

**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 1001343933 ONTARIO INC. AND
YARFIELD SERVICES LIMITED**

(collectively, the "Applicants")

FACTUM OF THE MONITOR

October 27, 2025

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TO: SERVICE LIST

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INTRODUCTION

1. Until the closing of the Transaction approved by Order of this Court dated September 15, 2025, Earth Boring Co. Limited (“**EBCL**”), Yarbridge Holdings Inc. (“**Yarbridge**”), and Trolan Investments Ltd. (“**Trolan**”) were Applicants in these CCAA Proceedings and were engaged in the business of trenchless construction services, which includes, among other things, microtunneling, mixed microtunneling and boring, auger boring, and directional drilling. The Applicants primarily worked for municipalities on infrastructure projects.

2. As a result of the Applicants significant financial and operational challenges, on April 17, 2025, the Applicants sought and obtained an order (as amended, restated, or otherwise modified from time to time, the “**TARIO**”) from this Court pursuant to the CCAA. As part of these CCAA Proceedings, the Monitor, in consultation with the Sales Advisor, marketed and sold the Applicants’ business for the benefit of all stakeholders.

3. On September 15, 2025, the Court granted an Approval and Reverse Vesting Order that, among other things, approved the Subscription Agreement dated September 3, 2025 between EBCL, Yarbridge, and Trolan, as Vendors, and Barrier Ridge Capital Inc., on behalf of and in trust for a corporation to be incorporated, as Purchaser; approved the Transaction contemplated therein; and, authorized the Vendors to take such additional steps and execute such additional documents as necessary for the completion of the Transaction.

4. The Transaction closed on September 17, 2025 and the style of cause in these CCAA Proceedings was amended to remove the Vendors as Applicants and add ResidualCo as an Applicant to these CCAA Proceedings.

5. The Monitor now seeks a Distribution and Ancillary Relief Order that, among other things:

- (a) authorizes the Monitor to make the Distributions;
- (b) approves the Fifth Report and the Supplemental Fifth Report, and the activities of the Monitor described therein;
- (c) approves the fees and disbursements of the Monitor and its counsel; and
- (d) provides for the termination of these CCAA proceedings and the discharge of the Monitor upon the CCAA Termination Time.

6. For the reasons set out below, the Monitor respectfully submits that the relief requested is fair, reasonable, and appropriate for the Court to grant.

SUMMARY OF FACTS

7. The facts underlying this motion are more fully set out in the Fifth Report of the Monitor dated October 20, 2025 (the “**Fifth Report**”), the Supplement to the Fifth Report of the Monitor dated October 27, 2025 (the “**Supplemental Fifth Report**”), and the affidavits and reports cited therein and are summarized briefly here.¹ Capitalized terms used but not defined herein have the meanings given to them in the Fifth Report or in the prior reports of the Monitor, as applicable.

Background

8. As a result of the Applicants’ significant financial and operational challenges, on April 17, 2025, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) heard an application by Earth Boring Co. Limited (“**EBCL**”), Yarbridge Holdings Inc. (“**Yarbridge**”), Trolan Investments Ltd. (“**Trolan**”), and Yarfield Services Limited (“**Yarfield**”, collectively, the “**Applicants**”) for an initial order pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”).² The Court granted:

- (a) an initial order (as amended and restated from time to time, the “**TARIO**”) that, among other things, appointed BDO Canada Limited (“**BDO**”) as monitor of the Applicants in these CCAA proceedings (the “**CCAA Proceedings**”), approved certain court-ordered charges and their

¹ Fifth Report of the Monitor dated October 20, 2025 (the “**Fifth Report**”), Motion Record (“**MR**”), [Tab 2](#); Supplement to the Fifth Report of the Monitor dated October 27, 2025 (the “**Supplemental Fifth Report**”).

