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

November 7, 2013

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TO: Attached Service List

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

Court File No: CV-13-10274-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

NOTICE OF MOTION
(Returnable November 13, 2013)

(Approval of Sale Procedures)

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Court File No. CV-13-10274-00CL

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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Tab 2

Court File No. CV-13-10274-00CL

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

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Applicants

AFFIDAVIT OF WILLIAM E. AZIZ
(sworn November 7, 2013)

I, **William E. Aziz**, of the City of Oakville, in the Province of Ontario MAKE OATH AND SAY:

1. I am the President of BlueTree Advisors II Inc. ("**BlueTree**"), which has been retained by Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**") to provide my services to Holdings and its affiliates[1] (collectively, with Holdings, the "**Mobilicity Group**") as Chief Restructuring Officer of the Mobilicity Group. I am a director of each of the Mobilicity Group entities. BlueTree was retained pursuant to an Engagement Letter dated April 24, 2013.

2. My engagement was ratified and confirmed by Order of this Court on September 30, 2013 (the "**Initial Order**").

3. As described in my affidavit sworn September 29, 2013 (the "**Initial Order Affidavit**") in these proceedings, I have been overseeing the restructuring efforts of the Mobilicity Group since April 24, 2013 and, as such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have spoken with certain

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[1] The affiliates of Holdings are 8440522 Canada Inc. and Data & Audio-Visual Enterprises Wireless Inc.

of the directors, officers, advisors and/or employees of the Mobilicity Group, as necessary, and, where I have relied upon information from such discussions, I believe such information to be true. A copy of my Initial Order Affidavit, excluding exhibits, is attached as Exhibit "A" hereto.

4. This affidavit is sworn in support of a motion by the Mobilicity Group approving proposed sale procedures (the "**Sale Procedures**") in respect of a sale process for the assets and business of the Mobilicity Group. A copy of the Sale Procedures is attached hereto as Exhibit "B". Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Sale Procedures. If there are inconsistencies between any summary of the Sale Procedures contained herein and the terms and conditions of the Sale Procedures, the terms and conditions of the Sale Procedures shall govern.

Background

5. Following the issuance of the Initial Order, the Applicants focussed on maintaining the stability of their business and continued their efforts in furtherance of their proposed acquisition transaction (the "**Proposed Transaction**").

6. On October 24, 2013, the Applicants sought and obtained an Order extending the Stay Period (as defined in the Initial Order) to December 20, 2013.

7. The Mobilicity Group has had ongoing discussions with Industry Canada regarding the Proposed Transaction and continues to have a dialogue with Industry Canada. In particular, the Applicants are reviewing information received from Industry Canada and exploring with Industry Canada the Proposed Transaction and other additional matters related to transactions affecting the Mobilicity Group's business.

8. The Mobilicity Group is also considering other alternatives to maximize the value of its assets for the benefit of its stakeholders.

9. A number of parties have expressed interests over the past weeks and months in some or all of the assets of the Mobilicity Group and I believe that a Court-supervised sale process will allow those interests to be considered in a fair and organized manner, under the supervision of the Court-appointed Monitor.

Mobilicity Group Business and Assets

10. The Mobilicity Group carries on business as a Canadian wireless telecommunications carrier. It provides cellular service to Canadians in five urban markets across Canada: Ottawa, Toronto, Calgary, Edmonton and Vancouver, and has roaming agreements to provide continuity of service to its customers when they are travelling outside these markets. In addition to voice, text, data and long distance cellular services, the Mobilicity Group offers hardware (handsets and accessories) to its customers, referred to as "subscribers" in the telecommunications industry.

11. The Mobilicity Group's assets are described in detail in the Initial Order Affidavit. These assets generally fall within the following categories: wireless spectrum licenses, subscribers, network hardware assets, site or corporate store leases and tax losses.

12. The Mobilicity Group's most valuable assets are its wireless spectrum licenses. In 2008, Industry Canada released a new cache of spectrum licences by holding an auction (the "**2008 Spectrum Auction**") for qualified bidders. At the 2008 Spectrum Auction, Wireless acquired 10 licences (the "**Spectrum Licences**") for $243 million, which was funded through an investment in Holdings. The Spectrum Licences have an initial term of 10 years and will expire in February 2019. Renewal of the Spectrum Licences will be determined by Industry Canada at a later date. The Spectrum Licenses continue to be valuable assets of the Mobilicity Group.

13. Applicable conditions state that the Spectrum Licenses may not be transferred or leased to, acquired by means of a change in ownership or control of the licensee, divided among, or exchanged with companies that do not meet the criteria of a new entrant, for a period of five years from the date of issuance. In the case of the Spectrum Licenses, that five year period expires on February 12, 2014 (the "**Moratorium Termination Date**").

14. In June 2013, Industry Canada announced that it will be holding another spectrum auction commencing on January 14, 2014 (the "**2014 Spectrum Auction**"). The Mobilicity Group will not participate in the 2014 Spectrum Auction.

The Sale Procedures

15. The Mobilicity Group has undertaken a review of its circumstances in consultation with the DIP Lenders and the Monitor as well as the Mobilicity Group's financial and legal advisors. This review has resulted in a determination that the best course of action at this time is to commence a formal sale process for the Mobilicity Group and its assets.

16. In electing to seek approval of the Sale Procedures, the Mobilicity Group has considered the best ways to maximize value for all stakeholders and the best interests of the Mobilicity Group's stakeholder community. The Mobilicity Group is not aware of any stakeholder that objects to a sales process or any stakeholder who would be prejudiced by the Sale Procedures.

17. The Sale Procedures do not preclude the pursuit of any other restructuring options, including other asset sale alternatives, or transactions that may be presented outside of the Sale Procedures, thereby maintaining flexibility for the Mobilicity Group to achieve the best available result, subject to the approval of this Court.

18. In addition, while the Mobilicity Group believes that a going concern sale transaction is the optimal solution for its stakeholders, Sale Procedures will provide flexibility for the potential bidders to bid for only some of the Mobilicity Group's assets.

19. A brief summary of the Sale Procedures follows:

(a) The Sale Procedures will be conducted in a manner such that all interested parties have a fair and equal opportunity to participate in the process. The Monitor will oversee the sale process, in consultation with the Mobilicity Group, its Financial Advisors (as such term is defined in the Initial Order Affidavit) and the DIP Lenders.

(b) The Sale Procedures contemplate a sale, in one or more transactions, on an "as is, where is" basis, of all or substantially all of the business and assets or shares of Wireless and/or Holdings, including a transaction pursuant to which all of the shares of Holdings or Wireless are arranged to be held by a Successful Bidder.

(c) A Transaction Order from the Court approving an ultimately Successful Bid will be required.

(d) The Monitor, in consultation with the Mobilicity Group, its Financial Advisors and the DIP Lenders will determine if a Potential Bidder is a Qualified Bidder based upon enumerated criteria.

(e) The deadline for Qualified Bids from Qualified Bidders will be December 9, 2013.

20. The Monitor, after consultation with the Mobilicity Group, its Financial Advisors and the DIP Lenders, may (a) determine which Qualified Bid, if any, is the highest or otherwise best offer; (b) reject at any time before the issuance and entry of an order approving a Qualified Bid, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Sale Procedures or any order of this Court, or (iii) contrary to the best interests of the Mobilicity Group or its creditors; and (c) modify the Sale Procedures in accordance with their terms or impose additional terms and conditions on the sale of the assets.

21. The Sale Procedures require interested parties to submit a bid on a relatively expeditious timeline, which will allow the Mobilicity Group to determine its available options as soon as possible.

22. I believe that there is a readily identifiable group of parties who may have an interest in completing a transaction for the purchase of the Mobilicity Group assets, and that given those parties' familiarity with the industry and/or the Mobilicity Group, I believe the timelines set forth in the Sale Procedures are appropriate.

23. A limited marketing process is also appropriate in the circumstances given that, as described in paragraphs 92 and 93 of the Initial Order Affidavit, the Mobilicity Group and its assets have been offered for sale to the market for over a year prior to the commencement of these proceedings, and also given the fact that these proceedings and the Mobilicity Group's efforts to market its business have been highly publicized.

24. The Mobilicity Group has concluded that the proposed sale process represents the best available alternative at this time given:

(a) the current status of the Proposed Transaction;

(b) the Mobilicity Group's existing liquidity position;

(c) the Mobilicity Group's continuing (though reduced) operating losses;

(d) the upcoming Moratorium Termination Date;

(e) the review of strategic alternatives to date, which suggests that there is no better viable alternative to a sale transaction; and

(f) a going concern sale, if possible, would preserve jobs for employees and services for subscribers.

Conclusion

25. The approval of the Sale Procedures will facilitate the continuation of the Mobilicity Group's steps toward its restructuring goals, which, if successful, will permit the Mobilicity Group to complete a successful sale of its business, to the benefit of all stakeholders.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on November 7, 2013. Commissioner for Taking Affidavits Daniel Pearlman	WILLIAM E. AZIZ

Tab A

EXHIBIT A – INITIAL ORDER AFFIDAVIT

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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

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Applicants

AFFIDAVIT OF WILLIAM E. AZIZ
(sworn September 29, 2013)

I, **WILLIAM E. AZIZ**, of the Town of Oakville, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the President of BlueTree Advisors II Inc. (**"BlueTree"**), which has been retained by Data & Audio-Visual Enterprises Holdings Inc. (**"Holdings"**) to provide my services to Holdings and its affiliates[1] (collectively, with Holdings, the **"Mobilicity Group"**) as Chief Restructuring Officer of the Mobilicity Group. I report to the board of directors of Holdings. I am a director of each of the Mobilicity Group entities. BlueTree was retained pursuant to an Engagement Letter dated April 24, 2013 (the **"CRO Engagement Letter"**).

2. I have more than 24 years of turnaround and corporate restructuring experience. I have led restructurings as an executive or board member involving all aspects of balance sheet and operational restructurings in diverse industries, including telecommunications (such as SR Telecom, a broadband wireless infrastructure enterprise), softwood lumber,

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[1] The affiliates of Holdings are 8440522 Canada Inc. and Data & Audio-Visual Enterprises Wireless Inc.

This is Exhibit A *referred to in the affidavit of* William Aziz *sworn before me, this* 7 *day of* November 2013

A COMMISSIONER, ETC.

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steel manufacturing, refrigerated warehousing, transportation, retail, manufacturing and media.

3. I also have extensive experience as an independent director. I am currently a director, member of the Governance Committee and Chair of the Audit Committee for Canada Bread Company, Limited. I have previously served as:

(a) Chair of the Investment Committee and a member of the Human Resources Committee of OMERS;

(b) a board member of Tecumseh Products Company (Michigan) where I chaired the Governance and Nominating Committee and was a member of the Audit Committee;

(c) a board member of Sun-Times Media Group, Inc. (Chicago); and

(d) a member of the Restructuring Committee, and Chair of the Audit and Governance Committees of Doman Industries Limited (British Columbia).

4. I am a Chartered Accountant and an alumnus of Ernst & Young. I am a graduate of the Ivey School of Business at the University of Western Ontario. I have completed the Institute of Corporate Directors Governance College at the Rotman School of Business, University of Toronto.

5. I have been overseeing the restructuring efforts of the Mobilicity Group since April 24, 2013 and, as such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have reviewed the material records of the Mobilicity Group and have spoken with certain of the directors, officers, advisors and/or employees of the Mobilicity Group, as necessary, and, where I have relied upon such information, I believe such information to be true.

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I. INTRODUCTION

6. This affidavit is sworn in support of an application for an order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), by the entities that comprise the Mobilicity Group.

7. The Mobilicity Group carries on business as a Canadian wireless telecommunications carrier.

8. The Mobilicity Group has experienced significant financial challenges in the preceding months. The Mobilicity Group has pursued a variety of financing, sale and restructuring alternatives in an effort to resolve these financial challenges. In particular, and as further described below:

(a) With the assistance of its financial and legal advisors, the Mobilicity Group solicited interest and discussed potential financing and sale transactions with multiple parties. These efforts commenced in July of 2012, have continued to date and remain ongoing.

(b) In February 2013, the Mobilicity Group obtained $35 million in bridge financing to provide it with the funding necessary to explore various strategic alternatives. The parties who provided the bridge financing are certain noteholders from the Ad Hoc Committee of Noteholders (as defined below).

(c) In May 2013, after discussions with multiple parties, the Mobilicity Group reached an agreement with TELUS Corporation whereby TELUS Corporation would acquire the Mobilicity Group on a going-concern basis for $380 million[2] pursuant to a plan of arrangement under the *Canada Business Corporations Act.* This transaction was supported by the Ad Hoc Committee of Noteholders, approved by substantial majorities of the Mobilicity Group's

[2] In addition to the $380 million purchase price, TELUS Corporation also agreed to assume $35 million of negative working capital.

creditors and was approved as fair and reasonable by the Ontario Superior Court of Justice. This transaction would have preserved the Mobilicity Group's ability to continue as a going concern and would have resulted in the optimal outcome in the circumstances for the Mobilicity Group, its employees, customers, creditors and other stakeholders. However, the federal Minister of Industry announced in June 2013 that Industry Canada would not approve the transfer of the Mobilicity Group's spectrum licenses to TELUS Corporation at that time. As a result of the decision of the Minister of Industry at that time, the transaction could not be completed.

(d) The Mobilicity Group has continued to solicit and pursue discussions with multiple parties. As part of those efforts, the Mobilicity Group solicited and received an expression of interest and engaged in detailed discussions with a significant U.S.-based wireless service provider; however, after significant due diligence these discussions did not ultimately result in a binding offer due to uncertainty surrounding the Government's upcoming spectrum auction.

(e) The Mobilicity Group has recently approached representatives of the Minister of Industry with another potential sale transaction (the "**Proposed Transaction**"). However, the Mobilicity Group has not received the necessary approvals from the Minister of Industry for the Proposed Transaction at this time. As a result, the Mobilicity Group is not in a position to advance and complete the Proposed Transaction in time to avoid these CCAA proceedings. The Mobilicity Group continues to engage in discussions with the Government in an effort to advance and complete the Proposed Transaction as soon as possible.

9. The Mobilicity Group continues to explore and advance solutions to its financial challenges. However, the Mobilicity Group now faces an immediate liquidity crisis. Without the protection of the CCAA, an imminent shutdown of operations of the Mobilicity Group would be inevitable. CCAA protection in the form proposed by the Mobilicity Group will allow the Mobilicity Group the additional time and funding it needs to continue to pursue the Proposed Transaction and any other available alternatives.

10. All necessary board and shareholder authorizations have been obtained for this application.

11. The Mobilicity Group also understands that this application is supported by an ad hoc committee of the Mobilicity Group's significant creditors, who collectively represent approximately 92% of the principal value of the Unsecured Senior Notes, 100% of the principal value of the Bridge Notes and 67% of the principal value of the First Lien Notes (each as defined below) (the "**Ad Hoc Committee of Noteholders**").

II. MOBILICITY

A. Corporate Structure

12. The Mobilicity Group's corporate structure consists of the following entities:

(a) **Holdings**: a private company incorporated under the *Business Corporations Act* (Ontario), R.S.O. 1990, c. B. 16 ("**OBCA**") in March 2008. Holdings holds 100% of the shares of Wireless (as defined below) and carries on no active operations. Holdings' registered head office is located at 101 Exchange Avenue in Vaughan, Ontario.

