

Form 39.08

District of: Nova Scotia
Division of: 01-Halifax
Court No. 45907
Estate No. 51-3134197

**Supreme Court of Nova Scotia
In Bankruptcy and Insolvency**

**In the matter of the Notice of Intention to make a proposal of Motryx Inc. pursuant to the
Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended**

Affidavit of Niva Sabeshan

I make oath and give evidence as follows:

1. I am Niva Sabeshan, the Chief Executive Officer of the Applicant, Motryx Inc. ("**Motryx**").
2. I have personal knowledge of the evidence sworn to in this affidavit except where otherwise stated to be based on information and belief.
3. I state, in this affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.
4. On September 27, 2024, Motryx filed a Notice of Intention to make a proposal ("**NOI**") under the *Bankruptcy and Insolvency Act* ("**BIA**") and various stay of proceedings have been granted by this Honourable Court with the current stay of proceedings set to expire on February 28, 2025.
5. Since the last extension granted by this Honourable Court on January 16, 2025, Motryx has, among other things:
 - (a) Continuing to service existing customer contracts, progress business leads to generating new sales, and monitor and collect accounts receivable;
 - (b) Consulted with BDO Canada Limited (the "**Proposal Trustee**") in respect of operations, cash management, and vendor and supplier payments;
 - (c) Monitored and reported to the Proposal Trustee weekly on actual cash flows as compared to the 13-week cash flow forecast filed at the onset of the NOI proceedings;

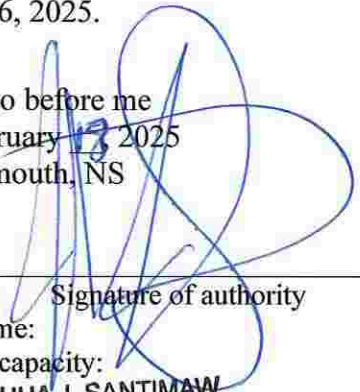
(d) With the assistance of the Proposal Trustee negotiated and executed an Amended DIP Agreement;

(e) Responded to inquiries and information requests from the Proposal Trustee during the Sales Process; and

(f) Communicated with potential bidders as regards the going concern business.

6. Attached hereto as **Exhibit "A"** is a true copy of the Amended DIP credit facility term sheet between Aerocom GMBH & Co. and Motryx.
7. Attached hereto as **Exhibit "B"** is a true copy of a letter from Neil Jones, Senior Vice President with BDO Canada Limited, to Aerocom GMBH & Co. advising it that Aerocom GMBH & Co. is the successful bidder
8. To permit continued operations pending sale approval by this Honourable Court, and the subsequent conclusion of the sale transaction, Motryx seeks a further extension of time to file a proposal pursuant to s. 50.4(9) of the BIA for a further 33 up to and including March 26, 2025.

Sworn to before me
on February 13, 2025
at Dartmouth, NS



Signature of authority

Print name:

Official capacity:

JOSHUA J. SANTIMAW
A Barrister of the Supreme
Court of Nova Scotia



Signature of witness

Print name: Niva Sabeshan

Exhibit Stamp

Hfx No. 45907

This is Exhibit "A" referred to in the affidavit of Niva Sabeshan, sworn to before me on February 18, 2025.

Signature

JOSHUA J. SANTIMAW
A Barrister of the Supreme
Court of Nova Scotia

AMENDED CREDIT FACILITY TERM SHEET

WHEREAS Motryx Inc. intends to file a Notice of Intention to Make a Proposal under the *Bankruptcy and Insolvency Act* (the "**NOI Proceedings**") and to appoint BDO Canada Limited as proposal trustee of the Borrower (in such capacity, the "**Proposal Trustee**"), and to seek an Order approving this Amended Term Sheet and granting the Debtor-in-Possession ("**DIP**") Charge as defined herein;

AND WHEREAS the Borrower has requested that the DIP Lender (as defined below) provide interim financing to fund certain cash requirements of the Borrower during the pendency of the NOI Proceedings and any subsequent proceedings under the *Companies' Creditors Arrangement Act* as may be approved by the Supreme Court of Nova Scotia (the "**Court**");

