

NO. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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 AND ARRANGEMENT OF CHOOM  
HOLDINGS INC., CHOOM BC RETAIL HOLDINGS INC., 2151414 ALBERTA LTD., 2688412  
ONTARIO INC. AND PHIVIDA HOLDINGS INC.

PETITIONERS

**PETITION TO THE COURT**

ON NOTICE TO: Those parties set out in Schedule "A" attached hereto.

**This proceeding is brought by the Petitioners for the relief set out in Part 1 below.**

If you intend to respond to this petition, you or your lawyer must

- (a) file a Response to Petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioners
  - (i) 2 copies of the filed Response to Petition, and
  - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing

**Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

**Time for Response to Petition**

A Response to Petition must be filed and served on the petitioners,

- (a) if you were served with the Petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the Petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1)	<p>The address of the registry is:</p> <p style="text-align: center;">The Law Courts 800 Smithe Street Vancouver, BC V6Z 2E1</p>
(2)	<p>The ADDRESS FOR SERVICE of the petitioners is:</p> <p style="text-align: center;">20<sup>th</sup> Floor, 250 Howe Street Vancouver, BC V6C 3R8</p> <p>Fax number address for service (if any) of the petitioners:</p> <p style="text-align: center;">604-683-5214</p> <p>E-mail address for service (if any) of the petitioners:</p> <p style="text-align: center;"><a href="mailto:jordan.schultz@dentons.com">jordan.schultz@dentons.com</a> <a href="mailto:eamonn.watson@dentons.com">eamonn.watson@dentons.com</a></p>
(3)	<p>The name and office address of the petitioners' lawyer is:</p> <p style="text-align: center;">Jordan Schultz Dentons Canada LLP 20<sup>th</sup> Floor, 250 Howe Street Vancouver, BC V6C 3R8</p>

## CLAIM OF THE PETITIONERS

### Part 1: ORDER(S) SOUGHT

1. Choom Holdings Inc. ("**Choom**"), Choom BC Retail Holdings Inc. ("**BC Op Co**"), 2151414 Alberta Ltd. ("**AB Op Co**"), 2688412 Ontario Inc. ("**ON Op Co**", and collectively with BC Op Co and AB Op Co, the "**Op Cos**") and Phivida Holdings Inc. ("**Phivida**", and collectively with Choom and the Op Cos, the "**Petitioners**") seek an order substantially in the form of the draft order attached hereto as **Schedule "B"** to this Petition, (the "**Initial Order**"), granting certain relief, including, *inter alia*:
  - (a) a declaration that the Petitioners are companies to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), applies;
  - (b) a declaration that Ernst & Young Inc. ("**EY**") be appointed as an officer of this Court (in its capacity as proposed monitor, the "**Proposed Monitor**" and, if appointed, the "**Monitor**") to monitor the assets, business and affairs of the Petitioners;

- (c) an order that, until further order of this Court, all proceedings, enforcement processes and remedies taken or that might be taken against the Petitioners, the Petitioners' directors, or any of their property, or the Monitor be stayed, and the Petitioners' operations be carried out in accordance with the express terms of the Initial Order, with liberty to seek to amend or extend the terms of the Initial Order;
- (d) an order authorizing and permitting the Petitioners to file with this Court a formal plan or plans (the "**Plan**" and "**Plans**" respectively) of compromise and arrangement between the Petitioners and one or more classes of their creditors pursuant to the provisions of the CCAA;
- (e) an order authorizing the Petitioners to carry on their business and operations in a manner consistent with the preservation of their property and business;
- (f) an order granting the following charges over the assets, property, and undertakings of the Petitioners in priority to all other creditors of the Petitioners save and except those claims contemplated by section 11.8(8) of the CCAA and the charge in favour of Bank of Montreal registered in the British Columbia Personal Property Registry under Base Registration Number 938463L against a specified account of Choom, and which shall have the relative priority as set out below, as security for the obligations of the Petitioners to the beneficiaries of the following charges:
  - (i) firstly, the Monitor, counsel to the Monitor, and counsel to the Petitioners shall be entitled to the benefit of a charge (the "**Administration Charge**") on the "**Property**" (as defined in the Initial Order), which charge shall not exceed an aggregate amount of \$100,000, as security for their respective fees and disbursements incurred; and
  - (ii) secondly, an interim lender (in their capacity as interim lender the "**Interim Lender**") shall be entitled to the benefit of a charge (the "**Interim Financing Charge**") on the Property, which charge shall not exceed an aggregate amount of \$300,000, as security for the Interim Financing Facility (as defined below);
- (g) an order defining the classes of creditors of the Petitioners for the purposes of a meeting or meetings with respect to, and voting on, any Plan or Plans that may be filed;
- (h) an order that, upon filing a Plan or Plans, the Petitioners may call a meeting or meetings of the affected classes of their creditors to vote upon such a Plan or Plans;

- (i) such directions as may be required from time to time respecting the presentation of a Plan or Plans to the Petitioners' creditors, proofs of claim, conduct of meetings and related matters;
- (j) an order sanctioning and approving any Plan or Plans, with such amendments as may be proposed by the creditors of the Petitioners and approved by the Petitioners or as may be proposed by the Petitioners;
- (k) an order that the orders in this proceeding shall have full force and effect in all provinces and territories of Canada and any other foreign country where creditors of the Petitioners are domiciled;
- (l) an order that the Petitioners shall be authorized and empowered, but not required to:
  - (i) apply as it may consider necessary or desirable, with or without notice, to any other court, tribunal, regulatory, administrative or other body, wherever located, for orders to recognize the Initial Order and/or to assist in carrying out the terms of the Initial Order and any subsequent orders of this Court; and
  - (ii) act as a foreign representative in respect of these proceedings for the purpose of having these proceedings recognized and/or aided in a jurisdiction outside Canada;
- (m) an order requesting the aid and recognition of other Canadian and foreign courts, tribunals, regulatory, administrative and other bodies, including, without limitation, any court or administrative tribunal of any federal or state court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of the Initial Order where required; and
- (n) an order that the Petitioners be at liberty to serve all orders and materials (including the Plan) in this proceeding on any of their creditors by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, fax or email to the Petitioners' creditors at their respective addresses as last shown on the records of the Petitioners, and any such service or notice by courier, personal delivery, fax or email shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing;
- (o) such further and other relief as this Court may deem necessary.

