

**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 EARTH BORING CO. LIMITED, YARBRIDGE
HOLDINGS INC., TROLAN INVESTMENTS LTD., AND YARFIELD
SERVICES LIMITED**

Applicants

MOTION RECORD
(SISP APPROVAL AND TARIO)
(Returnable May 28, 2025)

May 23, 2025

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**ONTARIO
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**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
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TAB 1

Court File No. CV-25-00741419-00CL

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

B E T W E E N :

**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 EARTH BORING CO. LIMITED,
YARBRIDGE HOLDINGS INC., TROLAN INVESTMENTS
LTD., AND YARFIELD SERVICES LIMITED**

Applicants

**NOTICE OF MOTION
(RE: SISP APPROVAL AND TARJO)**

Earth Boring Co. Limited ("**EBCL**"), Yarbridge Holdings Inc. ("**Yarbridge**"), Trolan Investments Ltd. ("**Trolan**"), and Yarfield Services Limited ("**Yarfield**" and collectively with EBCL, Trolan and Yarbridge, the "**Applicants**") will make a motion before Justice Cavanagh at 330 University Avenue, Toronto Ontario (the "**Court**") on **May 28, 2025 at 10:30 a.m.** (Eastern Time), or as soon after that time as the motion can be heard by judicial videoconference via Zoom at Toronto, Ontario.

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

☐ in writing under subrule 37.12.1 (1) because it is on consent, unopposed or made without notice;

☐ in writing as an opposed motion under subrule 37.12.1 (4);

☐ In person;

☐ By telephone conference;

☒ By video conference.

At the following location:

<https://ca01web.zoom.us/j/61804264297?pwd=MEpzRUtlUVB0UGc4eStsVGNTYmkxUT09>

Meeting ID: 618 0426 4297

Passcode: 057603

THE MOTION IS FOR:

1. an order substantially in the form attached as Tab 3 to the Applicants' Motion Record (the "**SISP Approval Order**") that, among other things:
 - (i) approves the sale and investment solicitation process attached as Schedule "A" to the SISP Approval Order (the "**SISP**");
 - (ii) approves the appointment of PricewaterhouseCoopers Corporate Finance Inc. ("**PWC**") as sales advisor (in such capacity, the "**Sales Advisor**") to assist BDO Canada Limited in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**") and the Applicants in the implementation of the SISP;
 - (iii) grants the Sales Advisor a charge (the "**Sales Advisor Charge**"), in the maximum amount of \$350,000, as security for the amounts owed to the Sales Advisor pursuant to the terms of the Sales Advisor Engagement (defined below);
 - (iv) authorizes the Sales Advisor, the Monitor, and the Applicants to take any and all actions as may be necessary or desirable to implement and carry out the SISP;
 - (v) approves the Pre-Filing Report of the Monitor dated April 16, 2025 (the "**Pre-Filing Report**"), the First Report of the Monitor dated April 23, 2025 (the "**First Report**") and the Second Report of the Monitor, to be filed (the "**Second Report**"), and the activities of the Monitor set out therein; and

- (vi) approves the fees and disbursements of the Monitor and its counsel, as set out in the Second Report;
- 2. a Third Amended and Restated Initial Order (the “**TARIO**”) substantially in the form attached as Tab 4 of the Applicants’ Motion Record that, among other things:
 - (i) extends the stay of proceedings up to and including August 15, 2025; and
 - (ii) amends the Administration Charge to include the CRO (as defined below) and the Sales Advisor as persons benefitting from such charge, and increases the amount of the Administration Charge from \$600,000 to \$750,000 to include the monthly work fee of the Sales Advisor; and
- 3. such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS APPLICATION ARE:

Overview

- 4. The Applicants are engaged in the business of trenchless construction services, which includes, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling (the “**Business**”).
- 5. EBCL primarily works for municipalities, but also works with a diverse range of other customers in the construction industry providing critical gas and electrical pipelines and water and waste management infrastructure.
- 6. EBCL experienced significant financial and operational challenges in the past year that resulted in an acute liquidity crisis. The financial challenges were associated with, among other things: (i) a rapid expansion of the Business that significantly increased the upfront capital required for operations: (ii) changes to the eligibility requirements of Ontario’s Housing-Enabling Water Systems Fund which delayed a majority of the Applicants’ 2024 projects; (iii) unprecedented issues with one of the Applicants’ infrastructure projects

located in Caledon, Ontario; (iv) the shouldering of the upfront costs of certain insurance claims; and (v) the significant impact of tariffs on the construction industry generally.

7. As a result, on April 17, 2025, the Applicants sought and obtained an order (the “**Initial Order**”, as amended and restated on April 24, 2025 and May 5, 2025, the “**ARIO**”) under the *Companies’ Creditors Arrangements Act*, that, among other things, approved an interim financing loan agreement between the Applicants and the Bank of Montreal (the “**DIP Lender**”) pursuant to which the DIP Lender agreed to advance to the Applicants the principal amount of \$5.6 million.
8. Also on April 17, 2025, the Court granted a Lien Regularization Order (the “**LRO**”) that, among other things, stayed the rights of any person who provided services or materials to the Applicants on Continuing EBCL Projects (as defined in the LRO) from taking action to preserve or register construction liens—except as allowed by the LRO itself.

Activities Since the Granting of the ARIO

9. Full details of the activities of the Applicants and Monitor since the granting of the ARIO are contained in the Affidavit of Eugene Woodbridge sworn May 23, 2025 and the exhibits thereto (the “**Third Woodbridge Affidavit**”).
10. Since the granting of the ARIO, the Applicants, in close consultation and with the assistance of the Monitor and the Chief Restructuring Officer (the “**CRO**”), have acted in good faith and with due diligence to stabilize and streamline the Business.
11. To date, the combined efforts of the Applicants, the Monitor and the CRO have been largely successful in ensuring payments are made to EBCL in the normal course and that EBCL is able to continue operating largely uninterrupted.

12. The Applicants and their advisors have worked hard to balance the financial health of the Business and maintain relationships with its stakeholders in order to affect a successful operational and financial restructuring and going concern of the Applicants.

Appointment of Sales Advisor

13. The Applicants seek the appointment of PWC as Sales Advisor who will assist the Monitor and the Applicants with the implementation of the SISP pursuant to the engagement letter dated March 20, 2025 (the “**Sales Advisor Engagement**”) and the terms of the SISP. Specifically, the Sales Advisor will, among other things, assist with developing due diligence documentation, facilitate due diligence information, advise on strategy and tactics in negotiations, and advise on the selection of the Successful Bid (defined below).
3. As consideration for the Sales Advisor’s services, the Sales Advisor is to receive:
 - (a) a \$50,000 monthly fee (the “**Work Fee**”), which will be credited against any Success Fee (as defined below); and
 - (b) a “**Success Fee**”, to be calculated based on the terms of the Sales Advisor Engagement.
4. As security for the fees of the Sales Advisor, the Applicants seek to:
 - (a) increase the Administration Charge by \$150,000 to cover three months of the Work Fee; and
 - (b) grant a Sales Advisor Charge over the property of the Applicants in the maximum amount of \$350,000, which charge will be subordinate to the other charges in the Initial Order and to the BDC mortgage security.
14. The Applicants believe that the Sales Advisor Charge and the addition of the Sales Advisor to the Administration Charge is reasonable given the critical role that the Sales Advisor will take in the SISP, which will assist in maximizing value for all stakeholders.

Approval of the SISP

15. The Applicants have developed a SISP in consultation with the Monitor, the CRO, and the DIP Lender.
16. The SISP is a critical step towards a successful restructuring of the Business. The SISP is designed to assist the Applicants to maximize the value of the Business by permitting it to continue operating as a going concern while conducting a robust marketing and sale process.
17. The SISP contemplates a two-phase sale and investment solicitation process that will be administered by the Sales Advisor, in consultation with the Monitor. The timeline of the SISP is approximately seven weeks and anticipates closing a transaction by or before August 11, 2025. The deadlines in the SISP are able to be extended by the Monitor with the consent of the DIP Lender by up to two weeks in the event that additional time is needed to identify and close a transaction.
18. Bidders will have the opportunity to submit a bid in the form of either a purchase of the Applicants' property (a "**Sale Proposal**") or an investment in the Applicants (an "**Investment Proposal**"). A Sale Proposal and Investment Proposal may be in respect of only some of the property and any such proposal will not be precluded from consideration as an acceptable bid.
19. During Phase I of the SISP ("**Phase I**"), the Sales Advisor, in consultation with the Monitor, will solicit non-binding letters of intent ("**LOIs**") from interested parties to acquire or refinance the Business and/or property of the Applicants. After receiving the LOIs, the Sales Advisor, in consultation with the Monitor, will assess the LOIs to determine which bids are "**Qualified Phase 1 Bids**" and which bidders can participate in Phase II of the SISP ("**Phase II**").

20. Phase II of the SISP calls for either a “**Qualified Purchase Bid**” or “**Qualified Investment Bid**” both of which constitute a “**Phase II Bid**”. If a Phase II Bid meets the Phase II Bid Criteria (as defined in the SISP), as determined by the Sales Advisor, in consultation with the Monitor, such Phase II Bid will be deemed to be a “**Qualified Phase II Bid**”.
21. Following the Phase II Bid Deadline, the Monitor, in consultation with the Sales Advisor and the DIP Lender, may choose to accept the Qualified Phase II Bid that is in the best interests of the Applicants’ stakeholders (the “**Successful Bid**”) and take such steps as are necessary to finalize and complete an agreement for the Successful Bid.
22. The SISP contemplates the following key milestones and deadlines:

Milestone	Deadline
Commence solicitation of interest from parties	As soon as practical following the date of the SISP Approval Order.
Phase I Bid Deadline for LOIs	June 20, 2025
Phase II: Commencement of Due Diligence for Selected Bidders	June 23, 2025
Deadline for Binding Offers (“ Phase II Bid Deadline ”)	July 18, 2025
Selection of Successful Bid (assuming no Auction)	July 21, 2025
Definitive Transaction Document	July 25, 2025
Approval Motion	Subject to availability of the Court
Target Closing Date Deadline	August 11, 2025

23. The timeline of the SISP was designed to balance the Applicants' need to permit the Sales Advisor to comprehensively market the Business with the fact that the quicker closing of a transaction is likely to achieve more value in light of the Applicants' ongoing and upcoming projects, and concerns related to customer and employee retention.
24. The Applicants are of the view that a Court-supervised SISP under the CCAA will be the most cost-efficient and effective means of maximizing creditor recovery.
25. The SISP satisfies the criteria in s. 36 of the CCAA, which the Court considers in determining whether to approve a sale outside of the ordinary course of business.
26. The Monitor and DIP Lender are supportive of the SISP.

Approval of the Reports and Fees of the Monitor and its Counsel

27. The Applicants seek approval of the Pre-Filing Report, the First Report, the Second Report and the fees and activities of the Monitor and its counsel described therein.
28. The reports extensively describe the Monitor and its counsel's actions and activities since its appointment as a Monitor. All actions and activities of the Monitor have been undertaken in accordance with the ARIO and in the best interests of the Applicants.
29. The Applicants respectfully request that this Court approve the activities, actions, conduct, of the Monitor and its counsel as described in the reports, as well as the Monitor and its counsel's fees as set out in the Second Report.

Stay of Proceedings

30. The Applicants seek an extension of the stay of proceedings up to and including August 15, 2025. The extension of the stay of proceedings is necessary and appropriate in the circumstances in order to allow the Applicants to implement their operational and financial restructuring and administer the SISP.

31. The Applicants have acted and will continue to act with good faith and with due diligence. No creditors will be materially prejudiced by the extension of the stay of proceedings.
32. The Applicants and CRO have worked with the Monitor to prepare an updated cash flow statement for the week ending August 15, 2025 (the “**Cash Flow Statement**”), which is appended to the Second Report. The Cash Flow Statement demonstrates that the Applicants will have sufficient liquidity to operate through the extended stay of proceedings.
33. The Monitor and the DIP Lender are supportive of the proposed extension of the stay of proceedings.

Amendment to the Administration Charge

34. The Applicants seek to make three amendments to the Administration Charge:
 - (a) increase the maximum amount of the Administration Charge from \$600,000 to \$750,000 to cover three months of the Sales Advisor’s Work Fee;
 - (b) amend the language with respect to the Administration Charge to clarify that the CRO can benefit from the Administration Charge for its Monthly Fees, which was always the intention of the Applicants and the CRO, and is supported by the Monitor and DIP Lender; and
 - (c) amend the language with respect to the Administration Charge to permit the Sales Advisor to also benefit from the Administration Charge in the amount equal to three months of the Work Fee.
35. The Applicants believe that the amendments to the Administration Charge are necessary for the Applicants to receive the assistance of the CRO and Sales Advisor, both of which are critical to the Applicants’ ongoing restructuring initiatives.

36. The Monitor and the DIP Lender are supportive of the proposed amendments to the Administration Charge.

Other Grounds

37. The provisions of the CCAA, including sections 11.02 and 11.52.
38. Rules 1.04(1), 2.01(1), 2.03, 3.02, 37 and 39 of the *Rules of Civil Procedure*, RSO 1990, Reg 194.
39. The inherent and equitable jurisdiction of this Court.
40. Such further and other grounds as counsel may advise and this Honorable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

41. the Affidavit of Eugene Woodbridge, sworn May 23, 2025 and the exhibits attached thereto;
42. the Pre-Filing Report of the Monitor;
43. the First Report of the Monitor;
44. the Second Report of the Monitor; and
45. such further and other materials as counsel may advise and this Honorable Court may permit.

May 23, 2025

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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-25-00741¹²19-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EARTH BORING CO. LIMITED ET AL.

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

Proceedings commenced at *Toronto*

**NOTICE OF MOTION
(RETURNABLE MAY 28, 2025)**

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SERVICES LIMITED**

Applicants

AFFIDAVIT OF EUGENE WOODBRIDGE

(Sworn May 23, 2025)

I, **EUGENE WOODBRIDGE**, of the City of Oakville, in the province of Ontario, **MAKE**

OATH AND SAY:

1. I am the Chief Executive Officer of Earth Boring Co. Limited ("**EBCL**"). I have been in this role since 2005, and previously served as Vice President of EBCL beginning in 1998. I am also the President of Yarbridge Holdings Inc. ("**Yarbridge**"), and the Vice President of Yarfield Services Limited ("**Yarfield**") and Trolan Investments Ltd. ("**Trolan**", together with EBCL, Yarbridge, and Yarfield, the "**Applicants**"). I am also a director of each of the Applicants. Accordingly, I have personal knowledge of the matters set out below. Where I have relied on information from others, I have stated the source of such information and verily believe it to be true.

2. All references to currency in this affidavit are references to Canadian dollars unless otherwise indicated.

3. This affidavit is sworn in support of the Applicants' motion for:

- (a) an order (the "**SISP Approval Order**") that, among other things:
 - i. approves the sale and investment solicitation process attached as Schedule "A" to the SISP Approval Order (the "**SISP**");
 - ii. approves the appointment of PricewaterhouseCoopers Corporate Finance Inc. as Sales Advisor (in such capacity, the "**Sales Advisor**") to assist BDO Canada Limited in its capacity as Monitor of the Applicants (in such capacity, the "**Monitor**") and the Applicants in the implementation of the SISP;
 - iii. grants the Sales Advisor a charge (the "**Sales Advisor Charge**"), in the maximum amount of \$350,000, as security for the amounts owed to the Sales Advisor pursuant to the terms of the Sales Advisor Engagement (defined below);
 - iv. authorizes the Sales Advisor, the Monitor, and the Applicants to take any and all actions as may be necessary or desirable to implement and carry out the SISP;
 - v. approves the Pre-Filing Report of the Monitor dated April 16, 2025, the First Report of the Monitor dated April 23, 2025, and the Second Report of the Monitor, to be filed (the "**Second Report**"), and the activities of the Monitor set out therein; and
 - vi. approves the fees and disbursements of the Monitor and its counsel, as set out in the Second Report; and

(b) a Third Amended and Restated Initial Order (the “**TARIO**”) that, among other things:

- i. extends the stay of proceedings (the “**Stay Period**”) up to and including August 15, 2025; and
- ii. amends the Administration Charge to include the CRO (as defined below) and the Sales Advisor as persons benefiting from such charge, and increases the amount of the Administration Charge from \$600,000 to \$750,000 to include the monthly work fee of the Sales Advisor.

I. BACKGROUND OF THE CCAA PROCEEDING

4. The Applicants are engaged in the business of trenchless construction services, which includes, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling (the “**Business**”).

5. EBCL primarily works for municipalities, but also works with a diverse range of other customers in the construction industry, providing critical gas and electrical pipelines, and water and waste management infrastructure.

6. EBCL experienced significant financial and operational challenges in the past year that resulted in an acute liquidity crisis. The financial challenges were associated with, among other things: (i) a rapid expansion of the Business that significantly increased the upfront capital required for operations; (ii) changes to the eligibility requirements of Ontario’s Housing-Enabling Water Systems Fund, which delayed a majority of the Applicants’ 2024 projects; (iii) unprecedented issues with one of the Applicants’ infrastructure projects located in Caledon, Ontario; (iv) the shouldering of the upfront costs of certain insurance claims; and (v) the significant impact of tariffs on the construction industry generally.

7. As a result, on April 17, 2025, the Applicants sought and obtained an order (as amended, restated, or otherwise modified from time to time, the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the “**CCAA**”) from the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). A copy of the Initial Order is attached as **Exhibit “A.”**

8. The Initial Order, among other things:

- (a) appointed BDO Canada Limited as Monitor of the Applicants;
- (b) approved the engagement of Steinberg Advisory Corp., as Chief Restructuring Officer of the Applicants (the “**CRO**”);
- (c) granted a stay of all proceedings and remedies taken, or that might be taken, in respect of the Applicants, except with the written consent of the Applicants and the Monitor, or with leave of the Court (the “**Stay of Proceedings**”) to July 4, 2025;
- (d) granted a third party stay of proceedings, in favour of a related entity of the Applicants, Pennbridge Holdings Inc.;
- (e) approved an interim financing loan agreement (the “**DIP Term Sheet**”) between the Applicants and the Bank of Montreal (the “**DIP Lender**”) pursuant to which the DIP Lender agreed to advance to the Applicants the principal amount of \$5.5 million;
- (f) granted the following charges, with the priority amongst them as set out below, which charges shall rank in priority to all other security interests, trusts, liens, charges, and encumbrances in favour of any person:
 - i. First – an “**Administration Charge**” against all present and future assets, undertakings, and properties of every nature and kind whatsoever, and

wherever situate, of the Applicants, including all proceeds thereof (the **"Property"**), in the amount of 600,000, as security for the payment of professional fees and disbursements incurred and to be incurred by the Monitor, counsel to the Monitor, the monthly fees of the CRO, and counsel to the Applicants;

- ii. Second – a **"DIP Lender's Charge"** against the Property of the Applicants as security for the Applicants' obligations under the DIP Term Sheet, in the maximum principal amount of \$5 million, plus fees and interest, subject only to the mortgage security granted to the Business Development Bank of Canada (**"BDC"**) by Trolan and Yarbridge with respect to the Burlington Property and the Brampton Property (each as defined in the Initial Order); and
 - iii. Third – a charge against the Property (**"Director's Charge"**) as security for the obligation of the Applicants to indemnify its directors and officers from the obligations and liabilities that they may incur as directors and officers after the commencement of the within proceeding, except for gross negligence or wilful misconduct, in the maximum principal amount of \$400,000. With respect to real property owned by each of Trolan and Yarbridge, the Director's Charge ranks ahead of the interests of the Business Development Bank of Canada and the DIP Lender's Charge in the maximum amount of \$100,000 on each Property.
- (g) stayed any person with recourse to a Performance Bond (as defined in my Initial Affidavit (as defined below)), including any person named as an owner or obligee under such bond, from enforcing or calling on the Performance Bond, except with the written consent of the Applicants and the Monitor.

9. In addition to granting the Initial Order, the Court also granted a Lien Regularization Order (the “**LRO**”). A copy of the LRO is attached as **Exhibit “B.”** The LRO, among other things:

- (a) stayed the rights of any person who supplied services and/or materials to the Applicants solely with respect to certain construction projects to which the Applicants are a contracting party, and which are listed in Schedule “A” to the LRO (the “**Continuing EBCL Projects**”), to preserve, maintain, perfect, or register liens (each, a “**Lien Claim**” and such person asserting a Lien Claim, a “**Lien Claimant**”), including by way of a notice of lien pursuant to and in accordance with the *Construction Act* R.S.O. 1990, c. C.30 (the “**Construction Act**”), other than as permitted by the LRO;
- (b) granted a charge over the Applicants’ property in the applicable Continuing EBCL Project in favour of a Lien Claimant equivalent to, and only to the extent of, any security that, but for this proceeding, would otherwise be available under the *Construction Act*, as set out in and pursuant to the procedural requirements of the LRO (the “**Lien Charge**”); and
- (c) declared that the priority of the Lien Charge: (i) shall rank subordinate to the Directors’ Charge; (ii) relative to the other Lien Charges, shall be equivalent to the priority granted under the *Construction Act*; and (iii) with respect to other creditors of the Applicants, shall, subject to any orders granted in these proceedings, have priority in accordance with the Federal laws of Canada and the Province of Ontario.

10. In support of the Initial Order and LRO, I swore an affidavit dated April 16, 2025 (the “**Initial Affidavit**”), which details, among other things, the Applicants’ business and financial circumstances, the events leading up to and resulting in the Applicants’ insolvency, and the

Applicants' need for relief under the CCAA to conduct an operational and financial restructuring. A copy of the Initial Affidavit (without exhibits) is attached as **Exhibit "C"**.

11. On April 23, 2025, I swore an affidavit that provides details on the Applicants' activities between the granting of the Initial Order and the comeback hearing (the "**Second Affidavit**"). My Second Affidavit (without exhibits) is attached as **Exhibit "D."**

12. The Applicants bring this motion to conduct and implement the SISP. The Applicants' requested relief is essential to the Applicants' restructuring efforts. Specifically, the SISP will complement the Applicants' ongoing operational restructuring by canvassing the market for a transaction that will maximize value for stakeholders.

II. OVERVIEW OF THE APPLICANTS' ACTIVITIES SINCE THE ARIO

13. Since the granting of the Amended and Restated Initial Order ("**ARIO**"), the Applicants, in close consultation with, and with the assistance of, the Monitor and CRO, have acted in good faith and with due diligence to stabilize and streamline the Business by, among other things:

- (a) continuing operations in the normal course on the Continuing EBCL Projects;
- (b) corresponding with suppliers to advise them of the CCAA proceeding and, where applicable, advising of the LRO and claims process set out therein;
- (c) corresponding with project owners and general contractors to advise them of the CCAA proceeding;
- (d) corresponding and negotiating with project owners and general contractors regarding unpaid accounts receivable;

- (e) working with Aviva Insurance Company of Canada (“**Aviva**”), the Applicants’ construction surety, with respect to projects that are bonded and subject to subcontractor claims;
- (f) assessing profitable versus unprofitable projects and contracts;
- (g) disclaiming an unprofitable contract for the project known as “**Dain City Watermain**”;
- (h) developing the SISP;
- (i) engaging a Sales Advisor to assist with the SISP;
- (j) making certain personnel changes, including hiring a new Chief Financial Officer;
- (k) negotiating an extension of the maturity date of the DIP Term Sheet to August 15, 2025 to correspond to the timelines of the SISP; and
- (l) negotiating terms with Aviva with respect to completing work on the (“**Caledon Project**”) (as defined below).

A. Stakeholder Communications

14. As detailed in my Second Affidavit, shortly after the granting of the Initial Order, the Applicants initiated targeted communications to industry stakeholders, specifically construction project owners and suppliers, explaining the nature of the Initial Order and the CCAA proceedings, as well as the implications of the Initial Order on each particular stakeholder group. The Applicants also advised individual stakeholders, as appropriate, of the LRO and the process for lien claims set out therein.

15. Since the Initial Order, the Applicants and their advisors have continued to expend significant time and resources communicating with stakeholders. More specifically, on a near daily basis, the Applicants, the Monitor, and the CRO have been responding to inquiries from stakeholders regarding specific projects and how each stakeholder is impacted by the Initial Order and LRO (as applicable).

16. In recent weeks, the Applicants, with the assistance of the Monitor and the CRO, have also reached out to numerous customers to collect unpaid accounts receivable and to advise customers that they are required to continue to make payments to the Applicants during the pendency of the CCAA proceedings.

17. To date, the combined efforts of the Applicants, the Monitor, and the CRO have been largely successful in ensuring that payments are made to EBCL in the normal course, and that EBCL is able to continue operating largely uninterrupted.

B. Evaluation of Construction Projects

18. As indicated in the Initial Affidavit, EBCL intended to disclaim certain construction project contracts which were unprofitable (the “**Discontinued EBCL Contracts**”) on the basis that the cost to complete each of the projects exceeded the remaining balance payable on the contracts.

19. The Applicants’ evaluation of the profitability of their contracts, and which contracts they wish to disclaim, remains ongoing. To date, EBCL, with the consent of the Monitor, has disclaimed one contract, which is the contract with respect to the Dain City Watermain project.

20. The survival of the Applicants hinges both on the financial health of the Business and on maintaining relationships with stakeholders in this specialized area of construction. The Applicants and their advisors have worked hard to balance these two, often competing, objectives

in order to effect a successful operational and financial restructuring and going-concern of the Applicants.

C. Lien Claims

21. Since the granting of the ARIO, the Applicants have been made aware of numerous lien claims on construction projects. The majority of lien claims the Applicants are aware of are with respect to 2021-492T for the Proposed Sanitary Sewers and Forcemain along Various Streets and Bolton Sewage Pumping Station Modifications, Town of Caledon, Projects 12-2210, 17-2280, 17-2192, and 18-2286 (the “**Caledon Project**”) owned by the Regional Municipality of Peel (“**Peel**”). The Caledon Project was not a EBCL Continuing Project and is not subject to the LRO.

22. In respect to the Exhibition GO Station project with Aecon Construction and Materials Ltd. (the “**Aecon Project**”), the Applicants received the holdback in respect to the Aecon Project. The Applicants are currently working with the Monitor to confirm that all payments have been made to subtrades and suppliers on the project. Once the Monitor is satisfied that all payments have been made on the Aecon Project, the holdback funds from the project will be used by the Applicants in the usual course to fund the business in these proceedings.

D. Discussions with Aviva

23. The Applicants, the Monitor, and their respective counsel have been actively engaged in discussions with Aviva and its counsel regarding the proposed Discontinued EBCL Contracts and Continuing EBCL Projects that are bonded by Aviva. These discussions remain ongoing.

24. As part of these discussions, the Applicants, Aviva, and Peel have been engaged in negotiations regarding the completion of the Caledon Project, which in the absence of an agreement to fund the further work required, would be a proposed Discontinued EBCL Contract. In particular, on or about May 8, 2025, Peel sent a Notice of Termination terminating the Caledon

Project. Following receipt of the Notice of Termination, negotiations between the parties have continued. The Applicants believe that an executed agreement satisfactory to the parties is close which will see EBCL completing the Caledon Project in the near term.

25. The Applicants have also been providing information to Aviva on bonded projects where a claim for lien has been made. The Applicants will continue to work with Aviva on an ongoing basis in regards to these lien claims.

E. Engagement of Sales Advisor

26. The Applicants seek to engage the Sales Advisor to administer the SISP in consultation with the Monitor. The Applicants seek the assistance of a Sales Advisor in order to maximize value for the Business for the benefit of all stakeholders. PricewaterhouseCoopers Corporate Finance Inc. has agreed to assist with this mandate, and an engagement letter has been executed by the parties (the “**Sales Advisor Engagement**”). A copy of the Sales Advisor Engagement is attached as **Exhibit “E.”**

27. Pursuant to the Sales Advisor Engagement, the Sales Advisor will assist the Applicants and the Monitor with the implementation of the SISP. Specifically, the Sales Advisor will, among other things, assist with developing due diligence documentation, facilitate due diligence information flow, advise on strategy and tactics in negotiations, and advise on the selection of the Successful Bid (defined below).

28. As consideration for the Sales Advisor’s services, the Sales Advisor is to receive:

- (a) a \$50,000 monthly fee (the “**Work Fee**”); to be credited against any Success Fee (as defined below);
- (b) a “**Success Fee**,” to be calculated as follows:

- i. if there is an asset or equity sale, the Success Fee will be based on a percentage of the Total Enterprise Value (“**TEV**”) calculated as follows:
 1. for the portion of the purchase price below \$20 million – \$500,000;
 2. for the portion of the purchase price between \$20 to \$30 million – \$2.5% of TEV
 3. for the portion of the purchase price above \$30 million – 4% of TEV
- ii. if there is a debt refinancing, the Success Fee will be based on a percentage of the capital raised or committed, calculated as follows:
 1. senior debt = 1% of capital raised
 2. private debt=3% of capital raised
 3. junior capital or subordinated debt=4% of capital raised

29. As security for the fees of the Sales Advisor, the Applicants seek to:

- (a) increase the Administration Charge by \$150,000 to cover three months of the Work Fee; and
- (b) grant a Sales Advisor Charge over the Property of the Applicants in the maximum amount of \$350,000, which charge will be subordinate to the other charges in the Initial Order and to the BDC mortgage security.

30. The Applicants believe that the Sales Advisor Charge and the addition of the Sales Advisor to the Administration Charge are reasonable, given the critical role that the Sales Advisor will take in the SISP, which will assist in maximizing value for all stakeholders.

III. THE SISP

31. As detailed in the Initial Affidavit, prior to commencing the CCAA proceedings, the Applicants retained a financial advisor to conduct a sale and investment solicitation process (the “**Sale Process**”) to canvass the market for possible refinancing or sale opportunities.

32. The Sale Process commenced in and around December 2024. The sale efforts involved creating a confidential information memorandum, which was circulated to 146 potential investors, including 126 financial sponsors and 20 strategic partners.

33. The Sale Process generated significant interest in the Applicants’ Business from a range of strategic and financial parties. In particular, the Applicants received 94 executed non-disclosure agreements from interested parties. The parties who executed a non-disclosure agreement were granted access to a comprehensive virtual data room to conduct due diligence on the investment opportunity.

34. The Sale Process had a deadline of January 23, 2025, for parties to submit an expression of interest detailing, among other things, the anticipated purchase price, the proposed structure, sources of financing, and closing conditions. By the January deadline, one party submitted a verbal expression of interest for a purchase of the Business. However, other parties remained interested in a possible sale or refinancing transactions, but required further time to complete due diligence.

35. Unfortunately, in the midst of the Sale Process and due diligence by the interested parties, the Applicants’ cash flow continued to decrease such that the protection of the CCAA became necessary. As a result, a primary objective of these CCAA proceedings is to continue the Sale Process in order to complement the Applicants’ ongoing operational restructuring. As a result, the Applicants developed the SISP, in consultation with the Monitor, the CRO, and the DIP Lender.

A. Overview of the SISP

36. The SISP contemplates a two-phase sale and investment solicitation process that will be administered by the Sales Advisor, in consultation with the Monitor. The timeline of the SISP is approximately seven weeks and anticipates closing a transaction by or before August 11, 2025. The deadlines in the SISP may be extended by the Monitor with the consent of the DIP Lender by up to two weeks in the event that additional time is needed to identify and close a transaction.

37. Bidders will have the opportunity to submit a bid in the form of either a purchase of the Applicants' Property (a "**Sale Proposal**") or an investment in the Applicants (an "**Investment Proposal**"). Although all of the Applicants' Property is being offered for sale or investment, a Sale Proposal and Investment Proposal may be in respect of only some of the Property, and any such proposal will not be precluded from consideration as an acceptable bid.

38. Any shareholder or director of the Applicants (each an "**Insider**") may, subject in all respects to such Insider's compliance with the Bidding Procedures, make a bid in the SISP, provided such intention to bid must be communicated to the Monitor in writing by no later than June 19, 2025 (one day before the non-binding agreements are due). In the event that an Insider submits a bid in the SISP, the Sales Advisor and the Monitor shall not share any information with the Insider with respect to the SISP, and shall not be required to consult with the Company.

39. During Phase I of the SISP ("**Phase I**"), the Sales Advisor, in consultation with the Monitor, will solicit non-binding letters of intent ("**LOIs**") from Interested Parties (defined below) to acquire or refinance the Business and/or Property of the Applicants. After receiving the LOIs, the Sales Advisor, in consultation with the Monitor, will assess the LOIs to determine which bids are a "**Qualified Phase I Bids**" and which bidders can participate in Phase II of the SISP ("**Phase II**").

40. Phase II of the SISP calls for either a “**Qualified Purchase Bid**” or “**Qualified Investment Bid**,” both of which constitute a “**Phase II Bid**”. If a Phase II Bid meets the Phase II Bid Criteria (defined below), as determined by the Sales Advisor, in consultation with the Monitor, such Phase II Bid will be deemed to be a “**Qualified Phase II Bid**”.

41. Following the Phase II Bid deadline, the Monitor, in consultation with the Sales Advisor and the DIP Lender, may choose to accept the bid that is in the best interests of the Applicants’ stakeholders (the “**Successful Bid**”) and take such steps as are necessary to finalize and complete an agreement for the Successful Bid.

42. The SISP contemplates the following key milestones and deadlines:

Milestone	Deadline
Commence solicitation of interest from parties	As soon as practicable following the date of the SISP Approval Order.
Phase I Bid Deadline for LOIs	June 20, 2025
Phase II: Commencement of Due Diligence for Selected Bidders	June 23, 2025
Deadline for Binding Offers (“ Phase II Bid Deadline ”)	July 18, 2025
Selection of Successful Bid (assuming no Auction)	July 21, 2025
Definitive Transaction Document	July 25, 2025
Approval Motion	Subject to availability of the Court
“ Target Closing Date ” Deadline	August 11, 2025

43. I believe the above milestones, while condensed, provide sufficient time for the Sales Advisor to broadly canvass the market for a value-maximizing transaction in light of the prior Sale Process efforts of the Applicants. In particular, the above timeline of the SISP appropriately

balances the Applicants' need to permit the Sales Advisor to comprehensively market the Business with the fact that the quicker closing of a transaction is likely to achieve more value in light of the Applicants' ongoing and upcoming projects, and concerns related to customer and employee retention.

B. Solicitation of Interest and Notice of the SISP

44. The SISP prescribes that the Sales Advisor, with the assistance of the Applicants and the Monitor, and in consultation with the DIP Lender, has prepared:

- (a) a list of potential buyers ("**Interested Parties**");
- (b) an initial offering summary ("**Teaser Letter**");
- (c) a form of non-disclosure agreement ("**NDA**");
- (d) a confidential information memorandum describing the opportunity; and
- (e) a virtual data room.

45. I understand that the Sales Advisor has already started preparing the above-noted documents with a view to commencing the SISP as soon as reasonably practicable following the SISP Approval Order.

46. The Sales Advisor will be sending out the Teaser Letter and NDA to each known potential bidder and to any other party who requests a copy. Any Interested Party who wishes to participate in the SISP must provide an executed NDA and, if the Monitor considers it necessary, financial disclosure that allows the Monitor to make a reasonable determination as to the Interested Party's financial and other capabilities to consummate a potential transaction.

C. Phase I of the SISP – Non-Binding LOIs

47. Following the solicitation of interest in the Business, the Sales Advisor in consultation with the Monitor, the DIP Lender and the Company will review any and all LOI's received. An LOI will be considered a Qualified Phase I Bid where it complies with certain minimum criteria, including that it contains, among other things:

- (a) the purchase price in Canadian dollars, including details of all Property to be purchased and liabilities to be assumed by the bidder;
- (b) any anticipated approvals and consents required to close the transaction, and any anticipated impediments to such approvals or consents;
- (c) specific due diligence required to be conducted during Phase II, if any; and
- (d) all conditions to closing sought by the bidder;

48. In addition to the requirements set out above, a Qualified Phase I Bid in respect of a Sale Proposal must include:

- (a) a detailed listing and description of the Property to be included in the Sale Proposal and a detailed listing of the Property to be excluded from the Sale Proposal;
- (b) the low and high range of the proposed purchase price for such Sale Proposal, the proposed allocation of purchase price among the applicable Property, and an explanation of what contingencies and variables may influence the range in which the final purchase price will fall (each as defined herein);
- (c) whether the proposed transaction is to be implemented by way of a “**Approval and Vesting Order**” or a “**Reverse Vesting Order**”; and

- (d) a description of any liabilities to be assumed by the Prospective Bidder and the Prospective Bidder's estimated value of such assumed liabilities.

49. In addition to the requirements set out above, a Qualified Phase I Bid in respect of an Investment Proposal must include:

- (a) a description of the structure of the Investment Proposal;
- (b) a description of the type and amount of consideration to be allocated to secured creditors, unsecured creditors, and shareholders of the Applicants; and
- (c) a description of any liabilities to be assumed by the Prospective Bidder's estimated value of such assumed liabilities.

50. If the Sales Advisor in consultation with the Monitor determines that one or more Qualified Phase I Bids are received, then the SISP shall proceed to Phase II.

D. Phase II of the SISP – Binding Offers

51. Bidders will have the opportunity to submit a Qualified Phase II Bid in the form of either a Qualified Purchase Bid or a Qualified Investment Bid.