(b) **Data & Audio-Visual Enterprises Wireless Inc.** ("**Wireless**"): the operating entity of the Mobilicity Group, is a private company which was incorporated under the OBCA in March 2008 and wholly owned by Holdings. Wireless' registered head office is located at 101 Exchange Avenue in Vaughan, Ontario. Data & Audio-Visual Enterprises Leasing Inc. ("**Leasing**") was amalgamated with Data & Audio-Visual Enterprises Wireless Inc. to form Wireless on May 15, 2013.

(c) **8440522 Canada Inc. ("844")**: a private company incorporated under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 ("**CBCA**") that is wholly-owned by Wireless. Its registered head office is located at 101

Exchange Avenue in Vaughan, Ontario. 844 has no material assets nor any liabilities.

13. As of the date of this Affidavit, the authorized capital of Holdings consists of:

(a) an unlimited number of Common Shares, of which 4,995,211 Common Shares are issued and outstanding. Data & Audio-Visual Enterprises Investments Inc. ("**Investments**") holds 3,330,141 Common Shares and QCP CW S.A.R.L. ("**Quadrangle**") holds the other 1,665,070 Common Shares; and

(b) an unlimited number of non-voting Class B shares, of which 20,204,790 Class B shares are issued and outstanding. All of Holdings' Class B shares are held by Quadrangle. Holdings' Class B shares are convertible at the option of the holder on a one-for-one basis into Common Shares, subject to certain regulatory restrictions and compliance requirements.

14. Investments holds an approximately 13.2% equity interest and a 66.7% voting interest in Holdings. Quadrangle holds an approximately 86.8% equity interest and 33.3% voting interest in Holdings (each on a non-diluted basis).

15. Holdings and Wireless are parties to a Second Amended and Restated Shareholders Agreement with Quadrangle and Investments dated as of May 14, 2010, a copy of which is attached hereto as Exhibit "A".

16. Wireless operates under a unanimous shareholder declaration dated August 1, 2008, a copy of which is attached hereto as Exhibit "B".

17. The Mobilicity Group and its member companies have financial inter-relationships and common interests and operate with a common business plan and governance model. There are no minority shareholders of Wireless or 844. As set out below, Holdings has guaranteed certain debts of Wireless, and Holdings has raised hundreds of millions of dollars by way of

equity and debt financing that it has contributed to Wireless, and which Wireless has used in furtherance of the Mobilicity Group's business, as a whole.

B. The Business of the Mobilicity Group

Overview

18. As stated above, the Mobilicity Group carries on business as a Canadian wireless telecommunications carrier. It provides cellular service to Canadians in five urban markets across Canada: Ottawa, Toronto, Calgary, Edmonton and Vancouver, and has roaming agreements to provide continuity of service to its customers when they are travelling outside these markets. In addition to voice, text, data and long distance cellular services, the Mobilicity Group offers hardware (handsets and accessories) to its customers, referred to as "subscribers" in the telecommunications industry.

19. The Mobilicity Group was founded on the concept of offering low cost cellular services to value-conscious consumers who are seeking less expensive cellular services than those offered by the established players in the market, being Bell Canada Inc., TELUS Corporation and Rogers Communications Inc. (together, the "**Incumbents**").

Spectrum Licences

20. All wireless communications signals travel over the air via radio frequency signals called "spectrum". Spectrum is a finite public resource that is controlled and regulated by the Government of Canada. Industry Canada oversees spectrum licensing and auctions.

21. In 2008, Industry Canada released a new cache of spectrum licences by holding an auction (the "**2008 Spectrum Auction**") for qualified bidders. At the 2008 Spectrum Auction, Wireless acquired 10 licences (the "**Spectrum Licences**") for $243 million, effective

February 2009. The Spectrum Licences have an initial term of 10 years and will expire in February 2019. Renewal of the Spectrum Licences will be determined by Industry Canada at a later date. The Spectrum Licenses continue to be valuable assets of the Mobilicity Group.

22. Applicable conditions state that the Spectrum Licenses may not be transferred or leased to, acquired by means of a change in ownership or control of the licensee, divided among, or exchanged with companies that do not meet the criteria of a new entrant[3], for a period of five years from the date of issuance. In the case of the Spectrum Licenses, that five year period expires on February 12, 2014 (the "**Moratorium Termination Date**").

23. In June 2013, Industry Canada announced that it will be holding another spectrum auction on January 14, 2014 (the "**2014 Spectrum Auction**"). Those intending to bid in the 2014 Spectrum Auction were required to submit a refundable deposit, together with their expression of interest, by no later than September 17, 2013. The Mobilicity Group did not make a deposit and does not intend to participate in the upcoming 2014 Spectrum Auction.

24. On September 23, 2013, Industry Canada released the list of entities who intend to participate in the 2014 Spectrum Auction. Upon reviewing this list, the Mobilicity Group learned for the first time that, in addition to the Incumbents, Feenix Wireless Inc. ("**Feenix**"), an entity wholly-owned by Mr. John Bitove, a director of Holdings that I understand indirectly controls 67% of Holdings' voting common shares, and The Catalyst Capital Group Inc. ("**Catalyst**"), the beneficial holder of approximately 30% of the First Lien Notes (as defined below), intend to participate in the 2014 Spectrum Auction. As described in greater detail below, Industry Canada has provided confirmation that the Mobilicity Group is not affiliated or associated with either Feenix or Catalyst.

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[3] A "new entrant" is an entity, including affiliated and associated entities, which holds less than 10 percent of the national wireless market based on revenue. The Mobilicity Group is a "new entrant". None of the Incumbents are "new entrants".

Business Operations

25. The Mobilicity Group was initially funded by a $250 million investment in Holdings from Quadrangle and Investments, who received equity in return. These funds were contributed to Wireless by Holdings and used predominantly for the purchase of the Licences.

26. After purchasing the Spectrum Licences, the Mobilicity Group established an office, hired a management team to develop the wireless carrier business, contracted with Ericsson Canada Inc. ("**Ericsson**") to build a network system, established key contracts with suppliers and issued its first round of debt financing. In May 2010, the Mobilicity Group began marketing and selling services to subscribers.

27. The Mobilicity Group operates on a "pay in advance" billing system which provides set monthly plans for its subscribers. The pay in advance billing system allows subscribers to select from a variety of fixed-rate plans which vary in price and service offerings.

28. Approximately 60% of the Mobilicity Group's subscribers pre-pay their monthly bill by automatic billing to a credit card or automatic withdrawal through a bank account. The remaining 40% of subscribers pre-pay for cellular service, on a month-to-month basis, either by calling the Mobilicity Group's customer care centre or in-store.

29. As part of its business plan, the Mobilicity Group has sought and entered into agreements with strategic business suppliers and service providers, effectively outsourcing certain elements of its business, including network building and maintenance, real-time billing and rating, customer service and handset supply to the Mobilicity Group and its authorized dealers (the "**Dealers**"). These strategic partners are discussed in greater detail below in this affidavit.

C. Employees

30. As at August 1, 2013, the Mobilicity Group employed 132 people. Of that total, 26 employees work in its four corporately-owned stores. Most of the other 106 employees are full-time staff. The senior management team is comprised of four people. None of the Mobilicity Group's employees are unionized.

31. In response to the Mobilicity Group's financial difficulties, management has reduced the number of employees by approximately 205 people since December 2011.

D. Pensions and Benefits

32. The Mobilicity Group provides a standard benefit plan covering health, dental, AD&D and life insurance, short-term disability and long-term disability. The long-term disability premiums are paid by the employees themselves. The Mobilicity Group has no pension or RRSP plan.

E. Supply Chain and Service Providers

Distribution Channels

33. The Mobilicity Group sells cellular services and handsets by way of a combination of corporately-owned stores, independently operated stores and partnerships with retail vendors.

Corporate Stores and Dealers

34. In addition to the four corporately-owned stores, the Mobilicity Group sells cellular services and handsets through Dealers (including independently operated stores) and partnerships with retail vendors.

35. In particular, the Mobilicity Group Dealer network consists of approximately 314 points of distribution which include approximately 94 "platinum-level" stores that exclusively sell Mobilicity-branded services and only offer wireless-related products at their stores, and approximately 150 "gold" and "silver" level stores that either exclusively or non-exclusively sell Mobilicity branded services, but also sell non-wireless related products.

36. The platinum, gold and silver level stores are generally owner-operated small businesses. The platinum-level stores are entirely dependent upon sales of the Mobilicity Group products and services for revenue. Examples of the gold and silver level stores are electronics stores, computer-repair stores and convenience stores.

37. When subscribers sign up with the Mobilicity Group through a Dealer, the Dealer collects service payments on behalf of Wireless. Dealers typically earn a flat-fee commission for each subscriber who activates the Mobilicity Group's service through the Dealer subject to prescribed customer retention requirements, and do not earn margin on the sale of Mobilicity Group handsets, nor do they earn ongoing commissions for active subscribers. The commission is paid to the Dealer 45 days after the end of the month in which the subscriber is signed on. Platinum-level dealers generally earn a higher rate of commission than other types of Dealers.

Retail Stores

38. The Mobilicity Group has distribution partnerships with a variety of regional and national retail stores, including: Loblaws, Mobile Republic and Value Mobile. Depending on the relationship and type of Mobilicity Group products that they offer, retailers are either paid commissions similarly to how a Dealer is paid, or through margin on handset sales.

Service Providers

39. The Mobilicity Group's business model provides for outsourcing of certain business functions: network building and maintenance, real-time billing and rating, provisioning systems, handset logistics and distribution and call centre operations.

Network Building and Maintenance

40. Pursuant to a network construction agreement effective July 15, 2009 (as amended, the "**Ericsson Network Agreement**") and a master service agreement dated March 31, 2010 (as amended, the "**Ericsson Service Agreement**"), both between Wireless and Ericsson, Ericsson has built and now maintains a UMTS/HSPA enabled network that provides voice and data services to Mobilicity Group subscribers. These agreements contain commercially sensitive terms and, as such, copies have been provided to Ernst & Young Inc., as the proposed Monitor (in such capacity, the "**Proposed Monitor**"), but they are not attached as exhibits to my affidavit.

Billing

41. Pursuant to an agreement between Wireless and Amdocs Canadian Managed Services Inc. ("**Amdocs**") dated October 15, 2009 (as amended, the "**Amdocs Agreement**"), Amdocs provides a real-time billing and operational support system for Wireless which includes activation, provisioning, rating and billing to Wireless subscribers. Wireless pays a monthly fee to license the vendor-owned hardware and software and for on-site support personnel. The Amdocs Agreement expires December 31, 2018, or earlier should the parties so elect (after January 1, 2014 and subject to early termination fees).

42. The Amdocs Agreement contains commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

Handset Distribution

43. Pursuant to a letter agreement between Ingram Micro Inc. ("**Ingram**") and Wireless dated March 1, 2013 (the "**Ingram Agreement**"), Ingram is the sole provider of handset distribution logistical services to the Mobilicity Group and its Dealers. Among other things, Ingram purchases inventory from original equipment manufacturers and delivers that inventory to the Dealers within 24 to 48 hours of a request for delivery. As per the Ingram Agreement, Wireless purchases any inventory in Ingram's possession for longer than 120 days. Wireless also pays a 50% deposit upon receipt of inventory by Ingram, which deposit is refunded to Wireless upon sale of that inventory to the Dealers or corporate-owned stores.

44. The Ingram Agreement contains commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

Roaming Agreements

45. As a condition to receiving a spectrum licence, Industry Canada requires that, where feasible, spectrum licensees offer automatic digital roaming on their networks for subscribers whose cellular service provider does not have spectrum coverage in a particular area in Canada. By agreement dated October 2, 2009 between Rogers Wireless Partnership ("**Rogers**") and Wireless (the "**Roaming Agreement**"), Rogers provides roaming services to Mobilicity Group's customers. The Roaming Agreement has a term of five years, expiring October 1, 2014. Amounts due under the Roaming Agreement are based on subscriber

usage and totalled approximately $4.8 million in 2012. The Mobilicity Group has also entered into roaming agreements with other international telecommunications companies, which provide roaming services in the United States and certain countries in the Caribbean. The Mobilicity Group also has indirect sponsored roaming relationships that allow customers to receive roaming services in dozens of countries internationally. These agreements contain commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

Call Centre Operations

46. Pursuant to an agreement (as amended, the "**Sitel Agreement**") between Wireless and Sitel Teleservices Canada ("**Sitel**"), Sitel provides all call centre services to Mobilicity Group subscribers. The Sitel Agreement could have been terminated on April 30, 2013 but has been automatically extended for a one year period in accordance with its terms. Absent notice to the contrary, the Sitel Agreement will continue to automatically extend for further one year periods.

47. The Sitel Agreement contains commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

F. Cash Management System

48. The Mobilicity Group maintains a cash management and disbursement system in the ordinary course of operations (the "**Cash Management System**").

49. When subscribers sign up with the Mobilicity Group through a Dealer or pay their monthly subscription amounts at that Dealer's location, the Dealer collects service payments on behalf of Wireless. Every evening, TIO Networks (a third party payment aggregator)

collects these payments from the Dealer, on behalf of Wireless, then deposits the payments into Wireless' bank account.

50. Approximately 60% of the Mobilicity Group's subscribers pay their bills directly via pre-authorized debit or credit card payments to the Mobilicity Group. Five to seven days prior to each monthly renewal date, the Mobilicity Group attempts to make a charge to the subscriber's registered debit or credit card. Upon successful confirmation, service is renewed.

51. The majority of subscriber payments by credit card or debit card to the Mobilicity Group are processed through Chase Paymentech Solutions ("**Paymentech**") pursuant to a Select Merchant Application and Agreement dated as of April 16, 2010 (the "**Paymentech Agreement**"). Upon successful credit/debit card authorization, cellular service is provided and Paymentech deposits the entirety of the funds payable to the Mobilicity Group into a Mobilicity Group-owned account within two days (the "**Transaction Payments**") and the Mobilicity Group has free access to these funds. Pursuant to the Paymentech Agreement, a "Settlement Account" was established by Wireless and Wireless authorized Paymentech to initiate electronic credit and debit entries and adjustments to that Settlement Account for all obligations arising under the Paymentech Agreement. In certain cases, Paymentech may exercise holdback rights against Transaction Payments that are otherwise due to Wireless in order to secure payments that may be due to Paymentech but that cannot otherwise be satisfied from the Settlement Account. Such payments may arise, for example, as a result of "chargebacks" where the Mobilicity Group is obligated to refund Transaction Payments previously received. Recently, Paymentech has advised the Mobilicity Group of its intention to begin accumulating a $1.2 million security deposit through enforcement of contractual holdback rights. This began on September 1, 2013 and initially accumulated at 10%, and effective September 24, 2013, increased to 25%, of daily billings processed by Paymentech

until the total of $1.2 million is reached. Holdback of any additional amounts will have a material negative impact on the Mobilicity Group's cash flow.

52. Subscribers also have the option to pay for their service via online banking, online debit payments or via a web-based payment app called WAP. Wireless is set up as a payee for online banking with all major Canadian banks. The bank-to-bank payments are processed through the Bank of Nova Scotia and funds are credited to the Mobilicity Group's account daily. Payments made using online debit transactions and WAP are either processed by SALT, or by Elavon (a US Bank subsidiary) for SALT.

53. Cash collected from cash-paying customers at the Mobilicity Group corporate stores is deposited twice weekly via Brinks and deposited in a Wireless bank account.

54. The nature of the Mobilicity Group's prepaid business means that accounts receivable from subscribers is nil. HST is a periodic receivable. All receivables payments are received via cheque or through direct deposit into a Wireless bank account.