## Part 2: FACTUAL BASIS

### A. Overview

1. Choom is a retail cannabis company that has established an extensive network of stores across Canada. Choom is focused on delivering quality cannabis products through high-quality in-person and online service.
2. Choom is a corporation formed under the laws of the Province of British Columbia and publicly listed on the Canadian Securities Exchange. Choom is the sole shareholder of the Op Cos and Phivida.
3. Each of the Op Cos are corporations formed on the laws of their respective provinces of operation (Alberta, British Columbia and Ontario). Phivida is a corporation formed under the laws of the Province of British Columbia.
4. Choom's retail operation is implemented through the Op Cos and Phivida. In particular, Choom through the Op Cos has retail locations in Alberta, British Columbia and Ontario.
5. Since March 2020, the Petitioners' business has been negatively impacted by the emergency measures governments across Canada have enacted to combat the spread of the novel strain of coronavirus ("**COVID-19**"). As described in more detail below, Choom has experienced these negative impacts in all areas of its business, including operations, sales, shifts in demand, supply chains, and obtaining debt and equity financing.
6. Choom has experienced decreased sales during the last 10 months compared to the prior 10-month period due to various factors, including among other things, the effect of COVID-19 pandemic on Choom's operations, the increase in the number of cannabis retail licenses in circulation relative to 2020 and the presence of loss leading priced retailers in Alberta.
7. As of December 31, 2021, the consolidated liabilities of the Petitioners totaled \$22,415,319. More than half of the Petitioners' leased retail spaces generate operating costs greater than revenues from those locations.
8. As set out in more detail below, the Petitioners have been seeking to address their liquidity issues in good faith and with due diligence. Despite those efforts, given the decreased revenues and consistent or increasing operating costs, the Petitioners have insufficient cash to pay their liabilities as they come due.
9. Accordingly, the Petitioners believe it is in the best interests of the Petitioners' stakeholders to apply for relief under the CCAA.

## **B. Background**

10. Choom was rapidly expanding as a cannabis retailer, with additional locations under lease but awaiting licenses and construction in all three provinces where it operates. In addition, three locations in Alberta were closed as a result of COVID-19 in March 2020 and never reopened.

### *i. Corporate Structure*

11. Choom is the sole shareholder of each Op Co and Phivida. Each of the Petitioners is incorporated as follows:
- (a) Choom is a corporation formed under the laws of the Province of British Columbia;
  - (b) BC Op Co is a corporation formed under the laws of the Province of British Columbia;
  - (c) AB Op Co is a corporation formed under the laws of the Province of Alberta;
  - (d) ON Op Co is a corporation formed under the laws of the Province of Ontario; and
  - (e) Phivida is a corporation formed under the laws of the Province of British Columbia.

### *ii. Corporate Management*

12. The directors of Choom are Christopher Scott Bogart, Stephen Tong and Corey Gillon.
13. The sole director of each Op Co is Mr. Bogart.
14. The sole director of Phivida Holdings Inc. is Mr. Gillon.
15. The officers of the Petitioners are as follows:
- (a) Mr. Bogart is also the President of Choom and each Op Co.
  - (b) Mr. Gillon is also the Chief Executor Officer of Choom and each Op Co.
  - (c) Dylan Murray is Chief Financial Officer of Choom and BC Op Co.
  - (d) Terese Gieselman is Secretary and Chief Financial Officer of ON Op Co, and Secretary of Choom, BC Op Co and AB Op Co.
  - (e) Phivida does not currently have any appointed officers.

16. Mr. Bogart and Mr. Tong have been with Choom since its inception. Mr. Gillon and Mr. Murray have worked on developing and growing Choom since August 2019 and October 2019, respectively.

*iii. Operations*

17. The Petitioners are separate legal entities and managed as such. The Petitioners operations are segregated into each subsidiary as follows:
- (a) Operations in each Province are segregated into the Op Co located in that Province, including licenses, employees, leases, sales revenues, and other obligations; and
  - (b) E-commerce platform development and management is done solely by Phivida and its subsidiaries.
18. Each Op Co operates independently from the other Op Cos. Further, each Op Co enters any necessary agreements, such as leases, on its own behalf.
19. However, the Petitioners share common management and are operated with a single vision and strategy.
20. The Petitioners have 104 employees across their operations.

*iv. Leases*

21. Across the three provinces where Choom has cannabis retailers the Op Cos hold 29 leases for retail spaces. Of these leases, 12 are for locations that are not currently operating, either because a license has not been issued, the location is closed or the store has not been built.
22. The twelve leases that relate to retail spaces that are not currently operating create an ongoing liability, with zero related revenue. This has hindered Choom's ability to find debt or equity financing, and the relief available under the CCAA will enable Choom to streamline its business and maintain only the locations that are revenue-generating and profitable.
23. Further, there are eight locations that are underperforming or operating as a loss.

*v. Licenses*

24. The Op Cos hold a total of 20 retail cannabis licenses issued by provincial regulators as follows:

- (a) AB Op Co holds 15 licenses;
- (b) BC Op Co holds 2 licenses; and
- (c) ON Op Co holds 3 licenses.

**C. Current Financial Circumstances**

- 25. As at December 31, 2021, the consolidated liabilities of the Choom corporate group totaled \$22,415,319 and the company had a working capital deficit of approximately \$4,100,000. Interest on the secured debt is in arrears and the majority of the Petitioner's accounts payable are more than 90 days overdue.
- 26. Over the last 10 months, the Petitioners have experienced a decrease in sales. This is due to, among other things, the effect of the COVID-19 pandemic on the Petitioners', in particular the Op Cos', operations.
- 27. Although BC Op Co has experienced significant growth, AB Op Co and ON Op Co continue to feel pressure with the increase of new cannabis retail licenses granted by those provinces and the expansion of discount retailers.

*vi. Need for Creditor Protection*

- 28. Over the past 10 months, the Petitioners have continued to see a decline in sales revenue and the number of underperforming retail locations have grown. During this period, operating costs have remained consistent or increased. The Petitioners' largest monthly expenses, salaries and lease payments, have remained unchanged or have increased, despite declining revenue.
- 29. At the end of 2021, gross profits were half of operating expenses and for the three months ending December 31, 2021. Choom's net loss for this period was \$5,898,942.
- D. Given the foregoing, Choom has been actively pursuing a combination, other M&A transaction or a sale of the company since September 2021. Although many proposed transactions came close to completion, due to a variety of issues the Choom group was unable to close any of these proposed transactions.
- E. Accordingly, and despite the Petitioners' best efforts, by April 2022 it was apparent that the Petitioners would be unable to resolve their liquidity issues without creditor protection.
- F. As illustrated in the 13-week cash flow statement for the period ending July 24, 2022 (the "**Cash-Flow Statement**"), which was prepared in consultation with the Proposed



Monitor, the Petitioners require immediate liquidity. Without the contemplated interim financing, discussed in detail below, the Petitioners will not be able to fund operations.