52. In order to be considered a Qualified Phase II Bid, the binding offer must meet, *inter alia*, the following criteria (collectively, the “**Phase II Bid Criteria**”):

- (a) be binding and irrevocable until the earlier of: (i) thirty (30) days after the Phase II Bid Deadline, and (ii) approval by the Court of the Successful Bid;
- (b) include a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Monitor, or such other form of deposit as is acceptable to the

Monitor), payable to the Monitor, in trust, in an amount equal to 10% of the purchase price contemplated by the Phase II Bid;

- (c) for Sale Proposals, include the proposed revisions to the Template APA and the terms of the proposed sale transaction documents;
- (d) include written evidence of a firm, irrevocable commitment for financing, or other evidence of an ability to consummate the proposed transaction or transactions comprising the Phase II Bid, that will allow the Sales Advisor/Monitor to make a determination as to the bidder's financial and other capabilities to consummate the proposed transaction;
- (e) include a description of any desired arrangements with respect to transition services that may be required from the Applicants;
- (f) be received by the Phase II Bid Deadline; and
- (g) contemplate closing the transaction set out therein on or before August 11, 2025.

53. In addition to the Phase II Bid Criteria, bids must also meet specific criteria for a Qualified Purchase Bid and Qualified Investment Bid to be considered a Qualified Phase II Bid. The additional criteria required for Qualified Purchase Bids is set out at paragraph 35 of the SISP. The additional criteria required for Qualified Investment Bids is set out at paragraph 36 of the SISP.

E. Selection, Approval and Closing of the Successful Bid(s)

54. Following receipt of the Phase II Bids, the Sales Advisor and the Monitor, in consultation with the DIP Lender, will review and assess the bids to determine the Successful Bid.

55. In assessing a Sale Proposal, the Sales Advisor and Monitor will consider, among other things, the following criteria:

- (a) the purchase price and net value (including all assumed liabilities and other obligations to be performed by the bidder) provided by such Phase II Bid, and the proposed allocation of the purchase price among the applicable Property;
- (b) the firm, irrevocable commitment for financing the transaction, or other evidence of ability to consummate the Sale Proposal;
- (c) the nature and amount of debt and other liabilities to be assumed or acquired by the bidder;
- (d) the proposed revisions to the Template APA (as set out in the SISP) and the terms of the proposed sale transaction documents;
- (e) the estimated number of employees of the Applicants that will be offered post-closing employment by the bidder and any proposed measures associated with their continued employment;
- (f) the Property included in or excluded from the Sale Proposal, and the transaction costs and risks associated with closing multiple transactions versus a single sale transaction for all or substantially all of the Property;
- (g) any transition services required from the Applicants post-closing, and any related restructuring costs;
- (h) other factors affecting the speed, certainty and value of the Sale Proposal (including any regulatory approvals and other conditions required to close the Sale Proposal by the applicable Target Closing Date), including the likelihood of

closing the Sale Proposal on or before the applicable Target Closing Date.

56. In assessing an Investment Proposal, the Sales Advisor and Monitor, will consider among other things, the following criteria:

- (a) the type and amount of consideration, including equity, if any, to be allocated to secured creditors, unsecured creditors, and shareholders of the Applicants, and the planned treatment of such persons under the proposed Investment Proposal;
- (b) the firm, irrevocable commitment for financing the investment, or other evidence of ability to consummate the Investment Proposal;
- (c) the cost, risks, and timing associated with obtaining the approval of the requisite majority of creditors and approval of the Court in respect of a Plan, if needed;
- (d) the estimated number of employees of the Applicants that will be offered post-closing employment by the bidder, and any proposed measures associated with their continued employment;
- (e) the transition services required from the Applicants post-closing; and
- (f) other factors affecting the speed, certainty, and value of the Investment Proposal (including any regulatory approval and other conditions required to close the Investment Proposal by the applicable Target Closing Date).

57. After the Sales Advisor and Monitor assess the Phase II Bids, the Monitor, in consultation with the Sales Advisor, the Company and the DIP Lender, may choose a Successful Bid and take such steps as are necessary to finalize and complete an agreement for the Successful Bid.

58. In the alternative, if the Monitor, in consultation with the Sales Advisor, determines that more than one Phase II Bid should be considered, then the Monitor may, without being obligated to do so, conduct an auction (the "**Auction**"), to determine the highest and/or best Sale Proposal or Investment Proposal. If there is an Auction, the Monitor, in consultation with the Sales Advisor, shall develop the Auction procedures.

59. After a definitive agreement in respect of a Successful Bid has been finalized in accordance with the SISP, the Applicants shall apply to the Court as soon as reasonably practicable for an order approving such Successful Bid

IV. THE THIRD AMENDED AND RESTATED INITIAL ORDER

A. Extension of the Stay Period

60. The Applicants seek to extend the Stay of Proceedings to and including August 15, 2025. The extension of the Stay of Proceedings is necessary and appropriate in the circumstances in order to allow the Applicants to implement their operational and financial restructuring and administer the SISP.

61. As set out above, the Applicants have acted, and are continuing to act, in good faith and with due diligence in these CCAA proceedings.

62. The Applicants and the CRO have worked with the Monitor to prepare an updated cash flow statement for the week ending August 15, 2025 (the "**Cash Flow Statement**"). I understand the Cash Flow Statement will be attached as an Appendix to the Second Report of the Monitor. The Cash Flow Statement demonstrates that the Applicants will have sufficient liquidity to operate through the extended Stay of Proceedings.

63. I believe that the Applicants' stakeholders will benefit from the extension of the Stay of Proceedings. I am not aware of any material prejudice to stakeholders that will result from the extension of the Stay of Proceedings.

64. I understand that the Monitor and the DIP Lender are supportive of the proposed extension of the Stay of Proceedings.

B. Amendments to the Administration Charge

65. The Applicants seek to make three amendments to the Administration Charge:

- (a) increase the maximum amount of the Administration Charge from \$600,000 to \$750,000 to cover three months of the Sales Advisor's Work Fee;
- (b) amend the language with respect to the Administration Charge to clarify that the CRO can benefit from the Administration Charge for its monthly fees, which was always the intention of the Applicants and the CRO, and is supported by the Monitor and DIP Lender; and
- (c) amend the language with respect to the Administration Charge to permit the Sales Advisor to also benefit from the Administration Charge in the amount equal to three months of the Work Fee.

66. The Applicants believe that the amendments to the Administration Charge are necessary for the Applicants to receive the assistance of the CRO and Sales Advisor, both of which are critical to the Applicants' ongoing restructuring initiatives.

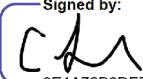
67. I understand that the Monitor and the DIP Lender are supportive of the proposed changes to the Administration Charge.

V. CONCLUSION

68. For the reasons set out above, I believe that it is in the interests of the Applicants and their stakeholders that this Court grant the relief requested in accordance with the terms of the proposed TARIO and SISP Approval Order.

69. I swear this affidavit in support of the Applicants’ requested relief and for no other or improper purpose.

SWORN by EUGENE WOODBRIDGE)
before me in the City of Oakville, in the)
Province of Ontario, on this 23rd day of)
May, 2025.)

Signed by:)
)
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A Commissioner for taking Affidavits.)

Caitlin Fell

DocuSigned by:)
)
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EUGENE WOODBRIDGE

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF EUGENE WOODBRIDGE SWORN BEFORE ME,
THIS 23rd DAY OF MAY 2025



A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-25-00741419-00CL

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

THE HONOURABLE	)	MONDAY, THE 5 TH
	)	
MADAM JUSTICE STEELE	)	DAY OF MAY, 2025

**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 EARTH BORING CO. LIMITED,
YARBRIDGE HOLDINGS INC., TROLAN INVESTMENTS LTD.,
AND YARFIELD SERVICES LIMITED (Collectively, the
"Applicants")**

SECOND AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by videoconference.

ON READING the Notice of Application, the affidavit of Eugene Woodbridge sworn April 16, 2025 (the "**First Woodbridge Affidavit**"), the affidavit of Eugene Woodbridge sworn April 23, 2025 and the Exhibits thereto, the pre-filing report of BDO Canada Limited ("**BDO**") in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**"), dated April 16, 2025 (the "**Pre-Filing Report**"), the first report of the Monitor dated April 23, 2025, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Bank of Montreal ("**BMO**"), and such other parties as listed on the Participant Information Form, with no one appearing for any other person although duly served as appears from the affidavit of service of Gabrielle Schachter sworn April 23, 2025, filed,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are each a company to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that effective April 17, 2025, the notice of intention to make a proposal of Earth Boring Co. Limited ("**EBCL**") under Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") bearing estate file number 32-3212103 is hereby taken up and continued under the CCAA and that, as of such date, the provisions of the BIA shall have no further application to EBCL, save that any and all steps, agreements and procedures validly taken, done or entered into by EBCL shall remain valid and binding, notwithstanding the commencement of these CCAA proceedings.

PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

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

6. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the First Woodbridge Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan of arrangement or compromise under the CCAA with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and
- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicants prior to the date of this Order if in the opinion of the Applicants, in consultation with the CRO (as defined below) and with the consent of the Monitor, such payment is necessary or desirable to avoid disruption to the operations of the Business or the Property of the Applicants during the CCAA proceedings.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the

Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) income taxes, and (iv) all other amounts related to such deductions or employee wages payable for periods following the date of this Order pursuant to the *Income Tax Act*, the *Canada Pension Plan*, the *Employment Insurance Act* or similar provincial statutes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

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

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicants and/or the CRO, with the consent of the Monitor and in consultation with the DIP Lender (as hereinafter defined), shall subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$1,000,000 in any one transaction or \$2,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

13. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' 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 Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. **THIS COURT ORDERS** that until and including July 4, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), including without limiting the generality of the foregoing any adjudication process pursuant to part II.1 of the *Construction Act*, shall be commenced or continued against or in respect of the Applicants, the Monitor, the CRO, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or

affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO PROCEEDINGS AGAINST PENNBRIDGE HOLDINGS INC.

16. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of Pennbridge Holdings Inc. (the “**Pennbridge Holdings**”) or its respective employees and representatives acting in such capacities, or affecting its business or its property, except with the written consent of Pennbridge Holdings and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of Pennbridge Holdings or affecting its business or its property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicants, the Monitor, the CRO, Pennbridge Holdings, or affecting the Business or the Property, including without limiting the generality of the foregoing (i) any rights arising out of or in connection with the prompt payment deadlines or a notice of non-payment under Part I.1 of the *Construction Act* and (ii) any rights in connection with a determination under Part II.1 of the *Construction Act*, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants and Pennbridge Holdings to carry on any business which they are not lawfully entitled to carry on and (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, and (iii) subject to the terms of the Lien Regulation Order dated as of the date of this Order (the “**LRO**”), prevent the filing of any registration to preserve or perfect a security interest.

NO INTERFERENCE WITH RIGHTS

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, licence, or permit in favour of or held by the

Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

PRE-FILING VS POST-FILING SET-OFF

19. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicants in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicants in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

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

NON-DEROGATION OF RIGHTS

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any

Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Director's Charge**") on the Property, which charge shall not exceed an aggregate total amount of \$400,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 52 and 54 herein.

25. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

STAY OF PERFORMANCE BONDS

26. **THIS COURT ORDERS AND DECLARES** that during the Stay Period, no Person, holding a Performance Bond (as defined in the First Woodbridge Affidavit), including any Person named as an owner or obligee under such bond, shall be permitted to enforce and/or call on the Performance Bond ("**Performance Bond Claim**"), except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Performance Bond Claims currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that BDO is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, the CRO and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property and, among other things, ensure all disbursements are consistent with the Cash Flow Statements (as defined in Pre-Filing Report), as amended from time to time, and subject to the variances permitted in the DIP Commitment Letter;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel, on a timely basis of financial and other information as agreed to between the Applicants and the DIP Lender which

may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' 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 Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform their 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.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental*

Protection Act, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in Possession.

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

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

APPOINTMENT OF CRO

33. **THIS COURT ORDERS** that Steinberg Advisory Corp. is hereby appointed as the Chief Restructuring Officer ("**CRO**") over and in respect of the Applicants and shall have the powers and obligations set out in the engagement agreement between the Applicants and the CRO dated April 16, 2025 (the "**CRO Engagement**"), a copy of which is attached as Appendix "D" to the Pre-Filing Report.

34. **THIS COURT ORDERS** that the CRO Engagement is hereby approved, subject to such minor amendments as the parties thereto may agree to with the Monitor's consent.

35. **THIS COURT ORDERS** that subject to the terms of this Order, the CRO is hereby authorized to assist the Applicants and the Monitor, and to do all things, carry out all actions and perform all duties described in the CRO Engagement.

36. **THIS COURT ORDERS** that the CRO shall not be, or be deemed to be a director, officer or employee of the Applicants.

37. **THIS COURT ORDERS** the CRO shall not, as a result of the performance of the obligations and services in accordance with the terms of the CRO Engagement, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation.

38. **THIS COURT ORDERS** that the CRO have no liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent that such losses, claims, damages or liabilities result from gross negligence or wilful misconduct on the part of the CRO.

39. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of the CRO, except with the written consent of the CRO or with leave of this Court.

40. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the CRO are hereby stayed and suspended, except with the written consent of the CRO or leave of this Court, provided that nothing in this Order shall empower the CRO to carry on any business which the CRO is not lawfully entitled to carry on.

41. **THIS COURT ORDERS** that the obligations of the Applicants to the CRO pursuant to the CRO Engagement shall be treated as unaffected and may not be compromised in any Plan or proposal filed under the *Bankruptcy and Insolvency Act* of Canada (the “BIA”) in respect of the Applicants.

42. **THIS COURT ORDERS** that the Monitor may terminate the CRO and the CRO Engagement with thirty days’ notice to the CRO and the Applicants.

ADMINISTRATION CHARGE

43. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants and the CRO’s Monthly Fees (as defined in the CRO Engagement) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the

Monitor, counsel for the Monitor, counsel for the Applicants and the CRO on a weekly basis or as otherwise agreed among the parties.

44. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

45. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate total amount of \$600,000, as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 52 and 54 hereof.

DIP FINANCING

46. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from BMO (the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$5.5 million unless permitted by further Order of this Court.

47. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicants and the DIP Lender dated as of April 16, 2025 (the "**Commitment Letter**"), which is attached as Appendix "E" to the Pre-Filing Report.

48. **THIS COURT ORDERS** that the Applicants are 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 DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP 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.

49. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 52 and 54 hereof.

50. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon seven (7) days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

51. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants 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

52. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the DIP Lender's Charge and the Lien Charge (as defined in the Lien Regularization Order) (collectively, the "**Charges**"), as among them,

- (a) in respect of the properties municipally known as 960 Zelco Drive, Burlington, Ontario, and legally described in PIN 07035-0005 (the "**Burlington Property**") and 75 Steelwell Road, Brampton, Ontario, and legally described in PIN 14028-0023 (the "**Brampton Property**" and together with the Burlington Property, the "**Real Property**") shall be as follows:

First – Administration Charge (to the maximum amount of \$600,000);

Second – Director's Charge (to a maximum amount of \$100,000 in respect of each of the Burlington Property and the Brampton Property);

Third – the interests of Business Development Bank of Canada in mortgages granted to the Business Development Bank of Canada up to maximum amount of (i) principal of \$10,225,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Burlington Property and, (ii) principal of \$5,000,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Brampton Property;

Fourth - DIP Lender's Charge; and

Fifth - Lien Charge.

- (b) in respect of all Property other than the Real Property, shall be as follows:

First – Administration Charge (to the maximum amount of \$600,000);

Second – DIP Lender's Charge;

Third – Director's Charge (to the maximum amount of \$400,000); and

Fourth – Lien Charge.

53. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

54. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, holdbacks, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, which for greater certainty shall include priority to the interests of any Person in respect of the Applicants' Property pursuant to the *Construction Act*, R.S.O. 1990, c. C.30, provided that the Applicants' Property shall not include any accounts receivable subject to a trust under the *Construction Act* in relation to the Discontinued EBCL Contracts, as defined in the First Woodbridge Affidavit.

55. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

56. **THIS COURT ORDERS** that the Charges, the Commitment Letter, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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, other than as set out in paragraph 54 above; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents

shall create or be deemed to constitute a breach by the Applicants 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 Applicants 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 Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

58. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in *The National Post* a notice containing the information prescribed under the CCAA, (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner or by electronic message to the e-mail addresses as last shown in the Applicants' records, a notice to every known creditor who has a claim against the Applicants 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.

59. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of

documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/earth-boring-co-limited> (the “**Monitor’s Website**”).

60. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

61. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, or facsimile transmission to the Applicants’ creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

62. **THIS COURT ORDERS** that the Applicants, the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and Orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

63. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

64. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business, or the Property.

65. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

66. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

67. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 52 and 54 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

68. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order without any need for entry and filing.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EARTH
BORING CO. LIMITED ET AL.

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

Proceedings commenced at *Toronto*

AMENDED AND RESTATED INITIAL ORDER

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Lawyers for the Applicants

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF EUGENE WOODBRIDGE SWORN BEFORE ME,
THIS 23rd DAY OF MAY 2025



A COMMISSIONER FOR TAKING AFFIDAVITS



Court File No.

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

THE HONOURABLE

)

THURSDAY, THE 17TH

MADAM JUSTICE STEELE

)

DAY OF APRIL, 2025

)

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
EARTH BORING CO. LIMITED, YARBIDGE HOLDINGS INC., TROLAN
INVESTMENTS LTD., AND YARFIELD SERVICES LIMITED (Collectively, the
"**Applicants**")

APPLICANTS

LIEN REGULARIZATION ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day by videoconference.

ON READING the Notice of Application, affidavit of Eugene Woodbridge sworn April 16, 2025 and the Exhibits thereto ("**Woodbridge Affidavit**"), the Pre-Filing Report of BDO Canada Limited, as the proposed monitor (if so appointed, the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Bank of Montreal, and such other parties as listed on the Participant Information Form, with no one appearing for any other person although duly served as appears from the affidavit of service of Samantha Currie sworn April 17, 2025, filed,

Service

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

Defined Terms

2. **THIS COURT ORDERS** that, for the purposes of this Order, the following definitions shall apply:

(a) **"Bond"** means a labour & material and/or a performance Bond provided by a Bonding Company in support of an EBCL Project;

(b) **"Bonded Off Lien"** means a lien:

(i) that attaches to the land and has been the subject of a registered claim for lien and a certificate of action in respect of that lien has been issued, or

(ii) that does not attach to the land, where a notice of lien has been given;

which lien has been vacated from title and/or as a charge upon the Holdback upon the posting of security, which security is subject to claims of all Persons having a lien pursuant to the Construction Act;

(c) **"Bonding Company"** means Aviva Insurance Company of Canada;

(d) **"EBCL Project"** means those construction projects set out in **Schedule "A"** for which the Applicants or any of them are a contracting party and which are the Continuing EBCL Projects as defined in the Woodbridge Affidavit;

(e) **"Filing Date"** means April 17, 2025;

(f) **"Holdback"** means Statutory Holdback or Notice Holdback;

- (g) **"Lien Bond"** means a bond or other security posted in respect of a Bonded Off Lien;
- (h) **"Lien Claims"** mean the claims of any person who supplied services and/or materials to preserve or perfect their liens, including by way of notice of lien, pursuant to the *Construction Act*;
- (i) **"Notice Holdback"** means any further amounts beyond the Statutory Holdback required to be, or in fact, withheld from one of the Applicants as a payee by a payor as a result of notice by any Person claiming a lien pursuant to the *Construction Act*;
- (j) **"Owner"** means a person or entity who is the legal owner of the premises comprising the site of an EBCL Project; and
- (k) **"Statutory Holdback"** means the 10%, or the other applicable percentage required by the *Construction Act*, of the value of services or materials supplied under a contract or subcontract required to be withheld by a payor from one of the Applicants as a payee.

3. **THIS COURT ORDERS** that, unless otherwise indicated or defined herein, capitalized terms shall have the meaning given to them in the Initial Order granted by this Court on April 17, 2025 (as amended, the **"Initial Order"**).

Stay of Lien Claims pursuant to the Construction Act

4. **THIS COURT ORDERS** that no Person shall be permitted to preserve or perfect a Lien Claim under the *Construction Act* with respect to any EBCL Project and that any Lien Claim in respect of an EBCL Project be and hereby is stayed and any person seeking to enforce such a claim shall be required to seek the rights and remedies set out in this Order. However, for greater

certainty, the Applicants shall be entitled to preserve and perfect their Lien Claims, including the commencement and continuation of legal proceedings, under the Construction Act or otherwise in favour of the Applicants.

EBCL Projects

5. **THIS COURT ORDERS** that any Lien Claim that has been preserved or perfected by any Person, or for which notice of lien has been given by any Person, in respect of an EBCL Project (a "**Preserved Lien Claimant**"), which is not a Bonded Off Lien as of the date of this Order, be and is hereby vacated on terms that any Person having such a Lien Claim shall be deemed to have provided the Lien Notice referred to in paragraph 11 herein on the date of preservation or delivery of notice of such Lien Claim, and shall be entitled to the Lien Charge referred to in paragraph 12 herein, *provided that* the vacating of preserved liens pursuant to this paragraph shall not be deemed to cure any default triggered by the filing of a lien under any contract with any Owner.

6. **THIS COURT ORDERS** that upon the registration in the applicable land registry office of a certified copy of this Order in the manner prescribed by the applicable land registry office, the applicable land registrar is hereby directed to specifically vacate a Lien Claim referred to in paragraph 5 herein.

7. **THIS COURT ORDERS** that any Person having a Bonded Off Lien as of the date of this Order shall be deemed to have provided the Lien Notice referred to in paragraph 11 herein on the date of registration of such Lien Claim and shall also be entitled to the Lien Charge referred to in paragraph 12 herein.

8. **THIS COURT ORDERS** that any requirements for any Lien Claims to be perfected or set down for trial pursuant to the *Construction Act* are hereby deemed to have been complied with.

9. **THIS COURT ORDERS** that any trial dates that are currently set between the date of

this Order and the Stay Period (as defined in the Initial Order dated April 17, 2025 and as may be amended by further order) or such later date as may be subsequently ordered by this Court, with respect to any Lien Claim action by any Person in respect of an EBCL Project be and are hereby vacated.

10. **THIS COURT ORDERS** that any requests for information to the Applicants or other interested parties pursuant to the *Construction Act*, including any requests pursuant to section 39 of that Act whether outstanding or delivered after the date of this Order (the “**Information Requests**”), are hereby stayed pursuant to the terms of this Order. However, the Monitor, in consultation with the Applicants, or as directed by this Court, may provide any information in respect of an Information Request as the Monitor deems appropriate or as the Court directs.

Treatment of Lien Claims

11. **THIS COURT ORDERS** that unless deemed to have delivered a Lien Notice in accordance with this Order, any Person who wishes to assert a Lien Claim after the Filing Date in respect of an EBCL Project (the “**Asserting Lien Claimant**”), whether in respect of materials and/or services supplied before or after the Filing Date shall deliver by email a notice in the form attached as **Schedule “B”** hereto (the “**Lien Notice**”), to the following persons (collectively, the “**Lien Notice Parties**”): the Monitor c/o Clark Lonergan (clonergan@bdo.ca), with a copy to the Monitor’s counsel c/o Clifton Prophet and Heather Fisher (clifton.prophet@gowlingwlq.com; heather.fisher@gowlingwlq.com), and with a copy to the Applicants c/o Caitlin Fell (cfell@reconllp.com), within the time frames prescribed by the *Construction Act* in order to preserve and perfect their Lien Claim for that EBCL Project. With respect to any EBCL Project for which a Bond has been issued, in addition to delivering the Lien Notice to the Lien Notice Parties, an Asserting Lien Claimant shall deliver by email a copy of the Lien Notice to counsel to the Bonding Company c/o Rich Yehia (ryehia@blg.com). For the purposes of this Order, any Preserved Lien Claimant shall be deemed to be an Asserting Lien Claimant that has delivered a

Lien Notice in accordance with this paragraph.

12. **THIS COURT ORDERS** that the Asserting Lien Claimant, upon delivering or being deemed to have delivered a Lien Notice in accordance with this Order, be and is hereby granted a charge (the “**Lien Charge**”) against the Applicants’ property in the applicable EBCL Project in respect of which the Lien Claim arises equivalent to, and only to the extent of, any security granted under the *Construction Act* for such Lien Claim. Without limiting the generality of and subject to the foregoing, a Lien Charge shall attach to the following: (i) any property of the applicable Applicant that, pursuant to the *Construction Act*, would be subject to a charge securing the underlying Lien Claim secured by such Lien Charge; (ii) property of any Owners of the real property pertaining to the EBCL Project in question that, pursuant to the *Construction Act*, would be subject to a charge securing the underlying Lien Claim secured by such Lien Charge (if any); (iii) any Holdback in the hands of a payor of the Applicant against which the Asserting Lien Claimant’s Lien Claim described in the Lien Notice would otherwise have a charge pursuant to the *Construction Act*; and (iv) any rights (if any) under an applicable Lien Bond, without prejudice to the right of the Bonding Company who has posted such Lien Bond to seek by court order the release of such Lien Bond and any other related relief, provided that the Bonding Company shall be subrogated to any rights related to such Lien Claim as set out above. For greater certainty, a Lien Charge shall not attach to any property of any Applicant or other Person, or attach to any rights in a Lien Bond, unless such property or Lien Bond would otherwise have been charged with or subject to the lien underlying such Lien Charge pursuant to the *Construction Act*.

13. **THIS COURT ORDERS** that each Applicant, with the assistance and oversight of the Monitor, shall deposit all funds received by such Applicant on account of an EBCL Project into one or more bank accounts, and shall keep written records respecting the funds, detailing the amounts that are received into and paid out of the funds, and any transfers made for the purposes of any EBCL Project and shall maintain such records on a project-by-project basis, such that all

funds received on account of an EBCL Project are traceable to such EBCL Project and the depositing of funds into one bank account in accordance with this paragraph shall not constitute a breach of trust.

14. **THIS COURT ORDERS** that any funds received by an Applicant on account of an EBCL Project may only be paid in satisfaction of, first, any amounts payable in respect of obligations secured under the Charges (as defined in the Initial Order), second any trust obligations in relation to such EBCL Project, and, after satisfaction of all trust obligations, fees, costs and expenses arising in connection with such EBCL Project or other project-specific financing advanced in respect of such EBCL Project, subject to further Order of this Court, and for greater certainty nothing herein shall affect the priorities set out in paragraph 53 of the Initial Order.

15. **THIS COURT ORDERS** that Lien Charges created by this Order shall not be rendered invalid or unenforceable, and the rights and remedies of the Asserting Lien Claimants entitled to the benefit of a Lien Charge shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings; (b) any application(s) for order(s) issued pursuant to the CCAA or any order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the CCAA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Lien Charge, shall neither create nor be deemed to constitute a breach by any Applicant of any Agreement to which it is a party;
- (ii) the payments made by any Applicant, or any other Person or entity, pursuant to this Order, and the granting of the Lien Charge, does not and will not constitute

preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law; and

- (iii) the Lien Charge shall be enforceable in any bankruptcy proceedings of any Applicant with the same priority as set out in paragraph 21 herein as against the property secured by the Lien Charge, including any Holdback.

Treatment of Holdback Funds

16. **THIS COURT ORDERS** that any Person who is in possession of Holdback funds be and hereby is restrained from paying, setting-off, or encroaching upon such Holdback funds until the day after the last day upon which a claim for lien could have been registered/delivered for the relevant contract pursuant to the *Construction Act* but for the provisions of this Order, at which time or such other time as may be agreed to by the Monitor, such Person shall, subject only to any right of set-off claimed against Notice Holdback funds, pay the Holdback funds to the Monitor in trust, irrespective of whether any Lien Claims or Lien Notices have been made, delivered, preserved or perfected or written notice of any Lien Claim or Lien Notice has been received, provided that any exercise of set-off shall be subject to: (i) the consent of the Monitor and Applicants, who shall consult with the Person(s) who delivered Lien Notices for the applicable EBCL Project, (ii) or further order of the Court, on notice to the Monitor, Applicants, the applicable Bonding Company (only with respect to a EBCL Project for which there is a Bond), and the Person(s) who delivered Lien Notices on the applicable EBCL Project, and in the case of (i) or (ii), any of the foregoing parties shall be entitled to challenge such set-off, on motion to the Court (whether or not the Monitor consents to such set-off). Upon payment of the Holdback funds to the Monitor pursuant to this paragraph 16, the Person who was in possession of such Holdback funds shall be deemed to have been in the same position as if (i) no written notices of lien had been received, no Lien Claims had been made, asserted, delivered, preserved, or perfected, and (ii)

no Lien Notice had been received, and such Person shall have no further liability for such Holdback funds to any Person. For greater certainty, provided that Holdback funds have been paid to the Monitor. any Person who is in possession of Holdback funds, and who receives a written notice of lien, Lien Notice or other notice of a Lien Claim, shall not be required to retain Notice Holdback with regard to that written notice of lien, Lien Notice or other notice of a Lien Claim.

17. **THIS COURT ORDERS** that any general contractor, Owner, and/or payor of any level above the level of the Applicants in connection with an EBCL Project shall have no liability whatsoever, whether pursuant to the *Construction Act*, any other law, equity, or otherwise, save and except for any gross negligence or wilful misconduct on its part, to any Person (including any subcontractor of any level to the Applicants, any other supplier of any level to the Applicants, or creditor of the Applicants) in connection with amounts paid to the Monitor on or after the Filing Date pursuant to the terms of this Order in respect of an EBCL Project.

18. **THIS COURT ORDERS** that, for greater certainty, and subject to paragraph 4 of this Order or the terms of the Initial Order, nothing in this Order shall affect the rights of any Person under the *Construction Act* with respect to any rights pursuant to any Bond posted in favour of any such Person named in the applicable Bond, except any such claims against any of the Applicants shall require consent of the Monitor or leave of this Court to be commenced or continued.

19. **THIS COURT ORDERS** that with respect to a Bonded Off Lien, nothing in this Order affects any rights under or recourse of any Person under the *Construction Act* to any Lien Bond, or any other security posted with respect to such Bonded Off Lien (without prejudice to the right of any Bonding Company to seek the release of the Lien Bond or any other security posted with respect to any Bonded Off Lien and any other related relief), provided however that nothing in this Order restricts, limits or derogates from the stay of proceeding in favour of the Applicants set out

in paragraph 14 of the Initial Order.

20. **THIS COURT ORDERS** that the Monitor shall serve a copy of this Order on any Person known to the Monitor who is or may be in possession of a Holdback fund.

21. **THIS COURT ORDERS** that the Monitor may, at a time deemed by the Monitor to be appropriate after consulting with the Applicants, and shall, upon further order of this Court made on a motion brought on at least 7 days' notice to the Monitor and the Applicants, bring a motion on notice to the service list seeking the approval of a process for reviewing, determining or challenging the (i) validity or timeliness of a Lien Notice; (ii) validity or quantum of the amounts set out in the Lien Notice; (iii) validity or quantum of an Asserting Lien Claimants' entitlement to a Lien Charge under this Order; and (iv) the attachment or priority of a Lien Charge under this Order.

22. **THIS COURT ORDERS** that the Monitor may, if necessary and at a time deemed by the Monitor to be appropriate after consulting with the Applicants and the Bonding Companies, and shall, upon further order of this Court made on a motion brought on at least 7 days' notice to the Monitor, the Applicants and the Bonding Companies, bring a motion on notice to the Service List seeking the approval of a dispute resolution process among the Applicant and any general contractor, owner, and/or payor of any level above the level of the Applicants in connection with an EBCL Project.

General

23. **THIS COURT ORDERS** that in discharging its obligations under this Order, the Monitor (i) shall have all of the protections given to it by the CCAA, this Order and any other orders of the Court in these CCAA Proceedings; (ii) shall incur no liability or obligation as a result of carrying out matters or any act or omission in connection with this Order; (iii) shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants, all

without independent investigation; (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information; and (v) may seek such assistance as may be required to carry out matters in connection with this Order from the Applicants or any of their subsidiaries.

24. **THIS COURT ORDERS** that the Monitor may from time to time apply to this Court for advice and directions in respect of the discharge of its powers and duties hereunder.

Jana
Steele

Digitally signed
by Jana Steele
Date: 2025.04.17
16:15:18 -04'00'

SCHEDULE “A” – Projects to which the Order applies

Job#	Project Owner	Customer	Job Name
21015	Halton Region	C&M McNally	South Georgetown Wastewater Servicing
23010	Town of Lincoln	Town of Lincoln	Lincoln Watermain
24019	County of Simcoe	Primrose	SimcoeCounty Rd 21
23007	Rose Corporation	Clarose Midhurst GP Inc.	Midhurst Heights
23002	Alectra	Aecon Utilities Inc	Elexicon - South Blair
23011	TTC	Bronte Construction	Sheppard Station
24017	Ottawa Public Works	Tomlinson Group	Confederation Heights
24010	537 Kingtson Rd East Holdings Inc	Sora Group Inc.	537 Kingston Road East
24016	County of Brant	L82 Construction Ltd.	Dundas Street East
24009	Corporation of Welland	Peters Construction Group	Dain City Watermain
24005	Metrolinx	Alliance Verdi	Metrolinx
24002	Metrolinx	Clearway	PAPE
24012	Niagara Region	Centennial Construction	Chippawa Parkway Foundation
24004	Waterloo Region	Steed & Evans	Foundry St Snyders Rd Reconstruction
25002	Lakefront Utility Service Inc.	Behan Construction Limited	Darcy Street Elevated Tank
25004	ENWIN	Amico Infrastructure Inc.	Enwin Feedermain Phase 2 Project
23012	Region of Peel	Region of Peel	Trenchless Crossing – Heart Lake, Elgin, Torbram
24001	City of Hamilton	City of Hamilton	Garner Road Trunk SS

SCHEDULE "B"

FORM OF LIEN NOTICE TO MONITOR

Name of Lien Claimant:

Address for Service:

Name of Owner:

Name of person to whom lien claimant supplied services or materials:

.....

Address:.....

Time within which services or materials were supplied:

from: to
(date supply commenced) (date of most recent supply)

Short description of services or materials that have been supplied:

.....

Contract price or subcontract price: \$.....

Amount claimed as owing in respect of services or materials that been supplied:

\$.....

(Use **A** where the lien attached to the premises; use **B** where the lien does not attached to the premises).

A. The lien claimant (if claimant is personal representative or assignee this must be stated) claims a lien against the interest of every person identified above as an owner of the premises described in Schedule A to this claim for lien.

B. The lien claimant (if claimant is personal representative or assignee this must be stated) claims a charge against the holdbacks required to be retained under either the *Construction Act*, RSO 1990, c. C.30 and any additional amount owed by a payor to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the services or materials that have been supplied by the lien claimant in relation to the premises at:

.....

(address or other identification of the location of the premises)

Date:.....

Per:.....

(signature of claimant or agent)

I have authority to bind the corporation

- 2 -

SCHEDULE A TO NOTICE TO MONITOR

To the claim for lien of

.....

Description of premises:

(Where the lien attaches to the premises, provide a description of the premises for registration under the *Land Titles Act* or the *Registry Act*, as the case may be).

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EARTH BORING CO. LIMITED ET AL.

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceedings commenced at Toronto	
LIEN REGULARIZATION ORDER	
RECONSTRUCT LLP 80 Richmond Street West Suite 1700 Toronto, ON M5H 2A4 Caitlin Fell LSO No. 60091H cfell@reconllp.com Tel: 416.613.8282 R. Brendan Bissell LSO No. 40354V bbissell@reconllp.com Tel: 416.613.0066 Jessica Wuthmann LSO No. 72442W jwuthmann@reconllp.com Tel: 416.613.8288 Gabrielle Schachter LSO No. 80244T gschachter@reconllp.com Tel: 416.613.4881 Lawyers for the Applicants	

THIS IS **EXHIBIT "C"** REFERRED TO IN THE
AFFIDAVIT OF EUGENE WOODBRIDGE SWORN BEFORE ME,
THIS 23rd DAY OF MAY 2025



A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. [Type here]

**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 EARTH BORING CO. LIMITED, YARBRIDGE
HOLDINGS INC., TROLAN INVESTMENTS LTD., AND YARFIELD
SERVICES LIMITED**

Applicants

AFFIDAVIT OF EUGENE WOODBRIDGE

(Sworn April 16, 2025)

I, **EUGENE WOODBRIDGE**, of the City of Oakville, in the province of Ontario, **MAKE**

OATH AND SAY:

1. I am the Chief Executive Officer of Earth Boring Co. Limited ("**EBCL**"). I have been in this role since 2005, and previously served as Vice President of EBCL beginning in 1998. I am also the President of Yarbridge Holdings Inc. ("**Yarbridge**"), and the Vice President of Yarfield Services Limited ("**Yarfield**") and Trolan Investments Ltd. ("**Trolan**", together with EBCL, Yarbridge, and Yarfield, the "**Applicants**"). I am also a director of each of the Applicants. Accordingly, I have personal knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and verily believe it to be true.