² Fifth Report [at para 2](#), MR, Tab 2.

priorities, and approved an interim financing facility (the “**DIP Facility**”) to be provided by Bank of Montreal (the “**DIP Lender**”);³ and

- (b) a lien regularization order (the “**LRO**”) that, among other things, stayed the rights of any person (“**Lien Claimant**”) who supplied services and/or materials to the Applicants, solely with respect to certain construction projects (the “**Continuing EBCL Projects**”), to preserve, maintain, perfect, or register liens, including by way of a notice of lien pursuant to and in accordance with the *Construction Act*, other than as permitted by the LRO; approved a Lien Charge over certain of the Applicants’ property; and, established its priority.⁴

9. On May 28, 2025, the Court granted additional relief that, among other things, approved the sale and investment solicitation process (the “**SISP**”); approved the appointment of PricewaterhouseCoopers Corporate Finance Inc. (“**PWC**”) as sales advisor (the “**Sales Advisor**”) to assist the Monitor and the Applicants to implement the SISP; and, approved a Sales Advisor Charge and established its priority.

10. On September 15, 2025, the Court granted an order (the “**Approval and Reverse Vesting Order**”) that, among other things:

- (a) approved the share subscription agreement dated September 3, 2025 (the “**Subscription Agreement**”) between EBCL, Yarbridge, and Trolan (the

³ Fifth Report [at para 3\(a\)](#), MR, Tab 2.

⁴ Fifth Report [at para 3\(b\)](#), MR, Tab 2.

“**Vendors**”), as vendors, and Barrier Ridge Capital Inc., on behalf of and in trust for a corporation to be incorporated, as purchaser (the “**Purchaser**”);

- (b) approved the transactions contemplated in the Subscription Agreement (collectively, the “**Transaction**”), and authorized the Vendors to take such additional steps and execute such additional documents as necessary or desirable for the completion of the Transaction;
- (c) added 1001343933 Ontario Inc. (“**ResidualCo**”) as an Applicant to these CCAA Proceedings and removed the Vendors as Applicants;
- (d) transferred and vested all of the Vendors right, title and interest in and to the Excluded Assets and Excluded Liabilities in and to ResidualCo;
- (e) transferred and vested all of the Vendors right, title and interest in and to the Purchased Shares in the Purchaser;
- (f) authorized the Monitor to retain a termination reserve of \$1 million (the “**Termination Reserve**”) to fund the remainder of these CCAA Proceedings, deal with potential priority claims and any subsequent bankruptcy proceedings; and
- (g) extended the stay of proceedings to October 31, 2025 (the “**Stay Period**”).⁵

⁵ Fifth Report [at para 11](#), MR, Tab 2.

11. Pursuant to the TARIO, court-ordered charges have the following priority: (a) Administration Charge (to the maximum of \$700,000); (b) DIP Lender's Charge; (c) Director's Charge (up to a maximum of \$400,000); (d) Sales Advisor Charge; and (e) Lien Charge.⁶

Closing of the Transaction

12. The Transaction closed on September 17, 2025, and the style of cause in these CCAA Proceedings was amended to remove the Vendors as Applicants and add 1001343933 Ontario Inc. ("**ResidualCo**") as an Applicant to these CCAA Proceedings.⁷

13. Following the closing of the Transaction, the Purchaser has carried on the business of the Applicants ("**New EBCL**").

14. The Transaction contemplated shares to be issued to the Purchaser representing 100% of the outstanding equity interests of the Vendors, for the following consideration, among other things:

- (a) **Project A/R:** 50% of Accounts Receivable collected after the Closing Date from the Continuing EBCL Projects' contracts up to a maximum of \$3,250,000. The Continuing EBCL Projects were funded throughout these CCAA Proceedings by DIP advances for trades and overhead;
- (b) **BMO Leases:** amounts owing under certain Retained Leases and Retained Contracts;
- (c) **Equipment Cash:** \$10,000,000 cash consideration for the Equipment; and

⁶ Fifth Report [at para 52](#), MR, Tab 2.

⁷ Fifth Report [at para 27](#), MR, Tab 2.