AND WHEREAS the DIP Lender is willing to provide the DIP Loan herein to the Borrower in accordance with the terms and conditions set out in this Term Sheet;

NOW THEREFORE in consideration of the mutual covenants, terms and conditions set forth herein and for other good and valuable consideration, the receipt of sufficiency of which are hereby acknowledged, the parties agree as follows:

Borrower: Motryx Inc. (the "**Borrower**")

Lender: Aerocom GmbH & Co. (the "**DIP Lender**")

Effective Date: September 8, 2024

Term of DIP Loan: A super priority, debtor-in-possession interim, non-revolving credit facility up to a maximum principal amount of ~~\$360,000.00~~ \$400,000.00 (the "**DIP Loan**") comprising for operating costs of the Borrower in accordance with the terms herein.

Currency: Except as otherwise expressly provided herein, all dollar amounts herein are in Canadian Dollars. All payments made hereunder shall be made in currency in respect of which the obligation requiring such payment arose.

Availability: Subject to fulfilment of the applicable conditions precedent to the availability of the DIP Loan set out herein (including, without limitation, the Court's Approval of the DIP Charge as defined below; and the Borrower's adherence to the Form 30 - Report of Consolidated Cash-Flow Statement by the Person Making the Proposal as filed pursuant to s.50.4(2) of the *Bankruptcy and Insolvency Act* (the "**Approved Cash Flows**") being satisfactory to each of the Proposal Trustee and the DIP Lender; and provided that no Event of Default (as defined below) has

occurred and is then continuing, then the DIP Loan shall be advanced by the DIP Lender.

Advances:

Advances under the DIP Loan (collectively "**Advances**" and individually an "**Advance**") shall be deposited in the Deposit Account and utilized by the Borrower in accordance with the terms hereof. "**Deposit Account**" means the account(s) maintained by the Borrower to which payments and transfers under this Term Sheet are to be deposited, which are specified in writing by the Borrower to the DIP Lender or such other account or accounts as the Borrower may from time to time designate by written notice to the DIP Lender.

Purpose / Use of Proceeds:

The proceeds of the DIP Loan will be used to fund such cash flow requirements of the Borrower on a going concern basis provided that the same is, unless approved by the DIP Lender and the Proposal Trustee in accordance with the Approved Cash Flows.

No portion of the DIP Loan proceeds shall be paid to any of the shareholders of the Borrower or related parties or entities unless approved in writing by the DIP Lender and the Proposal Trustee.

Court Officer:

The Proposal Trustee in BDO Canada Limited. The Proposal Trustee shall be authorized to have direct discussions with the DIP Lender, and the DIP Lender shall be entitled to receive information from the Proposal Trustee as may be requested by the DIP Lender from time to time.

Termination Date:

The maturity of the DIP Loan (the "**Termination Date**") shall be the earliest of:

- (a) Six (6) months following the initial advance hereunder or such other date agreed to by the DIP Lender in its sole discretion;
- (b) The effective date of any merger, amalgamation, consolidation, arrangement, reorganization, recapitalization, sale or any other transactions affecting all or material part of its assets or operations or resulting in the change of ownership or control of the Borrower confirmed by the Court and satisfactory to the DIP Lender (any of the foregoing being a "**Transaction**");

- (c) The date of which the stay of proceedings provided for in the NOI Proceedings is dismissed or terminated or the date on which either of the Borrower becomes bankrupt or the stay is lifted to allow a filing of bankruptcy petition under the Bankruptcy and Insolvency Act receivership or similar insolvency proceeding is not otherwise stayed; and
- (d) The date of the acceleration of the DIP Loan and the termination of the commitment with respect to the DIP Loan as a result of an Event of Default hereunder (as defined herein).

All outstanding amounts under the DIP Loan, together with all interest accrued in respect thereof and all other amounts owing under this Term shall be payable in full on the Termination Date.

Interest Rate:

All amounts outstanding under the DIP Loan will bear interest at rate of **10 percent per annum**, on the daily balance outstanding under the DIP Loan.

Interest accrues and shall be due and payable on the Termination Date without further notice, protest, demand or other act on the part of the DIP Lender.