2. All references to currency in this affidavit are references to Canadian dollars unless otherwise indicated.

3. This affidavit is sworn in support of an application before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) for an order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c c-36, as amended (the “**CCAA**”) that, among other things:

- (a) continues the proceedings commenced EBCL by the filing of a notice of intention to make a proposal under section 50.4(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”) under the purview of the CCAA;
- (b) declares that the Applicants are each a “debtor company” to which the CCAA applies;
- (c) appoints BDO Canada Limited (“**BDO**” or the “**Proposed Monitor**”) as monitor of the Applicants (if appointed in such capacity, the “**Monitor**”);
- (d) approves the engagement of Steinberg Advisory Corp (“**Steinberg**”), as chief restructuring officer of the Applicants (the “**CRO**”);
- (e) grants a stay, for an initial period of not more than 10 days (the “**Initial Stay Period**”), of all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor or the current directors or officers of the Applicants (the “**D&Os**”), or affecting the Applicants’ business or any of the Applicants’ current and future assets, licences, undertakings, and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the “**Property**”), except with the written consent of the Applicants and the Monitor, or with leave of the Court (the “**Stay of Proceedings**”);
- (f) grants a third party stay, on the same terms as the Stay of Proceedings, in favour of a related entity of the Applicants, Pennbridge Holdings (defined below);

- (g) authorizes the Applicants to pay, with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicants prior to the date of this Order if, in the opinion of the Applicants, in consultation with the CRO and with the consent of the Monitor, such payment is necessary or desirable to avoid disruption to the operations of the business or the Property of the Applicants during the CCAA proceedings;
- (h) approves an interim financing loan agreement (the “**DIP Term Sheet**”) between the Applicants and the Bank of Montreal (“**BMO**” or the “**DIP Lender**”) pursuant to which the DIP Lender has agreed to advance to the Applicants the principal amount of \$5.5 million (the “**DIP Facility**”), with the initial advance to be limited to \$2.2 million during the Initial Stay Period (the “**Initial Advance**”);
- (i) grants the following charges, with the priority amongst them as set out below, which charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances in favour of any person:
 - (i) First – an “**Administration Charge**” against the Property, in the amount of \$300,000, as security for the payment of professional fees and disbursements incurred and to be incurred by the Monitor, counsel to the Monitor, the monthly fees of the Chief Restructuring Officer (as defined herein) and counsel to the Applicants, in connection with this CCAA proceeding (to be subsequently increased to \$600,000 at the Comeback Hearing (as that term is defined below));
 - (ii) Second – a “**DIP Lender’s Charge**” against the Property as security for the Applicants’ obligations under the DIP Term Sheet, in the maximum principal amount of \$2.2 million plus fees and interest (to be subsequently

increased to \$5.5 million at the Comeback Hearing), which will be subject only to the mortgage security granted to the Business Development Bank of Canada (“**BDC**”) by Trolan and Yarbridge with respect to the Burlington Property (defined below) and the Brampton Property (defined below); and

(iii) Third – a “**Director’s Charge**” against the Property as security for the obligation of the Applicants to indemnify its D&Os from the obligations and liabilities that they may incur as D&Os after the commencement of the within proceeding, except for gross negligence or wilful misconduct, in the maximum principal amount of \$200,000 (to be subsequently increased to \$400,000 at the Comeback Hearing);

(j) stays any person with recourse to a Performance Bond (as defined below), including any person named as an owner or obligee under such bond, from enforcing or calling on the Performance Bond except with the written consent of the Applicants and the Monitor; and

(k) orders a comeback hearing for April 24, 2025 at 9:30 A.M. (the “**Comeback Hearing**”).

4. The Applicants also seek an order (the “**Lien Regularization Order**”) that, among other things:

(a) stays the rights of any person who supplied services and/or materials to the Applicants solely with respect to certain construction projects to which the Applicants are a contracting party and which are listed in Schedule “A” to the Lien Regularization Order (the “**Continuing EBCL Projects**”), to preserve, maintain, perfect, or register liens (each a “**Lien Claim**” and such person asserting a Lien

Claim, a “**Lien Claimant**”), including by way of a notice of lien pursuant to and in accordance with the *Construction Act* R.S.O. 1990, c. C.30 (the “**Construction Act**”), other than as permitted by the Lien Regularization Order;

- (b) grants a charge over the Applicants’ Property in the applicable Continuing EBCL Project in favour of a Lien Claimant equivalent to, and only to the extent of, any security that, but for this proceeding, would otherwise be available under the *Construction Act*, as set out in and pursuant to the procedural requirements of the proposed Lien Regularization Order (the “**Lien Charge**”, collectively with the Administration Charge, the DIP Lender’s Charge and the Directors’ Charge, the “**Charges**”); and
- (c) declares that the priority of the Lien Charge: (i) shall rank subordinate to the Directors’ Charge; (ii) relative to the other Lien Charges, shall be equivalent to the priority granted under the *Construction Act*; and (iii) with respect to other creditors of the Applicants, shall, subject to any orders granted in these proceeding, have priority in accordance with the Federal laws of Canada and the Province of Ontario.

5. At the Comeback Hearing, the Applicants intend to seek an extension of the Stay of Proceedings and an expansion of the Charges, as applicable, to reflect the Applicants’ cash flow projections over any extended stay period.

I. OVERVIEW

6. The Applicants are the oldest and largest trenchless construction service provider in Ontario. Their services include, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling.

7. Since their inception in 1947, the Applicants have grown tremendously to become the established industry leader in underground construction for complex infrastructure projects in Ontario. In particular, they have expanded their operations from approximately \$1 million in revenue in the 1990s to over \$80 million in adjusted revenue in 2023.

8. EBCL primarily works for municipalities, but also works with a diverse range of other customers in the construction industry. Given their specialized expertise, the Applicants have completed over 2,400 projects for over 120 customers. These projects provided critical water and waste management infrastructure to Ontario. Currently, EBCL is working on over a dozen medium-to-large scale underground infrastructure projects and have an additional 17 projects that they have been awarded but for which they have not yet broken ground.

9. The Applicants have a wide breadth of stakeholders, including their approximately 100 highly skilled employees, including unionized employees, specialized and often local suppliers as well as customers who retain the Applicants to provide services necessary for developing critical infrastructure for water and wastewater management in Ontario.

10. While the Applicants have successfully operated a complex and specialized infrastructure boring business in Ontario for over 78 years and have significant non-liquid assets, they have experienced significant financial and operational challenges over the past year that have caused acute liquidity crisis and imperiled the Business.

11. The financial challenges are associated with, among other things: (i) a rapid expansion of the Business that significantly increased the upfront capital required to operate the Business; (ii) changes to the eligibility requirements of Ontario's Housing-Enabling Water Systems Fund which delayed a majority of the Applicants' 2024 projects; (iii) unprecedented issues with one of the Applicants' infrastructure projects located in Caledon, Ontario; (iv) the shouldering of the upfront

costs of certain insurance claims; and (v) the significant impact of tariffs on the construction industry generally.

12. In light of these challenges which precipitated the Applicants' cash flow crisis, the Applicants determined that it is necessary to seek relief under the CCAA in order to:

- (a) allow the Applicants access to urgent liquidity by way of the DIP Facility;
- (b) complete the Continuing EBCL Projects;
- (c) if necessary, disclaim certain construction project contracts other than the Continuing EBCL Project contracts, which are unprofitable (the **"Discontinued EBCL Contracts"**);
- (d) sell certain redundant equipment, and
- (e) develop and implement a sales and investment solicitation process, with the ultimate goal of maximizing value for the Applicants' stakeholders and the continuation of the Business as a going concern.

13. Any serious disruption to the Applicants' ability to provide construction services and the flow of funds in connection with those services will delay and likely imperil the viability of the various construction projects upon which the Applicants are currently engaged and intend to continue.

14. To that end, on April 15, 2025, the Applicants filed a NOI under the provisions of the BIA as a result of statements made by the Applicants' surety, Aviva Insurance Company of Canada (**"Aviva"**) that Aviva intended to send letters to the owners of the Applicants' construction projects requiring project owners to divert all contract funds to Aviva and away from the Applicants. I understand from discussions with various project owners that, notwithstanding correspondence

from Applicants' counsel to Aviva informing them of the NOI filing and corresponding stay of proceedings, Aviva went ahead and delivered the letters to the project owners anyhow.

15. As a result of the foregoing, the Applicants believe that it is imperative that they be allowed to continue the NOI proceedings under the CCAA as quickly as possible in order to avoid any further disruption or erosion to the Applicants' operations.

16. Over the past few months, the Applicants have been in frequent discussions with two of its key stakeholders, BMO, the Applicants' senior secured lender and Aviva with a view to addressing the existing liquidity crisis. BMO is supportive of the requested relief and is supporting the Applicants through the provision of the DIP Facility. While discussions with Aviva did not result in a out of court restructuring process as hoped, the Applicants, with the assistance of their advisors and the Monitor, intend to work with Aviva in respect to the Discontinued EBCL Contracts with a view to building consensus as between BMO, Aviva and the Applicants on the appropriate path forward which will maximize value and minimize losses for all stakeholders.

II. BACKGROUND OF THE APPLICANTS

A. The Business of the Applicants

17. The Applicants are engaged in the business of trenchless construction services, which includes, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling (the "**Business**"). The Applicants bring expertise to all aspects of trenchless construction including project design and planning, project management and control, and design consultation.

18. Founded in 1947, EBCL capitalized on post-war growth in the Greater Toronto Area. Since its inception, the company has been an established industry leader in underground construction specializing in complex infrastructure projects, mainly for water and wastewater construction.

EBCL has an unmatched reputation and track-record for delivering quality workmanship and professionalism in a highly skilled and small industry.

19. Over the prior decade, the Applicants' Business grew substantially, in large part, as a result of their unparalleled expertise as well as a result of the population and corresponding housing boom in Ontario. In particular, the Applicants expanded their operations from approximately \$1 million in revenue in the 1990s to over \$80 million in adjusted revenue in 2023.

20. Today, EBCL is the oldest and largest trenchless service provider in Ontario and one of only two wholly owned Canadian trenchless companies in Ontario. EBCL is also one of only four trenchless companies that provide services in Ontario. The Applicants have completed over 2,400 projects, including completion of the largest microtunneling project in Canadian history for the Halton Region of Ontario, as well as construction of infrastructure that supplied clean drinking water to residents of the Chippewas of Nawash Unceded First Nation.

21. EBCL primarily executes work for municipalities, such as the City of Toronto, the Region of Peel, York Region, and Halton Region, on a directly negotiated basis utilizing its own equipment and products. The Applicants also work with a diverse range of other customers in the construction industry including EllisDon, Aecon, Alectra, and Metrolinx.

22. The Applicants are supported by a highly skilled and technical work force. They currently employ 82 skilled union and agency workers and 17 managerial employees. The Applicants are also supported by specialized suppliers including equipment rental, concrete, piping, and fuel suppliers. In the fiscal year ending 2024, the Applicants spent approximately \$25.2 million on their suppliers, most of which are local to Ontario.

23. The Applicants operate their Business out of four locations in Ontario:

(a) **Head Office:** 1775 North Sheridan Way, Mississauga;

- (b) **Administrative Office:** 1576 Ifield Road, Mississauga;
- (c) **Equipment Storage and Maintenance Facility:** 960 Zelco Drive, Burlington (“**Burlington Property**”); and
- (d) **Inventory Storage Yard:** 75 Steelwell Road, Brampton (“**Brampton Property**”).

B. Corporate Structure of the Applicants

24. The Applicants are comprised of four private companies, which are incorporated pursuant to the *Ontario Business Corporations Act*, RSO 1990, c B-16. All four of the companies are partially or fully owned by the same shareholder, Pennbridge Family Trust. A copy of the organizational chart of the Applicants is attached as **Exhibit “A”**. The details of the four companies are as follows:

- (a) EBCL is a private corporation that maintains its registered head office at 1775 North Sheridan Way, Mississauga, Ontario. EBCL is the principal operating company and contracting entity between the Applicants and customers for their projects. The corporate profile report for EBCL is attached hereto as **Exhibit “B”**.
- (b) Yarfield is a private corporation and maintains its registered head office at 1775 North Sheridan Way, Mississauga, Ontario. Yarfield was the management company of the Applicants but has been dormant since January 2025. The corporate profile report for Yarfield is attached hereto as **Exhibit “C”**.
- (c) Yarbridge is a private corporation and maintains a registered head office at 1775 North Sheridan Way, Mississauga, Ontario. Yarbridge is a holding company solely for the Burlington Property. The Burlington Property is used by EBCL as an equipment storage and maintenance facility for the Business. The corporate profile report of Yarbridge is attached hereto as **Exhibit “D”**.

(d) Torlan is a private corporation and maintains a registered head office at 1775 North Sheridan Way, Mississauga, Ontario. Trolan is solely a holding company for the Brampton Property. The Brampton Property is used by EBCL as an inventory storage yard for the Business. The corporate profile report for Trolan is attached hereto as **Exhibit “E”**.

C. The Applicants’ Operating Segments

25. Trenchless construction is a specialized form of construction that causes little to no disruption to surface activities, which makes it ideal for urban and environmentally sensitive areas. It also results in 80 to 98 percent less greenhouse gas emissions per meter of pipe than open cut construction methods, which makes trenchless construction increasingly important for environmental preservation.

26. The Applicants conduct their trenchless construction operations through four principal business segments:

TECHNOLOGY	DESCRIPTION	EXAMPLE PROJECTS	2024 ADJUSTED REVENUE ¹
Micro Tunneling	- Hydraulic jacks push pipes through the ground behind a slurry circuit, excavating simultaneously - Provides a flexible, structural, watertight, finished pipeline as the tunnel is being excavated	Halton South Georgetown Kitchener Jacking Project	\$57.5mm 71.4%
Directional Drilling	- Trenchless process where a series of rods in the ground are guided with electronic tracking - Bore path is enlarged by a reaming process and pipes are then pulled back, leaving reams in place	Toronto Pearson Airport Petro Canada Oakville Refinery	\$13.1mm 16.2%

¹ Many projects require multiple services. As a result, the revenue is segmented by the primary service on a project.

Auger Boring	- Rotating helical augers within the casing removes spoil - Hydraulic jacks provide the thrust that pushes the casing through the ground	London Watermain Mississauga Storm Sewers	\$10.0mm 12.5%
Pipe Ramming	- Installation method of choice for the toughest Type 3, and Type 4 soils and cobble filled grounds - Involves 'ramming' an open-ended casing, swallowing soil rather than compacting	Hanlon Expressway Brantford Sanitary Sewer	<i>Pipe ramming is primarily performed in conjunction with other services</i>

D. Overview of Material Projects

27. The Applicants are currently working on over a dozen medium-to-large scale underground construction infrastructure projects with a combined gross contract value of approximately \$32 million. The Applicants have an additional 17 projects that they have been awarded but have not yet broken ground on with a combined contract value of approximately \$16 million.

28. In addition to their active and awarded projects, the Applicants are involved with over fifty projects that are actively being discussed or in the process of being tendered. The opportunity for future work is also significant given the pipeline of sewer and watermain work in just the Greater Toronto Area is estimated to be \$1.7 billion for 2025.

29. Any disruption to the Applicants' ongoing operations would be detrimental to the Applicants' completion of their current and future projects. A ripple effect may be triggered wherein the projects themselves will become imperiled as a result of being unable to find an alternative service provider since the Applicants are one of only four companies that do this work in Ontario.

E. Licenses and Certifications

30. In early 2020, EBCL received a Certificate of Recognition ("**COR**") certification for implementing an externally audited health and safety management system. COR is a national accreditation standard that verifies full implementation of an employer's Occupational Health and

Safety Management System. COR is often used as a condition of contract by the public and private sector across Canada and is one of the highest safety standards in Ontario.

31. To maintain COR certification, EBCL passes annual health and safety audits which requires every employee and contractor to have an active role in meeting regulatory requirements and complying with EBCL's Health and Safety Program.

32. EBCL also has an up-to-date Commercial Vehicle Operator Registration ("**CVOR**") issued by the Ontario Ministry of Transportation, Transportation Safety Division. CVOR is a mandatory program in Ontario that regulates and monitors the safety of commercial vehicles and drivers.

F. Employees, Pension and Benefits

33. The Applicants' Business is supported by a highly technical and skilled workforce comprised of approximately 99 employees: 17 full-time management employees, 71 union employees, and 11 agency employees. All of the Applicants' employees are employed by EBCL and are located in Ontario.

34. EBCL's employees have specialized knowledge in geology, engineering, and project management, as well as familiarity with local regulations and environmental compliance. The specialized knowledge of the employees is in part the result of steps taken by EBCL to engage foreign tradespeople with skills developed in overseas work by bringing those tradespeople to Ontario for the purpose of training and apprenticing EBCL's employees. EBCL believes that its employees represent a competitive advantage in the marketplace and an asset that, if lost, would make it difficult if not impossible to continue the Business.

35. The Applicants' unionized employees, consisting of highly skilled trades and labourers, are governed by two collective agreements with three unions:

- (a) a Collective Agreement with International Union of Operating Engineers Local 793 effective May 1, 2022 for a term until April 30, 2025. This union is for employees engaged in the operation of cranes, shovels, bulldozers and similar equipment, maintenance, installation and repair of same, save and except for foreman, those above the rank of foreman, office and clerical staff, shop and yard employees, engineering staff and security staff working within certain geographic areas in Ontario; and
- (b) a Collective Agreement with A Council of Trade Unions Acting as the representative and agent of Teamsters' Local Union 230 and Labourers' International Union of North America, Local 183 effective May 1, 2022 for a term until April 30, 2025. The unions represent all employees save and except non-working foremen and persons above the rank of non-working foreman in the sewer and watermain industry in specific geographic areas.

36. The compensation package for unionized employees is determined by their respective collective agreements. The Applicants adhere to the requirements set out within those agreements including paying unionized employees on a weekly basis and contributing to the employee's benefit and pension plans. The Applicants pay managerial employees through direct deposit on a bi-weekly basis.

37. For the Applicants' managerial employees, the Applicants sponsor a Group Registered Retirement Savings Plan ("**Group RRSP**"), which is administered by AGF through Edward Jones. As part of the Group RRSP, EBCL (previously Yarfield) contributes an amount to the Group RRSP

based upon a percentage of an employee's employment contract. The Group RRSP has 10 members as of February 28, 2025.

38. The Applicants also provide their managerial employees with group benefits coverage through a group benefits plan administered by Sun Life Financial (the "**Benefits Plan**"). The Benefits Plan is designed to assist eligible employees and their dependents by helping to cover the cost of some routine healthcare such as prescription drugs, dental care, and vision care, as well as protect employees and their dependents in the event of a serious illness, accident or death. The Benefits Plan has 17 members as of February 28, 2025.

39. The 11 agency employees are international skilled labourers that are retained through the employment agencies, MTBM Operators and 4 Drill Group. These employees are highly specialized and are retained on a short-term basis of three to six months to augment the Applicants' own labour force. The Applicants pay the wages for these labourers on a weekly basis to the agency, who then pays the wages of the labourer.

G. Leases

40. EBCL as the operating company among the Applicants conducts business out of four locations as follows,

- (a) pursuant to a lease agreement dated October 1, 2014, EBCL leases its head office located at 1775 North Sheridan Way, Mississauga from the landlord, Attridge Transportation Inc. The lease term expired September 1, 2024 and the property is now leased on a month-to-month basis for \$9,500 per month.
- (b) EBCL leases the Burlington Property at 960 Zelco Drive, Burlington from Yarbridge. There is no written lease agreement in place, however, EBCL pays the principal and interest on the First, Second, and Third Burlington Mortgages

(defined below), as well as maintenance costs, property taxes and utility services for the property.

- (c) EBCL leases the Brampton Property at 75 Steelwell Road, Brampton from Trolan. There is no written lease agreement in place, however, EBCL pays the principal and interest on the Trolan Mortgage (defined below), as well as maintenance costs, property taxes and utility services for the property.
- (d) EBCL pays for maintenance, property taxes and utility services at the administrative office located at 1576 Ifield Road, Mississauga. There is no formal lease agreement in place. The property is owned by a director and officer of the Applicants, Carmen Yarley.

H. Cash Management System

41. The Applicants primarily conduct their banking with BMO. EBCL, Yarbridge, and Trolan each maintain a CAD bank account with BMO. EBCL also maintains a USD bank account with BMO. Yarfield maintains a bank account with Royal Bank of Canada (“**RBC**”), which is currently frozen as a result of unpaid monies owing to the Canada Revenue Agency and therefore not in use.

42. EBCL’s CAD bank account with BMO is the main operating account for the Business and is used to address day-to-day cash management requirements. Certain pre-authorized payments are debited automatically from the operating account when due, including lease payments, group benefits premiums and insurance premiums.

43. In the ordinary course of business, the EBCL account will collect receipts for services on the various construction projects on which it is engaged. All funds owed to EBCL are accounted for on a project-by-project basis. The Applicants receive most of their receivables by electronic

deposit; however, some funds are received by cheque, which are deposited into the appropriate bank account.

44. EBCL has 28 active credit cards with BMO. All of the credit cards are paid for by EBCL.

45. In connection with these CCAA proceedings, the Applicants are seeking the authority to continue to operate the above-noted cash management system. I am advised by the Proposed Monitor that it will continue to monitor the receipts and disbursements from the Applicants' bank accounts during the CCAA proceeding in its capacity as Monitor. Maintaining the existing cash management system will offer a number of benefits to the Applicants and their stakeholders, including minimizing the disruption to the Business caused by the CCAA proceedings and avoiding the need to negotiate and implement alternative banking arrangements.

III. THE APPLICANTS' ASSETS AND LIABILITIES

46. As of August 31, 2024, the consolidated value of the Applicants' liabilities exceeds the value of their assets by approximately \$3 million.

47. A copy of the most recent financial statements of each of the Applicants is attached as follows:

- (a) independently audited financial statements of EBCL for the fiscal year ending August 31, 2024, is attached as **Exhibit "F"**;
- (b) independently compiled financial statements of Yarbridge for the fiscal year ending August 31, 2024, is attached as **Exhibit "G"**;
- (c) independently compiled financial statements of Trolan for the fiscal year ending September 30, 2024, is attached as **Exhibit "H"**; and

(d) independently reviewed financial statements of Yarfield for the fiscal year ending February 29, 2024, is attached as **Exhibit “I”**

(collectively, the “**2024 FS**”).

A. Assets of the Applicants

48. The 2024 FS shows that as of August 31, 2024, the Applicants had consolidated assets with a value of approximately \$80 million.

49. The assets of EBCL, as demonstrated by the 2024 FS, are as follows:

EBCL	
Asset	As at August 31, 2024
Accounts Receivable	\$52,133,869
Inventory	\$5,270,918
Prepaid Expenses	\$150,128
Due from Related Parties	\$13,184
Property, Plant & Equipment	\$13,719,315
TOTAL	\$71,287,414

50. The assets of Yarfield, as demonstrated by the 2024 FS, are as follows:

YARFIELD	
Asset	As at February 29, 2024
Cash	\$14,301
AR – Related Company	\$46,152
TOTAL	\$60,453

51. The assets of Yarbridge, as demonstrated by the 2024 FS, are as follows:

YARBRIDGE	
Asset	As at August 31, 2024

Cash	\$11,796
Prepaid Expenses & Deposits	\$10,200
Loan Due from Related Companies	\$4,634,430
Real Property (Land and Building)	\$4,736,442
TOTAL	\$8,392,841

52. The assets of Trolan, as demonstrated by the 2024 FS, are as follows:

TROLAN	
Asset	As at September 30, 2024
Cash	\$1,956
Prepaid Expenses	\$8,648
Real Property – at cost	\$274,200
TOTAL	\$284,804

B. Liabilities of the Applicants

53. The 2024 FS shows that as of August 31, 2024, the Applicants had consolidated assets with a value of approximately \$83 million.

54. The liabilities of EBCL, as demonstrated by the 2024 FS, are as follows:

EBCL	
Liabilities	As at August 31, 2024
Bank Loans (current)	\$19,529,101
Government Loans (current)	\$7,519,920
Accounts Payable	\$19,617,519
Government Remittances Payable	\$2,848,981
Obligations Under Capital Leases (current)	\$4,952,749
Vehicle Loans (current)	\$101,562

Bank Loans (long-term)	\$287,825
Government Loans (long-term)	\$74,700
Loans from Related Parties	\$14,03,368
Obligations Under Capital Leases (long-term)	\$1,047,912
Vehicle Loans (long-term)	\$207,993
Future Income Taxes	\$1,578,571
TOTAL	\$72,070,201

55. The liabilities of Yarfield, as demonstrated by the 2024 FS, are as follows:

YARFIELD	
Liabilities	As at February 29, 2024
Accounts Payable and Accrued Liabilities	\$146,293
Government Remittance Payable	\$1,393,548
Shareholders Advances	\$494,298
Loans – Related Company	\$420,000
TOTAL	\$2,454,139

56. The liabilities of Yarbridge, as demonstrated by the 2024 FS, are as follows:

YARBRIDGE	
Liabilities	As at August 31, 2024
Accounts Payable and Accrued Liabilities	\$6,394
First Mortgage Payable (current)	\$135,527
Second Mortgage Payable (current)	\$399,996
Third Mortgage Payable (current)	\$165,000

Government Remittances Payable	\$160,323
Income Taxes Payable	\$58,512
First Mortgage Payable (long-term)	\$4,308,996
Second Mortgage Payable (long-term)	\$233,351
Third Mortgage Payable (long-term)	\$2,934,957
TOTAL	\$8,403,056

57. The liabilities of Trolan, as demonstrated by the 2024 FS, are as follows:

TROLAN	
Liabilities	As at September 30, 2024
Accounts Payable and Accrued Liabilities	\$8,148
Shareholders Advances	\$200,484
Loan – Related Party	\$13,184
TOTAL	\$221,816

IV. THE INDEBTEDNESS OF THE APPLICANTS

A. Secured Liabilities

58. As of December 31, 2024, the Applicants (EBCL, Trolan and Yarbridge) owe approximately \$49 million to their secured creditors. The Applicants' primary secured creditors are BMO, the BDC, Canadian Western Bank ("**CWB**"), a related party, and various entities that advanced equipment financing to the Business.

i. EBCL Indebtedness to BMO

59. BMO is EBCL's principal secured creditor. EBCL has had a relationship with BMO since 2023.

60. The majority of EBCL's liabilities to BMO consist of secured debt owing to BMO pursuant to a Credit Agreement dated June 22, 2023 and amended on July 22, 2024 and March 13, 2025 (the "**Credit Agreement**"). As of April 10, 2025, approximately \$22,273,506.58 is owed to BMO pursuant to the Credit Agreement. The Credit Agreement is attached hereto as **Exhibit "J"**.

61. The Credit Agreement provides EBCL with five facilities (collectively, the "**BMO Loan Facilities**"):

- (a) **BMO Operating Loan - \$15 million:** A demand margined revolving credit facility ("**Operating Loan**") which is to be used for general working capital, general corporate requirements and payment of transactions, up to an amount of \$15 million. The Operating Loan bears interest at Canadian prime rate plus a variable interest rate between 1.0% to 2.0% as determined by the ratio of total debt to adjusted EBITDA. As at April 10, 2025, EBCL owed approximately \$15,049,335.63 on the Operating Loan.
- (b) **BMO Capex Line - \$5 million:** A demand revolving reducing term loan which is to be used to finance capital expenditures in the normal course of business and refinancing existing debt, up to a maximum of \$5 million. The loan bears interest at Canadian prime rate plus a variable rate between 1.0% to 2.0% as determined by the ratio of total debt to adjusted EBITDA. For each drawdown under the BMO Capex Line, a separate loan account is generated to track the date of the drawdown and to define the repayment period in accordance with the Credit Agreement. For each drawdown, EBCL makes equal payments of principal amortized quarterly beginning the first full quarter following the date of drawdown over an amortization period of 7-years at a quarterly rate of nearly 3.57% of the original principal balance. As at April 10, 2025, EBCL had three active loan

accounts (i.e. drawdowns on the Capex Line) with a total of approximately \$3,035,823.67 owing.

- (c) **BMO Master Equipment Line - \$10 million:** A demand equipment leasing facility which is to be used to finance the purchase of owned equipment up to a maximum of \$10,000,000. This loan is documented in a Master Lease of Personal Property dated July 5, 2023, as amended July 19, 2023 (the “**Master Lease Agreement**”), The Master Lease Agreement is secured over the equipment that is leased to EBCL including a 2011 Boom Truck Crane, a 2017 micro tunneling system, and a 2021 micro tunneling system. The Master Lease Agreement is attached hereto as **Exhibit “K”**. As at April 10, 2025, EBCL owed \$3,448,414.86 on this line.
- (d) **BMO Treasury Line - \$1 million:** A treasury risk management facility which is to be used to facilitate hedging of foreign exchange risk and interest rate risk up to a maximum of \$1,000,000. EBCL currently owes nothing on this line.
- (e) **BMO MasterCard - \$1 million:** A corporate MasterCard for general corporate requirements up to a maximum of \$1,000,000. As at April 10, 2025, EBCL owed \$774,041.65 on this line.

62. The obligations under the BMO Loan Facilities are secured by, *inter alia*, the following:

- (a) a General Security Agreement from EBCL dated June 22, 2023, which provides BMO with a first ranking security interest over all of the tangible and intangible assets of EBCL. A copy of the General Security Agreement dated June 22, 2023 is attached hereto as **Exhibit “L”**;
- (b) a Assignment of Insurance from EBCL dated June 22, 2023;

- (c) Limited Recourse Guarantees and Securities Pledge Agreement from the shareholder of EBCL (Pennbridge Family Trust), as well as myself and my co-director and officer, Carmen Yarley;
- (d) Landlord Waivers dated June 22, 2023 from each of the landlords of the real property leased by EBCL;
- (e) various Postponement, Subordination and Standstill Agreements with related parties including myself, Ms. Yarley, and Pennbridge Holdings Inc. ("**Pennbridge Holdings**");
- (f) a Limited Recourse Guarantee from myself in the amount of \$15 million; and
- (g) a Limited Recourse Guarantee from Ms. Yarley in the amount of \$5 million.

63. BMO, BDC and EBCL executed a Priority Agreement dated June 14, 2023 ("**Priority Agreement**"). Pursuant to the Priority Agreement, BDC postponed and subordinated its security over EBCL to the security of BMO. A copy of the Priority Agreement dated June 14, 2023 is attached hereto as **Exhibit "M"**.

64. The Ontario Personal Property Registry confirms that BMO is a registered secured creditor on EBCL's personal property. Attached as **Exhibit "N"** is a search of the Ontario Personal Property Registry for EBCL.

65. As noted above, the Credit Agreement was amended on March 13, 2025 pursuant to a Second Amendment to Credit Agreement and Forbearance Agreement ("**Second Amendment**") to increase the Operating Loan from \$15 million by the following amounts during the period of March 14, 2025 to May 9, 2025:

- (a) \$1 million or the U.S. Dollar equivalent amount; and

- (b) upon the completion of conditions subsequent set out in Section 3.2 of the Second Amendment, \$2 million or the U.S. Dollar equivalent amount.

66. On March 14, 2025, BMO advanced the first \$1 million under the Second Amendment, however, due to ongoing discussions amongst BMO, the Applicants, Aviva, and their advisors, BMO never advanced the additional \$2 million as BMO determined it was only willing to provide further funds on a super priority basis through the DIP Facility.

67. On April 11, 2025, BMO delivered a demand and Notice of Intention to Enforce Security pursuant to s. 244(1) of the BIA. Attached as **Exhibit "O"** is a copy of the demand and Notice of Intention to Enforce Security.

ii. Indebtedness to BDC

68. BDC is Yarbridge's and Trolan's principal secured creditor. BDC is also a secured creditor of EBCL as EBCL guaranteed the obligations of Yarbridge and Trolan to BDC.

Yarbridge Mortgages

69. Yarbridge is the holding company for the Burlington Property. Yarbridge currently has three mortgages with BDC for the Burlington Property, all of which are guaranteed by EBCL, as detailed below. As at February 28, 2025, Yarbridge owes \$7,814,144 under the three mortgages on the Burlington Property. A copy of the Parcel Register for the Burlington Property is attached hereto as **Exhibit "P"**.

70. In September 2019, Yarbridge obtained a first mortgage in the amount of \$4,925,000 from BDC for the purpose of purchasing the Burlington Property. The loan was provided pursuant to a Letter of Offer dated September 16, 2019 (Loan No. 168780-01) ("**First Burlington Mortgage**"). The First Burlington Mortgage has a fixed interest rate of 4.10% per year, which was adjusted to

a variable interest rate in September 2024. The First Burlington Mortgage is attached hereto as **Exhibit “Q”**.

71. The obligations of the First Burlington Mortgage are secured by, *inter alia*,:

- (a) a first mortgage in the principal amount of \$4,925,000 on the Burlington Property;
- (b) a general assignment of rents for the Burlington Property;
- (c) a general security agreement from Yarbridge providing a first security interest in all present and after-acquired personal property of Yarbridge;
- (d) a guarantee from EBCL, which is supported by a general security agreement providing a security interest in all present and after-acquired personal property of EBCL. The Guarantee dated September 26, 2019 and General Security Agreement dated September 26, 2019 are attached as **Exhibit “R”**;
- (e) a guarantee from a related entity, Pennbridge Holdings, which guarantee is secured by a general security agreement granting a security interest in all present and after-acquired personal property of Pennbridge Holdings to BDC; and
- (f) a joint and several guarantee of myself and Ms. Yarley for \$500,000.

72. As at February 28, 2025, Yarbridge owes \$4,378,019 under the First Burlington Mortgage.

73. In April 2020, Yarbridge obtained a second mortgage in the amount of \$2 million from BDC for the purpose of providing working capital in the wake of COVID-19. The loan was provided pursuant to a Letter of Offer dated April 7, 2020, as amended on March 2, 2023 (Loan No. 168780-02) (the “**Second Burlington Mortgage**”). The Second Burlington Mortgage has a variable interest rate of “BDC’s Floating Base Rate”, being an annual rate of interest announced by BDC

through its offices from time to time, minus a 1.75% variance. The Second Burlington Mortgage is attached hereto as **Exhibit “S”**.

74. The obligations under the Second Burlington Mortgage are secured by, *inter alia*:

- (a) a second mortgage in the principal amount of \$2 million on the Burlington Property;
- (b) a general assignment of rents for the Burlington Property;
- (c) an Acknowledgement and Confirmation of Existing Security from Yarbridge, Pennbridge Holdings, and EBCL dated April 20, 2020, which is attached as **Exhibit “T”**;
- (d) a guarantee from EBCL dated April 20, 2020, which is attached as **Exhibit “U”**;
- (e) a guarantee from Pennbridge Holdings; and
- (f) a joint and several guarantee from myself and Ms. Yarley for \$500,000.

75. As at February 28, 2025, Yarbridge owes \$411,125 under the Second Burlington Mortgage.

76. In August 2022, Yarbridge obtained a third mortgage in the amount of \$3.3 million from BDC for the purpose of advancing funds to EBCL. The loan was provided pursuant to a Letter of Offer dated August 5, 2022, as amended April 15, 2024 (Loan No. 168780-03) (the “**Third Burlington Mortgage**”). The Third Burlington Mortgage is attached hereto as **Exhibit “V”**.

77. The obligations under the Third Burlington Mortgage are secured by, *inter alia*:

- (a) a third mortgage in the principal amount of \$3.3 million on the Burlington Property;
- (b) a general assignment of rents for the Burlington Property;

- (c) an Acknowledgement and Confirmation of Existing Security from Yarbridge, Pennbridge Holdings, and EBCL dated August 25, 2022, which is attached as **Exhibit “W”**;
- (d) a guarantee from EBCL dated August 25, 2022, which is attached as **Exhibit “X”**;
- (e) a guarantee from Pennbridge Holdings; and
- (f) a joint and several guarantee from myself and Ms. Yarley for \$500,000.

78. As at February 28, 2025, Yarbridge owes \$3,025,000 under the Third Burlington Mortgage.

79. As of the date of this affidavit, Yarbridge is current on its monthly mortgage payments on all three mortgages on the Burlington Property.

80. The Ontario Personal Property Registry confirms that BDC is the first registered secured creditor on Yarbridge’s personal property. Attached as **Exhibit “Y”** is a search of the Ontario Personal Property Registry for Yarbridge.

Trolan Mortgage

81. Trolan is the holding company for the Brampton Property. Trolan currently has one mortgage (Loan No. 284695-01) with BDC for the Brampton Property in the amount of \$5 million (the “**Trolan Mortgage**”), which is guaranteed by EBCL. A copy of the Parcel Register for the Burlington Property is attached hereto as **Exhibit “Z”**.

82. The Trolan Mortgage was advanced pursuant to a Letter of Offer dated September 11, 2024, as amended on October 22, 2024. The Trolan Mortgage will be repaid in monthly

instalments commencing September 25, 2025 and accrues interest at a rate of 6.05% per annum. Attached hereto as **Exhibit “AA”** is a copy of the Letter of Offer and its amendments.

83. The obligations under the Trolan Mortgage are secured by, *inter alia*,:

- (a) a first mortgage in the principal amount of \$5 million on the Brampton Property;
- (b) a general assignment of rents for the Brampton Property;
- (c) a general security agreement from Trolan providing a first security interest in all present and after-acquired personal property of Trolan dated September 26, 2024, which is attached as **Exhibit “BB”**; and
- (d) a limited guarantee from EBCL for 60% of the Trolan Mortgage, which is supported by a general security agreement providing a security interest in all present and after-acquired personal property of EBCL. The Guarantee dated September 26, 2024 and General Security Agreement dated September 26, 2024 are attached as **Exhibit “CC”**.

84. As at February 28, 2025, Trolan owes the principal amount of \$5 million to BDC under the Trolan Mortgage.

85. The Ontario Personal Property Registry confirms that BDC is the first registered secured creditor on Trolan’s personal property. Attached as **Exhibit “DD”** is a search of the Ontario Personal Property Registry for Trolan.

iii. Indebtedness to CWB

86. EBCL has two loans with CWB for the purpose of buying certain equipment (the “**CWB Equipment Loan**”):

- (a) a Master Lease Agreement between CWB Leasing Inc. and EBCL dated June 29, 2022 with respect to a tunnel machine for a principal loan amount of \$1,040,955 to be paid in monthly installments commencing June 30, 2022 and ending June 30, 2027; and
- (b) a Promissory Note dated August 12, 2022 wherein EBCL borrows from CWB the principal sum of \$1,066,823.22, which is repayable in monthly instalments commencing September 16 2022 and ending July 16, 2026.