(d) **Litigation Cash:** \$250,000 on account of litigation proceeds from the Monteith Litigation, provided that the gross litigation proceeds available to the Vendors are in excess of \$500,000

(collectively, the "**Sale Proceeds**").⁸

15. The Sale Proceeds vest in ResidualCo and are being distributed by the Monitor, The claims of all creditors against ResidualCo whose claims were not Retained Liabilities rank against ResidualCo and the Sale Proceeds with the same priority as they had with respect to the Vendors' Property immediately prior to the Transaction.⁹

16. The status of the Sales Proceeds are as follows:

- (a) **Project A/R:** As of October 15, 2025, New EBCL has collected \$1,287,594 in Project A/R and the Monitor anticipates the release of the substantial completion Halton Project holdback funds shortly after the expiry of the statutory notice period on or about October 25, which will also form Project A/R. As accounts are collected by New EBCL, the Monitor will obtain payment of ResidualCo's 50% share of the Project A/R up to the maximum amount of \$3,250,000;
- (b) **BMO Leases:** At the Monitor's direction, the BMO Lease amounts are to be paid directly to BMO on or before November 1, 2025;
- (c) **Equipment Cash:** The Monitor is in receipt of the \$10,000,000 cash consideration for the Equipment; and

⁸ Fifth Report [at para 24](#), MR, Tab 2.

⁹ [Approval and Reverse Vesting Order](#) at para 6.

- (d) **Litigation Cash:** The Monteith Litigation is under appeal. No litigation proceeds are currently available.¹⁰

17. The Monitor currently has \$10,010,891.71 in cash, essentially comprising the Equipment Cash, held in trust for ResidualCo¹¹ and \$109,830.47 in holdback funds received prior to the Closing Date in respect of a Continuing EBCL Project (the “**Pre-Closing Holdback A/R**”).¹² As discussed below, the Monitor also anticipates certain significant refunds from Canada Revenue Agency (“**CRA**”) relating to sales tax arising during these CCAA Proceedings (the “**Post-Filing HST Refunds**”), which will vest in ResidualCo.

Monitor’s Determination of Priority Claims against ResidualCo

CRA Claims

18. Based on information provided by the Applicants and their books and records, the Monitor had understood that the Applicants had pre-filing source deductions in the approximate amount of \$851,624 (the “**Pre-Filing Source Deductions**”) and EBCL had pre-filing HST arrears in the approximate amount of \$457,000 (the “**Pre-Filing HST Arrears**”).¹³

19. Since the delivery of the Fifth Report, counsel for CRA has contacted counsel for the Monitor and advised that a pre-filing HST refund in the approximate amount of

¹⁰ Fifth Report [at para 30](#), MR, Tab 2.

¹¹ Fifth Report [at para 29](#), MR, Tab 2.

¹² Fifth Report [at para 31](#), MR, Tab 2. The Pre-Closing Holdback A/R funds do not arise from the Transaction but are subject to the Court-ordered priority charges and, for distribution purposes, are treated as Project A/R.

¹³ Fifth Report [at paras 35](#) and [37](#), MR, Tab 2.

\$786,464.49 stands to the credit of the Applicants, while there is a pre-filing HST liability for the account of the Applicants in the amount of \$140,926.02 plus an unsecured portion of source liability in the amount of \$14,392.48, leaving a net amount payable to the Applicants for pre-filing tax matters equal to \$631,145.99.

20. Counsel for CRA has further advised that it has determined that a post-filing HST refund of \$324,915.55 stands to the credit of the Applicants' account. The Monitor believes that this post-filing entitlement for ResidualCo will actually be greater than this amount as input tax credits will be generated after payment of certain remaining professional fees from these CCAA Proceedings from amounts secured by the Administration Charge.