Repayment:

Unless otherwise repaid as contemplated herein, the DIP Loan shall be due, owing, payable and repaid on the Termination without further notice, protest, demand or other act on the part of the DIP Lender.

Mandatory Prepayments:

Unless otherwise consented to by the DIP Lender in its sole discretion, the DIP Loan shall be repaid in full from the net proceeds of any Transaction involving the Borrower.

Representations and Warranties:

The Borrower represents and warrants to the DIP Lender as of the date hereof, and as of the date of each advance under the DIP Loan that:

- (a) The Borrower is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power to carry on business as now and formerly conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to constitute a material adverse effect, is qualified to do business in, and is

in good standing in, every jurisdiction where such qualification is required;

- (b) The execution delivery and performance, as applicable, of this Term Sheet has been duly authorized by all actions, if any required on the part and by the Borrower enforceable against it in accordance with its terms, subject to applicable bankruptcy insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application that limit the enforcement of creditors' rights generally and to general equitable principles;
- (c) the Approved Cash flows represent the Borrower's best estimate as at each applicable date of the likely results of the operations of the Borrower during the period applicable hereto;

Covenants:

The Borrower covenants and agrees that:

- (a) the Borrower shall pay all amounts and satisfy all obligations in respect of the DIP Loan;
- (b) the Borrower shall not make or permit to be made any payment on account of obligations owing as of the date of the filing of the NOI by the Borrower without the prior consent of the Proposal Trustee and the DIP Lender or pursuant to an Order of the Court.
- (c) the Borrower shall not undertake any actions with respect to their respective assets, business operations and/or capital structure which would, in the sole determination of the DIP Lender, have a material adverse effect on the Borrower or the Collateral (as defined below);
- (d) the Borrower shall promptly provide the DIP Lender with any additional financial information reasonable requested by the DIP Lender, to the extent that such information is readily available;
- (e) the Borrower shall not incur any indebtedness, including the giving of guarantees, other than indebtedness specifically contemplated hereby or permitted in writing by the DIP Lender;

- (f) the Borrower shall not incur, create, assume or suffer to exist any lien, charge, security interest or other encumbrance on any Collateral now owned or hereafter acquired other than: (i) those encumbrances existing as of the date of the filing of the NO! by the Borrower or permitted by the DIP Lender in its sole discretion, and (ii) the DIP Charge (defined below);
- (g) the Borrower shall not enter into any other credit facility or loan arrangements that would be secured in priority to or *pari passu* with the DIP Loan;
- (h) without the prior written consent of the DIP Lender, the Borrower shall not: (i) declare or pay any dividends on, or make any other payments or distributions (whether by reduction of capital or otherwise) with respect to any of its respective issued and outstanding share or other equity interests, or (ii) make any loans;
- (i) the Borrower shall not sell any of its assets outside of the ordinary course of business without the prior written consent of the DIP Lender;
- (j) the Borrower shall promptly pay all DIP Expenses (as defined below), including all legal and advisory fees and expenses, of the DIP Lender as such DIP Expenses are incurred and invoiced to the Borrower; no portion of the DIP Loan proceeds shall be paid to any of the shareholders of the Borrower or related parties or entities without the written consent of the DIP Lender and the Proposal Trustee; and
- (k) the Borrower shall update the Approved Cash Flows and provide a copy thereof to the DIP Lender together with a comparison to the prior version for the DIP Lender's approval, it being understood that such updated Approved Cash Flows, if approved, become the Approved Cash Flows for the purposes hereof.

- (l) the Borrower shall update the Approved Cash Flows and provide a copy thereof to the DIP Lender together with a comparison to the prior version for the DIP Lender's approval, it being understood that such updated Approved Cash Flows, if approved, become the Approved Cash Flows for the purposes hereof.