Attached as **Exhibit “EE”** is a copy of the CWB Equipment Loan documentation.

87. The CWB Equipment Loan is secured over certain equipment identified in the loan documentation. The Ontario Personal Property Registry for EBCL confirms that the security of CWB is registered. Attached as **Exhibit “N”** is a search of the Ontario Personal Property Registry for EBCL.

88. As of February 28, 2025, approximately \$1,295,300 is owed by EBCL to CWB pursuant to the CWB Equipment Loan.

iv. Secured Loan to a Related Company

89. EBCL has a loan from a related entity and indirect owner of the Applicants, Pennbridge Holdings, pursuant to a promissory note dated December 31, 2010 and other intercompany loans. The loans are payable on demand and are non-interest bearing. As of December 31, 2024, in excess of \$7.3 million is owed by EBCL to Pennbridge Holdings.

90. The loans with Pennbridge Holdings are secured by a General Security Agreement dated December 31, 2010, which provides Pennbridge Holdings a charge over all present and future

personal property of EBCL. The Ontario Personal Property Registry for EBCL confirms that the security of Pennbridge Holdings is registered.

v. Equipment Financing

91. In addition to the above secured debts, EBCL has secured obligations owing to various entities that provide EBCL with equipment financing. The equipment financiers include Meridian OneCap Credit Corp, HSBC Bank Canada, RBC, Kennedy National Leasing, Liebherr, Ford Credit Canada Company, ATCO Structures & Logistics Ltd., and Element Fleet Management II Inc. Collectively, these equipment financiers are owed approximately \$7 million.

92. The security of these equipment financiers has been registered in the Ontario Personal Property Registry for EBCL. Attached as **Exhibit “N”** is a search of the Ontario Personal Property Registry for EBCL.

B. HST, Payroll Obligations, and Property Taxes

93. As at February 28, 2025, the Applicants EBCL and Yarfield are in arrears of their HST remittances in the amount of approximately \$457,000 and \$1,339,000 respectively. Trolan and Yarbridge have no outstanding HST or excise obligations.

94. The Applicants have no arrears of property taxes for the Burlington Property and the Brampton Property. Property taxes are paid quarterly with the next payment being due in or about July 2025 for both properties.

95. EBCL and Yarfield have outstanding source deduction remittances owing in the approximate amount of \$1,146,000 for the period ending February 28, 2025 and \$1,178,000 for the period ending February 28, 2025 respectively.

96. Wages continue to accrue in the normal course between weekly and bi-weekly pay periods. Group benefits are paid up to and including April 4, 2025. Amounts owed for the Group RRSP as paid up to and including April 4, 2025, with the next pay period being May 4, 2025.

C. Unsecured Obligations of the Applicants

97. The Applicants' primary unsecured liabilities include, among other things,

- (a) approximately \$19 million in trade payables accrued in the ordinary course, including payables related to equipment, concrete, piping, and construction services;
- (b) in excess of \$4.4 million owing to related investors pursuant to unsecured loans payable. The investors are primarily related individuals who have advanced funds on an unsecured basis as an investment in the Applicants;
- (c) approximately \$7.5 million owed by EBCL to His Majesty the King in Right of Canada pursuant to a Contribution Agreement between His Majesty the King in Right of Canada and Earth Boring dated September 14, 2022, as amended by an Amending Agreement dated March 23, 2023, a Second Amending Agreement dated May 24, 2023 and a Third Amending Agreement dated August 30, 2023. The loan was pursuant to the *Jobs and Growth Fund* for the purpose of supporting Southern Ontario organizations transition to a green economy and enhance their competitiveness. A copy of the amended Contribution Agreement is attached as **Exhibit "FF"**; and
- (d) approximately \$87,000 owed from EBCL to BDC pursuant to a Letter of Offer dated May 17, 2023. The loan was pursuant to BDC's Canada Digital Adoption Program

and was for the purpose of developing EBCL's use of digital technology. A copy of the Letter of Offer is attached as **Exhibit "GG"**.

D. Contingent Obligations of the Applicants

98. The Applicants' primary contingent liabilities include the following legal actions:

- (a) an action between EBCL and the Regional Municipality of Durham with respect to a contract to perform work in relation to a pipe watermain across highway 401. EBCL commenced the action seeking approximately \$1.4 million for goods and services supplied and the Regional Municipality of Durham has counterclaimed for approximately \$592,409.37;
- (b) an action by GFL Environmental Inc. against EBCL seeking damages in the amount of \$523,469.83;
- (c) an action by Pacific Paving Limited against EBCL seeking damages in the amount of \$497,678.27;
- (d) an action by Keller Foundations Ltd. against EBCL seeking damages of approximately \$1.45 million, of which \$680,000 is a construction lien claim; and
- (e) an action between EBCL and Michels Canada Co. with respect to 16th Avenue Truck Sanitary Sewer Rehabilitation (Phase 2) Project. EBCL seeks \$3.4 million and Michels Canada Co. has counterclaimed for approximately \$2.75 million.

E. Bonded Obligations

99. Aviva is the surety for the Applicants. Certain construction projects in which EBCL is currently engaged have bonds which are issued by Aviva (the "**Bonded Projects**") in a total amount of \$150,000,000.

100. The Bonded Projects include:

- (a) Halton Region - South Georgetown Wastewater Servicing;
- (b) Bronte – Yonge Sheppard TTC Station;
- (c) Peel Region – Caledon Project;
- (d) Lincoln – Lincoln Watermain;
- (e) Primrose – Simcoe County Road 21;
- (f) Narraganset Bay Commission;
- (g) City of Hamilton – Garner Road; and
- (h) Region of Peel – Trenchless Crossing at Heart Lake, Elgin and Torbram Roads.

101. The Applicants and Pennbridge Holdings are party to a Master Surety Agreement with Aviva pursuant to which Aviva has agreed to provide EBCL with bonding for its projects. A copy of the Master Surety Agreement is attached as **Exhibit “HH”**. In accordance with the Master Surety Agreement, Aviva has provided EBCL with performance bonds, as well as labour and material bonds on the Bonded Projects.

102. I am advised by the Applicants’ lawyer, Caitlin Fell, that although BMO is the senior secured lender of EBCL, Aviva may be a trust claimant with a priority entitlement to recover any funds on the Bonded Projects because it may take or have taken assignment of the claims it may pay under the bonds in respect of the Bonded Projects and would therefore be subrogated to the position of the Lien Claimants (as defined in the Lien Regularization Order).

V. FINANCIAL DIFFICULTIES AND NEED FOR CCAA PROTECTION

A. Financial Challenges Facing the Applicants

103. The Applicants began experiencing financial difficulties in 2023. Rapid expansion of the Business increased capital needs significantly. In particular, the Applicants experienced nearly 300% growth in the span of the three years from 2021 to 2024. During that time, the Applicants broke ground on approximately 30 infrastructure projects with expected total contract revenues of over \$130 million.

104. With the rapid expansion of the Business, capital needs increased dramatically. The Applicants' Business is capital intensive and requires the funding of upfront costs on the majority of their projects (including labour, supplies, and equipment). Notwithstanding this, the Applicants are only paid back over the life of a contract, with profit arising out of the 10% of the total contract value, which is normally kept as holdback and paid to the Applicants upon completion. As a result, the Applicants' cash flow was significantly constrained as a result of the expansion.

105. The Applicants' cash flow challenges have been further compounded by four unexpected external events: (i) EBCL's first meaningful loss on a project (the Caledon project) in the Applicants' history, (ii) EBCL covering the costs of a customer error while waiting for reimbursement from its subcontractors and insurance companies, (iii) a delay in a significant number of the Applicants' projects as a result of changes in government funding, and (iv) a delay in projects as a result of the newly imposed tariffs.

(i) The Caledon Project

106. In 2022, EBCL broke ground on a mixed microtunneling and boring project for the Regional Municipality of Peel in Caledon, Ontario (the "**Caledon Project**"). The Caledon Project

was operating on a 24/6 work schedule, which is typical for microtunneling and/or earth boring construction projects.

107. In or around the beginning of 2023, the Caledon Project ran into difficulties due to local complaints about the 24/6 work schedule. Accordingly, the work schedule was revised to only be from 7 a.m. to 7 p.m. The change in work schedule necessitated a change in the length and cost of the project for EBCL. As is common in the construction industry, all changes to a project are documented and approved by way of change order. At that time, the project manager reported to EBCL's management that he had obtained an approved change order for both the extension of the time of the Caledon Project as well as the additional costs necessitated by the delay and the additional labour required.

108. In and around the end of 2023, EBCL's management learned from the project manager that while the approved change order covered the project length extension, it did *not* cover the additional costs associated with the extension. At this juncture, EBCL's management approached the client for support for the additional costs but were unable to obtain additional funding as EBCL has not adhered to the change order process in the first instance.

109. The inability to recover costs associated with the extended length of the project led to EBCL suffering a loss of approximately \$8 to \$9 million.

110. To remedy the mismanagement of the Caledon Project moving forward, EBCL replaced the project manager on the project and prepared a revised project timeline with appropriate oversight and control procedures. EBCL also performed an extensive audit of project costs, schedules, and technical assessments. EBCL's audit disclosed that the project manager's mismanagement of the Caledon Project had led to significant cost overruns, project delays and technical inefficiencies. In particular, EBCL discovered that the project manager had been able to hide the issues on the Caledon Project by pre-billing Peel Region for major work items that were

not completed. These improper pre-billings created a negative revenue cycle for subsequent months as actual work had to be performed without corresponding incoming payments.

111. In and around the end of 2024, EBCL also discovered that the former project manager improperly installed certain piping by failing to weld the pipes. EBCL bore the burden of an additional \$6 million in costs to perform the remedial work.

112. EBCL did not walk away from the Caledon Project which would have mitigated its losses. Instead, to preserve its relationship with the Peel Region, a significant customer for the company, EBCL worked to complete the project. The Caledon Project has not yet been completed. The anticipated completion date is June/July 2025.

113. As of the date of this affidavit, EBCL has suffered a loss of approximately \$15 million on the Caledon Project. The Caledon Project is the *only* project that has caused a meaningful loss to EBCL in the more than 75 years it has been in business. EBCL is and has been in ongoing discussions with the Region of Peel with a view to working with it to complete the project.

114. To avoid similar issues on other projects in the future, EBCL performed a comprehensive business review and developed a new project management process, which involves a modified bidding and pricing model, enhanced technology, a centralized procurement processes and an expansion of its own fleet of equipment.

(ii) Losses from Insurance Claims

115. In June and July 2022, EBCL learned that its survey subcontractor Monteith & Sutherland (“**M&S**”) made two separate survey errors on two jobs: the Portlands project and the Halton project. As a result of the incorrect survey coordinates, EBCL incurred significant costs and time delays to address the subcontractor’s errors.

116. In order to minimize disruption to the projects for the benefit of the municipalities, EBCL funded the up-front costs to resolve the issues. EBCL subsequently sought reimbursement from M&S's insurance companies. EBCL spent a total of approximately \$22 million to resolve the issues on the two projects: \$15 million to resolve the issues on the Portland project and \$7 million for the Halton project.

117. To date, EBCL has only received reimbursement for \$10 million of the \$15 million spent on the Portland project. EBCL remains in ongoing discussions with M&S with respect to the repayment of the \$7 million incurred on the Halton project.

118. In August 2024, the Halton project also experienced a sinkhole, which cost EBCL approximately \$7 million to address. EBCL is in the process of trying to recoup the funds from Halton's wrap-up insurance policy.

(iii) The Changes to Ontario's Housing-Enabling Water Systems Fund

119. Historically, the Applicants' clients have relied on funding from the Government of Ontario to help finance certain infrastructure projects. One such program that provides government funding is Ontario's Housing-Enabling Water Systems Fund ("**HEWSF**").

120. In 2024, EBCL was scheduled to begin various projects for clients that were receiving funding from HEWSF. However, on January 29, 2024, the Government of Ontario introduced changes to the eligibility requirements for HEWSF to disqualify projects that have already started construction before being approved for the funding. Specifically, the eligibility requirements were modified as follows:

- For applications received on or before April 19, 2024, projects could start once approved for funding and by no later than September 30, 2024, and

- For applications received between April 19, 2024 and November 1, 2024, projects could start once approved for funding and by no later than September 30, 2025.²

121. As a result of these changes, a significant number of the projects were delayed from 2024 to 2025 or 2026. Accordingly, \$11.4 million worth of the Applicants' expected revenue from 2024 was pushed to 2025-2026. This shift in revenue was detrimental to the Applicants' liquidity.

(iv) Delays from the Imposition of Tariffs

122. Commencing in January 2025, many project tenders that were expected to be available were held back due to recessionary issues impacting the marketplace such as the introduction of tariffs.

123. With the imposition of tariffs, the construction industry generally is grappling with how best to structure contracts to minimize the applicable tariffs and promote the use of Canadian products and businesses. As a result, although there is a significant amount of water and wastewater infrastructure work scheduled to occur in 2025, this work has been delayed while the industry determines how best to address the new tariffs.

B. The Applicants Sale and Refinancing Efforts

124. In and around October 2024, the Applicants retained a financial advisor, Stifel Nicolaus Canada Inc. ("**Stifel**"), to conduct a sale and investment solicitation process ("**Sale Process**") to canvass the market for possible refinancing or sale opportunities.

125. Stifel commenced the Sale Process in and around December 2024. Stifel's sale efforts involved creating a confidential information memorandum, which it circulated to 146 potential investors including 126 financial sponsors and 20 strategic partners.

² [Housing-Enabling Water Systems Fund](#) **[emphasis added]**

126. The Sale Process generated significant interest in the Applicants' Business from a range of strategic and financial parties. In particular, the Applicants received 94 executed non-disclosure agreements ("**NDA**") from interested parties. The parties who executed a NDA were granted access to a comprehensive virtual data room to conduct due diligence on the investment opportunity.

127. The Sale Process had a deadline of January 23, 2025 for parties to submit an expression of interest detailing, among other things, the anticipated purchase price, the proposed structure, sources of financing, and closing conditions. By that deadline, one party submitted a verbal expression of interest for a purchase of the Business. Since that time, the Applicants, along with their advisors, have remained in extensive discussions with the one party that submitted an expression of interest, as well as a second party that has submitted a letter of interest for refinancing the Business and three other parties that are actively interested in a possible sale or refinancing transaction. Those five parties continue to conduct their due diligence.

C. Liquidity Issues

128. Unfortunately, in the midst of the Sale Process and the due diligence of the interested parties, the Applicants' cash flow continued to decrease. By on or around April 7, 2025, the Applicants available liquidity had dwindled to \$1,085,997, which was insufficient to sustain the Applicants ongoing obligations including payroll. Accordingly, it became clear that the Applicants required urgent financing to address their liquidity constraints.

129. To assist the Applicants in dealing with their stakeholder and liquidity constraints, the Applicants engaged Steinberg as CRO in March 2025. In addition, in the weeks leading up to this filing, the Applicants have been in ongoing discussions with both BMO and Aviva with a view to trying to solve the Applicants' liquidity crisis through an out of court restructuring process. Through these discussions, BMO advised that it was only willing to provide the Applicants with further

funding through the form of the DIP Facility and with the benefit of a Court ordered super-priority charge. Similarly, Aviva was only willing to fund a portion of the accounts payable that it was legally obligated to pay under the Bonded Projects as well as a portion of the go forward working capital needs of the Applicants, both of which were insufficient for the Applicants to operate in the ordinary course outside the benefit of CCAA protection.

130. Given the Applicants were unable to reach a deal with Aviva and BMO, and to avoid further enforcement action by Aviva, EBCL filed the NOI on April 15, 2025. A copy of the NOI is attached hereto as **Exhibit “II”**.

131. Despite their recent liquidity challenges, the Applicants are optimistic about their future. The Applicants are one of only four companies that provide trenchless construction services in Ontario. They are also one of only two Canadian companies in the industry, which is important given the industry may shift to prefer Canadian companies to avoid having to incur the additional cost of tariffs.

132. In addition, EBCL remains a leader in the industry. The size of the industry is significant given the continued growth of Ontario’s population. In particular, the Greater Toronto Area has approximately \$1.7 billion in sewer and watermain work scheduled for 2025; the Applicants will be a crucial service provider in completing that work.

133. Further, the *Construction Act* has been to decrease the delay of the release of the holdback on projects. Specifically, the *Construction Act* now requires a mandatory annual release of holdbacks for all contracts. As a result, the Applicants will no longer need to wait years for the completion of a project to receive their holdback and can instead expect to receive all holdbacks on an annual basis.

D. The Applicants are Insolvent

134. As described in this affidavit, due to their deteriorating financial condition, the Applicants have insufficient liquidity to meet their obligations as they become due. Among other things, the Applicants liabilities exceed their available liquidity of \$1,085,997.

135. The Applicants' key assets, including the equipment, real estate, future contracts and accounts receivable, are not liquid and cannot be easily monetized without significant diminishment of value and disruption to the Applicants and their stakeholders. Further, the value of certain key assets such as future contracts and accounts receivable are likely to be significantly impaired or have no value if the Applicants are unable to maintain a going concern.

136. If the relief is not granted, the Applicants will be unable to make payroll or payments to their critical suppliers, resulting in an immediate cease of operations—which would be incredibly costly, in some cases prohibitively so, to halt and then resume.

E. Purpose of the CCAA Application

137. After considering the various options available to the Applicants, the Applicants determined that a filing under the CCAA is in the best interests of the Applicants and their stakeholders.

138. The purpose of the proposed CCAA proceeding is to restructure the Applicants' balance sheet while maintaining going concern operations to preserve employment, maximize recovery for stakeholders, and a shut down of Ontario's largest and oldest trenchless service provider.

139. The Applicants believe that relief under the CCAA is in the best interests of the Applicants, their creditors, and their stakeholders for the following reasons, among others:

- (a) the Applicants are insolvent and are unable to meet their obligations at they become due;
- (b) the Applicants require the protection of the CCAA and the assistance of restructuring professionals to develop a strategic restructuring solution, as well as the breathing room to do so;
- (c) without the protections of the CCAA, the Applicants' creditors are likely to take enforcement steps against the Applicants, which will disrupt the operation of the Business and profoundly impact the Applicants' current projects;
- (d) the Applicants require immediate interim financing, which financing would not otherwise be available on reasonable terms and in a timely manner without the accompanying Court-ordered Charges that are available under the CCAA; and
- (e) the involvement of a Court-appointed Monitor under the CCAA will lend stability and assurance to the Applicants' stakeholders, including their customers, suppliers, lenders, and employees.

140. If the requested relief is granted under the CCAA, the Applicants intend to work with the Proposed Monitor and the CRO to implement a comprehensive operational and financial restructuring plan with appropriate milestones for such restructuring. Among other things, the Applicants intend to continue their sale and investment solicitation process.

141. EBCL presently intends to disclaim the Discontinued EBCL Contracts on the basis that it has determined, with the assistance of the CRO, that the cost to complete each of those projects exceeds the remaining balance payable on the contracts. In such circumstances, the customer will then be in a position to make a claim on any performance bond, and EBCL or a purchaser will be available to enter into a completion contract under the performance bond, if appropriate.

F. Cash Flow Forecast

142. With the assistance of the CRO and the Proposed Monitor, the Applicants have conducted a cash flow analysis to determine the amount required to finance their ordinary course business operations, assuming the Initial Order is granted, over the 12-week period from the week ending April 18, 2025 to July 4, 2025 (the “**Cash Flow Forecast**”). I understand that the Cash Flow Forecast will be attached to the first report of the Proposed Monitor.

143. The Cash Flow Forecast demonstrates that the Applicants require approximately \$2.2 million in interim financing as early as April 18, 2025 and a total of \$5.5 million over the 12-week period.

144. The Cash Flow Forecast demonstrates that if the relief sought under the Initial Order is granted, the Applicants will have sufficient liquidity to meet their ordinary course obligations over the Initial Stay Period.

VI. RELIEF BEING SOUGHT

145. At the initial hearing, the Applicants will seek the minimum relief necessary to continue operations through to the Comeback Hearing, at which time expanded relief will be sought.

A. Stay of Proceedings

146. The Applicants require a Stay of Proceedings, including in respect of secured parties, to prevent creditors from taking enforcement steps. The intention of the Stay of Proceedings is to provide the Applicants with the necessary breathing room to preserve the status quo and pursue a viable restructuring plan and complete their ongoing construction projects.

147. In the absence of a Stay of Proceedings, the Applicants will be unable to complete their current construction projects, which may imperil the projects given there is a limited number of companies that can provide the services that the Applicants provide. The business interruption

and resumption costs for the Applicants' customers would be substantial and would inevitably have a negative effect on the customers' own business and stakeholders.

148. The Initial Stay Period is also critical to maximizing the realization of the Business for creditors and stakeholders and avoiding the destruction of value that would result from a shut-down of operations. If the Business is forced to shut down, the Applicants would immediately suffer an irreparable loss in asset value given that their primary assets—their goodwill and reputation, client relationships, and accounts receivable—require an operating Business to retain value.

149. The Cash Flow Forecast demonstrates that the Applicants will have sufficient cash to operate over the Initial Stay Period with the availability of the DIP Facility. In the meantime, the Applicants continue to work with due diligence and in good faith to complete a restructuring.

B. Appointment of BDO as Monitor

150. The Applicants seek the appointment of BDO as Monitor. BDO has been overseeing and investigating the Applicants' operations in the weeks leading up to this filing and is well versed in the operations and financial challenges of the Business.

151. BDO has consented to act as Monitor, subject to this Court's approval. I understand the consent of BDO will be attached to the report of the Proposed Monitor.

152. I am advised by Clark Lonergan that BDO is a licensed insolvency trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and is not precluded from acting as Monitor as a result of any restrictions under subsection 11.7(2) of the CCAA.

C. Charges

153. The Applicants seek the following Charges in the proposed Initial Order: an Administration Charge, a DIP Lender's Charge, a Directors' Charge, and a Lien Charge. The Applicants propose that each of the Charges constitute a charge on all of the Applicants' Property. The Applicants further propose that the Charges rank in priority to all other Encumbrances (as defined in the Initial Order).

154. The Applicants propose that the priority of the Charges, as among them, be as follows:

- (a) first, the Administration Charge (to the maximum amount of \$300,000);
- (b) second, the DIP Lender's Charge (to the maximum amount of \$2.2 million);
- (c) third, the Directors' Charge (to the maximum amount of \$200,000); and
- (d) fourth, the Lien Charge.

155. The proposed quantum of the Charges is limited to relief that is reasonably necessary for the continued operations of the Applicants in the ordinary course of business during the Initial Stay Period until the Comeback Hearing. It is the Applicants' intention to seek at the Comeback Hearing an amended Initial Order increasing the quantum of the Charges to cover the Applicants' needs over the restructuring period as follows:

- (a) first, the Administration Charge (to the maximum amount of \$600,000);
- (b) second, the DIP Lender's Charge (to the maximum amount of \$5.5 million); and
- (c) third, the Directors' Charge (to the maximum amount of \$400,000).

D. Administration Charge

156. The Applicants seek a Court-ordered Administration Charge over their Property, up to a

maximum amount of \$300,000, to secure the fees and disbursements incurred by the Proposed Monitor, the CRO, counsel to the Proposed Monitor, and counsel to the Applicants in connection with the CCAA proceeding. At the Comeback Hearing, the Applicants will seek to increase the Administration Charge to \$600,000.

157. The Applicants request that the Administration Charge rank in priority to all other Encumbrances (as that term is defined in the Initial Order) and Charges.

158. The Applicants have relied heavily upon each of the restructuring professionals that will be beneficiaries of the Administration Charge during the preparation of filing these CCAA proceedings. Each of these professionals have contributed, and will continue to contribute, significant value to the advancement of the CCAA proceedings and the completion of a successful restructuring.

159. The Administration Charge is necessary to ensure that the Applicants have the continued expertise, knowledge and participation of the restructuring professionals during the Initial Stay Period, including to effectively liaise with creditors, and assist in other restructuring initiatives. Each of the restructuring professionals who are the beneficiaries of the Administration Charge have a critical and discrete role in the restructuring of the Applicants.

160. The Applicants have worked with the Proposed Monitor to estimate the quantum of the Administration Charge. Based on those discussions, I believe that the quantum of the Administration Charge is fair and reasonable in the circumstances as it is commensurate with the expected complexity of the Applicants' Business and anticipated restructuring.

E. Approval of the DIP Facility and DIP Lender's Charge

161. The Cash Flow Forecast demonstrates that the Applicants require approximately \$2.2 million in interim financing to meet ordinary course of business expenses and to fund the CCAA

proceeding during the Initial Stay Period.

162. The Applicants have secured debtor-in-possession financing from the DIP Lender to fund the Applicants' operational and restructuring expenses during the restructuring period, subject to various terms and conditions as described in the DIP Term Sheet. I understand a copy of the DIP Term Sheet will be attached to the report of the Proposed Monitor.

163. The DIP Term Sheet represents the best available interim financing arrangement that could be arranged by the Applicants within the time frame needed to meet the Applicants' cash flow needs particularly given it is unlikely any other party would provide interim financing.

164. The key terms and conditions of the DIP Term Sheet are as follows:

- (a) the DIP Lender is the Applicants' senior secured creditor, BMO;
- (b) a maximum loan amount of \$5.5 million, with an Initial Advance up to a principal amount of \$2.2 million;
- (c) interest accruing at a rate of the Canadian Prime Rate then in effect at the Bank of Montreal plus 4.5% per annum, compounded and calculated monthly;
- (d) a termination date of the earlier of (i) July 31, 2025 (or such later date as the DIP Lender in its discretion may agree to in writing with EBCL); (ii) the date on which (a) the stay of proceedings under the CCAA proceedings is lifted without the consent of the DIP Lender, or (b) the CCAA Proceedings are terminated for any reason; (iii) the closing of a purchase and sale of substantially all of the assets or shares of EBCL which has been approved by an order entered by the Court; (iv) the implementation of a plan in the CCAA proceedings approved by an order entered by the Court; (v) the refinancing of the DIP Facility upon the written consent

of the DIP Lender; (vi) the date on which the CCAA Proceedings are terminated or are converted into a proceeding under the *Bankruptcy and Insolvency Act* (Canada), or the stay of proceedings expires without extension; (vii) the payment in full of the obligations owing to the DIP Lender; or (viii) the occurrence of an Event of Default; and

(e) a commitment fee of \$100,000.

165. The DIP Facility is expected to provide sufficient liquidity to allow the Applicants to operate and meet their obligations during the pendency of the CCAA proceedings.

166. The DIP Lender requires all obligations under the DIP Term Sheet to be secured by a Court-ordered priority charge, namely the DIP Lender's Charge. The DIP Lender's Charge will secure all the funds advanced to the Applicants under the DIP Facility. The DIP Lender's Charge will not secure any obligations incurred prior to the filing of the NOI.

167. The amount of the DIP Lender's Charge requested is necessary and limited to what is reasonably necessary for the continued operations of the Business in the ordinary course of business during the CCAA proceeding. Without the DIP Lender's Charge, the DIP Lender will not provide the DIP Facility resulting in the Applicants' inability to finance their operations leading to bankruptcy, which would be detrimental to the Applicants' stakeholders.

168. The Proposed Monitor has advised that it is supportive of the approval of the DIP Term Sheet and the corresponding DIP Lender's Charge.

F. Directors' Charge

169. The proposed Initial Order contemplates the establishment of a super-priority Directors' Charge on the Property in the amount of \$200,000 to protect the directors and officers against

obligations and liabilities they may incur as directors and officers of the Applicants after the commencement of the CCAA proceedings, except to the extent that the obligation or liability is incurred as a result of the directors' or officers' gross negligence or wilful misconduct. The Applicants will seek to amend the Directors' Charge to \$400,000 at the Comeback Hearing under the proposed Amended and Restated Initial Order.

170. To ensure the ongoing stability of the Applicants' Business during the CCAA proceedings, the Applicants require the continued participation of their directors and officers who manage the Business and commercial activities of the Applicants. The directors and officers of the Applicants have considerable institutional knowledge and valuable experience. They have long-standing relationships with the Applicants' suppliers, employees, and other stakeholders, as well as knowledge gained throughout the growth of the Business that cannot be replicated or easily replace.

171. The Applicants have no director and officer liability insurance. I believe that obtaining the same after an insolvency filing would likely be prohibitively difficult and expensive, if at all possible.

172. Given there is no insurance, my continued involvement in this proceeding as a director and officer is conditional upon the granting of the Directors' Charge. I also understand from my co-director and officer, Ms. Yarley, that her continued involvement in this proceeding as a director and officer is also conditional upon the granting of the Directors' Charge.

173. The initial quantum of the Directors' Charge sought is equivalent to approximately two weeks of the Applicants' payroll, including source deductions, which is the only reasonably anticipated potential exposure of directors and officers for Initial Stay Period. This estimate does not include any other potential sources of liability as a result of legislation in relation to the Applicants or their assets and operations, including goods and services tax, sales taxes, health and safety, environmental, customs and other matters, for which the Applicants anticipate no

potential director and officers' liability during the Initial Stay Period.

174. The Applicants worked with the Proposed Monitor in determining the proposed quantum of the Directors' Charge and believe that the Directors' Charge is reasonable and appropriate in the circumstances. The Directors' Charge is proposed to rank after the Administration Charge and the DIP Lender's Charge, but ahead of any existing security granted by the Applicants in favour of their secured creditors. I have been advised by counsel that the Proposed Monitor is of the view that the Directors' Charge is reasonable and appropriate in the circumstances.

G. Payment of Pre-Filing Amounts

175. The Applicants are seeking authorization to pay, with the written approval of the Proposed Monitor, amounts owing to their suppliers for critical goods or services actually supplied to the Applicants prior to the filing date if, in the opinion of the Applicants and the Proposed Monitor, such payment is necessary to maintain the uninterrupted operations of the Business. The Applicants have reflected these payments in their Cash Flow Forecast.

176. The Applicants rely heavily on contractors who provide specialized construction services. These contractors are necessary to the uninterrupted operation of the Business.

177. Given the technical and specialized nature of the Applicants' operations, there are few vendors who can supply some of the specific services that the Applicants require at a reasonable cost and in a timely manner.

178. Due to the Applicants' cash-flow pressures, the Applicants have failed to pay some of their critical suppliers for services provided prior to the filing of the CCAA proceeding. On review of these amounts with the Proposed Monitor, the Applicants believe it is necessary to pay the pre-filing amounts owed to the critical suppliers to maintain their services notwithstanding the stay of proceedings.

179. If these critical suppliers are not paid their pre-filing arrears, they will abruptly stop providing services, which will result in the Applicants facing a material risk to their Business given that these suppliers are critical and cannot easily be replaced.

H. Stay of Performance Bonds

180. The Applicants seek a stay of enforcement or calls on the performance bonds on the Continuing EBCL Projects (collectively, the “**Performance Bonds**”), except with the written consent of the Monitor, or with leave of this Court.

181. The Applicants believe that they are in compliance with their obligations on the Continuing EBCL Projects and a critical part of the planned restructuring is the continuation of those projects.

182. The Applicants are unaware of any breach or default of any of the Performance Bonds and have not been notified of any default under the Performance Bonds. As such, the stay on the enforcement of Performance Bonds is a preventative measure that is intended to provide stability to the Applicants as they restructure their Business. In particular, any disruption to the Continuing EBCL Projects would detrimentally impact the ongoing operations and funding of EBCL to the prejudice of the Applicants and their stakeholders.

183. The CCAA proceeding and the DIP Facility is intended to ensure that the Applicants continue to perform their obligations on the Continuing EBCL Projects. In such circumstances, the stay on Performance Bonds is intended to prevent precipitous enforcement steps and to facilitate discussions and proper arrangements with contractual counterparties (if needed) to maintain the going concern nature of the Applicants and their operations.

I. Lien Regularization Order

184. As a business operating in the construction industry, the Applicants are party to agreements with other construction counterparts, including trades, subtrades, and suppliers, who may or may not be in a position to register liens against the projects on which the Applicants are working, and the Applicants' interests in the proceeds of those projects, in Ontario, being the jurisdiction in which the Applicants operate. The Applicants seek to streamline the process through which certain Lien Claimants may assert their rights and interests as against the Applicants in the Lien Regularization Order.

185. I understand that the *Construction Act* may in certain circumstances give rise to the ability of certain parties to register liens in respect of holdbacks and/or on property that is the subject of the projects involving EBCL, or to give notice of a lien in the case of projects involving government or municipal property. The Applicants regularly deal with such liens in their ordinary course of business. In certain situations, the Applicants may also have to place their own liens on projects for non-payment of accounts and/or services provided (including potentially for accounts and/or services provided post-CCAA filing).

186. Instead, the proposed Lien Regularization Order provides for a process whereby Lien Claimants will be entitled to a Court-ordered charge which replicates the protection Lien Claimants are entitled to under the *Construction Act*. The proposed Lien Regularization Order (i) stays Lien Claimants from registering liens against the Continuing EBCL Projects; and (ii) provides that the statutory rights of Lien Claimants to register a construction lien are substituted with a Court-ordered Lien Charge. The Lien Charge is equal in value to a lien that could have otherwise been registered in accordance with the *Construction Act*. The Lien Charge is intended to rank behind the Charges. In exchange, the cash flow from the projects at issue is not interrupted and will be paid over for the benefit of the Applicants and their stakeholders.

187. The Applicants believe such a process best protects the interests of the stakeholders without placing undue administrative and financial burden on the estate of the Applicants.

188. As at the filing date, there are approximately 238 suppliers and 10 subcontractors on the Continuing EBCL Projects that could potentially assert liens in respects of such projects.

189. The Applicants are concerned that any lien registrations against them or their clients' properties may negatively impact the Applicants' restructuring efforts. In certain circumstances, including situations where liens have been bonded off, notices of liens or the actual placement of liens with respect to the Continuing EBCL Projects may disrupt or delay the flow of funds to the Applicants or from the Applicants' customers to their other providers. Any potential non-payment, delay in payment, or exercise of set-off rights by the Applicants' customers due to the actual or threatened registration of liens will expose the Applicants to additional short-term liquidity risks that could jeopardize their restructuring efforts.

190. In addition, having to address and seek to (i) lift the stay of proceedings to allow Lien Claimants to comply with limitation periods under the *Construction Act*, and/or (ii) discharge liens filed against the Continuing EBCL Projects both before and after the commencement of these CCAA proceedings would distract from and potentially disrupt the Applicants' restructuring efforts while putting a further strain on the Applicants' financial and operational resources.

191. The terms of the proposed Lien Regularization Order sought by the Applicants are intended to provide the Applicants and their respective stakeholders with appropriate protections and flexibility to ensure that the disruption to the flow of funds and their restructuring efforts is minimized, and that the rights of current and potential Lien Claimants are recognized.

192. I am advised by Ms. Fell that BMO is not supportive of extending the terms of the proposed lien regularization order to projects other than the Continuing EBCL Projects without an

acceptable agreement with Aviva with respect to the funding of the professional and other costs in connection with the administration of such an order on those further projects. If such an agreement is reached, the Applicants will, if supported by the Monitor, seek to extend the application of the order sought to further projects.

193. I understand that the Proposed Monitor supports the granting of the Lien Regularization Order. As of the date hereof, there are no outstanding liens on the Bonded Projects that have not been bonded off already.

J. Appointment of the CRO

194. The Applicants seek the appointment of the CRO in these proceedings, with the support of the Monitor and the DIP Lender, to assist the Applicants' management to, among other things, (i) develop and implement an operational restructuring of the Applicants; and (ii) assist in negotiations and discussions with surety providers.

195. The proposed CRO is Steinberg, the firm that has been already currently assisting the Applicants in the capacity as financial advisor since March. Steinberg has provided valuable assistance to the Applicants and their secured creditors leading up to the commencement of the within proceeding.

196. As financial advisor to the Applicants, Steinberg is well qualified to act as CRO and has been reviewing the Applicants operations in preparation for this filing. I have been advised by BMO and the Monitor that they are supportive of the appointment and engagement of Steinberg as the CRO.

197. I understand a copy of the Engagement Agreement between the Applicants and the CRO (the "**CRO Engagement**") will be attached to the Report of the Proposed Monitor. Pursuant to the CRO Engagement, among other things:

- (a) The CRO will assist with the Applicants operational restructuring including taking steps to improve operations and profitability, evaluating and implementing the sale of EBCL's excess assets, assisting in discussions with surety providers, communicating with stakeholders, and assisting with materials necessary for the CCAA proceeding;
- (b) the CRO is entitled to a monthly fee of \$75,000 (plus \$20,000 per rate premium, the "**Monthly Rate Premium**"), plus applicable taxes including HST (the "**Monthly Fees**") as well as all out-of-pocket expenses. The CRO only earns the Monthly Rate Premium if the CRO can demonstrate that pre-filing payrolls have been decreased by at least \$20k per month; and
- (c) the Monthly Fees of the CRO are to be secured by the Administration Charge.

198. Any success fee of the appointed sales advisor will be approved as part of a motion to approve a sale and investment solicitation process.

K. Stay of Proceedings with Respect to Pennbridge Holdings

199. In addition to the four Applicants, the companies operate alongside a related entity, Pennbridge Holdings (defined herein). This entity is the beneficiary of the Pennbridge Family Trust (which owns all or substantially all of the shares of each of the Applicants). The corporate profile report for Pennbridge Holdings is attached as **Exhibit "JJ"**.