21. Based on the further advice of counsel for CRA, it appears that the non-Vendor and remaining Applicant, Yarfield, may have a liability for source deductions equal to \$724,802.67. As Yarfield has no assets, there will not be any distribution on account of it, which CRA acknowledges and accepts.¹⁴

22. The Monitor anticipates that the Pre-Filing and Post-Filing HST Refunds from CRA will be applied against any remaining post-filing payables (namely professional fees) and then will be subject to the distribution waterfall set out below and BMO's security.¹⁵

¹⁴ Supplemental Fifth Report at para 9.

¹⁵ Fifth Report [at paras 39-40](#), MR, Tab 2.

Termination Reserve Claims

23. The Monitor was aware of two parties who had previously indicated a potential priority claim to the Termination Reserve. The Monitor has reviewed the two claims and consulted with the claimants and relevant stakeholders and has made the following determinations.¹⁶

(a) **GoRight RSLA Claim**

24. The Monitor has reviewed GoRight Fleet Solutions Inc.'s ("**GoRight**") non-possessory lien claim under the *Repair Storage Liens Act*, RSO 1990, c R.25 ("**RSLA**") in the amount of \$31,574.69 (the "**GoRight RSLA Claim**") and is satisfied the GoRight RSLA Claim is valid and enforceable.¹⁷

(b) **C&M McNally / JV Triad Halton Holdback Payment Claim**

25. C&M McNally / Triad JV Corp. ("**McNally**") is the general contractor in relation to the Halton Project, which is a Continuing EBCL Project pursuant to the LRO. In late May, 2025, Halton advised EBCL and the Monitor that approximately \$678,000 in progress payments were owing under the Contract (the "**Halton Progress Payments**") and that Halton had been withholding the Halton Progress Payments in respect of Notices of Lien Halton received totalling \$1,402,182.69 from three (3) subcontractors of EBCL in respect of services or materials supplied to EBCL (the "**Halton Liens**").¹⁸

¹⁶ Fifth Report [at para 41](#), MR, Tab 2.

¹⁷ Fifth Report [at paras 42-44](#), MR, Tab 2.

¹⁸ Fifth Report [at paras 45-47](#), MR, Tab 2.

26. On August 13, 2025, as a procedural convenience, Halton transferred the Halton Progress Payments directly to the Monitor. McNally was advised of the direct transfer and agreed to reserve its rights to assert a claim to some amount of the Halton Progress Payments (the “**McNally Claim**”).¹⁹

27. The Monitor has consulted with McNally, the Region of Halton, and New EBCL. The McNally Claim constitutes a Retained Liability of New EBCL. McNally and New EBCL intend to address the McNally Claim and McNally has confirmed it will not make a claim to the Termination Reserve or against the Region of Halton.

28. At the request of the Region of Halton, and in consultation with McNally, the Monitor is seeking an endorsement clarifying that the Region of Halton is entitled to the protections of the LRO in connection with the Halton Progress Payments. McNally does not oppose this relief.²⁰

Proposed Distribution Waterfall

29. The Monitor proposes to distribute the Sale Proceeds, as available, taking into account the asserted priority claims and court-ordered charges, in accordance with the following waterfall (the “**Distributions**”).

30. Administration Charge Claims: The Administration Charge, which secures the reasonable fees and disbursements of the Monitor, counsel to the Monitor, counsel to the Applicants, the CRO, and the Sales Advisor (for certain amounts), in the amount of

¹⁹ Fifth Report [at para 49](#), MR, Tab 2.

²⁰ Supplemental Fifth Report at para 13.

\$700,000 is fully subscribed. The Administration Charge Claims are to be repaid first, out of the Project A/R.²¹

31. DIP Lender Charge Claims: The DIP Lender's Charge secures the DIP Lender's Indebtedness, which is to be repaid second, out of (a) the Project A/R, up to the maximum amount of \$3,250,000, and then (b) the Equipment Cash.