**G. Recent Financial Statements**

30. The Petitioners' total assets as at December 31, 2021, equaled \$19,600,884, in comparison to total liabilities of \$22,415,319.

*vii. Assets*

31. The Petitioners' assets can be summarized as follows:

- (a) Choom's only material assets are the shares it holds in the Op Cos and Phivida. Choom holds all of the shares of each of these entities;
- (b) The Op Cos hold leases, licenses, inventory and other assets associated with the cannabis retail locations in each of the three provinces where the Op Cos operate; and
- (c) Phivida, either directly or through its wholly-owned subsidiaries, owns the e-commerce platform and all related intellectual property.

*(i) Leases*

32. BC Op Co holds 4 leases in British Columbia, AB Op Co holds 21 leases in Alberta and ON Op Co holds 4 leases in Ontario.

33. The leases range between 600 and 3,600 square feet and expire, subject to renewal as the case may be, between Fall 2022 and Winter 2031.

34. The total monthly lease obligation for the Op Cos, inclusive of GST, is \$213,000, which is separated as follows:

- (a) \$135,000 per month for open and operating store locations, inclusive of GST; and
- (b) \$78,000 per month for non-operating store locations, inclusive of GST.

*(ii) Licenses*

35. The Op Cos hold 20 licenses to sell cannabis products from provincial regulators as follows:

- (a) BC Op Co holds 2 in British Columbia;

(b) AB Op Co holds 15 in Alberta; and

(c) ON Op Co holds 3 in Ontario.

viii. Liabilities

36. The Petitioners' liabilities are comprised of primarily accrued liabilities and accounts payable, and operating costs for the retail operations, including the development and management of the e-commerce platform.

37. The Choom group's current and long-term liabilities as reported in the 2021 Financial Statements, consist of:

(a) Accounts payable and accrued liabilities of \$2,461,897, which includes interest accrued on the below unsecured note and secured liabilities;

(b) Unsecured note payable in the amount of \$1,250,000;

(c) Loans from the Government of Canada in the amount of \$280,000 (Canada Emergency Business Account loans), \$140,000 of which is a non-petitioner subsidiaries;

(d) Deferred payment loan of \$165,321 from the Federal U.S. Agency, which is owed by one of the Non Petitioner Subsidiaries; and

(e) \$10,100,000 in secured liabilities.

(i) Secured Liabilities

38. The Petitioners have two primary secured obligations, both evidenced by secured convertible debentures, the particulars of which are as follows:

(a) a total of \$4.1 million held by a group of six debenture holders (the "**2019 Debenture Holders**") that hold security jointly pursuant to a security agreement dated December 23, 2019, as amended May 13, 2021; and

(b) \$6.0 million held by Aurora Cannabis Inc. ("**Aurora**") who holds security pursuant to a security agreement dated June 24, 2020, as amended June 30, 2021

(collectively, the 2019 Debenture Holders and Aurora are referred to as the "**Secured Creditors**").

39. Bank of Montreal holds security over a segregated bank account with \$46,000 deposited as secured for amounts owing on a corporate credit card.

(ii) Taxes

40. There is approximately \$450,000 owed to the Canada Revenue Agency for outstanding sales taxes. The majority of this amount represents sales taxes accrued prior to or in the first six months the COVID-19 pandemic. As noted above, the shut down of operations as a result of the COVID-19 pandemic lead to reduced revenue, and as a result the Op Cos are still working to address this amount.

(iii) Accounts Payable

41. As of April 14, 2022, the Petitioners' trade accounts payable totaled \$1,466,423. The majority of the Petitioners' accounts payable are more than 90 days overdue.

(iv) Lease Payments

42. Monthly rental payments across all three provinces where Choom operates, inclusive of GST, total approximately \$213,000. With respect to eight of the leases, there is a total of approximately \$40,000 in outstanding rent payments, beyond that all lease payments are current.

**H. CCAA Relief and the Insolvency of the Petitioners**

43. The Petitioners are currently in a liquidity crisis, which has made it necessary for the Petitioners to pursue refinancing, restructuring efforts, as well as a potential sale of some or all of the Petitioners' assets, or a combination thereof, all of which has occurred during the COVID-19 pandemic.
44. The Petitioners are not generating sufficient sales from their retail operations to cover costs. Twelve locations are awaiting licenses or are not open, and therefore are not operating, despite ongoing lease obligations. Eight locations are underperforming or operating at a loss. These factors have necessitated a restructuring of the Petitioners' affairs.
45. The Petitioners have made every effort to resolve their financial challenges without CCAA proceedings, including:
- (a) taking steps over the last year to address their liquidity issues by restructuring debt and soliciting equity investments; and
  - (b) seeking prospective purchasers for the Petitioners' assets and the company.

46. It has become clear that potential interested parties require the relief provided by the CCAA to enter a restructuring transaction that will allow the Petitioners to continue to operate or to conduct an orderly liquidation that maximizes recovery for their creditors.
47. The Petitioners are now seeking relief under the CCAA to preserve their operations, to prevent enforcement steps from being taken in respect of the Petitioners' secured debt facilities, and to preserve the opportunity to complete a restructuring or orderly liquidation.
48. In that regard, the Petitioners seek to following at this initial hearing, *inter alia*:
- (a) declaration that the Petitioners are companies to which the CCAA apply;
  - (b) a stay of proceeding up to May 2, 2022, on which date the Court has scheduled a comeback hearing (the "**Comeback Hearing**");
  - (c) approval of the Administrative Charge;
  - (d) approval of the Interim Financing Facility (as defined below) and the Interim Financing Charge; and
  - (e) appointment of the Monitor.
49. As part of the restructuring, the Petitioners intend in short order to reduce their overhead expenses. In particular, the Petitioners intend to disclaim some or all of the leases at locations that are not operating. Additionally, and as noted above, the Petitioners plan to close certain store locations that are underperforming and cashflow negative.
50. At the Comeback Hearing, the Petitioners anticipate seeking approval of a directors' and officers' charge and a key employee retention plan and related charge, along with an extension of the stay of proceedings and an increase to the interim financing charge, among other relief.

## **I. Conclusion**

51. The Petitioners have worked over the last year to restructure their debt and continue operations. However, given the current liquidity crisis, the Petitioners now require the protection of the CCAA to reorganize their affairs and advance one or more transactions that offer the greatest benefit to all stakeholders.