200. The primary debt obligations of Pennbridge Holdings are to BMO for the BMO Loan Facilities, BDC for the mortgages on the Burlington Property, and Aviva for indemnity obligations on the bonds. Pennbridge Holdings otherwise has no liabilities that need to be restructured.

201. The Applicants are concerned that a CCAA proceeding may impact Pennbridge Holdings given that it is the indirect owner of the Applicants and is also a party to some of the same

indemnity agreements and guarantees that are stayed as against the Applicants under the CCAA. Accordingly, to ensure stability through the CCAA proceeding, a non-applicant stay is being sought to avoid any party from taking steps against Pennbridge Holdings for the pendency of these proceedings. Without a third-party stay, the attention of management will necessarily be diverted to dealing with claims against Pennbridge Holdings, which would have a cascading effect on the Applicants that could jeopardize the restructuring.

VII. CONCLUSION

202. I swear this affidavit in support of the Applicants’ requested relief and for no other or improper purpose.

SWORN REMOTELY by EUGENE WOODBRIDGE stated as being located in the City of Oakville, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 16th day of April, 2025, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.

Signed by:
Gabrielle Schachter
88545D85499D4AA

A Commissioner for taking Affidavits.
Gabrielle Schachter

DocuSigned by:
Eugene Woodbridge
896E3B9A56B14A6...

EUGENE WOODBRIDGE

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

Court File No. **134**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EARTH BORING CO. LIMITED ET AL.**

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

Proceedings commenced at Toronto

**AFFIDAVIT OF EUGENE WOODBRIDGE
(Sworn April 16, 2025)**

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Lawyers for the Applicants

THIS IS **EXHIBIT "D"** REFERRED TO IN THE
AFFIDAVIT OF EUGENE WOODBRIDGE SWORN BEFORE ME,
THIS 23rd DAY OF MAY 2025

A handwritten signature in blue ink, appearing to read 'C. Bell', is written above a dashed line.

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-25-00741419-00CL

**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 EARTH BORING CO. LIMITED, YARBRIDGE
HOLDINGS INC., TROLAN INVESTMENTS LTD., AND YARFIELD
SERVICES LIMITED**

Applicants

AFFIDAVIT OF EUGENE WOODBRIDGE

(Sworn April 23, 2025)

I, **EUGENE WOODBRIDGE**, of the City of Oakville, in the province of Ontario, **MAKE**

OATH AND SAY:

1. I am the Chief Executive Officer of Earth Boring Co. Limited ("**EBCL**"). I have been in this role since 2005, and previously served as Vice President of EBCL beginning in 1998. I am also the President of Yarbridge Holdings Inc. ("**Yarbridge**"), and the Vice President of Yarfield Services Limited ("**Yarfield**") and Trolan Investments Ltd. ("**Trolan**", together with EBCL, Yarbridge, and Yarfield, the "**Applicants**"). I am also a director of each of the Applicants. Accordingly, I have personal knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and verily believe it to be true.

2. All references to currency in this affidavit are references to Canadian dollars unless otherwise indicated.

3. On April 15, 2025, the Applicants filed a Notice of Intention to Make a Proposal under section 50.4(1) of the *Bankruptcy & Insolvency Act*, R.S.C., 1985, c. B-3 (the “**NOI Proceedings**”).
4. On April 17, 2025, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) continued the NOI Proceedings under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) and granted an initial order (the “**Initial Order**”). A copy of the Initial Order is attached as **Exhibit “A”**.
5. The Initial Order, among other things:
 - (a) appointed BDO Canada Limited as monitor of the Applicants (in such capacity, the “**Monitor**”);
 - (b) approved the engagement of Steinberg Advisory Corp (“**Steinberg**”), as chief restructuring officer of the Applicants (the “**CRO**”);
 - (c) granted a stay, for an initial period of not more than 10 days (the “**Initial Stay Period**”), of all proceedings and remedies taken or that might be taken in respect of the Applicants except with the written consent of the Applicants and the Monitor, or with leave of the Court (the “**Stay of Proceedings**”);
 - (d) granted a third party stay, on the same terms as the Stay of Proceedings, in favour of a related entity of the Applicants, Pennbridge Holdings Inc.;
 - (e) approved an interim financing loan agreement (the “**DIP Term Sheet**”) between the Applicants and the Bank of Montreal (“**BMO**” or the “**DIP Lender**”) pursuant to which the DIP Lender agreed to advance to the Applicants the principal amount of \$5.5 million (the “**DIP Facility**”), with the initial advance limited to \$2.2 million during the pendency of the Initial Stay Period;

- (f) granted the following charges, with the priority amongst them as set out below, which charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances in favour of any person:
- (i) First – an “**Administration Charge**” against the property of the Applicants (the “**Property**”), in the amount of \$300,000, as security for the payment of professional fees and disbursements incurred and to be incurred by the Monitor, counsel to the Monitor, the monthly fees of the CRO (as defined herein) and counsel to the Applicants;
 - (ii) Second – a “**DIP Lender’s Charge**” against the Property as security for the Applicants’ obligations under the DIP Term Sheet, in the maximum principal amount of \$2.2 million plus fees and interest subject only to the mortgage security granted to the Business Development Bank of Canada (“**BDC**”) by Trolan and Yarbridge with respect to the Burlington Property and the Brampton Property (each as defined below); and
 - (iii) Third – a “**Director’s Charge**” against the Property as security for the obligation of the Applicants to indemnify its D&Os from the obligations and liabilities that they may incur as D&Os after the commencement of the within proceeding, except for gross negligence or wilful misconduct, in the maximum principal amount of \$200,000.
- (g) stayed any person with recourse to a Performance Bond (as defined in my affidavit sworn April 16, 2025), including any person named as an owner or obligee under such bond, from enforcing or calling on the Performance Bond except with the written consent of the Applicants and the Monitor; and

- (h) ordered a comeback hearing for April 24, 2025 at 9:30 A.M. (the “**Comeback Hearing**”).
6. In addition to granting the Initial Order, the Court also a Lien Regularization Order (the “**LRO**”). A copy of the LRO is attached as **Exhibit “B”**.
7. The LRO, among other things:
- (a) stayed the rights of any person who supplied services and/or materials to the Applicants solely with respect to certain construction projects to which the Applicants are a contracting party and which are listed in Schedule “A” to the LRO (the “**Continuing EBCL Projects**”), to preserve, maintain, perfect, or register liens (each a “**Lien Claim**” and such person asserting a Lien Claim, a “**Lien Claimant**”), including by way of a notice of lien pursuant to and in accordance with the *Construction Act* R.S.O. 1990, c. C.30 (the “**Construction Act**”), other than as permitted by the LRO;
 - (b) granted a charge over the Applicants’ Property in the applicable Continuing EBCL Project in favour of a Lien Claimant equivalent to, and only to the extent of, any security that, but for this proceeding, would otherwise be available under the *Construction Act*, as set out in and pursuant to the procedural requirements of the LRO (the “**Lien Charge**”, collectively with the Administration Charge, the DIP Lender’s Charge and the Directors’ Charge, the “**Charges**”); and
 - (c) declared that the priority of the Lien Charge: (i) shall rank subordinate to the Directors’ Charge; (ii) relative to the other Lien Charges, shall be equivalent to the priority granted under the *Construction Act*; and (iii) with respect to other creditors

of the Applicants, shall, subject to any orders granted in these proceeding, have priority in accordance with the Federal laws of Canada and the Province of Ontario.

8. The Applicants now seek an amended and restated Initial Order (the “**ARIO**”) that, among other things:

- (a) extends the Stay Period up to and including July 4, 2025;
- (b) increases the Administration Charge from \$300,000 to \$600,000;
- (c) authorizes the Applicants to increase the amounts which may be borrowed by the Applicants under the DIP Term Sheet from \$2.2 million to \$5.5 million and a corresponding increase of the DIP Lender’s Charge to the maximum principal amount of \$5.5 million plus interest, fees and costs; and
- (d) increases the Directors’ Charge from \$200,000 to \$400,000.

I. BACKGROUND OF THE CCAA PROCEEDING

9. In support of the Initial Order, I swore an affidavit dated April 16, 2025 (the “**Initial Affidavit**”) which describes in detail, among other things, the Applicants’ business and financial circumstances, the events leading up to and resulting in the Applicants’ insolvency, and the Applicants’ need for relief under the CCAA to conduct an operational and financial restructuring. A copy of the Initial Affidavit is attached (without exhibits) as **Exhibit “C”**.

10. As described in the Initial Affidavit, the Applicants are engaged in the business of trenchless construction services, which includes, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling (the “**Business**”).

11. Since their inception in 1947, the Applicants grew tremendously to become the established industry leader in underground construction for complex infrastructure projects in Ontario. In

particular, they expanded their operations from approximately \$1 million in revenue in the 1990s to over \$80 million in adjusted revenue in 2023.

12. EBCL primarily works for municipalities, but also works with a diverse range of other customers in the construction industry. They provide critical gas and electrical pipelines and water and waste management infrastructure to Ontario.

13. The Applicants have a wide breadth of stakeholders, including their approximately 100 highly skilled employees, including unionized employees, specialized and often local suppliers as well as customers who retain the Applicants to provide services necessary for developing critical infrastructure for pipelines, water and wastewater management in Ontario.

14. While the Applicants have successfully operated a complex and specialized infrastructure boring business in Ontario for over 78 years and have significant non-liquid assets, over the past year, they experienced significant financial and operational challenges resulted in an acute liquidity crisis.

15. The financial challenges were associated with, among other things: (i) a rapid expansion of the Business that significantly increased the upfront capital required to operate the Business; (ii) changes to the eligibility requirements of Ontario's Housing-Enabling Water Systems Fund which delayed a majority of the Applicants' 2024 projects; (iii) unprecedented issues with one of the Applicants' infrastructure projects located in Caledon, Ontario; (iv) the shouldering of the upfront costs of certain insurance claims; and (v) the significant impact of tariffs on the construction industry generally.

16. As a result of the Applicants' liquidity constraints, the Applicants initiated these CCAA proceedings to allow access to urgently needed financing in order to maintain the Business as a

going concern and afford the Applicants the breathing room and stability to undertake operational and financial restructuring initiatives that will support the long-term viability of the Business.

17. The continuation of the CCAA proceeding with the granting of the ARIO is critical to the ongoing operations and restructuring efforts of the Applicants. Without the ARIO and access to further funding under the DIP Term Sheet, the Applicants will have no liquidity to continue operations or to implement any operational solutions to resolve their financial issues. In such circumstances, the Applicants would be forced to cease all operations.

II. OVERVIEW OF THE APPLICANTS' ACTIVITIES SINCE THE INITIAL ORDER

18. Since the granting of the Initial Order, the Applicants, in close consultation and with the assistance of the Monitor and CRO, have acted in good faith and with due diligence to stabilize the Business operations and consult with stakeholders. Further, during the Initial Stay Period, operations continued smoothly and without disruption. The Applicants are not aware of any opposition to the relief granted pursuant to the Initial Order or the LRO or to the proposed ARIO at this time.

A. Initial Stakeholder Communications

19. Following the granting of CCAA protection, the Applicants initiated targeted communications to industry stakeholders, specifically construction project owners and suppliers, explaining the nature of the Initial Order and the CCAA proceedings as well as the implications of the Initial Order on each particular stakeholder group. The Applicants also advised individual stakeholders, as appropriate, of the LRO and the process for lien claims set out therein. Examples of such correspondence are attached as exhibits to this affidavit as follows:

- (a) Example Letter to Owners of Bonded Continuing EBCL Projects (defined in the LRO), attached as **Exhibit "D"**;

- (b) Example Letter to Suppliers on Bonded Continuing EBCL Projects, attached as **Exhibit “E”**;
- (c) Example Email to Suppliers Advising of Initial Order and LRO, attached as **Exhibit “F”**.

20. The Letter to Owners of Bonded Continuing EBCL Projects was, in part, sent in response to the letter of Aviva Insurance Company of Canada (**“Aviva”**) dated April 15, 2025, requesting that that all funds due and/or owing to Earth Boring in connection with the project not be released to Earth Boring. A copy of Aviva’s letter dated April 15, 2025, is attached as **Exhibit “G”**.

B. Communications with Employees

21. Shortly after the Initial Order hearing on April 17, 2025, EBCL sent its Vice-President of Operations to attend project sites in order to inform supervisors and foremen that EBCL would be undergoing an operational and financial restructuring. Later that same day, the Applicants sent a notice to all employees advising them of the restructuring and informing them that EBCL’s business operations are business as usual during the CCAA process.

C. Evaluation of Construction Projects

22. As indicated in the Initial Affidavit, EBCL intends to disclaim certain construction project contracts which are unprofitable (the **“Discontinued EBCL Contracts”**) on the basis that the cost to complete each of the projects exceeds the remaining balance payable on the contracts. The Applicants are still in the process of working with the CRO to evaluate these projects and determine profitability.

23. In addition to the above, the Applicants and the CRO, with the support of the Monitor, have identified EBCL construction projects that are either complete or have yet to begin. The completed

projects will be siloed off from the restructuring as no further work is required. With respect to projects that have yet to begin, the start dates for these projects are targeted for the Fall of 2025. Accordingly, the intention at this time is to preserve the Fall 2025 construction contracts in order to generate value for potential buyers in any sale and investment solicitation process (the “**SISP**”).

24. Importantly, as of the date hereof, there are no registered liens on *any* of the projects other than those that existed prior to the Initial Order and were bonded off prior to the commencement of these proceedings.

D. Discussions with Aviva

25. The Applicants and the Monitor, and their respective counsel, are in the process of engaging in discussions with Aviva and its counsel regarding the proposed Discontinued EBCL Projects that are bonded by Aviva. These discussions are ongoing, and the Applicants, with the support of the Monitor, remain open to negotiating acceptable terms with a view to completing these projects.

III. THE AMENDED AND RESTATED INITIAL ORDER

A. Extension of the Stay Period

26. The Applicants seek to extend the Initial Stay Period to and including July 4, 2025 (the “**Proposed Stay Period**”). The extension of the Initial Stay Period is necessary and appropriate in the circumstances in order to allow the Applicants to implement their operational and financial restructuring and to come back before this Court to approve a SISP.

27. As set out above, since the granting of the Initial Order, among other things, the Applicants have engaged with several stakeholder groups, including project owners, suppliers, their

employees, and Aviva, and are in the process of evaluating the profitability of various construction projects with the assistance of the CRO and the Monitor.

28. Accordingly, the Applicants have acted and are continuing to act in good faith and with due diligence in these CCAA proceedings.

29. The cash flow statement referenced in the Initial Affidavit and attached as Appendix “C” to the Pre-Filing Report of the Monitor dated April 16, 2025 (“**Cash Flow Projection**”) is attached as **Exhibit “H”** to this affidavit. The Cash Flow Projection demonstrates that the Applicants have sufficient liquidity to operate through the Proposed Stay Period.

30. The Applicants’ stakeholders will benefit from the Proposed Stay Period.

31. The Monitor, the CRO and the DIP Lender are all supportive of the proposed extension of the Initial Stay Period.

B. Increased Administration Charge

32. The Applicants seek an increase in the Administration Charge from \$300,000 to the maximum amount of \$600,000. The increased quantum of the Administration Charge corresponds to the anticipated fees of the restructuring professionals during the Proposed Stay Period, which is reflected in the Cash Flow Projections.

33. The Administration Charge ranks in first priority to all encumbrances and charges over the Property. I understand that the Monitor, the CRO and the DIP Lender support the increased quantum of the Administration Charge.

C. Increased Amounts to DIP Facility and DIP Lender’s Charge

34. The initial permitted borrowings under the DIP Term Sheet, and the initial quantum of the DIP Lender's Charge granted in the Initial Order, were based on the needs of the Applicants for the Initial Stay Period. The Applicants seek to increase the permitted borrowings under the DIP Term Sheet and the quantum of the DIP Lender's Charge from \$2.2 million to \$5.5 million plus fees, costs and interest.

35. As set out in the Initial Affidavit, the Cash Flow Projection indicates that the Applicants anticipate the need to draw up to \$5.5 million under the DIP Term Sheet in order to maintain operations and fund these CCAA proceedings. Accordingly, the increased borrowings under the DIP Term Sheet are appropriate and necessary to permit the Applicants to operate their Business in the normal course and fund the costs of the operational and financial restructuring and this CCAA proceeding.

36. The DIP Lender's Charge is subordinated to the Administration Charge but ranks ahead of the Directors' Charge. I understand the Monitor, CRO and DIP Lender support the Applicants' requested increase to their permitted borrowings under the DIP Term Sheet and the corresponding increase to the DIP Lender's Charge.

D. Increased Directors' Charge

37. The Applicants seek an increase in the Directors' Charge from \$200,000 to the maximum amount of \$400,000. The Directors' Charge ranks subordinate to the Administration Charge and the DIP Lender's Charge.

38. As described in the Initial Affidavit, the Applicants accrue certain amounts that constitute director liabilities if unpaid, including payroll taxes and source deductions, as well as accrued wages.

39. As a director and officer, I am concerned about my exposure to personal liability in the event that the restructuring is not successful and accrued amounts remain unpaid. I understand from the other directors and officers that they are similarly concerned about their exposure. Accordingly, I verily believe that the Applicants' directors and officers would likely not remain in office without adequate indemnity.

40. A loss of the Applicants' directors and officers would significantly impair the Applicants' Business and ability to restructure in the CCAA proceeding. I am advised by the Monitor that it supports the quantum and approval of the increased Directors' Charge.

IV. CONCLUSION

41. For the reasons set out above, I believe that it is in the interests of the Applicants and their stakeholders that this Court grant the relief requested in accordance with the terms of the proposed ARIO. Following the Comeback Hearing, the Applicants intend to return before the Court to approve the SISP.

42. I swear this affidavit in support of the Applicants' requested relief and for no other or improper purpose.

SWORN REMOTELY by **EUGENE WOODBRIDGE** stated as being located in the City of Oakville, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 23rd day of April, 2025, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.

Signed by:

Gabrielle Schachter

88545D85499D4AA...

A Commissioner for taking Affidavits.
Gabrielle Schachter

DocuSigned by:

Eugene Woodbridge

896E3B9A56B14A6...

EUGENE WOODBRIDGE

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

Court File No. CV-25-00741419-00CL

148

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EARTH BORING CO. LIMITED ET AL.**

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

Proceedings commenced at Toronto

**AFFIDAVIT OF EUGENE WOODBRIDGE
(Sworn April 23, 2025)**

RECONSTRUCT LLP
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Toronto, ON M5H 2A4

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Tel: 416.613.4881

Lawyers for the Applicants

THIS IS **EXHIBIT "E"** REFERRED TO IN THE
AFFIDAVIT OF EUGENE WOODBRIDGE SWORN BEFORE ME,
THIS 23rd DAY OF MAY 2025

A handwritten signature in blue ink, appearing to read 'C. Bell', is written above a dashed line.

A COMMISSIONER FOR TAKING AFFIDAVITS



Strictly Private and Confidential

May 20, 2025

Earth Boring Company Limited
1775 North Sheridan Way
Mississauga, ON L5K 1A2

Attention: Mr. Eugene Woodbridge, Chief Executive Officer

Dear Mr. Woodbridge,

Subject: Project Stone

Introduction

Thank you for requesting the services of PricewaterhouseCoopers Corporate Finance Inc. ("PwC CF"). This letter confirms our engagement by Earth Boring Company Limited, Yarbridge Holdings Inc., Trolan Investments Ltd., and Yarfield Services Limited (collectively, "Earth Boring" or the "Company") and its shareholders (hereinafter collectively "you") in connection with a Sale and Investor Solicitation Process ("SISP"), as outlined below (the "Services").

The proposed transaction may be in either whole or part, a sale of shares, a sale of assets, or a merger, consolidation or other business combination, or debt refinancing (the "Transaction"). If the Transaction is by way of a share sale, all your rights and obligations hereunder shall be rights and obligations of the shareholders of the Company. If the Transaction is by way of an asset sale, business combination or debt refinancing, all such rights and obligations shall be rights and obligations of the Company.

The purpose of this engagement letter, together with the Standard Terms of Business attached hereto, is to confirm our understanding of the terms of our engagement. Unless otherwise defined hereinafter, terms used herein shall have the meaning ascribed to them in the attached Standard Terms of Business.

Our understanding of the current situation

Earth Boring is a trenchless infrastructure contractor (specializing in micro-tunnelling, directional drilling, and related services), focused on complex underground water and wastewater projects.

On April 17, 2025, Earth Boring sought and obtained an initial order from the Ontario Superior Court of Justice (Commercial List) (the "Court") pursuant to the Companies' Creditors Arrangement Act (the "CCAA"). Pursuant to the initial order, BDO Canada Limited, ("BDO") was appointed as monitor of the Debtors (the "Monitor"). The SISP will be approved by the Court.

The shareholders and management are seeking to engage the services of an advisor to run a SISP for the Company. Subject to Court approval, the SISP is currently targeted to launch at the end of May, with an



Mr. Eugene Woodbridge
Earth Boring Co. Limited
May 20, 2025

estimated 4 to 6 week marketing phase (Phase 1), followed by submission of Expressions of Interest ("EOIs") by interested parties. Qualified and shortlisted parties will then participate in 4 weeks of due diligence (Phase 2) followed by submission of binding offers (with closing timing to be determined based on structure and Court approval)

Scope of our Services

Our approach will be adapted to fit the situation as it evolves. The scope of our Services and deliverables (the "Deliverables") may include:

The SISP Process	
Phase One: Preparation and Marketing	• Advising management in the preparation of a financial model and related financial/key performance indicator analysis that reflects "disclaimed" contracts, normalization adjustments and a prospective operating plan. • Advising on the structuring of the Company, Monitor and DIP Lender (Bank of Montreal) to increase value and marketability. • Preparing and finalizing a teaser. • Advising you with respect to developing a Confidential Information Memorandum ("CIM") to present the opportunity to potential purchasers, lenders and capital providers. • Setting up and populating the virtual data room.* • After obtaining your agreement, making approaches to pre-screened potential purchasers, lenders and capital providers to determine party(s) with a high level of interest. • Arranging execution of Non-Disclosure Agreements ("NDAs"). • Distributing CIMs to parties that have signed NDAs. • Pro-actively managing potential purchasers, lenders and capital providers and addressing their questions and concerns promptly, in conjunction with the Company and Monitor. • Soliciting non-binding EOIs in accordance with the Court approved SISP.
Phase Two: Diligence	• In conjunction with the Company and the Monitor, in consultation with the DIP Lender, selecting a shortlist of qualified interested parties that have submitted EOIs to participate in further due diligence. • Advising you with respect to developing, scheduling and delivering in-person or virtual management presentations and site visits, where appropriate.



Mr. Eugene Woodbridge
Earth Boring Co. Limited
May 20, 2025

	- Facilitating additional purchaser, lenders and capital provider diligence, including answering questions and providing additional requested information. - Advising on strategy and tactics in negotiations. - Soliciting binding offers in accordance with the Court approved SISP. - Advising on the selection of final purchaser, lender(s) and capital provider(s).
Phase Three: Closing	Coordinating with the Company and Monitor, in consultation with the DIP Lender, to facilitate and support the application for Court approval for the transaction and Closing.

*While PwC CF will assist and advise on populating and managing the virtual data room, we recommend a third-party data room provider be utilized to provide a secure and virtual data room. The cost of any data room is billed directly from the data room provider to you.

Any additional services on such as taxation, buy-side due diligence, accounting or post-acquisition integration, that may be required as part of the Transaction are not included in the fee section set forth below and are subject to a separate engagement.

Timetable

We will use all reasonable efforts to complete the various segments of our work in accordance with the SISP procedures, assuming management co-operation and timely availability of data. The timeframe contemplated by the SISP may at any time be modified with approval by the Court.

Staffing

Eric Castonguay, Bryan Allsopp and Pierre-Yves Morisset will be the Managing Directors in charge of the Services contributing advice, overseeing the provision of the Services and attending key meetings at your request, calling upon specialist staff, as we deem appropriate. We reserve the right to change staff, but we will only change the named senior staff after discussion with you.

Fees

Our fees will comprise a Work Fee and a Success Fee:

Work Fee:

A non-refundable Work Fee of \$50,000 per month will be invoiced monthly for each of the months during which the Services are rendered. The first invoice will be rendered and due upon signature of this engagement letter.



Mr. Eugene Woodbridge
Earth Boring Co. Limited
May 20, 2025

Success Fee:

If the Transaction is successfully completed, PwCCF will receive a Success Fee, from which the Work Fees paid will be deducted, payable immediately at closing from the proceeds of the Transaction and calculated as follows:

If the Transaction is completed as an asset or equity sale, the Success Fee will be based on a percentage of the Total Enterprise Value ("TEV"), calculated as follows:

TEV	
For the portion below \$20 million	\$500,000
For the portion between \$20 million - \$30 million	2.5% of TEV
For the portion above \$30 million	4.0% of TEV

If the Transaction is completed as a debt refinancing, the Success Fee will be based on a percentage of the capital raised or committed, calculated as follows:

Capital Raised	% of Capital Raised
Senior debt	1.0%
Private debt	3.0%
Junior capital or subordinated debt	4.0%

Any additional services, including tax advisory, financial vendor due diligence, that may be required as part of the transaction are not included in the fee section set forth above and are subject to a separate engagement.

We confirm having advised you that our fees and expenses must be approved by the Court. The Company shall also seek to have our fees included in the administrative charge in the CCAA proceedings to constitute a first charge on the assets of the Company.

The Success Fee is subject to a minimum amount of \$500,000, regardless of the acquirer or Transaction type.

"Total Enterprise Value" means the aggregate fair market value of:

1. any securities issued to, or to be issued to the Company, any Company subsidiary or other Company affiliate or any of the Company's security holders in respect of the Transaction;



Mr. Eugene Woodbridge
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2. all other cash and non-cash consideration (including any joint venture interest delivered to, or retained by, the Company or any Company affiliate) paid to or received by, or to be paid to or received by, the Company, any Company subsidiary or other Company affiliate or any of the Company's security holders in respect of the Transaction;
3. the amount of all debt (including both third party and related party) and other liabilities (including any off-balance sheet liabilities) of the Company or any Company subsidiary which remains outstanding as of the closing date of the Transaction, and is directly or indirectly assumed or acquired by the purchaser or retired, refinanced or otherwise discharged or extinguished in connection with the Transaction;
4. any preferred shares of the Company or any Company subsidiary which remain outstanding as of the closing date of the Transaction or are directly or indirectly assumed or acquired by the purchaser or retired, refinanced or otherwise discharged or extinguished in connection with the Transaction;
5. any dividends (including special dividends or asset strips), recapitalization or other non-normal course, employee distributions declared, paid or made by the Company or any Company subsidiary prior to or upon completion of the Transaction; and
6. any contingent or deferred payments received by you, including earn-outs or retention bonuses, based on a best estimate as agreed between us.

For greater clarity, the Success Fee will be based upon 100% of the TEV, notwithstanding whether or not the sale Transaction involved a full or partial disposal.

In addition to the fees outlined above, we shall bill for all reasonable expenses incurred in the performance of this engagement. Direct costs, including but not limited to travel, meals and accommodation, will be charged as incurred.

In addition to our fees, expenses and other charges payable pursuant to the engagement, we shall also bill for all applicable taxes. Invoices are due upon receipt.

Exclusivity

In order for us coordinate the Services effectively, you agree that we shall act as your sole and exclusive financial advisor in connection with the acquisition. You agree that neither the Company, management, affiliates, nor other advisors will initiate any discussions with target companies without first notifying PricewaterhouseCoopers Corporate Finance Inc. In the event you or your management receives an inquiry from any party concerning a potential acquisition by the Company, you shall promptly inform us of such party and its interest in order that PricewaterhouseCoopers Corporate Finance Inc. can effectively render the Services provided for in this Agreement.



Mr. Eugene Woodbridge
Earth Boring Co. Limited
May 20, 2025

Advocacy and independence

PricewaterhouseCoopers Corporate Finance Inc. will not have any executory authority on your behalf and you are responsible for making all decisions. Our role is as a financial advisor and not a promoter, broker, representative or agent for purposes of your commercial negotiations. Where we are to be involved in meetings related to commercial negotiations, you are responsible for finalizing your negotiating position. We will only attend meetings with third parties (other than your own advisors) if you are either in attendance at the meeting or, if not, you provide sufficient instruction to us on the detail of the issues being negotiated.

Mandatory disclosure requirements

Certain federal, provincial, and foreign laws and/or regulations require taxpayers, advisors and other persons to disclose to a tax authority information in respect of certain transactions or other matters. These laws and regulations may require a disclosure to be made by PwC or by other PwC firms. The parties shall cooperate with each other with respect to making any required disclosure by either party. If PwC believes it is required to make such disclosure, PwC will make the disclosure, and where applicable, coordinate with other PwC firms, if disclosure is required by other PwC firms. Where a party is required to make such a disclosure, the party, where practicable, shall share that disclosure with the other party before it is made to the relevant tax authority. We will charge for our time incurred on any required disclosure at our agreed-upon hourly rates.

Standard Terms of Business

The Standard Terms of Business attached hereto are an integral part of this Agreement. The Engagement Letter should be read in conjunction with the Standard Terms of Business. In the event of conflict or inconsistency between the terms of business set forth in this Engagement Letter and the Standard Terms of Business, the terms of business in this Engagement Letter shall take precedence.

Governing law and jurisdiction

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

Acknowledgement and acceptance

You hereby acknowledge that PricewaterhouseCoopers Corporate Finance Inc. has not made any warranties or guarantees of any nature with respect of the success or satisfactory conclusion of the Transaction or as to the economic, financial or other results which may be obtained or experienced by you as a result of any such acquisition.

We are pleased to have the opportunity to provide our services to Earth Boring and appreciate your confidence in us. If you have any questions, please call please call Eric Castonguay, Managing Director,



Mr. Eugene Woodbridge
Earth Boring Co. Limited
May 20, 2025

at (416) 722 3418, Bryan Allsopp, Managing Director at (613) 851 0550, or Pierre-Yves Morisset, Managing Director, at (604) 332 7379 who will lead our engagement team. If the services outlined herein are in accordance with your requirements and if the above terms are acceptable to you, please have one copy of this letter signed in the space provided below and return it to us.

Yours very truly,
PricewaterhouseCoopers Corporate Finance Inc.

Eric Castonguay
Managing Director

Bryan Allsopp
Managing Director

Pierre-Yves Morisset
Managing Director

Encl. Standard Terms of Business



Mr. Eugene Woodbridge
Earth Boring Co. Limited
May 20, 2025

Confirmation of terms of engagement

Having read both the Engagement Letter and the Standard Terms of Business, we hereby consent to the engagement of PricewaterhouseCoopers Corporate Finance Inc. upon the terms set out therein.

Earth Boring Co. Limited

By:

A handwritten signature in black ink, appearing to be 'E. Woodbridge', written over a horizontal line.

Eugene Woodbridge

Name of company official

Chief Executive Officer

Title

Date

Yarbridge Holdings Inc.

By:

A handwritten signature in black ink, appearing to be 'E. Woodbridge', written over a horizontal line.

Eugene Woodbridge

Name of company official

President

Title

Date



Mr. Eugene Woodbridge
Earth Boring Co. Limited
May 20, 2025

Trolan Investments Ltd.

By:

Signed by:
Carmen Yarley
096D02D207AA479...

Carmen Yarley
Name of company official

President
Title

Date

In Process

Yarfield Services Limited

By:

Signed by:
Carmen Yarley
096D02D207AA479

Carmen Yarley
Name of company official

President
Title

Date

Standard Terms of Business

1	Introduction
2	PwC firms, service providers and subcontractors
3	Your responsibilities
4	Information protection
5	Working papers
6	Liability
7	Termination
8	Procedures for accepting a new client
9	Governing law
10	General

1 Introduction

- 1.1 **Interpretation** – In this agreement, the following words and expressions have the meaning given to them below:
- **agreement** – these terms and the engagement letter to which they relate (including any schedules).
 - **deliverables** – the deliverables set out in the engagement letter.
 - **PwC, we, us or our** – refer to PricewaterhouseCoopers Corporate Finance Inc., or such affiliated legal entity that has signed the engagement letter.
 - **services** – the services set out in the engagement letter.
 - **you, your** – the party or parties, including their management, to the agreement (excluding us).
- 1.2 **Changes** – Either we or you may request a change to the services, deliverables or this agreement. Any change will be effective only when agreed in writing by both parties.
- 1.3 **Services/deliverables** – We are providing the services and/or deliverables solely for your use and benefit for the purpose set out in the engagement letter or relevant deliverable. Unless otherwise provided in this agreement or as required by law, you shall not disclose a deliverable or its contents to anyone else or make the benefit of the services available to anyone else or authorize any other party to rely upon a deliverable or our services.
- ## 2 PwC firms, service providers and subcontractors
- 2.1 **Our relationship with you** – We are a member of the global network of PricewaterhouseCoopers firms (“**PwC firms**”), each of which is a separate and distinct legal entity.
- 2.2 **Subcontractors and service providers** – We may use other PwC firms, service providers and subcontractors to provide the services and support service delivery. For administrative purposes, services provided by other PwC firms, service providers and subcontractors as well as services provided outside of Canada may be invoiced separately. We remain solely responsible for the services and deliverables.
- 2.3 **Restriction on claims** – You agree that claims or actions relating to the services, deliverables and this agreement shall be brought against us alone, and not against (i) any individual, (ii) another PwC firm (or its partners, members, directors or employees), or (iii) our subcontractors.
- 2.4 **Group members** – You will ensure that no subsidiary, affiliate, associated entity or holding company (unless a party to the agreement) brings any claim or action against us or any other party listed in Section 2.3 in connection with the services, deliverables or this agreement.

3 Your responsibilities

- 3.1 **Your obligations** – The performance of our services and provision of the deliverables depend on you performing your obligations under the agreement. We are not responsible for any consequences arising from you not fulfilling your obligations.
- 3.2 **Solicitation and hiring of PwC personnel** – For the duration of this agreement, and for 12 months after its termination or completion, you will not directly or indirectly solicit or hire any PwC partner or employee who has taken part in the performance of the services without our prior written consent. This clause will not apply to someone you hire through an advertisement in the public domain.
- 3.3 **Information** – In order for us to advise you properly, you will make sure that (i) any information given to us by you, or anyone else working with or for you, is (a) given promptly, (b) accurate and (c) complete; and (ii) any assumptions are appropriate. We will not verify any information given to us relating to the services.
- 3.4 **Oral advice and draft deliverables** – You may rely on our final written deliverables, but should not rely on oral advice or draft deliverables provided during the term of this agreement. If you wish to rely on something we have said to you, please let us know and, if practical we will prepare a written deliverable on which you may rely.
- 3.5 **Provision of legal counsel** – With your prior approval, if we require legal advice, we will consult your legal counsel or retain independent legal counsel who are reasonably satisfactory to you and in either case you will be responsible for the legal fees and disbursements.

4 Information protection

- 4.1 **Confidential information** – Confidential Information means non-public information marked “confidential” or “proprietary” or that otherwise should be understood by a reasonable person to be confidential in nature, provided by a party or on its behalf, but does not include information which:
- a) Is or becomes generally available to the public other than as a result of a breach of an obligation under this clause; or
 - b) Is known to the receiving party prior to disclosure hereunder; or
 - c) Is received from a third party who owes no obligation or confidence in respect of the information.

We and you will use the other's confidential information only in relation to the services or for internal and administrative purposes, and the receiving party will not disclose confidential information except where required by law, professional obligation or as otherwise outlined in the engagement letter. You agree that we may give confidential information to third party service providers, subcontractors and other PwC firms as long as they are bound by reasonable confidentiality obligations.

- 4.2 **Tax structures & confidentiality** – Notwithstanding anything to the contrary in this agreement, you have no obligation of confidentiality with respect to any portion of any materials, advice or deliverables to the extent they concern the tax structure or tax treatment of any transaction or series of transactions, including the details or structure of a transaction or series of transactions under which a Canadian tax benefit could result.