32. Director's Charge Claims: The Monitor is not aware of any post-filing claims for which the Director would be entitled to indemnity under the Director's Charge.²²

33. Sales Advisor Charge Claims: At the Closing Date, the Sales Advisor had outstanding fees and disbursements in the amount of \$395,000, which is secured by the Sales Advisor Charge. The Sales Advisor Charge Claims are to be paid third, out of the Equipment Cash.²³

34. Other Priority Claims: The GoRight RSLA Claim in the amount of \$31,574.69 is to be paid fourth, out of the Equipment Cash.²⁴ The GoRight RSLA Claim, being a non-possessory statutory lien, ranks behind only the above-noted court-ordered charges and attached to the proceeds from the repaired equipment.

35. Secured Pre-Filing Claims: The Monitor has confirmed that BMO has valid and enforceable security registered in priority.²⁵ BMO's secured pre-filing indebtedness (the "**Secured BMO Debt**"), exclusive of the BMO Leases, which amounts will be paid by

²¹ Fifth Report [at paras 55-56](#), MR, Tab 2.

²² Fifth Report [at paras 59-60](#), MR, Tab 2.

²³ Fifth Report [at paras 61-63](#), MR, Tab 2.

²⁴ Fifth Report [at para 64](#), MR, Tab 2.

²⁵ Fifth Report [at para 66](#), MR, Tab 2.

New EBCL directly to BMO, is to be paid fifth, out of the remaining Equipment Cash and Litigation Proceeds, if any are received.²⁶ The Monitor anticipates the Sale Proceeds will be exhausted by payment in part of the Secured BMO Debt and BMO will experience a significant shortfall.²⁷

36. Lien Charge Claims: Seven (7) of the EBCL Continuing Projects was bonded by Aviva with a Labour and Materials Bond in place (the “**L&M Bonded Projects**”). As of October 14, 2025, Aviva had received 187 claims totalling \$18,445,416 in respect of the L&M Bonded Projects, of which Aviva had paid 116 claims totalling \$10,947,738, was in the process of reviewing or approving claims totalling \$3,635,356, and had denied claims totalling \$3,944,855.²⁸

37. The Lien Charge attached to the Project A/R, which are proceeds realized from the Continuing EBCL Projects. The Lien Charge does not attach to other collateral, including proceeds from equipment.²⁹

38. The Project A/R proceeds will be exhausted by the Administration Charge Claims and the DIP Lender’s Charge Claims, both of which are in priority to the Lien Charge. As a result, no funds will be available for distribution on account of Lien Charge Claims.³⁰

²⁶ Fifth Report [at paras 67-68](#), MR, Tab 2.

²⁷ Fifth Report [at para 68](#), MR, Tab 2.

²⁸ Fifth Report [at para 72](#), MR, Tab 2.

²⁹ Fifth Report [at para 73](#), MR, Tab 2.

³⁰ Fifth Report [at para 73](#), MR, Tab 2.

Termination of CCAA Proceedings and Bankruptcy of ResidualCo

39. Pursuant to the Approval and Reverse Vesting Order, the Monitor has retained a \$1 million Termination Reserve out of Sale Proceeds to fund the remainder of these CCAA Proceedings and any subsequent BIA Proceedings of the Applicants.³¹

40. The Applicants, Monitor, New EBCL, and BMO's understanding and intention was that the Monitor would return any unused portion of the Termination Reserve to be held and dealt with as Sale Proceeds, which returned amounts would be subject to the claims of all creditors against ResidualCo whose claims were not Retained Liabilities and rank against ResidualCo and the Sale Proceeds with the same priority as they had with respect to the Vendors' Property immediately prior to the Transaction.³²

41. The Monitor proposes to amend the Termination Reserve provision in the Approval and Reverse Vesting Order to reflect the parties' intentions.³³ The proposed amendment is set out in the draft Distribution and Ancillary Relief Order.³⁴

Approval of Monitor's Fees and Activities

42. The Monitor seeks approval of its activities as outlined in the Fifth Report and the approval of the fees and disbursements of BDO incurred during the period September 1 to September 17, 2025, approval of the fees and disbursements of its counsel, Gowling WLG (Canada) LLP ("**Gowlings**") incurred during the period August 31 to September

³¹ Fifth Report [at para 33](#), MR, Tab 2; [Approval and Reverse Vesting Order](#) at para 39.