## **Part 3: LEGAL BASIS**

1. The Petitioners rely on:

- (a) the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");
- (b) the *Business Corporations Act*, S.B.C. 2002, c. 57;
- (c) the *Business Corporations Act*, R.S.A. 2000, c. B-9;
- (d) the *Business Corporations Act*, R.S.O., c. B.16;
- (e) the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**");
- (f) the *Supreme Court Civil Rules*, B.C. Reg. 168/2009, as amended;
- (g) the inherent and equitable jurisdiction of this Court; and
- (h) such further and other legal basis as counsel may advise and this Court may allow.

**A. The CCAA applies to the Petitioners**

- 2. The CCAA applies in respect of a "debtor company" if the claims against that debtor company are of more than \$5 million.

*Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**"), ss. 2, 3.

- 3. The CCAA defines "company" as a company, corporation or legal person incorporated by or under an Act of Parliament or of the legislature of a province. A "debtor company" is any company that is bankrupt or insolvent.

CCAA, s. 2(1).

- 4. Whether a company is insolvent is evaluated by reference to the definition of "insolvent person" in the *BIA*, which provides that:

*insolvent person* means a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and:

(a) who is for any reason unable to meet his obligations as they generally become due,

(b) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or

(c) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due;

*Bankruptcy and Insolvency Act*, R.S.C. 1985,  
c. B-3, s. 2.

5. In the context of the CCAA, this test has been interpreted expansively. If a company is “reasonably expected to run out of liquidity within a reasonable proximity of time as compared with the time reasonably required to implement a restructuring”, it is considered insolvent.

*Stelco Inc., Re*, 2004 CarswellOnt 1211 (Ont. Sup. Ct. J.) at para. 26, leave to appeal ref’d 2004 CarswellOnt 2936 (C.A.), leave to appeal ref’d 2004 CarswellOnt 5200 (S.C.C.).

See also, *Lemare Holdings Ltd., Re*, 2014 BCSC 893 at para. 18.

6. In this case, the Petitioners are debtor companies and the CCAA should apply to the Petitioners as:
- (a) Choom, BC Op Co and Phivida are established as corporations pursuant to the British Columbia *Business Corporations Act* and thus qualify as companies under the CCAA;
  - (b) AB Op Co is established as a corporation pursuant to the Alberta *Business Corporations Act* and thus also qualifies as a company under the CCAA;
  - (c) ON Op Co is established as a corporation pursuant to the Ontario *Business Corporations Act* and thus also qualifies as a company under the CCAA; and
  - (d) The Petitioners are subject to claims well in excess of \$5 million. Choom owes a significant amount in respect of secured debt, which is also guaranteed by the Op Cos. The Petitioners have insufficient cash flow to meet their demands, as Choom’s sales revenue is far below what is necessary to cover expenses and repay outstanding liabilities. The Petitioners have run out of liquidity and are unable to meet their obligations as the same become due.
7. Further, s. 3 of the CCAA specifically extends the application of the Act to “affiliated debtor companies”, which includes a subsidiary of another company. Choom is the sole shareholder of the Op Cos and Phivida.

CCAA, s. 3.

**B. The relief sought is urgent**

8. The Petitioners have provided short notice of this application to the following:

- (a) the Proposed Monitor;
- (b) the 2019 Debenture Holders; and
- (c) Aurora

((a)-(c) collectively, the “**Notice Parties**”).

9. Other than the Notice Parties, the Initial Order is being sought on an *ex parte* basis vis-à-vis the Petitioners’ other interested parties.

10. Section 11 of the CCAA provides that:

“... if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.”

CCAA, s. 11 [emphasis added].

11. Rule 8-5(6) of the *Supreme Court Civil Rules* provides that “[t]he court may make an order without notice in the case of urgency.”

*Supreme Court Civil Rules*, B.C. Reg. 168/2009, R. 8-5(6).

12. In this case, the Petitioners require urgent relief due to their liquidity challenges and inability to pay liabilities as they come due. The Petitioners have sought to have this application heard this date on short notice to preserve and stabilize operations, to prevent enforcement steps from being taken in respect of their secured debt facilities, and to preserve the opportunity to restructure their business.

13. Therefore, the Petitioners submit that granting the orders sought herein are appropriate, even though the Notice Parties have only been provided short notice.

14. Further, the Notice Parties are supportive of the relief sought and do not oppose the Initial Order. The orders sought herein are in the best interests of the Petitioner’s stakeholders.

**C. A stay of proceedings is appropriate**

15. Section 11.02 of the CCAA provides that on an initial application, the court may:

...make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

CCAA, s. 11.02.

16. The purpose of the stay of proceedings is to assist the debtor in maintaining the *status quo*, while working to stabilize its affairs and negotiate a plan of arrangement with creditors, thus benefiting both the debtor and its creditors.

*Ted Leroy Trucking [Century Services] Ltd., Re*,  
2010 SCC 60 ("**Century Services**") at paras. 60-62.

17. The power to grant a stay of proceedings should be construed broadly to facilitate the CCAA's legislative purpose. The CCAA is remedial legislation, affording courts with broad jurisdiction to approve and implement restructuring arrangements:

The legislation is remedial in the purest sense in that it provides a means whereby the devastating social and economic effects of bankruptcy or creditor initiated termination of ongoing business operations can be avoided while a court-supervised attempt to reorganize the financial affairs of the debtor company is made.

Century Services at para. 59.

18. As the primary policy instrument available under the CCAA, a stay of proceedings helps to facilitate compromises and arrangements between companies and their creditors. It provides an essential period of reprieve from litigation proceedings, allowing a debtor company to instead focus on negotiations with creditors.

*Campeau v. Olympia & York Developments Ltd*,  
1992 CarswellOnt 185 (Ct. J. (Gen. Div.)) at para. 17.

19. The stay of proceedings also facilitates the on-going operations of the debtor's business, preserves the value of the operations and provides the debtor with the necessary time,



flexibility and “breathing room” to carry out a court-supervised restructuring or sale process.

*Lehndorff General Partners Ltd., Re*, 1993 CarswellOnt 183 (Ont. Ct. J.) at paras. 5-7.

20. The threshold for a debtor company to obtain a stay of proceedings under the CCAA is low. The company only has to satisfy the Court that a stay of proceedings would “usefully further” its efforts to reorganize. The debtor company is not required to put forward anything more than a germ of a plan that requires protection.

*Century Services* at para. 70.

*Industrial Properties Regina Limited v. Copper Sands Land Corp.*, 2018 SKCA 36 at para. 21.