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- 4.3 Personal information** – The Parties agree that should the delivery of the Services require the disclosure of "Personal Information", as defined in the attached Data Protection Addendum, all rights, responsibilities and liabilities with respect to the Personal Information shall be governed in accordance with the Data Protection Addendum, including all applicable Schedules, attached hereto as Exhibit A.
- 4.4 Restricted data** – As certain jurisdictions have strict laws around exporting restricted classes of data, you agree to advise us in writing immediately if any software, information, or other materials that may be disclosed to, or accessed by us in performing the services is subject to export control restrictions under applicable law.
- 4.5 Data analytics** – Notwithstanding any other provision of this agreement, PwC and other PwC firms may use confidential information to develop, enhance, modify and improve technologies, tools, methodologies, services and offerings, and/or for development or performance of data analysis or other insight generation. Information developed in connection with these purposes may be used or disclosed to you or current or prospective clients to provide them services or offerings. PwC and other PwC firms will not use or disclose confidential information in a way that would permit you to be identified by third parties without your consent.
- 4.6 Referring to you and the services** – We may wish to refer to you and the services we have performed for you when marketing our services. You agree that we may do so, as long as we do not disclose your confidential information.
- 4.7 Working with competitors** – You agree that we may work with your competitors or other parties whose interests may conflict with yours, as long as we do not disclose your confidential information and we comply with our ethical obligations.
- 4.8 Information request** – If we receive a request from a third party (including a demand from a government agency or a regulatory authority, subpoena or summons) for information, we will promptly notify you, where not prohibited by law or other authority.
- 4.9 Reimbursement of costs incurred** – You agree to reimburse us for our professional time and expenses, as well as reasonable fees and expenses of our legal counsel, incurred by us in responding to any investigation that is requested or authorized by you, or an investigation of you required by government regulation, subpoena or other legal process.
- 4.10 Anti-money laundering** – We are subject to anti-money laundering and anti-terrorist financing obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the regulations made thereunder and the *Criminal Code* (Canada). Under certain circumstances, PwC is legally required to submit reports to the Financial Transactions and Reports Analysis Centre of Canada, the Royal Canadian Mounted Police and/or the Canadian Security Intelligence Service. PwC may submit such reports notwithstanding any confidentiality obligations.
- 4.11 Reviews of us** – We are required to meet certain professional standards in the performance of our services. As such, we are regulated or overseen by various professional and regulatory bodies both in Canada and abroad (which bodies will depend on the nature of the services performed under this agreement). These professional and regulatory bodies have the right to inspect our files, including working papers and

other work product(s) relating to these services or the services provided in prior years to determine whether professional standards have been met. We may, from time to time, receive requests or orders from such bodies to provide them with information and copies of such working papers. We intend to provide such information and working papers in response to such requests without further notice to you. Where a regulatory or professional body requires us to disclose information and working papers that includes any document over which you have expressly informed us that you assert privilege, we will use reasonable efforts to refuse access to such document(s), and where permissible use reasonable efforts to promptly notify you of the disclosure requirement to seek your consent to disclose, subject to sections 4.8 and 4.10 herein. To ensure we can identify and withhold (to the extent permitted) your privileged documents from disclosure, documents provided to us that are privileged must be marked "PRIVILEGED". We acknowledge that should you provide your consent to the disclosure of your privileged documents to a regulatory or professional body pursuant to a review of us, it is not your intention to negate or waive the privilege, and we will use reasonable efforts to convey that intention to the regulatory or professional body.

5 Working papers

- 5.1 Ownership** – Subject to Section 5.2, any documents prepared by us or for us (other than deliverables) in connection with this agreement belong to us.
- 5.2 Intellectual property** – Subject to the restrictions on disclosure and reliance contained in this agreement, you will own all intellectual property contained in the deliverables except as follows: we retain ownership of our working papers, pre-existing materials and any general skills, know-how, processes, or other intellectual property (including a non-client specific version of any deliverables) which we may have discovered or created as a result of the services. You have a non-exclusive, non-transferable license to use such materials included in the deliverables for your own internal use as part of such deliverables.

6 Liability

- 6.1 Limitations on liability** – Except to the extent finally determined to have resulted from our gross negligence or intentional misconduct, our aggregate liability for all claims, losses, liabilities or damages in connection with this agreement or the services, whether as a result of breach of contract, tort (including negligence) or otherwise, regardless of the theory of liability asserted, is limited to no more than the total amount of fees paid to us for the particular service giving rise to the liability under this agreement, and we shall only be liable for our proportionate share of any loss or damage, based on our contribution relative to the others' contributions. In addition, we will not be liable in any event for lost profits, consequential, indirect, punitive, exemplary or special damages. Also, we shall have no liability arising from or relating to any third party hardware, software, information or materials selected or supplied by you. In no event shall we be liable to you or any third party for any claim, liability, loss, damage, cost or expense attributable to any act, omission or misrepresentation by you, your affiliates or your respective personnel.
- 6.2 Indemnification** – You agree to indemnify and hold us and our personnel harmless from and against any and all third party claims, losses, liabilities and damages arising from or relating to the services or deliverables under this agreement,

Standard Terms of Business

except to the extent finally determined to have resulted from our gross negligence or intentional misconduct relating to such services and/or deliverables.

- 6.3 **Unlimited liability** – Nothing in the agreement will limit a person's liability for (i) death or personal injury by that person's negligence, (ii) that person's fraud or (iii) anything else that cannot by law be limited.
- 6.4 **Liability in Quebec** – Any of our personnel who are members of the Ordre des comptables professionnels agréés du Québec and perform services in Quebec assume full liability arising from the practice of their profession. The limitations of liability in this agreement shall not apply to limit the liability of such individuals, and such limitations shall be deemed to not be included in this agreement.

7 Termination

- 7.1 **By either party** – Either party may terminate this agreement, for any reason, upon written notice to the other party. We will not be liable for any loss, cost or expense arising from such termination.
- 7.2 **Fees payable on termination** – You agree to pay us for all services we perform and deliverables we provide up to the date of termination, including services performed, work-in-progress and expenses incurred.
- 7.3 **Success fees** – You shall pay us the full amount of a success fee, contingency fee or similar performance-based fee if: (i) this agreement is terminated by you or expires, and (ii) the engagement letter provides that you will pay us such fee upon successful completion of the services or deliverables, and (iii) a transaction contemplated by the services or deliverables is completed with a third party within two years of the termination or expiration of the agreement and (a) we introduced the third party to you, or (b) the third party was the subject of any advice or assistance provided by us to you, or (c) the third party was engaged in any discussion with you during the term of the agreement. Such fee shall be based on the consideration of such transaction as outlined in the engagement letter. This obligation is in addition to any other obligation to pay or reimburse us under this agreement.

8 Procedures for accepting a new client

- 8.1 **Identification and verification** – In connection with U.S. terrorism and money laundering laws, we are required to obtain and record information to verify the identity of each person with whom we conduct securities business.

9 Governing law

- 9.1 **No opinion** – Unless otherwise stated in the engagement letter, we provide no opinion or other form of assurance with respect to the company's compliance with Canadian or US securities regulations, or any other international regulatory requirements, your procedures or whether the company's procedures are sufficient for your purposes.
- 9.2 **Law and jurisdiction** – The agreement and any dispute arising from it, whether contractual or non-contractual, will be governed by the laws of the province set out in the engagement letter and the federal laws of Canada applicable therein and are subject to the exclusive jurisdiction of the courts of the province set out in the engagement letter.
- 9.3 **U.S. clients** – If you or the company are U.S. entities, this section applies. We are owned by professionals who hold Chartered Professional Accountants of Canada (CPA) licenses. Some, but not all, partners are also licensed

Certified Public Accountants in the United States (U.S. CPAs). Depending on the nature of the services we provide, non-U.S. CPA holders may be involved in providing services to you.

10 General

- 10.1 **Matters beyond reasonable control** – No party will be liable (other than payment obligations) to the other if it fails to meet its obligations due to matters beyond its reasonable control.
- 10.2 **Payment of fees** – If we do not receive payment within 30 days of any invoice date, we will be entitled to charge you interest accruing on the amount owed to us at the annual interest rate of 15%, and, after 45 days of the invoice date, to suspend all work until the amount owed is paid in full. If you disagree with us or question any amount due under an invoice that we submit, you will communicate such disagreement to us, in writing, within 30 days of the invoice date. Any claim not made within that period will be deemed to be waived.
- 10.3 **Entire agreement** – The agreement, once executed by both parties, forms the entire agreement between the parties in relation to the services and deliverables. It replaces any earlier agreements, representations or discussions, including non-disclosure agreements entered into in advance of this agreement.
- 10.4 **Your actions** – Where you consist of more than one party, an act or omission of one party will be regarded as an act or omission of all.
- 10.5 **Assignment** – Without written consent, neither of us may assign any of our rights, obligations or claims under this agreement.
- 10.6 **Survival** – Any clause that is meant to continue to apply after termination of this agreement will do so.
- 10.7 **Severability** – If a court or regulator with proper jurisdiction determines that a provision of this agreement is invalid, then that provision will be interpreted in a way that is valid under applicable law or regulation. If any provision is invalid, the rest of this agreement will remain effective.

Data Protection Addendum

This Data Protection Addendum (this "**Addendum**") is made a part of the engagement letter (the "**Engagement Letter**") or the Statement of Work, as applicable, to which it is attached, by and between PricewaterhouseCoopers Corporate Finance Inc. ("**PwC**") and PwC's Client as defined in the applicable Engagement Letter and our Statement of Work to which this Addendum is attached (the "**Agreement**"). Capitalized terms used in this Addendum but not defined herein will have the meanings assigned to such terms in the Agreement. If there is a conflict or inconsistency between the terms contained in the Engagement Letter, this Addendum, and/or the Statement of Work (if any), the following order of precedence shall apply: (i) the Statement of Work (if any); (ii) this Addendum; and then (iii) the Engagement Letter. This Addendum sets forth the confidentiality and security requirements for Client Personal Information (as defined below).

1. For purposes of this Addendum, (i) the term "**process**" or "**processing**" shall mean any operation or set of operations which is performed upon Client Personal Information, whether or not by automatic means, such as collection, use, disclosure (including disclosure by transmission), recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, dissemination or otherwise making available, alignment or combination, blocking, erasure, disposal, or destruction; and (ii) the term "**Services**" shall have the meaning set forth in the Agreement or, if the Agreement does not define "Services", shall mean the services to be performed by PwC as set forth in and pursuant to the Agreement.
2. "**Client Personal Information**" shall mean information that relates to an identified or identifiable individual that is provided by or on behalf of Client to PwC in connection with PwC's performance of Services pursuant to the Agreement, or is collected by PwC on Client's behalf, but does not include (1) any information that has been anonymized or aggregated such that there is no serious possibility it can be used to identify an individual, whether on its own or in combination with other information, or that is otherwise anonymized such that the information no longer relates to an identified or identifiable individual or that is not personal information under applicable data protection laws, including but not limited to, and only to the extent applicable, the *Personal Information Protection and Electronic Documents Act, SC 2000, c 5, Quebec's An Act Respecting the Protection of Personal Information in the Privacy Sector, chapter P-39.1 and the General Data Protection Regulation (EU) 2016/679* (the "**GDPR**") (collectively, "**Applicable Data Protection Laws**"). The categories of data subjects or individuals and types of Client Personal Information anticipated to be provided to PwC in connection with the performance of Services are set forth on the attached **Schedule A**, provided that, in the event the parties execute a Statement of Work pursuant to the Engagement Letter subsequent to date of this Addendum, such Statement of Work shall set forth the categories of data subjects and types of Client Personal Information to be provided to PwC in connection with its performance of Services thereunder. Client shall not provide PwC with Client Personal Information except as agreed by the parties and set forth in **Schedule A** or the applicable Statement of Work (if any).
3. PwC shall process Client Personal Information in accordance with Applicable Data Protection Laws and only in accordance with Client's instructions as established in this Addendum and/or the Agreement. PwC shall process Client Personal Information solely: (i) for the purpose of providing the Services; (ii) for any other purposes identified in this Addendum and/or the Agreement; and (iii) as required by applicable law, regulation, or professional standards, in each case for the duration of the Engagement Letter or Statement of Work, as applicable (or longer to the extent permitted by applicable law).
4. When Client is established in the European Economic Area (the "**EEA**"), Switzerland, or the United Kingdom (the "**UK**"), or when Client Personal Information relates to individuals in the EEA, Switzerland, or the UK ("**EEA Personal Information**"), then the additional provisions set out in **Schedule B** to this Addendum shall apply to PwC's processing of such Client EEA Personal Information in addition to this Addendum. When PwC processes Client EEA Personal Information as a **controller** (as such term is defined by the GDPR), PwC shall do so in accordance with the body of this Addendum and Section 1 of **Schedule B**. When PwC processes such Client Personal Information as a **processor** (as such term is defined by the GDPR), PwC shall do so in accordance with the body of this Addendum and PwC's obligations under Article 28 of the GDPR as set forth in Section 2 of **Schedule B**.
5. Unless agreed by the parties and set forth in **Schedule A** or the applicable Statement of Work (if any), Client shall not provide PwC with access to Client EEA Personal Information.
6. In the event that EEA Personal Information is transferred from the Client to PwC pursuant to the Agreement, PwC agrees to: (i) comply with this Addendum as well as Applicable Data Protection Laws for as long as PwC has access to EEA Personal Information; and (ii) where PwC permits access to EEA Personal Information by: (a) Subcontractors (to the extent defined in the applicable Engagement Letter and/or Statement of Work), or (b) other PwC Firms or Subprocessors (as defined in **Schedule D** below), require such party to provide at least the same level of protection as is required by this Addendum and to adhere to Applicable Data Protection Laws governing cross-border data transfers (including, but not limited to, through the use of Standard Contractual Clauses, Binding Corporate Rules, and/or adequacy decisions as issued by the European Commission).
7. For the purposes of this Addendum, Client Personal Information shall be processed for the purpose of delivering the Services and for administrative, regulatory compliance or back-office support purposes, along with any other purposes identified in the Agreement or this Addendum. PwC shall process the Client Personal Information for the duration of the Agreement (or longer to the extent permitted by applicable law). To the extent that PwC is required by applicable law to process the Client Personal Information outside of the documented instructions given by Client, PwC shall inform the Client of that legal requirement before processing unless such disclosure is prohibited by applicable law.

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8. PwC will, to the extent legally permissible, notify Client if PwC receives a request from a data subject or individual regarding their Client Personal Information seeking to exercise such data subject's or individual's rights under Applicable Data Protection Laws ("**Data Subject Request**"), and will, on Client's reasonable request, provide reasonable assistance in connection with Client's response to such Data Subject Request. Client will pay for any reasonable, documented or actual costs incurred by PwC in relation to providing such assistance.
9. The parties acknowledge that PwC does not maintain compliance with the Payment Card Industry Data Security Standard, and Client therefore agrees that it will not provide PwC, directly or indirectly, with access to any payment card information, including without limitation any information relating to a payment card transaction except to the extent such access: (i) is expressly agreed upon in the Agreement; and (ii) occurs solely at a Client facility utilizing Client computing devices and systems.
10. PwC will implement and maintain the security controls set forth in the attached **Schedule C**, which are designed to comply with Applicable Data Protection Laws and protect against the unauthorized or unlawful processing, accidental loss, destruction, or damage of information such as Client Personal Information. Client acknowledges that PwC may change the security controls through the adoption of new or enhanced security technologies, provided that such changes do not diminish the level of security of Client Personal Information in PwC's possession, custody, or control, and Client authorizes PwC to make such changes.
11. On Client's written request, not more than once annually during the term of the Agreement, PwC will accurately complete a written security and privacy assessment questionnaire related to the Services, provided that doing so does not violate applicable law or PwC's confidentiality obligations, meet with Client to discuss the results of the assessment and answer questions regarding PwC's information security program, and reasonably treat any noted assessment deficiencies based upon risk severity.
12. Client represents that it shall comply with Applicable Data Protection Laws and acknowledges and agrees that, as between the parties, Client is responsible for providing any required notices to, and/or obtaining any required consents or authorizations from, data subjects and individuals with respect to their Client Personal Information and/or regulatory authorities, as applicable, in connection with Client Personal Information. Client is responsible for the accuracy of Client Personal Information transferred or disclosed to PwC.
13. PwC will notify Client without undue delay upon learning of any breach of PwC's security safeguards leading to the accidental or unlawful destruction, loss, theft, alteration, unauthorized collection, use, viewing, disclosure or communication of or access to Client Personal Information on systems or in locations managed by or otherwise controlled by PwC or in PwC's possession or custody that is in breach of this Addendum (a "**Security Incident**"). PwC shall take reasonable steps to mitigate the effects of, and to minimize any damage resulting from, such Security Incident. At Client's reasonable request and subject to applicable law and PwC's confidentiality obligations, PwC agrees to meet with Client to discuss, as applicable and available at the time, the procedures that were followed during the investigation of any Security Incident, the chain of custody information, the forensic analysis of event logs used to determine the root cause, any restoration of data that may be required, and the remedial/corrective actions to be taken to prevent the Security Incident from occurring again.
14. On Client's written request at termination or expiration of the Agreement, PwC shall, where feasible, promptly and securely destroy and confirm such destruction of all Client Personal Information in its possession or custody (including, without limitation, all electronic copies such as on cloud-based infrastructure, hard drives, backup tapes, portable devices, optical, magnetic, or other storage media, as well as all hard copies) or, at the request and cost of Client, return such Client Personal Information in its possession or control. Notwithstanding the foregoing, PwC shall be permitted to retain copies of Client Personal Information consistent with its document retention policies or as required by applicable law or professional standards. Any Client Personal Information so kept shall be maintained in accordance with PwC's obligations under this Addendum. To the extent computer backups are created as part of our standard operating procedures, PwC will confidentially maintain those backups until such time they are securely destroyed in accordance with the applicable destruction schedule, typically 30 calendar days.

Data Protection Addendum

Schedule A

Client Personal Information

1. Nature and purpose of processing Client Personal Information

The Client Personal Information provided to PwC in connection with its performance of the Services shall be for the term of the Agreement, provided that Client Personal Information shall not be processed for longer than is necessary for the purpose for which it was collected or is being processed (except where a statutory exception applies).

The processing of Client Personal Information is PwC's provision of the applicable Services under the Agreement, which shall involve performance on behalf of the Client of the tasks and activities set out in the Agreement for the purpose of providing those Services.

2. Types of Client Personal Information to be processed

PwC may process any or all of the following types / categories of Client Personal Information, and any additional types of Client Personal Information, as set out in the Agreement and as relevant in the context of the Services including:

- Personal Information, such as name, address, contact information, financial information, employment and education details, goods or services, visual images, personal appearance and behaviour, geolocation data, etc.
- Sensitive Personal Information / other categories of Personal Information, including information relating to physical or mental health data, genetic data or biometric data, criminal offences and alleged offences and proceedings, racial or ethnic origin, religious or philosophical beliefs, trade union membership, sex life or sexual orientation.

3. Categories of Data Subjects

Data subjects may include any or all of the following individuals: Client's current and former employees, members, partners, officers, contractors and staff; Client's current and former customers and/or individuals who receive goods and services from Client; research participants, consultants and other professional experts; and other categories of data subjects as set out in the Agreement and as relevant in the context of the Services.

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Schedule B GDPR Specific Provisions

In addition to the terms in the body of this Addendum, the following terms apply to the processing of Client Personal Information where Client is established in the EEA, Switzerland, or the UK or where Client Personal Information relates to individuals in the EEA, Switzerland, or the UK.

1. Where PwC acts as a controller, PwC may process such Client Personal Information for the purposes of: (i) providing the Services; (ii) administering, managing, and developing PwC's business and services; (iii) security, quality, and risk management activities; (iv) providing Client with information about PwC and its range of services; and/or (v) complying with any applicable requirement of law, regulation, or professional standards.
2. Where PwC acts as a processor when providing Services, the terms of this Section 2 shall apply.
 - a. The subject-matter and duration of the processing, nature and purpose of the processing, and types of Client Personal Information and categories of data subjects are set out in Section 2 of the body of this Addendum, **Schedule A**, and the applicable Statement of Work (if any).
 - b. Client hereby grants PwC general written authorization to engage those processors permitted under the Agreement and this Addendum, including without limitation Section 11 of this Addendum. PwC shall inform Client of any changes concerning the addition or replacement of Other PwC Firms and/or primary back-office PwC Subcontractors by updating the respective hyperlink(s) set forth in **Schedule D** of this Addendum. If Client notifies PwC in writing of any objections to such changes, PwC shall work with Client in good faith to find a commercially reasonable, mutually agreeable resolution to such objection.
 - c. Furthermore, PwC shall:
 - i. process Client Personal Information only on documented instructions from Client, including with regard to transfers to a third country or an international organization, unless required to do so by applicable law, in which case PwC shall inform Client of that legal requirement before processing such Client Personal Information unless that law prohibits such disclosure;
 - ii. immediately inform Client if, in PwC's opinion, an instruction from Client infringes Applicable Data Protection Laws;
 - iii. ensure that persons authorized by PwC to process Client Personal Information have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - iv. take the technical and organizational measures set forth in **Schedule C** of this Addendum;
 - v. at Client's request, taking into account the nature of the processing, assist Client by implementing appropriate technical and organizational measures, insofar as this is possible, to assist Client with Client's obligation to respond to Data Subject Access Requests (to the extent that the relevant Client Personal Information is not accessible to Client through the Services or otherwise);
 - vi. at Client's request, assist Client with Client's obligations under Articles 32-36 of the GDPR considering the nature of processing and the information available to PwC;
 - vii. at Client's request, delete or return to Client all Client Personal Information in accordance with Section 14 of this Addendum; and
 - viii. make available to Client all information necessary to demonstrate PwC's compliance with the obligations laid down in this Addendum and allow for and contribute to audits conducted by Client or another auditor mandated by Client that is not a PwC competitor. For the avoidance of doubt, the audits described in the preceding sentence shall be conducted solely as described in Section 11 of this Addendum.

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Schedule C Information Security Controls

1. Internal Organization
 - a. PwC maintains a dedicated Information Risk & Security group, led by its Chief Information Security Officer. The Information Risk & Security team includes specialists in threat and vulnerability management, incident response, application security and IT risk management.
2. Human Resources Security
 - a. PwC personnel receiving access to Client information undergo pre-employment background checks.
 - b. PwC partners, principals, and staff are required to agree to maintain the confidentiality of Client information and to complete information security and privacy awareness training.
3. Access Control
 - a. PwC follows a formal process to grant or revoke access to PwC resources. System access is based on the concepts of least-privilege and need-to-know-access, so that authorized access is commensurate with defined responsibilities.
 - b. PwC has established documented procedures for secure creation and deletion of user accounts, including processes to disable and/or delete accounts for terminated personnel.
 - c. PwC's security policy establishes password requirements that include password change, reuse and complexity.
4. Physical and Environmental Security
 - a. Data centers used by PwC are surrounded by perimeter fencing and require key card access through multiple gates to enter the facility. Access to the data centers is limited based on role, not position. Access is strictly limited to authorized security personnel and the facilities team.
 - b. Security systems and supporting controls are implemented in all PwC offices to provide access control, video monitoring and auditing services.
5. Operations Management
 - a. PwC's IT organization has established and maintains a standard operating procedures governance process, including a repository of procedures, formal review and approval processes, and revision management, as well as a change control process, which includes risk assessment, test and back out procedures, communication planning, management review, and approval components.
 - b. PwC maintains separate development and production environments. Lab environments are required to be separated from production environments by firewalls. PwC has established procedures requiring the use of the change management process to transfer changes from development to production.
 - c. PwC uses enterprise class security solutions to provide a secure computing environment. These solutions are centrally managed and configured to retrieve updates automatically. PwC laptops run a security suite which includes virus protection anti-spyware, firewalls, host intrusion detection, application whitelisting, endpoint rights management, privileged user management, whole disk encryption and device access control that prevents writing to any device other than PwC encrypted devices. PwC server systems run server class versions of the antivirus and application whitelisting solutions used for laptops.
 - d. PwC laptops use software that provides automated, mandatory encrypted backup. PwC server systems have their data securely replicated to a recovery facility. When written to tape media the data is encrypted and stored off-site using a top tier third party service.
 - e. PwC systems are configured to use a network time server designed to ensure log synchronization for event correlation. PwC maintains system audit logs for servers and network devices that log the occurrence of system faults and security events and facilitate examination of abnormal activities. Security logs are collected to a central security information and event management (SIEM) system to prevent modification or removal of administration and user activities.
 - f. PwC has established processes and procedures for performing continuous vulnerability scans of its IT systems. Vulnerability assessment reports are presented to both IT operations organization and IT leadership. PwC has patch management processes and tools to assess and deploy operating system and application-specific patches and updates. PwC continually reviews patches and updates as they are released to determine their criticality. Patches released on a regularly scheduled basis are applied following the release; off-cycle or other patches determined to be critical are applied as needed to ensure protection from vulnerabilities.

Data Protection Addendum

6. Communications Security

- a. Only IT-approved and managed wireless networks are permitted on the PwC network, and technologies are in place to identify and disable ports with rogue wireless networks attached. Wireless access security controls are centrally managed and use WPA2 Enterprise for encryption and authentication.
- b. All Internet ingress points feature firewall segregation. Intrusion detection system appliances are located at strategic points in the network. The intrusion detection system feeds a central SIEM system that is monitored by PwC. Firewall logging is enabled to track communications (failed and successful access attempts) between the Internet and the internal PwC network. Console access to the firewalls is limited to administrative personnel. PwC requires encryption in transit of Personal Information transmitted over public or wireless networks. PwC uses virtual private network (VPN) software and two-factor authentication to enable secure, Internet-based remote access to the PwC internal network by PwC personnel and contractor endpoints.

7. Supplier Relationships

- a. PwC has implemented security controls designed to ensure that external parties who provide IT and other back office services to PwC do so in a manner consistent with PwC's standards for the security of information systems. PwC's third-party risk management (TPRM) program is designed to ensure that external parties meet PwC standards through risk categorization, due diligence, contractual requirements, and ongoing monitoring and assessments.
- b. Access to PwC systems is controlled using a least privilege principle (e.g., providers are only permitted a level of access to systems consistent with the business need for access). Access is controlled at the physical, network, platform and application levels.

8. Business Continuity

- a. PwC maintains a Business Continuity Program that evaluates and manages potential threats and responds to actual events to minimize disruption to PwC's services and operations, and is designed so that, should a disaster occur, PwC can continue to deliver on client obligations.
- b. PwC's Business Continuity Management (BCM) Program Office has implemented policies and a management system of activities to support the program, which includes business impact analysis, risk assessments, plan development, testing and exercising, training and awareness, and maintenance.

9. Assessment

- a. During the term of the Agreement, Client may request to assess PwC's compliance with the terms of this addendum, which assessment shall be limited to: (i) PwC's completion of a Client-provided written security self-assessment questionnaire related to the Services performed by PwC under the Agreement, provided that completing such questionnaire does not violate applicable law or PwC's confidentiality obligations; (ii) the parties meeting to discuss the results of the assessment and PwC's information security program; and (iii) PwC's reasonable treatment of any noted deficiencies based upon risk severity.

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Schedule D

Primary PwC Subprocessors

When and how we share personal data and locations of processing

PwC Canada will only share personal data with others when we are legally permitted to do so. When we share data with others, we put contractual arrangements and security mechanisms in place as appropriate to protect the data and to comply with our data protection, confidentiality and security standards.

PwC Canada is part of a global network of firms and in common with other professional service providers, we use third parties located in other countries to help us run our business. As a result, personal data may be transferred outside the countries where we and our clients are located. We have taken steps to ensure all personal data is provided with adequate protection and that all transfers of personal data are done lawfully. Where we transfer personal data of data subjects from the European Economic Area outside of the European Union and European Economic Area to a country not determined by the European Commission as providing an adequate level of protection for personal data, the transfers will be under an agreement which covers GDPR requirements for the transfer of personal data outside the European Union and European Economic Area.

Personal data held by us may be transferred to:

Other PwC member firms

For details of our member firm locations, please visit https://www.pwc.com/gx/en/about/office-locations.html#.

We may share personal data with other PwC member firms where necessary for administrative purposes and to provide professional services to our clients (e.g. when providing services involving advice from PwC member firms in different territories).

We store personal data on our or other PwC member firm servers in the USA, EU and UK. IT support and services are provided by PwC India and PwC's IT Services company.

Our business contacts are visible to and used by other PwC member firms to learn more about a contact, client or opportunity they have an interest in (please see <https://www.pwc.co.uk/who-we-are/privacy-statement/business-contacts.html> more information about how PwC member firms process this type of data).

For more information on how and for what purposes PwC processes personal information, please refer to our Privacy Statement <https://www.pwc.com/ca/en/privacy-policy.html>.

Third party organizations that provide applications/functionality, data processing or IT services to us

We use third parties to support us in providing our services and to help provide, run and manage our internal IT systems. For example, providers of information technology, cloud-based software-as-a-service providers, identity management, website hosting and management, data analysis, data back-up, security and storage services. The servers powering and facilitating that cloud infrastructure are in secure data centers around the world, and personal data may be stored in any one of them. Further details of these providers are included below.

Name	Role	Address	Locations
Google Inc.	Business applications (such as email, documents and calendar)	111 Richmond St. W, 12th Floor Toronto ON M5H 2G4	https://www.google.com/about/datacenters/locations/
Iron Mountain Canada	Physical Document storage	195 Summerlea Rd. Brampton ON L6T 4P6	Canada
Microsoft Canada Inc.	Azure cloud services	CIBC Square, 81 Bay St., Toronto, ON M5J 1J5	https://azure.microsoft.com/en-ca/global-infrastructure/geographies/
Salesforce.com Canada Corp.	Customer relationship management system	10 Bay St, #400 Toronto ON M5J 2N8	https://help.salesforce.com/articleView?id=000314281&language=en_US&type=1&mode=1
Tata Consultancy Services Canada Inc.	IT support and project services	400 University Ave, 25th Floor Toronto ON M5G 1S5	Canada, India and Uruguay

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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-25-00741419-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EARTH BORING CO. LIMITED ET AL.**

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

Proceedings commenced at Toronto

**AFFIDAVIT OF EUGENE WOODBRIDGE
(Sworn May 23, 2025)**

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Lawyers for the Applicants

Court File No. CV-25-00741419-00CL

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

THE HONOURABLE

)

WEDNESDAY, THE 28TH

JUSTICE CAVANAGH

)

DAY OF MAY, 2025

)

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 EARTH BORING CO. LIMITED, YARBRIDGE HOLDINGS INC., TROLAN INVESTMENTS LTD., AND YARFIELD SERVICES LIMITED (individually, an "**Applicant**" and collectively, the "**Applicants**")

SISP APPROVAL ORDER

THIS MOTION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order approving, among other things, the procedures for the Sale and Investment Solicitation Process in respect of the Applicants attached hereto as Schedule "A" (the "**SISP**") was heard this day by judicial videoconference.

ON READING the affidavit of Eugene Woodbridge sworn May 23, 2025 and the exhibits thereto (the "**Woodbridge Affidavit**"), and the second report of BDO Canada Limited dated May ●, 2025 (the "**Second Report**"), in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel to Bank of Montreal ("**BMO**"), the Applicants' senior secured lender, and such other counsel as were present, no one appearing for any other person although duly served as appears from the affidavit of service of ● sworn May ●, 2025, as filed,

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the SISP or the Third Amended and Restated Initial Order granted by Justice Cavanagh dated May 28, 2025 (the “**TARIO**”).

3ENGAGEMENT OF THE SALES ADVISOR

3. **THIS COURT ORDERS** that PricewaterhouseCoopers Corporate Finance Inc. is hereby appointed as the sales advisor (“**Sales Advisor**”) in respect of the Applicants and shall have the powers and obligations set out in the engagement agreement between the Applicants and the Sales Advisor dated May 20, 2025 (“**Sales Advisor Engagement**”), a copy of which is attached to the Woodbridge Affidavit.

4. **THIS COURT ORDERS** that the Sales Advisor shall be entitled to the benefit of and is hereby granted a charge (the “**Sales Advisor Charge**”) on the Property, which charge shall not exceed an aggregate total amount of \$350,000, as security for their professional fees and disbursements incurred at their standard rates and charges, in accordance with the terms of the Sales Advisor Engagement.

APPROVAL OF THE SALE AND INVESTMENT SOLICITATION PROCESS

5. **THIS COURT ORDERS** that the SISP (subject to such amendments in accordance with the terms of the SISP) be and is hereby approved and the Sales Advisor, the Monitor, and the Applicants are hereby authorized to implement the SISP pursuant to the terms thereof.

6. **THIS COURT ORDERS** that the Sales Advisor, the Monitor, and the Applicants are authorized and directed to take any and all actions as may be necessary or desirable to implement and carry out the SISP in accordance with its terms and this Order.

7. **THIS COURT ORDERS** that each of the Monitor, the Sales Advisor, the Applicants and their respective affiliates, partners, employees, directors, representatives, and agents shall have no liability with respect to any and all losses, claims, damages or liability, of any nature or kind, to any person in connection with or as a result of performing their duties under the SISP, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Monitor, the Sales Advisor or the Applicants, as applicable, in performing their obligations under the SISP, as determined by this Court.

8. **THIS COURT ORDERS** that in implementing the SISP, the Sales Advisor and the Monitor shall have all of the benefits and protections granted to it under the CCAA, the TARIO, and any other order of the Court in the within proceedings.

9. **THIS COURT ORDERS** that, pursuant to section 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS), the Monitor, the Sales Advisor, the Applicants and their respective counsel are hereby authorized and permitted to send, or cause or permit to be sent, commercial electronic messages to an electronic address of prospective bidders or offerors (each a “**SISP Participant**”) and to their advisors, or any interested party that the Monitor or the Applicants consider appropriate, but only to the extent required to provide information with respect to the SISP in these proceedings.

10. **THIS COURT ORDERS** that notwithstanding anything contained herein or in the SISP, the Monitor shall not take possession of the Property or be deemed to take possession of the Property.

PROTECTION OF PERSONAL INFORMATION

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Monitor, the Sales Advisor, the Applicants and their respective advisors are hereby authorized and permitted to disclose personal information of identifiable individuals (“**Personal Information**”) to a SISP Participant and to its advisors, including human resources and payroll information, records pertaining to the Applicants’ past and current employees, and information on specific customers, but only to the extent desired or required to negotiate or attempt to complete a transaction in the SISP. Each SISP Participant to whom any Personal Information is disclosed shall maintain and protect the privacy of such Personal Information with security safeguards appropriate to the sensitivity of the Personal Information and as may otherwise be required by applicable federal or provincial legislation. Each SISP Participant to whom any Personal Information is disclosed shall also limit the use of such Personal Information to its participation in the SISP.

APPROVAL OF THE MONITER’S FEES AND ACTIVITIES

12. **THIS COURT ORDERS** that the Pre-Filing Report of the Monitor dated April 16, 2025, the First Report of the Monitor dated April 23, 2025, and the Second Report of the Monitor and the activities of the Monitor as set out therein be and are hereby approved provided, however,

that only the Monitor, in its personal capacity and only with respect to its own liability, shall be entitled to rely upon or utilize in any way such approval.

13. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Second Report be and are hereby approved.

GENERAL

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

15. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

16. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America, or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

17. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order without any need for entry and filing.

**Schedule “A”
SISP Procedures**

[*See next page.*]

Schedule “A”

Sale Investment Solicitation Process Bidding Procedures for the business and/or assets of Earth Boring Co. Limited, Yarbridge Holdings Inc., and Trolan Investments Ltd. (collectively, the “Company”)

Overview of the Company

1. The Company is an industry leader in underground construction for complex infrastructure projects in Ontario. The Company is engaged in the business of trenchless construction services, which includes, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling (the “**Business**”). The Company works primarily for municipalities, but also works with a diverse range of other customers in the construction industry to provide critical gas and electrical pipelines, and water and waste management infrastructure throughout the province.
2. On April 17, 2025, the Company sought and obtained protection pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”) and was granted an Initial Order by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), as may be amended, restated, or modified from time to time (the “**Initial Order**”). The Initial Order, among other things, appointed BDO Canada Limited as monitor of the Company (the “**Monitor**”) and approved an interim financing facility from Bank of Montreal (the “**DIP Lender**”).
3. On May ●, 2025, the Court granted an order (the “**SISP Approval Order**”): (i) authorizing the Monitor, with the assistance of the Company, to undertake a sale and investment solicitation process (“**SISP**”) to solicit offers for a sale, recapitalization, or refinancing of the Company’s property, assets, and undertaking (collectively, the “**Property**”), and/or its Business; and (ii) approving the appointment of PricewaterhouseCoopers Inc. as sales advisor (the “**Sales Advisor**”) to assist the Monitor and the Company in the implementation of the SISP.
4. Among other things, the SISP Approval Order approved the procedures set out in this Schedule (the “**Bidding Procedures**”) for the solicitation of offers (each, a “**Bid**”) for the acquisition of the Property and/or the Business, or the restructuring, recapitalization, or refinancing of the Business.

Objectives and Commencement of the SISP

5. The SISP is intended to solicit interest in and opportunities for a restructuring, recapitalization, sale, or refinancing of the Company’s assets and Business operations (the “**Opportunity**”). The Opportunity may include one or more of the following: a restructuring, recapitalization, investment, sale, refinancing, and/or investment in the Company, including the Company’s Property and Business operations.
6. Any transaction consummated pursuant to the SISP will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Monitor, the Sales Advisor, the Company, or any of their respective directors, officers, agents, advisors, or other representatives unless otherwise agreed in a definitive agreement.

7. All of the Company's right, title, and interest in and to any of its Property sold pursuant to any transaction(s) contemplated herein will be sold free and clear of all liens, security interests, mortgages, charges, and other encumbrances, except those expressly assumed by a purchaser, pursuant to a Court order approving such sale.