55. Accounts payable, including Dealer commissions, rent (including for cell phone towers), employee expenses, trade expenses and customer refunds are processed by electronic funds transfer, cheque or an external service provider.

56. The Mobilicity Group has outsourced payroll processing to Ceridian Canada Ltd. ("**Ceridian**"), which performs this process on a twice monthly basis for the majority of employees. A small number of hourly corporate store employees are paid on a bi-weekly basis. Ceridian withdraws the necessary funds from a Wireless bank account two to three days prior to payday.

G. Subscribers

57. As described above, Wireless operates a "pay in advance" billing system which means their subscribers are generally not subject to long term contracts with Wireless.

58. As of the date of this affidavit, Wireless has approximately 194,000 active subscribers who together generate gross revenues of approximately $6.3 million per month, with average monthly gross revenue per user (**"ARPU"**, an industry-wide operating metric) of approximately $32, compared to an average Incumbent ARPU of approximately $60.

59. Approximately 65% of Mobilicity's subscribers are located in Ontario, 20% in British Columbia, and the remaining 15% in Alberta.

H. Properties and Facilities

60. The Mobilicity Group leases retail facilities in which the four corporate retail stores operate, as well as a corporate office in Vaughan and a sales office in Vancouver. There are two co-location data centres, one in Toronto and another in Vancouver, which house the network switching equipment. In addition, the Mobilicity Group leases or licenses space for approximately 500 locations, which are primarily building rooftops, for placement of its cellular broadcasting equipment (the **"Cellular Site Leases"**). The Mobilicity Group has, in selective cases, become the head tenant or provided lease guarantees for certain Dealers. The aggregate lease and license amounts for these aforementioned properties total to about $11 million per year.

61. The lease of the Mobilicity Group's corporate office space in Vaughan expires in accordance with its terms on October 31, 2013. This is the space from which the vast majority of the Mobilicity Group's employees operate.

62. Whereas in the past the Mobilicity Group has paid the full annual cost of the Cellular Site Leases in advance, the Mobilicity Group's current liquidity position will not allow this to continue to occur. Accordingly, the Mobilicity Group proposes to pay these amounts monthly in advance.

I. Assets and Liabilities

Assets

63. In addition to the Mobilicity Group's customer base, as at July 31, 2013, the Mobilicity Group's assets were valued on a book basis at approximately $362 million, as follows:

<u>Current Assets</u>	
Cash and equivalents	$13,052,425
Accounts receivable	$2,085,114
Prepaid expenses	$4,394,804
Inventory	$193,800
Total Current Assets	$19,726,143
<u>Non-Current Assets</u>	
Property and equipment	$95,778,197
Intangible assets	$246,987,862
Total Non-Current Assets	$342,766,143
Total Assets	**$362,492,202**

Property and Equipment

64. Property and equipment includes the network assets, furnishings and related equipment, office computer hardware/software, as well as the fixed assets located at the four corporate stores. The network assets, which had a net book value of $89,873,517 as at July 31, 2013, comprise the bulk of asset value in this category.

Intangible Assets

65. Intangible assets consist of the spectrum licences acquired during the 2008 Spectrum Auction, which have an initial term of 10 years.

Tax Losses

66. In addition to the foregoing, as at fiscal year ended December 31, 2012, the Mobilicity Group had Canadian non-capital loss carry forwards amounting to approximately $439 million expiring between 2029 and 2032. There are significant tax losses at both the Wireless and Holdings level. Losses incurred after December 31, 2012, would create Canadian non-capital loss carry forwards in addition to this amount.

Liabilities

67. As at July 31, 2013, the Mobilicity Group, on a consolidated basis, had liabilities totalling approximately $465 million, of which approximately $79 million consist of current liabilities such as accounts payable, deferred revenue and the Bridge Notes (as defined below). The remaining $386 million is long-term debt. All liabilities of the Mobilicity Group reside in Holdings or Wireless. As stated above, 844 has no liabilities. Liabilities of Holdings and Wireless are as follows:

Accounts payable and accrued liabilities	$28,512,669
Deferred revenue	$6,839,580
Loan Payable	$43,250,000
Total Current Liabilities	$78,602,249
Long term debt	$386,038,612
Total Non-Current Liabilities	$386,038,612
Total Liabilities	**$464,640,861**

The First Lien Notes

68. On April 29, 2011, pursuant to an indenture (as amended, the "**First Lien Note Indenture**") among Data & Audio-Visual Enterprises Wireless Inc., Data & Audio-Visual Enterprises Leasing Inc. (each a predecessor by amalgamation of Wireless), Holdings and Equity Financial Trust Company, as trustee and collateral agent, Data & Audio-Visual Enterprises Wireless Inc. issued first lien notes totalling approximately $195 million, due April 29, 2018 (the "**First Lien Notes**"). The First Lien Notes bear interest at a rate of 9.5% annually, due and payable semi-annually in cash on March 31 and September 30 until maturity. A copy of the First Lien Notes Indenture (and all supplements thereto) is attached hereto as Exhibit "C". As of July 31, 2013, the amount outstanding on the First Lien Notes (including accrued interest) was approximately $201.2 million. The next interest payment under the First Lien Notes, in the amount of approximately $9.3 million, is due September 30, 2013.[4]

69. Holdings is a guarantor of the First Lien Notes and each of Wireless and Holdings has entered into general security agreements in connection with the First Lien Notes.

The Bridge Notes

70. Pursuant to the terms and conditions of a Note Purchase, Guarantee and Backstop Agreement, dated February 6, 2013, as amended from time to time, Data & Audio-Visual Enterprises Wireless Inc. (as predecessor by amalgamation of Wireless) agreed to issue up to $43.25 million in second lien notes (the "**Bridge Notes**") in three tranches, subject to the fulfilment of certain conditions precedent. At this time, a principal amount of $43.25 million in

[4] Although the interest payment is due on September 30, the non-payment of interest becomes an Event of Default under the First Lien Notes Indenture only upon non-payment for 30 days after September 30, 2013.

Bridge Notes is outstanding. These Bridge Notes mature, at the latest, on September 30, 2013. The next payment of interest in the amount of approximately $0.5 million would otherwise be due on October 1, 2013.

71. On April 24, 2013, the holders of the Bridge Notes consented to an Order of the Ontario Superior Court of Justice (Commercial List) that stated, in part:

> On consent of the holders of the [Bridge Notes], all holders of the [Bridge Notes] are hereby stayed from enforcing the payment or security in respect of the [Bridge Notes].

72. Holdings is a Guarantor of the Bridge Notes and each of Wireless and Holdings has delivered a General Security Agreement to secure the obligations thereunder. The obligations under the Bridge Notes are fully and effectively subordinated and postponed to the full and final payment of all obligations under the First Lien Notes.

73. A copy of the Note Purchase, Guarantee and Backstop Agreement, dated February 6, 2013 (including selected schedules and all amendments thereto) is attached hereto as Exhibit "D".

The Unsecured Senior Notes

74. Pursuant to a trust indenture, as amended and restated as of April 29, 2011 (the "**Unsecured Senior Note Indenture**") between Holdings and Equity Financial Trust Company, as trustee, Holdings issued 15% Senior Unsecured Debentures (the "**Unsecured Senior Notes**") in the total principal amount of $95 million. The Unsecured Senior Notes mature on September 25, 2018. A copy of the Unsecured Senior Note Indenture (and all supplements thereto) is attached hereto as Exhibit "E".

75. The Unsecured Senior Notes bear interest at an annual rate of 15% (in certain limited circumstances, the interest rate will be 13.5%), which is payable semi-annually on June 30

and December 31. Interest payments are capitalized on each payment date as "payment in kind" interest, which are added to the principal amount outstanding on the Unsecured Senior Notes. As of July 31, 2013, the amount outstanding on the Unsecured Senior Notes (including payment in kind interest that has been added to the principal amount outstanding as well as accrued interest to July 31, 2013) was approximately $154.4 million.

76. The financing provided through the Unsecured Senior Notes was invested in Wireless for use in the Mobilicity Group's operating business.

The Unsecured Pari Passu Notes and the Unsecured Subordinated Notes

77. Pursuant to the Second Amended and Restated Commitment Agreement, Quadrangle advanced approximately $95 million to Holdings between May 22, 2009 and October 1, 2012 and received certain convertible notes (collectively, the "**Convertible Notes**"). An initial amount of $59,741,000 was advanced (evidenced by the "**Unsecured Pari Passu Notes**"). Subsequently, an additional $35,000,000 was advanced (evidenced by the "**Unsecured Subordinated Notes**"). All commitments under the Second Amended and Restated Commitment Agreement are now fully drawn. A copy of the Second Amended and Restated Commitment Agreement is attached hereto as Exhibit "F".

78. The Unsecured Subordinated Notes rank subordinate to the Unsecured Pari Passu Notes and the Unsecured Senior Notes while the Unsecured Pari Passu Notes rank *pari passu* with the Unsecured Senior Notes.

79. The Convertible Notes bear interest at an annual rate of 12%, which is payable annually on each anniversary of the date of issue of each tranche. Interest payments are capitalized each year as "payment in kind" interest, which is added to the principal amount outstanding on the Convertible Notes. As of July 31, 2013, the amount outstanding on the

Unsecured Pari Passu Notes and the Unsecured Subordinated Notes (including payment in kind interest that has been added to the principal amount outstanding as well as accrued interest to July 31, 2013), respectively, was approximately $88.4 million and approximately $38.6 million.

80. The financing provided through the Convertible Notes was invested in Wireless for use in the Mobilicity Group's operating business.

Intercreditor Arrangements

81. Holdings, Wireless, Quadrangle and Equity Financial Trust Company (in its capacity as trustee for each of the First Lien Notes and the Unsecured Senior Notes) entered into an intercreditor agreement (the "**Intercreditor Agreement**") dated April 29, 2011. A copy of the Intercreditor Agreement is attached hereto as Exhibit "G".

82. Equity Financial Trust Company (in its capacity as trustee for the Unsecured Senior Notes) and Quadrangle entered into an Amended and Restated Support Agreement dated April 29, 2011. A copy of that support agreement is attached hereto as Exhibit "H".

83. The trustee for the Unsecured Senior Notes executed an acknowledgment of subordination in favour of the collateral agent for the Bridge Notes dated February 6, 2013. A copy of that acknowledgment of subordination is attached hereto as Exhibit "I".

Indebtedness Summary

84. A summary of Holdings' and Wireless' outstanding indebtedness for borrowed money as at July 31, 2013 is set out below[5]:

First Lien Notes	$201,217,294
Bridge Notes	43,819,360
Unsecured Senior Notes	154,421,643
Unsecured Pari Passu Notes	88,404,354
Unsecured Subordinated Notes	38,601,644
Total	**$526,464,295**

85. The aggregate value of the Mobilicity Group's property is not, at a fair valuation, sufficient to enable payment of its obligations that are due or accruing due.

III. FINANCIAL DIFFICULTIES AND THE NEED FOR CCAA PROTECTION

A. Financial Difficulties

86. Wireless telecom start-ups are by their nature highly capital-intensive. Significant fixed costs, such as building networks and acquiring spectrum licences, must be incurred before revenue can be generated. During the period where a wireless carrier is building its customer base, revenue is typically insufficient to cover previously incurred investments and ongoing operating costs. It can take several years for a customer base to be adequately built.

87. For the seven months ended July 31, 2013, the cost of maintaining the Mobilicity Group's network, paying distributors and other service partners exceeded revenue by approximately $3.9 million per month prior to financing costs.

[5] Dollar figures include accrued interest. These figures deviate from those reported in the Mobilicity Group's financial statements (which are reported in paragraphs 65 and 69 above) due to certain financial accounting adjustments applicable to the conversion features on certain of the long term debt.

B. Financial Results

88. The Mobilicity Group's financial issues are reflected in its operating results. For the seven months ended July 31, 2013, the Mobilicity Group recognized revenue of $46,864,490. During that period, the Mobilicity Group recorded a net loss of $71,958,543. As of July 31 2013, the Mobilicity Group had accumulated a net deficit of $431,807,958.

89. Copies of the Mobilicity Group's consolidated unaudited financial statements for the seven months ended July 31, 2013, as well as copies of all financial statements, audited or unaudited, prepared during the year before this application are attached as Exhibit "J" hereto.

C. Responses to Financial Difficulties

90. In response to the Mobilicity Group's financial difficulties, the Mobilicity Group's Board of Directors and management has sought various going-concern solutions for its business.

Initial Steps

91. In July 2012, the Mobilicity Group engaged National Bank and Canaccord Genuity (together, the "**Financial Advisors**") as their financial advisors in an effort to raise additional financing. Formal engagement letters were entered into with each of National Bank and Canaccord Genuity in January of 2013 (the "**FA Engagement Letters**" and, together with the CRO Engagement Letter, the "**Engagement Letters**"). These agreements contain commercially sensitive terms and, as such, copies are attached hereto as Confidential Exhibits "K" and "L".

92. I am informed by Michael Levin of Canaccord Genuity that with the assistance of the Financial Advisors, the Mobilicity Group solicited more than 30 potential investors in an

attempt to raise financing. In this regard, an investor roadshow was completed in August and September of 2012 without success.

93. I am informed by Mr. Levin that, in the meantime, the Mobilicity Group also canvassed the market for potential buyers for its business. I am informed by Mr. Levin that the Financial Advisors contacted more than 30 potential buyers, including wireless carrier incumbents, new wireless carrier entrants and international telecom providers and US private equity firms. As discussed earlier in this affidavit and below, the Mobilicity Group previously made significant progress on an acquisition transaction with TELUS Corporation and in discussions with a significant U.S.-based wireless service provider. However, for the reasons discussed above, the Mobilicity Group was not able to complete any of those transactions. As discussed above, the Mobilicity Group has since developed the Proposed Transaction, which is currently being considered by the Minister of Industry.

94. Other efforts made by the Mobilicity Group to improve its financial position have included cutting costs, limiting expenditures and renegotiation with several key suppliers. These reductions have achieved some short-term benefits; however, continued reductions at this scale are very difficult to sustain in a growth oriented business and do not provide sufficient cost savings to offset the Mobilicity Group's operating losses in any event.

Bridge Facility

95. By January 2013, the Mobilicity Group was in need of immediate funding in order to continue its operations and its exploration of solutions to its financial difficulties. The Mobilicity Group obtained $35 million in bridge financing pursuant to the Bridge Notes. This funding was provided by certain noteholders from the Ad Hoc Committee of Noteholders.

96. The Bridge Notes facility was entered into on February 6, 2013. This was a second lien facility that was made available in three tranches to allow the Mobilicity Group to continue operations[6] while it pursued strategic alternatives including potential acquisitions and a recapitalization plan.

97. As a condition of the Bridge Notes facility, the Mobilicity Group provided the purchasers of the Bridge Notes with an adequate protection letter (the "**Adequate Protection Letter**") in which the Mobilicity Group acknowledged that the Bridge Lenders could be materially prejudiced by any subsequent interim financing, DIP financing or charges granted by any court that violated covenants in the agreement granting the Bridge Notes and agreed to consult with the Bridge Lenders regarding any such subsequent financing.

CBCA Proceedings

98. On April 25, 2013, the Mobilicity Group commenced two separate arrangement proceedings under the CBCA as part of its restructuring efforts. Pursuant to these arrangement proceedings, the Mobilicity Group sought to either reach agreement with a willing buyer for its business who could finance the operations going forward or to restructure its capital and secure additional funding in order to advance its business. The Mobilicity Group therefore proposed two separate Plans of Arrangement. These Plans of Arrangement were mutually exclusive but were advanced concurrently in an effort to complete a restructuring in a time-efficient manner.