21. Further, since November 1, 2019, when certain amendments to the CCAA became effective, any stay of proceedings in an initial order under the CCAA is restricted to ten days, albeit subject to extension at the first comeback application and subsequently thereafter. This short initial stay period is meant to minimize prejudice to creditors who may have received short or no notice of the initial petition. Any creditor with concerns about the adequacy of service is only required to wait ten days to make its case in opposition to the debtor company's filing or the resulting stay of proceedings.

CCAA, s. 11.02(1).

22. The Petitioners submit that the remedial purposes of the CCAA are engaged in these circumstances. The Petitioners seek to preserve the prospective value of their assets, while addressing the various claims against them. The Petitioners submit that providing breathing space to enable the Petitioners to restructure and continue their operations will unlock significant value for stakeholders and is preferable to the devastating social and economic effects of a creditor-initiated liquidation at this stage.
23. The requested stay of proceedings conforms to the British Columbia model CCAA initial order and is sought to enable the Petitioners to explore restructuring alternatives. The Petitioners have the necessary “germ of a plan”, as on a high level, the restructuring will see:
- (a) the Petitioners benefitting from the protections and relief afforded by the CCAA;
  - (b) the Petitioners streamlining their operations to focus on successful locations, enabling either restructuring of the Petitioners' debts, a sale of the streamlined assets or a going-concern sale of the Op Cos, Phivida and/or Choom; and

- (c) the Petitioners exiting from CCAA, either positioned with a much-improved balance sheet, following a going concern sale, or a liquidation of assets for the benefit of creditors.

24. Therefore, the Petitioners submit that a ten-day stay of proceedings until the scheduled Comeback Hearing is appropriate in these circumstances.

**D. The Proposed Monitor should be appointed Monitor**

25. Section 11.7 of the CCAA provides that the court shall appoint a person to monitor the business and affairs of a debtor company granted relief under the CCAA.

CCAA, s. 11.7.

26. Section 11.7(2) of the CCAA provides restrictions on who may be appointed as a monitor. In particular, if in the two preceding years an entity was an auditor or accountant for the debtor company than they are barred from acting as monitor.

27. The Petitioners seek to have the Proposed Monitor appointed as Monitor in these proceedings. The Proposed Monitor is not barred by section 11.7(2) of the CCAA from acting as Monitor, as at no time in the preceding two years have any members of the Proposed Monitor been:

- (a) a director, officer, or employee of the Petitioners;
- (b) related to the company or any director or officer of the Petitioners; or
- (c) the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel, of the Petitioners.

28. Further the Proposed Monitor is not under a trust indenture or power of attorney related to the Petitioners, nor is it related to a holder of any such indenture or power of attorney.

29. Finally, EY has consented to act as monitor in these CCAA proceedings.

30. Therefore, the Petitioners submit that the Proposed Monitor should be appointed as the Monitor in these CCAA proceedings.

**E. The Charges are necessary and appropriate**

31. The Petitioners are seeking to have the following charges granted over the assets of the Petitioners in priority to all other claims, charges, and encumbrances, save and except those claims contemplated by section 11.8(8) of the CCAA and the charge in favour of

Bank of Montreal registered in the British Columbia Personal Property Registry under Base Registration Number 938463L against a specified account of Choom.

i. Administration Charge

32. The Petitioners seek a first-ranking Administration Charge in the amount of \$100,000 to secure the collective fees and disbursements incurred both before and after the commencement of these proceedings of legal counsel for the Petitioners, the Proposed Monitor and legal counsel for the Proposed Monitor.

33. Section 11.52 of the CCAA, provides that a court may grant a priority charge in respect of certain professional fees and expenses incurred in proceedings under the CCAA.

CCAA, s. 11.52.

34. Courts have recognized that, unless professional advisor fees are protected with the benefit of a charge over the assets of a debtor company, the objectives of the CCAA would be frustrated because professionals would be unlikely to risk offering their services without any assurance of ultimately being paid. Specifically any failure to provide protection for professional fees will "result in the overwhelming likelihood that the CCAA proceedings would come to an abrupt halt, followed, in all likelihood by bankruptcy proceedings."

*Timminco Ltd., Re*, 2012 ONSC 506 at para. 66.

See also *Canada v. Canada North Group Inc.*, 2021 SCC 30 ("**Canada North**") at paras. 24-25, 30.

35. Factors the court will consider in granting a charge under section 11.52 include:

- (a) the size and complexity of the business being restructured,
- (b) the proposed role of the beneficiaries of the charge,
- (c) whether there is unwarranted duplication of roles,
- (d) whether the quantum of the proposed charge appears to be fair and reasonable,
- (e) the position of the secured creditors likely to be affected by the charge, and
- (f) the views of the monitor.

*Canwest Publishing Inc., Re*, 2010 ONSC 222 ("**Canwest**") at para. 54.

CCAA, s. 11.52.

36. The section 11.52 factors support the granting of the Administration Charge, given that:
- (a) there is sizable debt owing by the Petitioners;
  - (b) the Petitioners' business is complex and involves operations in British Columbia, Alberta and Ontario;
  - (c) legal counsel for the Petitioners, the Proposed Monitor and legal counsel for the Proposed Monitor will play an active role in this insolvency and have the necessary experience and expertise to assist the Petitioners in reaching a successful restructuring;
  - (d) it is not anticipated that there will be a duplication of roles as between the legal counsel for the Petitioners, the Proposed Monitor and legal counsel for the Proposed Monitor, as each serves a unique role in these insolvency proceedings;
  - (e) the Petitioners submit that the quantum of the charge appears to be fair and reasonable and reflects the market standard of an insolvency of this complexity;
  - (f) the secured creditors will be primed by the charge, but the Petitioners submit that the secured creditors will benefit from the CCAA and the Administration Charge is a necessary part of these CCAA proceedings; and
  - (g) the Proposed Monitor is supportive of the charge.
37. The Petitioners require the specialized expertise, knowledge and continuing participation of the proposed beneficiaries of the Administration Charge in order to carry out and complete a restructuring and the Administration Charge is necessary to ensure their continued assistance and participation in these proceedings.
38. The quantum of the Administration Charge was determined in consultation with the Proposed Monitor and the Secured Creditors and is fair and reasonable in light of the number of beneficiaries, the size and complexity of the Petitioners' operations, and the complexity of the proposed restructuring.
39. Therefore, the Petitioners submit that it is appropriate in these circumstances to grant the Administration Charge over the Petitioners against their assets, properties and undertaking ranking in first priority.