Security:

As continuing security (the "**DIP Security**") for the prompt payment of all amounts payable by the Borrower to the DIP Lender under this Term Sheet and as continuing security for the due and punctual performance by the Borrower of its existing and future obligations pursuant to this Term Sheet, the Borrower hereby grants, conveys, assigns, transfers, mortgages and charges as and by way of a fixed and specific security interest, to and in favour of the DIP Lender all of its property, assets, rights and undertaking, real and personal, moveable or immovable, tangible and intangible, legal or equitable, of whatsoever nature and kind, whatsoever locate, both present and future, now or hereinafter owned or acquired (collectively, the "**Collateral**"), including, without limitation, all real and immovable property (including leasehold lands) now or hereafter owned or acquired by such Borrower.

The DIP Security shall be elevated by way of a Court-ordered super-priority charge (the "**DIP Charge**") over the Collateral, which shall rank in priority to any security interests, claims, trusts or deemed trusts (statutory or otherwise) without any other formality or requirement, such as without limitation under the *Personal Property Security Act* or registrations in land registration offices or otherwise.

Event of Default:

An Event of Default shall include, without limitation the following:

- (a) The Borrower defaults in the payments of any amount due and payable to the DIP Lender (whether principal, interest or otherwise) pursuant to the Term Sheet;
- (b) Any representations and warranties made by the Borrower in this Term Sheet proves to be incorrect as of the date given;

- (c) The Borrower fails or neglects to observe or perform any term, covenant, condition or obligation contained or referred to in this Term Sheet or any other document between the Borrower and the DIP Lender;
- (d) The stay of proceedings for and by virtue of the NOI Proceedings expires without being extended, the NOI Proceedings are dismissed or terminated, or the Borrower becomes subject to a bankruptcy proceeding under the *Bankruptcy and Insolvency Act* or a receivership or similar insolvency proceeding;
- (e) The entry of an order staying, amending, reversing, vacating or otherwise modifying, in each case without the prior written consent of the DIP Lender, the DIP Loan, the DIP Charge or the DIP Order (as defined below) or any other order granted by the Court in the NOI Proceedings or;
- (f) The Borrower undertakes any actions with respect to its assets, business operations and/or capital structure which would, in the sole determination of the DIP Lender, have a material adverse effect on the Borrower or the Collateral.

Upon the occurrence of an Event of Default, and in accordance with the notice terms of the DIP Order, all indebtedness of the Borrower to the DIP Lender shall become immediately due and payable and the DIP Lender may take all steps necessary to enforce its security.

The DIP Lender shall also have the right to exercise all other customary remedies, including, without limitation, the right to enforce and realize on all Collateral.

Conditions Precedent to Fund:

The conditions precedent for making the DIP Loan available to the Borrower, include, without limitation:

- (a) the representations and warranties made by the Borrower in this DIP Loan Term Sheet being true and correct as of the date given;
- (b) no Event of Default has occurred; and

(c) issuance of an order by the Court (the "DIP Order"), satisfactory in form and substance to the DIP Lender in its sole discretion, approving the DIP Loan, granting the DIP Charge with the priority contemplated herein and authorizing the payment by the Borrower of all of the fees and expenses in respect of the DIP Loan and of any monies advanced by the DIP Lender to the Borrower on or after the date of filing of the NOI unless otherwise agreed to by the DIP Lender in its sole discretion.

Illegality:

In the event that it becomes illegal for the DIP Lender to lend or continue to lend, the DIP Lender will be repaid and/or the DIP Lender's commitment will be cancelled.

Taxation:

All payments of principal, interest and fees will be made free and clear of all present and future taxes, levies, duties or other deductions of any nature whatsoever, levied either now or at any future time.

Governing Law and Jurisdiction:

Laws of the Province of Nova Scotia and the federal laws of Canada applicable in the Province of Nova Scotia. The Borrower agrees to submit to the non-exclusive jurisdiction of the Court.

Amendments, Waivers, Etc.:

No amendment or waiver of any provisions of this Term Sheet or consent to any departure by the Borrower from any provision thereof is effective unless it is in writing and signed by the DIP Lender (and in the case of amendments, the Borrower). Such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

Notices:

Any notice, request, consent, waiver or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or direct electronic transmission, including email, pdf email or "DocuSign" to such person at its address set out on its signature page hereof. Any such notice, request or other communication hereunder shall be

concurrently sent to the Proposal Trustee and its counsel. Any such notice shall be deemed to be given and received when received, unless received after 5:00 Eastern Time or on a day other than a business day, in which case such notice, request, consent, waiver or other communication shall be deemed to be received on the next following business day.