99. Briefly, the two Plans of Arrangement were an acquisition plan (the "**Acquisition Plan**") and a recapitalization plan (the "**Re-Cap Plan**"). The Acquisition Plan provided the framework for a potential purchaser to effectively and efficiently implement an acquisition of

[6] A portion of the proceeds of the Bridge Notes was used to pay approximately $9.3 million in interest on the First Lien Notes, which was due at the end of March 2013.

the Mobilicity Group on a going concern basis and provided for the repayment of the First Lien Notes and the Bridge Notes, with any remaining proceeds being distributed to holders of unsecured debt securities in accordance with their priorities. The Re-Cap Plan would have provided for the subscription by certain existing debt holders for $75 million in principal value of new second lien notes (the "**New Second Lien Notes**"). The proceeds of the New Second Lien Notes would be used to: (i) repay the Bridge Notes; and (ii) the remainder would be used for general corporate purposes.

100. Interim Orders (the "**Interim Orders**") were granted in respect of the Acquisition Plan and the Re-Cap Plan by the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (Commercial List) on April 26, 2013. Copies of those orders are attached hereto as Exhibits "M" and "N".

101. After the Interim Orders were granted, the Mobilicity Group reached an agreement with TELUS Corporation for the sale of the Mobilicity Group for $380 million (the "**TELUS Sale**") subject to certain adjustments, pursuant to a Plan of Arrangement based upon the form of framework Acquisition Plan, with certain modifications to implement the TELUS Sale (the "**TELUS Acquisition Plan**").

102. The Mobilicity Group held meetings of its creditors to consider and vote on the TELUS Acquisition Plan. A substantial majority of the Mobilicity Group's creditors voted to approve the TELUS Acquisition Plan and, on May 28, 2013, the Honourable Mr. Justice Campbell of the Ontario Superior Court of Justice (Commercial List) granted a final Order under the CBCA approving the TELUS Acquisition Plan as "fair and reasonable". The Mobilicity Group believed the TELUS Sale was in the best interests of all stakeholders and no stakeholder objected at the sale approval hearing.

103. Completion of the transaction with TELUS Corporation would have provided a comprehensive resolution of the Mobilicity Group's financial situation. The Mobilicity Group believed that the TELUS Sale would have resulted in an optimal outcome in the circumstances for the Mobilicity Group, its employees, customers, creditors and other stakeholders. In particular, the TELUS Sale would have assured the Mobilicity Group's ability to continue as a going concern and it would have avoided the insolvency of the Mobilicity Group.

104. However, the federal Minister of Industry announced on June 4, 2013 that Industry Canada would not approve TELUS Corporation's application to transfer certain spectrum licenses from the Mobilicity Group to TELUS Corporation as part of the TELUS Sale. As a result of Industry Canada's refusal, the TELUS Sale could not be completed. Industry Canada's communication of the above decision is included in a News Release dated June 4, 2013, which is attached hereto as Exhibit "O".

105. Since Industry Canada's rejection of the TELUS Sale, the Mobilicity Group has continued discussions with multiple parties in connection with alternative acquisition transactions. In particular, the Mobilicity Group solicited and received an expression of interest from a significant U.S.-based wireless service provider. The Mobilicity Group granted due diligence access to the potential acquirer and engaged in detailed discussions about a potential sale transaction. However, in early September 2013, the potential acquirer announced that it would not be continuing with negotiations.

106. In the two weeks preceding this application, the Mobilicity Group developed a transaction structure for the Proposed Transaction with a prospective purchaser, which is currently being considered by Industry Canada.

107. I met in Ottawa with representatives of the Government on September 18 and September 20, 2013 concerning the Proposed Transaction. I have not yet received a response as to whether the applicable Government representatives will approve a sale of the Mobilicity Group as proposed in the Proposed Transaction.

108. Last week, discussions on the sale transaction were unexpectedly interrupted upon Industry Canada's announcement of the participants in the 2014 Spectrum Auction in which it was disclosed that, among others, Feenix and Catalyst made deposits to participate in the 2014 Spectrum Auction. Industry Canada raised questions regarding possible restrictions on the continuation of discussions between the Mobilicity Group and the purchaser under the Proposed Transaction in view of the participation of Feenix and Catalyst in the 2014 Spectrum Auction. The Mobilicity Group diligently responded to these inquiries. The Mobilicity Group continues to work with the Government to advance and complete the Proposed Transaction as soon as possible.

109. Industry Canada has over this past weekend advised that its questions are resolved and that discussions on the Proposed Transaction are permitted to continue. They have confirmed that neither Feenix nor Catalyst are affiliated or associated with the Mobilicity Group in the context of the *Licensing Framework for Mobile Broadband Services (MBS) – 700 MHz Band.*

110. Nonetheless, the Mobilicity Group has reached a point where it must now, given its liquidity position, file for CCAA protection in an effort to preserve value for the Mobilicity Group's creditors, employees, customers and other stakeholders, and through which it will be able to obtain the additional time it needs to continue to pursue the Proposed Transaction and any other available alternatives.

D. The Mobilicity Group faces a liquidity crisis

111. Regarding its liquidity position, the Board of Directors of the Mobilicity Group is of the view that the Mobilicity Group as a whole will not, in the near future, have sufficient cash flow to meet its ongoing operating expenses and make the next interest payment of approximately $9.3 million on the First Lien Notes and approximately $0.5 million on the Bridge Notes. In light of these facts, the Mobilicity Group is insolvent and faces a liquidity crisis.

112. Without the protection of the CCAA, the Board of Directors of the Mobilicity Group is of the view that a shutdown of operations would be inevitable as the Mobilicity Group will cease to be able to pay its trade creditors in the ordinary course and will cease to be able to make interest payments on its outstanding debt securities.

113. The Board of Directors of the Mobilicity Group is of the view that the Mobilicity Group would be at risk of enforcement action by various creditor groups who would either not be paid in accordance with contractual obligations or whose debt obligations would be cross-defaulted as a result of non-payment of interest on other outstanding debt securities. This would place the Mobilicity Group in an unpredictable and unstable circumstance that would be detrimental to the Mobilicity Group and its stakeholders.

114. The Board of Directors of the Mobilicity Group is of the view that a CCAA Proceeding, and the stay of proceedings and interim financing thereunder, will both temporarily resolve the above concerns and provide evidence to the Mobilicity Group's customers, who are not subject to long term contracts, that the Mobilicity Group will not be prevented from continuing to provide services as a result of a lack of liquidity. While the Mobilicity Group initially sought to pursue its restructuring initiatives outside of a CCAA proceeding and believed that was the most beneficial course of action, this is no longer an option.

115. While under CCAA protection, the Applicants will continue to review available alternatives to reduce costs, while preserving their business and enterprise value to position themselves most favourably for a potential sale. Subject to the authority of Industry Canada, the Mobilicity Group's business, including its valuable Spectrum Licenses, can be transferred to an acceptable purchaser to realize their value, which recent offers for the Mobilicity Group indicate is well above the amount of the First Lien Notes. Alternatively, the Applicants may request the authorization of this Court to convey the Mobilicity Group business, including the Spectrum Licenses, to a purchaser under the provisions of the CCAA.

116. The CCAA proceeding will provide the Mobilicity Group with the additional time that it needs to continue to advance the Proposed Transaction and consider any other available alternatives, in the manner that best preserves value for stakeholders under the circumstances.

E. Catalyst Litigation

117. Shortly after the Bridge Notes financing was announced, Catalyst, which claims to be the beneficial owner of approximately 30% of the outstanding principal value of First Lien Notes, commenced an application (the "**Oppression Application**") in the Ontario Superior Court of Justice (Commercial List) against the Mobilicity Group seeking, among other things, remedies for alleged oppression in connection with the Bridge Notes. A copy of Catalyst's most recent Further Amended Notice of Application is attached hereto as Exhibit "P".

118. Preliminary motions have been heard in connection with the Oppression Application and cross-examinations have commenced.

119. The Oppression Application has been an ongoing, costly distraction to the Mobilicity Group throughout its efforts to restructure its business. The Applicants' proposed Initial Order would stay the Oppression Application.

120. On Thursday September 19, 2013, the Applicants' counsel, Norton Rose Fulbright Canada LLP, was served by Catalyst at approximately 8:30 pm with an unissued application for a "creditor-sponsored" CCAA proceeding returnable the next day (the "**Catalyst CCAA Application**"). Supplemental materials were served on September 25, 2013.

121. The Catalyst CCAA Application is only the latest attack by Catalyst in a long-running dispute with the Mobilicity Group, and an attempt by Catalyst to seek to increase its debt position and control over the Mobilicity Group on terms acceptable to Catalyst.

122. By way of summary, in late 2012, Catalyst provided the Moblicity Group with two term sheets for alternate financings: a DIP financing and a backstopped rights offering. Exercising its business judgment, the Board of Directors of the Mobilicity Group, with the advice of the Financial Advisors and legal counsel, elected not to pursue either of these financings but instead to issue the Bridge Notes to the Bridge Lenders in February 2013.

123. Shortly after the issuance of the Bridge Notes, Catalyst commenced the Oppression Application against the Mobilicity Group.

124. In connection with the Acquisition Plan and the Re-Cap Plan, described above, Justice Wilton Siegel stated:

> [i]n essence, there is an ongoing dispute between Catalyst, on the one hand, and the holders of the Second Lien Notes, supported by other holders of First Lien Notes and Unsecured Senior Notes, on the other.... This is a dispute regarding competing visions for addressing the current financial needs and prospects of the Mobilicity Group.

125. Attached at Exhibit "Q" is a copy of Justice Wilton-Seigel's reasons.

126. When the TELUS Sale was announced in May 2013, Catalyst was the only creditor known to the Mobilicity Group to vote against it. Ultimately, Catalyst chose not to oppose the application for approval of that plan of arrangement giving effect to the TELUS Sale.

127. Following the June 4, 2013 announcement by Industry Canada, described above, which denied an application to transfer Wireless' spectrum licenses to TELUS Corporation, Catalyst provided two new unsolicited financing term sheets to the Mobilicity Group. Exercising its business judgment, the Board of Directors of the Mobilicity Group, with the advice of the Financial Advisors and legal counsel, determined that the financing proposals were not suitable for the Mobilicity Group. Catalyst then continued to pursue the Oppression Application, and conducted my cross examination on August 16, 2013.

128. On August 28, 2013, the Mobilicity Group received a letter from counsel for Catalyst, stating, among other things:

> While a CCAA filing is an obvious option, in Catalyst's opinion, this step would erode the potential value of the collateral held as security for the First Lien Notes, result in significant professional and related expenses, and have an adverse impact on the terms of any potential sale of the business.

Attached at Exhibit "R" is a copy of a letter from counsel for Catalyst to counsel for the Mobilicity Group.

129. On September 6, 2013, Catalyst made a further DIP financing proposal to the Moblicity Group.

130. I am advised by Barry Goldberg of Canaccord Genuity that on September 17, 2013, he received a "courtesy" phone call from Mr. Gabriel De Alba, the Managing Director and Partner of Catalyst, inquiring about the status of Catalyst's DIP financing proposal. Mr. De

Alba advised Mr. Goldberg of Catalyst's intention to bring a petition for a bankruptcy order against the Mobilicity Group if it failed to accept Catalyst's latest DIP financing offer. Attached at Exhibit "S" is a copy of a letter from Marc Kestenberg, counsel for the Mobilicity Group, to David Moore, counsel for Catalyst, dated September 19, 2013, confirming the substance of that discussion.

131. Although Mr. Moore responded on September 19, 2013, by asserting that the facts contained in Mr. Kestenberg's letter were inaccurate, that evening at approximately 8:30 pm, Catalyst served the Catalyst CCAA Application. Attached at Exhibit "T" is a copy of Mr. Moore's email serving the Catalyst CCAA Application.

132. I have reviewed the Catalyst CCAA Application including the Affidavit of James A. Riley, sworn September 19, 2013 (the "**Riley Affidavit**"). I have also reviewed the Supplemental Affidavit of James A. Riley, dated September 25, 2013 (the "**Supplemental Riley Affidavit**"). This affidavit contained certain cash flow forecasts developed by Catalyst as well as certain financial statements of the Mobilicity Group.

133. The Catalyst CCAA Application is an attempt by Catalyst to seek to take control of the Mobilicity Group, and to effectively usurp the ability of the Mobilicity Group to pursue a restructuring that fairly balances the interests of all stakeholders. The Catalyst CCAA application would replace the Applicants' current chief restructuring officer with Catalyst's own chief restructuring officer (the "**Catalyst CRO**"), replace the proposed monitor, with whom the Applicants have been working, with a firm who is not familiar with the Applicants, suspend the boards of directors of the Applicants, and give the Catalyst CRO many of the powers over the Mobilicity Group, its assets and business that a receiver would typically have. The residual decision-making power would be vested in a "Creditor Committee" with a collection of members that has not yet been specified but would likely include Catalyst and

noteholders from the Ad Hoc Committee of Noteholders who are currently on opposite sides of ongoing litigation in the Oppression Application and who have divergent views of the best course of action for the Mobilicity Group in the current circumstances.

134. In addition, while labelled by counsel as a "creditor sponsored" application, the Catalyst CCAA Application does not disclose any plan of arrangement that Catalyst seeks to sponsor, nor does the Catalyst CCAA Application even disclose a strategic direction for a restructuring plan, nor does the Catalyst CCAA Application have the support of the Mobilicity Group's main creditors, as represented by the Ad Hoc Committee of Noteholders who oppose the Catalyst CCAA Application.

135. The Catalyst CCAA Application also provides for a $100 million priming debtor-in-possession facility (the "**Catalyst DIP Term Sheet**") which the Applicants' boards of directors, with the assistance of its financial and legal advisors, have reviewed, considered and determined in their business judgment is not in the best interests of the Mobilicity Group or its stakeholders. A copy of the Catalyst DIP Term Sheet contained in the Catalyst CCAA Application is attached as Exhibit "U" to this my affidavit.

136. The Catalyst DIP Term Sheet would see Catalyst receive (i) a $3 million commitment fee, (ii) interest at a minimum rate of 13%, (iii) a drawdown fee of 3%, and (iv) back-stop fees of approximately $22 million. I am advised by Michael Levin of Canaccord Genuity that this financing proposal would be the most expensive debtor-in-possession facility that has been proposed to the Mobilicity Group by a significant margin.

137. The "back-stop fee" payable to Catalyst is particularly excessive in the circumstances. Perhaps not coincidentally, this $22 million fee is approximately equal to Catalyst's share of a purported $71 million make-whole payment that Catalyst has previously argued is due to the holders of First Lien Notes if those notes are repaid at this time, whether within or outside of

a restructuring proceeding (the "**Make-Whole**"). Catalyst has in the past pressed the Mobilicity Group to acknowledge that this Make-Whole would be payable on the First Lien Notes in all circumstances. However, based upon legal advice received by the Mobilicity Group, the Mobilicity Group has never agreed with Catalyst's assertion. It appears that, through the Catalyst DIP Term Sheet, Catalyst is again seeking to indirectly secure its approximately 30% share of the Make-Whole that it claims is otherwise payable, though disguised as a "back-stop fee".