ii. Interim Financing Charge

40. The Petitioners have received two offers to provide an interim lending facility (the “**Interim Financing Facility**”):
- (a) a term sheet from RCM Capital Management Ltd. (“**RCM**”), dated April 21, 2022 (the “**RCM Term Sheet**”); and
  - (b) a commitment letter from Aurora, dated April 21, 2022 (the “**Aurora Commitment Letter**”, and together with the RCM Term Sheet, the “**DIP Commitments**”).
41. Both of the DIP Commitments provide for a priority, interim term credit facility up to a maximum principal amount of \$800,000.
42. Either interim lender has agreed to provide the Petitioners with the Interim Financing Facility to continue their operations during these CCAA proceedings and to finance the cost of the restructuring.
43. The Petitioners would be supportive of either of the DIP Commitments being approved.
44. The Petitioners seek approval of the Interim Financing Facility and a second-ranking charge in favour of the Interim Lender, subject to the Administration Charge. At the initial hearing, the Petitioners are seeking the Interim Financing Facility and the Interim Financing Charge up to a maximum amount of \$300,000.
45. Section 11.2(5) of the CCAA, provides that an interim financing charge must be “limited to what is reasonably necessary for the continued operations of the debtor company in the ordinary course of business” during the initial stay period.
- CCAA, s. 11.2(5).
46. In the case herein, the Petitioners are seeking that the Interim Financing Charge provide funds for the initial stay period up to the Comeback Hearing (10 days, up to and including May 2, 2022).
47. The Petitioners’ initial ten day stay period, if granted, will expire on May 2, 2022, at which point the Petitioners are scheduled to return to this Court for the Comeback Hearing, which has been scheduled based on this Court’s availability to hear that application.

48. It is anticipated that the Petitioners will seek an increase in the Interim Financing Charge at the Comeback Hearing scheduled on May 2, 2022, to provide liquidity through the remainder of these CCAA proceedings.

49. The CCAA authorizes a court to grant approval of an interim financing and also order a charge with respect to the same, over the assets of the debtor company, in priority to any secured creditor of the debtor, on notice to the secured creditors who are likely to be affected by such security or charge and in an amount that the court considers appropriate having regard to the debtor company's cash flow statement. The security or charge may not secure an obligation that exists before the order granting the charge is made.

CCAA, s. 11.2(1).

See for example, MEC at para. 2.

50. Section 11.2 provides that in deciding whether to make an order for an interim lender's charge, a court will consider, among other factors:

- (a) the period during which the debtor is expected to be subject to the CCAA proceedings;
- (b) how the debtor's business and financial affairs are to be managed during the proceedings;
- (c) whether the debtor's management has the confidence of its major creditors;
- (d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the debtor;
- (e) the nature and value of the debtor's property;
- (f) whether any creditor would be materially prejudiced as a result of the security or charge; and
- (g) the monitor's reports, if any.

CCAA, s. 11.2(4).

See also, MEC at para. 53-54.

51. The factors under section 11.2(4) of the CCAA support the granting of the Interim Financing Charge:

- (a) the Petitioners anticipate being in these CCAA proceedings until at least May 2, 2022, and, following the Comeback Hearing, likely into the summer of 2022;

- (b) the business and financial affairs of the Petitioners are to be managed by the Petitioners' directors and officers, and overseen by the Proposed Monitor;
- (c) without the Interim Financing Facility, the Petitioners will not be able to fund their operations and continue their restructuring efforts and the value of the Petitioners' assets will diminish as a result;
- (d) the Secured Creditors are the only secured creditors who are likely to be affected by the Interim Financing Charge, and have been given notice of the Interim Financing Charge, albeit short notice;
- (e) the Interim Financing Charge sought herein is limited to the funds needed by the Petitioners until the Comeback Hearing and therefore the prejudice to the Secured Creditors, and any other secured creditors, is reduced; and
- (f) the Proposed Monitor supports the approval of the Interim Financing Facility and the granting of the Interim Financing Charge.

52. In addition to the factors under section 11.2(4) of the CCAA, the policy reasons behind allowing such a charge were recently discussed by the Supreme Court in *Canada v. Canada North Group Inc.* ("**Canada North**"), where Justice Côté explained:

[In *Canada North*,] financing secured by a super priority was necessary if the company was to remain a going concern (para. 59). Justice Deschamps rejected the suggestion "that the DIP lenders would have accepted that their claim ranked below claims resulting from the deemed trust", because "[t]he harsh reality is that lending is governed by the commercial imperatives of the lenders, not by the interests of the plan members or the policy considerations that lead provincial governments to legislate in favour of pension fund beneficiaries"...

...

This Court has similarly found that financing is critical as "case after case has shown that 'the priming of the DIP facility is a key aspect of the debtor's ability to attempt a workout' ... As lower courts have affirmed, "Professional services are provided, and DIP funding is advanced, in reliance on super-priorities contained in initial orders. To ensure the integrity, predictability and fairness of the CCAA process, certainty must accompany the granting of such super-priority charge.

*Canada North* at paras. 26, 29.

53. Because Aurora holds more than 10% of the voting shares in Choom, Aurora acting as interim lender would be a related party transaction under *MI 61-101 Protection Of Minority Security Holders In Special Transactions* ("**MI 61-101**").
54. Choom is exempt from the formal valuation requirement under s. 5.4 pursuant to s. 5.5(b) of *MI 61-101* because it is only listed on the Canadian Securities Exchange.

55. The interim financing would also trigger a minority approval requirement under s. 5.6 of MI 61-101. However, a court may exempt an issuer from this requirement in insolvency proceedings provided:
- (a) the transaction is subject to court approval, or a court orders that the transaction be effected, under bankruptcy or insolvency law;
  - (b) the court is advised of the requirements of MI 61-101 regarding minority approval for related party transactions; and
  - (c) the court does not require compliance with the provision in respect of minority approval.

MI 61-101 at s. 5.6–5.7.

56. The Petitioners submit that, if the Court approves Aurora's interim financing, exempting Choom from the minority approval requirements of MI 61-101 is appropriate.
57. In these circumstances, the Petitioners submit that it is appropriate to grant the Interim Financing Charge sought to provide the Petitioners with the necessary funds to operate until the Comeback Hearing and to ensure that the Interim Lender has certainty with respect to its priority as against the Petitioners' assets. The Petitioners propose that the Interim Financing Charge be granted over the Petitioners' assets, properties and undertaking ranking in second priority, subject to the Administration Charge.