Timeline

8. The following table sets out the key milestones and deadlines under the SISP, which milestones and deadlines may be extended or amended by the Monitor, in its discretion, by up to two (2) weeks without Court approval:

Milestone	Deadline
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA (each as defined below) and access to VDR	As soon as practical following the date of the SISP Approval Order.
Phase I Bid Deadline (non-binding letter of intent)	June 20, 2025
Phase II: Commencement of Due Diligence for Selected Bidders	June 23, 2025
Phase II Bid Deadline (binding offer)	July 18, 2025
Selection of Successful Bid (assuming No Auction)	July 21, 2025
Definitive Transaction Agreement	July 25, 2025
Hearing of the Sale Approval Motion / Transaction Execution Date	Subject to availability of the Court
Closing Date Deadline (outside date)	August 11, 2025

Any extensions or amendments (other than the Closing Date Deadline) shall be communicated to all Bidders in writing and posted on the Monitor's Website at: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/earth-boring-co-limited>

Solicitation of Interest: Notice of the SISP

9. The Sales Advisor shall be entitled, but not obligated, to arrange for a notice to be published in any newspaper or industry journal as the Monitor considers appropriate, if it believes that such advertisement would be useful in the circumstances.
10. The Sales Advisor, with the assistance of the Company and the Monitor, and in consultation with the DIP Lender has prepared:

- (a) a list of potential buyers ("**Interested Parties**");
 - (b) an initial offering summary ("**Teaser Letter**");
 - (c) a form of non-disclosure agreement ("**NDA**");
 - (d) a confidential information memorandum describing the opportunity ("**CIM**"); and
 - (e) a virtual data room (the "**Data Room**"), which shall include a form of asset purchase agreement ("**Template APA**") to be used by Bidders (defined below) to make Qualified Purchase Bids (defined below).
11. The Sales Advisor will manage all communications with Interested Parties as well as Potential Bidders, Qualified Bidders, the Successful Bidder (each as defined herein and collectively, "**Bidders**" and each, a "**Bidder**"), prior to and after receipt of Binding Offers ("**Binding Offers**"). This shall include facilitating the delivery of all communications, contacting prospective bidders and providing them with the Teaser Letter and CIM, coordinating the execution of NDAs, facilitating any requests for tours of the project sites, managing the process of answering inquiries from prospective Bidders, coordinating any presentations that may be requested by Potential Bidders (defined below), soliciting and tracking all Binding Offers, and reviewing and negotiating transaction documentation.
 12. The Sales Advisor has sent the Teaser Letter and the form of NDA to all applicable Interested Parties and will send them to any other Interested Party who requests a copy of the Teaser Letter and NDA, or who is identified by the Sales Advisor, the Company, or the Monitor as an Interested Party, as soon as reasonably practicable following such request or identification, as applicable.

Sale or Investment Opportunities

13. Bidders will have the opportunity to submit a bid in the form of either a Sale Proposal or an Investment Proposal (each as defined below). Sale Proposals and Investment Proposals may be in respect of only some of the Property, and any such proposal will not be precluded from consideration as an acceptable Bid.
14. In the event of an offer to acquire all or part of the Property (a "**Sale Proposal**"), all of the Company's relevant right, title, and interest in and to the Property may be acquired pursuant to an approval and vesting order of the Court, including pursuant to a reverse vesting order if necessary and appropriate, free and clear of all pledges, liens, security interests, charges, options, hypothecs, mortgages, and interest thereon, except to the extent otherwise set forth in a definitive purchase agreement executed with a Successful Bidder.
15. In the event of an offer for a broad range of executable transaction alternatives (restructuring, recapitalization, and/or refinancing) involving an investment in the Company (a "**Investment Proposal**") for any or all of the Business, such proposal can be implemented by way of a combined Plan and Arrangement.

SISP - Phase I

16. During Phase I of the SISP, the Sales Advisor, with the assistance of the Company and the Monitor, will solicit non-binding letters of intent ("**LOIs**") from Interested Parties to acquire or refinance the Business and/or Property (a "**Potential Transaction**").
17. Any Interested Party who wishes to participate in the SISP must provide to the Sales Advisor:
 - (a) an NDA executed by it, and a letter setting forth the identity of the Interested Party, the contact information for such Interested Party, and full disclosure of the direct and indirect principals of the Interested Party. The NDA shall include an acknowledgement of the terms of the SISP; and
 - (b) if the Monitor considers it necessary, such form of financial disclosure that allows the Monitor to make a reasonable determination as to the Interested Party's financial and other capabilities to consummate a sale transaction.
18. Any Interested Party that: (i) has delivered an executed NDA; and (ii) has provided the Sales Advisor with satisfactory evidence of its capability—based on the availability of financing, its experience, and other relevant considerations—to be able to consummate a sale transaction pursuant to the SISP, will be determined by the Sales Advisor in consultation with the Monitor to be a "**Potential Bidder**".
19. The Sales Advisor will provide each Potential Bidder with a copy of the CIM and access to the Data Room. Potential Bidders must rely solely on their own independent review, investigation, and/or inspection of all information and of the Business and/or Property in connection with their participation in the SISP and any transaction they enter into with the Company. The Company, the Sales Advisor, the Monitor, and their respective directors, officers, agents, and advisors make no representation or warranty whatsoever as to the information (including, without limitation, with respect to its accuracy or completeness): (i) contained in the CIM or the Data Room; (ii) provided through the due diligence process or otherwise made available pursuant to the SISP; or (iii) otherwise made available to a Potential Bidder except to the extent contemplated in any definitive documentation duly executed and delivered by the Successful Bidder (as defined below) and the Company, and approved by the Court.
20. At any time during the SISP, the Monitor may, in its reasonable business judgment, eliminate a Potential Bidder from the SISP, in which case such party will no longer be a Potential Bidder for the purposes of the SISP.
21. The Sales Advisor shall afford each Potential Bidder such access to applicable due diligence materials and information pertaining to the Business and Property of the Company as the Sales Advisor deems appropriate in its reasonable business judgment. Due diligence access may include management presentations, access to the Data Room, on-site inspections, and other matters which a Potential Bidder may reasonably request and which the Sales Advisor in consultation with the Monitor deems appropriate. The Sales Advisor will designate one or more representatives to coordinate all reasonable requests for additional information and due diligence access from each Potential Bidder and the manner in which such requests must be communicated. The Sales Advisor shall not be obligated to furnish any information relating to the Business or the Property to any person other than to Potential Bidders. For the avoidance of doubt, selected due diligence materials may be withheld from certain Potential Bidders during Phase I or II of the SISP, if the Sales Advisor, in consultation with the Monitor and the Company, determines such

information to represent proprietary or sensitive competitive information related to the Business and/or the Property of the Company that should not be provided to a Potential Bidder.

Insider Bids

22. Any shareholder or director of the Company (each an “**Insider**”) may, subject in all respects to such Insider’s compliance with the Bidding Procedures, make a bid in the SISP, provided however that any such intention to bid must be communicated to the Monitor in writing by no later than June 19, 2025 (one day before the non binding agreements are due) at 5:00 p.m. (Toronto Time).
23. If an Insider submits a bid in the SISP, the Sales Advisor and the Monitor shall not share any information with such Insider with respect to the SISP, including any Potential Bidders, Phase I Bids, Phase I Qualified Bids, Phase II Bids, Phase II Qualified Bidders, or the Successful Bid, and notwithstanding any provision herein, shall not be required to consult with the Company.

Phase I Bid Deadline

24. A Potential Bidder that wishes to make an offer pursuant to the SISP must deliver by email a non-binding LOI (a “**Phase I Bid**”) to the Sales Advisor so as to be received by the Sales Advisor not later than 5:00 PM (Toronto Time) on June 20, 2025 (the “**Phase I Bid Deadline**”), with a copy to each of the persons specified in Schedule "B" hereto.

Qualified Phase I Bids

25. A Phase I Bid will be considered a qualified bid only if it meets the following criteria (the “**Phase I Bid Criteria**”):
 - (a) it is submitted on or before the Phase I Bid Deadline in accordance with paragraph 24 herein;
 - (b) it is accompanied by a letter setting forth:
 - (i) the identity of the Bidder and full disclosure of any entities and/or individuals that control the Bidder, and/or the beneficial owner (if any) with the power, directly or indirectly, to cause the direction of the management and policies of the Bidder;
 - (ii) a specific indication of the sources of debt and/or equity capital/financing for the transaction (as applicable), and preliminary evidence of the sources of financing of the purchase price, the availability of such financing, steps necessary and timing to obtain such financing, and any related contingencies, and financial information that would allow the Monitor to make a reasonable determination as to the Bidder’s financial capabilities to consummate the transaction;
 - (iii) a statement that the Bidder expects to be able to consummate a sale, investment, or refinancing transaction pursuant to the SISP on or before the Closing Date Deadline (as defined herein); and

- (iv) such other information as reasonably requested by the Sales Advisor in consultation with the Company;
 - (c) the Phase I Bid identifies or contains the following:
 - (i) the purchase price in Canadian dollars, including details of all Property to be purchased and liabilities to be assumed by the Bidder;
 - (ii) any anticipated approvals and consents required to close the Potential Transaction and any anticipated impediments to such approvals or consents;
 - (iii) specific due diligence required to be conducted during Phase II, if any;
 - (iv) all conditions to closing sought by the Bidder; and
 - (v) any other terms or conditions that the Bidder believes are material to the transaction.
26. In addition to the requirements set out in paragraph 25 herein, a Phase I Bid in respect of a Sale Proposal must include:
- (a) a detailed listing and description of the Property to be included in the Sale Proposal, and a detailed listing of the Property to be excluded from the Sale Proposal;
 - (b) the low and high range of the proposed Purchase Price for such Sale Proposal, the proposed allocation of Purchase Price among the applicable Property, and an explanation of what contingencies and variables may influence the range in which the final Purchase Price will fall (each as defined herein);
 - (c) details as to the Purchase Price for all or part of the Property subject to the Sale Proposal;
 - (d) a list of the key material contracts and leases, if any, the Prospective Bidder wishes to acquire, and the Prospective Bidder's proposed treatment of any related "cure costs";
 - (e) whether the proposed transaction is to be implemented by way of an "Approval and Vesting Order" ("**AVO**") or a "Reverse Vesting Order" ("**RVO**"); and
 - (f) a description of any liabilities to be assumed by the Prospective Bidder, and the Prospective Bidder's estimated value of such assumed liabilities.
27. In addition to the requirements set out in paragraph 25 herein, a Phase I Bid in respect of an Investment Proposal must include:
- (a) a description of the structure of the Investment Proposal;
 - (b) a description of the type and amount of consideration to be allocated to secured creditors, unsecured creditors, and shareholders of the Company;

- (c) the proposed treatment of the Company's stakeholders; and
 - (d) a description of any liabilities to be assumed by the Prospective Bidder, and the Prospective Bidder's estimated value of such assumed liabilities.
28. For greater certainty, the Sales Advisor shall be entitled, either prior to or following the Phase I Bid Deadline, to seek to clarify the terms of a Phase I Bid, or with respect to any of the other requirements of paragraphs 24, 25, 26, and 27 above, and the Sales Advisor in consultation with the Monitor may accept a revised and/or clarified Phase I Bid, provided that the initial Phase I Bid was received prior to the Phase I Bid Deadline.

Assessment of Phase I Bids

29. Promptly after the Phase I Bid Deadline, the Sales Advisor in consultation with the Monitor and DIP Lender:
- (a) will review and assess the Phase I Bids to determine whether they are qualified (such qualified bids being the **"Qualified Phase I Bids"** and the Bidder thereof, a **"Qualified Phase I Bidder"**); and
 - (b) may request clarification of the terms of the Phase I Bids.
30. In assessing whether the Phase I Bids received are Qualified Phase I Bids, the Sales Advisor in consultation with the Monitor and DIP Lender, will consider, among other things, the following:
- (a) whether they meet the Phase I Bid Criteria;
 - (b) the form and amount of consideration being offered, including any purchase price adjustments and/or any non-cash consideration;
 - (c) the demonstrated financial capability of the Bidder to consummate the proposed transaction;
 - (d) the conditions to closing of the proposed transaction; and
 - (e) the estimated time required to complete the proposed transaction and whether, in the Monitor's reasonable business judgment, the transaction is reasonably likely to close on or before the Closing Date Deadline.
31. If the Sales Advisor in consultation with the Monitor and DIP Lender determines that one (1) or more Qualified Phase I Bids are received, then the SISP shall proceed to Phase II.

SISP - Phase II

32. During Phase II of the SISP, each Qualified Phase I Bidder will be granted further access to such due diligence materials and information as the Sales Advisor in consultation with the Monitor in their reasonable business judgment, determines is appropriate and available.

Phase II Bid Deadline and Phase II Bids

33. Qualified Phase I Bidders that wish to make a formal binding Offer pursuant to the SISP (a **"Phase II Bid"**) must submit by email such Offer so as to be received by the Sales Advisor not later than 5:00 p.m. (Toronto Time) on July 18, 2025 (the **"Phase II Bid Deadline"**), with a copy to each of the persons specified in Schedule "B" hereto.
34. In order to be considered a **"Qualified Phase II Bid"**, the offer shall meet the following criteria (collectively, the **"Phase II Bid Criteria"**):
 - (a) be binding and irrevocable until the earlier of: (i) 30 days after the Phase II Bid Deadline, and (ii) approval by the Court of the Successful Bid;
 - (b) include a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Monitor, or such other form of deposit as is acceptable to the Monitor), payable to the Monitor in trust, in an amount equal to 10% of the purchase price contemplated by the Phase II Bid (the **"Deposit"**). All Deposits submitted by Phase II Bidders who did not submit the Successful Bid shall be returned, without interest, as soon as practicable following the date on which any such offers are rejected hereunder. The Deposit forming part of the Successful Bid shall be dealt with in accordance with the asset purchase agreement submitted by the Successful Bidder;
 - (c) provide contact information (including an email address) for the Bidder, and disclose the identity of each entity (including its ultimate shareholders and/or sponsors) that is bidding for the Business and/or Property or otherwise participating in a Phase II Bid, and the complete terms of any such participation;
 - (d) include written evidence of a firm, irrevocable commitment for financing or other evidence of an ability to consummate the proposed transaction or transactions comprising the Phase II Bid, that will allow the Sales Advisor to make a determination as to the bidder's financial and other capabilities to consummate the proposed transaction;
 - (e) include acknowledgments and representations of the Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Business and/or Property, the Company, or otherwise, prior to making its bid; (ii) it has relied solely upon its own independent review, investigation, and/or inspection of the Business and/or Property (including, without limitation, any documents in connection therewith) in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory, or otherwise, regarding the Business and/or Property or the Company or the completeness of any information provided in connection therewith, except as expressly contemplated in any definitive documentation duly executed by the Successful Bidder and approved by the Court;
 - (f) include written evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery, and closing of the transaction contemplated by the Phase II Bid;

- (g) include a description of any desired arrangements with respect to transition services that may be required from the Company in connection with the transaction, including funding for same; not be subject to any conditions precedent except those that are customary in a transaction of this nature; not be conditional upon approval by the Court of any bid protection, such as a break-up fee, termination fee, expense reimbursement or similar type of payment;
 - (h) be governed by the laws of the Province of Ontario and the laws of Canada applicable therein; and
 - (i) be received by the Phase II Bid Deadline; and contemplate closing the transaction set out therein on or before August 11, 2025 (the "**Closing Date Deadline**").
35. In addition to the Phase II Bid Criteria set out at paragraph 5 above, a Sale Proposal submitted by a Qualified Bidder will be considered a "**Qualified Purchase Bid**" only if the Sale Proposal complies with all of the following:
- (a) it includes a duly authorized and executed purchase and sale agreement (a "**Definitive Sale Agreement**"), together with a markup outlining and highlighting all proposed changes from the Template APA, specifying the purchase price, expressed in Canadian dollars, including the cash component thereof and/or the liabilities to be assumed by the Bidder (or the combination of both - the "**Purchase Price**"), together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements) and such ancillary agreements;
 - (b) it contains a detailed listing and description of the Property to be included in the Sale Proposal, or a detailed listing of the Property to be excluded from the Sale Proposal, as well as the value and breakdown of the allocation of the Purchase Price;
 - (c) it does not include any request or entitlement to any break-up fee, expense reimbursement, or similar type of payment;
 - (d) it is not conditional on: (i) the outcome of unperformed due diligence by the Qualified Bidder; and/or (ii) obtaining any financing, and includes an acknowledgement and representation that the Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its Sale Proposal;
 - (e) it fully discloses the identity of each entity that is bidding, or otherwise that will be sponsoring or participating in the Sale Proposal, including the identification of the Qualified Bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
 - (f) it includes evidence, in form and substance reasonably satisfactory to the Sales Advisor 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 contemplated by the Sale Proposal;
 - (g) it contains details of the proposed number of employees of the Company who will

become employees of the Qualified Bidder, and the proposed terms and conditions of employment to be offered to those employees;

- (h) it includes an acknowledgement and representation that the Qualified Bidder will assume the obligations of the Company under executory contracts, unexpired leases, and licenses proposed to be assigned (or clearly identifies the particular contracts, leases, and licenses of the Company, as applicable, that the Qualified Bidder wishes not to assume, or alternatively wishes to assume); contains full details of the Qualified Bidder's proposal for the treatment of related cure costs; and specifies which such assumptions are a condition of closing;
 - (i) to the extent not addressed elsewhere, it includes the proposed treatment of stakeholders;
 - (j) it provides for the closing of the Qualified Purchase Bid by no later than the Closing Date Deadline, or such later date or time as the Monitor, in accordance with the SISF Procedures, may determine appropriate;
 - (k) if the Qualified Bidder is an entity newly formed for the purpose of the transaction, the bid shall contain an equity or debt commitment letter from the parent entity or sponsor, which is satisfactory to the Sales Advisor, and names the Company as a third-party beneficiary of any such commitment letter, with recourse by the Company and the Monitor against such parent entity or sponsor;
 - (l) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of compliance or anticipated compliance with any and all applicable regulatory approvals (including, if applicable, anti-trust regulatory approval), the anticipated time frame for such compliance, and any anticipated impediments for obtaining such approvals; and
 - (m) it contains other information reasonably requested by the Sales Advisor or the Monitor.
36. In addition to the Phase II Bid Criteria set out at paragraph 5 above, an Investment Proposal submitted by a Qualified Bidder will be considered a **"Qualified Investment Bid"** only if the Investment Proposal complies with all of the following:
- (a) it includes duly authorized and executed binding definitive documentation setting out the terms and conditions of the proposed transaction, including the aggregate amount of the proposed equity and/or debt investment, and details regarding the proposed equity and/or debt structure of the Company, if applicable, following completion of the proposed transaction (a **"Definitive Investment Agreement"**);
 - (b) it includes a description of the type and amount of consideration, including equity, if any, to be allocated to secured creditors, unsecured creditors, and shareholders of the Company;
 - (c) it does not include a request or entitlement to a break-up fee, expense reimbursement, or any other similar type of payment(s);
 - (d) it is not conditional on: (i) the outcome of unperformed due diligence by the Qualified Bidder; and/or (ii) obtaining any financing capital, and includes an

acknowledgement and representation that the Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its Investment Proposal;

- (e) it fully discloses the identity of each entity that is bidding, or that is sponsoring or participating in the Investment Proposal, including the identification of the Qualified Bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
 - (f) it provides for the closing of the Qualified Investment Bid by no later than the Closing Date Deadline, or such later date or time as the Sales Advisor in consultation with the Monitor in accordance with the SISF Procedures, may determine appropriate;
 - (g) if the Qualified Bidder is an entity newly formed for the purpose of the transaction, the Investment Proposal shall contain an equity or debt commitment letter from the parent entity or sponsor, and satisfactory to the Sales Advisor, that names the Company as a third-party beneficiary of any such commitment letter with recourse by the Company and the Monitor against such parent entity or sponsor;
 - (h) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of compliance or anticipated compliance with any and all applicable regulatory approvals (including, if applicable, anti-trust regulatory approval), the anticipated time frame for such compliance, and any anticipated impediments for obtaining such approvals; and
 - (i) it contains other information reasonably requested by the Sales Advisor or the Monitor.
37. For greater certainty, Sale Proposals and Investment Proposals may be in respect of only a part or parts of the Business or Property, and such proposal(s) shall constitute a **"Qualified Portion Bid"** if it satisfies the requirements in paragraphs 35 and 36 or 37 herein as applicable, in respect of the Business or Property subject to such proposal, and in such case, such Bidder shall constitute a **"Qualified Portion Bidder."** Each Qualified Portion Bid shall be deemed to be a Phase II Bid, and each Qualified Portion Bidder shall be deemed to be a Qualified Bidder, for all purposes of the SISF.
38. Qualified Purchase Bids and Qualified Investment Bids shall hereinafter together be referred to as **"Phase II Bids"** and each a **"Phase II Bid"** and each Bidder who has submitted a Phase II Bid shall hereinafter be referred to as an **"Authorized Bidder."**
39. The Monitor may, if it deems appropriate or desirable in the circumstances, modify or amend the Phase II Bid Criteria.
40. The Monitor may make any modification to the SISF it considers appropriate in the circumstances and, where it considers such modification to be material, it may seek Court approval of such modification on notice to parties in the CCAA Proceeding. The extension of any date in the SISF by up to two (2) weeks shall not be considered material.

Selection of Successful Bidders

41. Following the Phase II Deadline, the Sales Advisor will determine if each Phase II Bid delivered meets the Phase II Bid Criteria, including the Sale Proposal Bid Criteria and Investment Proposal Bid Criteria (defined below), provided that each Phase II Bid may be negotiated among the Sales Advisor, in consultation with the Monitor and the applicable bidder and may be amended, modified, or varied to improve such Phase II Bid as a result of such negotiations. The Monitor shall be under no obligation to negotiate identical terms with, or extend identical terms to, each Bidder.
42. If a Phase II Bid meets the Phase II Bid Criteria, as determined by the Monitor, such Phase II Bid will be deemed to be a "**Qualified Phase II Bid**," and the Bidder in respect of each such Qualified Phase II Bid shall be a "**Qualified Phase II Bidder**" in respect of the SISF.
43. The Monitor and the Sales Advisor, in consultation with the DIP Lender will review and assess the Phase II Bids in respect of a Sale Proposal, and in making such assessment will consider, among other things, the following criteria (the "**Sale Proposal Bid Criteria**"):
 - (a) the Purchase Price and net value (including all assumed liabilities and other obligations to be performed by the Authorized Bidder) provided by such Phase II Bid and the proposed allocation of the Purchase Price among the applicable Property;
 - (b) the firm, irrevocable commitment for financing the transaction, or other evidence of ability to consummate the Sale Proposal;
 - (c) the claims, if any, likely to be created against the Company by the transaction contemplated by the Sale Proposal, relative to alternatives available to the Company;
 - (d) the estimated number of employees of the Company that will be offered post-closing employment and the material terms and conditions of same.
 - (e) the nature and amount of debt and other liabilities to be assumed or acquired by the Authorized Bidder;
 - (f) the proposed revisions to the Template APA and the terms of the proposed sale transaction documents;
 - (g) the Property included in or excluded from the Sale Proposal, and the transaction costs and risks associated with closing multiple transactions versus a single sale transaction for all or substantially all of the Property;
 - (h) any transition services required from the Company post-closing, and any related restructuring costs;
 - (i) the planned treatment of stakeholders; and
 - (j) other factors affecting the speed, certainty, and value of the Sale Proposal (including any regulatory approvals and other conditions required to close the Sale Proposal by the applicable Target Closing Date), including the likelihood of closing the Sale Proposal on or before the applicable Target Closing Date.

44. The Sales Advisor and the Monitor, in consultation with the DIP Lender will review and assess the Phase II Bids in respect of an Investment Proposal, and in making such assessment will consider, among other things, the following criteria (the “**Investment Proposal Bid Criteria**”):
- (a) the type and amount of consideration, including equity, if any, to be allocated to secured creditors, unsecured creditors, and shareholders of the Company, and the planned treatment of such persons under the proposed Investment Proposal;
 - (b) the firm, irrevocable commitment for financing the investment, or other evidence of ability to consummate the Investment Proposal;
 - (c) the cost, risks, and timing associated with obtaining the approval of the requisite majority of creditors and approval of the Court in respect of a Plan, if needed;
 - (d) the estimated number of employees of the Company that will be offered post-closing employment by the Bidder, and any proposed measures associated with their continued employment;
 - (e) the transition services required from the Company post-closing, and any related tasks;
 - (f) the planned treatment of stakeholders; and
 - (g) other factors affecting the speed, certainty, and value of the Investment Proposal (including any regulatory approval and other conditions required to close the Investment Proposal by the applicable Target Closing Date), including the likelihood of closing the Investment Proposal on or before the applicable Target Closing Date.
45. For greater certainty, the Monitor and the Sales Advisor, shall be entitled, either prior to or following the Bid Deadline, to seek to clarify the terms of a Phase II Bid, and the Monitor may accept a revised and/or clarified Phase II Bid, provided that the initial Phase II Bid was received prior to the Bid Deadline.
46. The Monitor and the Sales Advisor, may waive compliance with any one or more of the requirements specified in paragraph 43 or 44, as applicable, and deem any non-compliant Bid to be a Phase II Bid.
47. The Sales Advisor in consultation with the Monitor shall apply the Sale Proposal Bid Criteria and Investment Proposal Bid Criteria, as applicable, and consider each Phase II Bid upon its submission for determination. Such determination will be made as promptly as practicable after the Bid Deadline.
48. If the Sales Advisor in consultation with the Monitor determines that any Phase II Bid was received that is in the best interests of the Company's stakeholders (or any combination of non-overlapping Qualified Portion Bids was received that is in the best interests of the Company's stakeholders), the Sales Advisor in consultation with the Monitor may choose to accept such Phase II Bid (in which case, such Phase II Bid shall be a “**Successful Bid**” and the Authorized Bidder making the Successful Bid shall be a “**Successful Bidder**”) and take such steps as are necessary to finalize and complete an agreement for the Successful Bid with the Successful Bidder. For greater certainty, the Monitor, may accept

a combination of non-overlapping Qualified Portion Bids (collectively, an **"Aggregated Bid"**) to create one Successful Bid, and in such case, the applicable Authorized Bidders will become **"Successful Bidders"**.

49. The Sales Advisor in consultation with the Monitor may at any time (including prior to or during any Auction (as defined below)), in accordance with the terms herein: (a) reject any Bid that is: (i) inadequate or insufficient; and/or (ii) not in conformity with the requirements of the CCAA, the SISP Procedures, or any orders of the Court applicable to the Company; (b) accept Phase II Bids not in conformity with the SISP Procedures that are determined to be more favourable; (c) extend the Bid Deadline, and/or change the Auction Date (as defined herein); and/or (d) reject all Phase II Bids. For greater certainty, the Monitor shall be under no obligation to accept the highest or best offer, and the selection of the Successful Bid shall be entirely in the discretion of the Monitor, in consultation with the Sales Advisor and the DIP Lender.

Auction

50. If the Sales Advisor in consultation with the Monitor determines that more than one Phase II Bid (and/or more than one Aggregated Bid) should be considered, then the Monitor may, without being obligated to do so, conduct an auction (the **"Auction"**), to determine the highest and/or best Sale Proposal or Investment Proposal, or Aggregated Bid.
51. If an Auction is to be conducted pursuant to paragraph 1, the Auction shall commence on a date as the Monitor, may determine is appropriate (the **"Auction Date"**). The Auction shall be conducted virtually through a platform to be determined by the Monitor, or such other location as the Monitor may determine.
52. If there is an Auction, the Sales Advisor in consultation with the Monitor shall develop the Auction procedures. Notice of the platform or place, date, and time of the Auction will be delivered to all Authorized Bidders by the Monitor not less than three (3) Business Days before the Auction Date.

Backup Bid

53. In the event a Successful Bid is accepted in accordance with paragraph 9, or further to an Auction in accordance with paragraph 52, the Sales Advisor in consultation with the Monitor may also select any Phase II Bid or Aggregated Bid, as the case may be, as the **"Backup Bid"** (the Bidder of such Backup Bid, the **"Backup Bidder"**) and take such steps as are necessary to finalize and complete an agreement for the Backup Bid with the Backup Bidder. In the event the closing of the Successful Bid accepted in accordance with paragraphs 9 or 52, as the case may be, does not occur, the Backup Bid shall, upon confirmation of the Monitor, become the Successful Bid and be dealt with as such in accordance with the SISP Procedures.

Approval Motion

54. After a definitive agreement(s) in respect of a Successful Bid has been finalized in accordance with the SISP Procedures, if such Successful Bid relates to the Business or Property, the Company shall apply to the Court as soon as reasonably practicable for an order approving such Successful Bid and authorizing the Company to enter into any and all necessary agreements with respect to such Successful Bid and to undertake such other actions as may be necessary or appropriate to give effect to such Successful Bid, including

for the approval of any Plan(s) pursuant to the CCAA or Arrangement pursuant to the CBCA, as applicable (an "**Approval Motion**").

55. An Approval Motion will be held on a date to be scheduled by the Court and to be heard as soon as possible.
56. All Phase II Bids (other than the Successful Bid and the Backup Bid, as the case may be) will be deemed rejected at 11:59 p.m. (Toronto Time) on the Business Day after the acceptance of the Successful Bid relating to the same Business and/or Property.
57. For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the CCAA or any other statute, or as otherwise required at law in order to implement a Successful Bid.

Confidentiality and Access to Information

58. Each Interested Party, Qualified Phase I Bidder, and Qualified Phase II Bidder shall not be permitted to receive any confidential or competitive information that is not made generally available to all participants in the SISP, relating to the number or identity of Bidder(s), the details of any bids or Phase I/Phase II Bids submitted, or the details or existence of any confidential discussions or correspondence among the Company, the Monitor, and any Bidder in connection with the SISP.

Supervision of the SISP

59. Subject to any consultation rights and other similar rights provided for herein, the Monitor will conduct the SISP in the manner set out herein and in the SISP Approval Order. All discussions or inquiries to the Company regarding the SISP shall be directed to the Sales Advisor. Under no circumstances should a representative of the Company be contacted directly or indirectly in respect of the SISP, including diligence requests, without the prior written consent of the Sales Advisor. Any such unauthorized contact or communication could result in exclusion from the SISP, in the Monitor's sole discretion.
60. The Company and its principals, employees, and professional advisors shall cooperate fully with the Sales Advisor and provide documents and information requested as part of the SISP to the Sales Advisor in a prompt fashion.
61. Other than as specifically set forth in a definitive agreement between the Company and a Successful Bidder, the SISP does not, and will not be interpreted to, create any contractual or other legal relationship among the Company, the Monitor, any Interested Party, Qualified Phase I Bidder, Qualified Phase II Bidder, the Successful Bidder, or any other party.

Further Orders

62. At any time during the SISP, the Company or the Monitor may apply to the Court for advice and directions with respect to any aspect of this SISP, including, but not limited to, the continuation of or termination of the SISP or with respect to the discharge of its powers and duties hereunder.

Additional Terms

63. In addition to any other requirement of the SISP, prior to seeking Court approval for any transaction or Bid contemplated by this SISP, the Monitor will provide a report to the Court on the SISP, parts of which may be filed under seal, including in respect of any and all Bids received.
64. The Monitor may, with the consent of the DIP Lender, terminate the SISP in relation to all or any part of the Business or Property, including if no acceptable bids are received by any deadline contemplated herein.
65. Neither the Company nor the Monitor shall be liable for any claim for a brokerage commission, finder's fee, or like payment in respect of the consummation of any of the transactions consummated under the SISP. Any such claim shall be the sole liability of the Bidder that consummates a transaction under the SISP pursuant to which the claim is being made.
66. Notwithstanding anything to the contrary herein, neither the Monitor, the Sales Advisor, nor the Company shall have any liability whatsoever to any person or entity, including, without limitation, any Interested Party, Qualified Phase I Bidder, Qualified Phase II Bidder, or the Successful Bidder, as a result of implementation or otherwise in connection with this SISP, except to the extent that any such liabilities result from the gross negligence or wilful misconduct of the Monitor, as determined by the Court, and all such persons or entities shall have no claim against the Monitor in respect of the SISP for any reason whatsoever.

Schedule “B”

Contact Information

Sales Advisor

PricewaterhouseCoopers Corporate Finance Inc. (“PwC CF”)

PwC Tower
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Canada

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- **Eric Castonguay**, Managing Director
Phone: (416) 722-3418
Email: eric.castonguay@pwc.com
- **Bryan Allsopp**, Managing Director
Phone: (613) 851-0550
Email: bryan.n.allsopp@pwc.com
- **Pierre-Yves Morisset**, Managing Director
Phone: (604) 332-7379

Monitor

BDO Canada Limited (“BDO”)

20 Wellington St. East Suite 500
Toronto, ON M5E 1C5
Canada

Attn:

- **Heron Yin**, Senior Associate
Phone: (647) 798-9849
Email: hyin@bdo.ca

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EARTH BORING CO. LIMITED ET AL.

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

Proceedings commenced at Toronto

SISP APPROVAL ORDER

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Lawyers for the Applicants

Court File No. CV-25-00741419-00CL

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

THE HONOURABLE	)	WEDNESDAY, THE 28 TH
	)	
JUSTICE CAVANAGH	)	DAY OF MAY, 2025

**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 EARTH BORING CO. LIMITED,
YARBRIDGE HOLDINGS INC., TROLAN INVESTMENTS LTD.,
AND YARFIELD SERVICES LIMITED (Collectively, the
"Applicants")**

THIRD AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by videoconference.

ON READING the Notice of Application, the affidavit of Eugene Woodbridge sworn April 16, 2025 (the "**First Woodbridge Affidavit**"), the affidavit of Eugene Woodbridge sworn April 23, 2025 (the "**Second Woodbridge Affidavit**"), the affidavit of Eugene Woodbridge sworn May 23, 2025, and the Exhibits thereto, the pre-filing report of BDO Canada Limited ("**BDO**") in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**"), dated April 16, 2025 (the "**Pre-Filing Report**"), the first report of the Monitor dated April 23, 2025 (the "**First Report**"), the second report of the Monitor dated May 1, 2025 (the "**Second Report**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Bank of Montreal ("**BMO**"), and such other parties as listed on the Participant Information Form, with no one appearing for any other person although duly served as appears from the affidavit of service of 1 sworn May 1, 2025, filed,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are each a company to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that effective April 17, 2025, the notice of intention to make a proposal of Earth Boring Co. Limited ("**EBCL**") under Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") bearing estate file number 32-3212103 is hereby taken up and continued under the CCAA and that, as of such date, the provisions of the BIA shall have no further application to EBCL, save that any and all steps, agreements and procedures validly taken, done or entered into by EBCL shall remain valid and binding, notwithstanding the commencement of these CCAA proceedings.

PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

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

6. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the First Woodbridge Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan of arrangement or compromise under the CCAA with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and
- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicants prior to the date of this Order if in the opinion of the Applicants, in consultation with the CRO (as defined below) and with the consent of the Monitor, such payment is necessary or desirable to avoid disruption to the operations of the Business or the Property of the Applicants during the CCAA proceedings.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the

Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) income taxes, and (iv) all other amounts related to such deductions or employee wages payable for periods following the date of this Order pursuant to the *Income Tax Act*, the *Canada Pension Plan*, the *Employment Insurance Act* or similar provincial statutes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

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

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicants and/or the CRO, with the consent of the Monitor and in consultation with the DIP Lender (as hereinafter defined), shall subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$1,000,000 in any one transaction or \$2,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

13. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' 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 Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. **THIS COURT ORDERS** that until and including August 15, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), including without limiting the generality of the foregoing any adjudication process pursuant to part II.1 of the *Construction Act*, shall be commenced or continued against or in respect of the Applicants, the Monitor, the CRO, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or

affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO PROCEEDINGS AGAINST PENNBRIDGE HOLDINGS INC.

16. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of Pennbridge Holdings Inc. (the "**Pennbridge Holdings**") or its respective employees and representatives acting in such capacities, or affecting its business or its property, except with the written consent of Pennbridge Holdings and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of Pennbridge Holdings or affecting its business or its property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants, the Monitor, the CRO, Pennbridge Holdings, or affecting the Business or the Property, including without limiting the generality of the foregoing (i) any rights arising out of or in connection with the prompt payment deadlines or a notice of non-payment under Part I.1 of the *Construction Act* and (ii) any rights in connection with a determination under Part II.1 of the *Construction Act*, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants and Pennbridge Holdings to carry on any business which they are not lawfully entitled to carry on and (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, and (iii) subject to the terms of the Lien Regulation Order dated as of the date of this Order (the "**LRO**"), prevent the filing of any registration to preserve or perfect a security interest.

NO INTERFERENCE WITH RIGHTS

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, licence, or permit in favour of or held by the

Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

PRE-FILING VS POST-FILING SET-OFF

19. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicants in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicants in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

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

NON-DEROGATION OF RIGHTS

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any

Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Director's Charge**") on the Property, which charge shall not exceed an aggregate total amount of \$400,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 52 and 54 herein.

25. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

STAY OF PERFORMANCE BONDS

26. **THIS COURT ORDERS AND DECLARES** that during the Stay Period, no Person, holding a Performance Bond (as defined in the First Woodbridge Affidavit), including any Person named as an owner or obligee under such bond, shall be permitted to enforce and/or call on the Performance Bond ("**Performance Bond Claim**"), except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Performance Bond Claims currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that BDO is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, the CRO and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property and, among other things, ensure all disbursements are consistent with the Cash Flow Statements (as defined in Pre-Filing Report), as amended from time to time, and subject to the variances permitted in the DIP Commitment Letter;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel, on a timely basis of financial and other information as agreed to between the Applicants and the DIP Lender which

may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' 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 Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform their 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.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental*

Protection Act, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in Possession.

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

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

APPOINTMENT OF CRO

33. **THIS COURT ORDERS** that Steinberg Advisory Corp. is hereby appointed as the Chief Restructuring Officer ("**CRO**") over and in respect of the Applicants and shall have the powers and obligations set out in the engagement agreement between the Applicants and the CRO dated April 16, 2025 (the "**CRO Engagement**"), a copy of which is attached as Appendix "D" to the Pre-Filing Report.

34. **THIS COURT ORDERS** that the CRO Engagement is hereby approved, subject to such minor amendments as the parties thereto may agree to with the Monitor's consent.

35. **THIS COURT ORDERS** that subject to the terms of this Order, the CRO is hereby authorized to assist the Applicants and the Monitor, and to do all things, carry out all actions and perform all duties described in the CRO Engagement.

36. **THIS COURT ORDERS** that the CRO shall not be, or be deemed to be a director, officer or employee of the Applicants.

37. **THIS COURT ORDERS** the CRO shall not, as a result of the performance of the obligations and services in accordance with the terms of the CRO Engagement, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation.