138. Aside from economic terms, the Catalyst DIP Term Sheet also contains a variety of other issues of concern. In particular:

(a) The term sheet is described as a "summary of certain indicative terms" and states that the definitive documentation will "contain such terms, conditions and provisions as are customary for financings of this type or deemed appropriate by Catalyst." The Mobilicity Group has no certainty regarding the definitive terms of the Catalyst debtor-in-possession financing proposal and the Mobilicity Group does not know exactly when such a proposal could be implemented.

(b) The quantum of the debtor-in-possession financing proposal, at $100 million, is more than the Mobilicity Group requires at this time and is not rationally linked to financing needs during the period while the Mobilicity Group seeks to implement a restructuring or sale option.

(c) The Catalyst financing provides for Holdings and 844 to give court-ordered super-priority secured guarantees. In the case of Holdings, this secured guarantee would prime existing indebtedness with a $100 million super-priority charge, effectively pushing the existing creditors down the capital structure at a time when the Mobilicity Group is suffering significant losses. This would violate the terms of Holdings' existing debt documents, which have negative covenants which preclude the incurrence of additional secured debt. Further, as noted above, Holdings and 844 are not parties to the Catalyst CCAA Application.

(d) The covenants and approval rights described in the Catalyst DIP Term Sheet provide Catalyst with extensive control over the actions of the Mobilicity Group, which Catalyst does not currently have as a holder of First Lien Notes.

(e) The Catalyst financing terms would give Catalyst the ability to block a potential sale transaction or a plan that may have the support of the requisite majority of current noteholders. The general concern that arises from this negative covenant is heightened by the fact that Catalyst intends to participate in the 2014 Spectrum Auction and may have interests different from the Mobilicity Group's other creditors.

(f) The Outside Date in the Catalyst financing is October 4, 2013. Given that the Mobilicity Group has not received any drafts from Catalyst to attempt to formalize the Catalyst financing, the Catalyst financing remains speculative and uncertain at this time. It does not appear that definitive documents for the Catalyst financing are likely to be in executable form until October 4, 2013. Meanwhile, Catalyst is requesting Court approval of its financing at this time. This risks providing Catalyst with undue bargaining power in respect of the negotiation of the definitive terms of the Catalyst financing.

139. The Catalyst CCAA Application would stay all proceedings against the Mobilicity Group except for the Oppression Application being pursued by Catalyst. The Mobilicity Group's CCAA Application would stay the Oppression Application.

140. On Friday September 20, 2013, counsel to the Applicants and counsel to Catalyst appeared in front of Justice Newbould and an endorsement was issued in which Catalyst agreed not to issue its application until at least Tuesday September 24, 2013 in order to allow discussions to take place. Without prejudice discussions have taken place, including between Mr. Riley and myself, but those discussions have not resulted in a resolution of the Catalyst CCAA Application.

141. I have reviewed the Riley Affidavit and the Supplemental Riley Affidavit. Rather than respond to each issue raised in those affidavits, I have attempted to set out the evidence of the Moblicity Group in my narrative above. That said, there are a few issues raised by Mr. Riley which require a direct response.

142. In particular, at paragraph 71 of the Riley Affidavit, Mr. Riley states that the Bridge Lenders would be able to dictate the terms of the restructuring. The Mobilicity Group continues to make decisions independent of the Bridge Lenders. The Ad Hoc Committee of Noteholders, of which the Bridge Lenders are a subset, understandably have a significant interest in any restructuring path that the Applicants may seek to implement. The Ad Hoc Committee of Noteholders holds more than 67% of the First Lien Notes and the vast majority of the Unsecured Senior Notes. Notwithstanding any rights or interests of the Bridge Lenders, the Mobilicity Group continues to make decisions independent of the Bridge Lenders.

143. At paragraph 99(c) of the Riley Affidavit, Mr. Riley alleges that the Bridge Notes contain undisclosed fees. I believe that Catalyst is aware of all of the fees payable under the Bridge Notes. In any event, all of the fees are secured by a second priority lien, subordinate to Catalyst's First Lien Notes security.

144. At paragraph 99(b) of the Riley Affidavit, he alleges that there is no value at the Holdings level. Such statements are not supported. In particular, as part of the proposed $380 million TELUS Sale, there would have been recoveries to the debt holders of Holdings after payment of the secured notes issued by Wireless. Furthermore, TELUS Corporation specifically sought to structure the transaction as an acquisition of the shares of Holdings in order to make use of key tax attributes held by Holdings.

145. At paragraph 115 of the Riley Affidavit, Mr. Riley alleges that the decision of the Mobilicity Group not to participate in the 2014 Spectrum Auction may have adversely affected the collateral held by the First Lien Note holders. First, the collateral of the First Lien Noteholders remains fully intact, as demonstrated by the recent offers received by the Mobilicity Group which have offered consideration well in excess of the amounts owed to the First Lien Note holders. Second, if the Mobilicity Group had participated in the 2014 Spectrum Auction (assuming it had the funding to do so), the prohibitions against collusive activities among bidders in the 2014 Spectrum Auction that governed the Auction would have made it impossible for the Mobilicity Group to fully consider the potential field of acquirers of Mobilicity after September 17, 2013.

IV. OVERVIEW OF THE CASH FLOW FORECAST

146. As set out in the 13 week cash flow projections (the "**Cash Flow Statement**") that was prepared by the Applicants with the assistance of the Proposed Monitor for the period from September 21, 2013 to December 20, 2013, the Applicants' principal uses of cash during the next 13 weeks will consist of the payment of ongoing day-to-day operational expenses, and professional fees and disbursements in connection with these CCAA proceedings. A copy of the Cash Flow Statement is attached hereto as Exhibit "V".

147. As at the time of swearing this affidavit, the Applicants had approximately $7.6 million in available cash on hand. The Applicants' Cash Flow Statement projects that, subject to obtaining the relief outlined herein, they will have sufficient cash to fund their projected operating costs until the end of the stay period.

V. PROPOSED INITIAL ORDER

A. Payment of pre-filing amounts

148. The Mobilicity Group believes that certain pre-filing amounts must be paid following the date of the Initial Order as non-payment of these amounts may have a significant detrimental impact on the Mobilicity Group's business.

149. As mentioned above, the Mobilicity Group's Dealer network relies heavily (and in some cases exclusively) upon commissions from the sale of Mobilicity Group products and services. Payment of commissions to those Dealers is delayed by at least 45 days in the ordinary course. These Dealers often operate with very low liquidity and any disruption to the stream of revenue derived from commissions would cause many of these Dealers to cease operations due to a lack of funding. As these Dealers are essential points of contact for both the retention of existing customers and potentially signing up new customers, the Mobilicity Group depends upon them as a key channel for revenue generation that it cannot afford to lose. As a result, the Mobilicity Group will be requesting that it be permitted to pay commissions earned by the Dealers during the pre-filing period in the ordinary course, as approved by the Chief Restructuring Officer, after the date of the Initial Order. The Mobilicity Group estimates that the pre-filing amounts to be paid for this purpose are approximately $1.45 million.

150. The Mobilicity Group's employees depend heavily upon their employment compensation and any disruption in receipt of such compensation would dramatically impact the lives of the Mobilicity Group's employees. The Mobilicity Group will also require a motivated group of employees to work through the CCAA proceedings. Certain employment compensation that has accrued since the last regularly scheduled employee payment date will remain unpaid as at the date of the Initial Order. Accordingly, the Mobilicity Group will be

requesting that any such employment compensation be paid, subject to approval of the Chief Restructuring Officer, following the date of the Initial Order. The Mobilicity Group estimates that the amounts to be paid for this purpose are approximately $400,000 as at the date of swearing this affidavit.

151. As the Mobilicity Group's customers pre-pay for their services, the Mobilicity Group will in substance discharge a pre-filing obligation to those customers by continuing to provide services in the post-filing period on account of prepayments made in the pre-filing period.

B. Administration Charge

152. The Mobilicity Group seeks a charge on its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") in the maximum amount of $10 million to secure the fees and disbursements incurred in connection with services rendered to the Mobilicity Group both before and after the commencement of the CCAA proceedings by counsel to the Mobilicity Group, the Proposed Monitor, the Proposed Monitor's counsel, counsel to the DIP Lenders and counsel to the Ad Hoc Committee of Noteholders, BlueTree, the Financial Advisors, and independent counsel that may be retained by the boards of directors of the Applicants (the "**Administration Charge**"). The Administration Charge will rank behind only the liens securing obligations under the First Lien Notes and the First Lien Notes Indenture and *pari passu* with the KERP Charge (defined below).

153. The Mobilicity Group has worked with the proposed Monitor to determine the proposed quantum of the Administration Charge and believes it to be reasonable and appropriate in view of the Mobilicity Group's CCAA proceedings and the services provided and to be provided by the beneficiaries of the Administration Charge.

C. Directors' Charge

154. To ensure the ongoing stability of the Mobilicity Group's business during the CCAA period, the Mobilicity Group requires the continued participation of its directors and officers who manage the business and commercial activities of the Mobilicity Group. The directors and officers of the Mobilicity Group have considerable and valuable experience.

155. The directors and officers of the Mobilicity Group have indicated that due to the potential for personal liability, they cannot continue their service in this restructuring unless the Initial Order grants the Directors' Charge (as defined below) to secure the Mobilicity Group's indemnity obligations to the directors and officers that arise post-filing.

156. I am advised by Evan Cobb of Norton Rose Fulbright Canada LLP, counsel to the Mobilicity Group, and do verily believe, that in certain circumstances directors can be held liable for certain obligations of a company owing to employees and government entities. As at August 1, 2013, the Mobilicity Group had 132 employees. Wages, vacation pay, and statutory employee deductions are accruing in the ordinary course with no arrears due and unpaid as at the date hereof.

157. The Mobilicity Group maintains directors' and officers' liability insurance (the "**D&O Insurance**") for the directors and officers of the Mobilicity Group entities. The current D&O Insurance policies provide a total of $10 million in coverage plus $10 million in excess coverage. In addition, under the D&O Insurance a retention amount is applicable for certain claims in the amount of $25,000.

158. The proposed Initial Order contemplates the establishment of a charge on the Property in the amount of $550,000 (the "**Directors' Charge**") to protect the directors and officers against obligations and liabilities they may incur as directors and officers of the

Mobilicity Group after the commencement of the CCAA Proceedings, except to the extent that the obligation or liability is incurred as a result of the director's or officer's gross negligence or wilful misconduct. The Directors' Charge was calculated by reference to (a) the monthly payroll and withholding obligations of the Mobilicity Group; (b) vacation pay; and (c) the quantum of sales tax that the Mobilicity Group must remit in the typical month.

159. The benefit of the Directors' Charge will only be available to the extent that a liability is not covered by the D&O Insurance.

160. While the D&O Insurance is available, the directors and officers of the Mobilicity Group cannot be certain that the insurance providers will not seek to deny coverage on the basis that the D&O Insurance does not cover a particular claim or that coverage limits have been exhausted.

161. The Mobilicity Group does not currently have sufficient funds available to satisfy any contractual indemnities to the directors or officers should the directors or officers need to call upon those indemnities.

162. The Mobilicity Group worked with the Proposed Monitor in determining the proposed quantum of the Directors' Charge and believes the Directors' Charge is reasonable in the circumstances. The Directors' Charge is proposed to rank behind the liens securing the First Lien Notes, the Administration Charge and the KERP Charge.

163. In the ordinary course, certain members of the Board of Directors of the Mobilicity Group receive fees for attending and participating in board meetings. The Mobilicity Group intends to continue to pay those fees following the granting of the Initial Order in these proceedings. The Mobilicity Group also intends to pay for one independent legal counsel to the boards of directors of each of the Applicants, in accordance with those directors' rights.

D. Key Employee Retention Plan and Charge

164. The Mobilicity Group depends upon the continued employment of certain highly skilled and experienced employees who: (i) perform roles that are critical to accomplishing the Mobilicity Group's restructuring goals[7]; and (ii) likely cannot be suitably replaced at a reasonable cost (the "**Key Employees**").

165. The Key Employees will be essential to the Mobilicity Group's efforts to pursue the Proposed Transaction and other alternatives. However, those Key Employees are also incentivized to seek alternative employment given the financial circumstances of the Mobilicity Group. Therefore, the Mobilicity Group has developed a retention plan for these Key Employees (the "**Key Employee Retention Plan**"), the details of which are described in a summary attached hereto as Confidential Exhibit "W".

166. In designing the terms of the Key Employee Retention Plan, the Mobilicity Group considered a variety of factors including: (i) the maximum cost of the Key Employee Retention Plan; (ii) identification of appropriate employees who should be benefit from the Key Employee Retention Plan; (iii) individual compensation levels; and (iv) market competitiveness of resulting total compensation levels for participating employees.

167. The terms of the Key Employee Retention Plan have been approved by the Independent Committee of the Board of Directors of Holdings.

168. The Mobilicity Group contemplates that the amounts owing under the Key Employee Retention Plan would have the benefit of a court ordered charge in a quantum and having the ranking described below (the "**KERP Charge**").

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[7] In evaluating this factor, the Mobilicity Group looked particularly carefully at positions in its finance and human resources departments that would be relied upon in the restructuring, positions that were central to operations, and critical leadership roles required to maintain the stability of the business.

169. The aggregate value of the KERP Charge is $600,000. The Proposed Monitor has reviewed the KERP Charge and believes that this amount is reasonable in the circumstances. No other stakeholder would be materially prejudiced by the KERP Charge. Each of the Key Employees and each of the Key Executives will only have the benefit of the KERP Charge up to their respective individual entitlements as provided under the Key Employee Retention Plan.

170. The KERP Charge is proposed to rank *pari passu* with the Administration Charge and behind only the liens securing the obligations under the First Lien Notes and the First Lien Notes Indenture.

171. The financial terms of each participant's benefits under the Key Employee Retention Plan are reflected in agreements attached hereto as confidential exhibits "X" through "DD". In order to prevent private and confidential information about individual employees from being publicly disclosed, the Mobilicity Group will request an order sealing these confidential exhibits.

E. DIP Financing and DIP Lenders' Charge

172. The Mobilicity Group seeks interim debtor in possession financing ("**DIP Financing**").

173. The Mobilicity Group requires access to DIP Financing to (a) maintain operating cash; (b) fund the costs of these proceedings; (c) pursue the Proposed Transaction and any other available alternatives; and (d) provide suppliers and customers with confidence that the Mobilicity Group will be able to maintain its operations during these proceedings.

174. The Mobilicity Group received DIP Financing proposals from not less than four parties, including existing creditors as well as third parties with no prior financial involvement

with the Mobilicity Group. One such proposal was provided by the holders of the Bridge Notes and another was provided by Catalyst[8]. The Mobilicity Group engaged its Financial Advisors and legal counsel to assist in the evaluation of the DIP Financing options that were presented.

175. Upon review, the Mobilicity Group determined, with advice from its advisors, that the proposals provided by the non-creditor third parties likely could not be implemented. Therefore, the Financial Advisors proceeded to have discussions with the holders of the Bridge Notes and Catalyst to obtain what the Mobilicity Group believed to be the best available offer from each party either in the form of a final definitive term sheet or definitive agreements. These discussions occurred over the course of several weeks.

176. The Financial Advisors and counsel to the Mobilicity Group evaluated these DIP Financing options, including the Catalyst DIP Term Sheet, based upon, among other things, quantum, conditions, price, ranking and execution risk and provided their expert views to the Board of Directors of the Mobilicity Group. After extensive consideration of the DIP Financing options, and after considering the advice of its legal and financial advisors, the members of the Board of Directors of the Mobilicity Group concluded, in an exercise of their business judgment, that the DIP Financing option presented by the holders of the Bridge Notes was the best available option. As a result, the Mobilicity Group has negotiated a DIP Note Purchase and Guarantee Agreement (the "**DIP Loan Agreement**") with the holders of the Bridge Notes (the "**DIP Lenders**"). A redacted copy of the DIP Loan Agreement is attached hereto as Exhibit "EE".