#### **F. Conclusions**

58. Based on the above, the Petitioners submit that it is appropriate in the circumstances to grant the Initial Order.

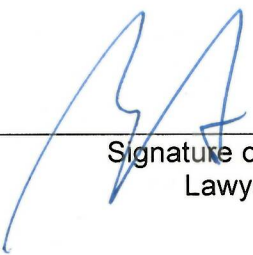
#### **Part 4: MATERIALS TO BE RELIED ON**

1. Affidavit #1 of Dylan Murray, sworn April 21, 2022;
2. The Proposed Monitor's Prefiling Report, to be filed; and
3. Such further and other materials as counsel may advise and this Court may allow.

The Petitioners estimate that the hearing of the Petition will take 1 hour.



Date: April 21, 2022

  
\_\_\_\_\_  
Signature of Jordan Schultz  
Lawyer for Petitioners

***To be completed by the court only:***

Order made

☐ in the terms requested in paragraphs \_\_\_\_\_ of  
Part 1 of this Petition

☐ with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date:

Signature of ☐ Judge ☐ Master

**SCHEDULE "A"**

NO. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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 AND ARRANGEMENT OF CHOOM  
HOLDINGS INC., CHOOM BC RETAIL HOLDINGS INC., 2151414 ALBERTA LTD.,  
2688412 ONTARIO INC. AND PHIVIDA HOLDINGS INC.

PETITIONERS

**SERVICE LIST**

District: British Columbia  
Division No.:  
Estate No.:  
Court No.: \_\_\_\_\_  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE PROPOSAL OF CHOOM HOLDINGS INC., CHOOM BC RETAIL  
HOLDINGS INC., 2151414 ALBERTA LTD., and 2688412 ONTARIO INC.

INSOLVENT PERSONS

**SERVICE LIST**

As at April 21, 2022

<b>Name of Counsel:</b>	<b>Name of Parties:</b>
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<p>McCarthy Tetrault LLP 745 Thurlow St Suite 2400, Vancouver, BC V6E 0C5</p> <p>Attention: Lance Williams and Forrest Finn</p> <p>Email: <a href="mailto:lwilliams@mccarthy.ca">lwilliams@mccarthy.ca</a> <a href="mailto:sdanielisz@mccarthy.ca">sdanielisz@mccarthy.ca</a></p> <p>Tel: 604-643-7154</p>	<p><i>Aurora Cannabis Inc.</i></p>

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B-1

**SCHEDULE "B"**

Draft Order

(See Attached)

NO. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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 AND ARRANGEMENT OF CHOOM  
HOLDINGS INC., CHOOM BC RETAIL HOLDINGS INC., 2151414 ALBERTA LTD., 2688412  
ONTARIO INC. AND PHIVIDA HOLDINGS INC.

PETITIONERS

**ORDER MADE AFTER APPLICATION**  
**(INITIAL ORDER)**

BEFORE	)	THE HONOURABLE	)	
	)	MR JUSTICE GROVES	)	22/APR/2022
	)		)	

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 22<sup>nd</sup> day of April, 2022 (the "**Order Date**"); AND ON HEARING Jordan Schultz and Eamonn Watson, counsel for the Petitioners and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the First Affidavit of Dylan Murray sworn April 21, 2022 (the "**Murray Affidavit**"), and the consent of Ernst & Young Inc. to act as Monitor; AND UPON BEING ADVISED that the secured creditors who are likely to be affected by the charges created herein, namely the 2019 Debenture Holders (as defined in the Murray Affidavit) and Aurora Cannabis Inc. were given notice; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the British Columbia *Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

## **JURISDICTION**

1. The Petitioners are companies to which the CCAA applies.

## **SUBSEQUENT HEARING DATE**

2. The hearing of the Petitioners' application for an extension of the Stay Period (as defined in paragraph 14 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smith Street, Vancouver, British Columbia at 9:00 a.m. on Monday, the 2<sup>nd</sup> day of May, 2022, or such other date as this Court may order.

## **PLAN OF ARRANGEMENT**

3. The Petitioners shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

## **POSSESSION OF PROPERTY AND OPERATIONS**

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

5. The Petitioners shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the Order Date:



- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively “**Wages**”); and
- (b) the fees and disbursements of any Assistants retained or employed by the Petitioners which are related to the Petitioners’ restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Petitioners, whenever and wherever incurred, in respect of:
  - (i) these proceedings or any other similar proceedings in other jurisdictions in which the Petitioners or any subsidiaries or affiliated companies of the Petitioners are domiciled;
  - (ii) any litigation in which the Petitioners is named as a party or is otherwise involved, whether commenced before or after the Order Date; and
  - (iii) any related corporate matters.

6. Except as otherwise provided herein, the Petitioners shall be entitled to pay all expenses reasonably incurred by the Petitioners in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors’ and officers’ insurance), maintenance and security services, provided that any capital expenditure exceeding \$25,000 shall be approved by the Monitor;
- (b) all obligations incurred by the Petitioners after the Order Date, including without limitation, with respect to goods and services actually supplied to the Petitioners following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Petitioners’ obligations incurred prior to the Order Date); and
- (c) fees and disbursements of the kind referred to in paragraph 5(b) which may be incurred after the Order Date.

7. The Petitioners are authorized to remit, in accordance with legal requirements, or pay:
- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
  - (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Petitioners in connection with the sale of goods and services by the Petitioners, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
  - (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.
8. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Petitioners shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Petitioners and the landlord from time to time ("**Rent**"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including Order Date shall also be paid.
9. Except as specifically permitted herein, the Petitioners are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Petitioners to any of its creditors as of the Order Date except as authorized by this Order;
- (b) to make no payments in respect of any financing leases which create security interests;
- (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of its Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business only to its customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Petitioners to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

## **RESTRUCTURING**

10. Subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), the Petitioners shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of its Business or operations and commence marketing efforts in respect of any of its redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$10,000 in any one transaction or \$25,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) pursue all avenues of refinancing for its Business or Property, in whole or part;

all of the foregoing to permit the Petitioners to proceed with an orderly restructuring of the Business (the "**Restructuring**").

11. The Petitioners shall provide each of the relevant landlords with notice of the Petitioners' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Petitioners' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who claim a security interest in the fixtures, such landlord and the Petitioners, or by further Order of this Court upon application by the Petitioners, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If the Petitioners disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Petitioners' claim to the fixtures in dispute.

12. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Petitioners and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Petitioners, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Petitioners of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

13. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act, as applicable (the "**Relevant Enactment**"), the Petitioners, in the course of these proceedings, is permitted to, and hereby shall, disclose personal information of identifiable individuals in its possession or

control to stakeholders, its advisors, prospective investors, financiers, buyers or strategic partners (collectively, “**Third Parties**”), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Petitioners binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Petitioners or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioners.