38. **THIS COURT ORDERS** that the CRO have no liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent that such losses, claims, damages or liabilities result from gross negligence or wilful misconduct on the part of the CRO.

39. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of the CRO, except with the written consent of the CRO or with leave of this Court.

40. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the CRO are hereby stayed and suspended, except with the written consent of the CRO or leave of this Court, provided that nothing in this Order shall empower the CRO to carry on any business which the CRO is not lawfully entitled to carry on.

41. **THIS COURT ORDERS** that the obligations of the Applicants to the CRO pursuant to the CRO Engagement shall be treated as unaffected and may not be compromised in any Plan or proposal filed under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”) in respect of the Applicants.

42. **THIS COURT ORDERS** that the Monitor may terminate the CRO and the CRO Engagement with thirty days’ notice to the CRO and the Applicants.

ADMINISTRATION CHARGE

43. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants the CRO, and PricewaterhouseCoopers Corporate Finance Inc. (the “**Sales Advisor**”) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the

accounts of the Monitor, counsel for the Monitor, counsel for the Applicants, the CRO, and the Sales Advisor on a weekly basis or as otherwise agreed among the parties.

44. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

45. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicants' counsel, three months of the Sales Advisor's Work Fee (as defined in the Sales Advisor Engagement as defined in the SISP Approval Order), and the CRO's Monthly Fees (as defined in the CRO Engagement) 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 total amount of \$750,000, as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 52 and 54 hereof.

DIP FINANCING

46. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from BMO (the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$5.5 million unless permitted by further Order of this Court.

47. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicants and the DIP Lender dated as of April 16, 2025 (the "**Commitment Letter**"), which is attached as Appendix "E" to the Pre-Filing Report.

48. **THIS COURT ORDERS** that the Applicants are 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 DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to

the DIP 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.

49. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 52 and 54 hereof.

50. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon seven (7) days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

51. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants 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

52. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the DIP Lender's Charge, the Lien Charge (as defined in the Lien Regularization Order), and the Sales Advisor Charge (as defined in the SISP Approval Order) (collectively, the "**Charges**"), as among them,

- (a) in respect of the properties municipally known as 960 Zelco Drive, Burlington, Ontario, and legally described in PIN 07035-0005 (the "**Burlington Property**") and 75 Steelwell Road, Brampton, Ontario, and legally described in PIN 14028-0023 (the "**Brampton Property**" and together with the Burlington Property, the "**Real Property**") shall be as follows:

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

Second – Director's Charge (to a maximum amount of \$100,000 in respect of each of the Burlington Property and the Brampton Property);

Third – the interests of Business Development Bank of Canada in mortgages granted to the Business Development Bank of Canada up to maximum amount of (i) principal of \$10,225,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Burlington Property and, (ii) principal of \$5,000,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Brampton Property;

Fourth - DIP Lender's Charge;

Fifth – Sales Advisor Charge; and

Sixth - Lien Charge.

- (b) in respect of all Property other than the Real Property, shall be as follows:

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

Second – DIP Lender's Charge;

Third – Director's Charge (to the maximum amount of \$400,000);

Fourth – Sales Advisor Charge; and

Fourth – Lien Charge.

53. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

54. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, holdbacks, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, which for greater certainty shall include priority to the interests of any Person in respect of the Applicants' Property pursuant to the *Construction Act*, R.S.O. 1990, c. C.30, provided that the Applicants' Property shall not include any accounts receivable subject to a trust under the *Construction Act* in relation to the Discontinued EBCL Contracts, as defined in the First Woodbridge Affidavit.

55. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

56. **THIS COURT ORDERS** that the Charges, the Commitment Letter, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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, other than as set out in paragraph 54 above; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants 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 Applicants 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 Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

58. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in *The National Post* a notice containing the information prescribed under the CCAA, (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner or by electronic message to the e-mail addresses as last shown in the Applicants' records, a notice to every known creditor who has a claim against the Applicants 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.

59. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an

order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/earth-boring-co-limited> (the “**Monitor’s Website**”).

60. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

61. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, or facsimile transmission to the Applicants’ creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

62. **THIS COURT ORDERS** that the Applicants, the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and Orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

63. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

64. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business, or the Property.

65. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

66. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

67. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 52 and 54 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

68. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order without any need for entry and filing.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EARTH
BORING CO. LIMITED ET AL.

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

Proceedings commenced at *Toronto*

AMENDED AND RESTATED INITIAL ORDER

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Lawyers for the Applicants

TAB 5

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Court File No. CV-25-00741419-00CL

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

THE HONOURABLE	)	~~MONDAY~~ <u>WEDNESDAY</u> , THE ~~5TH~~ <u>28TH</u>
	)	
~~MADAM~~ JUSTICE ~~STEELE~~ <u>CAVANAGH</u>	)	DAY OF MAY, 2025

~~—~~ **THIRD AMENDED AND RESTATED INITIAL ORDER**

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by videoconference.

ON READING the Notice of Application, the affidavit of Eugene Woodbridge sworn April 16, 2025 (the "**First Woodbridge Affidavit**"), the affidavit of Eugene Woodbridge sworn April 23, 2025 (the "**Second Woodbridge Affidavit**"), the affidavit of Eugene Woodbridge sworn May 23, 2025, and the Exhibits thereto, the pre-filing report of BDO Canada Limited ("**BDO**") in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**"), dated April 16, 2025 (the "**Pre-Filing Report**"), the first report of the Monitor dated April 23, 2025 (the "**First Report**"), the second report of the Monitor dated May 9, 2025 (the "**Second Report**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Bank of Montreal ("**BMO**"), and such other parties as listed on the Participant Information Form, with no one appearing for any other person although duly served

as appears from the affidavit of service of ~~Gabrielle Schachter~~ ● sworn ~~April 23~~ May ●, 2025, filed,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are each a company to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that effective April 17, 2025, the notice of intention to make a proposal of Earth Boring Co. Limited ("**EBCL**") under Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") bearing estate file number 32-3212103 is hereby taken up and continued under the CCAA and that, as of such date, the provisions of the BIA shall have no further application to EBCL, save that any and all steps, agreements and procedures validly taken, done or entered into by EBCL shall remain valid and binding, notwithstanding the commencement of these CCAA proceedings.

PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

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

Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the First Woodbridge Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan of arrangement or compromise under the CCAA with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and
- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicants prior to the date of this Order if in the opinion of the Applicants, in consultation with the CRO (as defined below) and with the consent of the Monitor, such payment is necessary or desirable to avoid disruption to the operations of the Business or the Property of the Applicants during the CCAA proceedings.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the

Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) income taxes, and (iv) all other amounts related to such deductions or employee wages payable for periods following the date of this Order pursuant to the *Income Tax Act*, the *Canada Pension Plan*, the *Employment Insurance Act* or similar provincial statutes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

10. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as

otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicants and/or the CRO, with the consent of the Monitor and in consultation with the DIP Lender (as hereinafter defined), shall subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$1,000,000 in any one transaction or \$2,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

13. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' 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 Applicants' entitlement to remove any such fixture under the provisions of

the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. **THIS COURT ORDERS** that until and including ~~July 4~~August 15, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), including without limiting the generality of the foregoing any adjudication process pursuant to part II.1 of the *Construction Act*, shall be commenced or continued against or in respect of the Applicants, the Monitor, the CRO, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO PROCEEDINGS AGAINST PENNBRIDGE HOLDINGS INC.

16. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of Pennbridge Holdings Inc. (the "**Pennbridge Holdings**") or its respective employees and representatives acting in such capacities, or affecting its business or its property, except with the written consent of Pennbridge Holdings and the Monitor, or with leave of this Court, and any and all Proceedings currently under way

against or in respect of Pennbridge Holdings or affecting its business or its property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants, the Monitor, the CRO, Pennbridge Holdings, or affecting the Business or the Property, including without limiting the generality of the foregoing (i) any rights arising out of or in connection with the prompt payment deadlines or a notice of non-payment under Part I.1 of the *Construction Act* and (ii) any rights in connection with a determination under Part II.1 of the *Construction Act*, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants and Pennbridge Holdings to carry on any business which they are not lawfully entitled to carry on and (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, and (iii) subject to the terms of the Lien Regulation Order dated as of the date of this Order (the "**LRO**"), prevent the filing of any registration to preserve or perfect a security interest.

NO INTERFERENCE WITH RIGHTS

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

PRE-FILING VS POST-FILING SET-OFF

19. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicants in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicants in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicants and the Monitor, or leave of this

Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

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

NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such

obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Director's Charge**") on the Property, which charge shall not exceed an aggregate total amount of \$400,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 52 and 54 herein.

25. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

STAY OF PERFORMANCE BONDS

26. **THIS COURT ORDERS AND DECLARES** that during the Stay Period, no Person, holding a Performance Bond (as defined in the First Woodbridge Affidavit), including any Person named as an owner or obligee under such bond, shall be permitted to enforce and/or call on the Performance Bond ("**Performance Bond Claim**"), except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Performance Bond Claims currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that BDO is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants

with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, the CRO and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property and, among other things, ensure all disbursements are consistent with the Cash Flow Statements (as defined in Pre-Filing Report), as amended from time to time, and subject to the variances permitted in the DIP Commitment Letter;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel, on a timely basis of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' 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 Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform their 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.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

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

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

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save

and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

APPOINTMENT OF CRO

33. **THIS COURT ORDERS** that Steinberg Advisory Corp. is hereby appointed as the Chief Restructuring Officer (“**CRO**”) over and in respect of the Applicants and shall have the powers and obligations set out in the engagement agreement between the Applicants and the CRO dated April 16, 2025 (the “**CRO Engagement**”), a copy of which is attached as Appendix “D” to the Pre-Filing Report.

34. **THIS COURT ORDERS** that the CRO Engagement is hereby approved, subject to such minor amendments as the parties thereto may agree to with the Monitor’s consent.

35. **THIS COURT ORDERS** that subject to the terms of this Order, the CRO is hereby authorized to assist the Applicants and the Monitor, and to do all things, carry out all actions and perform all duties described in the CRO Engagement.

36. **THIS COURT ORDERS** that the CRO shall not be, or be deemed to be a director, officer or employee of the Applicants.

37. **THIS COURT ORDERS** the CRO shall not, as a result of the performance of the obligations and services in accordance with the terms of the CRO Engagement, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation.

38. **THIS COURT ORDERS** that the CRO have no liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent that such losses, claims, damages or liabilities result from gross negligence or wilful misconduct on the part of the CRO.

39. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of the CRO, except with the written consent of the CRO or with leave of this Court.

40. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the CRO are hereby stayed and suspended, except with the written consent of the CRO or leave of this Court, provided that nothing in this Order shall empower the CRO to carry on any business which the CRO is not lawfully entitled to carry on.

41. **THIS COURT ORDERS** that the obligations of the Applicants to the CRO pursuant to the CRO Engagement shall be treated as unaffected and may not be compromised in any Plan

or proposal filed under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”) in respect of the Applicants.

42. **THIS COURT ORDERS** that the Monitor may terminate the CRO and the CRO Engagement with thirty days’ notice to the CRO and the Applicants.

ADMINISTRATION CHARGE

43. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants ~~and the CRO’s Monthly Fees (as defined in the CRO Engagement~~the CRO, and PricewaterhouseCoopers Corporate Finance Inc. (the “Sales Advisor”) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants~~and~~, the CRO, and the Sales Advisor on a weekly basis or as otherwise agreed among the parties.

44. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

45. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, ~~and~~ the Applicants’ counsel, three months of the Sales Advisor’s Work Fee (as defined in the Sales Advisor Engagement as defined in the SISP Approval Order), and the CRO’s Monthly Fees (as defined in the CRO Engagement) 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 total amount of ~~\$600,000~~\$750,000, as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 52 and 54 hereof.

DIP FINANCING

46. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from BMO (the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$5.5 million unless permitted by further Order of this Court.

47. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicants and the DIP Lender dated as of April 16, 2025 (the "**Commitment Letter**"), which is attached as Appendix "E" to the Pre-Filing Report.

48. **THIS COURT ORDERS** that the Applicants are 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 DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP 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.

49. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 52 and 54 hereof.

50. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon seven (7) days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order

against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

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

51. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants 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

52. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the DIP Lender's Charge ~~and~~, the Lien Charge (as defined in the Lien Regularization Order), and the Sales Advisor Charge (as defined in the SISP Approval Order) (collectively, the "**Charges**"), as among them,

- (a) in respect of the properties municipally known as 960 Zelco Drive, Burlington, Ontario, and legally described in PIN 07035-0005 (the "**Burlington Property**") and 75 Steelwell Road, Brampton, Ontario, and legally described in PIN 14028-0023 (the "**Brampton Property**" and together with the Burlington Property, the "**Real Property**") shall be as follows:

First – Administration Charge (to the maximum amount of \$~~600,000~~750,000);

Second – Director's Charge (to a maximum amount of \$100,000 in respect of each of the Burlington Property and the Brampton Property);

Third – the interests of Business Development Bank of Canada in mortgages granted to the Business Development Bank of Canada up to maximum amount of (i) principal of \$10,225,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Burlington Property and, (ii) principal of \$5,000,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Brampton Property;

Fourth - DIP Lender's Charge; ~~and~~

Fifth – Sales Advisor Charge; and

~~Fifth~~Sixth - Lien Charge.

(b) in respect of all Property other than the Real Property, shall be as follows:

First – Administration Charge (to the maximum amount of \$~~600,000~~750,000);

Second – DIP Lender's Charge;

Third – Director's Charge (to the maximum amount of \$400,000); ~~and~~

Fourth – Sales Advisor Charge; and

Fourth – Lien Charge.

53. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

54. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, holdbacks, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, which for greater certainty shall include priority to the interests of any Person in respect of the Applicants' Property pursuant to the *Construction Act*, R.S.O. 1990, c. C.30, provided that the Applicants' Property shall not include any accounts receivable subject to a trust under the *Construction Act* in relation to the Discontinued EBCL Contracts, as defined in the First Woodbridge Affidavit.

55. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

56. **THIS COURT ORDERS** that the Charges, the Commitment Letter, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any

way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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, other than as set out in paragraph 54 above; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants 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 Applicants 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 Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

58. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in *The National Post* a notice containing the information prescribed under the CCAA, (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner or by electronic message to the e-mail addresses as last shown in the Applicants' records, a notice to every known creditor who has a claim against the Applicants 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.

59. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/earth-boring-co-limited> (the “**Monitor’s Website**”).

60. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

61. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, or facsimile transmission to the Applicants’ creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

62. **THIS COURT ORDERS** that the Applicants, the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and Orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be

in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

63. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

64. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business, or the Property.

65. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

66. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

67. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 52 and 54 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

68. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order without any need for entry and filing.

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

Court File No. CV-25-00741419-00CL ²³⁷

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EARTH
BORING CO. LIMITED ET AL.

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

Proceedings commenced at *Toronto*

AMENDED AND RESTATED INITIAL ORDER

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Summary report: Litera Compare for Word 11.5.0.74 Document comparison done on 5/23/2025 10:55:47 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: Draft Second Amended and Restated Initial Order - Earth Boring Co. Limited et al. (4).docx	
Modified DMS: nd://1405-0656-6423/3/Draft Third Amended and Restated Initial Order - Earth Boring Co. Limited et al..docx	
Changes:	
Add	21
Delete	18
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	39

TAB 6

Court File No. — CV-25-00741419-00CL

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

~~THE HONOURABLE —~~	~~)~~	~~WEEKDAY, THE #~~
	~~)~~	
~~JUSTICE —~~	~~)~~	~~DAY OF MONTH, 20YR~~

<u>THE HONOURABLE</u>	<u>)</u>	<u>WEDNESDAY, THE 28TH</u>
	<u>)</u>	
<u>JUSTICE CAVANAGH</u>	<u>)</u>	<u>DAY OF MAY, 2025</u>

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ~~[APPLICANT'S NAME]~~ (the
"Applicant" EARTH BORING CO. LIMITED, YARBRIDGE
HOLDINGS INC., TROLAN INVESTMENTS LTD., AND
YARFIELD SERVICES LIMITED (Collectively, the "Applicants")**

THIRD AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the ~~Applicant~~ Applicants, pursuant to the *Companies' Creditors*

Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day ~~at~~
~~330 University Avenue, Toronto, Ontario~~ by
videoconference.

~~ON READING the affidavit of [NAME] sworn [DATE] and the Exhibits thereto, and on
being advised that the secured creditors who are likely to be affected by the charges created
herein were given notice, and on hearing the submissions of counsel for [NAMES], no one~~

~~appearing for [NAME][†] although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of [MONITOR'S NAME] to act as the Monitor,~~

ON READING the Notice of Application, the affidavit of Eugene Woodbridge sworn April 16, 2025 (the “**First Woodbridge Affidavit**”), the affidavit of Eugene Woodbridge sworn April 23, 2025 (the “**Second Woodbridge Affidavit**”), the affidavit of Eugene Woodbridge sworn May 23, 2025, and the Exhibits thereto, the pre-filing report of BDO Canada Limited (“**BDO**”) in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”), dated April 16, 2025 (the “**Pre-Filing Report**”), the first report of the Monitor dated April 23, 2025 (the “**First Report**”), the second report of the Monitor dated May •, 2025 (the “**Second Report**”), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Bank of Montreal (“**BMO**”), and such other parties as listed on the Participant Information Form, with no one appearing for any other person although duly served as appears from the affidavit of
service of • sworn May •, 2025, filed,

~~[†]Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

SERVICE

~~1.1.~~ **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated² so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

~~2.2.~~ **THIS COURT ORDERS AND DECLARES** that the ~~Applicant is~~Applicants are each a company to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that effective April 17, 2025, the notice of intention to make a proposal of Earth Boring Co. Limited ("**EBCL**") under Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") bearing estate file number 323212103 is hereby taken up and continued under the CCAA and that, as of such date, the provisions of the BIA shall have no further application to EBCL, save that any and all steps, agreements and procedures validly taken, done or entered into by EBCL shall remain valid and binding, notwithstanding the commencement of these CCAA proceedings.

PLAN OF ARRANGEMENT

~~3.4.~~ **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

~~4.5.~~ **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall remain in possession and control of ~~its~~their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the ~~Applicant~~Applicants shall continue to carry on business in a manner consistent with the preservation of ~~its~~their business (the "**Business**") and Property. The ~~Applicant is~~Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

² ~~If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in appropriate circumstances.~~

~~5.~~6. **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall be entitled to continue to utilize the central cash management system³ currently in place as described in the First Woodbridge Affidavit ~~of [NAME] sworn [DATE]~~ or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the ~~Applicant~~Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the ~~Applicant~~Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan of arrangement or compromise under the CCAA with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.~~‡~~

~~6.~~7. **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- ~~(a)~~(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;~~and~~
- ~~(b)~~(b) the fees and disbursements of any Assistants retained or employed by the ~~Applicant~~Applicants in respect of these proceedings, at their standard rates and charges;~~and~~ and
- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicants prior to the date of this Order if in the opinion of the Applicants, in consultation with the CRO (as defined below) and with the consent of the Monitor, such payment is necessary or desirable to avoid disruption to the operations of the Business or the Property of the Applicants during the CCAA proceedings.

~~7.~~8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the ~~Applicant~~Applicants shall be entitled but not required to pay all reasonable expenses incurred by the ~~Applicant~~

³~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross border and inter company transfers of cash.~~

Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- ~~(a)~~ (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- ~~(b)~~ (b) payment for goods or services actually supplied to the ~~Applicant~~Applicants following the date of this Order.

8.9. **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall remit, in accordance with legal requirements, or pay:

- ~~(a)~~ (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) ~~Quebec Pension Plan, and (iv) income taxes;~~income taxes, and (iv) all other amounts related to such deductions or employee wages payable for periods following the date of this Order pursuant to the *Income Tax Act*, the *Canada Pension Plan*, the *Employment Insurance Act* or similar provincial statutes;
- ~~(b)~~ (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the ~~Applicant~~Applicants in connection with the sale of goods and services by the ~~Applicant~~Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- ~~(c)~~ (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the ~~Applicant~~Applicants.

~~9.~~10. **THIS COURT ORDERS** that until a real property lease is disclaimed ~~for resiliated~~⁴ in accordance with the CCAA, the ~~Applicant~~Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the ~~Applicant~~Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, ~~twice monthly in equal payments~~monthly on the first ~~and fifteenth~~ day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

~~10.~~11. **THIS COURT ORDERS** that, except as specifically permitted herein, the ~~Applicant~~is Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the ~~Applicant~~Applicants to any of ~~its~~their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

~~11.~~12. **THIS COURT ORDERS** that the ~~Applicant shall,~~Applicants and/or the CRO, with the consent of the Monitor and in consultation with the DIP Lender (as hereinafter defined), shall subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

~~(a)~~(a) permanently or temporarily cease, downsize or shut down any of ~~its~~their business or operations, ~~and to dispose of redundant or non-material assets not exceeding~~

\$~~1,000,000~~1,000,000 in any one transaction or \$~~2,000,000~~2,000,000 in the aggregate⁵;

~~(b)~~(b) terminate the employment of such of ~~its~~their employees or temporarily lay off such of ~~its~~their employees as ~~it deems~~they deem appropriate~~;~~ and

⁴ ~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

⁵ ~~Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

~~(e)~~ (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

~~12.~~ **13. THIS COURT ORDERS** that the ~~Applicant~~Applicants shall provide each of the relevant landlords with notice of the ~~Applicant's~~Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the ~~Applicant's~~Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the ~~Applicant~~Applicants, or by further Order of this Court upon application by the ~~Applicant~~Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the ~~Applicant disclaims~~ ~~for resiliates~~Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, ~~it~~they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer ~~for resiliation~~ of the lease shall be without prejudice to the ~~Applicant's~~Applicants' claim to the fixtures in dispute.

~~13.~~ **14. THIS COURT ORDERS** that if a notice of disclaimer ~~for resiliation~~ is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~for resiliation~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the ~~Applicant~~Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer ~~for resiliation~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the ~~Applicant~~Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE ~~APPLICANT~~APPLICANTS OR THE PROPERTY

~~14.~~ **15. THIS COURT ORDERS** that until and including ~~[DATE—MAX. 30 DAYS]~~August 15, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), including without limiting the generality of the foregoing any adjudication process pursuant to part II.1 of the Construction Act, shall be commenced or continued against or in respect of the ~~Applicant or~~Applicants, the Monitor, the CRO, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the ~~Applicant~~Applicants or

affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO PROCEEDINGS AGAINST PENNBRIDGE HOLDINGS INC.

16. THIS COURT ORDERS that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of Pennbridge Holdings Inc. (the "**Pennbridge Holdings**") or its respective employees and representatives acting in such capacities, or affecting its business or its property, except with the written consent of Pennbridge Holdings and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of Pennbridge Holdings or affecting its business or its property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

~~15-17.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the ~~Applicant or~~ Applicants, the Monitor, the CRO, Pennbridge Holdings, or affecting the Business or the Property, including without limiting the generality of the foregoing (i) any rights arising out of or in connection with the prompt payment deadlines or a notice of non-payment under Part I.1 of the Construction Act and (ii) any rights in connection with a determination under Part II.1 of the Construction Act, are hereby stayed and suspended except with the written consent of the ~~Applicant~~ Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the ~~Applicant~~ Applicants and Pennbridge Holdings to carry on any business which ~~the Applicant is~~ they are not lawfully entitled to carry on; and (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, and (iii) subject to the terms of the Lien Regulation Order dated as of the date of this Order (the "LRO"), prevent the filing of any registration to preserve or perfect a security interest, ~~or (iv) prevent the registration of a claim for lien.~~

NO INTERFERENCE WITH RIGHTS

~~16-18.~~ **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, licence, or permit in favour of or held by the Applicant

Applicants, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or leave of this Court.

PRE-FILING VS POST-FILING SET-OFF

19. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicants in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicants in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

~~17-20.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the ~~Applicant~~Applicants or statutory or regulatory mandates for the supply of materials, goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility, or other services to the Business or the ~~Applicant~~Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the ~~Applicant~~Applicants, and that the ~~Applicant~~Applicants shall be entitled to the continued use of ~~its~~their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the ~~Applicant~~Applicants in accordance with normal payment practices of the ~~Applicant~~Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the ~~Applicant~~Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

~~18-21.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any

Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the ~~Applicant~~Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.⁶

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

~~19-22.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the ~~Applicant~~Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the ~~Applicant~~Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the ~~Applicant~~Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the ~~Applicant~~Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

~~20-23.~~ **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall indemnify ~~its~~their directors and officers against obligations and liabilities that they may incur as directors or officers of the ~~Applicant~~Applicants after the commencement of the within proceedings,⁷ except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

~~21-24.~~ **THIS COURT ORDERS** that the directors and officers of the ~~Applicant~~Applicants shall be entitled to the benefit of and are hereby granted a charge (the "~~Directors'~~Director's Charge")⁸ on the Property, which charge shall not exceed an aggregate total amount of \$~~400,000~~400,000, as security for the indemnity provided in paragraph ~~{20}23~~ of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{38}52~~ and ~~{40}54~~ herein.

~~22-25.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of

⁶ ~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

⁷ ~~The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

⁸ ~~Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~

the Directors' Charge, and (b) the ~~Applicant's~~Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~120~~123 of this Order.

STAY OF PERFORMANCE BONDS

26. THIS COURT ORDERS AND DECLARES that during the Stay Period, no Person, holding a Performance Bond (as defined in the First Woodbridge Affidavit), including any Person named as an owner or obligee under such bond, shall be permitted to enforce and/or call on the Performance Bond ("**Performance Bond Claim**"), except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Performance Bond Claims currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

APPOINTMENT OF MONITOR

~~23-27.~~ **THIS COURT ORDERS** that ~~[MONITOR'S NAME]~~BDO is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the ~~Applicant~~Applicants with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant and its~~Applicants and their shareholders, officers, directors, the CRO and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant~~Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

~~24-28.~~ **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

~~(a) monitor the Applicant's receipts and disbursements;~~

~~(a)~~ (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property and, among other things, ensure all disbursements are consistent with the Cash Flow Statements (as defined in Pre-Filing Report), as amended from time to time, and subject to the variances permitted in the DIP Commitment Letter;

~~(b)-~~(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;

~~(e)-~~(c) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant, in its~~Applicants, in their dissemination, to the DIP Lender and its counsel, on a ~~[TIME INTERVAL]~~timely basis of financial and other information as agreed to between the ~~Applicant~~Applicants and the DIP Lender which

may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

- (d) ~~(d)~~ advise the ~~Applicant in its~~ Applicants in their preparation of the ~~Applicant's~~ Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, ~~but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~
- (e) ~~(e)~~ advise the ~~Applicant in its~~ Applicants in their development of the Plan and any amendments to the Plan;
- (f) ~~(f)~~ assist the ~~Applicant~~ Applicants, to the extent required by the ~~Applicant~~ Applicants, with the holding and administering of creditors' ~~or shareholders'~~ meetings for voting on the Plan;
- (g) ~~(g)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the ~~Applicant~~ Applicants, to the extent that is necessary to adequately assess the ~~Applicant's~~ Applicants' business and financial affairs or to perform ~~its~~ their duties arising under this Order;
- (h) ~~(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) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

25-29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26-30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental*

Protection Act, the Ontario Environmental Protection Act, the Ontario Water Resources Act, or the Ontario Occupational Health and Safety Act and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in ~~possession~~ Possession.

~~27-31.~~ **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the ~~Applicant~~ Applicants and the DIP Lender with information provided by the ~~Applicant~~ Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the ~~Applicant~~ Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the ~~Applicant~~ Applicants may agree.

~~28-32.~~ **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

APPOINTMENT OF CRO

33. THIS COURT ORDERS that Steinberg Advisory Corp. is hereby appointed as the Chief Restructuring Officer ("CRO") over and in respect of the Applicants and shall have the powers and obligations set out in the engagement agreement between the Applicants and the CRO dated April 16, 2025 (the "CRO Engagement"), a copy of which is attached as Appendix "D" to the Pre-Filing Report.

34. THIS COURT ORDERS that the CRO Engagement is hereby approved, subject to such minor amendments as the parties thereto may agree to with the Monitor's consent.

35. THIS COURT ORDERS that subject to the terms of this Order, the CRO is hereby authorized to assist the Applicants and the Monitor, and to do all things, carry out all actions and perform all duties described in the CRO Engagement.

36. **THIS COURT ORDERS** that the CRO shall not be, or be deemed to be a director, officer or employee of the Applicants.

37. **THIS COURT ORDERS** the CRO shall not, as a result of the performance of the obligations and services in accordance with the terms of the CRO Engagement, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation.

38. **THIS COURT ORDERS** that the CRO have no liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent that such losses, claims, damages or liabilities result from gross negligence or wilful misconduct on the part of the CRO.

39. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of the CRO, except with the written consent of the CRO or with leave of this Court.

40. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the CRO are hereby stayed and suspended, except with the written consent of the CRO or leave of this Court, provided that nothing in this Order shall empower the CRO to carry on any business which the CRO is not lawfully entitled to carry on.

41. **THIS COURT ORDERS** that the obligations of the Applicants to the CRO pursuant to the CRO Engagement shall be treated as unaffected and may not be compromised in any Plan or proposal filed under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”) in respect of the Applicants.

42. **THIS COURT ORDERS** that the Monitor may terminate the CRO and the CRO Engagement with thirty days’ notice to the CRO and the Applicants.

ADMINISTRATION CHARGE

~~29.43. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor~~and,~~ counsel to the ApplicantApplicants the CRO, and PricewaterhouseCoopers Corporate Finance Inc. (the “**Sales Advisor**”) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, ~~by the Applicant~~whether incurred prior to, on, or subsequent to the date of this Order by the Applicants as part of the costs of these proceedings. The ~~Applicant is~~Applicants are hereby authorized and directed to pay the ~~accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a [TIME INTERVAL] basis and, in addition, the Applicant is~~ hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, ~~retainers in the amount[s] of \$●[, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time~~~~

accounts of the Monitor, counsel for the Monitor, counsel for the Applicants, the CRO, and the Sales Advisor on a weekly basis or as otherwise agreed among the parties.

~~30.~~44. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

~~31.~~45. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, ~~if any, and the Applicant's counsel~~the Applicants' counsel, three months of the Sales Advisor's Work Fee (as defined in the Sales Advisor Engagement as defined in the SISP Approval Order), and the CRO's Monthly Fees (as defined in the CRO Engagement) 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 total amount of \$●750,000, as security for their professional fees and disbursements incurred at ~~the~~their standard rates and charges ~~of the Monitor and such counsel~~, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~{38}~~52 and ~~{40}~~54 hereof.

DIP FINANCING

~~32.~~46. **THIS COURT ORDERS** that the ~~Applicant is~~Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from ~~{DIP LENDER'S NAME}~~BMO (the "**DIP Lender**") in order to finance the ~~Applicant's~~Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$●5.5 million unless permitted by further Order of this Court.

~~33.~~47. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the ~~Applicant~~Applicants and the DIP Lender dated as of ~~{DATE}~~April 16, 2025 (the "**Commitment Letter**"), ~~filed~~which is attached as Appendix "E" to the Pre-Filing Report.

~~34.~~48. **THIS COURT ORDERS** that the ~~Applicant is~~Applicants are 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 DIP Lender pursuant to the terms thereof, and the ~~Applicant is~~Applicants are hereby authorized and directed to pay and perform all of ~~its~~their indebtedness, interest, fees, liabilities and obligations to

the DIP 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.

~~35-49~~. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs ~~38~~52 and ~~40~~54 hereof.

~~36-50~~. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- ~~(a)~~ (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- ~~(b)~~ (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ~~seven~~ (7) days notice to the ~~Applicant~~Applicants and the Monitor, may exercise any and all of its rights and remedies against the ~~Applicant~~Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the ~~Applicant~~Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the ~~Applicant~~Applicants against the obligations of the ~~Applicant~~Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the ~~Applicant~~Applicants and for the appointment of a trustee in bankruptcy of the ~~Applicant~~Applicants; and
- ~~(c)~~ (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the ~~Applicant~~Applicants or the Property.

~~37-51~~. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any ~~plan of arrangement or compromise~~Plan filed by the ~~Applicant~~Applicants under the CCAA, or any proposal filed by the ~~Applicant~~Applicants 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~~

~~38.52.~~ **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge ~~and~~, the DIP Lender's Charge, the Lien Charge (as defined in the Lien Regularization Order), and the Sales Advisor Charge (as defined in the SISP Approval Order) (collectively, the "Charges"), as among them, ~~shall be as follows~~⁹:

- (a) in respect of the properties municipally known as 960 Zelco Drive, Burlington, Ontario, and legally described in PIN 07035-0005 (the "**Burlington Property**") and 75 Steelwell Road, Brampton, Ontario, and legally described in PIN 14028-0023 (the "**Brampton Property**" and together with the Burlington Property, the "**Real Property**") shall be as follows:

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

Second – Director's Charge (to a maximum amount of \$100,000 in respect of each of the Burlington Property and the Brampton Property);

Third – the interests of Business Development Bank of Canada in mortgages granted to the Business Development Bank of Canada up to maximum amount of (i) principal of \$10,225,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Burlington Property and, (ii) principal of \$5,000,000 plus interest, fees, costs and like amounts provided for under the terms of the said security on the Brampton Property;

Fourth - DIP Lender's Charge;

Fifth – Sales Advisor Charge; and

Sixth - Lien Charge.

- (b) in respect of all Property other than the Real Property, shall be as follows:

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

Second – DIP Lender's Charge; ~~and~~

⁹ ~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

Third – ~~Directors'~~Director's Charge (to the maximum amount of \$●400,000);.

Fourth – Sales Advisor Charge; and

Fourth – Lien Charge.

~~39.~~ 53. **THIS COURT ORDERS** that the filing, registration or perfection of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge (collectively, the "Charges")~~ shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

~~40.~~ 54. **THIS COURT ORDERS** that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein)~~ Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, holdbacks, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, which for greater certainty shall include priority to the interests of any Person in respect of the Applicants' Property pursuant to the Construction Act, R.S.O. 1990, c. C.30, provided that the Applicants' Property shall not include any accounts receivable subject to a trust under the Construction Act in relation to the Discontinued EBCL Contracts, as defined in the First Woodbridge Affidavit.

~~41.~~ 55. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the ~~Applicant~~ Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge~~ Charges, unless the ~~Applicant~~ Applicants also ~~obtains~~ obtain the prior written consent of the Monitor, ~~the DIP Lender~~ and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~ Charges (collectively, the "Charges"), or further Order of this Court.

~~42.~~ 56. **THIS COURT ORDERS** that the ~~Directors' Charge, the Administration Charge~~ Charges, the Commitment Letter, and the Definitive Documents ~~and the DIP Lender's Charge~~ shall not be rendered invalid or unenforceable and the rights and remedies of the ~~chargees entitled to the benefit of the Charges (collectively, the "Chargees")~~ and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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, other than as set out in paragraph 54 above; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the ~~Applicant~~ Applicants, and notwithstanding any provision to the contrary in any Agreement:

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

~~(b)~~ (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the ~~Applicant~~ Applicants entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

~~(c)~~ (c) the payments made by the ~~Applicant~~ Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

~~43-57.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property

in Canada shall only be a Charge in the ~~Applicant's~~ Applicants' interest in such real property leases.

SERVICE AND NOTICE

~~44-58.~~ **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in ~~[newspapers specified by the Court]~~ The National Post a notice containing the information prescribed under the CCAA, (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner or by electronic message to the e-mail addresses as last shown in the Applicants' records, a notice to every known creditor who has a claim against the ~~Applicant~~ Applicants 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.

~~45-59.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at ~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~ <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an

order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a ~~Case Website~~case website shall be established in accordance with the Protocol with the following URL ~~_____~~https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/earth-boring-co-limited (the "Monitor's Website").

60. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the "Service List"). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor's Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

~~46-61.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the ~~Applicant~~Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, or facsimile transmission to the ~~Applicant's~~Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the ~~Applicant~~Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

62. THIS COURT ORDERS that the Applicants, the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and Orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

~~47-63.~~ **THIS COURT ORDERS** that the ~~Applicant~~Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of ~~its~~their powers and duties hereunder.

~~48-64.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the ~~Applicant~~Applicants, the Business, or the Property.

~~49-65.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the ~~Applicant~~Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Applicant~~Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the ~~Applicant~~Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

~~50-66.~~ **THIS COURT ORDERS** that each of the ~~Applicant~~Applicants and the Monitor be at liberty and ~~is~~are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

~~51-67.~~ **THIS COURT ORDERS** that any interested party (including the ~~Applicant~~Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 52 and 54 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

~~52-68.~~ **THIS COURT ORDERS** that this Order and all of its provisions are effective as of ~~12:01 a.m.~~12:01 a.m. Eastern ~~Standard/Daylight~~ Time on the date of this Order without any need for entry and filing.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EARTH
BORING CO. LIMITED ET AL.

ONTARIO

Proceedings commenced at *Toronto*

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

AMENDED AND RESTATED INITIAL ORDER

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Summary report: Litera Compare for Word 11.5.0.74 Document comparison done on 5/23/2025 11:45:41 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: initial model order.doc	
Modified filename: Draft Third Amended and Restated Initial Order - Earth Boring Co. Limited et al..pdf	
Changes:	
<u>Add</u>	406
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<u>Table Insert</u>	1
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<u>Table moves to</u>	0
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Embedded Excel	0
Format changes	0
Total Changes:	732

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

Court File No. CV-25-00741419-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF EARTH BORING CO. LIMITED ET AL.

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

Proceedings commenced at TORONTO

**MOTION RECORD
(Returnable May 28, 2025)**

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