[8] This proposal by Catalyst was provided prior to the Catalyst CCAA Application and contains substantially different terms than those described in the Catalyst CCAA Application.

177. The Proposed Monitor's pre-filing report contains additional detail in respect of the DIP Loan Agreement. Below is a brief summary of the terms of the DIP Loan Agreement[9]:

(a) Facility amount: $30 million.

(b) Availability: Available in five tranches:

(i) First Tranche: $3.2 million.

(ii) Second, Third and Fourth Tranches: each in a principal amount of $7.5 million.

(iii) Fifth Tranche: $4.3 million.

(c) Conditions: Certain conditions to each draw are set forth in the DIP Loan Agreement. Among other conditions, the first tranche will be available if the Mobilicity Group's available cash is $2,000,000 or less, and subsequent tranches will be available if (i) the Initial Order has become a Final Order; (ii) the Mobilicity Group has presented a proposed Restructuring Alternative to the DIP Lenders by October 24, 2013; and (iii) the DIP Lenders are satisfied with the status of any Restructuring Alternative or Approved Transaction by November 12, 2013. The DIP Loan Agreement also provides flexibility to allow borrowings in smaller "sub-tranches" based upon the funding requirements of the Mobilicity Group.

(d) Purpose: Working capital and other general corporate purposes including, without limitation, payment of fees and expenses incurred in connection with these CCAA proceedings. Funds will be used only in accordance with cash flow forecasts.

(e) Interest Rate: 15.5% per annum. Cash interest would be paid monthly on the DIP Financing.

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[9] Capitalized terms used in this section of my affidavit have the meaning ascribed to them in the DIP Loan Agreement. If there are inconsistencies between any summary of the DIP Loan Agreement contained herein and the terms and conditions of the DIP Loan Agreement itself, the terms and conditions of the DIP Loan Agreement shall govern.

(f) DIP Funding Fee: This shall be calculated as 10% of the amount drawn on the closing date of each tranche of funding, which fee is payable in additional notes.

178. The DIP Financing is conditional upon the provision of an order of the Court, among other things, approving the DIP Financing arrangement and approving a security interest, lien and charge on all of the Mobilicity Group's property (the "**DIP Lenders' Charge**"). A significant determining factor is that the DIP Lenders' Charge is intended to rank behind the liens securing the obligations under the First Lien Notes and the First Lien Notes Indenture and behind the Administration Charge, the KERP Charge and the Directors' Charge, but pari passu with the liens securing the Bridge Notes.

179. The DIP Loan Agreement contains covenants and events of default that are reflective of the circumstances of the Mobilicity Group. Enforcement steps may only be taken by the DIP Lenders with leave of the Court.

180. After receiving considerable legal and financial advice, the Mobilicity Group believes that the DIP Financing is in its best interests and in the best interest of all stakeholders. The Mobilicity Group has considered, among other things, the following factors:

(a) The DIP Financing has been designed as a multiple draw facility in accordance with pre-determined cash requirements of the Mobilicity Group's business and the progress of its restructuring, such that financing will not be made available in an amount above the Mobilicity Group's cash requirements at any particular time in these proceedings.

(b) The duration and quantum of the DIP Financing is designed to allow the Mobilicity Group an expanded opportunity to transfer its business, including its valuable Spectrum Licenses, subject to certain reasonable milestones and conditions.

(c) The Mobilicity Group has the support of major creditor groups. I am advised by Robert Chadwick of Goodmans LLP, counsel to the Ad Hoc Committee of

Noteholders, that these proceedings and the DIP Financing are supported by the Ad Hoc Committee of Noteholders.

(d) The Mobilicity Group, with the assistance of the Chief Restructuring Officer, has established a business plan to ensure that costs can be reduced to the greatest extent possible during these proceedings.

(e) Indications of value of the Mobilicity Group's assets to date, in particular through the TELUS Sale of $380 million and comparable indications of interest received in connection with the Proposed Transaction and from other third parties, suggest that the Mobilicity Group's assets are of sufficient value to prevent any First Lien Note holder from experiencing a shortfall on its secured debt. As a subordinate facility, the DIP Financing does not impact this analysis.

(f) The Proposed Monitor supports the DIP Financing.

F. Proposed Ranking of the Court-Ordered Charges

181. The proposed ranking of the Court-ordered charges (the "**Charges**") is as follows:

(a) First, liens securing obligations under the First Lien Notes and the First Lien Notes Indenture;

(b) Second, Administration Charge and KERP Charge;

(c) Third, the Directors' Charge; and

(d) Fourth, the DIP Lenders' Charge/liens securing the obligations under the Bridge Notes.

182. I am advised by Mr. Cobb that the trustee under the First Lien Notes Indenture, the holders of the Bridge Notes, and the collateral agent under the Bridge Notes, will be served

with the Mobilicity Group's notice of application in these proceedings. I am further advised by Mr. Cobb that Catalyst will also be served with the Mobilicity Group's notice of application.

183. The Mobilicity Group is unaware of any secured creditors other than those who have received notice of this application, who are likely to be affected by the Charges. The Mobilicity Group has conducted: (i) Bankruptcy and Insolvency searches with the Office of the Superintendent of Bankruptcy Canada current to August 27, 2013, (ii) Bankruptcy searches with the Ontario Superior Court of Justice in Toronto and Ottawa current to August 28, 2013 and August 15, 2013, respectively; Bankruptcy searches with the Clerk of the Court in Edmonton current to August 29, 2013; and Bankruptcy searches with the Supreme and Provincial Civil Court Registries in British Columbia current to August 29, 2013, (iii) Personal Property Security Registration System searches in Ontario, Alberta and British Columbia current to August 28, 2013 and August 29, 2013, respectively and (iv) Bank Act security searches current to August 29, 2013, in each case in Ontario, British Columbia and Alberta, being all jurisdictions in which the Mobilicity Group has assets. The Mobilicity Group has also conducted Writ of Execution searches with the Sheriff in the City of Ottawa, the City of Toronto, the Regional Municipality of Peel, Vancouver, New Westminster and Surrey, current to August 29, 2013.[10] Copies of those searches are attached hereto as Exhibit "FF".

G. Approval of the CRO and Financial Advisor Engagements

184. In order to assist in the implementation of this CCAA process, the Applicants seek the approval and confirmation of the Court of the retention of the Financial Advisors and the Chief Restructuring Officer, and approval of the terms of the Engagement Letters.

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[10] I am advised by Mr. Cobb that no execution searches were conducted in Alberta as those search results would be included in the personal property security registry search results for Alberta.

185. Under the FA Engagement Letters, the Applicants agreed to apply to the Court for approval of the FA Engagement Letters, retention of the Financial Advisors (nunc pro tunc to the date of the FA Engagement Letters) and the payment of the fees and expenses of Financial Advisors. It is unlikely that the Financial Advisors would have accepted their respective mandates without this undertaking.

186. The Mobilicity Group believes that the same approvals should be sought in connection with the CRO Engagement Letter and the appointment of BlueTree (nunc pro tunc to the date of the CRO Engagement Letter). A copy of the CRO Engagement Letter is attached hereto as Confidential Exhibit "GG".

187. The approval of the engagement of the Financial Advisors and the Chief Restructuring Officer is appropriate in the circumstances as the Financial Advisors and the Chief Restructuring Officer have worked extensively with the Applicants to date in their pre-CCAA restructuring efforts and have extensive knowledge of the options reviewed and available to the Applicants. The Financial Advisors' and the Chief Restructuring Officer's background knowledge is particularly helpful in the ongoing review of strategic alternatives for the Applicants particularly given the highly specialized industry in which the Applicants operate.

188. Certain transactions have already been completed which would entitle the Financial Advisors to certain fees under the terms of the FA Engagement Letters. The Financial Advisors have deferred those fees to date in view of the Applicants' financial circumstances. However, the Applicants always understood that these fees owing to the Financial Advisors would be paid out of the proceeds of a successful transaction, whether pre-filing or post-filing.

189. The Applicants will be seeking an Order sealing the Confidential Exhibits to this Affidavit which contain the Engagement Letters. The Engagement Letters are commercially sensitive as they contain the commercial terms of the engagement of each of the Financial Advisors and the Chief Restructuring Officer. The disclosure of those commercial terms would have a detrimental impact on the Financial Advisors' or the Chief Restructuring Officer's ability to negotiate compensation on any future engagements. Further, the sealing of these Confidential Exhibits would not seem to materially prejudice any third parties. I note that counsel to the Ad Hoc Committee of Noteholders, and Quadrangle, being the holder of all of the Unsecured Pari Passu Notes and the Unsecured Subordinated Notes, have each reviewed the Engagement Letters.

VI. MONITOR

190. Ernst & Young Inc. has consented to act as the Court-appointed Monitor of the Mobilicity Group, subject to Court approval.

191. Ernst & Young Inc. is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, 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.

VII. PURPOSE OF AFFIDAVIT

192. This affidavit is sworn in support of the Mobilicity Group's application and for protection pursuant to the CCAA and for no improper purpose.

SWORN BEFORE ME at the City of Toronto, Province of Ontario, on September 29, 2013.	
Commissioner for Taking Affidavits	WILLIAM E. AZIZ

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 DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

Court File No: ____________________

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AFFIDAVIT OF WILLIAM E. AZIZ
(Sworn September 29, 2013)

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Lawyers for the Applicants

Tab B

EXHIBIT B – SALE PROCEDURES

Sale Procedures

Set forth below are the Sale Procedures (the "**Sale Procedures**") to be employed with respect to the proposed sale of all or substantially all of the business and assets or shares of Data & Audio Visual Enterprises Wireless Inc. ("**Wireless**") and Data & Audio Visual Enterprise Holdings Inc. ("**Holdings**", together with Wireless, the "**Sellers**").

On September 29, 2013, the Sellers and 8440522 Canada Inc. (collectively, the "**Debtors**") commenced proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the "**CCAA Proceedings**") before the Ontario Superior Court of Justice (the "**Court**").

On November 13, 2013, the Debtors obtained a sale procedures order (the "**Sale Procedures Order**") under the CCAA from the Court approving these Sale Procedures.

Pursuant to the Sale Procedures, the Debtors, with their financial advisor, Canaccord Genuity Corp. (the "**Financial Advisor**"), will pursue a sale of the Assets (as defined below) under a fair and competitive sale process under the supervision of Ernst & Young Inc., in its capacity as the Court-appointed monitor in the CCAA Proceedings (the "**Monitor**"), and the Court, pursuant to which all interested parties will be provided with a fair and equal opportunity to participate in the Sale Process (as defined below).

Notwithstanding anything contained herein, the Sellers shall have the right to enter into an exclusive transaction for the sale of the Assets, or any portion thereof, outside of the Sale Process prior to the Participation Deadline (as defined below) on terms acceptable to the Sellers, the Monitor and the purchasers under the DIP Note Purchase and Guarantee Agreement dated September 30, 2013 (collectively the "**DIP Lenders**").

Sale Process

The Sale Procedures set forth herein describe, among other things, (a) the Assets available for sale, (b) the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Assets, (c) the manner in which bidders and bids can become Qualified Bidders (as defined below) and Qualified Bids (as defined below), (d) the receipt and negotiation of bids received, (e) the ultimate selection of any Successful Bidder (as defined below), and (f) the approval thereof by the Court (collectively, the "**Sale Process**"). The Monitor intends to consult with the Sellers and the DIP Lenders and their respective advisors throughout the Sale Process.

Assets To Be Sold

The Sellers are offering for sale, in one or more transactions, substantially all of the Sellers' business and assets (the "**Assets**"). The Sellers reserve the right to eliminate certain assets available for sale pursuant to the Sale Process prior to the Bid Deadline (as defined below). For the purposes of these Sale Procedures, a sale of the Assets also includes a transaction pursuant to which the shares of the Sellers are arranged or sold to the Successful Bidder.

This is Exhibit B referred to in the affidavit of William Aziz
sworn before me, this 7
day of November 20 13.

A COMMISSIONER FOR TAKING AFFIDAVITS

"As Is, Where Is"

The sale of the Assets will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature or description by the Sellers, its agents or estates, except to the extent set forth in a definitive transaction agreement signed by the Sellers and the Successful Bidder. By submitting a bid, each Potential Bidder (as defined below) shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith, except as expressly stated in these Sale Procedures or as set forth in a definitive transaction agreement signed by the Sellers and the Successful Bidder.

Free Of Any And All Claims And Interests

Except as may otherwise be provided in the Successful Bidder's transaction agreement, all of the rights, title and interests of the Sellers in and to the Assets, or any portion thereof, will be sold free and clear of all Liens and Claims (which may be defined in the Transaction Order (as defined below)), subject to any Permitted Encumbrances (which may be defined in the Transaction Order), pursuant to an order by the Court approving the sale of the Assets, or a portion thereof, and vesting in the Successful Bidder all of the Sellers' rights, title and interests in and to such Assets, or a portion thereof, whether by way of an approval and vesting order or a sanction order, the "**Transaction Order**"), when granted, such Liens and Claims to attach to the net proceeds of the sale of such Assets.

Publication Notice

Within three (3) days of entry of the Sale Procedures Order by the Court, or as soon as practicable thereafter, (i) the Sellers shall publish notice of these Sale Procedures in *The Globe and Mail (National Edition)* and (ii) the Sellers shall issue a press release regarding the Sale Process through Canada Newswire, designating dissemination in Canada and major financial centers in the United States.

Solicitation of Interest

As soon as reasonably practicable after the granting of the Sale Procedures Order, the Financial Advisor, in consultation with the Sellers, the Monitor and the DIP Lenders, will prepare an initial offering summary (the "**Teaser Letter**") notifying prospective purchasers of the Assets (both strategic and financial parties (including existing shareholders and noteholders of the Sellers and parties proposed by the DIP Lenders)) of the existence of the Sale Process and inviting prospective purchasers to express their interest in making an offer for the Assets.

Participation Requirements

Unless otherwise ordered by the Court or as otherwise determined by the Monitor, in consultation with the Sellers and the DIP Lenders, in order to participate in the Sale Process, prior to December 2, 2013 at 10:00 p.m. (ET) (as may be extended as set out below, the "**Participation Deadline**"), each person who wishes to participate in the Sale Process, and in the event that such person is an entity formed for the purpose of acquiring the Assets, or any portion thereof, each actual or proposed holder of the equity (whether in the form of stock, partnership interests, LLC interests, debt issued in connection with such person's bid for the Assets or otherwise) or proposed beneficiary of such person through license or similar arrangement granted in connection with such person's bid (each, an "**Equity Holder**") (each such person who wishes to participate in the Sale Process and each Equity Holder thereof, a "**Potential Bidder**") must deliver to the Notice Parties (as defined below) at the addresses provided below all of the following documents (the "**Participation Materials**"):

a) an executed confidentiality agreement (to be delivered prior to the distribution of any confidential information by the Sellers to such Potential Bidder) in a form and substance acceptable to the Sellers, and which shall inure to the benefit of any purchaser of the Assets, or any portion thereof. In the event the Potential Bidder has already entered into a confidentiality agreement with either of or both of the Sellers, prior to the distribution of any additional confidential information by the Sellers to such Potential Bidder, such Potential Bidder must provide a statement waiving any of its rights under such confidentiality agreement that are in conflict with the Sale Procedures or that would otherwise prohibit disclosures regarding the Potential Bidder, or any transactions it may enter into with the Sellers, to the Notice Parties and other Qualified Bidders who submit a Qualified Bid;

b) current audited financial statements and latest unaudited financial statements of the Potential Bidder, or such other form of financial disclosure and credit quality support or enhancement that allows the Monitor, in consultation with the Sellers, to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate a sale;

c) confirmation that the Potential Bidder has not engaged and will not engage in any collusion with respect to the bidding or the transactions, and if such Potential Bidder is an entity formed for the purpose of acquiring the Assets, or any portion thereof, confirmation from each of the Equity Holders of such Potential Bidder that such Equity Holder has not engaged and will not engage in any collusion with respect to the bidding or the transactions, such confirmation, in each case, in form and substance satisfactory to the Monitor; and

d) a statement outlining the Potential Bidder's interest in purchasing the Assets, or a portion thereof, from the Sellers, including: (i) any Assets expected to be excluded; (ii) the structure and financing of the sale (including, but not limited to, the sources of financing for the purchase price and all requisite financial assurance); (iii) any anticipated corporate or other approvals required to close the sale, the anticipated time frame and any anticipated impediments for obtaining such approvals; and (iv) any conditions to closing that the Potential Bidder may wish to impose.