³² Supplemental Fifth Report at para 16.

³³ Supplemental Fifth Report at paras 16-18.

³⁴ Supplemental Fifth Report at para 18.

17, 2025.³⁵ As set out in the Fifth Report, the Monitor has provided fee affidavits from representatives of the Monitor and its counsel that provide a comprehensive listing of the accounts sought to be passed, including each account (redacted for matters of privilege) and summary tables identifying the professionals who have worked on this matter, their hourly billing rates and total number of hours worked.³⁶

43. All work set out in these accounts was carried out and was necessary, and the hourly rates of the professionals set out in these accounts were reasonable.³⁷

44. The Monitor/Trustee in Bankruptcy, and its counsel, have and will continue to incur additional fees following the closing of the Transaction in these CCAA Proceedings and any subsequent BIA Proceedings, which are to be funded from the Termination Reserve without further order of this Court.³⁸

STATEMENT OF ISSUES, LAW & AUTHORITIES

45. The issues to be determined by this Honourable Court are whether to approve:

- (a) the Distributions, as set out in the proposed waterfall;
- (b) the Monitor's Fifth Report, the activities described therein;
- (c) the fees and disbursements of the Monitor and its counsel; and
- (d) the termination of these CCAA Proceedings.

³⁵ Fifth Report [at paras 77-78](#), MR, Tab 2.

³⁶ Fifth Report at [Appendix "D"](#), Fee Affidavit of Clark Lonergan sworn October 20, 2025 (the "**Lonergan Affidavit**"), MR, Tab 2; Fifth Report at [Appendix "E"](#), Affidavit of Heather Fisher sworn October 20, 2025 (the "**Fisher Affidavit**"), MR, Tab 2.

³⁷ Fifth Report [at para 79](#), MR, Tab 2.

³⁸ Fifth Report [at para 33](#), MR, Tab 2; [Approval and Reverse Vesting Order](#) at para 39.

The Court Should Approve the Proposed Distributions, which are Fair and Reasonable

46. CCCA courts routinely grant orders permitting distributions. The Court has the jurisdiction to make such an order under s. 11 of the CCAA, which permits the Court to “make any order that it considers appropriate in the circumstance”.³⁹

47. The Monitor seeks an order authorizing the Monitor to make one or more distributions in accordance with the waterfall described above, which takes into account the priority of the court-ordered charges and established priority claim.

48. With respect to the proposed distribution to BMO in respect of the Secured BMO Debt, the Monitor’s counsel has reviewed the loan and security documentation, and subject to standard assumptions and qualifications, confirmed that such security documentation is valid and enforceable against the Sale Proceeds.⁴⁰

49. The Monitor proposes to distribute the remaining Equipment Cash and the Litigation Proceeds, if any are received. Additionally, any amount of the Termination Reserve not expended in these CCAA Proceedings or any subsequent bankruptcy of the Applicants shall be transferred to BMO on account of the Secured BMO Debt.

50. BMO will suffer a significant shortfall and the Monitor is not aware of any other creditors with a prior ranking claim other than those described above.

³⁹ CCAA, [section 11](#).

⁴⁰ Fifth Report [at paras 66-67](#), MR, Tab 2.

Termination of CCAA Proceedings and Bankruptcy of ResidualCo

51. The Court has routinely made orders akin to the order sought to terminate a debtor company's proceedings under the CCAA and discharging the court-appointed monitor. The Court has the jurisdiction to make such an order under s. 11 of the CCAA, which permits the Court to "make any order that it considers appropriate in the circumstance".⁴¹

52. It is appropriate for the Court to terminate these CCAA Proceedings in the manner contemplated in the Distribution and Ancillary Relief Order given that:

- (a) the Applicants have no ongoing business operations;
- (b) the Monitor has assigned ResidualCo into bankruptcy and will be causing Yarfield to make an assignment into bankruptcy forthwith;⁴² and
- (c) all matters requiring resolution within these CCAA Proceedings (taking into account the Monitor Incidental Matters) will have been completed by the CCAA Termination Time.