## **STAY OF PROCEEDINGS, RIGHTS AND REMEDIES**

14. Until and including May 2, 2022, or such later date as this Court may order (the “**Stay Period**”), no action, suit or proceeding in any court or tribunal (each, a “**Proceeding**”) against or in respect of the Petitioners or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Petitioners and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Petitioners or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

15. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Petitioners or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Petitioners and the Monitor or leave of this Court.

16. Nothing in this Order, including paragraphs 14 and 15, shall: (i) empower the Petitioners to carry on any business which the Petitioners is not lawfully entitled to carry on; (ii) affect such

investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Petitioners.

### **NO INTERFERENCE WITH RIGHTS**

17. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Petitioners, except with the written consent of the Petitioners and the Monitor or leave of this Court.

### **CONTINUATION OF SERVICES**

18. During the Stay Period, all Persons having oral or written agreements with the Petitioners or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Petitioners, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Petitioners, and that the Petitioners shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Petitioners in accordance with normal payment practices of the Petitioners or such other practices as may be agreed upon by the supplier or service provider and the Petitioners and the Monitor, or as may be ordered by this Court.

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

19. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Petitioners on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

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

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Petitioners with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Petitioners whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Petitioners, if one is filed, is sanctioned by this Court or is refused by the creditors of the Petitioners or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Petitioners that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

#### **APPOINTMENT OF MONITOR**

21. Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Petitioners with the powers and obligations set out in the CCAA or set forth herein, and that the Petitioners and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Petitioners pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

22. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Petitioners' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Petitioners, to the extent required by the Petitioners, in their dissemination, to the Interim Lender (as hereinafter defined) and its counsel on a weekly basis of financial and other information as agreed to between the Petitioners and the Interim Lender which may be used in these proceedings including reporting on a basis to be agreed with the Interim Lender;
- (d) advise the Petitioners in their preparation of the Petitioners' cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the Interim Lender;
- (e) advise the Petitioners in their development of the Plan and any amendments to the Plan;
- (f) assist the Petitioners, to the extent required by the Petitioners, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Petitioners, to the extent that is necessary to adequately assess the Petitioners' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.



23. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

24. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act*, the *Alberta Environmental Protection and Enhancement Act*, the *Alberta Occupational Health and Safety Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

#### **ADMINISTRATION CHARGE**

27. The Monitor, counsel to the Monitor, if any, and counsel to the Petitioners shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioners as part of the cost of these proceedings. The Petitioners is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Petitioners on a periodic basis and, in addition, the Petitioners is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Petitioners, retainers in the amounts of \$100,000 respectively to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

28. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

29. The Monitor, counsel to the Monitor, if any, and counsel to the Petitioners shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$100,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order which are related to the Petitioners’ restructuring. The Administration Charge shall have the priority set out in paragraphs 36 and 38 hereof.

## INTERIM FINANCING

30. The Petitioners is hereby authorized and empowered to obtain and borrow under a credit facility from \_\_\_\_\_ (the "**Interim Lender**") in order to finance the continuation of the Business and preservation of the Property, provided that borrowings under such credit facility shall not exceed \$300,000 unless permitted by further Order of this Court.

31. Such credit facility shall be on the terms and subject to the conditions set forth in the \_\_\_\_\_ between the Petitioners and the Interim Lender dated as of April 21, 2022 (the "**Commitment Letter**"), attached to the Murray Affidavit as Exhibit \_\_\_\_\_.

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

33. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property. The Interim Lender's Charge shall not secure an obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 36 and 38 hereof.

34. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under any of the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon ten (10) days notice to the Petitioners and the Monitor, may exercise any and all of its rights and remedies

against the Petitioners or the Property under or pursuant to the Commitment Letter, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to the Petitioners and set off and/or consolidate any amounts owing by the Interim Lender to the Petitioners against the obligations of the Petitioners to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Petitioners and for the appointment of a trustee in bankruptcy of the Petitioners; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Petitioners or the Property.

35. The Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Petitioners under the CCAA, or any proposal filed by the Petitioners under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any advances made under the Definitive Documents.

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

36. The priorities of the Administration Charge and the Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$100,000); and

Second – Interim Lender's Charge (to a maximum amount of \$300,000);

37. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge and the Interim Lender's Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

38. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person, save and except those claims contemplated by section 11.8(8) of the CCAA and the charge in favour of Bank of Montreal registered in the British Columbia Personal Property Registry under Base Registration Number 938463L against a specified account of Choom Holdings Inc.

39. Except as otherwise expressly provided herein, or as may be approved by this Court, the Petitioners shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Petitioners obtains the prior written consent of the Monitor, the Interim Lender and the beneficiaries of the Administration Charge and the Director’s Charge.

40. The Administration Charge, the Commitment Letter, the Definitive Documents and the Interim Lender’s Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the Interim Lender shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Petitioners; and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by the Petitioners of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Petitioners entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Petitioners pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

## **SERVICE AND NOTICE**

42. The Monitor shall (i) without delay, publish in the Vancouver Sun a notice containing the information prescribed under the CCAA, (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Petitioners of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

43. The Petitioners and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Petitioners' creditors or other interested parties at their respective addresses as last shown on the records of the Petitioners and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

44. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or

electronic transmission a request to be added to a service list (the “**Service List**”) to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: [www.ey.com/ca/choom](http://www.ey.com/ca/choom).

45. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on its website at: [www.ey.com/ca/choom](http://www.ey.com/ca/choom).

46. Notwithstanding paragraphs 43 and 45 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.

## **GENERAL**

47. The Petitioners or the Monitor may from time to time apply to this Court for directions in the discharge of its powers and duties hereunder.

48. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Petitioners, the Business or the Property.

49. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

50. Each of the Petitioners and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Petitioners to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.

51. The Petitioners may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Petitioners determines that such a filing is appropriate.

52. The Petitioners are hereby at liberty to apply for such further interim or interlocutory relief as it deems advisable within the time limited for Persons to file and serve Responses to the Petition.

53. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

54. Any interested party (including the Petitioners and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



55. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

56. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of Jordan Schultz  
☐ Party ☒ Lawyer for the Petitioners

\_\_\_\_\_  
BY THE COURT

\_\_\_\_\_  
REGISTRAR

**Schedule "A"**

(List of Counsel)

<b>Name of Counsel</b>	<b>Appearing For</b>