The Monitor, after consultation with the Sellers and the DIP Lenders, may extend the Participation Deadline once or successively, but is not obligated to so.

If it is determined by the Monitor, after consultation with the Sellers and the DIP Lenders, that a Potential Bidder: (i) has a *bona fide* interest in an acquisition of the Assets; (ii) has delivered all of the Participation Materials prior to the Participation Deadline; and (iii) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on such Potential Bidder's financial information; such Potential Bidder will be deemed a "**Qualified Bidder**". The determination as to whether a Potential Bidder is a Qualified Bidder will be made as promptly as practicable after a Potential Bidder delivers all of the Participation Materials, and each such determination shall be reported to each of the Notice Parties and to the applicable Qualified Bidder. The Monitor may determine, after consultation with the Sellers and the DIP Lenders, whether to entertain bidders for the Assets that have not met one or more of the requirements specified above and deem such bidders to be Qualified Bidders.

Due Diligence

The Sellers may in their reasonable business judgment, and subject to competitive and other business considerations, afford each Qualified Bidder and any other person seeking to become a Qualified Bidder that has executed a confidentiality agreement as described in clause (a) under the heading "Participation Requirements" above with the Sellers such access to due diligence materials and information relating to the Assets as the Sellers deem appropriate after consultation with the Monitor and the DIP Lenders. Due diligence access may include management presentations as may be scheduled by the Sellers, access to electronic data rooms, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Sellers, in its reasonable business judgment, may agree. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. No additional due diligence for any party other than a Qualified Bidder who has submitted a Qualified Bid will continue after the Bid Deadline (as defined below). Neither the Sellers nor any of their affiliates (or any of their respective representatives) will be obligated to furnish any information relating to the Assets to any person other than to Qualified Bidders. The Sellers make no representation or warranty as to the information to be provided through this due diligence process or otherwise, except as set forth in any definitive transaction agreement(s) with the Successful Bidder.

Bid Deadline

A Qualified Bidder that desires to make a bid shall deliver written copies of its bid to each of the following parties (collectively, the "**Notice Parties**"): (i) the Monitor, Ernst & Young Inc., Ernst & Young Tower, 222 Bay Street, Toronto, ON M5K 1J7, Attention: Mike Dean, email: mike.p.dean@ca.ey.com; (ii) counsel to the Sellers, Norton Rose Fulbright Canada LLP, Royal Bank Plaza, South Tower, 200 Bay Street, Suite 3300, P.O. Box, Toronto, ON M5J 2Z4, Attention: Virginie Gauthier, fax: 416-216-3930, e-mail: virginie.gauthier@nortonrosefulbright.com; (iii) Canaccord Genuity Corp., Brookfield Place, 161 Bay Street, Suite 3000, Toronto, ON M5J 2S1, Attention: Barry Goldberg and Michael Levin, e-mail: bgoldberg@canaccordgenuity.com and mlevin@canaccordgenuity.com; and (iv) counsel to the DIP lenders, Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON M5H 2S7, Attention: Robert Chadwick, fax: 416-979-1234, e-mail: rchadwick@goodmans.ca, so as to be received by the Monitor no later than December 9, 2013 at 5:00 p.m. (ET) (as may be extended as set out below, the "**Bid Deadline**"). The Monitor, after consultation with the Sellers and the DIP Lenders, may extend the Bid Deadline once or successively, but is not obligated to do so. If the Monitor extends the Bid Deadline, the Monitor will promptly notify all Qualified Bidders and the Notice Parties.

Qualified Bid

A bid submitted will be considered a Qualified Bid only if the bid is submitted by a Qualified Bidder and complies (either individually or in combination with other bids that make up one Qualified Bid) with all of the following (a "**Qualified Bid**"):

a) the bid (either individually or in combination with other bids that make up one Qualified Bid) is an offer to purchase some or all of the Assets on terms and conditions reasonably acceptable to the Monitor, as determined after consultation with the Sellers and the DIP Lenders;

b) it includes a letter stating that the Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder, provided that if such Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the earlier of (i) the closing of the Sale to the Successful Bidder, and (ii) 21 days from the Sale Approval Motion, subject to further extensions as may be agreed to under the applicable transaction agreement(s);

c) it includes a duly authorized and executed transaction agreement(s), including the purchase price for the Assets expressed in Canadian dollars (the "**Purchase Price**") together with all exhibits and schedules thereto, all applicable ancillary agreements with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such agreements), and proposed orders to approve the sale by the Court;

d) it includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Monitor, in consultation with the Sellers and the DIP Lenders, to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the Sale;

e) it is not conditioned on (i) the outcome of unperformed due diligence by the Qualified Bidder and/or (ii) obtaining financing;

f) it fully discloses the identity of each entity that will be bidding for the Assets or otherwise sponsoring, financing (including through the issuance of debt in connection with such bid), participating or benefiting from (including through license or similar arrangement with respect to the assets to be acquired in connection with such bid), such bid, and the complete terms of any such sponsorship, participation, financing or benefit, such disclosure to include, without limitation: (i) in the case of a Qualified Bidder formed for the purposes of acquiring Assets (or any portion thereof), the identity of each of the actual or proposed Equity Holders of such Qualified Bidder and the terms and participation percentage of such Equity Holder's interest in such bid; and (ii) the identity of each entity that has or will receive a benefit from such bid from or through the Qualified Bidder or any of its Equity Holders and the terms of such benefit;

g) it includes a commitment by the Qualified Bidder to provide a non-refundable deposit upon being selected as the Successful Bidder and in any event, prior to service of the materials for the Sale Approval Motion (as defined below);

h) it includes an acknowledgement and representation of the Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer; (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid; (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Sellers;

i) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction agreement(s) submitted by the Qualified Bidder;

j) it contains other information reasonably requested by the Monitor, in consultation with the Sellers and the DIP Lenders; and

k) it is received by the Bid Deadline.

The Monitor may determine, in consultation with the Sellers and the DIP Lenders, whether to entertain bids for the Assets that do not conform to one or more of the requirements specified herein and deem such bids to be Qualified Bids; provided that the Monitor, in evaluating such bids, may not waive substantial compliance with any of the above requirements without prior written consent of the Sellers and the DIP Lenders.

The Monitor shall notify each Qualified Bidder in writing as to whether such Qualified Bidder's bid constituted a Qualified Bid within three (3) business days of the expiration of the

Bid Deadline, or at such later time as the Monitor deems appropriate after consultation with the Sellers and the DIP Lenders.

If the Monitor, after consultation with the Sellers and the DIP Lenders, is not satisfied with the number or terms of the Qualified Bids submitted by the Bid Deadline, the Monitor may extend the Bid Deadline, or cancel the Sale Process.

Aggregate Bids

The Monitor may, following consultation with the Sellers and the DIP Lenders, aggregate separate bids from unaffiliated Potential Bidders to create one "Qualified Bid" from one or more "Qualified Bidders"; provided that all such bidders shall remain subject to the requirements preventing collusion in these Sale Procedures.

Evaluation of Competing Bids

A Qualified Bid will be valued based upon several factors, including, without limitation, items such as the Purchase Price and the net value provided by such bid, the claims likely to be created by such bid in relation to other bids, the counterparties to such transactions, the proposed transaction documents, other factors affecting the speed, certainty and value of the transaction (including any regulatory approvals required to close the transactions), the assets included or excluded from the bid, the transition services required from the Sellers post-closing, if any, and any related restructuring costs, and the likelihood and timing of consummating such transactions, each as determined by the Monitor, in consultation the Sellers and the DIP Lenders.

Selection of Successful Bid

The Monitor, in consultation with the Sellers and the DIP Lenders, (a) will review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated among the Sellers, in consultation with the Monitor and the DIP Lenders, and the applicable Qualified Bidder, and may be amended, modified or varied to improve such Qualified Bid as a result of such negotiations, and (b) identify the highest or otherwise best offer for the Assets (the "**Successful Bid**", and the Qualified Bidder making such Successful Bid, the "**Successful Bidder**"). The determination of any Successful Bid by the Monitor, after consultation with the Sellers and the DIP Lenders, shall be subject to approval by the Court.

Neither the Monitor nor the Sellers shall have any obligation to select a Successful Bid, and they reserve the right, after consultation with the DIP Lenders, to reject any or all Qualified Bids.

Sale Approval Motion Hearing

The motion for an order of the Court approving any Successful Bid or any plan to give effect to any Successful Bid (the "**Sale Approval Motion**") shall be set by the Monitor.

At the hearing of the Sale Approval Motion, the Sellers shall seek, among other things, approval from the Court to consummate any Successful Bid.

All the Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by the Sellers on and as of the date of approval of the Successful Bid by the Court.

Reservation of Rights

The Monitor, after consultation with the Sellers and the DIP Lenders, may (a) determine which Qualified Bid, if any, is the highest or otherwise best offer; (b) reject at any time before the issuance and entry of an order approving a Qualified Bid, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Sale Procedures or any order of the Court, or (iii) contrary to the best interests of the Sellers or its creditors; and (c) may modify the Sale Procedures or impose additional terms and conditions on the sale of the Assets.

Neither the Monitor nor the Sellers shall have any obligation to select a Successful Bid, and they reserve the right, after consultation with the DIP Lenders, to reject any or all Qualified Bids.

Nothing herein shall limit the right of any holders of notes of the Sellers, including holders of the senior secured notes, the unsecured notes, the bridge notes and the DIP notes, to advance a recapitalization or CCAA plan.

Miscellaneous

These Sale Procedures are solely for the benefit of the Sellers and nothing contained in the Sale Procedures Order or these Sale Procedures shall create any rights in any other person or bidder (including without limitation rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Sale Procedures Order.

Except as provided in the Sale Procedures Order and Sale Procedures, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Sale Procedures Order and the Sale Procedures.

Limitation of Liability

The Monitor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, the Sellers, the DIP Lenders or any creditor or other stakeholder, for any act or omission related to the process contemplated by these Sale Procedures. By submitting a bid, each Potential Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever.

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

Court File No: CV-13-10274-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AFFIDAVIT OF WILLIAM E. AZIZ
(Sworn November 7, 2013)

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Lawyers for the Applicants

Tab 3

Court File CV-13-10274-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	WEDNESDAY, THE 13TH
	)	
JUSTICE ●	)	DAY OF NOVEMBER, 2013

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

ORDER
(Approval of Sale Procedures)

THIS MOTION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an Order:

(a) that the time for service of the Notice of Motion, the Motion Record and the second report of the Monitor, Ernst & Young Inc. (the "**Monitor**") dated ●, 2013 (the "**Second Report**") is abridged and validated so that this Motion is property returnable today and dispensing with further service thereof; and

(b) approving the sale procedures (the "**Sale Procedures**"), substantially in the form attached as Schedule "A" to this Order,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the material filed, including the Notice of Motion, the Second Report and the Affidavit of William E. Aziz sworn November 7, 2013 and the exhibits thereto (the "**Aziz Affidavit**"), and on hearing the submissions of counsel for the Applicants, the Monitor, and such other counsel present, no one else appearing although duly served as appears from the affidavit of service of ● sworn ●:

SERVICE

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

SALE PROCEDURES

2. THIS COURT ORDERS that the Sale Procedures, substantially in the form attached as Schedule "A" to this Order, be and are hereby approved.

3. THIS COURT ORDERS that the Monitor and the Applicants, be and are hereby authorized and directed to perform their obligations under and take such steps as they consider necessary or desirable in carrying out the Sale Procedures, and any steps taken by the Monitor and the Applicants in connection with the Sale Procedures prior to the date hereof be and are hereby approved and ratified.

4. THIS COURT ORDERS that the Monitor and its affiliates, partners, directors, employees and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Procedures, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Monitor in performing its obligations under the Sale Procedures (as determined by this Court).

5. THIS COURT ORDERS that, in connection with the Sale Procedures and pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants and the Monitor are authorized and permitted to disclose personal information of identifiable individuals to prospective investors, financiers, purchasers or bidders and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more investment, finance or sale transaction (each, a "**Transaction**"). Each prospective investor, financier, purchaser, or bidder to whom such information is disclosed shall maintain and protect the privacy of such information and shall limit the use of such information to its evaluation of the Transaction, and if it does not complete a Transaction, shall; (i) return all such information to the Applicants or the Monitor; or (ii) destroy all such information that is not electronically stored and, in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The purchaser in any Transaction shall be entitled to continue to use the personal information provided to it, and

related to the property purchased, in a manner which is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants or the Monitor, or ensure that all other personal information is destroyed.

SCHEDULE "A"
SALE PROCEDURES
(see attached)

Sale Procedures

Set forth below are the Sale Procedures (the "**Sale Procedures**") to be employed with respect to the proposed sale of all or substantially all of the business and assets or shares of Data & Audio Visual Enterprises Wireless Inc. ("**Wireless**") and Data & Audio Visual Enterprise Holdings Inc. ("**Holdings**", together with Wireless, the "**Sellers**").

On September 29, 2013, the Sellers and 8440522 Canada Inc. (collectively, the "**Debtors**") commenced proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the "**CCAA Proceedings**") before the Ontario Superior Court of Justice (the "**Court**").

On November 13, 2013, the Debtors obtained a sale procedures order (the "**Sale Procedures Order**") under the CCAA from the Court approving these Sale Procedures.

Pursuant to the Sale Procedures, the Debtors, with their financial advisor, Canaccord Genuity Corp. (the "**Financial Advisor**"), will pursue a sale of the Assets (as defined below) under a fair and competitive sale process under the supervision of Ernst & Young Inc., in its capacity as the Court-appointed monitor in the CCAA Proceedings (the "**Monitor**"), and the Court, pursuant to which all interested parties will be provided with a fair and equal opportunity to participate in the Sale Process (as defined below).

Notwithstanding anything contained herein, the Sellers shall have the right to enter into an exclusive transaction for the sale of the Assets, or any portion thereof, outside of the Sale Process prior to the Participation Deadline (as defined below) on terms acceptable to the Sellers, the Monitor and the purchasers under the DIP Note Purchase and Guarantee Agreement dated September 30, 2013 (collectively the "**DIP Lenders**").