Monitor's Fifth Report and Activities Should be Approved

53. The Monitor seeks an order approving its Fifth Report and Supplemental Fifth Report and the activities described therein.

⁴¹ CCAA, [section 11](#).

⁴² Supplemental Fifth Report at paras 11-12.

54. In *Re Target Canada Co.*, Morawetz R.S.J. (as he then was) stated that a request to approve a monitor's report "is not unusual" and that there are good policy and practical reasons for the court to approve of Monitor's activities and providing a level of protection for Monitors during the CCAA proceeding.⁴³

55. The Monitor's Fifth Report and Supplemental Fifth Report, and the conduct and activities of the Monitor described therein should be approved. The Monitor has acted reasonably and carried out its activities in a manner consistent with the CCAA and in compliance with the TARIO. No party has put evidence to the contrary.

Fees and Disbursements of the Monitor and its Counsel Should be Approved

56. The Monitor seeks approval of the professional fees incurred as described in the Fee Affidavits of Clark Lonergan and Heather Fisher.⁴⁴ Pursuant to paragraph 44 of the TARIO, this Court has jurisdiction to approve the accounts of BDO, in its capacity as Monitor, and its legal counsel, which provides that the Monitor and its legal counsel shall pass their accounts from time to time before a judge of this Court.⁴⁵

57. The test on a motion to pass accounts is to consider the "overriding principle of reasonableness".⁴⁶ The overall value contributed by the Monitor and its counsel is the prevailing consideration in assessing the reasonableness of the accounts.⁴⁷

⁴³ *Re Target Canada Co.*, 2015 ONSC 7574 at [para 2](#).

⁴⁴ Fifth Report at [paras 77-79](#), MR, Tab 2.

⁴⁵ [Third Amended and Restated Initial Order](#) at para 44.

⁴⁶ *Nortel Networks Inc*, 2022 ONSC 6680 at [para 10](#).

⁴⁷ *Re Nortel Networks Corporation et al*, 2017 ONSC 673 at [paras 15](#) and [21](#).

58. As the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer*, the guiding principles on fee approvals of this nature is whether the fees are fair, reasonable, and proportionate given the value of the Applicants' assets and liabilities, as well as the complexity of the Applicants' Business and the restructuring proceeding.⁴⁸

59. The Monitor has acted fair and reasonably and carried out its activities in a manner consistent with the CCAA and in compliance with the TARIO. The Monitor has acted diligently to facilitate the closing the Transaction; engaged with multiple stakeholders, including to address ongoing questions and claims by stakeholders, and to prepare for this distribution motion.⁴⁹

ORDER REQUESTED

60. The Monitor requests that this Honourable Court grant the proposed form of Distribution and Ancillary Relief Order.

⁴⁸ *Bank of Nova Scotia v Diemer*, 2014 ONCA 851 at [para 33](#).

⁴⁹ Fifth Report [at para 23](#), MR, Tab 2.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of October, 2025.

Per: 

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SCHEDULE "A"

LIST OF AUTHORITIES

1. *Target Canada Co. (Re)*, [2015 ONSC 7574](#)
2. *Nortel Networks Inc.*, [2022 ONSC 6680](#)
3. *Re Nortel Networks Corporation et al.*, [2017 ONSC 673](#)
4. *Bank of Nova Scotia v Diemer*, [2014 ONCA 851](#)

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date October 27, 2025



Signature

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY - LAWS

[Companies' Creditors Arrangement Act, RSC 1985, c C-36](#)

Section 11

General power of court

11 Despite anything in the [Bankruptcy and Insolvency Act](#) or the [Winding-up and Restructuring Act](#), if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

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
1001343933 ONTARIO INC. AND YARFIELD SERVICES LIMITED

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

PROCEEDING COMMENCED AT
TORONTO

FACTUM OF THE MONITOR

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