Entire Agreement:

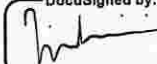
This Term Sheet constitutes the entire agreement between the parties hereto pertaining to the matters therein set forth and supersede and replace any prior understandings or arrangements pertaining to the DIP Loan. There are no warranties, representations, or agreements between the parties in connection with such matters except as specifically set forth or in this Term Sheet.

Signature:

This Term Sheet may be executed in any number of counterparts, each of which taken together shall constitute once and the same instrument. Any counterpart of this Term Sheet can be executed and delivered by any manner or direct electronic transmission including without limitation "pdf email" or "DocuSign", each of which shall be deemed to be an original hereof.

IN WITNESS WHEREOF the parties hereby execute this AMENDED Term Sheet as of __ day of January 2025.


MOTRYX INC.

DocuSigned by:

503908144A10493...

By: _____

Title: _____

AEROCOM GBMH & CO.

DocuSigned by:

0AA4DC0B1433437...

By: _____

Title: _____

Exhibit Stamp

Hfx No. 45907

This is Exhibit "B" referred to in the affidavit of Niva Sabeshan, sworn to before me on February 18, 2025.

Signature

JOSHUA J. SANTIMAW
A Barrister of the Supreme
Court of Nova Scotia



Telephone: (902) 425-3100
Fax: (902) 425-3777
Toll Free: (800) 337-5764

BDO Canada Limited
255 Lacewood Drive
Suite 201
Halifax NS B3M 4G2 Canada

VIA EMAIL - Roland.Pfitzer@aerocom.de

February 10, 2025

Aerocom GMBH & Co.
Adam-Riesse-Strasse 26
D-73529
Schabisch Gmund, Germany

Attention: Roland Pfitzer

Re: Stalking Horse Asset Purchase Agreement to purchase certain assets of Motryx Inc.

BDO Canada Limited, in its capacity as proposal trustee ("Proposal Trustee") in the matter of the notice of intention to make a proposal (the "NOI Proceedings") of Motryx Inc. (the "Company"), wishes to advise that it has accepted the Stalking Horse Asset Purchase Agreement as the successful bid (the "Successful Bid") pursuant to the terms of the Sale and Investment Solicitation Process (the "Sale Process") as approved by the Supreme Court of Nova Scotia In Bankruptcy and Insolvency (the "Court") on December 20, 2024.

In accordance with the approved Sale Process, the Proposal Trustee will bring a Motion to the Court seeking an Order (the "Sale Approval and Vesting Order") approving the Successful Bid. The Motion shall be heard on a date determined by the Proposal Trustee and subject to the Court's availability.

Amended DIP Loan

The Proposal Trustee also understands that the Company and Aerocom GMBH & Co. are finalizing the terms of an amended debtor-in-possession term sheet (the "Amended DIP Loan"). The increased financing pursuant to the Amended DIP Loan is required by the Company in order to enable it to maintain operations until the granting of the Sale Approval and Vesting Order by the Court and the closing of the transaction contemplated by the Stalking Horse Asset Purchase Agreement.

Once the Amended DIP Loan is executed by both parties, the Proposal Trustee will promptly request a hearing date from the Court.

Should you have any questions please do not hesitate to contact the undersigned at (902) 425-3408 (nejones@bdo.ca).

Sincerely,

BDO Canada Limited
In its capacity as Licensed Insolvency Trustee
In the NOI Proceedings of Motryx Inc.
And not in its personal capacity

Neil Jones, CPA, CA, CIRP LIT
Senior Vice President

cc:

Sylvia A. Jacob, JacobLaw, counsel to Aerocom GMBH & Co.: sj@jacoblaw.com
Joshua Santimaw, Boyne Clark, counsel to Motryx Inc.: jsantimaw@boyneclarke.ca
Stephen Kingston, McInnes Cooper, counsel to the Trustee: stephen.kingston@mcinnescooper.com