Sale Process

The Sale Procedures set forth herein describe, among other things, (a) the Assets available for sale, (b) the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Assets, (c) the manner in which bidders and bids can become Qualified Bidders (as defined below) and Qualified Bids (as defined below), (d) the receipt and negotiation of bids received, (e) the ultimate selection of any Successful Bidder (as defined below), and (f) the approval thereof by the Court (collectively, the "**Sale Process**"). The Monitor intends to consult with the Sellers and the DIP Lenders and their respective advisors throughout the Sale Process.

Assets To Be Sold

The Sellers are offering for sale, in one or more transactions, substantially all of the Sellers' business and assets (the "**Assets**"). The Sellers reserve the right to eliminate certain assets available for sale pursuant to the Sale Process prior to the Bid Deadline (as defined below). For the purposes of these Sale Procedures, a sale of the Assets also includes a transaction pursuant to which the shares of the Sellers are arranged by or sold to the Successful Bidder.

"As Is, Where Is"

The sale of the Assets will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature or description by the Sellers, its agents or estates, except to the extent set forth in a definitive transaction agreement signed by the Sellers and the Successful Bidder. By submitting a bid, each Potential Bidder (as defined below) shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith, except as expressly stated in these Sale Procedures or as set forth in a definitive transaction agreement signed by the Sellers and the Successful Bidder.

Free Of Any And All Claims And Interests

Except as may otherwise be provided in the Successful Bidder's transaction agreement, all of the rights, title and interests of the Sellers in and to the Assets, or any portion thereof, will be sold free and clear of all Liens and Claims (which may be defined in the Transaction Order (as defined below)), subject to any Permitted Encumbrances (which may be defined in the Transaction Order), pursuant to an order by the Court approving the sale of the Assets, or a portion thereof, and vesting in the Successful Bidder all of the Sellers' rights, title and interests in and to such Assets, or a portion thereof, whether by way of an approval and vesting order or a sanction order, the "**Transaction Order**"), when granted, such Liens and Claims to attach to the net proceeds of the sale of such Assets.

Publication Notice

Within three (3) days of entry of the Sale Procedures Order by the Court, or as soon as practicable thereafter, (i) the Sellers shall publish notice of these Sale Procedures in *The Globe and Mail (National Edition)* and (ii) the Sellers shall issue a press release regarding the Sale Process through Canada Newswire, designating dissemination in Canada and major financial centers in the United States.

Solicitation of Interest

As soon as reasonably practicable after the granting of the Sale Procedures Order, the Financial Advisor, in consultation with the Sellers, the Monitor and the DIP Lenders, will prepare an initial offering summary (the "**Teaser Letter**") notifying prospective purchasers of the Assets (both strategic and financial parties (including existing shareholders and noteholders of the Sellers and parties proposed by the DIP Lenders)) of the existence of the Sale Process and inviting prospective purchasers to express their interest in making an offer for the Assets.

Participation Requirements

Unless otherwise ordered by the Court or as otherwise determined by the Monitor, in consultation with the Sellers and the DIP Lenders, in order to participate in the Sale Process, prior to December 2, 2013 at 10:00 p.m. (ET) (as may be extended as set out below, the "**Participation Deadline**"), each person who wishes to participate in the Sale Process, and in the event that such person is an entity formed for the purpose of acquiring the Assets, or any portion thereof, each actual or proposed holder of the equity (whether in the form of stock, partnership interests, LLC interests, debt issued in connection with such person's bid for the Assets or otherwise) or proposed beneficiary of such person through license or similar arrangement granted in connection with such person's bid (each, an "**Equity Holder**") (each such person who wishes to participate in the Sale Process and each Equity Holder thereof, a "**Potential Bidder**") must deliver to the Notice Parties (as defined below) at the addresses provided below all of the following documents (the "**Participation Materials**"):

a) an executed confidentiality agreement (to be delivered prior to the distribution of any confidential information by the Sellers to such Potential Bidder) in a form and substance acceptable to the Sellers, and which shall inure to the benefit of any purchaser of the Assets, or any portion thereof. In the event the Potential Bidder has already entered into a confidentiality agreement with either of or both of the Sellers, prior to the distribution of any additional confidential information by the Sellers to such Potential Bidder, such Potential Bidder must provide a statement waiving any of its rights under such confidentiality agreement that are in conflict with the Sale Procedures or that would otherwise prohibit disclosures regarding the Potential Bidder, or any transactions it may enter into with the Sellers, to the Notice Parties and other Qualified Bidders who submit a Qualified Bid;

b) current audited financial statements and latest unaudited financial statements of the Potential Bidder, or such other form of financial disclosure and credit quality support or enhancement that allows the Monitor, in consultation with the Sellers, to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate a sale;

c) confirmation that the Potential Bidder has not engaged and will not engage in any collusion with respect to the bidding or the transactions, and if such Potential Bidder is an entity formed for the purpose of acquiring the Assets, or any portion thereof, confirmation from each of the Equity Holders of such Potential Bidder that such Equity Holder has not engaged and will not engage in any collusion with respect to the bidding or the transactions, such confirmation, in each case, in form and substance satisfactory to the Monitor; and

d) a statement outlining the Potential Bidder's interest in purchasing the Assets, or a portion thereof, from the Sellers, including: (i) any Assets expected to be excluded; (ii) the structure and financing of the sale (including, but not limited to, the sources of financing for the purchase price and all requisite financial assurance); (iii) any anticipated corporate or other approvals required to close the sale, the anticipated time frame and any anticipated impediments for obtaining such approvals; and (iv) any conditions to closing that the Potential Bidder may wish to impose.

The Monitor, after consultation with the Sellers and the DIP Lenders, may extend the Participation Deadline once or successively, but is not obligated to so.

If it is determined by the Monitor, after consultation with the Sellers and the DIP Lenders, that a Potential Bidder: (i) has a *bona fide* interest in an acquisition of the Assets; (ii) has delivered all of the Participation Materials prior to the Participation Deadline; and (iii) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on such Potential Bidder's financial information; such Potential Bidder will be deemed a "**Qualified Bidder**". The determination as to whether a Potential Bidder is a Qualified Bidder will be made as promptly as practicable after a Potential Bidder delivers all of the Participation Materials, and each such determination shall be reported to each of the Notice Parties and to the applicable Qualified Bidder. The Monitor may determine, after consultation with the Sellers and the DIP Lenders, whether to entertain bidders for the Assets that have not met one or more of the requirements specified above and deem such bidders to be Qualified Bidders.

Due Diligence

The Sellers may in their reasonable business judgment, and subject to competitive and other business considerations, afford each Qualified Bidder and any other person seeking to become a Qualified Bidder that has executed a confidentiality agreement as described in clause (a) under the heading "Participation Requirements" above with the Sellers such access to due diligence materials and information relating to the Assets as the Sellers deem appropriate after consultation with the Monitor and the DIP Lenders. Due diligence access may include management presentations as may be scheduled by the Sellers, access to electronic data rooms, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Sellers, in its reasonable business judgment, may agree. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. No additional due diligence for any party other than a Qualified Bidder who has submitted a Qualified Bid will continue after the Bid Deadline (as defined below). Neither the Sellers nor any of their affiliates (or any of their respective representatives) will be obligated to furnish any information relating to the Assets to any person other than to Qualified Bidders. The Sellers make no representation or warranty as to the information to be provided through this due diligence process or otherwise, except as set forth in any definitive transaction agreement(s) with the Successful Bidder.

Bid Deadline

A Qualified Bidder that desires to make a bid shall deliver written copies of its bid to each of the following parties (collectively, the "**Notice Parties**"): (i) the Monitor, Ernst & Young Inc., Ernst & Young Tower, 222 Bay Street, Toronto, ON M5K 1J7, Attention: Mike Dean, email: mike.p.dean@ca.ey.com; (ii) counsel to the Sellers, Norton Rose Fulbright Canada LLP, Royal Bank Plaza, South Tower, 200 Bay Street, Suite 3300, P.O. Box, Toronto, ON M5J 2Z4, Attention: Virginie Gauthier, fax: 416-216-3930, e-mail: virginie.gauthier@nortonrosefulbright.com; (iii) Canaccord Genuity Corp., Brookfield Place, 161 Bay Street, Suite 3000, Toronto, ON M5J 2S1, Attention: Barry Goldberg and Michael Levin, e-mail: bgoldberg@canaccordgenuity.com and mlevin@canaccordgenuity.com; and (iv) counsel to the DIP lenders, Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON M5H 2S7, Attention: Robert Chadwick, fax: 416-979-1234, e-mail: rchadwick@goodmans.ca, so as to be received by the Monitor no later than December 9, 2013 at 5:00 p.m. (ET) (as may be extended as set out below, the "**Bid Deadline**"). The Monitor, after consultation with the Sellers and the DIP Lenders, may extend the Bid Deadline once or successively, but is not obligated to do so. If the Monitor extends the Bid Deadline, the Monitor will promptly notify all Qualified Bidders and the Notice Parties.

Qualified Bid

A bid submitted will be considered a Qualified Bid only if the bid is submitted by a Qualified Bidder and complies (either individually or in combination with other bids that make up one Qualified Bid) with all of the following (a "**Qualified Bid**"):

a) the bid (either individually or in combination with other bids that make up one Qualified Bid) is an offer to purchase some or all of the Assets on terms and conditions reasonably acceptable to the Monitor, as determined after consultation with the Sellers and the DIP Lenders;

b) it includes a letter stating that the Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder, provided that if such Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the earlier of (i) the closing of the Sale to the Successful Bidder, and (ii) 21 days from the Sale Approval Motion, subject to further extensions as may be agreed to under the applicable transaction agreement(s);

c) it includes a duly authorized and executed transaction agreement(s), including the purchase price for the Assets expressed in Canadian dollars (the "**Purchase Price**") together with all exhibits and schedules thereto, all applicable ancillary agreements with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such agreements), and proposed orders to approve the sale by the Court;

d) it includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Monitor, in consultation with the Sellers and the DIP Lenders, to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the Sale;

e) it is not conditioned on (i) the outcome of unperformed due diligence by the Qualified Bidder and/or (ii) obtaining financing;

f) it fully discloses the identity of each entity that will be bidding for the Assets or otherwise sponsoring, financing (including through the issuance of debt in connection with such bid), participating or benefiting from (including through license or similar arrangement with respect to the assets to be acquired in connection with such bid), such bid, and the complete terms of any such sponsorship, participation, financing or benefit, such disclosure to include, without limitation: (i) in the case of a Qualified Bidder formed for the purposes of acquiring Assets (or any portion thereof), the identity of each of the actual or proposed Equity Holders of such Qualified Bidder and the terms and participation percentage of such Equity Holder's interest in such bid; and (ii) the identity of each entity that has or will receive a benefit from such bid from or through the Qualified Bidder or any of its Equity Holders and the terms of such benefit;

g) it includes a commitment by the Qualified Bidder to provide a non-refundable deposit upon being selected as the Successful Bidder and in any event, prior to service of the materials for the Sale Approval Motion (as defined below);

h) it includes an acknowledgement and representation of the Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer; (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid; (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Sellers;

i) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction agreement(s) submitted by the Qualified Bidder;

j) it contains other information reasonably requested by the Monitor, in consultation with the Sellers and the DIP Lenders; and

k) it is received by the Bid Deadline.

The Monitor may determine, in consultation with the Sellers and the DIP Lenders, whether to entertain bids for the Assets that do not conform to one or more of the requirements specified herein and deem such bids to be Qualified Bids; provided that the Monitor, in evaluating such bids, may not waive substantial compliance with any of the above requirements without prior written consent of the Sellers and the DIP Lenders.

The Monitor shall notify each Qualified Bidder in writing as to whether such Qualified Bidder's bid constituted a Qualified Bid within three (3) business days of the expiration of the

Bid Deadline, or at such later time as the Monitor deems appropriate after consultation with the Sellers and the DIP Lenders.

If the Monitor, after consultation with the Sellers and the DIP Lenders, is not satisfied with the number or terms of the Qualified Bids submitted by the Bid Deadline, the Monitor may extend the Bid Deadline, or cancel the Sale Process.

Aggregate Bids

The Monitor may, following consultation with the Sellers and the DIP Lenders, aggregate separate bids from unaffiliated Potential Bidders to create one "Qualified Bid" from one or more "Qualified Bidders"; provided that all such bidders shall remain subject to the requirements preventing collusion in these Sale Procedures.

Evaluation of Competing Bids

A Qualified Bid will be valued based upon several factors, including, without limitation, items such as the Purchase Price and the net value provided by such bid, the claims likely to be created by such bid in relation to other bids, the counterparties to such transactions, the proposed transaction documents, other factors affecting the speed, certainty and value of the transaction (including any regulatory approvals required to close the transactions), the assets included or excluded from the bid, the transition services required from the Sellers post-closing, if any, and any related restructuring costs, and the likelihood and timing of consummating such transactions, each as determined by the Monitor, in consultation the Sellers and the DIP Lenders.

Selection of Successful Bid

The Monitor, in consultation with the Sellers and the DIP Lenders, (a) will review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated among the Sellers, in consultation with the Monitor and the DIP Lenders, and the applicable Qualified Bidder, and may be amended, modified or varied to improve such Qualified Bid as a result of such negotiations, and (b) identify the highest or otherwise best offer for the Assets (the "**Successful Bid**", and the Qualified Bidder making such Successful Bid, the "**Successful Bidder**"). The determination of any Successful Bid by the Monitor, after consultation with the Sellers and the DIP Lenders, shall be subject to approval by the Court.

Neither the Monitor nor the Sellers shall have any obligation to select a Successful Bid, and they reserve the right, after consultation with the DIP Lenders, to reject any or all Qualified Bids.

Sale Approval Motion Hearing

The motion for an order of the Court approving any Successful Bid or any plan to give effect to any Successful Bid (the "**Sale Approval Motion**") shall be set by the Monitor.

At the hearing of the Sale Approval Motion, the Sellers shall seek, among other things, approval from the Court to consummate any Successful Bid.

All the Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by the Sellers on and as of the date of approval of the Successful Bid by the Court.

Reservation of Rights

The Monitor, after consultation with the Sellers and the DIP Lenders, may (a) determine which Qualified Bid, if any, is the highest or otherwise best offer; (b) reject at any time before the issuance and entry of an order approving a Qualified Bid, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Sale Procedures or any order of the Court, or (iii) contrary to the best interests of the Sellers or its creditors; and (c) may modify the Sale Procedures or impose additional terms and conditions on the sale of the Assets.

Neither the Monitor nor the Sellers shall have any obligation to select a Successful Bid, and they reserve the right, after consultation with the DIP Lenders, to reject any or all Qualified Bids.

Nothing herein shall limit the right of any holders of notes of the Sellers, including holders of the senior secured notes, the unsecured notes, the bridge notes and the DIP notes, to advance a recapitalization or CCAA plan.

Miscellaneous

These Sale Procedures are solely for the benefit of the Sellers and nothing contained in the Sale Procedures Order or these Sale Procedures shall create any rights in any other person or bidder (including without limitation rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Sale Procedures Order.

Except as provided in the Sale Procedures Order and Sale Procedures, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Sale Procedures Order and the Sale Procedures.

Limitation of Liability

The Monitor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, the Sellers, the DIP Lenders or any creditor or other stakeholder, for any act or omission related to the process contemplated by these Sale Procedures. By submitting a bid, each Potential Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever.

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Court File No: CV-13-10274-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER
(Approval of Sale Procedures)

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

Court File No: CV-13-10274-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

MOTION RECORD
(Approval of Sale Procedures)
(Returnable November 13, 2013)

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